



Report of the Public Defender of Georgia On the Situation of Protection of Human Rights and Freedoms in Georgia

2023

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Introduction

The present report of the Public Defender of Georgia has been prepared in accordance with Article 35 of the Constitution of Georgia, Article 22 of the Organic Law of Georgia “On the Public Defender of Georgia” and Article 163 of the Rules of Procedure of the Parliament of Georgia.

The report presents the challenges and progress in the protection of human rights guaranteed by the Constitution in 2023. The reporting period covers the year of 2023, however, it also analyzes the problems that emerged before 2023 and persisted during the reporting period.

The Office of the Public Defender of Georgia received 4,849 applications about the facts of human rights violations in the reporting period. Of these, only 3,017 applications fell within the scope of the Public Defender's mandate, while 1,832 applications were declared inadmissible. There is a hotline operating in the Public Defender's Office that allows citizens to receive information 24 hours a day or report violation of rights. During 2023, 17,567 calls were received on the hotline.

In order to address the violations of rights identified in this report, the Office of the Public Defender made 79 recommendations/suggestions to the state agencies. In 2023, the Public Defender's Office prepared 10 special reports and 3 alternative reports to be submitted to international bodies, 3 constitutional claims, 23 Amicus Curiae, and 3 communications for the Committee of Ministers of the Council of Europe. In order to identify and monitor rights violations and challenges, the Office of the Public Defender carried out a number of visits to various institutions, and detailed overview of those visits are provided in the report.

In the introduction of the Public Defender's 2023 Parliamentary Report, we will present a brief overview of the key findings of the report regarding the noteworthy trends in the protection of human rights in the country that require appropriate and timely response from the government.

In 2023, positive steps were taken in various areas, but efforts are still needed to improve the protection of human rights.

In 2023, the murder of Tamaz Ginturi by the Occupational Regime was particularly alarming; it serves as a reminder that the representatives of the Occupational Regime who were directly involved in the murder of four Georgian citizens – David Basharuli, Giga Otkhзорia, Archil Tatunashvili and Irakli Kvaratskhelia have yet to face consequence. This remains the liability of the Russian Federation. Furthermore, it is important to note the alleged encroachment on the life of Temur Karbaia, a Georgian citizen, by the Occupational Forces. Unfortunately, in addition to the violation of the right to life, the practice of illegal detention and ill-treatment of citizens in the occupied territories continues. The ethnic Georgian population is unable to receive education in the Georgian language and the Occupational Forces persist in their illegal ‘borderization’ process. The violation of the right to property remains a day-to-day challenge for the residents living along the occupation line.

More effort is needed from the government to protect the rights of the people who have been internally displaced within their own country due to occupation. Legislative amendments that took effect on January 1, 2023, have significantly changed the previous situation by relieving the government of the responsibility to provide long-term housing for internally displaced persons (IDPs) born before 2023. It is important to not only determine the number of families still awaiting resettlement, but also to plan the process of their

long-term resettlement, and set a deadline to ensure their resettlement within a specified period. It should also be noted that unfortunately the number of families resettled from 'demolishing' buildings have not increased during the reporting period.

The tragedy in Shovi that claimed the lives of 32 individuals was a particularly unfortunate incident during the reporting period. According to the MIA, an investigation was launched for negligent homicide committed in relation to two or more persons and for the breach of safety rules during mining, construction or other works that had caused homicide or other dire consequences. In the opinion of the Public Defender, it is necessary to conduct an effective investigation on this matter while maintaining institutional independence and impartiality. This should be done faithfully and competently, within a reasonable timeframe and with the engagement of family members of the victims. The investigation shall look into the fulfillment or failure to fulfill the positive obligation of the protection of the right to life, regulation of risky or hazardous situations, implementation of preventive and reactive measures, and, if necessary, utilize expertise from another state.

The tragedy in Shovi has sparked high public interest in the National Environmental Agency, LEPL annual bulletins, which describe the results of the development of natural geological processes and provide forecasts for the upcoming year. However, these NEA bulletins are currently not published in the public domain. To ensure compliance with standards of transparency of and accessibility to information regarding the condition of the environment, it is important for NEA, LEPL to publish electronically yearly documents on natural geological processes. This will allow interested individuals easy access to these bulletins.

In light of the geological processes in Shovi, followed by Guria, it should be noted that unfortunately, in Georgia the number of families affected by natural occurrences and those in need of preventive measures is also increasing year by year. Geological processes throughout the country require systemic analysis, assessment and subsequent response, as local preventive measures by municipalities are ad hoc and insufficient for addressing existing challenges. The scarcity of funds allocated for the resettlement of eco migrants remains a challenge. Additionally, the process of transferring residential homes into ownership to eco-migrants resettled during 2004-2012 is still pending.

Poverty remains one of the major challenges in the country. This, in turn, has negative impact on the realization of all human rights and further aggravates the situation of vulnerable groups. According to March, 2023 data, the number of recipients of social benefits was 676,641, the highest figure throughout the life of the program.

The Public Defender has been highlighting one of the major problems in the country, child poverty, for years. It should be noted that the number of children registered in the Unified Database of Socially Vulnerable Families has increased by 5.2% compared to the previous year.

Poverty has a negative impact on the realization of the rights of the elderly as well. Like in other countries, the percentage of elderly individuals in Georgia increases year by year. Furthermore, the indicator those who are socially vulnerable and living below the poverty line is high among the elderly population. Therefore, the elderly in Georgia represent a particularly vulnerable group.

The recognition of the rights of the elderly as a priority direction in the 2024-2026 Action Plan on Human Rights is a positive development. This includes not only ensuring social welfare for the elderly, but also supporting their active engagement in social life. This is set to be achieved through the implementation of employment support programs specifically targeted at the elderly, as well as the development of a legislative framework aimed at protecting the rights of the elderly. The issues of effectively detecting, responding to and preventing abuse against the elderly have been considered in the Action Plan. It is important to note that, for the first time since 2017, a national action plan for 2024-2025 will be developed to address ageing-related matters and ensure effective protection of the rights of elderly population. The Public Defender has been advocating for initiative for years.

Unfortunately, similar to previous years, there is still no comprehensive legal definition of a homeless person or framework legislation in place for the realization of the right to adequate housing. Additionally, there is a lack of government strategy and action plan addressing homelessness. The causes and extent of homelessness in Georgia have not been thoroughly examined, and there is no unified database for the homeless population. As a result, Georgia lacks unified policy for preventing homelessness that would be based on specific research results. The issue of social housing and inadequate living conditions continues to be a challenge. There are no minimum standards for social housing for the homeless in Georgia. Furthermore, an inconsistent definition of a homeless person that is not in line with international standards poses significant obstacles in municipalities.

There are still significant efforts required to protect the rights of people with disabilities. The quality and continuity of inclusive education for PWDs deserve particular mention. Furthermore, a national plan for accessibility and standards to ensure that PWDs have access to information, communication methods, websites, mobile applications have not yet been approved. Meaningful participation of PWDs and their organizations in decision-making processes at various levels is among the challenges. Identifying and effectively responding to abuse and violence against PWDs remain among the challenges related to protecting the rights of PWDs.

Unfortunately, language and information barriers have been major obstacles for national minorities for years. To achieve full civic integration of national minorities, it is important to strengthen the teaching of the state language at both pre-school and general education levels. The geographic reach of bilingual education should be expanded, and appropriate bilingual textbooks, etc. should be developed. Furthermore, it is crucial to continue promoting the state language instruction program, which is available to any interested individual at the Zurab Zhvania School of Public Administration, LEPL. It is crucial to raise awareness of national minorities in employment support programs and other public services, as well as in available media products. To achieve complete civic integration of national minorities, it is also important to protect and promote their culture. Unfortunately, the number of activities promoting the culture of national minorities remains low.

The issues pertaining to the enforcement of the rule of law and civic and political rights were equally important in 2023.

In 2023, there were various assemblies held with different scale, content and format. Against the background of rallies organized by radical groups, there were challenges involving exercising the right to peaceful assembly, legislative initiatives related to restricting format and substance of assemblies,

disproportional and in some instances, unlawful actions taken to disperse assemblies. The practice of administrative detention of the participants of assemblies was used again. Overall, a number of challenges regarding the freedom of assembly persisted during the reporting period, and, in some instances, it was more difficult to exercise this right.

Detention of participants during assemblies and rallies, is based on the Administrative Violations Code enacted in 1984. However, it is not compatible with the current constitutional order. The Public Defender has been stressing the necessity to draft a new code for years, as the current Code dating back to Soviet period fails to meet even the minimum standard of compatibility with human rights and basic freedoms. The detention of civil society representatives by the police on June 2-3, 2023 based on outdated legislation is a clear example of the afore-mentioned. The PDO submitted amicus curiae opinions to court on five cases involving these incidents. Unfortunately, these cases serve as confirmation that often, the interference in the exercise of the right to freedom or assembly is often related solely to the content and/or format of expression. This is in direct contradiction to the relevant human rights protection standards.

In 2023, one particular issue that stood out was the introduction of a draft law by the Parliament imposing major restrictions on the erection of temporary structures (such as tents) by participants of assemblies or protests. This initiative, based on the address from the Public Defender, was also criticized by the OSCE/ODIHR. According to OSCE/ODIHR, suggested amendments might be used discriminatively to suppress differing political opinion. The conclusion also criticized fast track adoption of the draft law by the Parliament. It was subsequently vetoed by the President of Georgia and currently the process of enacting the Law has been suspended. The Public Defender notes that it is extremely important for the Parliament of Georgia to reject the adoption of the draft law in consideration of relevant international standards.

The freedom of the mass media and creating relevant safe environment for journalistic activities remain a challenge in Georgia. Outdated legislation governing access to information also poses obstacles to journalistic activities, as it does not effectively protect the right to freedom of the press.

In the context of the right to privacy deficiencies in the rules for covert investigative activities should be noted. Specifically, legislation does not explicitly stipulate what is implied in the right to be informed in writing – whether it is mandatory to send a written notice to a citizen, or if it is sufficient for a citizen to review a written document at the Prosecutor’s Office. Furthermore, it is also unclear whether a citizen should be informed about information obtained through covert investigative activities that is not relevant to a specific investigation and when its destruction is required, etc.

For the first time in 2024, Georgia will hold Parliamentary elections fully based on the proportional system. Electronic technologies will also be extensively used in the voting process. The successful implementation of future parliamentary elections in a free, fair and peaceful environment is crucial for the democratic development and European integration of the country. Therefore, the Public Defender hopes that unlike unfortunate experience of the past, the pre-electoral period as well as the voting day will be free any encroachment of human rights and that the electoral processes will enjoy high trust from the public. The Public Defender of Georgia will continue to oversee matters related to the realization of the electoral right within the powers granted under the legislation in 2024.

Unfortunately, as of the designing this report, the Parliament has not adopted relevant legislative regulations to regulate the legal status of animals, maintenance rules, matters of responsibility and other significant aspects, to ensure safe environment.

The situation in penitentiary facilities has been a major challenge for years. Similar to previous years, overcrowding of the facilities and some cases of the use of non-formal management methods remains a serious challenge. Interestingly, in May, 2021 the CPT made a special ad hoc visit to Georgia to assess the situation at semi-open institutions. As a result of the assessment, in a report published in 2022, the European Committee for the Prevention of Torture indicated that any conflict between management of penitentiary facilities and inmates representing the hierarchy were originally addressed informally, without being formally reported to the administration.

During the reporting period, like before, there was an issue of inmates being placed in de-escalation rooms and isolation (safe) cells for prolonged periods without a clear purpose, as well as for punitive reasons, at penitentiary institutions. The Public Defender stated that this practice constitutes inhumane and degrading treatment. Additionally, there were problems with detecting and documenting cases of ill-treatment, providing adequate medical services to inmates and maintaining the physical environment of penitentiary facilities.

Unfortunately, issues related to parole release mechanism remain unresolved. The Public Defender has been emphasizing these problems for years. Specifically, the current practice and legislative framework fail to establish unified foreseeable and clear grounds for determining who is eligible for this legal benefit. The normative framework for parole release or substituting of the unserved portion of a sentence with a lighter punishment should be refined. More criteria should be considered in this process, including aspects related to a convict's future plans, outlooks opportunities and other relevant matters.

It is important to note that effective mechanism for reviewing a sentence is particularly crucial for individuals sentenced to life imprisonment. Unfortunately, the Public Defender's suggestion to reduce the waiting period for convicts sentenced to life imprisonment to apply for parole release by several years still has not been implemented.

Regarding the rights of individuals detained within the MIA system, in 2023, as in previous years, some detainees reported instances of excessive force and cases of physical and psychological abuse by law enforcement officers. Occasionally, there were issues with informing detainees of their rights, providing timely access to a lawyer, and notifying their families. The challenges of not having a requirement to use body camera, making audio and video recordings continued during the reporting period. Unfortunately, the areas of police facilities where detainees are still not fully equipped with CCTV cameras. Furthermore, it is particularly concerning that the number of CCTV cameras in both inner and outer perimeters of police facilities has been decreasing year by year.

There have been no significant improvements in mental health institutions. Patients are still being subjected to abuse and their legal safeguards are being neglected. Although the right to leave voluntarily is clearly outlined in legislation patients with voluntary status are unable to leave institutions on their own accord. The infrastructure of psychiatric institutions does not meet international and national requirements.

The process of deinstitutionalization of large institutions has remained unresolved for years. This concerns psychiatric institutions as well as institutions for persons with disabilities. Specifically, the issue of long-term hospitalization of patients in psychiatric institutions remains unresolved. Patients who do not require active treatment are unable to leave institutions due to the lack of community services and because they have nowhere to go. The number and geographic coverage of community services should be increased. On a positive note, it should be noted that certain positive steps were taken for the implementation of the 2023-2030 Strategy of Independent Living and Deinstitutionalization of PWDs and 2023-2025 action plan during the reporting period.

Similarly, the process of moving persons with disabilities from large institutions to small group homes designed to resemble a family environment should be viewed favorably. However, the deinstitutionalization efforts included in the provision of alternative housing to individuals with mental health disorders aged 18 and older under the State Program on Social Rehabilitation and Child Care were found to have deficiencies. In particular, Senaki alternative housing facilities, unlike Dusheti small group homes, are not in line with the deinstitutionalization policy and do not adequately support the independent living of beneficiaries.

In terms of challenges related to the right to equality and anti-discrimination, it is evident that in 2023, the state failed to take effective measures to enhance the equality policy and improve the conditions of disadvantaged groups. Like in previous period, there have been no updates to policy documents or legislative regulation and policymakers or government officials did not make any efforts to promote equality in this reporting period.

The events surrounding the Tbilisi Pride festival on July 8, 2023 serve as further evidence that it is impossible and often ineffective to solely rely on police forces to prevent this level of violence and discrimination directed towards the LGBT+ community. Comprehensive, time-bound and varied measures are required to address this issue, involving multiple agencies and the wider society.

As for the rights of children, it is important to note that the programs in Georgia have, once again, failed short in offering sufficient and enduring assistance to empower children and their families for independent living. Furthermore, the rate of students abandoning their studies and being suspended remained high. One of the challenges in protecting minors from violence is the need to enhance prevention efforts, particularly by raising awareness among children and the general public about the mechanisms of child rights and safeguards. Detecting instances of violence against children in a timely manner, as well as providing an effective, coordinated and child-friendly response continue to be problematic. The absence of a comprehensive response can result in tragic outcomes, as evidenced by the murder of Aitaji in 2023.

Unfortunately, the gender-based intentional murder of 14-year-old Aitaj Shakmirova is not an isolated case. It is a result of deficiencies in prevention and interdiction of violence, protection and support for victims of violence. This incident once again confirms the need to strengthen preventive measures, transform attitudes and eliminate gender-stereotyped traditions and vicious practices. The challenges of gender-based murders of women (femicide) have persisted for years. In 2023, there were 24 murders of women and 27 attempted murders of women detected.

The issue of child marriage and engagement, as well as the need for adequate protection of girls continues to be a problem. The effective implementation of the right to reproductive health and access to services remains a challenge. Despite recommendations from the Public Defender, no relevant amendments have been made to the rules for setting and disbursing compensation to victims of violence against women and/or domestic violence. To increase the number of recipients of compensation, public awareness about this opportunity should be heightened.

As regards the freedom of faith and religion, it is important to note that the Public Defender supports the amendments in the Law on the Rights of Patients. These amendments require informed written consent for the transfusion of human blood or its component. However, despite this positive change, several challenges from the past are still relevant. Discriminatory provisions in the legislation have not yet been amended. The return of religious structures seized during Soviet times to their historic owners remains a challenge. Unfortunately, no steps have been taken to record and assess damages to and property seized from religious associations in Georgia by the Soviet regime.

The protection of human rights in Georgia is heavily reliant on the effective functioning of institutions responsible for or those overseeing human rights protection. For years, the Public Defender has been emphasizing the importance of independent investigative mechanism with investigative and criminal prosecution powers. In order to achieve this goal, significant safeguards should be put in place to strengthen the Special Investigation Service institutionally. One important step is to broaden the investigation powers of the Special Investigation Service to include offences committed by the General Prosecutor, the Minister of Internal Affairs, and the head of the Security Service. Additionally, it is crucial to review the list of offences falling under the jurisdiction of the Special Investigation Service ensuring that it retains the power to investigate crimes relevant to its core mandate only.

The amendment proposed by the Public Defender in the 2022 Parliamentary Report and implemented in 2023 regarding the Special Investigation Service is commendable. According to this amendment, the staff of the Investigation Department of the Special Investigation Service are now permitted to visit individuals who are placed in isolated cells as part of their duties.

As for the right to a fair trial, it is important to note that despite a number of efforts to reform the justice system, there are still deficiencies in Georgia's judiciary system at both the legislative and institutional levels that need to be addressed.

The highest number of prerequisites provided to Georgia on June 17, 2022 for obtaining candidate status towards EU integration concerned the judiciary system. Similarly, one of 9 conditional recommendations issued to Georgia on November 8, 2023, for granting candidate status concerned the reform of the justice system. In this document, the European Commission fully relies on the assessment of the Venice Commission, which states that a comprehensive justice reform has not yet been implemented in Georgia. The European Commission calls for the authorities to carry out further, broader reforms to ensure the complete independence, accountability and integrity of the judiciary and prosecutorial institutions.

In addition to the afore-mentioned issues, the Public Defender's 2023 Parliamentary Report also highlights challenges related to the right to health, among other topics. In this respect, it is important to note that for the first time in 2023, the PDO conducted monitoring of preventive and control measures

for infections associated with medical services at several medical institutions and produced relevant report. This is another example of the improvement in oversight of the protection of the right to health within the PDO mandate.

The Parliamentary Report also focuses on the right to work. In Georgia, the lack of a culture of constructive dialogue between the parties in a labor relationship remains a problem, which, last year, led to several strikes by workers. In order to improve labor conditions, workers even resorted to extreme forms of protest.

In the realization of labor right, the introduction of minimum hourly salary for medical workers is welcome. However, the introduction of minimum pay in a specific sector cannot be considered sufficient for adequately ensuring the right to decent salary in the country. The issue of ensuring labor rights for individuals employed on a digital platform remains a problem. Furthermore, according to current labor legislation private employers are still not mandated to provide paid leave for pregnancy, child birth and child care.

The Public Defender also welcomes the drafting of a new defense code, which states that starting from January 1, 2025 draftees will only fulfill their military service within the Ministry of Defense system. The Public Defender hopes that decent living and working conditions will be provided for all draftees who will complete their national military service within the Ministry of Interior system before January 1, 2025.

In the field of human rights education, a significant challenge in 2023 is the fragmented integration of human rights in policy documents. Specifically, the national Human Rights Strategy focuses on scaling up human rights education within the general education system only.

The rights of asylum seekers are also important. During this reporting year, the rules for admitting of asylum seekers to reception centers were modified with a priority given to more vulnerable asylum seekers. In 2023, a draft version of the Unified Approaches Document for the integration of immigrants was developed, though it has not yet been approved. The situation regarding informing beneficiaries about integration programs has not improved. Specifically, information about integration programs and activities is not updated on social networks, while on the website of the IDPs, Eco-migrants and Livelihoods Agency, LEPL information is only available in the Georgian language, which may be a barrier for interested individuals.

Lastly, it should be noted that the Public Defender assesses the implementation of the recommendations provided to government agencies in the previous year. In the 2022 Parliamentary Report, The Public Defender of Georgia presented a total of 281 recommendations to government agencies and local authorities, as well as 63 suggestions to the Parliament of Georgia and the President of Georgia. Out of 281 recommendations, 263 were directed to central government authorities. Of those, 11% were fully implemented, 19.8% were partially implemented, and 52.5% were not fulfilled. 6.5% could not be assessed due agencies failing to provide information, while 10.3% were not assessed for objective reasons. Regarding the fulfillment of suggestions in the 2022 Parliamentary Report to the Parliament of Georgia and the President, 1 suggestion to the President was fully implemented. Out of 63 suggestions to the Parliament, 47 were not implemented, 4 were partially implemented and 12 were fully implemented.

1. Human Rights Situation of the Conflict-Affected Population

In 2023, the conflict-affected population continued to face numerous challenges. While active armed hostilities have ceased in the country, the Georgian, Ossetian, and Abkhaz communities residing in conflict zones continue to grapple with the enduring repercussions of war.

The killing of Tamaz Gintur by the occupation regime in 2023 was particularly alarming.¹ Equally significant is the lack of accountability for the representatives of the occupation regimes who were directly involved in the murders of Davit Basharyu in 2014, Giga Otkhozoria in 2016, Archil Tatumashvili in 2018, and Irakli Kvaratskhelia in 2019, responsibility for which lies with the Russian Federation.²

Illegal detentions and ill-treatment at the occupation line continue to pose a challenge. For instance, alleged endangerment of the life of Georgian citizen Temur Karbaia by the occupying forces.³ Additionally, frequent instances of unlawful imprisonment remain a pressing issue.

In the occupied regions, the right to receive education in the native language continues to be violated. Consequently, parents are compelled to relocate from their permanent residences and enroll their children in schools within areas controlled by the central government to ensure they can continue studying in the Georgian language.

The occupation forces persist in the illegal practice of so-called "borderization". Violation of the right to property represents a daily challenge for the population residing near the occupation line.

1.1. Illegal Detentions and Ill-Treatment

According to official data, in 2023, 37 individuals (35 men and 2 women) were arrested along the occupation line in the direction of the Tskhinvali region, while 26 people were arrested in the direction of occupied Abkhazia (15 men, 5 women, and 6 minors).⁴

The occupation regime has intensified the illegal practice of arresting individuals for crossing the so called border unlawfully. Unlike previous years, when illegally detained persons were typically released upon payment of an administrative fine, recent years have seen an increase in cases of prolonged illegal detention. As of December 2023, eight citizens remain unlawfully detained in the occupied territories of Georgia: Irakli Bebuga, Kristine Takalandze, and Asmat Tavadze in occupied Abkhazia, and Lasha Khetereli, Petre Kalashnikov, Giorgi Mosiashvili, Dito Korinteli, and Giorgi Meladze in occupied Tskhinvali.⁵ The Public Defender of Georgia is actively engaged and utilizing all available means to protect the rights of

¹ Statement of the Public Defender of Georgia of November 6, 2023. Information available at: <<https://rb.gy/u1ivza>> [20/02/2024].

² The judgment of the European Court of Human Rights on January 21, 2021, unequivocally confirmed the effective control of the Russian Federation over the non-controlled territories of Georgia and held Russia responsible for human rights violations on the ground. More information is available on the website: <<https://shorturl.at/tCVZ6>> [last visited 20/02/2024].

³ "His bones and ribs are broken", says the sister-in-law of Temur Karbaya, who was beaten to death in the occupied Gali. More information is available on the website: <<https://shorturl.at/gCMN1>> [last visited 20/02/2024].

⁴ Letter №SSG72400021560 of the State Security of January 31, 2024.

⁵ Letter №SSG72400021560 of the State Security of January 31, 2024.

these unlawfully detained individuals and facilitate their return to Georgian-controlled territory as swiftly as possible.⁶

For years, the Public Defender has highlighted in annual reports the issue of beatings, ill-treatment, and torture inflicted upon prisoners held in temporary isolation cells and prisons within the occupied territories.

During the reporting period, information regarding 43-year-old Temur Karbaya, who was severely beaten by police officers in occupied Abkhazia and subsequently passed away due to his injuries in the clinic was disseminated.⁷ The Public Defender issued a public statement addressing this incident.⁸

Additionally, on November 10, 2023,⁹ reports emerged of the assault on Levan Dotiashvili, who was accompanying Tamaz Gintur when the latter was killed by occupation forces near the village of Kirbali, close to St. George's Church in Lomisi. The Public Defender personally visited the village of Kirbali, where he met with the family members of Tamaz Ginturi and Levan Dotiashvili.¹⁰

Regarding illegal arrests and imprisonment, the judgment of the European Court of Human Rights of March 7, 2023, holds significant importance. For the first time, the Court established the responsibility of the Russian Federation for human rights violations committed in the occupied territories before the 2008 war.¹¹

The Public Defender of Georgia uses all international formats to inform the international community as much as possible about the hardest situation of human rights in the occupied territories, however, according to the Public Defender, it is of utmost important to allow international human rights observation missions to the occupied territories and assess the situation on the spot.

1.2. The Issue of Freedom of Movement and Problems Related to Documents

During the reporting period, the Public Defender visited the so-called checkpoint on the Enguri bridge multiple times,¹² personally acquainting himself with the needs of the population who relocated from occupied Abkhazia.¹³ In discussions with the Public Defender, the population highlighted movement and

⁶ The Public Defender met with the family members of Irakli Bebuia, who was illegally imprisoned in occupied Abkhazia. More information is available on the website: < <https://shorturl.at/pLW36> > [last visited 20/02/2024].

⁷ "His bones and ribs are broken," states the sister-in-law of Temur Karbaya, who was beaten to death in occupied Gali. More information is available on the website: < <https://shorturl.at/gCMN1> > [last visited 20/02/2024].

⁸ Statement of the Public Defender of December 10, 2023. Information is available on the website: < <https://shorturl.at/dLOW7> > [last visited 20/02/2024].

⁹ Levan Dotiashvili reported what happened at the Kirbali church. Information is available on the website: < <https://shorturl.at/emAKU> > [last visited 20/02/2024].

¹⁰ Public Defender arrived in the villages near the occupation line - Kirbali and Nikozi. Information available at: < <https://shorturl.at/fivT7> > [last visited 20/02/2024].

¹¹ According to the judgment of the Strasbourg Court, the territory of Abkhazia was occupied by Russia even before the August 2008 war, and Russia is fully responsible for human rights violations. Information available at: < <https://shorturl.at/dhz57> > [last visited 20/02/2024].

¹² The Public Defender met with the population living near the dividing line of the occupied territories of Georgia. Information available at: < <https://shorturl.at/itzZ9> > [last visited 20/02/2024].

¹³ September 27, the day of the fall of Sokhumi. Information available at: < <https://shorturl.at/einA4> > [last visited 20/02/2024].

security issues as primary challenges. Specifically, residents expressed concern over the de facto bodies arbitrarily closing checkpoints, thereby impeding the free movement of local residents.

It is notable that the artificial movement restrictions imposed by the de facto government of occupied Abkhazia often coincide with holidays. For instance, on April 7, 2023, both the checkpoint on the Enguri Bridge and the so-called Saberio-Fakhulani checkpoint in the direction of occupied Abkhazia were closed. In response, the Public Defender issued a public statement.¹⁴

From March 1, 2024, individuals from the occupied Abkhazia who lack a Russian passport and solely possess de facto documentation¹⁵ will be refused entry into Russia.¹⁶ Information circulated on the website of the de facto Ministry of Internal Affairs of occupied Abkhazia indicates that the Russian Guard has been granted complete authority to oversee occupied Abkhazia and maintain civil order.¹⁷ Additionally, during the reporting year, Sukhumi airport¹⁸ and country houses in Bichvinta were transferred to Russia as part of actual ownership.¹⁹

In the Public Defender's assessment, these incidents once again highlight the ongoing practice of the Russian Federation, which seeks to tighten control over individuals residing in the occupied territories of Georgia through various means.

Regarding occupied Akhagori, we welcome that in 2022, the so-called checkpoint, which served 400 people²⁰ daily until September 4, 2019,²¹ was opened. However, as in the previous year, it is opened every month from 20 to 30 dates (only for 10 days) by the decision of the de facto administration. The Public Defender also addressed this matter in the 2022 parliamentary report.²²

Freedom of movement may only be restricted for legitimate purposes. The International Covenant on Civil and Political Rights²³ specifies that limitations on the right to free movement are permissible only when necessary to safeguard state security, public order, public health, or other rights and freedoms.²⁴

¹⁴ Public Defender's statement regarding the blocking of the checkpoint at the so-called Enguri Bridge and Saberio-Fakhulani. Information available at: < <https://shorturl.at/wKQW4> > [last visited 20/02/2024].

¹⁵ Until now, the so-called occupied Abkhazia Citizens freely entered and left the Russian Federation with de facto passports, Russian border services issued an immigration card and did not require a Russian passport.

¹⁶ Russian border guards are tightening control over the Abkhaz part of the Russian-Georgian border. Information available at: < <https://shorturl.at/eBO24> > [last visited 20/02/2024].

¹⁷ The website of the de facto Ministry of Internal Affairs of occupied Abkhazia: < <https://shorturl.at/mtwY7> > [last visited 20/02/2024].

¹⁸ They started dismantling old buildings in the territory of Sukhumi Airport. Information is available on the website: < <https://shorturl.at/jlms1> > [last visited 20/02/2024].

¹⁹ The Ministry of Foreign Affairs of Russia sent a note to Sokhumi regarding the country house of Bichvinta. Information available at: < <https://shorturl.at/ajlS7> > [last visit 20/02/2024].

²⁰ Letter №SSG 6 20 00131318 of State Security Service of Georgia of October 21, 2020.

²¹ Tensions escalated at the end of August 2019 when the occupation regime demanded that Georgian authorities relinquish control of the police checkpoint near Chorchana village in the Khashuri municipality.

²² 2022 Report of the Public Defender of Georgia on the State of Human Rights Situation in Georgia. Information available at: < <https://shorturl.at/lyMP1> > [last visited 20/02/2024].

²³ Georgia and Russia are member states to it.

²⁴ Article 12.3, the International Covenant on Civil and Political Rights.

According to international humanitarian law, the occupying power should only implement measures of control and security against the population that are necessary due to the armed conflict.²⁵

The Public Defender deems that the arbitrary restrictions on freedom of movement imposed by the de facto authorities deprive the local population of various rights, including freedom, access to health services, security, an adequate standard of living, the right to family life, and freedom of religion. These imposed restrictions may prompt citizens residing in the occupied Gali and Akhagori regions to gradually vacate their homes, potentially resulting in ethnic cleansing.

Regarding documentation, individuals may proceed to the checkpoint on Enguri bridge with the following credentials: 1) a de facto (new) passport;²⁶ 2) a so-called certificate of residence; 3) a birth certificate for individuals under 14 years of age; 4) a Georgian passport for those possessing permission to enter Abkhazia's territory (the so-called visa).²⁷

As of 2023, 3084 so-called residence permits have been issued in the occupied Gali region.²⁸ Many residents of Gali refuse to obtain a residence permit due to its designation as a foreigner status. The residence permit imposes strict criteria and has a 5-year validity period, potentially serving as an additional means of pressuring local inhabitants. Moreover, it does not confer property rights, a crucial factor for many individuals.

In occupied Akhagori, individuals are required to obtain a "pass" for the movement from the de facto security service, which is officially valid for one year. The process of obtaining a new pass entails certain fees.²⁹ A representative from the Public Defender's Office is actively monitoring the current situation regarding freedom of movement and regularly observes activities at the checkpoints leading to both occupied regions.

While documents issued in the occupied territories are not legally recognized by Georgia or the international community, possessing them is crucial for the population in these areas to enjoy basic rights.

1.3. Right to Education

Ensuring education in the native language remains a significant challenge in the territories of occupied Abkhazia and Tskhinvali. In all schools in occupied Gali and Akhagori, teaching in the Georgian language has been entirely prohibited in primary classes, relegating the native language to a subject on foreign language and literature.

Year by year, the number of students in occupied Gali is decreasing. According to the data of the 2023-2024 academic year, 30 complete general education schools, 9 pre-school institutions, and 5 art schools are functioning in the occupied Gali district. As of January 2023, 3443 students are enrolled in the schools,

²⁵ Article 27, Geneva Convention IV.

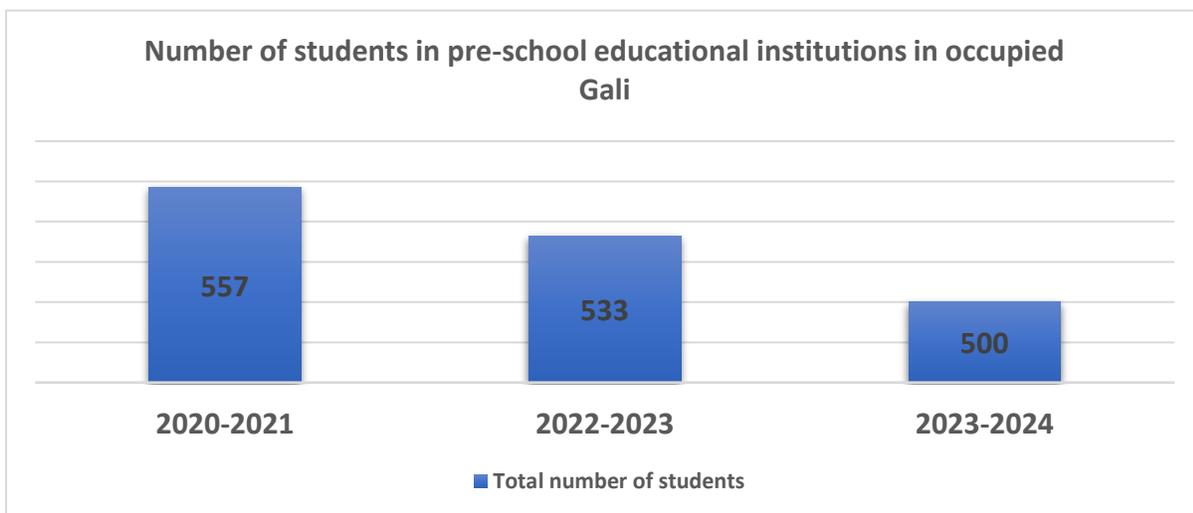
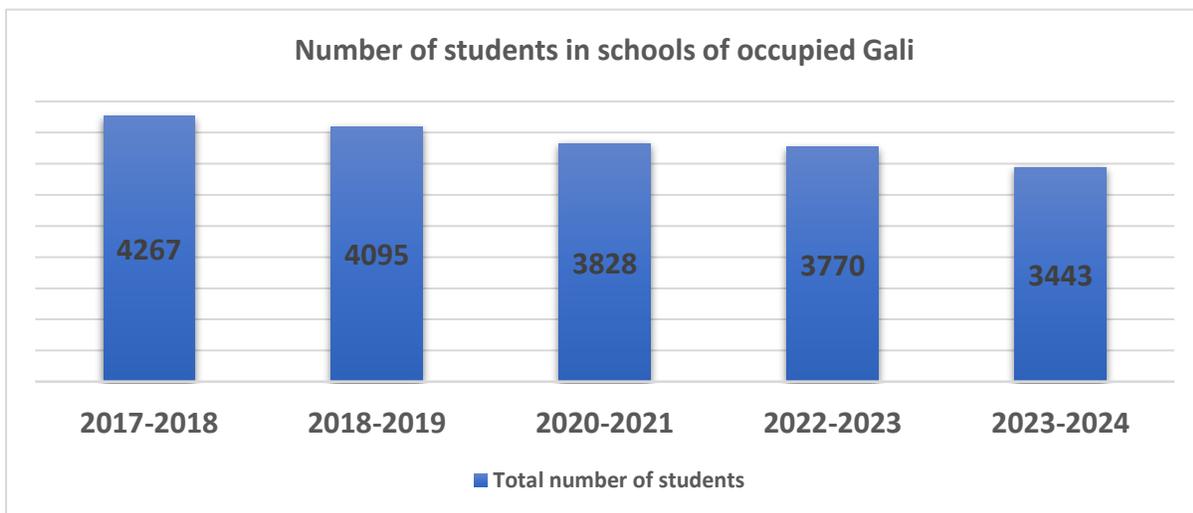
²⁶ Old de facto passports were confiscated in 2014.

²⁷ The de facto law of occupied Abkhazia, adopted in 2016, regulates the rules of "entry and exit to the Republic of Abkhazia".

²⁸ Letter NGOV076 of February 19, 2024 from the Office of the State Minister of Georgia on Reconciliation and Civic Equality.

²⁹ Speaking to the representative of the Public Defender, people who moved from occupied Akhagori say that getting the so-called pass costs up to 500 GEL.

from preparatory to 11th grade.³⁰ According to the data of the 2021-2022 academic year, their number was 3770.³¹ 957 teachers and technical staff are employed in all 30 schools. About 500 children are enrolled in kindergartens.³² In 2022-2023, this number was 533.³³



Before the armed conflicts, the occupied Gali region operated 58 general education schools, including two Russian,³⁴ three Russian-Georgian, and one Georgian-Abkhazian institutions. The remaining 52 schools conducted classes entirely in the Georgian language, with a total enrollment of 13,180 students.³⁵

³⁰ Letter №MES 2 24 0000091227 of the Minister of Education of A/R of Abkhazia dated January 31, 2024.

³¹ 2022 Report of the Public Defender of Georgia on the State of Human Rights Situation in Georgia. Information available at: <https://shorturl.at/lyMP1> [20/02/2024].

³² Letter №MES 2 24 0000091227 of the Minister of Education of A/R of Abkhazia dated January 31, 2024.

³³ 2021 Report of the Public Defender of Georgia on the State of Human Rights Situation in Georgia. Information available at: <https://bit.ly/41tHtQC>

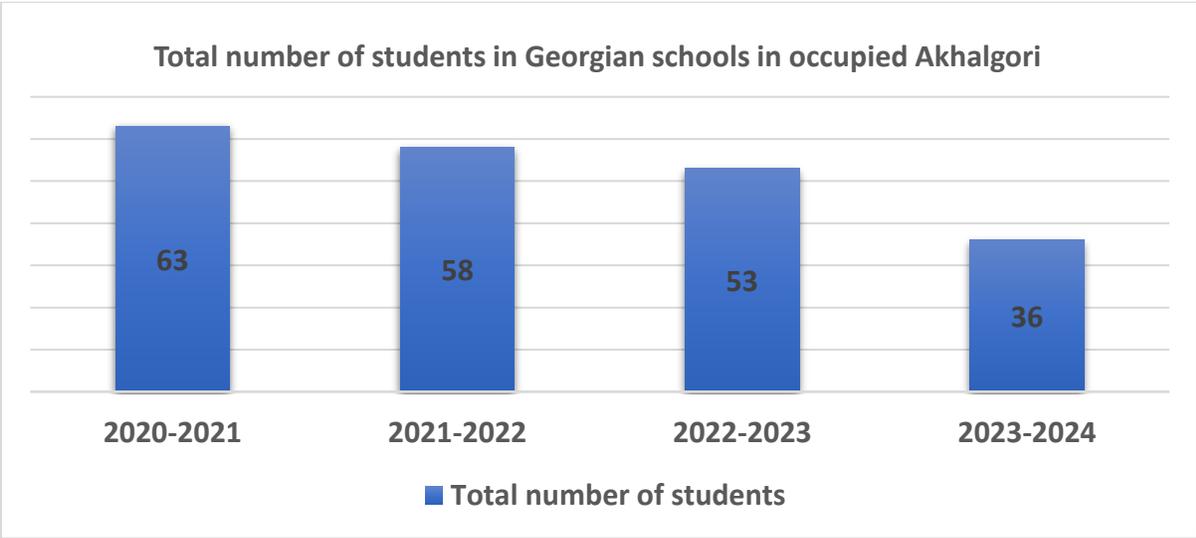
³⁴ Gali No. 1 and Gindze secondary schools.

³⁵ Information provided by the representative of the Gali Resource Center of the Ministry of Education of A/R of Abkhazia. January 2024.

One significant challenge lies in the qualification of teachers in the occupied Gali region. Since they are prohibited from conducting lessons in Georgian, their hiring is not based on pedagogical qualifications and experience but rather on their proficiency in the Russian language. Individuals with Georgian education are intentionally being replaced by recent graduates of Sukhumi University. Furthermore, teaching the history and geography of Georgia remains strictly prohibited. Instead, classes focus on the history of Abkhazia printed in Russian and the history of Russia authored by Russian writers. Additionally, the storage and use of Georgian encyclopedias or other extracurricular reading materials are prohibited in school libraries.³⁶

For years, the Public Defender has emphasized the significance of providing professional training and development opportunities for teachers working in the occupied territory. In this regard, the year 2023 marks a positive step forward. Throughout the reporting period, the National Center for Professional Development of Teachers successfully retrained 445 teachers from the occupied territories.³⁷

In occupied Akhagori, currently, only 6 Georgian schools are operational. Among these, in 5 schools, teaching is conducted in the mother tongue only in the 11th grade, while in other instances, Georgian language instruction is limited to a foreign language subject. Data from the 2023 academic year reveals a total enrollment of 36 students in Akhagori's Georgian schools, with 91 employed teachers.³⁸ In contrast, in 2022, there were 53 students and 108 teachers, indicating a further decline in the situation.



The Public Defender's assessment highlights that restricting access to education in the native language negatively affects students' proficiency in Georgian and compromises the quality of education. Given this reality, proactive measures by the Georgian government are crucial to safeguard the rights of students residing in the occupied territories, particularly concerning their right to education. The current situation

³⁶ Letter №MES 2 24 0000091227 of the Minister of Education of A/R of Abkhazia dated January 31, 2024.
³⁷ Letter №MES924 0000081216 of the LEPL National Center for the Professional Development of Teachers dated January 29, 2024.
³⁸ Information provided by the Education Service of the South Ossetian Administration to the representative of the Public Defender, January 2024.

severely impedes the educational opportunities and developmental prospects of young people, causing irreparable harm.

1.4. The Right to Health Care

Improper medical services and infrastructure, and the qualifications of medical personnel in the occupied territories of Georgia continues to pose a challenge. Additionally, the complex process of transferring patients at checkpoints remains problematic.

Given these circumstances, a significant portion of the population residing in the occupied territory seeks medical assistance outside of these areas. Consequently, Georgia's state programs aimed at safeguarding the health of individuals in the occupied territories assume particular significance.

In 2023, under the "referral service" framework, funding was provided for 1,552 patients from the occupied territories, with 1,257 from occupied Abkhazia and 295 from occupied Tskhinvali.³⁹

Regarding the services (diagnosis, treatment) offered by the state hepatitis C management program, as of 2023, 13 individuals with neutral documents residing in the occupied territories received benefits.⁴⁰

The right to healthcare is acknowledged by various international documents. All individuals are entitled to the highest achievable standards of physical and mental health.⁴¹ Access to the healthcare system is an integral aspect of the right to healthcare, making it an absolute human right and consequently, a subject of particular legal safeguarding.

1.5. Rights of Persons Living in the Villages Along the Occupation Line

During the reporting period, the Public Defender visited villages in both Shida Kartli and Samegrelo, near the occupation line, to personally assess the needs of the local population.⁴²

As a result of the conducted monitoring, it can be concluded that despite the social and infrastructural projects implemented by the government, the local population is still suffering from the damage caused by the war. This is especially true for the villages adjacent to the occupation line in Shida Kartli, which were directly affected by the armed conflict of 2008.

The illegal violation of property rights caused by the so-called "borderization" remains a daily challenge for the population living near the occupation line. The occupation regime is attempting to present this illegal process as a legitimate state border arrangement to establish the occupied regions as independent entities. Since 2008, the Russian occupation forces have laid over 56 km of barbed wire, fences, and

³⁹ Letter №100040372200699805 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, dated February 8, 2024.

⁴⁰ Letter №100040372200699805 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, dated February 8, 2024.

⁴¹ Article 12, International Covenant on Economic, Social and Cultural Rights

⁴² During 2023, the Public Defender visited 14 villages located near the occupation line: Zemo Nikozi, Gugutiaantkari, Zardiantkari, Ergneti, Kirbali, Chvrinisi, Chorchana, Odzisi, Mikeliani, Perevi, Kardzmani, Rukhi, Khurcha and Pakhulani.

various artificial barriers in the direction of the occupied Tskhinvali region, and the length of artificial barriers in the direction of occupied Abkhazia exceeds 49 km.⁴³

During the meeting with the Public Defender, the local population highlighted several issues, including limited access to agricultural lands, drinking water,⁴⁴ markets,⁴⁵ pharmacies, and medical services. They also emphasized the importance of livestock and pastures, irrigation water, land registration, road quality, access to municipal transportation,⁴⁶ and the construction and rehabilitation of sports fields,⁴⁷ educational institutions, and public centers.

Physical security is the most significant problem for the population living near the occupation line. Due to the ongoing creeping occupation, many residents are unaware of the exact location of the so-called border line. Consequently, there are frequent instances where representatives of the occupation regime detain people on charges of violating the "state border."

Completing the rehabilitation and compensation process for houses damaged during the war in villages near the occupation line remains a significant problem. Additionally, finding sources of employment and income for the local population continues to be a major challenge.

Given the socio-economic problems and security challenges, these villages experience a high rate of internal migration. It is crucial for the state to pay more attention to the people living near the occupation line and provide them with necessary support.

1.6. Human Rights Situation of Women and Girls Living in the Occupied Territories

The Public Defender of Georgia actively monitors the human rights situation of individuals living in the occupied territories of Georgia and the villages near the occupation line, with a particular focus on women and girls. To this end, the Office of the Public Defender held 35 meetings in these villages in 2023,⁴⁸ with 196 women participating.

⁴³ Letter №SSG52300174326 of the State Security of Georgia dated August 1, 2023.

⁴⁴ During the meeting with the Public Defender, the residents of Chorchana and Odzisi villages named drinking water as one of the problems.

⁴⁵ During the discussion with the Public Defender, the community highlighted the closure of the Ergneti market. They explained that this market served not only as a trading hub but also played a significant role in fostering/sustaining interpersonal connections. It facilitated trade interactions with individuals who were presently beyond the jurisdiction of the central government.

⁴⁶ In the village of Ergneti, the population identified access to municipal transport as one of the challenges.

⁴⁷ Meeting with local residents in Ergneti village. With the letter № MES 8230001515961 of the LEPL Educational and Scientific Infrastructure Development Agency dated November 8, 2023 we were informed that this issue will be discussed in the future action plan.

⁴⁸ Villages of Gori municipality: Koshka, Zemo Nikozi, Kvemo Nikozi, Zemo Khiti, Kvemo Khiti, Karbi, Tsitsagiantkari, Akhalubani. Villages of Kaspi municipality: Bozhami, Khviti, Sakorintlo, Vake, Pantiani, Kodistskaro, Saribari, Karapila. Villages of Kareli municipality: Ghogheti, Tamarasheni, Satsikhuri, Abano, Koda; Sachkhere municipality: Perevi village, Kardzmani; Zugdidi municipality, the village of Rike, Koki, Ganmukhuri, Muzhava, Olori, Nashamgu, Orsantia, Shamgona, Tkaia; Tsalenjikha municipality: village Chale, Potskho Etseri, Etsperperdi.

At the meetings, women identified several challenges. They highlighted issues such as limited participation in decision-making and peace and security processes, as well as a lack of information about engaging in agribusiness and small businesses.

The primary challenge lies in the current situation regarding women's access to sexual and reproductive health services. This includes challenges such as limited access to contraceptives and maternity facilities, along with a complete ban on abortion services in the occupied Abkhazia region. Consequently, women resort to non-medical methods to terminate unwanted pregnancies, posing a significant risk of fatal outcomes.

Accessing maternity homes and gynecologists poses a significant challenge for women residing in villages near the occupation line.⁴⁹ They must travel considerable distances to access these services, which in turn leads to issues related to time, transportation, and financial constraints.

The situation is particularly concerning regarding the availability and utilization of free antenatal services.⁵⁰ In most villages, there is a lack of awareness about the existence of free screening centers. Even in villages where such services are available, women's participation in these programs is minimal, indicating the necessity for more outreach efforts and meetings with local women to raise awareness about these services.

Women and girls affected by the conflict are vulnerable to gender-based violence. As part of the National Action Plan on Women, Peace, and Security, the government committed to organizing awareness-raising meetings in villages near the dividing line to address issues related to gender-based violence, including sexual violence.⁵¹

In some villages,⁵² women report that domestic violence, both physical and psychological, is quite common. However, instead of contacting law enforcement agencies, the population often attempts to resolve these conflicts internally. Despite the presence of protection and assistance mechanisms for victims of violence in the country, local women express concerns that these services are not long-term solutions and fail to empower women to live independently with their children in the future.

Recommendations

To the Government of Georgia and the Minister of Foreign Affairs of Georgia:

- To conduct negotiations in all available formats to urge the occupation regimes to remove illegal restrictions along the entire perimeter of the occupation line. This includes ensuring the smooth operation of border crossings to protect the freedom of movement for the population;

⁴⁹ Women from Chale village of Tsalenjikha municipality have to receive services in Zugdidi. Shamgona, Potskho Etseri, Tkaia, Rike, Orsantia, Olori, Muzhava, Etserperdi, Ganmukhuri, Kodistskaro, Saribari, Karapila, Karbi, Tsviti, Bozhami.

⁵⁰ Chale, Potskho Etseri, Rike, Olori, according to the information provided, they received only 3-4 free services, the rest are chargeable. According to the information of women from Koki, Etserperdi, Ganmukhuri, Koshka, Mujshavi village, all consultations/visits were chargeable.

⁵¹ Activity 2.1.1; 2.1.2.

⁵² Shamgona, Orsantia, Olori, Tkaia.

- To conduct negotiations through all available international channels to ensure that the Government of the Russian Federation permits full and unrestricted access for international monitors to the occupied territories of Georgia.

To the Office of the State Ministry for Reconciliation and Civic Equality:

- In collaboration with partner agencies, to regularly organize meetings with the population residing in villages near the occupation line to address issues related to gender-based violence.

To the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia:

- Conduct meetings with rural women to provide information about free sexual and reproductive health programs.

2. The Right to Life

2.1. Introduction

In terms of protecting the right to life and fulfilling the associated obligations, one of the ongoing issues is the ineffective investigations into cases of violations of the right to life that have been examined by the PDO. Therefore, there is still a relevant need to broaden the PDO mandate to allow the the Public Defender's Office to scrutinize investigation materials related to cases of mistreatment and/or violation of the right to life before the investigation is concluded.

This chapter provides an overview of several important issues: the protection of the right to life in the context of occupation, the investigation of the tragedy in Shovi case, responding to femicide cases, ineffective investigations of the cases of violation of the right to life, and the treatment of somatic (physical) health problems at psychiatric institutions.

2.2. The Situation in Terms of the Protection of the Right to Life in the Context of the Occupation

Unfortunately, in 2023, Russian occupation once again claimed the lives of Georgian citizens. According to reports from various mass media outlets, Russian military forces fatally shot Tamaz Ginturi, a Georgian citizen, with a firarm on November 6, 2023, in the village of Kirbali in the Gori Municipality.⁵³ On December 10, 2023, news broke of another alleged violation of the right to life. It was reported that Temur Karbaia, a Georgian citizen, had been verbally abused and beaten by "militia officers" of the occupational regime in the occupied Gali District; as a result, the Georgian citizen passed away after being transferred to a hospital.⁵⁴

The Public Defender began to scrutinize the criminal case of the murder of Tamaz Ginturi on his own initiative,⁵⁵ and requested information from the investigating authority.⁵⁶ Based on the information obtained, the investigation is being conducted into alleged intentional murder under aggravating circumstances, unlawful deprivation of liberty and the purchase, storage and carrying of a firerarm.⁵⁷ Several investigation activities have been conducted in the case, and the investigation is still ongoing.⁵⁸ Tamaz Ginturi's child has been recognized as successor of the victim, while L.D. has been recognized as a victim in relation to the unlawful deprivation of liberty.⁵⁹

The Russian Federation is responsible for the murder of Tamaz Ginturi, as it exercises effective control over the occupied territories. This murder as another serious violation of human rights is a consequence of the fact that the murderers of four Georgian citizens: David Basharuli, Giga Otkhazia, Archil Tatumashvili, and Irakli Kvaratskhelia remain unpunished. Once again, the responsibility for this lies with

⁵³ Tamaz Ginturi, who was killed at Kirbali, is the brother of a member of the Gori City Assembly, see: < <https://shorturl.at/hlow8> > [last viewed - 14.02.2024].

⁵⁴ Public Defender's Statement on Alleged Deprivation of Life of Georgian Citizen by Occupation Forces see: < <https://shorturl.at/pBJU1> > [last viewed 10.03.2024].

⁵⁵ Detailed information about this case is available in the 2023 Activity Report of the Criminal Justice Department of the Public Defender's Office..

⁵⁶ The PDO Letters №15-10/11428 dated November 22, 2023, and №15-10/11939 dated December 8.

⁵⁷ Under the Criminal Code of Georgia Article 109 (b) and (c), Article 143, Para 3 (a), (c), and (e), and Article 236 Para. 3 and 4.

⁵⁸ The Letter of the Ministry of Internal Affairs MIA 8 23 03563326 dated December 4, 2023.

⁵⁹ The Letter of the Prosecutor's Office of Georgia №13/84736 dated December 18, 2023.

the Russian Federation.⁶⁰ It is important to note that the European Court of Human Rights rendered a decision on the Giga Otkhozoria case⁶¹ in 2023 and recognized the Russian Federation as a state responsible for his murder. In the case, The ECtHR established substantive and procedural violation of the right to life by Russia.⁶² Moreover, in the context of the investigation of the encroachments on the right to life, the Court reasoned about the obligation to request and provide mutual assistance between states, as well as the use of non-formal or indirect channels of cooperation in cases where formal diplomatic relations are not in place.⁶³

Therefore, Georgia should use appropriate legal mechanisms to address the murders of its citizens. It is important to note that the case of Tamaz Ginturi's murder was discussed during the 117th meeting of the Incident Prevention and Response Mechanism held in the village of Ergneti in the Gori Municipality on February 13, 2024. According to the State Security Service,⁶⁴ during the meeting representatives of the central authorities raised the issue of immediate administration of justice in relation to an individual/s culpable in the murder. However, according to a representative of the Russian occupational forces, they do not intend to punish the individual or individuals who committed the murder and administer justice. Furthermore, it has been indicated that the central authorities of Georgia continue to demand the justice be served against the individual(s) responsible for the murder of Tamaz Ginturi in various international formats, a development that is to be welcomed.

2.3. The Ongoing Investigation of the Case of the Tragedy in Shovi

Unfortunately, the landslide in Shovi claimed the lives of 32 individuals in 2023.⁶⁵ According to the Ministry of Internal Affairs⁶⁶, an investigation was launched for negligent homicide committed in relation to two or more persons and for the breach of safety rules during mining, construction or other works that had caused homicide or other dire consequences.⁶⁷ According to the MIA, various investigative activities were conducted, such as crime scene examination and interviews. The Prosecutor General's Office has informed⁶⁸ that 22 close relatives of 32 deceased individuals have been recognized as successors of the victims. The lawyers of the victims' successors are reviewing the materials of the criminal case. So far, there has been no criminal prosecution initiated. The Forensic Bureau has not raised an issue of the engagement of foreign state representatives in the forensic examination process. Therefore, they have not reached out to another state to request legal assistance.

⁶⁰ Public Defender's Statement on Killing of Georgian Citizen and Illegal Detention of Another Citizen Near Kirbali Village , see.: < <https://shorturl.at/axlM0> > [last viewed 10.03.2024].

⁶¹ European Court of Human Rights December 19, 2023 judgment on the case of Matkava et al v Russia, Application N^o 3963/18, see.: < <https://shorturl.at/mpvV1> > [last viewed 14.02.2024].

⁶² European Court of Human Rights December 19, 2023 judgment on the case Matkava et al v Russia, Application N^o 3963/18, see.: < <https://shorturl.at/mpvV1> > [last viewed - 14.02.2024].

⁶³ Ibid., §115-117.

⁶⁴ The Letter SSG 8 24 00040100 of the State Security Service dated February 21, 2024.

⁶⁵ The Letter of the Prosecutor's office of Georgia N^o13/10446 dated February 16, 2024.

⁶⁶ Letters of the Ministry of Internal Affairs NMIA52302833838 dated September 28, 2023 and NMIA42303387742 dated November 17, 2023.

⁶⁷ The Criminal Code of Georgia, Article 116, Para. 2 and Article 240 Para. 2.

⁶⁸ Letter of the Prosecutor's Office of Georgia N^o13/10446 dated February 16, 2024.

In the opinion of the Public Defender, it is necessary to conduct an effective investigation on this matter while maintaining institutional independence and impartiality. This should be done thoroughly and competently, within a reasonable timeframe and with the engagement of family members of the victims. The investigation should look into the fulfillment or failure to fulfill the positive obligation of the protection of the right to life, regulation of risky or hazardous situations, implementation of preventive and reactive measures, and, if necessary, utilize expertise from another state.

At this point, it can be stated that the issue of institutional independence of investigation may be at hand. Specifically, the investigation should inquire into the timely and adequate planning, management and conduct of the rescue operation in Shovi by the Emergency Management Service, a sub-agency of the Ministry of Internal Affairs. The investigation by the MIA into an alleged crime committed by its own sub-agency makes the institutional independence of the investigation questionable.

For a thorough examination of the case, the Public Defender's Office requested permission from the Ministry of Internal Affairs to review the case materials on an exceptional basis.⁶⁹ The Public Defender's Office received a letter from the MIA dated March 22, 2024, informing them that the MIA is prepared to allow representatives from the PDO to access the electronic version of the case materials.⁷⁰ Following the review of the case materials, the PDO will be able to evaluate the effectiveness of the investigation.⁷¹

2.4. Femicide – the Cases of Gender-Based Murder of Women

According to the data of the General Prosecutor's Office of Georgia,⁷² in 2023,⁷³ out of 24 cases of murder of woman 16 had domestic violence dimension, and 8 – non-domestic.⁷⁴ Out of 27 cases of the attempted murder of woman,⁷⁵ 20 involved domestic crime motive, and 7 – non-domestic motive. From the unified statistics, the Prosecutor's office identified femicide in 9 cases, and attempted femicide – in 14 cases.⁷⁶

During the current reporting year, the gender based intentional murder of 14 year-old Aitaj Shakhmirova was particularly heinous.⁷⁷ This atrocious murder is not an isolated case and is a result of the deficiencies in prevention and interdiction of violence, protection and support to victims of violence. This incident

⁶⁹ The PDO Letter №15-5/11743 dated December 4, 2023.

⁷⁰ The Letter of the Ministry of Internal Affairs of Georgia MIA 0 24 00873678 dated March 22, 2024.

⁷¹ For more information about this case, see the 2023 Activity Report of the PDO Criminal Justice Department.

⁷² The Letter of the Prosecutor's Office of Georgia №13/4150 dated January 24, 2024.

⁷³ For comparison, out of the 25 female murder cases identified in 2022, 15 have domestic violence dimension, 11 – non-domestic. Out of 37 cases of attempted murder of women 28 - were committed as domestic violence crime and 9 as non-domestic crimes. (Including the facts of incitement to suicide and the fact of intentional infliction of grave harm to health resulting in death).

⁷⁴ Including, the fact of inciting 1 woman to suicide based on non-domestic violence motive.

⁷⁵ Including, 9 facts of inciting to attempted suicide based on domestic violence motive and the preparation of murder of 1 woman based on domestic violence motive.

⁷⁶ Since identifying gender motives in cases is challenging, the Public Defender deems advisable using general data on femicides and attempted femicides until statistical methodology is improved.

⁷⁷ The hearing on the merits of the criminal case is currently taking place in court, the Letter of the Prosecutor General's Office of Georgia №13/15020, 05/03/2024.

once again confirms the need to strengthen preventive measures, transform attitudes and eliminate gender-stereotyped traditions and vicious practices.⁷⁸

Out of the cases examined by the Public Defender under the monitoring of femicide,⁷⁹ it is worth noting that there has been a positive increase in the indicator/rate of identifying gender motive in cases of femicide and attempted femicide. However, in some instances, identifying gender based crime continues to be a challenge during both the investigation and court stages.⁸⁰

Monitoring has also revealed inconsistent practice by the Prosecutor's Office regarding the recognition of children who witnessed femicide/attempted femicide or heard a victims's voice as victims.⁸¹

It was revealed through monitoring that in some cases even when victims experienced extreme form of violence, women refused to testify against their family members.⁸² This demonstrates the clear necessity for involving a witness and victim coordinator in handling cases of attempted femicide and providing appropriate psycho-emotional support for the affected women.

Unfortunately, in 2023, too, there have been cases where, despite the state being aware of possible violence, femicide or attempted femicide could not be prevented.⁸³

2.5. Ineffective Investigations of Cases of (alleged) Violation of the Right to Life

During the reporting period, the Public Defender's Office scrutinized investigations into various cases involving the alleged violation of the right to life.⁸⁴ Once again, cases of ineffective investigation have been identified. In this chapter, we will provide an overview of the deficiencies in the investigation process by examining ongoing investigations launched during the reporting year into cases of alleged violation of the right to life.

2.5.1. The Investigation of Alleged Murder of an Underage A.I.

On March 17, 2023, the body of an underage A.I. was discovered behind residential apartment blocks, among trees and bushes in Didi Digomi District, Tbilisi. An investigation was initiated on the same day into the intentional murder of the underage individual, under Article 109 (e) of the Criminal Code of Georgia.

⁷⁸ It is important to note that since 2022, the Prosecutor's Office of Georgia has launched the campaign "No to Femicide". The campaign is aimed at raising public awareness about violence against women and domestic violence and the prevention of femicide crimes. It should also be mentioned that fighting femicide will not be productive in the long run without coordinated and strategic work and the involvement of key agencies, including the Ministries of Health and Education.

⁷⁹ The Public Defender analyzed the crimes of femicide and attempted femicide that occurred in 2022.

⁸⁰ Tbilisi Court of Appeals Case N1/ბ-757-22; Telavi District Court Case N1/77-22; Tbilisi City Court Case N1/7099-22; Tbilisi City Court Case N1/6278-22; Tbilisi City Court Case №1/7163-22; Batumi City Court Case №1-67/23; moreover, Bolnisi District Court Case №1/368-22; Rustavi City Court Case №1/914/22; Tbilisi City Court Case №1/7108-22.

⁸¹ Tbilisi City Court Case №4216-22; Kutaisi City Court Case №1/1258-22; Akhaltsikhe District Court Case №1/217-22; Batumi City Court Case №1-67/23.

⁸² Tbilisi City Court Case №1/6588-22; Tbilisi City Court Case №1/4681-22.

⁸³ Letter of the Ministry of Internal Affairs MIA 0 24 00241813, 26/01/2024.

⁸⁴ For more information about the cases, see the 2023 Activity Report of the PDO Criminal Justice Department.

The party representing the victim's successor submitted case materials to the Public Defender. Upon reviewing the case materials, it was discovered that despite hundreds of investigative and procedural activities conducted, the investigation was conducted ineffectively in the beginning. It failed to carry out key investigative actions that could have provided crucial evidence for the the case. The failure to implement or delayed implementation of these actions may have resulted in the destruction of important evidence for the investigation, ultimately hindering the establishment of the circumstances surrounding the case.

Significant deficiencies in the investigation include, among others, the failure to examine areas adjacent to the crime scene and those that were relatively hidden. There was also a failure to obtain biological material or a sample of the smell necessary to establish the presence of the deceased individual in that location. Additionally, against the backdrop of the failure to establish the reason for the deceased individual's mobile phone being switched off, the victim's family members, relatives, and friends were not interviewed about the victim's habits (such as, whether or not they were attentive to charging their mobile phone); The development of a police suspect sketch was delayed; Other investigative defficiencies included damaging of the evidences obtained by the investigation at an forensic institution and protraction of issuing/delivering a conclusion of the medical (commission) forensic examination appointed on May 3, 2023 to establish the mechanism of the infliction of injuries found on the body of A.I. Furthermore, in the same case, photos taken during examination of the body on crime scene, revealed a human hair-like thread in the finger-nail of the deceased A.I.'s left hand fourth finger. This thread could not be found later in the case file materials or subsequent investigations.⁸⁵

The Public Defender submitted a justified proposal to the General Prosecutor and the Minister of Internal Affairs regarding ineffective investigation and the need to conduct specific investigative activities.⁸⁶ On March 18, 2024, a working meeting was held between the Ministry of Internal Affairs and the Public Defender's Office to discuss the case. The meeting participants engaged in detailed discussions around the circumstances outlined in the proposal. According to the information presented by the Ministry of Internal Affairs, various investigative activities indicated in the proposal have already been implemented by the instittuion, the investigation is ongoing, and other circumstances referenced in the proposal will be taken into account. Furthermore, on March 19, 2024, the General Prosecutor's Office of Georgia informed⁸⁷ the Public Defender's Office that they fully accepted the part of the proposal that concerned the Prosecutor's Office. They also indicated that the Prosecutor's Office has submitted a request to the Ministry of Internal Affairs to address the breach of legislation, its causes and contributing factors.⁸⁸

1.5.2. The Case of the Suicide of Z.V.

The Office of the Public Defender reviewed materials of the case involving the suicide of the inmate Z.V. on an exceptional basis at the Special Investigation Service.⁸⁹ According to the circumstances of the case, on July 10, 2022, Z.V.'s suicide risk was assessed as low (6 scores). However, since the score was close to

⁸⁵ For detailed information about this case, see the 2023 Activity Report of the PDO Criminal Justice Department.

⁸⁶ Proposal №15-2/2222 of the Public Defender dated March 1, 2024.

⁸⁷ The Prosecutor's Office of Georgia Letter №13/18469 dated March 19, 2024.

⁸⁸ In accordance with the Organic Law of Georgia on the Prosecutor's Office of Georgia, Article 48, Para. 1.

⁸⁹ For detailed information about this case, see the 2023 Activity Report of the PDO Criminal Justice Department.

the average risk (7 scores), recommendation was made for psychiatric counseling and placing the inmate in a cell equipped with a CCTV camera. On July 11, 2022, Z.V. took an object resembling an elastic bandage and entered the restroom of the cell at 02:58:33. An employee of the Special Penitentiary Service Electronic Surveillance Division allegedly witnessed Z.V. entering into the cell and made telephone calls at 03:04:18, 03:05:40 and 03:10:50. At 03:09:37 another employee of the penitentiary institution went to Z.V.'s cell and asked one of the inmates to check the restroom inside the cell. At 03:13:52 the inmate approached the restroom door but did not open it, instead turned back toward the cell door. At 03:14:03, the inmate opened the restroom door and discovered Z.V.'s committing suicide. The inmate promptly notified an officer, who then brought a key to the cell. Unfortunately, the measures taken afterwards were ultimately unsuccessful.

According to the examination of case materials, it was found that some specific investigative actions were not conducted during the investigation process. These actions could have provided significant information needed for the effectiveness of the investigation and the identification of the responsibility of the alleged wrongdoers. The PDO believes that in this case, it is necessary to establish the existence of history of office telephone conversations and/or audio recordings. If available, these should be obtained. It is also important to determine the precise time when an authorized representative of the penitentiary Institution received information about Z.V.'s alleged suspicious behavior. Additionally, it should be clarified whether individuals who were involved in the incident used radios and whether the radio audio recordings from the relevant time period are stored, among other things.

The Public Defender applied to the Special Investigation Service with a proposal to conduct specific investigative actions in the criminal case.⁹⁰ According to the Special Investigation Service, all necessary investigative and procedural actions will be conducted as part of the investigation, and significant circumstances referenced in the proposal will be taken into account.⁹¹ The Public Defender's Office will continue to monitor the investigation of the case.

1.5.3. The Case of L. Kh.

The PDO reviewed the materials of the case involving the investigation⁹² into the death of the accused L.Kh.⁹³ L.Kh.⁹⁴ was detained on June 20, 2023. L.Kh., L.Kh.'s mother and a defence attorney pointed out that L.Kh. had a mental health issue. This is evidenced by medical treatment recommendations without specifying a diagnosis.⁹⁵ On June 21, 2023 in-patient forensic psychiatric examination was appointed for the accused. On June 22, after the court decided on incarceration, L.Kh. was placed in N 8 Penitentiary Institution. On July 3, L.Kh. was transferred to the LEPL Levan Samkharauli National Forensic Bureau, and

⁹⁰ The Public Defender of Georgia Proposal №15-3/1952 dated February 23, 2024.

⁹¹ Letter of the Special Investigation Service SIS 5 24 00004466 dated March 12, 2024.

⁹² Investigation into a criminal case №199070723002 is ongoing under the Criminal Code of Georgia, Article 342, Para. 2.

⁹³ For detailed information about this case, see the 2023 Activity Report of the PDO Criminal Justice Department.

⁹⁴ The defense attorney submitted copies of the criminal Case №002200623001 materials and audio recordings of the initial court appearance of the accused person to the Public Defender's Office.

⁹⁵ The defense lawyer submitted to the PDO (as well as to the Investigation Authority) certificates issued by the psychiatrist on 26.06.2023 and 07.07.2023 with a specific diagnosis (schizotypal disorder).

was returned to the Institution from the Forensic Bureau on July 5. At the same time, the Forensic Bureau notified the Institution that the inmate required psychiatric observation. On July 7, the inmate passed away in the cell.

It is important to note that following the death of the accused person, on July 24, an issued psychiatric expert examination concluded that criminal insanity was established, as L.Kh. suffered from schizotypal disorder. Therefore, there was a circumstance that excluded guilt⁹⁶ and L.Kh. could not be held criminally liable. This was already known during expert examination, but the conclusion was not prepared and issued promptly, it took 19 days to prepare the conclusion, when an inmate had already passed away. It is noteworthy to consider the circumstances indicated in the psychiatric expert examination : According to the inmate, for the past few years, he did not leave home, did not eat food out of fear of suffocation, only consumed soft food in small amounts, in the presence of a family member. While in detention, his condition deteriorated. In prison the person was afraid in an unfamiliar environment, of unknown individuals, requested to be kept alone and was initially placed in a deescalation room. Afterwards he was transferred to a common cell, was unable to swallow and eat, grew weaker, felt anxious, nervous, experienced an increased heart rate, had a dry mouth, and felt numbness in their face and temples. The person struggled to cope in prison, finding it unbearable and fearing for their life. The expert examination conclusion states that at an in-patient facility, the person only consumed small quantities of food, appeared apathetic, reclusive, and complained of feeling suffocated, only taking small amounts of easily chewable food.

Therefore, the accused L.Kh. required special observation and care to protect their mental and physical health. Furthermore, due to their criminal insanity, it was inadmissible to hold them criminally liable. Unfortunately, the person passed away while in custody, before an expert conclusion was issued. Additionally, it should be noted that the medical documentation at N 8 Penitentiary Institution contained deficiencies. The case of L.Kh. once again brings to light the issue of protecting the rights of prisoners who fall into a particularly vulnerable category due to their mental health condition. In the event of mental health problems, an inmate should be placed in an appropriate environment with access to adequate care services. A psychiatric expert examination should be conducted promptly and a determination of criminal insanity should be made.

Various investigative activities were conducted in L.Kh.'s case. However, the effectiveness of the investigation is hindered by the fact that as of January 2024 (almost 7 months) the investigation still had not received a conclusion from the medical expert examination that was appointed on July 7, 2023 to establish the immediate cause of the inmate's death. Additionally, video recordings were obtained at the initial stage of the case, but an inspection report was not drawn up.

1.5.4. Temirlan Machalikhvili's case

The 2023 judgment of the European Court of Human Rights regarding the case of Temirlan Machalikhvili is briefly outlined in the Public Defender's previous Parliamentary Report. The European

⁹⁶ The Criminal Code of Georgia, Article 34.

Court found that the state violated the right to life, due to an ineffective investigation.⁹⁷ The Public Defender expressed hope that a new investigation, aimed at enforcing the judgment, would consider the recommendations made by the Public Defender and be conducted in accordance with human rights standards.

According to the information provided in June 2023 by the Special Investigation Service (SIS) to the PDO, the SIS intended to consult with the Council of Europe Committee of Ministers to ensure taking steps to enforce the decision within 6 months.⁹⁸ The SIS reaffirmed this position at the end of 2023.⁹⁹ Interestingly, the investigation has not yet resumed. In March 2024, the Council of Europe Committee of Ministers made a decision calling on the Government of Georgia to ensure that the SIS speedily re-examines the case files in light of the Court's findings in the Machalikashvili case and informs the applicants and the Committee on the decision taken with regard to the reopening of the investigation;¹⁰⁰ The PDO is actively monitoring the case.¹⁰¹

1.5.5. Problems Related to Conducting Expert Examination

In 2023, the issue of conducting expert examination and submitting expert conclusions with delays in criminal cases continued to persist, hindering the investigation process.¹⁰² This issue pertains to two main points: 1) Conducting forensic medical and medical commission/comprehensive expert examination where specialized physicians should be involved, as well as those types of expert examinations 2) when an expert from Levan Samkharauli National Forensic Bureau, LEPL is conducting an expert examination and there is no need to seek out another expert. In the former case, a particular problem is that individuals with specialized knowledge who are included in the list of experts approved by the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Protection of Georgia are not required to participate in forensic medical, commission and/or comprehensive expert examination appointed by an investigation. Consequently, the investigation is unable to obtain significant evidence or experiences delays in obtaining such evidence.

When an expert examination is conducted by the experts of the Levan Samkharauli National Forensic Bureau, LEPL, there is no need to seek out other experts and the afore-mentioned reason for delaying forensic examination is irrelevant. However, the issuance of expert conclusions is often delayed for several months, or even years after an expert examination is appointed. For example, the Public Defender's Office reviewed the case of E.G.'s death at N 8 Penitentiary Institution.¹⁰³ Medical expertise was appointed on this case on November 24, 2021, and was completed on January 4, 2024, taking about 2 years and 1 month.¹⁰⁴ Furthermore, the PDO reviewed the case of the death of T.K. at N 18 Institution for Medical

⁹⁷ Report of the Public Defender of Georgia On the Situation of Protection of Human Rights and Freedoms in Georgia, 2022, pages 21-22, see.: < <https://shorturl.at/izBC6> > [last viewed 22.02.2024].

⁹⁸ Letter NSIS32300009541 of the Special Investigation Service dated June 2, 2023.

⁹⁹ Letter SIS 9 23 00022533 of the Special Investigation Service dated December 8, 2023.

¹⁰⁰ See the decision made at the 1492th meeting of the Committee of Ministers of the Council of Europe held on March 12-14, 2024, Para. 4, available at: <[1492 DH decisions in Tsintsabadze group](#)> [last viewed 29.03.2024].

¹⁰¹ For detailed information about this case, see the 2023 Activity Report of the PDO Criminal Justice Department.

¹⁰² For detailed information about this matter, see the 2023 Activity Report of the PDO Criminal Justice Department.

¹⁰³ Criminal Case №199241121001, with the elements of crime stipulated under Article 342(2) of the Criminal Code of Georgia.

¹⁰⁴ Letter №5000216724 of the LEPL Levan Samkharauli National Forensic Bureau dated January 15, 2024.

Treatment of the Accused and Convicts.¹⁰⁵ The medical expert examination that was appointed on April 25, 2023 in this case was still pending even after about 10 months from the appointment.¹⁰⁶ The case of the death of T.B.¹⁰⁷ should also be noted. In this case, the conclusion of the Occupational Safety Expert examination appointed on April 17, 2022, was produced on August 18, 2023, after a year and a half.¹⁰⁸

2.6. Medical Treatment of Somatic (Physical) Health Problems at Psychiatric Institutions

Various challenges unfortunately persist in the area of treating somatic health problems at psychiatric institutions.. Specifically, one challenge that remains is the management of side effects of antipsychotic medications. The control of medication side effects was included in the State Health Protection Program in 2023 and upon admission into an in-patient facility patients undergo general blood and urine tests, as well as Hepatitis C, Syphilis, and glucose tests which are repeated if necessary. However, administering these tests alone does not ensure the control of side effects. Unfortunately, the Agency for State Regulation of Medical and Pharmaceutical Activity has not scrutinized the practice of administering and monitoring side effects of antipsychotic medications at psychiatric institutions, despite the recommendation of the Public Defender. Additionally, maintaining unified statistics on deceased patients continued to be a problem during the reporting period, as it has been in previous years.¹⁰⁹ Psychiatric institutions do not officially record the deaths of patients who have been transferred to another hospital due to a worsening health condition. At the same time, in cases where patients pass away at psychiatric institutions, the precise reasons for death are not established, because no expert examination is conducted. Records at institutions are not informative: other, non-specified and vague reasons for death are indicated.

Proposal

To the Parliament of Georgia:

- Amend the Organic Law of Georgia on the Public Defender of Georgia to grant the Public Defender the power to review case materials of the investigation of ill-treatment and/or encroachment on life before an investigation is completed.

Recommendations

To the General Prosecutor of Georgia and the Head of the Special Investigation Service:

- Start and conduct a new/renewed effective investigation into the encroachment on the life of Temirlan Machalikhshvili.

¹⁰⁵ Criminal Case №199250423001, with the elements of crime stipulated under Article 342(2) of the Criminal Code of Georgia.

¹⁰⁶ Letter №5001075324 of the LEPL the Levan Samkharauli National Forensic Bureau dated February 23, 2024.

¹⁰⁷ Criminal Case №176030520001.

¹⁰⁸ Letter №5005457423 of the LEPL the Levan Samkharauli National Forensic Bureau dated August 23, 2023.

¹⁰⁹ The Report of the Public Defender of Georgia On the Situation of Protection of Human Rights and Freedoms in Georgia 2022, page 26; The Report of the Public Defender of Georgia On the Situation of Protection of Human Rights and Freedoms in Georgia, 2023, page 30; The Report of the Public Defender of Georgia On the Situation of Protection of Human Rights and Freedoms in Georgia 2020, page 34, See.: < <https://shorturl.at/fwycI> > [last viewed 07.03.2024].

To the Levan Samkharauli National Forensic Bureau, LEPL:

- Ensure that forensic medical examinations are conducted promptly and that expert conclusions are provided to the investigation in a reasonable timeframe in cases involving the violation of the right to life.

To the Minister of the Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Protection of Georgia:

- Instruct the Regulation Agency of Medical and Pharmaceutical Activity to scrutinize the practice of the use of antipsychotic medications and managing their side effects at psychiatric institutions;
- Examine the cases of all deceased patients who had been transferred to psychiatric institutions and from psychiatric institutions, in order to determine the cause of death and whether the patient was transferred to the appropriate institution in a timely manner. Based on the findings, take measures to prevent patient deaths to the fullest extent possible.
- A relevant unit of the Ministry should establish a registry and maintain comprehensive statistics about individuals who have passed away at psychiatric institutions in Georgia. This registry should also include information on the cause and location of death.

To the Minister of Internal Affairs and the General Prosecutor of Georgia:

- Provide regular professional development activities for investigators and prosecutors on identifying gender based crimes;
- Establish a consistent and uniform practice, in the best interests of the child, of assigning victim status to underage witnesses of femicide or attempted femicide. This should apply even when a child did not directly witness an offence, but could hear voices of violence;
- In cases of attempted femicide, intentional infliction of serious harm to health and incitement to attempted suicide, ensure the engagement of witness and victim coordinator on a priority basis.

To the High School of Justice:

- Ensure that judges specializing in criminal law receive retraining and professional development in identifying gender based crimes.

3. Prohibition and Investigation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

3.1. Introduction

In accordance with the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Public Defender of Georgia serves as the National Preventive Mechanism in Georgia. Additionally, the Public Defender of Georgia also handles complaints from individuals who are placed in closed institutions.

In 2023, based on citizens' applications as well as proactively, to respond to information disseminated in the public domain, the representatives of the Public Defender visited a total of 1,703 individuals who were either arrested or imprisoned. These visits were conducted through 581 visits. As part of the national preventive mechanism's mandate¹¹⁰ 128 regular and ad hoc visits were made to 94 institutions.

In this chapter, we will examine cases of ill-treatment, identify relevant risk factors and legislative shortcomings revealed in the penitentiary institutions, the Ministry of Internal Affairs system, psychiatric institutions, mental health shelters and residences.

This chapter consists of three subchapters: 1) Practices that amount to or may amount to ill-treatment, 2) Safeguards against ill-treatment/risk factors causing ill-treatment, and 3) Investigation of alleged ill-treatment cases.

In order to effectively fight against ill-treatment, it is vital that the independent monitoring body has the freedom to carry out its activities. While carrying out the visits during the reporting period, representatives of the Public Defender did not encounter any obstacles.

In the context of the penitentiary system, a positive novelty worth mentioning is the enactment of a new Penal Code. Another positive development is that the Public Defender's numerous recommendations have been taken into consideration and incorporated into relevant provisions of the Penal Code. For instance, the standard living area for defendants has been increased to match that of convicts, at least 4 square meters. Furthermore, it should be noted that, in light of the new regulation stipulated under the Penal Code, if medical staff notice any injuries and/or other circumstances around a defendant/convict that raise suspicion regarding possible torture or ill-treatment, a medical inspection of the defendant/convict will be conducted even without their consent. Consequently, if any bodily injury of a defendant/convict is discovered at a penitentiary institution, the medical staff is required to notify the relevant investigation authority. It is also important to amend the relevant sub-legal normative acts in order to enforce this new provision of the Penal Code. The Code stipulates a maximum period of one year for these amendments to be made.

¹¹⁰ Penitentiary institutions, The Ministry of Internal Affairs offices and facilities (departments, divisions, temporary placement isolator), psychiatric institutions, shelters/housing for individuals with mental disorders, military units, Special Tasks Department of the Ministry of Internal Affairs, The Department for the Protection of the MIA Facilities, the MIA Temporary Placement Center, Monitoring of the Return Operation.

Despite these positive developments, numerous challenges still persist in the penitentiary system. The issues that were supposed to be incorporated into the Penal Code in accordance with the recommendations of the Public Defender are still relevant. Among them, it is important to focus on the situation in special risk and closed institutions. Inmates in these institutions are kept in cells for 23 hours a day without any engaging activities and are only allowed to spend 1 hour outside for a walk in the yard. The scarce infrastructure is insufficient for the relaxation and recreation of inmates. Unfortunately, the Public Defender's proposal to increase the minimum time for prisoners to spend outdoors has not been included in the new Penal Code.

Similar to previous years, overcrowding in institutions and individual cases of informal management remain serious challenges. During the reporting period, the issue of placing inmates in de-escalation rooms and solitary confinement (safe) cells for prolonged periods without a clear purpose, and with the aim of punishment, persisted. The Public Defender stated that this practice constitutes cruel, inhumane and degrading treatment. Additionally, there were problems with detecting and documenting cases of ill-treatment, providing adequate medical services to inmates and maintaining the physical environment of penitentiary facilities.

In 2023, there were reports of detainees within the Ministry of Internal Affairs system facing violations of their rights. Some detainees raised concerns about the excessive use of force by law enforcement representatives and instances of physical and psychological violence. Additionally, there were issues with informing detainees of their rights, providing timely access to a lawyer, and notifying their families. The challenges of not having a requirement to use body camera, making audio and video recordings continued during the reporting period. Unfortunately, the areas of police facilities where detainees are held are still not fully equipped with CCTV cameras. Furthermore, it is particularly concerning that the number of CCTV cameras in both inner and outer perimeters of police facilities has been decreasing year by year.

There have been no significant improvements in mental health institutions. Patients are still being subjected to abuse and their legal safeguards are being neglected. Although the right to leave voluntarily is clearly outlined in legislation patients with voluntary status are unable to leave institutions on their own accord. The infrastructure of psychiatric institutions does not meet international and national requirements.

In the context of combating ill-treatment, it is important to note that the state is not obligated to expel, return or extradite an individual to another state when there are substantial grounds to believe that the

person would be subjected to torture there.¹¹¹ Unfortunately, cases that contradict this principle have been identified during the reporting period as well.¹¹²

In addition to the aforementioned, it should be noted that an effective response to instances of ill-treatment is a significant component of combatting ill-treatment. However, several deficiencies were identified in this regard during the reporting period.

3.2. Practice that Amounts to Ill-Treatment

In this sub-chapter, we provide an overview of the cases of ill-treatment identified in closed institutions. Additionally, we examine the environments and practices within these systems that frequently lead to such treatment.

Violence committed by employees of institutions/law enforcement officers

In 2023, the Public Defender's Office received numerous applications/complaints from inmates in penitentiary institutions. These applications/complaints were regarding alleged incidents of physical and psychological violence committed against them by officers of the Special Penitentiary Service. Additionally, the National Preventive Mechanism received information¹¹³ about numerous alleged incidents of physical and psychological violence committed by employees of penitentiary institutions during visits to penitentiary establishments in 2023.

The case of the convict R.I. is worthy of particular mention. According to the convict, on October 8, 2023, they were placed in a deescalation room without any grounds. Prior to being placed in the de-escalation room, employees of the institution allegedly physically abused the person by twisting their hands. The convict also stated that they were pressed on the throat and head, causing severe physical pain. The Public Defender's Office addressed the Special Investigation Service. As a result, investigation was launched on the alleged degrading and inhumane treatment of R.I. by employees of the Special Penitentiary Service.¹¹⁴

Regarding alleged cases of psychological violence within the penitentiary system, it is important to note Lazare Grigoriadis's case¹¹⁵. He reported that upon admission to the penitentiary institution his head was shaved against his will. In response to this issue, the PDO reached out to the Special Investigation

¹¹² Detailed reasoning is provided in the 2023 Activity Report of the Criminal Justice Department of the Office of the Public Defender of Georgia.

¹¹³ See the sub-chapter of the 2023 report of the National Preventive Mechanism of the Office of the Public Defender of Georgia, Violence committed by Employees of Institutions.

¹¹⁴ For details, see the 2023 Activity Report of the Criminal Justice Department of the Office of the Public Defender of Georgia.

¹¹⁵For details, see the 2023 Activity Report of the Criminal Justice Department of the Office of the Public Defender of Georgia.

Service.¹¹⁶ The SIS initiated an investigation¹¹⁷ into the alleged use of excessive force by certain officers of the Special Penitentiary Service, specifically through the use of psychological violence.¹¹⁸ The investigation is still pending. Importantly, the European Court of Human Rights has stated that forcibly shaving someone's head is a form of forceful alteration of appearance that can lead to feelings of inferiority and degrading treatment in an individual.¹¹⁹

Unfortunately, just like inmates, patients in psychiatric institutions are not fully protected from violence and inhumane or degrading treatment. Patients have reported experiencing both physical and psychological violence at the hands of staff members. During visits, members of the National Preventive Mechanism were informed by patients about various forms of violence, including slapping and kicking in different parts of the body. Furthermore, based on information gathered during preventive visits, instances of gross misconduct such as yelling, threatening to administer injections, and intimidating patients with a stick are still occurring at psychiatric institutions. It is noteworthy that the leadership of psychiatric facilities does not deny the mistreatment of patients by their staff members.¹²⁰

Additionally, it should be noted that during the visit of the Public Defender¹²¹ to the National Mental Health Center, the director mentioned that the security guards¹²² are private individuals who have not been selected based on an official protocol or standard. They have not received specialized training in accordance with appropriate standards. Furthermore, no training guidelines have been developed, which could potentially lead to major issues in terms of security and potential ill-treatment.¹²³

Regarding the Ministry of Internal Affairs system, the Public Defender's Office has received numerous reports of police officers using disproportionate and clearly excessive force during detentions, as well as allegations of ill-treatment following detentions.

In 2023, the main methods of physical violence used by police officer include tightly placing handcuffs, hitting, and kicking. Detainees have also reported instances of ill-treatment by police officers while in police vehicles.

During the reporting period, the Public Defender's Office National Preventive Mechanism identified 431 suspicious cases following the review of personal case files of detainees placed in temporary placement isolators.¹²⁴ These cases include instances of administrative detainees, as well as criminal cases. According

¹¹⁶ The Public Defender's Office of Georgia Letter №15-4/3375 dated April 4, 2023.

¹¹⁷ The Letter of the Special Investigation Service SIS 6 23 00006420 dated April 13, 2023.

¹¹⁸ With the elements of the crime envisaged under the Criminal Code of Georgia Article 333, Para. 3(b).

¹¹⁹ The decision of the European Court of Human Rights on the case *Iankov v Bulgaria*, 2003, Application №(s). 39084/97, § 112.

¹²⁰ For example, in 2023, a caretaker was dismissed from the Batumi Medical Center for this very reason.

¹²¹ The Public Defender's February 2, 2024 visit.

¹²² During the visit of the Public Defender on February 2, 2024 the Director General indicated 120 security guards were employed at the facility.

¹²³ The 2023 Activity Report of the Criminal Justice Department of the Office of the Public Defender of Georgia

¹²⁴ Members of the National Preventive Mechanism review personal case files of all detainees placed up to the date of the visit. Due to the reported circumstances of detention, location of injuries, number of injuries and their nature, the monitoring group became suspicious concerning alleged ill-treatment of individuals. Territorial office of police and temporary

to the data, out of the 431 cases, 137 (31.8%) cases involved administrative detainees sustaining bodily injuries during and/or following detention. In terms of the trends over the years, in 2016, administrative detainees sustained bodily injuries during and/or following detention in 12.8% of suspicious cases examined by the Special Prevention Group. This percentage increased to 26.4% in 2017, 26.8% in 2018, 31.8% in 2019, 34.4% in 2020, it was 26% in 2021, and 27% in 2022. As for 2023, this indicator has slightly increased to 31.8% compared to 2022.

The Public Defender believes that there has not been significant improvement in treatment of detainees by the police in 2023 compared to previous years.

Inter-prisoner/patient violence

In 2023, cases of violence among prisoners and patients remained problematic. A comprehensive analysis of the situation reveals that both penitentiary institutions and psychiatric facilities fail to effectively address problems in this regard.

It is important to emphasize that, as before, one of the major factors contributing to violence among prisoners in penitentiary institutions is overcrowding and the prevalence of informal power dynamics. Unfortunately, there has been a persistent failure over the years to separate defendants from convicts, which frequently results in conflicts between them. Informal governance within the institutions is marked by incidents of physical and severe psychological violence among prisoners. Victims of violence often hesitate to disclose the true causes of their injuries to the institution's administration and medical staff due to fears of potential retaliation.

In psychiatric institutions, conflicts among patients primarily arise from incidents of theft of personal belongings. There are also attempts at leading, control, and bullying of other patients by some patients. Unfortunately, psychiatric institutions often fail to study the causes of confrontations and prevent such incidents. They also fail to take adequate measures to respond to conflicts when they occur. When physical confrontations happen between patients, staff members fail to intervene in a timely manner, and sometimes this leads to injuries. In response to patient conflicts, psychiatric staff frequently resort to administering injections to both voluntary and involuntary patients. It is also important to note that there is a lack of a sufficient number of staff members at both penitentiary and psychiatric institutions to maintain order and prevent violence among inmates and patients.

Restrictions in penitentiary establishments, psychiatric institutions, and in shelters for persons with mental disorders

Individuals placed in penitentiary institutions and psychiatric institutions have certain restrictions imposed on them. The application of certain restrictions, considering their substance, may amount to ill-treatment.

placement isolators were inspected in Samegrelo, Kakheti, Imereti and Racha-Lechkhumi, as well as Adjara, Guria and Kvemo Kartli regions.

In particular, the restrictive regime at the Specia Risk (N 3) Penitentiary establishment and in closed institutions (N 2 penitentiary institution), along with the lack of activities tailored to the needs of inmates, have a negative impact on their physical and mental health. This, in turn, increases the risk of violence against inmates, contradicting international standards¹²⁵ and may amount to inhuman and degrading treatment.¹²⁶

Inmates in these institutions are kept in cells for 23 hours a day without any engaging activities and are only allowed to spend 1 hour outside for a stroll in the yard. The scarce infrastructure is insufficient for the relaxation and recreation of inmates. Unfortunately, the Public Defender's proposal to increase the minimum time for prisoners to spend outdoors has not been included in the new Penal Code.

A positive development to note is the amendments made to the statutes of penitentiary institutions on April 27, 2023. These changes now allow a convict to challenge a director's decision regarding placement in isolation in a one or two-space cell before the Director General of the Special Penitentiary Service. Another beneficial change is that according to the statutes of penitentiary establishments, directors of institutions are no longer permitted to place an inmate in a one-space cell for an extended period without a justified decision that would have limited their interaction with other inmates.

In relation to restrictions imposed at penitentiary institutions, it is important to address the practice of placing inmates in de-escalation rooms and solitary confinement (safe) cells. The Public Defender asserts that confining inmates in these settings for prolonged periods without a clear purpose, or as a form of punishment, amounts to cruel, inhuman and degrading treatment. It is important to note that in N 2 and N 3 penitentiary facilities, like before, inmates are predominantly transferred to de-escalation rooms and solitary confinement (safe) cells for a maximum period. They are effectively confined continuously, for several days and weeks, with intervals of only minutes and hours.

During a visit by the National Preventive Mechanism Special Prevention Group to N 2 Penitentiary Institution it was discovered that, as in previous years, for separation purposes, inmates are placed in solitary (safe) cells after being removed from a de-escalation room. They are then returned to the de-escalation room.

Unfortunately, during the reporting period, instances of juveniles being confined in de-escalation rooms and solitary confinement cell were identified at N 2 and N 8 institutions. The Public Defender is of the opinion that juveniles should not be confined in inappropriate conditions, especially for prolonged periods, in solitary (safe) cells and de-escalation room. This practice is explicitly contrary to the protection

¹²⁵ European Committee on the Prevention of Torture (CPT) 21st General Report, CPT/info(2011) 28, Strasbourg, Council of Europe, 2011, Paragraph 52, available at: <<https://bit.ly/3icl98K>> [last viewed: 06.02.2024].

¹²⁶ CPT Report on the visit to Georgia in 2018, CPT/info(2019) 16, Strasbourg, Council of Europe, 2019, Paragraph 72, available at: <<https://rm.coe.int/1680945eca>> [last viewed: 06.02.2024].

of the best interests of juveniles, the goals of the Juvenile Justice Code, and the spirit of the Convention on the Rights of the Child. It is regarded as inhuman and degrading treatment of juveniles.¹²⁷

Additionally, it should be mentioned that confinement in de-escalation rooms and solitary (safe) cells is still frequently used for prolonged periods with inmates struggling with mental health issues. Furthermore, it is important to note that these rooms are not designed to minimize the risk of self-harm. Regrettably, during the reporting period at N 2 and N 3 penitentiary institutions, incidents of self-harm by mentally ill inmates were identified, and in those cases, handcuffs were also used on the inmates.¹²⁸

The Public Defender has been advocating for years to reduce the period of confinement in de-escalation rooms to 24 hours. Some amendments were made to the regulations of penitentiary institutions during the reporting period;¹²⁹ however, according to the Public Defender, this is not sufficient to fully eliminate the practice of placing inmates in de-escalation rooms. According to the regulations of penitentiary institutions, the maximum period of confinement for an inmate in a de-escalation room at a time is still 72 hours. It is important to note that the European Committee for the Prevention of Torture, in its report following the visit to Georgia, assessed the practice of frequent use of de-escalation rooms for 72 hours as a de-facto punishment.¹³⁰

Unfortunately, there is still no normative obligation to provide justification for the extreme necessity of confining someone in a de-escalation room and a solitary (safe) cell, nor is there an obligation to use relatively less restrictive measures before resorting to the former measure. Additionally, amendments to the regulations of penitentiary institutions only pertain to confining inmates in de-escalation rooms, while the normative regulations and practice related to transferring inmates to solitary (safe) confinement cells remain unchanged.

In relation to de-escalation rooms and solitary (safe) cells, it should additionally be noted that the Public Defender of Georgia, has been issuing recommendation for years on the creation of safe environment. These recommendations include lining walls and floors with soft materials, among other matters.¹³¹ Regarding psychiatric facilities, similar to previous years, mechanical restraint and rapid tranquilization, which essentially amounts to chemical restraint, continue to be actively employed to manage the behavior

¹²⁷ Isolation of juveniles, irrespective of its duration and goal (security or disciplining), is a cruel, inhuman and degrading treatment. See the Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2015, Para. 44. available at: <<https://digitallibrary.un.org/record/793910?ln=en&v=pdf>> [last viewed: 19.03.2024].

¹²⁸ Information was received during visits to N 2 and N 3 penitentiary institutions, as a result of reviewing the documentation.

¹²⁹ Detailed information is presented in the 2023 Special Report of the National Preventive Mechanism of the Office of the Public Defender of Georgia.

¹³¹ In its reports, the CPT assesses the safe setup of de-escalation rooms for individuals placed in them, among other things. For instance, refer to the CPT Report to the Government of Turkey, 2017. Available at: <<https://hudoc.cpt.coe.int/?i=p-tur-20170510-en-25>> [last viewed 19.03.2024].

of agitated or aggressive patients.¹³² It is important to note that chemical restraint is used in combination with mechanical and/or manual restraint of patients. This issue is particularly pressing in large psychiatric institutions. Regrettably, the management policy of the institutions does not prioritize the minimization of escalation risks. The intensity of using restraining methods on patients has not significantly changed, and there are no visible efforts to completely eliminate these measures. The instructions and rules for using restraint methods¹³³ have not been updated, which could greatly protect patients from arbitrary actions by staff.

It should be additionally mentioned that at the National Center of Mental health and Batumi Medical Center, LLC that were visited by the National Preventive Mechanism during the reporting year. At these facilities, a static safety measure was observed in the form of separating patients from each other patients for extended periods of time. Placing a patient in isolation for an extended period suggests that dynamic security is lacking within the institution's unit and that patients needs are not being adequately addressed.

In this part, it is also important to note the situation at shelters for individuals with mental disorders, specifically, at the National Center for Mental Health and Senaki Alternative Housing facility. Allegedly, there are cases of physical and chemical restraining of beneficiaries, as well as the involvement of non-medical personnel, "security guards" in the process of restraining. It is important to promptly eliminate the practice of using measures of restraining, as well as coercive administration of medications at these institutions.

[The practice of full search of inmates](#)

During the reporting period, while visiting N 2 and N 8 penitentiary establishments, members of the National Preventive Mechanism received information that, similar to previous years, the practice of fully undressing prisoners and making them squat was still being maintained in 2023 during their initial accommodation, as well as during their removal from and return to the institutions.

The European Committee for the Prevention of Torture emphasizes that during a full search, individuals should not be required to undress various parts of their bodies simultaneously.¹³⁴ However, contrary to this standard, the regulations of penitentiary institutions permit complete undressing. Regarding the practice of making squats there are no provisions in the regulations of penitentiary institutions allowing this. According to the Public Defender, such practices constitute humiliating and degrading treatment of prisoners.

[Medical services in penitentiary, psychiatric institutions and shelters for individuals with mental disorders](#)

¹³² CPT Standards on Means of restraint in psychiatric establishments for adult, Available at: <<https://bit.ly/3texFLj>> [last viewed: 19.02.2023].

¹³³The Order of the Minister of Labor, Health and Social Protection of Georgia №92/6 On the Approval of the Instructions about the Rule and Procedures of the Application of Methods of Physical Restraint in relation to Patients with Mental Disorder

¹³⁴Council of Europe, the European Committee for the Prevention of Torture, Report on the Visit to Czechia (April 1-10, 2014, Para. 85), Available at: <<https://bit.ly/35cCmvq>> [last viewed: 08.03.2023].

Unfortunately, in 2023, there were issues with inadequate medical treatment, delayed medical services, violation of confidentiality between physicians and patients, deficient mechanism of monitoring for inadequate medical treatment, significant delay in forensic psychiatric examinations and problems in mental health and preventive healthcare. Throughout the reporting period, the Office of the Public Defender examined numerous cases where the provision of delayed or inadequate medical services to specific prisoners was confirmed, resulting in a deterioration of the convicts' health condition.¹³⁵

Cases of delayed medical referral were identified during monitoring by the National Preventive Mechanism in penitentiary institutions. The violation of medical referral timeframes was particularly problematic for inmates confined in institutions in East Georgia. Timeframes for scheduled outpatient and inpatient services were violated. It is also important to note the instances of delayed emergency transfers; in several cases, it took a month or longer for the transfer to occur.¹³⁶

In the context of penitentiary healthcare, it is particularly important to integrate it into the public healthcare system. The Committee for the Prevention of Torture also emphasizes this.¹³⁷ Prompt consultation with specialist physicians is important for timely and adequate medical services. Delayed consultations were identified following a review of the ledgers of specialized physicians. In these records, in a number of instances, dates of appointment for consultation and dates of consultation cannot be seen, making it difficult to determine the exact waiting time of patients. The National Preventive Mechanism in its various reports indicates the importance of implementing an electronic information system that will help eliminate problems related to maintaining documentation.

Ensuring timely referral of prisoners to a psychiatrist remains a challenge within penitentiary institutions. Like before, the periodic mental health screening is still not taking place. Delayed placement of prisoners in psychiatric hospitals is observed in many cases, which, in turn, is linked to delays in conducting expert examinations. Analysis of the cases examined by the Office of the Public Defender indicates that the period from the appointment of a psychiatric examination to its actual execution spans approximately 2-3 months. Furthermore, it takes approximately 1 month to receive the examination conclusion after it has been conducted.

In addition to the afore-mentioned, it is important to note that psychiatric assistance at penitentiary institutions, similar to previous years, is not in line with the modern biopsychosocial approach. It is limited to a psychiatrist's consultation and medical treatment only, with no multidisciplinary work being conducted.

¹³⁵ Detailed information is presented in the 2023 activity report of the Criminal Justice Department of the Public Defender of Georgia.

¹³⁶ Detailed information is presented in the 2023 report of the National Preventive Mechanism of the Office of the Public Defender of Georgia.

¹³⁷ Reports of CPT visits to Georgia in 2014 and 2018

In the context of the penitentiary system, the case of Mikheil Saakashvili is also of interest.¹³⁸ The defendant and convict Mikheil Saakashvili is currently receiving medical treatment at the civilian Clinic Vivamedi, where he was transferred on May 12, 2022. Interestingly, during the reporting period the CPT report was published regarding the results of the March, 2023 visit to Clinic Vivamedi.¹³⁹

In 2023, the Public Defender's Office continued to monitor the health management of a defendant and convict, Mikheil Saakashvili, the third President of Georgia. In this case, like previously, monitoring was conducted by a group of independent physicians invited by the Public Defender. During the reporting period the group of medical experts produced four conclusions.¹⁴⁰ The Public Defender continued the work of the expert group into 2024 as well.¹⁴¹

It is public knowledge that a group of experts was established under the Public Defender's Order N 157 dated November 16, 2021. The group's purpose is to monitor the management of Mikheil Saakashvili's health condition. The group is not involved in the direct management of the patient's health.

According to the group's latest findings, "positive progress has been noted, demonstrated by weight gain and a negative orthostatic test. however, cognitive decline, muscle atrophy, neuropathy, anxiety and depression are still evident. The patient needs close medical monitoring and psychological intervention." According to the Consilium, "positive dynamics are due to the fact that the patient has been in a polyprofile clinic for over a year and a half under observation and medical treatment administered by highly professional physicians. However, all psychoneurological pathologies are of the same degree." The group of physicians is of the opinion that "due to the patient's condition firm positive forecasts cannot be made yet."¹⁴²

Furthermore, it should be noted that on March 19, 2023, the Public Defender visited Mikheil Saakashvili, the third president of Georgia at Clinic Viva Medi. The visit also included 13 inmates who are currently receiving treatment at the same clinic.¹⁴³

In terms of psychiatric institutions, it is important to note that a medical services sub-component was added to the psychiatric in-patient service component in the 2023 State Healthcare Program. However, unfortunately, there have been no practical changes in this regard. Additionally, in 2023, ensuring the control of side effects of medications was also added to the component. Again, unfortunately, no changes have been made in this direction either.

In addition to the aforementioned, it is important to provide early detection of diseases and screening examinations outlined in the screening program for patients in psychiatric institutions who are in a relevant age group.

¹³⁸ Detailed information is presented in the 2023 activity report of the Criminal Justice Department of the Public Defender of Georgia.

¹³⁹ Available at: < <https://bit.ly/43e11Lt> > [last viewed 07.03.2024].

¹⁴⁰ Available at: < <https://bit.ly/3VwLof0> > ; < <https://bit.ly/3PIQCAt> > ; < <https://bit.ly/4atkJDY> > ; < <https://bit.ly/4aR9i9B> > [last viewed 29.03.2024].

¹⁴¹ Based on the Order of the Public Defender N 4 dated January 15, 2024.

¹⁴² Available at: < <https://bit.ly/4ad4hYV> > [last viewed 29.03.2024].

¹⁴³ Available at: < <https://bit.ly/3TKQ5iW> > [last viewed 29.03.2024].

In this section, it is important to also consider the situation in shelters and alternative housing for individuals with mental health problems. Firstly, it should be noted that state programs do not cover the treatment of somatic (physical) health issues for residents of shelters and alternative housing. This includes the costs of clinical-laboratory tests and consultations with specialized physicians to manage the side effects of psychotropic medications. A general practitioner is offering consultations to beneficiaries at both the National Mental Health Center and the Senaki Alternative Shelter. However, beneficiaries are required to purchase any prescribed medicines themselves. Emergency therapeutic medications are available at the National Center of Mental Health. In Senaki alternative housing, case managers are purchasing emergency medicines using the pension of beneficiaries. In some cases, these medicines are also used for other beneficiaries who have no income.

Coercive medical treatment of patients in psychiatric institutions

It is crucial for the state to ensure zero coercion policy in the mental health field.¹⁴⁴ Neglecting a patient's will during the admission process to an in-patient facility and treatment, placing them in an in-patient facility without legal safeguards and coercively administering medications may amount to ill-treatment.

The transfer of an individual to an in-patient facility against their will, involving an ambulance and patrol police crews, restricting a person's liberty and involuntary placement to an in-patient facility is an initial stage of the process. From this stage, the person should be briefed, in a manner understandable to them, about the reasons and grounds for the restriction of their liberty and their rights.

Unfortunately, psychiatric institutions avoid initiating necessary legal procedures for involuntary in-patient assistance. In order to bypass these procedures, institutions have patients formally sign informed consent form, without ensuring that their will is actually being demonstrated. Patients who are formally undergoing voluntary medical treatment regularly request to be released from the in-patient facility, but they are not allowed to leave an institution until their family member comes to pick them up. In rare instances when patients manage to escape the facility, the institutions usually notify the Ministry of Internal Affairs. Officers from the Ministry then return the patient to the facility, even though there may not be a legal basis for doing so.

It is important to note that unfortunately, in the majority of cases, patients are not involved in planning and assessment of their own medical treatment. Most patients are unaware of the details of their medical treatment, including the names of medications and their side effects. A patient's consent to admission to an inpatient facility is in this case too, equalized to a consent to undergo treatment, which is legally unjustified¹⁴⁵ and limits the patient's ability to consent to hospitalization while refusing certain medical

¹⁴⁴ UN Committee on the Rights of Persons with Disabilities Concluding observations on the initial report of Georgia. April 18, 2023, Para. 30. Available at: <<https://bit.ly/3P7EAAo>> [last viewed: 23.01.2024]; WHO Mental health, human rights and legislation: guidance and practice, Available at: <<https://bit.ly/3vbjWIK>> [last viewed: 12.01.2024].

¹⁴⁵ Report to the Georgian Government on the visit to Georgia carried out in 2018 by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Para. 142. Available at: <<https://rm.coe.int/1680945eca>> [last viewed: 24.01.2024].

treatments or methods. It is important to draw a clear line between informed consent for placement in an inpatient facility and informed consent for medical treatment.

Given the challenges mentioned above, there are instances in practice where a patient undergoing voluntary treatment refuses to take certain medications. However, healthcare providers administer medications forcibly, either in a powder form or under the threat of involuntary medical treatment. The same method is used to administer injection, including, in the presence of other patients. It is important that all patients, irrespective of their voluntary or involuntary status, are given possibility to refuse medical treatment or other medical intervention. Any exception from this principle should be stipulated by law and be clear.¹⁴⁶ In this part it is additionally important to note the normative content of the relevant Article of the law of Georgia on Mental health¹⁴⁷ that envisages the right of a physician to, restrict a patient's right to refuse medical treatment in case of extreme necessity,. This is absolutely against the essence of voluntary medical treatment.¹⁴⁸

In addition to the aforementioned, it is worth noting that like previous years, prolonged hospitalization of patients remains an unresolved problem. Patients who do not require active medical treatment are unable to leave institutions due to the scarcity of community services and the lack of alternative places for them to go.

In the context of psychiatric treatment it is important to note that the Public Defender of Georgia filed a constitutional complaint at the Constitutional Court of Georgia.¹⁴⁹ The Public Defender believes that the rule and conditions of forcible inpatient psychiatric treatment outlined in the disputed provisions of the Criminal Procedure Code of Georgia and the Law of Georgia on Mental Health, as well as application of these provisions in practice, show that the court, when deciding on the need for coercive psychiatric treatment, does not adequately consider whether the individual in question actually committed an act that warrants involuntary medical treatment. It is important to note that a maximum of 6 months is considered the initial sufficient period to achieve the goals prescribed by law when providing mental health assistance to an individual who has been subjected to involuntary medical treatment (and respectively, in accordance to the legislator, for an individual subjected to involuntary medical treatment with a similar mental health condition and need). Therefore, restricting an individual's liberty for up to 4 years under involuntary treatment is clearly disproportionate in achieving the objectives outlined in the law. The Public Defender contends that the disputed method and conditions of coercive inpatient psychiatric treatment challenged under the constitutional complaint violates Article 11 Para. 1 (the right to equal treatment), Article 9 Para.2 (prohibition of degrading punishment) and Article 31 Para. 5 (the presumption of innocence) of the Constitution of Georgia.

¹⁴⁶ Extract from the 8th General Report of the CPT - Involuntary placement in psychiatric establishments, Para. 41. Available at: <<https://rm.coe.int/16806cd43e>> [last viewed: 12.01.2024].

¹⁴⁷ The Law of Georgia on Mental Health, Article 15, Para. 3.

¹⁴⁸ The Public Defender has challenged the normative content of Article 15(3) of the Law of Georgia on Mental Health at the Constitutional Court of Georgia: Complaint Available at: <<http://bit.ly/3TNQdxw>> [last viewed: 15.01.2024].

¹⁴⁹ Constitutional Complaint №1794 dated August 22, 2023 of the Public Defender of Georgia the Public Defender of Georgia v the Parliament of Georgia.

3.3. Safeguards Against Ill-Treatment/Factors Causing Ill-Treatment

In order to prevent ill-treatment, it is crucial to establish and enforce in practice minimum legal safeguards for individuals deprived of their liberty or placed under restrictions. These safeguards, both at the legislative level and in practice, help mitigate the risks of ill-treatment by enabling the detection and addressing unlawful actions. Additionally, this chapter highlights the circumstances and conditions that pose a risk of ill-treatment or often contribute to such treatment.

Deficiencies in the revealing and documenting of ill-treatment

In order to prevent ill-treatment, it is crucial to secure seamless process for detecting and documenting such cases. Unfortunately, in 2023, similar to previous years, this issue remained problematic in the Penitentiary and the Ministry of Internal Affairs systems, as well as in psychiatric institutions, and shelters and alternative housing facilities individuals with mental health issues.

In the context of penitentiary institutions, it is worth noting that like in previous years, the detection and documentation of alleged ill-treatment remain problematic, when an inmate refuses medical examination. An additional factor contributing to the deficient practice of detecting and documenting the instances of violence is the violation of the principle of confidential meeting between physicians and inmates. In particular, according to the practice established at penitentiary institutions, an employee of the institution typically attends a meeting between a physician and a patient. This is done regardless of whether the specific inmate poses a threat or may potentially pose a threat.¹⁵⁰ There are several reasons contributing to the inadequate detection and documentation of alleged violence cases. These include insufficient documentation by physicians, a lack of independence among medical staff (this implies the absence of institutional independence, since medical personnel are employed and are subordinated to the Ministry of Justice, rather than the Ministry of the Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Protection of Georgia) and low levels of trust from inmates towards them.

As mentioned previously, the regulation stating that if a physician did not obtain informed consent from an inmate they were not permitted to complete a special form for recording injuries, continued to be a problem in 2023. In these instances, the physician was not required to notify the Special Investigation Service. Consequently, certain cases may have been gone undetected, unrecorded, and unreported, such as when inmates did not consent to medical examination upon admission, transfer, or return, although they might have been subjected to ill-treatment.

It is important to note that the CPT, in its report on the ad hoc visit to Georgia in 2021, emphasized the legislative amendment. The report noted that a physician should be mandated to record injuries and send to an investigation authority, regardless of whether an alleged victim agrees to documenting and notifying.¹⁵¹

¹⁵⁰ The 2023 activity report of the Criminal Justice Department of the Public Defender of Georgia.

¹⁵¹ CPT Report on its visit to Georgia during May 17-24, 2022 (CPT/Inf (2022) 11), Para. 26, Available in English at:

< <https://rm.coe.int/1680a6eabd> > [last viewed: 02.02.2023].

A positive development has occurred with the incorporation of the recommendation from the Public Defender of Georgia in the new Penal Code. Under the new provision, if medical staff providing services to a defendant/convict identify any physical injury or symptoms that would lead a reasonable person to suspect torture or other cruel, inhuman or degrading treatment, the defendant/convict will be examined even without their consent. If an injury is found on the body of a defendant or convict during the provision of medical service at a penitentiary institution, the medical staff is required to promptly notify the relevant investigation authority. It is important to amend the relevant sub-legal normative acts to enforce the new provision of the Penal Code, for which a maximum period of one year has been prescribed.¹⁵²

It is important to note that, as in the past, there were deficiencies in accurately completing relevant forms when documenting injuries within penitentiary institutions. Specifically, the form did not include specific details such as the location of the injury on a diagram, the color and shape of the injury, or the method by which the injury was sustained. Additionally, the connection between an injury and the method of sustaining it was not established.

Furthermore, it is worth noting that in 2023, as in previous years, physicians in Penitentiary institutions failed to adhere to the Istanbul Protocol when documenting cases involving staff members of the institutions as alleged abusers.¹⁵³ It should be noted that from January 1 through November 30, 2023, the Special Investigation Service received notifications about 119¹⁵⁴ cases of alleged physical and/or psychological violence by penitentiary service employees towards inmates and launched investigation for 26 criminal cases.¹⁵⁵ This statistic serves as proof that physicians in penitentiary institutions do not fully utilize the mechanism for documenting injuries.

As for the Ministry of Internal Affairs system, it should be noted that records management at police institutions has improved compared to previous years. However, during visits to 47 institutions by the Special Preventive Group of the NPM, shortcomings related to records management were identified in 8 of them.¹⁵⁶

Out of 431 cases scrutinized and examined by the members of the National Preventive Mechanism, in 17.6% (76 cases), detention report fails to mention the injuries documented in the medical records at the detention isolators. Obviously, in these cases, there is a presumption that the detained person may have been subjected to physical violence while under police control.

In addition to the points mentioned above, it is important to emphasize that the positive trend continues when physicians from temporary detention facilities provide a thorough description of how injuries were sustained. Unfortunately, in 2023, similar to previous years, there was a high percentage of cases where

¹⁵² The Penal Code, Article 146.

¹⁵³ Reply of the Special Investigation Service SIS 8 23 00024044 dated December 27, 2023.

¹⁵⁴ These 119 notifications concerned 122 individuals. Of these cases, notifications related to 38 individuals were referred to other institutions as they did not fall within the authority of the Special Investigation Service.

¹⁵⁵ The letter of the Special Investigation Service SIS 8 23 00024044 dated December 27, 2023.

¹⁵⁶ For detailed information, see the 2023 report of the National Preventive Mechanism of the Office of the Public Defender of Georgia.

the circumstances surrounding injuries were not fully described or not described at all. Out of the 431 cases deemed suspicious and examined by the National Preventive Mechanism, the circumstances of the injuries were fully described in 64.8% of the cases, incompletely described in 15.3%, and not described at all in 19.9% of the cases.

In addition to the afore-mentioned, statistics regarding the documentation of injuries through photographs are also important. According to records processed by the Special Prevention Team, photographs were taken in accordance with the "Istanbul Protocol" in 9 (3%) out of the 302 documented cases. The Public Defender welcomes the approval of guidelines for taking photographs and storing materials related to injuries on the bodies of detainees, as the Public Defender has been recommending these improvements for years. However, none of the photos reviewed by the National Preventive Mechanism were of satisfactory quality. They were either blurry or taken under insufficient or overexposed lighting conditions. The photos were scattered in the computer, stored in different folders. Oftentimes, the photo documents did not have names, last names, or dates indicated on them. In 2023, as in previous years, there were cases where physicians were unable to locate photos and sometimes they could not even remember if the photos had been taken at all.

It is noteworthy that, similar to previous years, there are still cases where a report was not sent to the Special Investigation Service despite the detainee having injuries. Out of the 431 cases examined in 2023, a notification was sent to the Special Investigation Service in 348 (80.7%) cases, while in 83 (19.3%) cases, no report was sent. Among the cases where reports were not sent are those where the detainee had injuries to their face and eye socket, with the degree and color of the injuries indicating that they are recent and presumably sustained as a result of violence. Furthermore, no reports were sent in cases when the detainee indicated that they suffered injuries during detention.¹⁵⁷ It should also be noted that the number of suspicious cases that were not referred to the Special Investigation Service represented 26.2% of the cases examined in 2022. Hence, the reduced indicator compared to the previous year is a positive development.

As for maintaining documentation about detainees, it is important to amend a relevant order and include the following fields in the detention report form: the date and time the report is prepared, the circumstances of detention, whether the detainee resisted, and if any coercive measures were used.

On a positive note it should be noted that the majority of detainees interviewed in 2023 indicated that they met with a physician at the temporary detention isolator in a private environment environment. However, there are still some cases where temporary detention facility officers were standing behind a slightly open door and could hear the conversation between detainees and physicians. Furthermore, the Public Defender also indicated last year that video surveillance in a physician's room may have a negative impact on the detection and documentation of cases of ill-treatment. Unfortunately, CCTV cameras had

¹⁵⁷ For example, a detention report shows that a detainee resisted during detention and sustained injuries. A physician detailed the injuries as follows: a reddish bruise in the nasal area, red scratches on both knees, both shoulders and the right palm. Another detainee had reddish hyperemia in the neck and head area, claiming they got it during detention while being placed in a car.

been installed in all medical sections visited in 2023. According to physicians, they were operational and making video recordings. On the positive side, in 2023, isolators equipped with medical units stored all medical documentation, including medical cards produced by ambulance physicians, in a medical unit, inaccessible to non-medical personnel.

In addition to the aforementioned issues, it is important to mention that the recommendation from the Public Defender to create and approve a form for documenting injuries has not yet been implemented. This form would be completed by a Georgia escort physician, as part of as part of the process of returning migrants, among other cases. Additionally, there is still no established procedure for reporting alleged ill-treatment by a physician to an appropriate investigative authority. As for psychiatric institutions, unfortunately, none of the psychiatric institutions have taken adequate measures to safeguard patients from ill-treatment. One of the causes of violence is the lack of a strategy for preventing and responding to the conflicts among patients in institutions. As a result, without an effective system for assessing and reducing risks from patients, personnel in psychiatric institutions are unable to identify threats from patients. During the reporting year, the National Preventive Mechanism observed similar situations at the National Mental Health Center shelters for women and men as well as in the Senaki housing facilities. None of these institutions have a strategy in place for preventing and responding to conflicts among beneficiaries.

Unfortunately, legal mechanisms for documenting alleged violence against patients or beneficiaries and referring cases to investigation authorities are still lacking at psychiatric institutions, shelters and housing facilities. The documentation of injuries at psychiatric institutions is often ad hoc or completely absent. Furthermore, it is important to note that despite the extensive use of restraining measures towards patients, not all these cases are documented. The justification for using restraining methods is also an issue at all institutions, which raises the risk of arbitrariness. It was identified during the monitoring by the National Preventive Mechanism that the cases entered in the so-called restraint record books had not been entered in medical cards. Conversely, the cases of used restraining methods described in medical cards could not be found in the so-called restraint record books.

[Inadequate qualification and insufficient number of medical personnel](#)

In 2023, as in previous years, insufficient qualifications and staffing levels were a challenge in both the penitentiary system and psychiatric institutions, raising the risk of ill-treatment in these facilities.

Unfortunately, the shortage of medical personnel in penitentiary institutions remained an issue during the reporting period.¹⁵⁸ Due to high demand, medical personnel are highly overloaded, particularly those on duty. regrettably, the recommendation of the Public Defender to increase the number of nurses and promptly fill vacancies was not fulfilled.

¹⁵⁸ At N 2 Penitentiary Institution, there is an average of 1,055 inmates per month and at N 15 Penitentiary Institution, there are about 1,816 convicts confined on average each month. In each of these institutions, there is one nurse on duty and two nurses are working during non-working hours and night shifts.

Insufficient staffing levels at psychiatric institutions have a negative impact on the quality of psychiatric assistance provided and the effectiveness of response in case of conflict among patients. Additionally, challenges include the qualifications of personnel, poor performance, lack of motivation, low pay and unfavorable working conditions. The issue of inadequate qualifications of personnel (as well as the absence of relevant special retraining) is also relevant during the use of restraining measures, when there is a heightened risk of injury to patients. In 2023, medical personnel in penitentiary institutions did not receive retraining in crisis management.

Within the Ministry of Internal Affairs System, as of 2023, only 22 temporary detention isolators had a functioning medical unit,¹⁵⁹ However, only 11 of these isolators had medical personnel available 24/7. There are still 7 temporary placement isolators without a medical unit, and injuries are documented by ambulance physicians. Unfortunately, there has been no progress in recruiting and hiring medical personnel.

Application/complaint – shortcomings of the appeal mechanism

The presence of an effective appeals mechanism is crucial in preventing ill-treatment. Unfortunately, in 2023, like in previous years, the effectiveness of the appeal mechanism in penitentiary facilities and psychiatric institutions remained a challenge.

During the monitoring conducted in penitentiary institutions, it was once again revealed that the right to appeal of inmates is hindered by a nonformal hierarchy among inmates within these institutions. Due to the influence of this nonformal governance, similar to previous years, inmates refrain from submitting complaints. Approximately half of the inmates serve their sentences in semi-open penitentiary institutions;¹⁶⁰ however, in 2023, only 2.36% of the applications submitted to the Public Defender's Office were from inmates in semi-open institutions.

Moreover, it should be emphasized that, as before, the receipt of envelopes for confidential complaints depends on employees of institutions.¹⁶¹ It is important to note that while the content of a complaint remains confidential, simply producing a complaint may jeopardize an inmate. Therefore, they may choose to refrain from requesting an envelope for a confidential complaint and submitting a complaint.

Additionally, it should be noted that adequate awareness of inmates is important for the effective use of complaint mechanisms. It is also important to provide interpretation service to foreign-speaking inmates, as necessary, as well as to provide them with information about services and regulations at institutions in a language they can understand. It is also important to address the problem that newly placed defendants face at penitentiary institutions. Bank/telephone cards for them are produced within 10-14 days after their

¹⁵⁹ In 2022, 21 isolators had a functioning medical unit in them. In 2023, Tbilisi N 3 isolator was opened where there is a functioning medical unit.

¹⁶⁰ №14, №15 and №17 penitentiary institutions.

¹⁶¹ N 14 penitentiary institution is the only exception. At this facility, envelopes for confidential complaints were available by the complaint boxes.

incarceration and during the intervening period they are unable to contact a desired institution via a hotline (for instance, the Public Defender's Office, the Special Investigation Service, etc.).

Similar to penitentiary institutions, the appeal mechanism in psychiatric institutions also had deficiencies. Unfortunately, the situation in this respect is deteriorating year by year. Psychiatric institutions no longer make efforts to introduce appeal mechanisms within hospitals. Complaint boxes in psychiatric institutions are either absent or non-functional. Moreover, patients are not aware of the option to contact state oversight agencies. It should also be noted that similar to previous years, patients do not have access to legal counsel. Due to issues with telephones, lack of privacy and lack of awareness, the number of calls and applications from psychiatric institutions to the Public Defender's Office as well as to NGOs working on patients' rights is extremely low. Regarding the situation at shelters and housing facilities, it is important to note that in Senaki alternative housing facility there is no internal appeal mechanism available. Additionally, the complaint boxes at the National Mental Health Center shelter have been inactive for years. Unfortunately, contact numbers for hotlines at the Public Defender's Office, inspection agencies of other state agencies or NGOs working on the rights of people with disabilities are not displayed. Monitoring by the National Preventive Mechanism has revealed that beneficiaries in these institutions lack information both about their rights and legal protections.

Nonformal governance of penitentiary institutions

When it comes to protecting inmates from violence, informal involvement of privileged inmates (referred to as "controller") in the management of certain penitentiary facilities represents a significant challenge, like before. The situation poses a serious risk of mistreatment, frequently leading to violence and bullying among inmates. The non-formal participation of privileged inmates in the administration of penitentiary institutions often results in physical and severe psychological abuse among the inmates.

It is important to note that during the reporting period, specific inmates always accompanied the members of the National Preventive Mechanism team and the delegation from the CPT Sub-Committee during their visit to N 15 Penitentiary Institution. They were trying to listen to the questions asked by team members to other inmates as well as the provided answers. Presumably, the aim was to hear what inmates were saying and to influence them to avoid speaking about problems within the institutions. It is also important to note that the convicts referred to nonformal hierarchy among inmates at penitentiary institutions in three cases examined by the Public Defender's Office during the reporting year.¹⁶²

It should also be emphasized that in May, 2021, the CPT made an ad hoc visit to Georgia to assess the situation at semi-open institutions. In a report published in 2022 about the inspection, the CPT made specific references to the practice of different living conditions for inmates based on their level in the hierarchy, the practice of collecting "wallets" from inmates, silencing them, and feigning order.¹⁶³ The

¹⁶² Detailed reasoning regarding the cases is presented in the 2023 activity report of the Criminal Justice Department of the Office of the Public Defender of Georgia.

¹⁶³ Report on the ad hoc visit of the European Committee for the Prevention of Torture to Georgia on May 17-21, 2021 (CPT/Inf (2022) 11), para. 12, available in English at : <<https://rm.coe.int/1680a6eabd> >[last viewed: 01.02.2023].

committee also noted the existence of an agreement between the management of penitentiary institutions and prisoners representing the hierarchy. According to this agreement, any conflicts between prisoners were to be initially resolved informally without formal notification to the administration.¹⁶⁴

Overcrowding of penitentiary institutions

During the reporting period, overcrowding in penitentiary institutions remained a major challenge in Georgia's penitentiary system. This is demonstrated by the Council of Europe statistics, which ranks Georgia second among its member states in terms of the number of prisoners.¹⁶⁵

In 2023, the issue of overcrowding, like before, was relevant in semi-open, as well as closed large penitentiary institutions such as N 15¹⁶⁶, N 8¹⁶⁷ and N 2¹⁶⁸ penitentiary institutions. In these facilities, the legislation prescribed quantitative limit¹⁶⁹ for the admission of defendants and convicts were violated. Unfortunately, in 2023, defendants and convicts are still being housed together in N 2 and N 8 penitentiary institutions. This violates International standards¹⁷⁰ and the provisions of the Penal Code¹⁷¹ which require defendants to be kept separate from convicts. In these institutions, like before, due to overcrowding, personal characteristics, customs, behavior, risks of inmates are not taken into account when assigning them to cells. As a result, inmates with varying backgrounds and midsets are placed together, leading to frequent disagreements due to the confined space.

For years, the Public Defender has been urging the Minister of Justice to develop a plan to address the issue of overcrowding in penitentiary institutions. One suggestion is to increase the levels of regime personnel in residential blocs of inmates, ensuring that there is at least one officer in charge of order and

164 Ibid., Para. 20.

165 As of December 2022, there were 9,542 inmates in Georgia, representing 261 inmates per 1,000,000 citizens (information about prison populations of Georgia and other states Available at: < <http://bit.ly/3JZEKrw> > [last viewed: 23.03.2023].

166 Interestingly, the established capacity at N 15 penitentiary institution is 1,388 inmates, while as of December, 2023 the number of inmates was 30.8% higher than the established limit (+427), Available at: < <https://bit.ly/3wuAQ5q> > [last viewed 20.02.2024].

167 It is important to note that the capacity limit at N 8 penitentiary institution is 2,426 inmates, while as of December, 2023 the number of inmates was 6.8% higher than the established limit (+166), Available at: < <https://bit.ly/3wuAQ5q> > [last viewed 20.02.2024].

168 It is important to note that the capacity limit at the N 2 Penitentiary establishment is 1,068, and as of November, 2023 the number of inmates was 2% higher than the established limit (+21), Available at: < <https://bit.ly/3wuAQ5q> > [last viewed 20.02.2024].

169 Order N 106 of the Minister of the Penitentiary and Probation of Georgia dated August 27, 2015 on the Penitentiary Institutions of the Ministry of Penitentiary and Probation of Georgia.

170 Under the UN Standard Minimum Rules for the Treatment of Prisoners adopted by UN General Assembly Resolution 70/175 (Nelson Mandela Rules), defendants and convicts must be housed separately (Rule # 11(b)).

171 The Penal Code, Article 33, Para. 4.

security for every 15 inmates. The Council of Europe states that the ratio of officers to inmates varies between 2.9 and 12.9 in the Council of Europe member states. The recommendation for a 1:15 ratio is based on this data.¹⁷²

Arbitrary restriction of the rights of patients in psychiatric institutions

According to the legislation of Georgia,¹⁷³ doctors have discretion to restrict certain rights of patients in extreme necessity to ensure security.¹⁷⁴ However, the specific meaning of "limiting the right for the purpose of security" and the basis on which doctors can exercise this authority are unclear. To prevent arbitrary decisions, it is important to specify maximum time limits for the restriction of each right, criteria for imposing restrictions, and appeal procedures.¹⁷⁵

Physical environment

In 2023, issues related to physical environment were discovered in temporary placement isolators, as well as penitentiary institutions and psychiatric institutions.

Unfortunately, semi-isolated wet closets in cells designed for two or more inmates at temporary placement isolators continues to be an issue. When two or more detainees are housed in these cells, they are forced to use the restroom in the presence of others. Additionally, some isolator cells lack flushing mechanisms in the water closets, relying instead on a water pipe located several centimeters above an open sewage hole. Subjecting detainees to these conditions for a prolonged period could amount to humiliating treatment of individuals in detention.¹⁷⁶

It is important to note that in 2022 CCTV surveillance cameras were installed in the cells of temporary placement isolators. They were used to conduct video surveillance in the cells across all isolator facilities, starting from 2023. In the opinion of the Public Defender, in exceptional cases when the risk of self-harm or suicide is high, video surveillance may be exercised only in case of actual and imminent risk. Moreover, infrastructure of cells should also be considered. As mentioned, in the majority of isolators there are semi-

¹⁷²2023 report of the National Preventive Mechanism of the Office of the Public Defender of Georgia.

¹⁷³ The Law of Georgia on Mental Health, Article 15, Para. 3.

¹⁷⁴ In particular, a doctor has the right to restrict patients' right to use the telephone; the right to leave the hospital for a short time; the right to receive letters, parcels and visitors; the right to own personal items; The right to receive audio-visual information, as well as the right to receive understandable information and medical documentation regarding one's health condition.

¹⁷⁵2020 report of the National Preventive Mechanism of the Office of the Public Defender of Georgia, 166-170; The Public Defender of Georgia 2022 Parliamentary Report, Tbilisi, 53.

¹⁷⁶ Decision of the European Court of Human Rights dated April 20, 2015, on the case "Vasilescu v. Belgium" (Vasilescu c. Belgique), application # 64682/12, para. 105

open restrooms in cells that may fall within the video surveillance coverage. The act of satisfying natural needs under video surveillance is a harsh encroachment on the personal space of detainees and may be qualified as humiliating treatment.¹⁷⁷

Unfortunately, the physical conditions in psychiatric institutions remains an issue. In 2023, similar to previous years, the issues of overcrowding and cramped living space in cells persisted. 8 sq. m. space prescribed per the standard has not yet been ensured for patients.¹⁷⁸ Furthermore, according to received information, the number of patients usually exceeds the number of beds and some patients are urged to sleep on mattresses placed on the floor, instead of beds.¹⁷⁹ Moreover, challenges related to infrastructure should also be noted. In this respect, situation is particularly grave in Tbilisi Mental health Center, which building has been depreciated and requires capital renovation.

Beneficiaries at the shelters of the National Mental Health Center and Senaki Alternative Housing Facility are provided with seasonal clothing and basic toiletries. The infrastructure of the facilities is in good condition, however, the concrete structures and concrete walking yards create a more depressing and non-therapeutic environment. Moreover, none of the institutions offer adapted environment and accessibility standards for individuals with mobility restrictions. The living conditions at East Georgia Mental health Center are alarming and pose hazard to the life and health of the beneficiaries. The building lacks a fire protection system, and the ceilings and walls are damaged. Additionally, there are numerous other issues that have been identified. Unfortunately, the sanitary-hygiene situation at the facility is also concerning, as the infrastructure is in such poor condition that it is impossible to maintain adequate hygiene standards.

Concerning physical conditions in penitentiary institutions, it is important to note N 17 penitentiary institution. In this facility, the "barracks"-type residential quarters have not yet been eliminated, making it impossible to maintain sanitary-hygiene conditions. Additionally, the majority of convicts do not have the required 4 sq.m. of personal living space. The issue of providing 4 sq.m. living space for inmates is also present at N 2, N 8 and N 15 penitentiary institutions. A positive development to highlight is the increase in minimum living space per defendants under the new Penal Code, now equal to the minimum living space for convicts (at least 4 sq.m.).

Conditions of placement of juveniles in temporary placement center

¹⁷⁷ The decision of the European Court of Human Rights on the CASE OF GORLOV AND OTHERS v. RUSSIA Applications no. 27057/06 and 2 others. Furthermore, the CPT urges the Italian Government to implement video surveillance in penitentiary institutions so as not to breach the privacy of inmates while using restroom. Report on the visit to Italy carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from April 8-12, 2016. CPT/Inf (2017) 23, Para. 62, Available at: <https://www.ecoi.net/en/file/local/1406598/1226_1505200729_16807412c2-rep.pdf>, [last viewed: 28.02.2024].

¹⁷⁸ According to the Permit Conditions of Inpatient institutions approved under the Decree of the Government of Georgia N 385 dated December 17, 2010, there should be at least 8 sq.m. space per patient in a ward, and distance between beds should be at least 1.2m.

¹⁷⁹ During the visit to Batumi Medical Center, there were 159 patients there. The limit of beds is 150. During the visit to Tbilisi Mental Health Center, 215 patients were kept at the institution, while the limit of beds is 210.

It is important to note that, in the best interests of the child, placing a child in an immigration center, even if they are accompanying an adult, should only be considered as a last resort and for the shortest duration possible. In cases involving the accommodation of minors in immigration detention facilities, the European Court of Human Rights has frequently ruled on the violation of Article 3 (prohibition of torture) of the Convention. The court considers the conditions of accommodation, duration, and other factors cumulatively, even if the same placement conditions and duration of detention in relation to adults may not be considered a violation of Article.¹⁸⁰

Between January 1, 2023 and September 30, 2023, 21 out of 72 individuals placed at the Ministry of Internal Affairs of Georgia Migration Department's Temporary Placement Center were minors. Out of these, 11 had been left without adult supervision.¹⁸¹ Unfortunately, they are not provided with any activities and can only watch TV at the center. There is also no psychologist or social worker available. It is important to note that the Committee for the Prevention of Torture (CPT) has recommended that an institution accommodating minors who have been deprived of liberty should have a social worker and psychologist present on a permanent basis to directly interact with the minors.

Safeguards against ill-treatment of detainees

Informing detainees - In 2023, Informing detainees about their rights by the police continued to be a problem, as in previous years. Interviews conducted by the Special Prevention Group revealed that, in most cases, detainees were not informed of their right either during their detention or prior to being interviewed. In other cases, they were only provided with partial information.

Access to a defence lawyer¹⁸² - Unfortunately, requests to contact a lawyer are not recorded at police stations or temporary holding facilities. Typically, it is the family members of detainees who reach out to lawyers. Another issue is the lack of designated meeting rooms for confidential conversations with lawyers at police facilities. In most institutions, meetings between detainees and their lawyers take place in open, shared spaces in the presence of police officers, making it nearly impossible to have a private conversation.

Informing a family - It has been determined through interviews with detainees that in most cases of criminal detention, families are informed about the detainment. However, interviews with lawyers have shown that family members are often not provided with information about the whereabouts of detainees.

¹⁸⁰ The European Court of Human Rights considers three criteria when assessing the violation of Article 3: a child's age and vulnerability, material conditions at a placement center and the duration of placement. In the case of *N.B. and Others v. France*, issues such as a noisy environment, the separation of the accommodation area for families from a common area for adults by a transparent glass, and security measures resembling to those of a detention/prison facility were considered. The decision of the European Court of Human Rights in the case *N.B. and Others v. France*, March 31, 2022, application no. 49775/20 and the decision in the case *M.D. et A.D. c. France* 22 July 2021, application no 57035/18, para: 41-50 Available at: <https://hudoc.echr.coe.int/fre?i=001-211122> [last viewed: 12.03.2024].

¹⁸¹ The Letter from Migration Department of the Ministry of Internal Affairs of Georgia MIA12302855902 dated September 29, 2023.

¹⁸² Detailed information is presented in the 2023 report of the National Preventive Mechanism of the Office of the Public Defender of Georgia and the 2023 activity report of the Criminal Justice Department of the Public Defender of Georgia.

Instead, they are compelled to rely on lawyers to find out which facility their family member is being held in. Additionally, it is worth mentioning that the Office of the Public Defender hotline and regional offices receive numerous calls requesting assistance in determining the whereabouts of detainees.

Maintaining and processing of audio-video recordings - The Public Defender has been consistently issuing recommendations regarding video recordings for several years. These recommendations cover various aspects, including the requirement to record videos using body cameras and in police vehicles, and the need to store the recorded material for a reasonable period of time. The recommendations also emphasize the importance of equipping police facilities with video infrastructure to ensure comprehensive coverage of the movement of detainees. Unfortunately, no normative amendments have been enacted in 2023 in this respect. Specifically, patrol inspectors and employees of the Central Criminal Police Department and territorial bodies are not obliged to video record their interactions with citizens. Furthermore, there are no explicit rules or deadlines specified for the storage of video material, except for patrol inspectors.¹⁸³ In practice, patrol inspectors/officers of the Central Criminal Police Department and territorial offices rarely make video recording of their interaction with citizens.

It is important to acknowledge the information provided by the Special Investigation Service. According to their report, between January 1 and November 30, 2023, out of the 161 cases investigated by the Special Investigation Service, CCTV camera recordings from the Ministry of Internal Affairs were not accessible in 80 cases.¹⁸⁴ In 43 of these cases, video recordings could not be retrieved as they were not found on the hard disks of the CCTV cameras. In 28 cases it was impossible to obtain the recordings because the areas were not equipped with CCTV cameras.¹⁸⁵

Unfortunately, interviews with detainees are still not video recorded at police stations. It is worth noting that out of the afore-mentioned investigations conducted by the Special Investigation Service, in 82 cases alleged victims claimed that the offences occurred at a police facility. The CPT has also stressed the importance of accurate recording of all police interviews (including the start and end times and the names of all persons present during the interview).¹⁸⁶ It is particularly regrettable that year after year the number of surveillance cameras stationed on inner and outer perimeters at police stations and departments is decreasing. According to 2023 data, it is alarming that at 5 police facilities there is not a single camera in the inner perimeter. Additionally, there are no CCTV cameras on the outer perimeter in two police facilities, which is a significant step backward.

¹⁸³ The Order of the Minister of Internal Affairs N 1310 dated December 15, 2005 on the Approval of the Rules for Patrolling by the MIA Patrol Police Service, Article 121.

¹⁸⁴ Letter of the Special Investigation Service SIS62400000650 dated January 17, 2024.

¹⁸⁵ In 7 instances, CCTV camera recordings could not be retrieved because a recording device could not be found on a hard drive/video cameras were not stationed in the area; in 2 cases it could not be retrieved because alleged victim said that abuse took place in a street.

¹⁸⁶ 28th General Report of the CPT, 2019, Paragraph 81, Available in English at: <<https://rm.coe.int/16809420e3>>, [last viewed: 27.02.2024].

The issue related to CCTV cameras, specifically the issue of archiving video recordings, is also present in penitentiary institutions. The Public Defender has been emphasizing in parliamentary reports¹⁸⁷ for years that in order to protect the interests of individuals confined in closed institutions, the storage and archiving period of video recordings should be extended. Originally set at 24 hours, it was later increased to 5 days, then to 30 days, which was positively assessed by the Public Defender of Georgia and the Committee of Ministers of the Council of Europe.¹⁸⁸ Against this backdrop, the amendment implemented during the reporting period, which reduced the archival period of video recordings from 30 days to 10 days in penitentiary institutions, should be viewed as a particularly negative development. This change significantly worsens the state of the rights of defendants and convicts in the preventing ill-treatment and/or other violation of their rights.¹⁸⁹

Furthermore, unfortunately, in some sections of N 3, N 11, and N 8 institutions of the Special Penitentiary Service,¹⁹⁰ until the video surveillance systems are upgraded, as in the previous reporting period,¹⁹¹ video materials recorded on their premises are stored for at least 120 hours.¹⁹²

It should also be noted that the National Center of Mental Health will ensure the archival and storage of video recordings for a reasonable timeframe. This process will be regulated under a normative document.¹⁹³

Role of a judge - The Criminal Procedure Code of Georgia stipulates that if a judge suspects the commission of torture, humiliating, and/or inhumane treatment against a defendant/convicted person at any stage of criminal proceedings, or if the defendant/convicted person reports such treatment to the court, the judge shall refer the matter to the relevant investigative body.¹⁹⁴ The same obligation applies to a judge presiding over an administrative violation case in relation to an individual accused of an administrative violation.¹⁹⁵ It is important to note that according to statistics provided by the Supreme

¹⁸⁷ The Public Defender of Georgia 2014 Parliamentary Report, Tbilisi, 2015, pg. 43-44; The Public Defender of Georgia 2015 Parliamentary Report, Tbilisi, 2016, pg. 9; The Public Defender of Georgia 2016 parliamentary Report, Tbilisi, 2017, pg. 20; The Public Defender of Georgia 2017 parliamentary Report, Tbilisi, 2018, pg. 44; The Public Defender of Georgia 2018 Parliamentary Report, Tbilisi, 2019, pg. 43; The Public Defender of Georgia 2019 Parliamentary Report, Tbilisi, pg. 29.

¹⁸⁸ See the decision made at the 1348th meeting of the Council of Europe Committee of Ministers held during June 4-6, 2019, Paragraph 5, Available at < <https://bit.ly/3TgsMgx> > [last viewed: 15.03.2024].

¹⁸⁹ The Order of the Minister of Justice of Georgia N 942 dated October 20, 2023 on the Amendment to the Order N 35 of the Minister of Penitentiary and Probation of Georgia dated May 19, 2015 on the Rules for video and/or electronic surveillance and monitoring, retention, discarding and destruction of recordings,

¹⁹⁰ The Section of N 8 Penitentiary Institution located in Tbilisi, 11, Abuseridze-Tbeli Street.

¹⁹¹ 2022 activity report of the Criminal Justice Department of the Public Defender of Georgia, pg. 102-105. <<https://ombudsman.ge/res/docs/2023040315084085042.pdf>>, [last viewed: 17.01.2024].

¹⁹² Letter №23854/01 dated January 30, 2023, of the Department of Electronic Surveillance of the Special Penitentiary Service.

¹⁹³ Detailed information is available in the activity report of the Criminal Justice Department of the Public Defender of Georgia.

¹⁹⁴ The Criminal Procedure Code of Georgia, Article 191.

¹⁹⁵ Administrative Violations Code of Georgia, Article 238¹.

Court of Georgia, in 2023, district (city) court judges in Georgia utilized the option of referring to the relevant investigation body in 90 instances.¹⁹⁶

In terms of legal safeguards for detainees, the Public Defender has consistently criticized the practice of detaining individuals who come to police facilities as witnesses. In 2023, it has been discovered, as in previous years, upon reviewing the record book of detainees, conducting interviews with detainees and lawyers, that there have been cases where an individual was not detained upon initially entering the facility. Instead, they were detained later, while the preliminary decision that they would be detained following arrival and interview at the police office had already been made. Upon arrival at the police station, an individual has their mobile phone taken away, their freedom of movement restricted and they are unable to leave the station at their own will. During this period, police officers attempt to obtain information from the individual who has been called as a witness; they will use this information against the same person. This period is accompanied by threats and intimidation. Such instances involve risk of protection against ill-treatment, since an individual cannot use legal safeguards until they are officially detained, while, de facto their liberty is unlawfully restricted and they are under police control.¹⁹⁷

In relation to legal safeguards for detainees, it is important to emphasize the significance of maintaining standardized and thorough documentation. This is crucial to ensure that all actions concerning a detainee are accurately and simultaneously recorded. By keeping detailed documentation files, additional safeguards against ill-treatment can be established, as police officers will be mandated to input all detainee-related actions into the system simultaneously, preventing them from making arbitrary modifications or alterations. Along with the introduction of standardized file documentation and electronic records management, it is important to maintain registration ledgers of detainees and thorough logs of individuals who are to be taken to temporary placement facilities. Additionally, it is crucial to log all individuals brought to the police facility, specifying their status.

In the context of legal safeguards against ill-treatment, it is important to note the activity of the Special Investigation Service. Based on notifications sent in 350 cases out of the 431 suspicious cases examined by the Special Prevention Group, investigators from the Special Investigation Service held meetings with individuals placed at Temporary Placement Isolators on site or remotely in 131 (37.4%) cases, which represents a decrease compared to the previous year.¹⁹⁸ Regretably, based on information obtained during preventive visits to temporary placement isolators, it was found that in 2023 meetings with investigators from the Special Investigation Service were mainly conducted remotely. Due to detainees not being left alone in remote meeting rooms within temporary placement isolators, confidential environment is not guaranteed during remote calls. This lack of privacy affects the ability to have open conversation with investigators from the Special Investigation Service. Moreover, face-to-face meetings

¹⁹⁶ Letter №3-19-24 dated March 5, 2024 of the Supreme Court of Georgia.

¹⁹⁷ I.I. v. Bulgaria (Application №44082/98) Available at < <https://hudoc.echr.coe.int/fre?i=001-69313> > [last viewed: 28.02.2024].

¹⁹⁸ 2022 - 47,4%, 2021 - 70%.

are important to ensure that an investigator is able to thoroughly brief detainees about the Special Investigation Service, built rapport and assess the physical and psycho-emotional condition of detainees.

3.4. Investigation of Alleged Ill-Treatment Incidents

Effective investigation of ill-treatment is one of the crucial safeguards to prevent this crime. Unfortunately, several challenges emerged in this regard during 2023.

Firstly, it is important to note that the Public Defender has been emphasizing the importance of an independent investigation mechanism equipped with both investigative and criminal prosecution functions. In order to achieve this goal, it is important to implement significant safeguards aimed at strengthening the Special Investigation Service institution. It is important to expand the investigation mandate of the Special Investigation Service to include offenses committed by the Prosecutor General, the Minister of Internal Affairs and the Head of the Security Service. Furthermore, it is necessary to review the list of offences falling under the mandate of the Special Investigation Service to ensure that it has the authority to investigate only those offences that align with its main mandate.

The change implemented in 2023 in relation to the Special Investigation Service should be commended¹⁹⁹, in line with the suggestion of the Public Defender of Georgia in the 2022 Parliamentary Report.²⁰⁰ In particular, based on the afore-mentioned amendment, staff of the Special Investigation Service Investigation Department can now be admitted to meet with an individual placed in an isolator to exercise their powers. Another positive development is a draft law initiated at the Parliament of Georgia in February, 2024. This bill envisages extending the investigation powers of the Special Investigation Service to crimes committed by prosecutors.²⁰¹ The Public Defender hopes that the Parliament will support this amendment.

It should be noted that the level of cooperation between the Public Defender's Office and the Special investigation Service has remained unchanged in 2023. The PDO received detailed information about the progress of investigations for dozens of criminal cases in 2023, reviewed numerous discontinued criminal cases and examined investigation materials for several cases on an exceptional basis.

Throughout 2023, the Public Defender's Office notified the Special Investigation Service about 55 alleged incidents of ill-treatment.²⁰² Of the incidents reported, the Public Defender's Office informed the Investigation Service about alleged ill-treatment by the police in 30 cases, ill-treatment by employees from several penitentiary institutions in 19 cases, about the escort service of the Penitentiary Service in 3 cases, about employees of the State Security Service in 1 case, about the police and the MIA Special Operations Unit in 1 case, and in relation to an investigator, as well as employees of a temporary placement isolator in 1 case. Out of 55 reports, investigations were launched in 34 cases, while in 21 cases investigation did not commence. In 12 out of 21 cases where investigation did not start, the case was

¹⁹⁹ The Order of the Minister of Internal Affairs of Georgia N 78 dated October 6, 2023 on the amendments to the Minister of Internal Affairs of Georgia order N 423 dated August 2, 2016 on the Approval of Template Regulation and Internal Policy of the Ministry of Internal Affairs Temporary Detention Isolators.

²⁰⁰ The Public Defender of Georgia 2022 Parliamentary Report, Tbilisi, 2023, pg. 72.

²⁰¹ The statement of the Public Defender of Georgia of February 27, 2024, Available at: <<https://bit.ly/4cdZasJ>> [last viewed 15.03.2024].

²⁰² Did not concern the alleged incidents of ill-treatments in 2023 only.

referred to another organization (such as the Prosecutor's Office, Special Penitentiary Service Monitoring Department, or the MIA General inspectorate). According to the organization, the main reason for this was a change in the victim's position.

In 2023, the Investigation Department of the Special Investigation Service began investigating a total of 537 criminal cases²⁰³, with 257 of these cases involving alleged ill-treatment by law enforcement officers.²⁰⁴ In connection with the criminal cases handled by the Special Investigation Service, the General Prosecutor's Office of Georgia initiated criminal prosecution against a total of 93 individuals. Among these, criminal prosecution was initiated against 5 individuals for official crime. Out of these 5 individuals, three officers were charged with omission, resulting in the death of an individual,²⁰⁵ and charges against two individuals related to alleged ill-treatment.²⁰⁶ During the same period, the General Prosecutor's Office closed investigation for 88 criminal cases,²⁰⁷ with 74 of them involving alleged ill-treatment.²⁰⁸

During the reporting period, the Public Defender's Office examined 46 criminal cases, in which investigations were initiated for alleged official crimes. These investigations were closed based on a prosecutor's resolution, without bringing individuals to justice.²⁰⁹ The cases were closed due to the absence of an action stipulated under Article 105 (1)(a) of the Criminal Procedure Code, in the Criminal Code of Georgia. Additionally, the Public Defender's Office examined 9 pending criminal cases on an exceptional basis.²¹⁰

Following a thorough examination of the aforementioned 55 cases (46 closed and 9 current cases reviewed on an exceptional basis), it was identified that investigations conducted by the Special Investigation Service are mainly in compliance with effective investigation standards. However, the Public Defender's Office has identified some issues that require attention. In particular. Specifically, in several cases, interviews are delayed and held within a period of 5 months to 1 year from the launching of the investigation. The reasons for dismissing video recordings are not adequately scrutinized, and the examination of obtained video recordings is not promptly documented (producing a report). Furthermore, there is a recurring issue of expert examinations not being completed in a timely manner. In some cases, questions remain regarding the appropriate qualification of an act(ion), etc.²¹¹

²⁰³ Implies all crimes envisaged under all those articles of the Criminal Code of Georgia which fall under the investigation jurisdiction of the Special Investigation Service, in accordance with Article 19 of the Law of Georgia on the Special Investigation Service.

²⁰⁴ The Special Investigation Service provided the information to the Public Defender's Office during the meeting of March 21, 2024.

²⁰⁵ The Criminal Code of Georgia, Article 342(2).

²⁰⁶ The Criminal Code of Georgia, Article 333 (3)(b), and Article 332 (3)(b).

²⁰⁷ The Special Investigation Service Letter NSIS 2 23 00022626 dated December 8, 2023 and SIS 0 24 00002995 dated February 20, 2024.

²⁰⁸ The Special Investigation Service provided the information to the PDO during a working meeting on March 21, 2024.

²⁰⁹ During the period from January 1 to December 25, 2023, there were a total of 72 such criminal cases. The PDO examined 46 criminal cases based on random selection.

²¹⁰ In accordance with Article 18, (e) of the Law of Georgia on the Public Defender of Georgia, public defender does not have access to pending criminal case materials.

²¹¹ Detailed information is available in the 2023 activity report of the Criminal Justice Department of the Public Defender of Georgia.

During the reporting period, the Public Defender's Office examined a case worth mentioning. In this instance, the alleged victim claimed they were forcefully dragged from a vehicle during detention. Their handcuffs were fastened tightly, and two police officers beat them in the vehicle, even extinguishing a cigarette on their body. Unfortunately, in this case, the Special Investigation Service started an investigation not under a special article, but rather, under Article 333(3)(b) of the Criminal Code of Georgia (exceeding official powers using violence). According to the Public Defender, based on information originally provided by an alleged victim, the action was supposed to be qualified under special articles concerning ill-treatment, as humiliating or inhumane treatment.

In another case examined by the Public Defender's Office, an individual claimed that after they were placed in a police vehicle, a law enforcement officer who sat next to them hit them in the occiput area. Upon arrival at the police premises, the officers verbally abused the individual, who responded in kind. This led to a physical altercation, with the officers hitting the individual in the face, nose, lips and eyes. After the initial hit, the individual lowered their head, at which point the officers continued to beat them for 1-2 minutes, targeting the head, back and low back areas. In these cases, based on the original information provided by the alleged victims, these actions were supposed to be classified under special articles addressing ill-treatment, specifically as humiliating or inhumane treatment.

In the context of the qualification of offences, it should be noted that during the reporting period a special report by the Public Defender was published titled "Practical Analysis of Qualification of Ill-treatment under General and Specific Articles".²¹² As part of the study, the Public Defender's Office examined 131 court decisions from 68 criminal cases between 2013 and 2019. The study identified instances where ill-treatment by officers was classified under general provisions of official crime. This practice is a result of legislative gaps.

It is worth noting that in the legislation of Georgia, crimes outlined in special articles on ill-treatment²¹³ – such as torture, threats of torture, and inhumane and humiliating treatment fully and exhaustively encompass the actions prohibited under Article 3 of the European Convention on Human Rights. General provisions on official crime cover a broad range of actions, but when it comes to classifying factors, in particular, exceeding power and abusing power by using a weapon, violence, insult to dignity, may amount to torture, inhumane or humiliating treatment, depending on the severity, intensity, and of the treatment, as well as the torment inflicted. To fulfill the positive obligation of the state and ensure a preventative effect, legislation should clearly, explicitly and exhaustively criminalize ill-treatment under special provisions only, excluding the possibility of classifying these crimes under different articles in practice.

The classification of cases involving ill-treatment under special articles is also important for determining appropriate punishment. Unlike official crime cases, terms of limitation for exemption from criminal

²¹² A Special Report of the Public Defender of Georgia – Practical Analysis of Classification of Ill-treatment cases under General and Special Articles <<https://ombudsman.ge/res/docs/2023081816200941495.pdf>> [last viewed: 11.01.2024].

²¹³ The Criminal Code of Georgia, Articles 144¹-144³.

liability,²¹⁴ and diversion do not apply to special articles related to ill-treatment;²¹⁵ An individual may not be fully exused from punishment when a plea bargain involving special cooperation²¹⁶ is reached.

In this part, we would like to focus on the specific indicators of the commencement of investigation and criminal prosecution by the Prosecutor General's Office of Georgia and Special Investigation Service against representatives of law enforcement authorities. From January 1, 2023 to December 31, 2023, the General Prosecutor's Office of Georgia initiated investigations into 5 criminal cases involving alleged physical and/or psychological violence committed by officers of the Ministry of Internal Affairs of Georgia. They also launched criminal prosecution against 7 individuals.²¹⁷ The Special Investigation Service launched investigations into alleged physical and/or psychological violence in 185 criminal cases involving officers of the Ministry of Internal Affairs, during the same period.²¹⁸ Out of the cases mentioned above, for 3 cases, the General Prosecutor's Office initiated criminal prosecutions, in 3 cases, 6 individuals were recognized as victims in 4 criminal cases, and investigations were discontinued in 15 cases.²¹⁹

Additionally, it is worth noting that from January 1 to December 31, 2023, the General Prosecutor's Office of Georgia did not initiate investigations into the alleged physical and/or psychological violence against inmates at penitentiary institutions in any of the cases. Nor did it institute criminal prosecution against any individuals.²²⁰ As for the Special Investigation Service, from January 1 to December 31, 2023, investigations were launched into 26 criminal cases.²²¹ However, the General Prosecutor's Office did not pursue criminal prosecution in any of the cases, none of the individuals were recognized as victims, and investigations were discontinued in 5 of the criminal cases.²²²

It should be noted that as a trend, the Prosecutor's Office and the Special Investigation Service initiate investigations into alleged offenses committed by police and penitentiary institution officers primarily on the grounds of exceeding powers, as outlined in Article 333 of the Criminal Code of Georgia. However, it is important to mention that neither the Prosecutor's Office nor the Special Investigation Service have launched investigations into the pursued cases based on Article 144¹ (torture). Regarding investigations initiated under Article 144³ (ill-treatment), the Prosecutor's Office has only initiated an investigation based on this article in one case, while the Special Investigation Service has done so in 24 cases.

General Inspections/Internal monitoring mechanisms

It is crucial to have a unit within the law enforcement structure responsible for monitoring staff performance of official duties. These units are mandated to proactively monitor and promptly address citizens' complaints regarding potential unlawful actions committed by employees.

²¹⁴ The Criminal Code of Georgia, Article 71, Para. 5¹.

²¹⁵ The Criminal Code of Georgia, Article 168¹, Para. 2.

²¹⁶ The Criminal Procedure Code of Georgia, Article 218, Para. 8; The Criminal Code of Georgia, Article 73¹.

²¹⁷ Letter of the General Prosecutor of Georgia №13/8118 dated February 8, 2024.

²¹⁸ Letter of the Special Investigation Service № SIS 2 24 00000773 dated January 18, 2024.

²¹⁹ Ibid.

²²⁰ Letter of the General Prosecutor of Georgia N13/8118 dated February 8, 2024.

²²¹ Letter of the Special Investigation Service N SIS 2 24 00000773 dated January 18, 2024.

²²² Ibid.

It is worth noting that every year, the Public Defender's Office has been discovering errors or, in certain cases, signs of inaction in a number of cases. Particularly, these errors have been found in official monitoring conducted by the Ministry of Internal Affairs General Inspection or in official inspections carried out by the Special Penitentiary Service Monitoring Department. Against this backdrop, it is a particularly positive development that in 2023 the Public Defender's Office did not identify any deficiencies in the examinations conducted by the Monitoring Department of the Special Penitentiary Service regarding alleged violation of the Penitentiary system by employees towards inmates. The Monitoring Department has successfully rectified the deficiencies that the Public Defender had been referring to and had been making specific recommendations about for years.

Regrettably, unlike the activities of the Special Penitentiary Service Monitoring Department, the activities of the General Inspectorate of the Ministry of Internal Affairs remain problematic. During the reporting period, the Public Defender's Office examined three cases of official inspections conducted by the MIA General Inspectorate and identified that the inspections had flaws and were not thorough. In particular, individuals who witnessed alleged misconduct were not interviewed, neutral evidence was not obtained, and the General Inspection did not interview even the alleged victims.²²³ Unfortunately, the mere attempt to obtain neutral and other significant evidence for cases during an official inspection remains an issue, let alone obtaining such evidence.

During the reporting period, the incidents involving the assault of Misha Mshvildadze and Zurab Girchi Japaridze were particularly noteworthy. Further analysis of these cases can be found in the Right to Equality chapter of the current report. Detailed information can also be found in the 2023 Activity Report of Criminal Justice Department of the Office of the Public Defender. The Public Defender of Georgia emphasized the importance of conducting the investigation into these incidents in accordance with the standards outlined in the Article 3 of the European Convention on Human Rights.

Proposals

To the Parliament of Georgia:

- Extend the mandate of the Special Investigation Service to include the offences committed by the general prosecutor, the minister of internal affairs, and the head of the security service, through legislative amendments;
- Revise the list of offences falling under the jurisdiction of the Special Investigation Service to retain only those relevant to the key mandate of the SIS (Remove crimes outlined in Articles 153-159, 162-163 and 164⁴ of the Criminal Code of Georgia from the list of offences falling within the SIS jurisdiction);
- In 2024, enter amendment to Article 94(3)(g) of the Penal Code to prescribe that a defendant or convict is entitled to a minimum of 2 hours of fresh open air per day;
- Through the amendment to the Law of Georgia on Mental Health, specifically delineate informed consent for placement in in-patient facility and informed consent for medical treatment;

²²³ Detailed information is available in the 2023 activity report of the Criminal Justice Department of the Public Defender of Georgia.

- Through an amendment to the Law of Georgia on Mental Health, establish a clear procedure for physicians to restrict a patient's rights for security reasons. This should include legal safeguards (determine the criteria for restricting each right, the duration of each restriction, and the process for challenging such decisions);
- The Law of Georgia on Mental Health to be amended, to prescribe that the requirements and safeguards stipulated in Article 16 (Using a restraining measure towards a patient) of the law of Georgia on Mental Health shall be applicable in case of forced rapid tranquilization of a patient;
- Clearly stipulate in The Law of Georgia on Mental Health the mandatory measures that an institution must take if a restraining measure is used in relation to a patient undergoing voluntary medical treatment. Additionally, outline procedures for revisiting the legal basis for medical treatment of a patient and specify the relevant sanction in case these procedures are not followed;
- Prescribe under the Law of Georgia on Mental Health that the Minister of the Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Protection of Georgia should create and approve an internal guidebook that will be mandatory for psychiatric institutions. This guidebook will focus on crisis prevention and management to reduce the risks of escalation.

Recommendations

To the Government of Georgia:

- The Government of Georgia should develop an action plan aimed at reducing the number of prisoners while taking into account the recommendations of the Council of Europe Committee of Ministers No. R (99) 22 regarding Prison Overcrowding and Prison Population growth, as well as those prepared by the Council of Europe Directorate General for Human Rights and the Rule of Law PC-CP (2015) 6 rev 7 document on Prison Overcrowding.

To the Minister of Justice of Georgia:

- In 2024, amendments should be made to the regulations of penitentiary institutions to stipulate that the placement of a prisoner in a de-escalation room and a solitary (secure) confinement cell should be considered as a measure of last resort only. When applying this measure, relevant reasoning should be provided for having no alternative rather than placing the prisoner in a de-escalation room or a solitary (secure) cell. Additionally, the regulations should stipulate that before resorting to the use of de-escalation rooms or solitary (secure) cells, staff members should first utilize other, relatively less restrictive means such as direct supervision by staff or electronic surveillance;
- It is recommended that a minimum period of 30 days be established for the archiving of video recordings at penitentiary institutions, to be outlined in a binding document;
- When an inmate is placed in a de-escalation room or a solitary (safe) cell, it is important to ensure that there is a collaboration among a team of professionals comprised of a psychologist, psychiatrist, social worker, physician and other staff members from other offices of the institutions. This approach is essential in order to minimize or eliminate any potential risks;

- In 2024, safe environment should be introduced in de-escalation rooms and solitary (safe) confinement cells, by finishing walls and floors with soft material;
- In 2024, the Monitoring Department of the Special Penitentiary Service should conduct official inspections to:
 - Study and ensure response to the practice of prolonged placement of prisoners with mental health problems in de-escalation rooms and solitary (secure) cells, the use of handcuffs, and failure to provide psychiatric assistance and accompanying response, to prevent ill-treatment of prisoners.
 - Study and ensure response to the practice of transferring prisoners to de-escalation rooms and solitary (secure) cells in penitentiary institutions without a legal basis for the purpose of punishment, to prevent ill-treatment of prisoners.
- Through the amendment to regulations of penitentiary institutions, make it unlawful to require inmates to undress various parts of their bodies simultaneously during a full search;
- The Monitoring Department of the Special Penitentiary Service should carry out systematic inspections to identify and eliminate the practice of requiring inmates to perform squats during the full search process of defendants/convicts and take relevant response measures;
- Considering the current situation and available resources, it is recommended that they develop a strategy to divide the system into smaller institutions and create a well-balanced infrastructure. Once the document is prepared, they should share it;
- It is recommended to abolish the "barrack" type dwellings in N 17 institution;
- Ensure that each inmate is provided with a minimum of 4 square meters of living area in all penitentiary institutions;
- It is recommended to assign the Monitoring Department of the Special Penitentiary Service to conduct regular monitoring to examine the issue of inmates' right to walk in internal classification cells at N 2 and N 5 institutions. The department should then report the results of the monitoring and any actions taken to the Public Defender;
- Establishing walking areas within closed and high-risk institutions on the ground level surface to provide inmates with opportunities for relaxation and recreation;
- It is recommended to at least double the number of social workers and psychologists in 2024;
- It is recommended to at least double the number of nurses employed in penitentiary institutions by the end of the calendar year;
- Ensure that specialist physicians schedule consultations with patients frequently enough to prevent waiting times from exceeding 2 weeks;
- Ensure that planned medical referrals are made within the timeframes specified in the Minister of Justice of Georgia Order N 381 dated February 15, 2019;
- Ensure that screening examinations are conducted within penitentiary institutions for the relevant age groups outlined in the State Healthcare Program;
- Amend regulations of penitentiary institutions to allow the presence of a third person during meetings between medical personnel and inmates only in special cases. This would be necessary when a physician, due to actual and imminent risks to their own security or that of a patient, deems it necessary to have an officer of the institution present during a meeting. This presence

should be justified in writing (anticipated risks shall be detailed in the documentation). In such exceptional case, medical services should be conducted without non-medical staff listening to the conversation and they should be positioned at a reasonable distance;

- In order to systematize information about health of defendants/convicts, it is recommended:
 - To introduce an electronic health records management (HER) system within the penitentiary system;
 - Under relevant regulations within the penitentiary system, mandate medical personnel to record patient related information in the electronic healthcare records (EHR) system;
- Develop and implement a periodic mental health screening tool for inmates in penitentiary institutions;
- Considering the specificities of penitentiary institutions, it is important to outline the composition of a psychiatric multidisciplinary team, define the roles of each team member and establish procedures for organizing and providing mental health services through a sub-legal normative document. At the normative level, the responsibilities of the psychiatric multidisciplinary team shall be prescribed, such as:
 - The assessment of the needs of patients with mental health issues who do not require in-patient medical treatment;
 - Based on the needs identified through assessment, develop a biopsychosocial individual assistance plan and provide the necessary support;
- In 2024, provide training to at least 50% of penitentiary institutions personnel in psychiatric crisis management;
- Ensure that clinical and laboratory dynamic assessment are conducted to evaluate the risks of developing agranulocytosis²²⁴, metabolic processes and particularly hyperglycemia²²⁵. Additionally, monitor leukocyte levels²²⁶ to manage medication side effects. It is also important to regularly check the physical health of individuals prescribed psychotropic medications;
- Given the importance of the matter, it is important to prioritize bringing the Order No 663 dated November 20, 2020 (On the approval of the Procedure for documenting Injuries of Defendants/convicts Following Alleged Torture and other Cruel, Inhumane or Degrading Treatment at Penitentiary Institutions) into conformity with Article 139 of the Penal Code. This should be done within the shortest timeframe possible;
- In accordance with the procedure approved under the Order of the Minister of Justice of Georgia N 633 dated November 30, 2020, on the approval of the Procedure for documenting Injuries of Defendants/Convicts Following Alleged Torture and other Cruel, Inhumane or Degrading

²²⁴ The reduction in the number of leukocytes (white blood cells) in blood.

²²⁵ High blood sugar level.

²²⁶ White blood cells.

Treatment at Penitentiary Institutions, all physicians responsible for medical examination should undergo training in thorough entry, documentation and photographing of injuries of inmates. Additionally, a relevant office shall oversee the practical application of the skills gained during these trainings;

- In 2024, in order to ensure that inmates are able to send complaints in a confidential manner, envelopes for confidential complaints should be made accessible without the need for an employee of the institution, and measures should be taken to ensure that the identity of the inmate receiving the envelope cannot be revealed. Additionally, provide material and technical items (paper, pen, and envelope) free of charge to all inmates, and allow them to keep a certain number of envelopes in their cells;
- It should be stipulated in the regulations of penitentiary institutions that before telephone cards are provided to newly admitted defendants, upon their request, the administration of a penitentiary institution should offer the opportunity for an inmate to make a call through the hotline, while ensuring confidentiality of such communication;
- It should be specified in the regulations of penitentiary institutions that if an investigator or prosecutor limits a defendant's right to make phone calls, at the defendant's request, the administration of the penitentiary institution will facilitate the inmate's communication with their lawyer;
- In 2024, it should be stipulated in the regulations of penitentiary institutions that inmates are allowed to make calls to their lawyers and the hotline number during the period when disciplinary and security measures are applied;
- In 2024, amend regulations of penitentiary institutions and specify a maximum period of 24 hours for placing a defendant/convict in a de-escalation room;
- Incorporate increasing the number of regime officers in the flanks of residential blocks of inmates into the plan for overcoming the issue of overcrowding in penitentiary institutions to ensure that there is at least one employee responsible for order and security per 15 inmates;
- In 2024, provide trainings to at least 20% of medical personnel of institutions through professional development training activities;
- In 2024, ensure that defendants are held separately from convicts at N 2 and N 8 institutions at least in separate cells;
- In 2024, amend regulations of penitentiary institutions to stipulate that a juvenile may not be placed in a de-escalation room and solitary confinement (secure) cell;
- In 2024, all penitentiary institutions where juveniles are confined, should establish dedicated space with a child friendly environment for ongoing multidisciplinary work with juveniles to help them overcome crisis. The time spent in this space should not exceed several hours, and the

procedure for utilizing this space should be outlined in the regulations of relevant penitentiary institutions;

- It is recommended to at least double the number of support personnel at N 18 Medical Treatment Institution for Defendants and Convicts;
- In 2024, all foreign-speaking inmates should be provided with interpretation service, if necessary. This includes ensuring that they receive information about the services and regulations of the institution in a language they understand.

To the Minister of Internal Affairs of Georgia:

- In a pilot mode, ensure the recording of the process of briefing detainees about their rights by police officers via technical (audio and visual) equipment and retention of these recordings for a reasonable period at several police facilities;
- Ensure that requests from detainees at police facilities to notify their family or lawyer are adequately documented by keeping relevant registries;
- Ensure that confidential meetings between detainees and lawyers can take place at police offices; if necessary, by arranging a suitable space;
- In 2024, the number of temporary detention isolators with an operational medical unit should be increased;
- Physicians working in temporary placement isolators should undergo training on how to photograph injuries on the bodies of inmates and how to properly store the photos;
- Ensure that meetings between detainees held in temporary detention isolators and an investigator from an independent authority (including remote meetings) are held in a confidential environment;
- In 2024, employees of territorial offices and the Criminal Police shall gradually be equipped with body-worn cameras and a sub-legal act should be issued to prescribe the obligation to video record interaction with citizens, as well as the rule and timeframes for the retention of taken video material;
- The Order No 1310 of the Minister of Internal Affairs dated December 15, 2005, on the Approval of the Instructions for Patrolling by the Patrol Police of the Ministry of Internal Affairs of Georgia should specify the requirement for patrol inspectors to video record interaction with citizens. This obligation to record video should apply in cases such as: verifying the identity of an individual; conducting a cursory search and examination; conducting special inspection or examination; restricting the movement of an individual or transport vehicle, or factual possession of an item, or apprehending an individual;
- Police vehicles should gradually be equipped with video surveillance system to cover both the internal and outer perimeters of vehicles;
- It is recommended to prescribe under a normative act an obligation for continuous video recording while a detainee is held in a police vehicle. This recording should be done through the

use of a vehicle's outer and inner perimeter video cameras, and via a body-worn camera if a vehicle is not equipped with a video surveillance camera;

- The number of video cameras in police departments, divisions and units should be increased. They should be installed in all areas where detainees and individuals called for interviews are typically located;
- Continuous audio-video recording of the interview process with detainees should be piloted in several police offices, with the retention of recordings for a reasonable period;
- It is recommended to amend the Order No 625 of the Minister of Internal Affairs dated August 15, 2014. Fields should be inserted in the administrative detention report approved under Annex N 9 to include the following information: date and time of the report; circumstances of detention; whether the person resisted; whether a coercive measure was used, and the type of such measure;
- Electronic record-keeping systems for standardized file-based documentation and records containing information about detainees should be implemented in police offices. This will ensure that all actions related to detainees, such as detention, transportation to and from an institution, body searches, detainee request to contact a lawyer/physician/family, and responses to such requests, are thoroughly and accurately recorded in real-time. Additionally, the system should document the exact time and reasons for the release or transfer of a detainee, as well as specific information about where an individual was held while in detention;
- The General Inspectorate should scrutinize proper maintenance of detainee ledgers and record journals for individuals to be transferred to temporary placement isolators;
- It is recommended to maintain a registry that records all individuals brought to police departments, divisions and offices. This registry should include their status, time of entry and time of departure from the building;
- The General Inspectorate should scrutinize the practice of de facto restriction of liberty for individuals who are called as witnesses and subsequently detained. They should then take relevant measures to eliminate this practice;
- The issues outlined in the Chapter of Physical Conditions at Temporary Placement Isolators in the 2023 report of the National Preventive Mechanism need to be addressed and the Public Defender should be notified of the actions taken;
- In cases where minors are held at the Temporary Placement Center of the Migration Department, it is important to ensure that a social worker and a psychologist are continuously available at the center. Additionally, these specialists should have the ability to have direct contact with the minors;
- At the time of placement, juveniles brought to the Temporary Placement Center of the Migration Department should be informed about their right to a consultation with a psychologist. They should also be periodically offered counselling services from a psychologist;
- The amount of time for outdoor walks for juveniles should be increased and they should be provided with activities suitable for juveniles;
- A form for documenting injuries should be developed and approved. The form will be completed by the Georgia escort physician if an individual declares they have experienced torture and ill-

treatment or if a physician suspects such treatment. Additionally, the procedure for informing the relevant investigation authority should be determined.

To the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia:

- Through monitoring psychiatric institutions, the Ministry should identify and address instances of violence against patients by staff;
- The Ministry should develop and implement detailed guidance for staff interaction with patients at psychiatric institutions. This guidance should include standards for protecting patients' rights and providing quality psychiatric assistance;
- The Ministry should develop and implement a strategy for preventing and responding to conflicts among patients. This strategy should also include the provision of appropriate psychological assistance to patients who are victims of violence;
- Through consultations with the PDO, guidance regarding the use of physical restraint methods and procedures should be updated;
- The practice of isolating patients for extended periods from other patients at the National Center of Mental health and Batumi Medical Center, LLC should be eliminated;
- Establish relaxation rooms within institutions with a therapeutic environment where patients can spend time alone at their own will. These rooms will offer sensory stimulation relaxation;
- Develop comprehensive guidelines for emergency medical aid crews dispatched to respond to reports of psychiatric cases received from the Public Safety Management Center of the Ministry of Internal Affairs (112). These guidelines should include detailed instructions on persuading the patient to seek psychiatric care, assessing the need for involuntary placement in a psychiatric hospital, and providing clear explanations of the patient's rights;
- Scrutinize the cases of hospitalization against the explicit will of patients receiving formally voluntary psychiatric care. Take immediate action to discharge these patients from the hospital if there is no legal basis for using the procedure of involuntary psychiatric care.;
- Introduce amendments to the Ministerial Order to make it mandatory to fill out the form (No. IV-300-12/a) approved by the Order No. 108/N of the Minister of Labor, Health and Social Protection of Georgia at all stages of initiating, continuing, and changing the treatment regimen for the patient.;
- Develop and approve under the ministerial order a standardized form for informed consent for the admission to a psychiatric inpatient facility;
- Develop a form for a patient's informed consent to psychiatric assistance using a biopsychosocial approach;
- Introduce, through an order, the requirement for psychiatric institutions to provide patients with accurate and comprehensive information about the biopsychosocial aspects of psychiatric care. Additionally, ensure that informed consent is obtained from the patient for each component, following their consent for admission to an inpatient facility;

- The Ministry should monitor psychiatric institutions to identify and address instances of forcibly administering injections and medications against a person's will, and take appropriate response measures;
- Patients should be allowed the option to temporarily leave an inpatient facility, in compliance with the Law of Georgia on Mental Health, without being discharged from the facility. This decision should be made based on the patient's mental health condition;
- Ensure assessment of the needs of patients who have been admitted to and are staying in inpatient facilities for over 6 months, with the objective of discharging them from the institution and referring them to community services;
- Develop and approve under a ministerial order an obligation for mental health institutions, to provide information upon admission to an inpatient facility. Subsequently, ensure that patients are regularly informed, in an understandable language, both orally and in writing, about the internal policies of the inpatient facility and their rights;
- Develop and approve, by order of the Minister, mandatory procedures for psychiatric institutions for filing applications and complaints. These procedures should include both internal hospital mechanisms and external mechanisms that are accessible, simple, and confidential;
- The Ministry should perform monitoring to scrutinize revisiting status of patients undergoing formal voluntary treatment following the use of restraint methods in psychiatric institutions;
- Develop and implement internal guidelines for the prevention and management of crises in psychiatric institutions. This document, which will be mandatory for all institutions, should aim to minimize the risks of situations escalating;
- The Ministry should provide training to the staff of psychiatric institutions, at a minimum, focusing on key areas such as multidisciplinary collaboration, de-escalation techniques, patient rights, ethical standards, restorative approaches and modern psychiatry. Special emphasis should be placed on cultivating a deep understanding among the staff regarding the importance of the biopsychosocial model of psychiatric care and equipping them with the necessary skills to effectively apply it in their day-to-day practice;
- Develop a mechanism external state oversight of psychiatric care, including monitoring the quality of care and the protecting rights. This mechanism will have the power to receive confidential or open complaints from beneficiaries of psychiatric services, their representatives and other interested individuals regarding any discovered breaches of quality of psychiatric services and rights. It will also conduct regular, systematic and proactive monitoring of providers of psychiatric services;
- Develop specific rules for maintaining documentation at psychiatric institutions. These rules should include the guidelines for documenting injuries on patients' bodies of patients and notifying the appropriate investigative authorities;
- The Ministry should monitor and assess the lawfulness and justification of the application of restraint methods;

- Ensure the elimination of issues related to the provision of antipsychotic medications in Georgia and implement preventative measures to avoid medication shortages;
- Provide training for employees of psychiatric institutions to enhance their ability to recognize the potential side effects of "clozapine", which may lead to a lethal outcome;
- Identify the factors that are hindering the psychosocial rehabilitation of patients in psychiatric in-patient institutions. Develop a plan to eliminate these factors and inform the Public Defender;
- Patients admitted to psychiatric in-patient facility should receive necessary comprehensive and timely medical care and the reimbursement for planned medical services should be clearly outlined. Additionally, there should be a swift development of standards for medical care, including dental services. Once the standard is in place, the Ministry should monitor its implementation in psychiatric institutions and report the results to the Public Defender's Office promptly;
- Ensure that patients placed in psychiatric institutions have access to screening examinations provided by the state healthcare program;
- Undertake all measures to systematically monitor compliance with the conditions of psychiatric institutions according to the standards prescribed under the regulation on the Issuance of Medical License and Permit for Inpatient Facilities;
- Conduct monitoring of all shelters and residential facilities in order to uncover instances of staff administering injections against the will of beneficiaries and forceful administering medicines to them;
- Enact a normative provision and establish a procedure for detecting, documenting and sending notifying the investigative agency of any violations of the rights guaranteed by Articles 15 and 16 of the Convention on the Rights of Persons with Disabilities;
- Develop a strategy for the prevention of and responding to conflicts among beneficiaries;
- Enact a normative provision to obligate rendering appropriate psychological assistance to beneficiaries who are victims of violence;
- Close down shelters for individuals with mental health issues and transfer beneficiaries to alternative care services where they will be placed in a community setting that closely resembles a family environment;
- The deinstitutionalization process should be implemented in accordance with the principles of the UN Convention on the Rights of the Persons with Disabilities. This should be done according to a specified time schedule, a clear regulatory normative framework and by allocating relevant budget funds;
- In accordance with Order N 52/n dated February 26, 2010, issued by the Minister of Labor, Health and Social Protection of Georgia, regarding the Rules and Conditions for Admission to and Removal from specialized institutions, the Ministry shall examine the instances of beneficiaries being placed in housing facilities against their will;
- In order to create an effective mechanism for the protection of rights of beneficiaries in shelters and housing facilities for individuals with mental health issues:

- Develop and approve through a ministerial order an accessible, simple and confidential procedure for filing applications/complaints that will be mandatory for shelters and housing facilities;
- Mandate institutions to provide to beneficiaries information about mechanisms for the protection of their rights and legal safeguards;
- Oversee the informing of beneficiaries by service providers about rights and legal safeguard mechanisms;
- Ensure obligation to fill out the form approved by the Order of the Minister of Labor, Health, and Social Protection of Georgia, dated August 15, 2011, No. 01-41/N: IV-200-8/a on outpatient medical documentation at all stages of initiating, continuing, and modifying the psychiatric treatment plan for beneficiaries. Institutions should provide information about treatment in a language understandable to the beneficiaries;
- Revise the existing model of financing somatic healthcare services to ensure that beneficiaries in shelters have full and timely access to free medical services;
- Ensure that all beneficiaries in shelters receive screening examinations as provided by the state health program;
- Ensure the management of side effects of medications through appropriate examinations and consultations;
- Ensure that housing facilities are supplied with emergency therapeutic medications;
- Ensure clinical-laboratory dynamic assessment of the risks of developing agranulocytosis, metabolic processes and especially, hyperglycemia. Also, monitor leukocytes to manage side effects of medications for all beneficiaries in shelters.

To the Minister of Justice and to the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia:

- Through mutual cooperation, develop a specific time schedule for the complete integration of penitentiary health care for internally displaced persons (IDPs) from the occupied territories of Georgia into the system of the Ministry of Labor, Health and Social Protection.

To the National Center for Mental Health, LLC:

- Under a binding document, the National Center for Mental health shall prescribe that the archival period for video recordings must be least 10 days. After assessing the situation and based on the assessment results, consider extending the archival period to 30 days.

4. Right to Liberty and Security

4.1. Introduction

This chapter covers the violations of the right to freedom and security during the reporting period. This includes unjustified restrictions in freedom of movement, issues related to the application of and appealing preventive measures; instances of unlawful administrative detention; and deficiencies in mechanisms for releasing prisoners, including convicts sentenced to life imprisonment and the issues identified during the application of extradition detention.

An incomplete list of criteria for assessing convicts is particularly problematic when it comes to mechanisms for releasing prisoners. It is necessary to consider more criteria in the process of refining the normative framework and early conditional release or replacing an unserved part of a sentence with a lighter punishment. This should include aspects related to a convict's future plans, prospects, capabilities, opportunities and other relevant factors. Furthermore, an effective mechanism for reviewing sentences is crucial for convicts sentenced to the life imprisonment. Hence, it is important to eliminate legislative gaps in this area, such as reducing the timeframe for applying to court for early conditional release for convicts sentenced to life by several years.

The deficiency of the mechanisms of releasing prisoners, among others, is also directly linked to the problem of overcrowding in penitentiary institutions, within the broader context. Specifically, the inadequacy of release mechanisms, along with the frequent use of imprisonment as a preventive measure for defendants, might be a contributor to overcrowding of penitentiary institutions, which is a major challenge for Georgia's penitentiary system. Georgia ranks second²²⁷ among Council of Europe member states in terms of the number of prisoners.

Unfortunately, recommendations from the Public Defender that have been proposed for years still have not been acted upon. For example, recommendations to establish regulations requiring law enforcement officers to use body cameras during special operations and the procedure for the use of these cameras have not been put into place. Additionally, the Administrative Offences Code of Georgia has yet to be updated to introduce the obligation to review the lawfulness of administrative detentions by the court hearing an administrative case.

In addition to the points mentioned above, it is important to note that the use of the distancing mechanism and its legislative regulation continues to pose challenges. The absence of clear guidelines regarding the application of this mechanism at a normative level grants the police broad discretion in their actions.

4.2. Unjustified Restriction of the Right to Freedom of Movement

During the reporting period, the Office of the Public Defender scrutinized several cases.²²⁸ It was discovered that in certain instances, individuals were denied border crossing by border officers at the

²²⁷ As of December, 2022 there were 9,542 prisoners in Georgia, hence, there were 261 inmates per 1,000,000 inhabitants. Information about prison populations in Georgia and other states can be viewed at: < <http://bit.ly/3JZEKrw> > [last viewed: 23.03.2023].

²²⁸ For details, see the 2023 Activity Report of the Criminal Justice Department of the Office of the Public Defender of Georgia.

request of an investigation authority, despite there being no legal restriction on crossing the border and departing Georgia. This practice has been ongoing for years, and is primarily used against individuals who may be witnesses or potential defendants in criminal cases. In these situations, investigators and prosecutors do not have the legal authority to prevent border crossings. However, they continue to do so arbitrarily, violating the individuals' right to freedom of movement.

It is important to emphasize the case of the restriction of the right to cross the state border of Georgia for Ukrainian citizens scrutinized by the Office of the Public Defender during the reporting period. According to their lawyer, the stay of Ukrainian citizens in Georgia was legal. On April 22, 2023 they planned to move to the Republic of Turkey through the Sarpi border checkpoint. However, the Georgian border officer and team leader did not allow them to cross the border without providing any explanations. It is important to note that there was no court ruling restricting their right to cross the border. Based on the information provided, their border crossing rights were restricted for approximately six months.²²⁹

The Office of the Public Defender requested information from the General Inspectorate of the Ministry of Internal Affairs regarding the response actions based on a lawyer's application.²³⁰ According to the explanation given by the Ministry officer (investigator), Ukrainian citizens could have information about a criminal being handled by their unit. Since the contact details and whereabouts of these Ukrainians could not be determined, with the approval of a prosecutor overseeing the case, the individuals were placed under border crossing control without a court decision.

The General Inspectorate of the Ministry of Internal Affairs, based on official inspections conducted, has not found any disciplinary misconduct on the part of the investigator.²³¹ The Office of the Public Defender also requested information from the General Prosecutor's Office²³², which stated that no ban or restriction had been imposed.²³³ Similarly, the Prosecutor's Office denies any involvement in an unlawful restriction of rights. However, despite confirming that the investigator unlawfully restricted the freedom of movement for Ukrainian citizens, no action has been taken against the investigator yet.

4.3. The Practice of Appealing a Decision on the Application/Change of Preventive Measures

The Public Defender highlighted in the 2021 and 2022 parliamentary reports that the practice of appealing a decision on the application or change of preventive measure in the Appellate Court after the conclusion of the hearing, along with the decision was problematic.²³⁴ To address this issue, the Public Defender proposed a solution to the Parliament of Georgia. Unfortunately, the Parliament did not consider this proposal from the Public Defender in the current reporting period, as it had done in the past. Specifically, no amendments were made to the Criminal Code of Georgia, that would require the appellate court to

²²⁹ Application N4578/23 of the lawyer M.Z.

²³⁰ Letters of the Office of the Public Defender of Georgia N15-15/4201 dated April 28, 2023, Letter N15-15/4925 dated May 22, Letter N15-15/6540 dated July 6, letter N15-15/7454 dated July 31, Letter N15-15/7757 dated August 7, Letter N15-15/11773 dated December 5.

²³¹ The Letter of the General Inspectorate of the Ministry of Internal Affairs of Georgia NMIA 8 23 03719594 dated December 18, 2023.

²³² The Letter of the Office of the Public Defender of Georgia №15-15/12385 dated December 22, 2023.

²³³ The Letter of the General Prosecutor's Office of Georgia №13/5364 dated January 29, 2024.

²³⁴ See the 2021 Parliamentary Report of the Public Defender of Georgia, Tbilisi, 2022, pg. 83; as well as the 2022 Parliamentary Report of the Public Defender of Georgia, 2023, pg. 90.

promptly review the legality of the preventive measure if a person appeals the decision on the application or change of the preventive measure at the stage of hearing a case on merits.

It is also noteworthy that the practice of applying preventive measures during the reporting period has not changed substantially compared to previous years. The analysis of statistical data reveals that detention or bail are the key preventive measures applied against defendants. Other preventive measures, as in previous years, are typically rarely used.

According to statistics provided by the Supreme Court of Georgia, in 2023, preventive measures were applied against a total of 11,830 individuals.²³⁵ Of these, 37.9% - 4,479 cases resulted in detentions. It is important to highlight that in recent years the ratio of pretrial detention in relation to the preventive measures used has been decreasing. However, this reduction is not substantial either in either total numbers or percentages.

In 2020, preventive measures were applied in a total of 9,419 cases, with a detention rate of 47.1% - 4,471 cases.²³⁶ The ratio in 2019 was similar to 2020, with preventive measures used in a total of 11,031 cases, and a detention rate of 47.2% - 5,205 cases.²³⁷ However, in 2021, compared to 2020, and in 2022, compared to 2021, and in 2023, compared to 2022, there has been a decrease in the percentage of pretrial detention. Specifically, in 2022, preventive measures were used against a total of 12,551 individuals, with a detention rate of 38.51% - 4,833 cases.²³⁸ In 2023, preventive measures were used against a total of 11,830 individuals, with 4,479 individuals -37.86% being detained.²³⁹

In 2023, non-custodial preventive measures were applied against 7,351 individuals, with 7,249 of them being granted bail. Accordingly, the ratio of the use of bail as a non-custodial measure in 2023 was 98.6%. This trend has remained relatively stable over the years with a slight increase each year. For example, in 2022, bail accounted for 98% of non-custodial measures, in 2021 – 97.2%, in 2020 - 96.7%, and in 2019 - 96.3%.

4.4. Administrative Detentions

In the realm of administrative detentions, it is important to note that the legislative gaps highlighted by the Public Defender for years are still significant.²⁴⁰ Specifically, the authority to verify the legality of administrative detention remains problematic. When an individual challenges their administrative detention before a judge presiding over an administrative violation case, the judge does not assess the legality of the detention itself. Instead, this issue is addressed in a separate legal proceeding. The Public Defender argues that the legality of administrative detention should be considered by the court handling the violation case, similar to how it is done in criminal proceedings. In addition to the afore-mentioned points, it should also be noted that in the absence of a specific evidentiary standard and burden of proof

²³⁵ The Letter of the Supreme Court of Georgia №3-19-24 dated March 5, 2024.

²³⁶ Statistical information published on the website of the Supreme Court of Georgia, available at: < <https://bit.ly/3WXv1VU> > [Last seen 19.03.2024].

²³⁷ Ibid.

²³⁸ The Letter of the Supreme Court of Georgia №3-47-23 dated January 27, 2023.

²³⁹ The Letter of the Supreme Court of Georgia №3-19-24 dated March 5, 2024.

²⁴⁰ The Public Defender of Georgia 2020 Parliamentary Report, Tbilisi, 2021, pg. 103-104; The Public Defender of Georgia 2021 Parliamentary Report, 2022, pg. 81; The Public Defender of Georgia 2022 Parliamentary Report, Tbilisi, 2023, pg. 88.

in the Code of Administrative Offenses of Georgia, individuals are deemed offenders based on the offense protocol and the oral explanation of the police officer who compiled the report. The Public Defender has emphasized this issue in previous reports²⁴¹ numerous times.

With respect to the legislative gaps, it should also be noted that the Public Defender has concerns about the application and regulation of the distancing mechanism. In practice, this mechanism involves police officers demanding an individual to leave a certain location for a specified period of time, thereby banning them from accessing a specified territory. Regulations²⁴² regarding the use of this mechanism are not stipulated in normative documents, giving police officers broad discretion. Therefore, in order to ensure predictability and prevent police officers from infringing on an individual's right to freedom, it is important to regulate the grounds for the application of the distancing mechanism at the normative level.

Along with the legislative gaps, the problems identified in practice during the reporting period are also worth mentioning. Unfortunately, the practice of administratively detaining citizens at protest rallies and unjustified interference in the freedom of expression has persisted. As mentioned above, due to a legislative gap, courts handling administrative violation cases do not examine the legality of administrative detention, leaving it beyond judicial control.²⁴³ Additionally, during the reporting period there were still cases where the police restricted citizens's rights to set up tents as a form of protest.²⁴⁴

4.5. The Practice of Early Conditional Release and the Replacement of an Unserved Portion of the Sentence with a Lighter Punishment²⁴⁵

4.5.1. Convicts sentenced to a certain period of imprisonment

During 2023, as in previous years, the practice of early release and replacement of the unserved part of a sentence with a lighter one, and the legal framework regulating this issue, remained problematic. The current practice and legal framework do not establish uniform, foreseeable and clear grounds for determining who is entitled to the benefit of the law. Firstly, it is worth noting that the incomplete list of criteria for evaluating a convicted person is problematic. The Public Defender believes that it is necessary to improve the normative framework and to include more criteria in the process of early conditional

²⁴¹ See the Public Defender of Georgia 2022 Parliamentary Report, Tbilisi, 2023, pg. 92; the Public Defender of Georgia 2020 Parliamentary Report, Tbilisi 2021, pg. 145-146; the Public Defender of Georgia 2019 Parliamentary Report, Tbilisi, 2020, pg. 157-159; the Public Defender of Georgia 2018 Parliamentary Report, Tbilisi, 2019, pg. 103-106; the Public Defender of Georgia 2015 Parliamentary Report, Tbilisi 2016, pg. 463-464.

²⁴² According to Article 25 of the Georgian Law on Police, "a police officer shall have the right to demand that a certain place be vacated for a specific period of time or to prohibit a person from entering a certain territory, if it is necessary to prevent a threat. This restriction can last until the threat is eliminated." According to officially provided information, they are not citing this Article; yet, there may be circumstances where this measure is warranted. For such cases, it will be important to establish clear guidelines and procedures through a sub-legal normative act.

²⁴³ Detailed reasoning is presented in the 2023 activity report of the Criminal Justice Department of the Office of the Public Defender of Georgia, in the chapter Violation of the Rights of the Individuals Taking Part in Protest Rallies, through specific examples."

²⁴⁴ For example, the case of Beka Griogoriadisi should be noted (Detailed reasoning is presented in the 2023 activity report of the Criminal Justice Department of the Office of the Public Defender of Georgia).

²⁴⁵ Details can be found in the 2023 activity report of the Criminal Justice Department of the Office of the Public Defender of Georgia.

release or changing the unserved part of the sentence to a lighter one. This should include aspects related to the future plans, prospects, capabilities and opportunities, and other relevant issues of the convicted person.

In relation to the shortcomings of the legal framework, it is worth noting that oral hearing is conducted if the council deems it necessary to receive additional information from the convict when deciding on the issue of conditional release from serving the sentence. However, the legislation does not define the preconditions for when and in what cases it is appropriate to obtain additional information from a prisoner, which creates the possibility for the Council to make subjective or arbitrary decisions. It is important for legislative amendments to establish mandatory criteria for local councils to follow when conducting oral hearings. This legal gap was a problem in previous years, when the Imprisonment Code was in effect, and unfortunately, the issue persists, even after the new Penal Code has come into force.

During the reporting period, the Office of the Public Defender requested²⁴⁶ the copies of all decisions made by the six local councils in October, 2023. Unfortunately, complete documentation was not provided to the PDO, which hindered our ability to conduct a thorough analysis. In particular, the PDO did not receive the decisions of the West Georgia Local Council. As a result, the PDO was only able to examine and analyze a total of 134 decisions that were submitted. These decisions were made by the local councils during the sessions in October 2023. Additionally, during the reporting, the Public Defender's Office also reviewed specific cases of convicted individuals based on the requests received.²⁴⁷

For years, one of the significant deficiencies in the work of local councils has been the consistent pattern of negative decisions. Specifically, councils did not formally outline the criteria they based their negative decisions on. However, as a result of a review of these decisions, positive changes have been identified. In particular, the assessment criteria are now accompanied by explanations and both negative and positive decisions are thoroughly justified.²⁴⁸

The PDO has identified the following problematic issues: the justification of a negative decision based on a convict's lack of participation in social activities or targeted social activities. In some cases, convicts have shown a willingness to engage in social activities, but it is not clear from the decision what circumstances prevented them from doing so, despite their desire.

Moreover, in cases where targeted social activities are emphasized, decisions do not indicate whether an activity took place while a convict was held in the given facility, which specific activity would be targeted towards the convict at hand, whether the convict expressed a desire to participate in targeted social activities and what reasons prevented them from doing so. The Public Defender's Office found the justification for negative decisions unclear in instances where a convict has participated in numerous activities, but the council insists on the need for engagement in targeted activities and does not consider other activities as positive, the reasoning behind by the convict as positive. According to the Office of the Public Defender, the expectation of the council is legitimate that a convict's engagement in an activity

²⁴⁶ Letter of the Office of the Public Defender of Georgia №15-3/11913 dated December 7, 2023.

²⁴⁷ Detailed information about the practice of local councils and the cases of specific convicts is presented in the 2023 activity report of the Criminal Justice Department of the Public Defender of Georgia.

²⁴⁸ It should also be noted that the limited availability of materials to the Public Defender's Office unfortunately prevents us from determining if these positive trends are relevant across all local councils.

customized to them is necessary for rendering a positive decision. However, it is not evident from the decisions whether the recommended activity actually took place while the convict was in a specific penitentiary facility. Furthermore, if a convict expressed a willingness to engage in targeted social activities but could do so due to circumstances beyond their control, this should not be used against them without proper justification in the decision. The Public Defender's Office believes that council decisions should be clear and fair to convicts, avoiding any sense of injustice. During the reporting period it was noted that the first and third local councils in East Georgia often cited lack of information about a convict's family, being a support network, as a reason for negative decisions. However, in cases where the convict's characterization indicates a close relationship with their family, and no additional channels for obtaining information are specified, this criteria should not be used to the detriment of the convict.

Moreover, upon examining the cases, the Public Defender's Office identified that councils often cite the lack of comprehensive information about family and social environment risks and needs, as well as the absence of a social worker's conclusion as grounds for negative decisions. This is particularly true in cases where legislation requires a conclusion to be prepared only for convicts held at specific penitentiary institutions (N 5, N 16 and N 11).

The Public Defender believes that it is desirable for comprehensive information about convicts' family and social environment to be available to all local councils. However, without legislative regulation and a practical enforcement mechanism for preparing such conclusions, citing its absence in relation to convicts held in institutions not covered by legislation goes against the principle of making decisions based on thorough assessment of all circumstances related to the case, within the discretion of an administrative authority.

Additionally, it should be mentioned that unfortunately, similar to previous years, the statistics for early conditional release of convicts has worsened in the reporting period as well. Specifically, in 2019 the number of convicts subjected to early conditional release was 1,279, in 2020, it was 830, in 2021, it was 829²⁴⁹, and in 2022, it was 635²⁵⁰. The statistics have deteriorated significantly, as only 434 prisoners were covered by early conditional release in 2023.²⁵¹

Furthermore, the trend of backsliding is evident in the statistics regarding replacing the unserved part of a sentence with a lighter one. In 2019, the sentence was changed for 236 convicts, in 2020, the number increased to 545, and in 2021, it was 440.²⁵² Unfortunately, this trend continued in 2022 with the sentence

²⁴⁹ < <https://ombudsman.ge/res/docs/2022040420075286303.pdf> > - 2021 Activity Report of the Criminal Justice Department of the Office of the Public Defender of Georgia, pg. 56.

²⁵⁰ Letters of the Department for Local Councils Support of the Special Penitentiary Department №381189/01 dated December 30, 2022 and №43214/01 dated February 16, 2023.

²⁵¹ Letter of the Department for Local Councils Support of the Special Penitentiary Department №15195/01 dated January 18, 2024.

²⁵² < <https://ombudsman.ge/res/docs/2022040420075286303.pdf> > - 2021 Activity Report of the Criminal Justice Department of the Office of the Public Defender of Georgia, pg. 56.

being changed for only 388 convicts.²⁵³ Regress was also seen in 2023, with only 274 convicts having their sentence changed.²⁵⁴

4.5.2. Convicts sentenced to life imprisonment

An effective mechanism for reviewing sentences is particularly important for convicts sentenced to life.²⁵⁵ However, it is regrettable that the Public Defender's proposal to reduce the timeframe for a convict with life sentence to appeal to the court for a sentence reduction by several years remains unfulfilled. It should be noted that in the opinion of the European Committee for the Prevention of Torture (CPT), deprivation of liberty without an option of release precludes the opportunity for a prisoner's rehabilitation. Therefore, if an individual plan for serving a sentence is implemented, there should be an option for a reasonable review of any sentence. This would motivate a prisoner to pursue a goal and exhibit good behavior.²⁵⁶

It is important to note that in Georgia, there is²⁵⁷ a Program for Preparing Convicts Sentenced to Life Imprisonment for Release.²⁵⁸ The Public Defender welcomes the introduction of this program and the interest of convicts (Out of 52 convicts who have served 12 years or more of their sentence, were eligible to enter the program for release the convicts sentenced to life, a total of 50 convicts). Moreover, the Program entails regularly planning resocialization of convicts, assessment of attained result and control of the attainment of the goals of the punishment/sentence, which, on the one hand, opens a possibility for those sentenced to life to be released from the penitentiary institution and continue serving the sentence for a specified period after release under the monitoring of appropriate agencies, and secondly, increases possibilities for releasing convicts and the assessment of the likelihood of committing a new crime by the individual.

It is important to note that the program mentioned above, which represents a mandatory stage, was completed by convicts sentenced to life imprisonment, during the reporting period, in 2023. After completing the program, during the reporting period, common courts were authorized to examine motions for the early conditional release of convicts sentenced to life as well as the replacement of the sentence with home arrest or community work.

²⁵³ Letters of the Department for Local Councils Support of the Special Penitentiary Department №381189/01 dated December 30, 2022 and №43214/01 dated February 16, 2023.

²⁵⁴ Letter of the Department for Local Councils Support of the Special Penitentiary Department №15195/01 dated January 18, 2024.

²⁵⁵ Detailed information about life-sentenced prisoners is available in 2023 Activity Report of the Criminal Justice Department of the Office of the Public Defender of Georgia

²⁵⁶European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Situation of life-sentenced prisoners, Extract from the 25th General Report of the CPT, published in 2016 [CPT/Inf (2016) 10], April 2016, available at: < <https://rm.coe.int/16809534f2> > [last viewed: 14.02.2024].

²⁵⁷ The Program for the Preparation of Life-sentenced Prisoners for Release, Order N 682 of the Minister of Justice of Georgia dated February 9, 2021.

²⁵⁸ The goal of the program is to engage convicts in interventions facilitating their rehabilitation and the preparation for resocialization and reintegration of convicts under case management for early conditional release of life-sentenced prisoners, as well as replacing life sentence with community service or home arrest.

As of 2023, a total of 81 convicts sentenced to life were being held in penitentiary institutions.²⁵⁹ Only 19 of these convicts applied to the court with requests for early conditional release or the replacement of the sentence with home arrest or community work. The court did not grant any of these requests.²⁶⁰

It can be seen from court rulings examined by the Public Defender's Office that courts usually try to justify decisions is based on various circumstances and criteria. However, unfortunately, decisions often lack sufficient justification and clarity regarding the court's view of the actual prospect of releasing convicts. Often, decisions fail to consider the time that has passed since the disciplinary misconduct or a new offense committed while serving the sentence as well as the number of years that have passed after a specific offense. They also overlook whether the convict's behavior has significantly improved, and what the current dynamics are. Furthermore, decisions do not sufficiently focus on the fact that a crime for which a life sentence has been given, regardless of its nature, does not necessarily mean that there are no prospects for releasing an individual.

It has been identified following the examination of the cases that courts do not have a common uniform practice regarding the reference date from which the mandatory sentence stipulated by law should be counted in case of a combination of sentences, in relation to those sentenced to life imprisonment, when considering the use of the benefit mechanism. It is important to note that the applicable legislation allows for varying interpretations of this issue by different courts.²⁶¹

During the examination of the use of the benefit mechanism for convicts sentenced to life imprisonment, it was determined that only the President has the authority to establish a specific timeframe for releasing a convict, in case of pardon.²⁶² Therefore, the Public Defender suggests that Parliament also consider granting common courts the power to specify a timeframe for the release of a convict.²⁶³

Furthermore, at N 8 Penitentiary Institution, the Public Defender met with 16 convicts sentenced to life, who have completed a 2-year preparation program.²⁶⁴ The convicts, along with other issues presented in this sub-chapter, emphasized that the representatives of the Special Penitentiary Service usually do not present a position during court adjudication regarding the advisability of their early conditional release or sentence replacement, despite their successful completion of the program and positive characterization from the penitentiary facility. The prisoners also expressed concern that the legislation

²⁵⁹ Letters of the Special Penitentiary Service №1213/01 dated January 3, 2024 and №15180/01 dated January 18, 2024.

²⁶⁰ Letter of the Special Penitentiary Service №1213/01 dated January 3, 2024.

²⁶¹ Detailed reasoning is presented in 2023 Activity Report of the Criminal Justice Department of the Office of the Public Defender of Georgia.

²⁶² The Constitution of Georgia, Article 52 (1)(f), The Pardoning Procedure, approved under the President of Georgia 2019 Ordinance N 556, Article 6 (2)(a)(b).

²⁶³ The "safeguard mechanism" can be considered. Under this mechanism, if a court changes a convicts' life imprisonment to a deprivation of liberty for a specified period, and the convict's behavior significantly worsens during the sentence period, the Penitentiary Service should be authorized to apply to the court with a justified request for the cancellation of the benefit of law. Furthermore, it is recommended that the legislator determine for courts minimum and maximum thresholds for the deprivation of liberty.

²⁶⁴ The meetings were held on March 7 and 14, 2024, at N8 institution.

does not clearly stipulate the power or obligation of the representatives of the Special Penitentiary Service in this matter.²⁶⁵

For convicts sentenced to life, the presence of a regime adapted to their individual needs is crucial, along with the hope of returning to the society. Unfortunately, a regime tailored to the needs of life convicts has not yet been introduced. The condition of individuals in solitary confinement is of particular concern,²⁶⁶ as their opportunities for socialization are extremely limited. Life convicts participating in the release program are able to interact with each other during the course, once or twice a week, for one hour each time. However, this cannot be considered an adequate opportunity for human interaction.

The Public Defender of Georgia welcomes the introduction of digital training at N 16 institution in 2022.²⁶⁷ By the end of 2024, the Special Penitentiary Service plans to begin preparatory work for implementing digital training at N 1, N 2, N 5 and N 10 penitentiary institutions. The Public Defender hopes that the digital university program will be gradually implemented in all penitentiary institutions. It is important to note that during the reporting period, juveniles at N 11 (juveniles) penitentiary institution had the opportunity to engage in vocational²⁶⁸ education. However, despite recommendations from the Public Defender, juveniles at juvenile departments of N 2 and N 8 institutions were deprived of this opportunity.

4.6. Deficiencies Identified in the Application of Extradition Detention

During the reporting period, the extension of the timeframe for extradition of individuals continued to be problematic. This was due to the failure of the Prosecutor's Office failing to complete legal procedures within reasonable timeframes.

It was determined from the case materials of one of the cases reviewed by the Office of the Public Defender during the reporting period that an individual was detained for extradition after completing a sentence for a crime committed in Georgia and being released from a penitentiary institution. It is important to note that while serving the sentence, prosecutorial authorities were aware of an extradition request from the Republic of Azerbaijan. However, they did not take effective measures to consider the extradition matter during the individual's sentence, only doing so after their release. The initial term of extradition detention was 3 months, which was later extended twice. The individual, after serving the sentence for a crime committed in Georgia and being released, was held in the penitentiary for an additional 9 more months.²⁶⁹

The use of extradition detention for individuals who have already completed their sentence of deprivation of liberty has been a problem in previous years as well.²⁷⁰ To address this issue, on December 7, 2021, the Public Defender of Georgia submitted a proposal to the Parliament of Georgia. If the Parliament accepts

²⁶⁵ The Criminal Procedure Code of Georgia, 285¹, Para. 7.

²⁶⁶ Additionally, 3 convicts sentenced to life imprisonments have been transferred to the National Center for Mental health.

²⁶⁷ Digital education enables student convicts to engage remotely in the university academic process, attend online lectures and have interactive communication with their professors. As of November 30, 2023, 10 convicts were engaged in digital education.

²⁶⁸ The presented vocation education was not in the interests of the juveniles.

²⁶⁹ Ultimately, the individual was extradited to the requesting state on January 18, 2024 (See the 2023 Activity Report of the Criminal Justice Department of the Office of the Public Defender of Georgia).

²⁷⁰ For example, see the 2021 Parliamentary Report of the Public Defender of Georgia, Tbilisi, 2022, pg. 85.

the proposal, the application and/or extension of extradition detention will be prohibited if the person has already spent a cumulative 9 months in prison for any criminal offence, including crimes committed on Georgian territory, after sufficient grounds for extradition have been identified.²⁷¹ To address the issue at hand, the Public Defender presented proposals to the Parliament of Georgia in both the 2021²⁷² and 2022²⁷³ Parliamentary Reports. Regrettably, these proposals have not been implemented. In order to continue advocating for a resolution to the problem, the Public Defender filed a constitutional lawsuit to the Constitutional Court of Georgia on January 12, 2024.²⁷⁴

Proposals

To the Parliament of Georgia:

- Amendments should be made to the Code of Administrative Offenses of Georgia, which would determine the obligation of the court reviewing the administrative case to check the legality of administrative detention;
- Amendments should be introduced to the Criminal Law Code of Georgia and the Criminal Procedure Code of Georgia, foreseeing to reduce the time limit for a convicted person sentenced to life imprisonment to apply for conditional release by several years;
- Paragraph 12¹ should be added to Article 30 of the Law of Georgia "On International Cooperation in the Field of Criminal Law", which would prohibit the use and/or continuation of extradition detention if the person has already spent a cumulative 9 months in prison for any criminal offence, including crimes committed on Georgian territory, after sufficient grounds for extradition have been identified;
- Amendments should be introduced to the Criminal Procedure Code of Georgia, whereby in the case of an appeal against the decision to apply or change a preventive measure at the stage of reviewing a case on merits, the appellate court shall have a clear obligation to immediately consider the legality of the preventive measure;
- The mandatory criteria for conducting oral hearings by local councils should be prescribed under the Penal Code. While retaining the authority of the local council, to conduct additional oral hearings, if necessary;
- Consider the rule for the application and review of a mechanism of benefit of law for a convict sentenced to life when a date is set for releasing them under the President of Georgia ordinance on pardoning. Firstly, it will be specified whether the common courts should review the matter in accordance with the general rule and conditions for convicts with a life sentence, or whether the matter should be reviewed by local councils in accordance with the procedure for conditional early release and the replacement of the unserved part of the sentence with a lighter punishment. Secondly, the condition of a convict will not worsen. Furthermore, relevant legislative amendments should be adopted;

²⁷¹ Proposal of the Public Defender of Georgia №15-2/11520 dated December 7, 2021.

²⁷² The Public Defender of Georgia 2021 Parliamentary Report, Tbilisi, 2022, pg. 91.

²⁷³ The Public Defender of Georgia 2022 Parliamentary Report, Tbilisi, 2023, pg. 96.

²⁷⁴ Constitutional lawsuit of the Public Defender of Georgia dated January 12, 2024 №1808 The Public Defender of Georgia vs the Parliament of Georgia.

- Introduce a clear provision in the legislation specifying the start date for counting the mandatory period of serving the sentence in cases where sentences are combined. This is important for the consideration of the use of the benefit mechanism by convicts sentenced to life imprisonment;
- The Criminal Code of Georgia should be amended to allow common courts to set a specific timeframe for the release of a convict sentenced to life imprisonment. Additionally, the need for the development of the “safeguard mechanism”²⁷⁵ should be explored.

Recommendations

To the Minister of Internal Affairs of Georgia:

- In 2024, define legal framework that will oblige law enforcement officers participating in a special operation to use a body camera, along with setting clear rules for its proper usage during such operations;
- Equip all law enforcement officers participating in special operations with body cameras.

To the Minister of Justice of Georgia:

- "Approval of the Procedure for the Consideration and Decision-Making of Conditional Release from Serving the Sentence by the Local Councils of the Special Penitentiary Service, under the Ministry of Justice of Georgia," Order No. 320, dated August 7, 2018, approved by the Minister of Justice, should include the additional evaluation criteria addressing the convict’s future plans, prospects, opportunities, and other relevant issues;
- Ensure the implementation of a digital university, at least in N 1, N 2, N 5 and N 10 penitentiary institutions;
- Ensure the opportunity for vocational education for juveniles in N 2 and N 8 institutions;
- Ensure the assessment of working conditions of personnel working in rehabilitation-resocialization in all penitentiary institutions and take measures based on identified needs to address the discovered deficiencies;
- To motivate convicts to participate in various rehabilitation activities, a mechanism should be created and implemented, directly affecting the reduction of the remaining period of a sentence or the possibility of modifying the type of sentence;
- In 2024, introduce new and diverse rehabilitation activities across all penitentiary institutions, as well as increase the number of resocialization activities and the number of convicts engaged in those activities, by at least 50%;
- To ensure the engagement of foreign-speaking convicts in rehabilitation activities, identify all prisoners who do not speak Georgian and offer them the opportunity to study the Georgian language in 2024. Additionally, ensure their participation in such activities where a lack of Georgian language knowledge proficiency does not substantially hinder their involvement. It is

²⁷⁵ Under the “safeguard mechanism”, if a court changes a convicts’ life imprisonment to a deprivation of liberty for a specified period, and the convict’s behavior significantly worsens during the sentence period, the Penitentiary Service should be authorized to apply to the court with a justified request for the cancellation of the benefit of law.

also recommended to explore the option of delivering activities in a foreign language for specific groups, or providing interpretation services as needed.

5. Right to a Fair Trial

5.1. Introduction

Despite numerous attempts of judicial reform, shortcomings in Georgia's judicial system continue to persist at both legislative and institutional levels, necessitating further action.

In the context of Georgia's integration into the European Union, the judiciary was the main focus of the preconditions indicated to Georgia on June 17, 2022 for attaining the EU membership candidacy. Moreover, one of the 9 recommendations Georgia received on November 8, 2023 as a candidate for EU membership concerned the reform of the judicial system.²⁷⁶ In the document, the European Commission relies on Venice Commission's assessment that a comprehensive judicial reform in Georgia has not been fully implemented and urges the government to carry out additional and more extensive reforms in order to guarantee the complete independence, accountability, and impartiality of all judicial and prosecutorial institutions.²⁷⁷

We would like to mention that the Venice Commission, in its conclusion published in October 2023, discussed for the first time the need to use such an extraordinary instrument as the verification of the integrity of the members of the High Council of Justice.²⁷⁸ The European Commission's report on Georgia, published on November 8, also speaks about the introduction of an integrity check system for judicial officials.²⁷⁹

The Public Defender is ready to actively participate in any discussion on the implementation of the recommendations issued by the Venice Commission and the OSCE/ODIHR over the years, and emphasizes the importance of civil society participation in this process.

We have to note that Public Defender's proposals to the Parliament of Georgia concerning the reform of the judicial system remain largely unfulfilled.²⁸⁰ Here are a couple of examples of such unfulfilled proposals: a) enact legislative changes to establish a mechanism for judicial oversight of the legality of evidence in situations where police entrapment (crime provocation) is likely to happen; b) amend the Code of Criminal Procedure to substitute a juvenile's representative by someone else if parties want to examine the representative in court. Another unresolved issue Georgia still grapples with is the Soviet-era Code of Administrative Offenses, which remains in effect despite its incompatibility with human rights standards.

²⁷⁶ The European Commission, 2023 Communication on EU Enlargement policy, 2023, p. 20. <<https://shorturl.at/bjqvW>> [last viewed 30.01.2024].

²⁷⁷ The European Commission, 2023 Communication on EU Enlargement policy, 2023, p. 20. <<https://shorturl.at/bjqvW>> [last viewed 30.01.2024].

²⁷⁸ European Commission For Democracy Through Law (Venice Commission), Follow-Up Opinion To Previous Opinions Concerning The Organic Law On Common Courts, CDL-AD(2023)033, 2023, para. 11 <<https://shorturl.at/jzHIZ>> [last viewed 01.02.2024].

²⁷⁹ The European Commission, 2023 Communication on EU Enlargement policy, 2023, pp. 20-21; <<https://shorturl.at/bjqvW>> [last viewed 30.01.2024].

²⁸⁰ 2023 Parliamentary Report of the Public Defender, Tbilisi, pp. 130-133

5.2. Institutional Issues in the Judiciary

This chapter discusses major events of 2023, which are illustrative of issues with institutional independence of the judiciary and individual independence of judges in Georgia's judicial system.

In regard to risk of corruption in the judiciary, it needs to be emphasized that, in its report on Georgia published on November 8, 2023, the European Commission recommended the Georgian Government to establish a system of effective permanent and periodic asset declarations with the involvement of international experts.²⁸¹ In light of this background the applicable law is not envisaging an obligation for the Independent Inspector to publish its assets declaration. Although an Independent Inspector plays an important role in disciplining judicial officers and there is an increased public interest in Independent Inspector's revenues,²⁸² the Georgian law²⁸³ prescribes no obligation for an Independent Inspector to publish its own asset declaration. The Public Defender believes that the purpose of reducing the risk of corruption in the judiciary will better be served if an Independent Inspector were obligated under the law to publish its asset declarations.

Remarkably, even if corruption risks are present at a hypothetical level, the perception itself can harm the integrity of the entire justice system, since the reputation of courts is often based on public perception in the first place.²⁸⁴

5.2.1. Membership of the High Council of Justice

As the Consultative Council of European Judges (CCJE) has stated, non-judge members should ensure representation of diverse groups of the society in a council for the judiciary.²⁸⁵ The European Network of Councils for the Judiciary (ENCJ) shares this view and states that the most successful models appear to be those with representation from a combination of lay members elected and/or appointed from the ranks of legal, academic or civil society, with broad powers sufficient to promote both judicial independence and accountability.²⁸⁶

Despite these recommendations, for almost two years after June of 2021, the High Council of Justice continued to function with only 10 members, without the five Parliament-elected non-judge members. Election of non-judge members as well as a comprehensive reform of the High Council of Justice were

²⁸¹ The European Commission, 2023 Communication on EU Enlargement policy, 2023, p. 21. <<https://shorturl.at/bjqvW>> [last viewed 30.01.2024].

²⁸² The Social Justice Center, *Obscurity of Wages at the High Council of Justice*, 2023, p. 27. <<https://shorturl.at/jlsyG>> [last viewed 05.02.2024].

²⁸³ Law on Combating Corruption, Article 2; Resolution of the Government of Georgia no. 178 dated March 29, 2019

²⁸⁴ According to the Bangalore Principles of Judicial Conduct, Principle 3.2, "The behaviour and conduct of a judge must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

²⁸⁵ Consultative Council of European Judges (CCJE), Opinion no.10(2007) of the Consultative Council of European Judges (CCJE) to the attention of the Committee of Ministers of the Council of Europe on the Council for the Judiciary at the service of society, 2007 p. 6 <<http://hcoj.gov.ge/files/pdf%20files/CCJE.pdf>> [last viewed 31.01.2024].

²⁸⁶ The European Network of Councils for the Judiciary (ENCJ), Standards VI: Non-judicial Members in Judicial Governance, ENCJ Report 2015-2016, 2016, <<https://tinyurl.com/4spppu6a>> [last viewed 31.01.2024].

part of European Commission's recommendations for granting Georgia an EU membership candidate status.²⁸⁷

Besides, the Venice Commission recommended also that interim elections (so-called staggered elections) be introduced at the High Council of Justice.²⁸⁸ Contrary to this, the Parliament filled all of the vacancies of non-judge members in a time of one year. Amendments in the Organic Law on General Courts in June 2023 did not prevent this from happening, because the Parliament did not fulfill the Venice Commission's abovementioned recommendation in full.²⁸⁹ In particular, according to the amendments, the only limitation the Parliament was imposed in this respect was election of up to four judicial members of the Council in any 3-month period.²⁹⁰ And this rule concerned only the judicial members of the Council, not the Parliament-elected non-judge members.

5.2.2. Election of an Independent Inspector

The Office of the Independent Inspector was established in 2017, as part of ongoing judicial reforms, to conduct an objective and impartial review of allegations of judicial misconduct. This very important function crucially requires that anyone elected to this position enjoys the confidence of the general public.

Under the current rules, an Independent Inspector is elected by a majority of all members of the High Council of Justice.²⁹¹ The Public Defender is of the opinion that the quorum for the election of a person to the office of Independent Inspector should be increased from a majority of all members to a two-thirds majority.²⁹²

Regarding the functioning of an Independent Inspector, we would like to note that PD's recommendation to have Independent Inspector's findings published (without detriment to any personal data protection rules) has not been implemented, which does not contribute to increasing transparency in the judiciary.²⁹³

5.2.3. Disciplinary liability of judges and rules of seconding a judge to another court without consent

Legislative amendments to the Organic Law "on General Courts", which were implemented through an accelerated procedure by the end of December 2021, significantly weakened the legal guarantees of the independence of judges. In particular, a new form of disciplinary misconduct was added to a list of offenses subject to disciplinary action against judges: expressing thoughts in breach of the political neutrality principle.

²⁸⁷ In its opinion dated June 17, 2022 concerning Georgia's application for EU membership, the European Commission said it would recommend the granting of a membership candidate status to Georgia after it carried out a substantive reform of its High Council of Justice and appointed the remaining members of the Council.

²⁸⁸ European Commission For Democracy Through Law (Venice Commission), Follow-up opinion to four previous opinions concerning the organic law on common courts, CDL-AD(2023)006, para. 21; see also Opinion On The December 2021 Amendments To The Organic Law On Common Courts, CDL-AD(2022)010, para. 56.

²⁸⁹ European Commission For Democracy Through Law (Venice Commission), Follow-up opinion to previous opinions concerning the organic law on common courts, CDL-AD(2023)033, 2023, para. 20-21 < <https://shorturl.at/jzHIZ> > [22.02.2024].

²⁹⁰ Law on General Courts, Article 47(12)

²⁹¹ Law on General Courts, Article 51¹(2)

²⁹² For more information, see 2019 Parliamentary Report of the Public Defender, Tbilisi, 2020, pp. 137-138.

²⁹³ 2020 Parliamentary Report of the Public Defender, Tbilisi, 2021, p. 128

Parliament attempted to remedy the controversial legal provision described above by enacting amendments to the Organic Law “on General Courts” in June 2023. In particular, it introduced an exception to the rule allowing judges to engage in scientific or analytical discussions related to judicial reforms and/or proposed amendments in the field of justice. The Venice Commission considered that the amendments were insufficient and that judges should be provided with stronger guarantees. It stated that sufficient guarantees were offered by another set of amendments introduced in September 2023,²⁹⁴ and expressed support for that version.²⁹⁵

One of the indicators for measuring the effectiveness of a disciplinary system reform should also be the speed with which the High Council of Justice works. Delayed judicial discipline proceedings remain an unsolved problem in the judiciary. The reason for this is the slow pace at which the High Council of Justice examines the conclusions of the Independent Inspector. In particular, the meetings of the Council are not held frequently enough, and as a result, the conclusions submitted by the Inspector to the Council await discussion by the Council for years. The law gives the Council one month to review and decide on the conclusions of an Independent Inspector.²⁹⁶ The Council's current practice of delayed reviewing the Independent Inspector's conclusions is a blatant violation of a deadline established by law.

Below are some statistical data on the matter:²⁹⁷

Year	Number of Council hearings	Number of Inspector's conclusions reviewed by the Council	Number of conclusions submitted to the Council by the Inspector
2020	4	137 ²⁹⁸	117
2021	1	50	118
2022	2	114	146
2023	1	42	90

As the data show, the practice of the Council in the area of judicial discipline has not changed much over the years. According to the data of January, 2024, the Council has not yet examined 76 conclusions, which were prepared by the Independent Inspector already in 2021.²⁹⁹ In the view of the Public Defender, such an approach is detrimental to the interests of prompt and effective justice.

²⁹⁴ The changes were not enacted by the Parliament by the time of drafting this report, though.

²⁹⁵ European Commission for Democracy through Law (Venice Commission), Follow-up opinion to previous opinions concerning the organic law on common courts, CDL-AD(2023)033, 2023, paras. 31-33 <<https://shorturl.at/jzHIZ>> [last viewed 01.02.2024].

²⁹⁶ Organic Law on General Courts,, Article 75⁸(1).

²⁹⁷ For sources, see: 2020 Activity Report of the Office of the Independent Inspector, p. 14 <http://bit.ly/3Q2Yufj>; 2021 Activity Report of the Office of the Independent Inspector, p. 12. <https://bit.ly/3tDWxi7>; 2022 Activity Report of the Office of the Independent Inspector, p. 13; <https://bit.ly/3QmI5Uv>. [01.02.2024]; Letter from the High Council of Justice no. 890/2337-03-O dated August 4, 2023

²⁹⁸ The Independent Inspector's data differ from the data published by the High Council of Justice. < <https://bit.ly/400vauC> > [last viewed 01.02.2024].

²⁹⁹ Letters from the High Council of Justice nos. 890/2337-03-O and 16/40-03-O dated August 4, 2023 and January 23, 2024 respectively

Amendments to the Organic Law on General Courts, which came into force after December 2021, introduced the possibility of seconding judges to another court without their consent thereby significantly weakening protection guarantees of individual judges.³⁰⁰ This new rule virtually had the effect of undoing the positive changes in the legal regulation of judicial secondment made after 2012.³⁰¹ For illustration, a judge can be transferred to another court without their consent for up to 4 years instead of the previous one year; no more territorial restrictions are applicable to secondment (prior to the amendments, it was required that if a judge were to be assigned to a different court against their will, the said court had to be the closest in proximity to their current place of work); a judge from the appeal court can now be temporarily assigned to a judicial role in a court of first instance, etc. According to information from the High Council of Justice, in 2022-2023, the Council issued 14 individual orders transferring 8 judges to other courts with their consent. In all these cases, the reason for the transfer or extension of transfer was shortage of judges in the court of destination.³⁰² Although we have not detected any actual proven cases of involuntary transfer of judges, the legal revisions made in December 2021 undeniably provide a pathway for the reintroduction of the flawed practice that existed before.³⁰³ It is important that the legislature consider the Venice Commission's recommendation to state out clear and predictable criteria for seconding judges to other courts without their approval in order to prevent potential interference with the independence of individual judges.³⁰⁴

5.3. The Right to Have One's Case Tried in Reasonable Time

5.3.1. Length of proceedings in courts of general jurisdiction

Georgian procedural law establishes timeframes within which Georgian courts of general jurisdiction must hear civil, administrative and criminal cases, but this time component of the right to a fair trial remained an insurmountable problem, as it had been in previous years. For many years, the Public Defender has emphasized the problem of lengthy trials in criminal cases.³⁰⁵ Just as in the recent past, during the current reporting period as well, citizens experienced violations of their right to have their cases heard within the deadlines set by law. We observed courts breaching the time limits in various ways, including the late or no delivery of judicial decisions to the parties, delayed or no transmission of case materials to higher courts, and prolonged proceedings in appellate courts that extend over significant durations.³⁰⁶

The Public Defender's review of selected criminal cases revealed the following violations: failure to hand over a convicting judgment to a defendant within the legally established deadlines (not later than 5 days

³⁰⁰ 2021 Parliamentary Report of the Public Defender, pp. 100-102. 2022 Parliamentary Report of the Public Defender, p. 111-112.

³⁰¹ Statement by non-governmental organizations, an appeal to President to veto the changes in the Organic Law on General Courts, IDFI, 2022. < <https://shorturl.at/oBCU1> > [last viewed 21.02.2024].

³⁰² Letter from the High Council of Justice no. 35/40-03-3 dated January 24, 2024

³⁰³ The Georgian Young Lawyers' Association (GYLA), 3-year monitoring report of the High Council of Justice (2012-2014), 10-16, 2015. < <https://shorturl.at/dfisF> > [last viewed 20.03.2024].

³⁰⁴ European Commission for Democracy through Law (Venice Commission), Follow-up opinion to four previous opinions concerning the organic law on common courts, CDL-AD(2023)006, para. 41 and 52; European Commission for Democracy through Law (Venice Commission), Follow-up opinion to previous opinions concerning the organic law on common courts, CDL-AD(2023)033, 2023, paras. 25-28 <<https://shorturl.at/jzHIZ>> [last viewed 01.02.2024].

³⁰⁵ See Reports by the Public Defender on the Protection of Human Rights and Freedoms in Georgia: 2014 report, p. 405; 2015 report, p. 469; 2020 report, p. 146; 2021 report, p. 103; 2022 report, pp. 114-115.

³⁰⁶ The Office of the Public Defender, Activity Report of the PD's Criminal Justice Department for 2023

after a judgment is pronounced or not later than 14 days in the event of complex and multi-volume cases); even 2 months after a judgment was pronounced, the convicted defendant had not received a copy of the judgment; an appeal complaint lodged by a defendant in a criminal case was forwarded to the Appeals Court of Tbilisi only 6 months later (which is not a reasonable time); we noted the protraction of a case in an appellate court, where the Kutaisi appellate court's consideration of criminal defendants' appeal lasted 9 months after the appeal was declared admissible (against the background that a legal deadline for hearing an appeal complaint is 2 months after the admissibility stage or 5 months in special circumstances). It is also noteworthy that during the last 6 months of these 9 months, the convicted defendants were awaiting the pronouncement of the operative part of the sentence by the court, as this was the last remaining step in the criminal proceedings. More information on these criminal cases can be found in the 2023 Activity Report of Criminal Justice Department of the Public Defender's Office.³⁰⁷

It is important to note that the right to physically receive a reasoned decision relates to the right to have one's case heard within a reasonable time and the right to appeal a decision to a higher court. Moreover, if a copy of a judgment is not served on time, within the legally established deadline, the defendant may not be able to effectively exercise his or her right to appeal and will result in an undue delay in the hearing of the case.

Remarkably, despite a requirement of the Organic Law on General Courts,³⁰⁸ the appellate courts in Tbilisi and Kutaisi do not collect statistical data on compliance with deadlines in case proceedings. Consequently, they lack knowledge of the number of cases that were finalized within the prescribed time limits and those that were not.³⁰⁹ According to the information we requested and obtained from the courts, we present statistical data regarding the adherence to judicial timeframes for resolving cases in 2023:

	Total number of cases reviewed (2023)	Percentage of cases reviewed in violation of legal deadlines (2023)	Percentage of cases reviewed in violation of legal deadlines (2022) ³¹⁰	Percentage of cases reviewed in violation of legal deadlines (2021) ³¹¹
Appeals Court of Tbilisi ³¹²	1805	20.4%	17,6%	31%
Appeals Court of Kutaisi ³¹³	986	20,9%	16,8%	18,7%

³⁰⁷ The Office of the Public Defender, Activity Report of the PD's Criminal Justice Department for 2023

³⁰⁸ Organic Law on General Courts, Article 25(1)(e): 1. A president of an appeals court: e) organizes the work of the court, analyzes and generalizes the flow of cases in their courts (including, the number of incoming cases, the number of completed cases, duration of proceedings, postponements of hearings and causes of delayed proceedings)and provides this information to the judges and the High Council of Justice at least once a year; within its competence, takes measures to eliminate any systemic causes of delays in proceedings.

³⁰⁹ Letter from the Tbilisi Appeals Court no. 3/289 dated January 25, 2024; letter from the Kutaisi Appeals Court no. 36-2/10 dated January 24, 2024

³¹⁰ 2022 Parliamentary Report of the Public Defender, Tbilisi 2023, p. 115

³¹¹ 2021 Parliamentary Report of the Public Defender, Tbilisi, 2022, p. 104

³¹² Letter from the Tbilisi Appeals Court no. 3/289 dated January 25, 2024.

³¹³ Letter from the Kutaisi Appeals Court no. 36-2/10 dated January 24, 2024

Supreme Court ³¹⁴	1342	0,52%	1,04%	22.7%
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The above table demonstrates inobservance of legal deadlines in criminal cases by courts. Along the same lines, the clearance rate by appeal courts slightly deteriorated in 2023 compared with the previous year.

	Total number of cases cleared (2023)	Percentage of cases reviewed in violation of legal deadlines (2023)	Percentage of cases reviewed in violation of legal deadlines (2022) ³¹⁵	Percentage of cases reviewed in violation of legal deadlines (2021) ³¹⁶
Appeals Court of Tbilisi ³¹⁷	2 214	16,39%	15,5%	56% ³¹⁸
Appeals Court of Kutaisi ³¹⁹	714	33,1%	51.6%	35% ³²⁰
Supreme Court ³²¹	1478	93,4%	95,6%	99,9%
Supreme Court (admissibility stage) ³²²	1091	54,08%	54,6%	77%

The table above illustrates a notable improvement in the Kutaisi Appeals Court's compliance with legal deadlines in civil and administrative cases.

5.3.2. Workload of court presidents in courts of general jurisdiction; election of court presidents

According to information we received from the Tbilisi Court of Appeals,³²³ the court does not collect information on how many cases each judge handles, how many cases are received each year, and how many cases are resolved. The letter from the Court also says that “due to the large volume of the

³¹⁴ Letter from the Supreme Court of Georgia no. P-19-24 dated March 5, 2024

³¹⁵ 2022 Parliamentary Report of the Public Defender, Tbilisi 2023, pp. 115-116.

³¹⁶ 2021 Parliamentary Report of the Public Defender, Tbilisi 2022, p. 105.

³¹⁷ Letter from the Tbilisi Appeals Court no. 3/289 dated January 25, 2024.

³¹⁸ The percentage is based on data from the first 9 months of 2021

³¹⁹ Letter from the Kutaisi Appeals Court no. 36-2/10 dated January 24, 2024.

³²⁰ The percentage is based on data from the first 9 months of 2021

³²¹ Letter from the Supreme Court of Georgia no. P-19-24 dated March 5, 2024

³²² Ibid.

³²³ Letter from the Tbilisi City Court no. 8487305 dated January 15, 2024

information you requested and the limited capability of the Tbilisi Appeals Court’s relevant office, we are unable to search for and process the information in the form and way you requested.”³²⁴ This goes against the word of the Organic Law on General Courts, which directly obliges court presidents to collect information on the flow of cases in their courts (including, the number of incoming cases, the number of completed cases, duration of proceedings, postponements of hearings and causes of delayed proceedings).³²⁵

The Public Defender has been reporting on the flawed role of court presidents for years already. As per the Organic Law on General Courts, the High Council of Justice appoints presidents and deputy presidents of first and second instance courts, as well as presidents of judicial chambers and panels for fixed terms. The Public Defender has long advocated for the implementation of a democratic process in appointing court presidents. Such a process would involve judges from each individual court electing their own president, rather than the High Council of Justice making the decision on their behalf.³²⁶

5.3.3. Length of proceedings before the Constitutional Court

The Public Defender commends the Constitutional Court for taking a step towards publicity. In particular, the Constitutional Court, unlike the previous year,³²⁷ has furnished us with statistical data on the cases it has adjudicated.³²⁸

In 2023, the Constitutional Court received 44 lawsuits and 1 referral (the latter concerning the impeachment of the President of Georgia). Of these figures, the Court rendered an opinion on the constitutional referral, and ruling and recording notice in regard to 23 lawsuits.

Just like the previous year, the Court delivered a total of 19 decisions during the reporting period. But many cases have been awaiting the Court's judgment for years, despite the completion of judicial proceedings in these cases. A table below shows the statistics of such cases:

Incoming date	Adjudicated cases that await judgment delivery
2015	5
2016	12
2017	7
2018	8
2019	7
2020	11
2021	14
2022	5
2023	

³²⁴ Ibid.

³²⁵ Organic Law on General Courts, Article 32(2)(c)

³²⁶ 2017 Parliamentary Report of the Public Defender, pp. 103-104. 2021 Parliamentary Report of the Public Defender, p. 118, 2002 Parliamentary Report of the Public Defender, p. 131.

³²⁷ 2002 Parliamentary Report of the Public Defender, pp. 119-120.

³²⁸ Information provided for in this sub-chapter is based on a letter from the Constitutional Court no. 01/87 dated February 13, 2024

To date, no pre-trial conference has been held in regard to 106 constitutional lawsuits and 25 lawsuits accepted by the Court for hearing on merits.

It is important to note that the Organic Law on the Constitutional Court does not provide clear guidance as to the timeframes for judicial proceedings at the Constitutional Court. Specifically, there is no deadline for the Court to render a final decision. To ensure effective justice, the Public Defender believes that clear deadlines are necessary in constitutional proceedings, and the Parliament should take steps to regulate this issue.

5.3.4. The right to defense

In the course of monitoring, it became evident that constraints on defendants' communication with the outside world prevent their legal representatives from adequately advocating for their interests in criminal cases, unless the defendant is eligible for free legal aid or the case falls under mandatory defense provisions. Furthermore, the Public Defender's suggestion remains unaddressed, and the prevailing practice persists wherein an investigator or prosecutor can ban defendants from engaging in communication also with their legal counsels. Worth noting also is the inability of a defendant and their legal counsel to engage in confidential communication during remote (online) court hearings. Other problems discovered during the reporting period included: the Interior Ministry preventing lawyers from meeting with their clients prior to their admission to a temporary detention facility; delay in providing information on the identity and whereabouts of individuals arrested during protest rallies under the administrative rule; lawyers obstructed from meeting with such individuals immediately.

For detailed information on the matters discussed in this sub-chapter, please see a chapter on a fair trial, 2023 Activity Report of the Public Defender's Office's Criminal Justice Department.³²⁹

5.3.5. Defective criteria for engaging a government-appointed defense lawyer

If a defendant is not eligible for a government-appointed lawyer³³⁰ and, at the same time, his or her right to a phone conversation/mail/short visit has been imposed a restriction by a prosecutor or an investigator,³³¹ the defendant may actually remain without defense. Such a limitation prevents defendants from calling lawyers of their choice or reaching out to their relatives so that they can find a lawyer for the defendant. Without the assistance of an attorney, a defendant may not be able to properly utilize his/her rights under the criminal procedure law, which could result in a violation of their right to defense.

The Public Defender holds the opinion that in order to rectify the current flawed legislation, safeguard the rights of defendants, and prevent any infringement upon the right to a fair trial, it is necessary to amend the Code of Criminal Procedure. The proposed amendment would grant defendants, who have had their right to communicate via phone, right to mail and right to short visits restricted by a prosecutor or investigator, the ability to have a government-appointed lawyer represent their interests. This

³²⁹ Activity Report of the PD's Criminal Justice Department for 2023

³³⁰ Georgia's Code of Criminal Procedure, Articles 46, 42(3); Law on Legal Aid, Article 5(1)

³³¹ Penitentiary Code, Articles 115(1), 116(7), 119(9)

amendment would aim to legally guarantee that defendants can exercise their right to a defense, even when their communication with the outside world has been limited.

Along the same lines of access to a lawyer, it is important to highlight the situation at the Interior Ministry's temporary accommodation center for migrants. In particular, foreign citizens and stateless individuals, with the exception of minors, are not entitled to receive free legal aid. Pursuant to the Law of Georgia on Free Legal Aid, in order to be eligible for a free legal aid, individuals must be listed in the Database of Socially Vulnerable Persons and fall within a specified score range to qualify for this assistance. Since foreign citizens and stateless persons are not included in this database, their financial situation (solvency) cannot be verified.

As a result, foreign nationals and stateless persons who are factually insolvent are unable not only to hire their own lawyer, but to receive free legal aid, which is both a necessary precondition for quality justice and an important safeguard against possible ill-treatment. As the European Committee for the Prevention of Torture has stated, where migrants cannot pay for lawyer fees, they should be provided with access to a free legal aid.³³²

5.3.6. Prohibiting defendants from communicating with counsel over the telephone and the (lack of) confidentiality of attorney-client communications during online hearings

With a view to ensuring that criminal defendants can enjoy their right to defense in full, the Public Defender has persistently urged the Parliament for years to enact amendments that would eliminate the limitation on defendants' right to communicate with a lawyer over the phone, which can be imposed both as a disciplinary sanction and simply at the discretion of a prosecutor or investigator.³³³ On this issue, the Public Defender has addressed the Parliament with a detailed legislative proposal in 2022.³³⁴ Regretfully, in a Penitentiary Code adopted by the Parliament, the Public Defender's proposal was not incorporated, and the current scenario remains unchanged, wherein defendants who have been subjected to a personal communication ban by the prosecution are still unable to engage in telephone conversations with their legal counsel.

We should also highlight the ineffective enjoyment of the right to defense by defendants in case of online (remote) court hearings. The software used for online hearings does not have a feature allowing to open a confidential side session for a defendant and their lawyer to consult with each other during a hearing. During the reporting period, no tendering process was initiated to procure the required technology (capable of allowing client and lawyers to communicate confidentially online). According to the information from the High Council of Justice, acquisition of new technologies and integration of new modules into the existing system would result in excessively high financial expenses.³³⁵

³³² Extract from the 19th General Report of the CPT, Safeguards for irregular migrants deprived of their liberty, CPT/Inf (2009), para. 81, accessible at <<https://rm.coe.int/16806cce8e>> [last viewed: 12.03.2024].

³³³ 2022 Parliamentary Report of the Public Defender, p. 132. 2021 Parliamentary Report of the Public Defender, p. 118.

³³⁴ Proposal of the Public Defender no. 15-2/2008 dated February 18, 2022

³³⁵ Letter from the High Council of Justice no. 1204/3779-03-O dated December 29, 2023

5.3.7. Absence of impartial evidence to corroborate the legality of a police search

In 2020, the Constitutional Court handed down a landmark decision stating that an illegal object obtained by law enforcement as a result of a search cannot be used as evidence if an investigating authority could have taken measures to obtain neutral evidence of the credibility of the search conducted, but failed to do so.³³⁶ However, there have been challenges in executing the judgment in practice, a matter that the Public Defender has addressed in both its parliamentary and special reports over the past years.³³⁷

After analyzing criminal cases during the reporting period, the Public Defender's Office also found that the prosecution does not exert efforts to obtain such neutral evidence of a personal search in the course of an investigation that, together with other evidence, is capable of convincing a reasonable observer of the commission of a crime by the accused.³³⁸

It should be pointed out that neutral evidence assumes great significance and becomes decisive when there is a complete discrepancy between the testimonies or positions of the police officers and the defendant regarding the defendant's possession of the impugned item.

The Public Defender calls on the law enforcement bodies and judges of courts of general jurisdiction to take measures to enforce the standard introduced by the Constitutional Court for obtaining impartial evidence in search and seizure operations.

5.4. Assessing the Risk Level of Convicted Persons

For the first time, during the reporting period, the Public Defender's Office conducted an analysis of judicial proceedings to assess the individual risk of convicted individuals. This analysis revealed practical and legislative shortcomings in the process, which infringe upon the right to a fair trial. The following are the key findings of our analysis, as outlined in the activity report of the Criminal Justice Department of the Public Defender's Office:³³⁹

- In a majority of cases, judicial examination of defendants' lawsuits takes a long time, and there is no mechanism to ensure their examination in a reasonable time;
- Judicial examination of a prisoner's complaint against the results of his or her risk assessment is delayed to such an extent that the date on which the complaint is to be heard practically coincides with the date on which the prisoner's reassessment is due, so that consideration of the prisoner's complaint is practically meaningless.
- There is no legislation exempting defendants from paying the court fee for considering their claims.

³³⁶ The Constitutional Court, judgment in the case *Giorgi Keburia v. The Parliament of Georgia*, no. 2/2/1276, December 25, 2020, II-104.

³³⁷ 2022 Parliamentary Report of the Public Defender, pp. 123-125. 2022 Activity Report of the Public Defender's Office Criminal Justice Department, pp. 151-153.

³³⁸ The Public Defender's Office, Criminal Justice Department, 2023 Activity Report

³³⁹ For more information, see The Public Defender's Office, Criminal Justice Department, 2023 Activity Report

- Prisoners have a problem getting quality legal assistance, which often becomes a reason for the court to declare their lawsuits defective.
- The legislation establishes an outright ban for convicted persons to view criminal intelligence information (secret agent provided information) about themselves
- Witnesses are examined only in exceptional circumstances
- Judicial decisions are usually unreasoned and contain only references to legal provisions and no references to international standards on prisoners' rights.

It should be pointed out that international standards on the treatment of prisoners explicitly state that the risk level of every inmate must be assessed initially and reviewed regularly thereafter. Under the same standards, the assessment must also consider the individual needs of prisoners. We believe that this issue merits attention because our analysis of Georgian court cases has shown that, with a few exceptions, judicial decisions typically do not include a reasoning for assigning a particular risk level to an individual prisoner. And this is happening amid the context of the fact that the judicial review of administrative complaints concerning individual detainees' risk level takes so long that the right to a judicial review is in fact rendered illusory.

To improve the reasoning of their decisions, courts should begin to refer to international standards on prisoners' rights. In addition, courts should hear and examine members of the Risk Assessment Teams as witnesses. Courts rarely do either of these things when assessing the risk level of convicted persons. In one case analyzed by the Public Defender's Office, information that became known as a result of witness examination in court impacted the quality of the court decision allowing the court to render a reasoned judgment.³⁴⁰

To illustrate the delay in court proceedings, we would like to give some practical examples of how long it actually takes for a case to be heard by a court. Of the cases we selected for monitoring that had been declared admissible, not a single case was completed by the courts of first instance within the legal deadline of 2 months. 10 cases were completed within 5 months; 3 cases within the period of 5 to 7 months; 5 cases in the period of 7 to 9 months; 3 cases were under consideration for a period between 9 months and 1 year; and it took more than 2 years to complete proceedings in 2 cases.

In terms of the duration of proceedings in appellate courts, it took 3 to 4 months or 4 to 7 months for these courts to examine lawsuits declared admissible. Regarding the time span between the entry of a case into a first instance court and the delivery of a judgment by an appeal court, one case took 7 to 10 months, another case took 1 year, yet another case took 1 year and 3 months, and finally, one case took 1 year and 6 months. Also, a single appeal hearing per case was held in 3 cases, and two appeal hearings per case were conducted in 2 cases.

The Supreme Court met the deadline of 6 months for all three cassation cases, ensuring that each case was concluded within a timeframe of 2 to 4 months. However, the overall duration of the judicial proceedings, from their initiation in trial courts to the final judgment rendered by the Supreme Court,

³⁴⁰ The Public Defender's Office, Criminal Justice Department, 2023 Activity Report

varied. The first case took 1 year and 1 month, the second case lasted more than 1 year and 6 months, and the third case spanned 1 year and 8 months.

In order to ensure that prisoners' risk assessment cases are heard within a reasonable time, in light of the general problem of overburdened courts, we believe that the State should take a number of measures, such as increasing the number of trial (first instance) judges or having the High Council of Justice discuss the formation of a corps of judges specializing in prisoners' administrative appeals.

The Public Defender also wishes to highlight the problem of the payment of the court fee by prisoners. It is crucial to ensure that the lack of financial resources does not serve as a basis for denying prisoners their right to have their case reviewed by a court of law when it pertains to determining their prison category and placement conditions, which directly and fundamentally impacts their legal situation. With regard to the judicial review of prisoners' appeals for the determination of their risk level, we propose the inclusion of a provision in the legislation obliging the courts to exempt prisoners from paying the court fee if the prisoner provides a bank statement showing the flow of funds on his or her account during the period of his or her detention and showing that his or her monthly income was, for example, less than 100 Georgian Lari over the course of the last six months. Of course, the amount may be different, and we have no objection to putting this matter up for discussion.

The issue of providing quality legal services to prisoners deserves special attention. Often, lawsuits filed by prisoners are deemed defective by courts precisely because the prisoner received poor quality legal services from a lawyer. For example, out of the 25 cases we observed where prisoners were represented by attorneys, only 5 complaints were found to be free of defects, while the remaining 20 complaints were all found to be defective and the plaintiffs were given several days by the courts to remedy the defects. In addition to the failure to pay the court fee (produce a payment receipt), prisoners' lawsuits have been deemed defective by courts due to various reasons, such as lawsuit claim vaguely worded, inaccurately stated identification details of the contested administrative legal act, incorrect respondent administrative body information, complaint not following the approved lawsuit form, insufficiently detailed case facts, and failure to attach a copy of the challenged administrative act to the lawsuit. Courts found lawsuits to defective also when a power of attorney had been submitted but no letter of authorization from the penitentiary institution. It is important to note that the finding of a defect does not necessarily mean that the trial documents were poorly prepared: on some occasions convicted persons and their lawyers have asked for additional time to obtain certain documents from the prison service or another administrative body, but sometimes lawyers have deliberately submitted defective documents as a defense tactic. However, not all situations in which complaints were found to be deficient can be explained by tactics and may instead be indicative of the poor quality of legal services provided to prisoners.

We wish to share another discovery from our examination of inmates' personal records: as a result of prolonged legal processes, there were instances where the correctional facility required a prisoner's case file and asked for it to be temporarily sent back to the institution. Consequently, a prisoner's case file was bouncing multiple times between the correctional facility and the court. To prevent recurrence of similar situations, it is our belief that the court ought to be furnished with a certified duplicate of a prisoner's case file rather than its original version. Furthermore, in instances where there is a noticeable positive or negative shift in the prisoner's conduct or when other significant circumstances come to light, the

Penitentiary Service must notify the court and furnish it with certified copies of pertinent materials from the prisoner's personal case file.

It is important to highlight that the Public Defender's Office has identified a problem regarding the accessibility of confidential information in court proceedings concerning the risk assessment of prisoners. As a result of both general monitoring activities and the study of specific cases, we have found that courts state in their decisions that they have sought and reviewed secret criminal intelligence information, but the law does not permit them from disclosing this classified information to the involved parties or incorporating it into the final judgment.³⁴¹

In fact, criminal intelligence information regarding a convicted individual (information described in Annex 2³⁴²) are entirely off-limits to said individual. That approach contradicts the recent jurisprudence of the European Court of Human Rights.³⁴³ Our position, therefore, is to amend the legislation to remove the current total prohibition on prisoner access to Annex 2 information and to require a trial court to consider, on a case-by-case basis, whether the information can be declassified in whole or in part to allow access by a prison whom the information concerns. In our opinion, information must be made known to a convicted person as long as it does not concern third parties, reveal the identity of a secret agent, or pose a threat to the administration of justice, the safety of individuals, or the security of the correctional facility.

In the context of risk assessment of prisoners, we would like to comment on a 2023 decision of the Tbilisi City Court, in which the Court agreed with the Public Defender's amicus curiae and partially upheld the convicted person's claim.³⁴⁴ In particular, the convicted I.K. whose behavior did not deteriorate, was evaluated as a higher risk prisoner than before, due to the possibility of becoming a target of violence from other prisoners. The decision indicates that transferring the prisoner to a semi-open facility could result in physical assault and harm from other prisoners. However, it should be borne in mind that the State is obliged, on the one hand, to assign a risk status to a prisoner that objectively corresponds to the individual prisoner and, on the other hand, to take reasonable measures to place the prisoner safely in an institution with an appropriate risk level. If the State's measures are insufficient to guarantee a prisoner's safety within a given period of time, such as in a semi-open facility, the law permits the Penitentiary Service to transfer the prisoner to a closed facility temporarily until the immediate danger is resolved. Nevertheless, it is crucial that the prisoner maintains the rights associated with their low-risk status. Therefore, designating a prisoner as high risk and restricting their rights in the name of safety is not in line with the established legal regulations.

³⁴¹ Code of Administrative Proceedings, Article 20¹

³⁴² Order of the Minister of Justice no. 396 as of May 2019, Annex 2 concerns information on a convicted person's attitude towards criminal subculture and/or terrorist activities/organizations, aggression, attempts to influence other people or confirmed cases of influencing other people, attitude towards alcohol, drugs and gambling, possession of illegal items and substances, conduct leading to conflicts with other prisoners, etc.

³⁴³ The European Court of Human Rights, Grand Chamber, judgment of October 15, 2020, Muhammad and Muhammad v. Romania, Application no. [80982/12](#).

³⁴⁴ The Public Defender's Office, Criminal Justice Department, 2023 Activity Report

We hope that the Prisoner Risk Assessment Team of the Special Penitentiary Service will make reasoned decisions, and that the courts will review the prisoners' lawsuits in a timely manner and render judgments after thoroughly examining all the circumstances of the case.

5.5. Legal Situation of Victims

Every year, the Public Defender receives numerous petitions from citizens who claim to have suffered various injuries and damages as a result of criminal acts, yet they are granted the statutory victim status with a significant delay. Because they have not been formally granted the victim status, they remain practically uninformed about the ongoing investigation of the case that has a direct impact on them.

Based on citizen petitions received in 2023 and information obtained from the State authorities, the Public Defender's Office has made the following findings:³⁴⁵

- Decisions by a prosecutor in charge of a case to (not) grant victim status or victim successor status are rarely appealed to a higher prosecutor;
- Court decisions dismissing complaints against the prosecutor's decision to deny victim status are often unreasoned and fail to address the main issues raised in the victim's or victim's counsel's complaint;
- The courts' use of the probable cause standard is unclear, as they fail to explain in their decisions why the complainant should not be granted victim status.

Copies of court decisions obtained by the Public Defender's Office show that courts often cite the lack of evidence collected as a reason for denying victim status. Without reference to the specific circumstances of each case, the use of the probable cause standard is merely a formality, as the person concerned remains unaware of what investigative measures must be taken, what evidence must be collected, and how the injuries or damages suffered must be proven in order for the court to be satisfied that the required standard has been met and the person must be granted victim status. This is exacerbated by the fact that the Criminal Procedure Code never mentions the standard of probable cause as a basis for granting victim status, and such an interpretation is solely based on court practice.³⁴⁶

The practice of the prosecutor's office not providing the victim with copies of the criminal case file should be given special consideration. In doing so, the prosecutor's office relies on the argument that the case file contains confidential information that pertains to the lives of third parties. In some cases, the prosecutor denied the victim access to a copy of the case file but allowed them to physically examine the materials on site. The Public Defender believes that denying the victim the opportunity to review the criminal case materials or refusing to provide them with a copy of the case file violates the requirement of a well-reasoned decision. This is especially true when the prosecution justifies such refusal by citing the protection of the victim's interests.

The Office of the Public Defender recognizes that there may be legitimate reasons for not providing the victim with the full case file at a particular stage of the criminal proceedings (including the need to protect

³⁴⁵ For more details on this matter, see the Public Defender's Office, Criminal Justice Department, 2023 Activity Report

³⁴⁶ For more information on the matter of assigning the victim status to a person, see the Public Defender's Office, Criminal Justice Department, 2023 Activity Report

the personal information of third parties from disclosure). However, any restriction on access to case materials must be justified on a case-by-case basis and must be credible in the eyes of the victim. The victim may not comprehend how the prosecution office is safeguarding the privacy of third parties by not providing them with the case materials but allowing the victim to physically examine the materials at its premises. Similarly, it may be incomprehensible for the victim to grasp the legitimacy or justification for the limitation of their rights by the prosecution office, which claims that it is in the interest of the victim not to receive a copy of the criminal case file pertaining to themselves.³⁴⁷

Furthermore, our examination of the cases revealed that, under the guise of safeguarding the rights of external parties and confidential government data, victims were allowed to view only part of investigation materials (only the facts of the crime that personally affected the victims) While the stated reasons for limiting access to case materials are legitimate, if victims can only view the facts of the crime that relate to them personally, they may not be able to participate effectively as parties in the investigation process. The victim may well have a legal interest in knowing what investigative activities are being conducted to identify offenders and what evidence has been obtained as a result.³⁴⁸

In 2020, the Constitutional Court ruled that the downright prohibition of providing the victim with information on the progress of the investigation and copies of the materials in the case file was unconstitutional.³⁴⁹ In order to ensure practical implementation of the general principle introduced by the Constitutional Court, the Public Defender, as in the previous years,³⁵⁰ continues to monitor the enjoyment of their legal rights by victims in criminal proceedings and urges the Prosecutor's Office to ensure a higher degree of victims' participation in and access to the materials of the criminal case. Whenever the prosecution office decides to impose limitations on these rights of the victim, it must give reasons with reference to the circumstances of the individual case rather than merely mentioning a hypothetical risk.

Proposals

To the Parliament:

- The Civil Procedure Code to stipulate that, in the event a case is to be heard by a judicial panel, the composition of the bench should not be determined by a court president but by the electronic case allocation software;
- Amend the Organic Law on the Constitutional Court to establish time limits for the hearing of cases by the Constitutional Court, including a time limit for the Court to issue a final judgment in a case;
- Through legislative amendments, establish a mechanism for judicial oversight of the legality of evidence in situations where there is an increased risk of police entrapment;

³⁴⁷ The Public Defender's Office, Criminal Justice Department, 2023 Activity Report

³⁴⁸ The Public Defender's Office, Criminal Justice Department, 2023 Activity Report.

³⁴⁹ The Constitutional Court of Georgia, judgment in the case of *Konstantine Gamsakhurdia v. The Parliament of Georgia*, no. 1/3/1312, December 18, 2020

³⁵⁰ 2022 Parliamentary Report of the Public Defender, pp. 127-128. Public Defender's interim report on the investigation of the June 20-21 events, 2020, pp. 30-31.

- Adopt a new Code of Administrative Offenses that is compatible with international and constitutional human rights standards;
- Amend the Code of Criminal Procedure to require authorities conducting investigative activities to furnish the court with neutral evidence of the activity carried out, unless this is impossible for objective reasons, including uninterrupted video recording and/or testimony by a neutral witness confirming the legality of the investigative activity conducted;
- Amend the rules for the election of presidents of courts, judicial panels and judicial chambers so that these officials are elected by the judges of the respective court;
- Amend the Organic Law on General Courts abolishing a ground for disciplining judges envisaged by Article 75¹(8)(b.g);
- Revise Article 37¹ of the Organic Law on General Courts to stipulate that a judge can be seconded to another court for a maximum period of one year without his/her consent;
- Revise the Penitentiary Code to specify that a prohibition on defendants' phone conversations, as ordered by a prosecutor or investigator, does not extend to phone conversations between a defendant and their legal counsel. Additionally, ensure that whenever a defendant seeks to communicate with their lawyer, the penitentiary institution must provide it at no cost to the defendant. These rights shall remain unaffected even if a prisoner has been banned from making telephone calls as a disciplinary sanction;
- Amend the Code of Criminal Procedure so that a juvenile's representative is substituted by someone else if parties wish to examine the representative in court;
- Enact amendments setting deadlines for courts specifically to hear prisoners' administrative complaints within a reasonable time to avoid delays in such proceedings;
- Revise the law to require the courts to exempt prisoners from payment of the court fee for hearing an administrative complaint if the prisoner presents a bank statement showing the flow of sums to his account for a specified period (the monetary threshold and the period to be determined by reasonable accommodation);
- Make an amendment in the legislation to abolish the current total prohibition of prisoner's access to confidential criminal intelligence information held by a Prisoner Risk Assessment Team and require a trial court to consider the possibility of sharing such information with the prisoner on an individual basis;
- Amend the law to establish specific time limits for the submission of complaints and other materials of criminal cases from a lower court to a higher court;
- Expand the scope of the Law on Combating Corruption by including the Independent Inspector of the High Council of Justice in the list of officials outlined in Article 2 of the Law;
- Explore the possibility of providing State-funded legal aid to foreign citizens and stateless persons who are detained following background checks carried out under Article 64 of the Law on Foreigners and Stateless Persons, and prepare a corresponding legislative proposal.

Recommendations

To the High Council of Justice:

- Without detriment to personal data protection standards, publish the conclusions of the High Council of Justice’s Independent Inspector;
- Amend “the Rules of Automatic Case Allocation in Courts of General Jurisdiction by means of Electronic Software” endorsed by Order of the High Council of Justice no. 1/56 dated May 1, 2017 so that when a case is heard by a panel of judges in the courts of appeal and the Supreme Court, all three members of the panel of judges are selected according to the random principle;
- Upgrade hardware and software for remote judicial hearings in a way that clients and their lawyers can consult with each other confidentially during an online hearing;
- Abolish paragraphs 6, 7 and 8 of Article 5 of “the Rules of Automatic Case Allocation in Courts of General Jurisdiction by means of Electronic Software” endorsed by Order of the High Council of Justice no. 1/56 dated May 1, 2017;
- Take legislative and/or practical measures to either increase the number of judges or introduce judicial specialization with a view of ensuring that prisoners’ administrative complaints are heard in a reasonable time and that delays in proceedings are avoided.

To the Tbilisi City Court, Tbilisi Appeals Court and Kutaisi Appeals Court:

- Collect information annually on the number of cases handled by each judge, the number of cases assigned to judges in the current year, and the number of cases completed;
- Each year, collect data on the observance of legal deadlines established by the procedural legislation to be in know of how many cases are heard according to the deadlines and how many are not.

To courts of general jurisdiction:

- In order to comprehensively assess the risk level of convicted persons, have members of the Prisoner Risk Assessment Team examined as witnesses.

6. Right to Respect for Private Life

6.1. Introduction

The year of 2023 saw some progress with respect to the right to privacy. The progress has mainly taken the form of legislative changes³⁵¹ such as the adoption of a new Penitentiary Code and amendments in the Criminal Procedure Code. We wish to emphasize with regret that rules governing covert wiretapping operations were not touched by these amendments, which means law enforcement activities in this direction will also remain unchanged.³⁵²

We welcome the fact that, in the new Penitentiary Code, the Parliament took into account some of the Public Defender's right to privacy proposals.³⁵³ Here is a quick rundown of major changes introduced. Convicted prisoners in high-risk penitentiary institutions are now entitled to video visitation; every convicted prisoner can now apply in writing for exchanging between types of visitation, for example, to exchange a short visit for a telephone call or video call; a long-term visit for a short-term visit, video call or telephone call; a conjugal visit for a short term visit, video call or telephone call.³⁵⁴ In the event of commission of disciplinary misconduct by a prisoner, a director of the institution now has a duty to archive and store a video recording of the misconduct as neutral evidence. The penitentiary service must allocate at least four square meters of minimum residential space to each remand prisoner.³⁵⁵

The Public Defender wishes to underline as a step forward the recent judgment by the Constitutional Court³⁵⁶ declaring the normative content of a series of provisions of the previous Penitentiary Code unconstitutional. In particular, these provisions from the code in force before December 15, 2023 allowed a prosecutor to give formalistic, cut-and-dried reasoning for depriving an accused person of the right to make a phone call. In fact, there was no safeguard in the law for remand prisoners to be provided with any reasoning whatsoever when deprived of the right to short term visitation; neither was there a legal mechanism to have such restrictions periodically reviewed for their appropriateness. As a result of the above-mentioned judgment by the Constitutional Court, the Criminal Procedure Code was amended to codify and clarify the rules and procedures for imposing limitations upon accused defendants' rights to short-term/long-term visitation, mail and/or phone calls, and for challenging and reviewing such decisions.³⁵⁷ A problem with the new law, however, is that it authorizes a prosecutor or an investigator to

³⁵¹ See amendments in the Criminal Procedure Code no. 4031- XIII06-X03 dated December 15, 2023 giving effect to the judgment of the Constitutional Cour no. 2/8/1444 dated November 22, 2023

³⁵² See the 2022 Report of the Public Defender to the Parliament, pp. 135-137; in regard to the legislation governing secret wiretapping, the Constitutional Court has been refraining from rendering its judgment concerning the Public Defender's lawsuit no. 1231 despite the fact that merit hearings were completed in the beginning of the year of 2018. For more information, see Report of the Public Defender to the Parliament for 2019, pp. 112-115

³⁵³ For information on PD's proposals that got rejected, see a subchapter of this chapter entitled "Contact with the outside work in penitentiary institutions"

³⁵⁴ Statement by the Public Defender concerning the new Penitentiary Code, 2023, < <https://shorturl.at/itzlX> > [26.02.2024].

³⁵⁵ Activity Report of the Criminal Justice Department of the Public Defender's Office for 2023

³⁵⁶ The Constitutional Court of Georgia, Judgment no. 2/8/1444, November 22, 2023

³⁵⁷ Code of Criminal Procedure, Article 165²

extend the restriction, each of 2-month duration, for as many times as there is a legal ground for employing this measure.³⁵⁸

This chapter discusses the following aspects of the right to inviolability of private life (privacy): contact with the outside world in penitentiary institutions, mental health institutions, and shelters and alternative dwellings for individuals having mental health disorders; unlawful photographing and video surveillance by law enforcement officers.

6.2. Contact with the Outside World in Penitentiary Institutions

The Public Defender welcomes the changes in the Penitentiary Code that were shortly discussed in the introduction part of the chapter above. However, despite these positive changes, a number of important challenges in regard to prisoners' communication with the outside world still remain at the legislative level. Below is a short description of the issues:

- There is still a possibility to deny communication with the outside world as a type of disciplinary punishment for prisoners (except when the contact is related to a crime)
- Convicted prisoners in high-risk institutions and closed institutions are entitled to the same number of visitations and phone calls as before (no increase)
- There has been a deterioration from the perspective of rights of inmates. In particular, unlike the regulation in the previous code, convicted prisoners in high-risk institutions can no longer enjoy the right to leave the penitentiary institution temporarily in case of death of their close relative;³⁵⁹
- Prohibition of using a personal TV set or a radio receiver is still as a form of disciplinary measure;;
- Types of disciplinary misconduct are not differentiated by their gravity (no distinction among less serious, serious and very serious acts of misconduct); likewise, no differentiation and no different levels of punishment for misconduct (based on the seriousness of misconduct);
- Prosecutors and investigators remain free to limit the right of inmates to make phone calls, including over-the-phone communication with their lawyers;
- Number of short- and long-term visits accessible to life prisoners has remained the same as before (no increase)
- The minimum time period after which life prisoners can ask for early release through a judicial procedure remained the same as before (no decrease)
- No video visitation is allowed for remand (untried) prisoners. It is unclear why can't they enjoy video calls or what risk this would pose, especially against the background that they are free to enjoy other means of communication with the world outside the prison such as phone calls and short- and long-term visitation.³⁶⁰ Also, video calls or video visitation, if allowed, would take place by a special procedure that excludes any potential risk.
- Remand and sentenced prisoners can still be denied contact with the world outside the prison for more than nine months³⁶¹

³⁵⁸ For detailed discussion on these legal amendments, see Activity Report of the Criminal Justice Department of the Public Defender's Office for 2023

³⁵⁹ Statement by the Public Defender concerning the new Penitentiary Code, 2023 < <https://shorturl.at/itzlX> > [26.02.2024].

³⁶⁰ Untried prisoners will be able to use the right to long-term visitation only after January 1, 2025

³⁶¹ For more information, see Activity Report of the Criminal Justice Department of the Public Defender's Office for 2023

The Constitutional Court declared unconstitutional a number of provisions in the Code of Criminal Procedure regulating the legal procedure of limiting prisoners' access to visitation, mail and phone calls.³⁶² The judgment of the Constitutional Court was followed by amendments in the Criminal Procedure Code which we would like to commend for the following reasons: before the amendments, there were no legal remedies to challenge a prohibition of such a nature, while the amendments made it possible to have banning decisions challenged in court – a neutral impartial body to decide the matter. We also welcome the fact that the prohibition can no longer be imposed for unlimited time: a maximum term of 2 months has now been set, which a prosecutor or an investigator can extend only by re-issuing a resolution and giving explanation of reasons for appropriateness of the use of an extended measure. This change is clearly a step forward but a problem with the new law is that it authorizes a prosecutor or an investigator to extend the measure with a 2-month duration period for virtually as many times as they are able to cite a legal ground for it.³⁶³

The new law allows for different treatment of criminal defendants who are already serving a fixed-term or life imprisonment sentence for a different criminal matter in addition to the ongoing criminal case on the one hand and defendants who are only into the ongoing case and have no sentence for another criminal case, on the other hand. In particular, in regard to the former category of prisoners, a prosecutor/investigator can issue a resolution extending the 2-month ban on communication with the outside world for so many times as he/she is able to give reasons for this, even if these extensions cumulatively exceed a total of 9 months. By contrast, in regard to the other category of defendants, prosecutors and investigators can impose a ban, including any extensions, for a period not exceeding a total of 9 months even if the legal grounds for extended restriction – introduced by the amendments – continue to exist beyond these 9 months because pretrial detention cannot last longer than 9 months and the defendant must be discharged from a pretrial detention facility immediately after this term expires.

In penitentiary institutions, where convicted prisoners have retained only some of their socializing rights, the possibility of imposing a ban on all contacts with the outside world for virtually unlimited duration of time is unjustified, especially against the background that hearing of a criminal case in courts may take months, if not years sometimes. Hence, it is important that the law clearly stipulates what a maximum duration of this measure can be to exclude distinction in the treatment of the two categories of accused persons. The Public Defender's staff will continue to observe how this legislation is applied in practice to make sure that the rights of prisoners, including the right to communicate with the world outside the prison and family members, are protected at a due level.

In addition to the defective legislation, some significant obstacles in terms of contact with the outside world were observed also at a practical level. These obstacles are dealt with one by one below.

- **Handicaps in the enjoyment of the right to short-term visitation**

³⁶² The Constitutional Court of Georgia, Judgment no. 2/8/1444 in *Nikoloz Akopov v. The Parliament of Georgia*, November 22, 2023

³⁶³ Code of Criminal Procedure, Article 165²(3).

As in the previous years, in the reporting period too, short visitation in penitentiary institutions³⁶⁴ would take place through a glass barrier by means of facility-provided telephone headsets depriving prisoners an opportunity of physical contact with their relatives.

- **Over the phone conversation in a non-confidential environment**

In closed and high-risk institutions of the penitentiary system, keeping phone conversations confidential remains an issue. The prison infrastructure is arranged in a way that telephone sets are installed either in the duty room or in booths that have no voice isolation and thus conversations can be overheard outside the booths.

- **Difficulty of communicating with a family living outside the country**

Despite a PD's recommendation,³⁶⁵ international phone calls continue to be allowed only on designated days and prisoners in the penitentiary cannot make such calls any day, according to legally established frequency and duration. Moreover, prisoners are not enjoying international calls at a reduced and more affordable rate.

- **Lack of infrastructure for video calls (visitation)**

Notwithstanding a PD's recommendation,³⁶⁶ no video call infrastructure was arranged during the reporting period in institutions where video visitation was allowed by the Penitentiary Code then in force (institutions nos. 2, 3, 6, 12 and 18).³⁶⁷ Because the new Penitentiary Code permits video visitation also for convicted prisoners incarcerated in high-risk institutions, it is important that all prisons are equipped with appropriate infrastructure in the shortest possible time so that all prisoners can enjoy their right granted by the law.³⁶⁸

- Video visitation possible only for relatives who are physically in Georgia;

Foreign and stateless prisoners but also convicted persons who are citizens of Georgia who have their families outside of the country cannot use either short-term or long-term visits or even video visitation. The Public Defender wishes to emphasize that video visitation should be organized in a way that video calls can be made without prisoners' family members having to physically go to a territorial branch of the National Agency for Non-Custodial Sentences Execution and Probation.³⁶⁹

- Breach of prisoners' Correspondence rights

³⁶⁴ Except for the juvenile Institution no. 11 and Institution no. 16 (a low-risk institution)

³⁶⁵ See National Preventive Mechanism, Report of 2022, pp. 107-108.

³⁶⁶ See National Preventive Mechanism, Report of 2022, p. 86 and 90

³⁶⁷ According to a Letter from Director-General of the Justice Ministry's Special Penitentiary Service no. 21431/01 dated January 26, 2023, repair was conducted in penitentiary institution no. 10 in 2022 with a view to renewing video visitation infrastructure. Deriving from the requirement of the new legislation, similar repair works will be carried out in 2023 in all other penitentiary institutions where video calls are not currently possible to ensure they are also equipped with the required infrastructure.

³⁶⁸ The Penitentiary Code, Article 123

³⁶⁹ National Preventive Mechanism, Report of 2022, p. 108.

In the current reporting period, much like previous ones, the Public Defender received numerous prisoner complaints from various penitentiary institutions concerning restrictions imposed on their correspondence right. Having looked into these individual complaints, we found out that prisoners' letters would not be sent to their recipients; moreover, letters would sometimes land in the hands of an unintended/unidentified persons. In one case, our inquiry led to disciplining the prison staff.³⁷⁰

- **Placing convicts in penitentiary institutions located far away from their families**

The Public Defender's Office investigated a number of cases,³⁷¹ in which prisoners complained that they were placed in penitentiary institution no. 2 in Kutaisi, while their families (close relatives) lived in the eastern Georgia. The prisoners were asking to be moved to a penitentiary institution (of the same security level) but located in the eastern Georgia. Being far away from their families is a matter of concern for inmates due to various reasons (elderly parents, small children, family members having health issues, lack of funds, etc). Due to these problems inmates are often unable to receive visits from their family members. Analysis of these cases shows that the Penitentiary Service's decisions to place prisoners in institutions located far away from their homes under the pretext of prison safety considerations or avoidance of overcrowding lack legitimacy. In particular, in terms of safety considerations, like in institution no. 2, both adequate number of vacancies and appropriate security level are available also in institutions no. 10 and no. 8. In terms of avoidance of overcrowding, this could be considered a somewhat legitimate reason in case of institution no. 8 but no issues with overcrowding have been observed in institution no. 10. At the relevant time, Institution no. 10 had a population of 399 inmates, while a maximum limit of remand and tried prisoners it can accommodate is 700 persons.³⁷²

- **Limitation of the right to receive a parcel by mail³⁷³**

During the reporting period, statutes (regulations) of all of the Special Penitentiary Service's penitentiary institutions were amended to the effect of limiting the receipt of parcels in prison. In particular, prisoners will be allowed to receive parcels only twice a month, and will not be allowed to receive parcels by mail (except photos). According to the law, an inmate can receive a parcel from not only a family member or a close relative, but virtually any person. It is very likely that a person other than a family member such as a friend may want to send in some assistance but the recipient inmate has already exhausted a maximum limit of parcels allowed or an inmate awaits a parcel from a family member and is compelled to reject a parcel from a friend in order to stay within the established limit for parcels to receive. This effectively means that the above amendments have deteriorated the situation of prisoners from their legal rights perspective. This is especially true for inmates serving sentences in penitentiary institutions located far away from their family members and close relatives, since mail used to be a preferred way for them to receive parcels. The new regulations placed foreign citizens also in a difficult situation because they only way they could receive parcels was by mail.

³⁷⁰ For more information, see Activity Report of the Criminal Justice Department of the Public Defender's Office for 2023

³⁷¹ For more information, see Activity Report of the Criminal Justice Department of the Public Defender's Office for 2023

³⁷² Order of the Minister of Corrections and Probation on the Penitentiary Institutions of Georgia's Ministry of Corrections and Probation no. 106 dated August 27, 2015, Article 1(g¹)

³⁷³ For more information, see Activity Report of the Criminal Justice Department of the Public Defender's Office for 2023

The ban on parcels also affected the possibility of sending food in for inmates. Although penitentiary institutions have shops inside the territory where prisoners can buy food and basic commodities, not all prisoners can afford market prices at which the servicing company-supplied food products are sold. Since the new regulations, these prisoners are now deprived also of the possibility of receiving food products from their families or relatives.

The Office of the Public Defender denounces the recent amendments in penitentiary institutions' regulations with the effect of banning the receipt of postal parcels by inmates, since they deteriorate the legal status of the prisoners virtually leaving them without help from family members and close relatives.

6.3. Contact with the Outside World for Dwellers of Mental Health Institutions, Shelters for Persons Having Mental Disorders and Alternative Accommodations

Pursuant to the Law on Mental Health, Article 15(3), in an emergency, due to safety reasons, doctors have the discretion to forbid patients to exercise a series of rights, including important privacy-related rights.³⁷⁴ Arbitrary banning of telephone use continues to be in force for patients. Making a phone call is largely dependent on the permission and goodwill of doctors and assisting personnel.

Furthermore, patients are again unable to temporarily leave an inpatient clinic – subject to their mental condition – without being completely discharged from hospital.

Shipping parcels to the National Mental Health Center (formerly National Mental Health Center named after Academician B. Naneishvili) is a challenge. Similar restrictions apply also to patients who are on voluntary treatment in the civilian section who should be able to leave the hospital temporarily and buy products of their own choice wherever they desire in the first place. Although the National Mental Health Center reported to have eliminated the problem,³⁷⁵ the Public Defender's National Preventive Mechanism found through its monitoring that the problem remained untreated.

The Public Defender welcomes the measures undertaken by the Ministry of Healthcare to update terms and conditions of service provision by inpatient mental health clinics. In particular, mental health hospitals are now required to allocate a separate room / space for patient visitations where privacy and inviolability of private life of the patients are duly respected.³⁷⁶ However, some mental health clinics³⁷⁷ have not made the required infrastructure available for patients to receive visitors. The Public Defender is of the view that

³⁷⁴ A doctor has the power of restring the following rights of a patient: the right to receive comprehensive, timely and understandable information on their disease and planned mental assistance; view medical documentation about themselves; refuse to receive treatment; participate in election voting; send and receive letters and parcels without inspection; use a telephone and other means of communication according to hospital rules; enjoy other rights

³⁷⁵ Letter from the Ministry of IDPs from Occupied Territories, Labor, Health and Social Protection no. MOH 6 24 00212807 dated February 22, 2024

³⁷⁶ Letter from the Ministry of IDPs from Occupied Territories, Labor, Health and Social Protection no. MOH 6 24 00212807 dated February 22, 2024

³⁷⁷ Mental Health Center of Kutaisi; Mental Health and Drug Addiction Preventive Center; Letter from General Director of the Mental Health and Drug Addition Preventive Center Ltd nos. 100039542400142456 and 1000395 5 24 dated February 6, 2024 and January 24, 2024 respectively.

patients in all of these institutions should have the opportunity to meet with their families and friends in person and in a confidential environment.

Monitoring carried out by the National Preventive Mechanism in shelters and alternative dwellings for persons with mental disorders revealed issues with the ability of beneficiaries to maintain contact with the outside world. As it turns out, they either have no mobile phones or have been compelled to surrender them, while the possibility of using the phone in the office of assisting personnel is allowed only once in a while. Some beneficiaries in these institutions are unable to contact their family members because they do not know what number to call, and no one is helping them find out their close relatives' phone numbers. Also, they do not have access to the Internet, which would be useful not only in terms of beneficiaries becoming able to contact the world outside the hospital but also from the perspective of their psycho-social rehabilitation.³⁷⁸

6.4. Contact with the outside world for dwellers of temporary accommodation center of the Interior Ministry's Migration Department

We strongly welcome the fact that the Interior Ministry's temporary accommodation center offers migrants access to a phone and the Internet; they are also allowed to receive visitors and parcels.³⁷⁹ However, there are some limitations as to the contact with the outside world. In particular, a computer with access to the Internet can be used by the migrants twice a day, for an hour each time. The Public Defender has been recommending, for many years already, that since dwellers of the temporary accommodation center are not being offered any meaningful activities and they cannot receive visits of their family members, it is important that they be at least offered the use of a computer for a longer time.³⁸⁰ In addition, visitors are allowed in the center Tuesdays and Fridays for only 20 minutes between 10:00 AM and 1:00 PM – an arrangement that seems both inappropriate and unjust to visitors who have come from far away.³⁸¹

6.5. Unlawful Photographing and Video Surveillance by the Police³⁸²

In the reporting period, the Public Defender came to examine a case in which a police officer unlawfully photographed a citizen. In particular a citizen who was taking part in a protest rally in the Europe square in Batumi on June 3, 2023 claimed that he or she was unlawfully photographed by a police officer. The Public Defender's Office requested the Interior Ministry to respond to this information.³⁸³ Internal inquiry conducted by the Interior Ministry confirmed commission of misconduct by a police officer who arbitrarily took a photograph of a citizen.³⁸⁴

³⁷⁸ Activity Report of the Criminal Justice Department of the Public Defender's Office for 2023

³⁷⁹ Everyone can make a 4-minute free-of-charge call to any country until 6pm on Mondays, Wednesdays and Fridays

³⁸⁰ A report by the European Committee for the Prevention of Torture on its visit to Kosovo during October 6-16, 2020 CPT/Inf (2021) 23 para. 46, accessible at < <https://rm.coe.int/1680a3ea32> > [last viewed 12.04.2024].

³⁸¹ A report by the European Committee for the Prevention of Torture on its visit to Lithuania in 2021, CPT/Inf (2023)01, para. 147, accessible at < <https://rm.coe.int/1680aa51af> > [last viewed 12.04.2024].

³⁸² For more information, see Activity Report of the Criminal Justice Department of the Public Defender's Office for 2023

³⁸³ Letter of the Public Defender's Office no. 15-15/5647 dated June 14, 2023

³⁸⁴ Letters from the Interior Ministry's Inspectorate-General nos. MIA 8 23 02923156 and MIA 2 23 03159897 dated October 6, 2023 and October 28, 2023 respectively.

In another case, in which a citizen complained of also unlawful photographing by the police, we addressed the Personal Data Protection Inspector to react. As a result of inspection, the Office of the Inspector found unlawful video surveillance had been established at the outer perimeter around the administrative premises of the 3rd Unit of Adjara Autonomous Republic Police Department Batumi City Police Division (no warning sign was installed to warn about the ongoing video monitoring).³⁸⁵ The Personal Data Protection Inspector made a finding of violation by the Interior Ministry.³⁸⁶

Protection and respect of the right of citizens to inviolability of private and family life requires not only prevention of unlawful photographing but ensuring that citizens are informed about any ongoing video surveillance during police activities according to rules established by law.

6.6. Rules of Informing on the Results of Covert Investigative Activities³⁸⁷

The Code of Criminal Procedure of Georgia stipulates that when covert investigation activities are undertaken in relation to a person, the person must be made known in writing about any materials obtained as a result of such activities and destruction thereof.³⁸⁸ The Public Defender analyzed the relevant provisions in the Criminal Procedure Code and found the following issues:

- It is not completely clear what is meant under the obligation “to make known in writing”. In particular, should the citizen be sent a written notification or should the individual be given the opportunity to physically view the written document at the premises of the prosecution office.
- Besides, does the above phrase allow the citizen to view the actual materials obtained as a result of the covert investigation measure (for example, a printed version of their phone conversation) or should the citizen be merely informed that he was subjected to a given investigative measure during a given time section.
- It is further unclear whether the citizen should be able to view information obtained as a result of a covert investigation measure that is irrelevant to the matter of investigation and is subject to destruction. In particular, it is vague whether such information should be destroyed after the citizen has viewed it or would it be sufficient to merely inform the citizen that irrelevant information had been obtained in the course of an investigative measure and has already been destroyed.

The Prosecutor-General issued its Order no. 211-G dated November 4, 2022 in order to give effect to the abovementioned provision of the Criminal Procedure Code. The Order requires prosecutors to inform in writing, according to the rules and timeframe envisaged by the Criminal Procedure Code, the person who had been subjected to a covert investigative measure about the content of any materials obtained as a result of such a measure and the subsequent destruction of the material. In order to get a deeper understanding of that Order, the Office of the Public Defender requested the Prosecutor-General’s Office to provide a copy of the Order. Unfortunately, we were not provided with the requested Order no. 211-G

³⁸⁵ Law on Personal Data Protection, Article 10(8)

³⁸⁶ Letter from the Personal Data Protection Office no. PDPS 2 23 00002068 dated March 27, 2023

³⁸⁷ For more information on the matters described in this sub chapter please see: Activity Report of the Criminal Justice Department of the Public Defender’s Office for 2023

³⁸⁸ Code of Criminal Procedure, Article 143⁹(3)

dated November 4, 2022 on the ground that the document was marked for internal use.³⁸⁹ Because of this, the Public Defender's Office is unable to assess whether the rights of a person under the Criminal Procedure Code who had been subjected to covert investigation measures are respected. It should also be mentioned that, in 2023, the Prosecutor-General's Office informed 1,352 persons on the fact that they had been subjected to a covert investigative measure.³⁹⁰

Proposals

To the Parliament:

- Amend the Criminal Procedure Code to the effect that a prosecutor's / investigator's resolution denying an accused person the rights to short-/long-term visits, mail and/or phone calls cannot be extended beyond 9 months in total;
- Embark on a transparent and inclusive process of reforming primary legislation provisions related to covert investigative activities to the effect of revising
 - a list of offences which permit the use of covert actions for the purpose of investigation;
 - timeframes for carrying out covert investigative activities and the upper limit of extending these timeframes;
 - timeframes to notify the person about covert investigative activities carried out and the upper limit of extending these timeframes.
- Amend the Penitentiary Code so that prisoners in high-risk institutions and closed institutions, including life prisoners, can enjoy an increased number of visitations and phone calls;
- Amend the Penitentiary Code to abolish prohibition of contacts with the outside world as a form of punishment, except when such the contact is related to criminal activity;
- Amend the Penitentiary Code so that prisoners whose family members cannot use short- and long-term visitation because they live outside Georgia can communicate with their family members by means of a video call (visitation);
- Amend the Penitentiary Code so as to grant accused persons the right to video visitation;
- Amend the Penitentiary Code to abolish prohibition of the right to use a personal TV set and a radio receiver as a form of disciplinary punishment;
- Grant convicted prisoners in high-risk institutions the right to temporarily leave their institution in case of death of a close relative.

Recommendations

To the Minister of Justice:

- Make arrangements so that Georgian citizens whose families live outside of Georgia as well as foreign and stateless inmates can make international calls at a reduced and more affordable rate;

³⁸⁹ Letter from the Prosecutor-General's Office no. 13/18306 dated March 20, 2023

³⁹⁰ Ibid.

- Abolish the system whereby international calls can be made only on designated days and enable the making of such calls any day, at the frequency and duration established by law;
- Revise video visitation rules adapting them to the existing challenges so that video visitation becomes more active and frequent; start working on a safe app to simplify video visits;
- Install video visitation infrastructure in institutions nos. 2, 3, 6, 12 and 18 as a matter of priority;
- Amend governing statutes of penitentiary institutions to allow accused and convicted prisoners placed in the de-escalation cell to use the phone;
- The Special Penitentiary Service's Monitoring Department
 - a) to detect breaches of prisoners' right to send and receive mail in penitentiary institutions by means of systematic inspections;
 - b) to collect and keep statistics on breaches detected;
 - c) to take action to impose liability on those responsible for breaching prisoners' correspondence rights;
- In closed and high-risk institutions of the penitentiary system, make appropriate infrastructure arrangements so that prisoners can have phone conversations in a confidential environment;
- Create normative provisions to the effect that when an open mail is handed over to a social work, the social worker must draft a document, in two copies, which
 - a) Bears a stamp and in which the following information is entered in the presence of a prisoner:
 - b) First name and last name of the mail author;
 - c) First name and last name of a social worker who received the letter;
 - d) Date the letter was handed over;
 - e) Name of recipient;
 - f) Number of pages.

A prisoner and a social worker should sign both copies. One copy should go to prisoner, another copy to social worker.
- Allow for short-term visitation to take place without a glass barrier in all penitentiary institutions where this is still not possible;
- Ensure that prisoners are placed in penitentiary institutions located close to where their families live.

To the Minister of IDPs from Occupied Territories, Labor, Health and Social Protection:

- Ensure that patients can use phones and other means of communication, as required by the Law on Mental Health;
- Take measures to arrange a space with confidential environment in all mental health institutions for meetings between patients and their visitors;
- In order to facilitate contact with the outside world in penitentiary institutions, mental health institutions, and shelters and alternative dwellings for individuals with mental health disorders, allow patients and beneficiaries to use phones and other means of communication.

To the Minister of Interior:

- At the Interior Ministry's temporary accommodation center, ensure unlimited access to computers with Internet connection during the day by increasing the number of such computers;
- Individuals placed in the Interior Ministry's temporary accommodation center to enjoy an unlimited number of visitors during working hours and an increased duration of visitation of up to at least one hour.

To the Prosecutor-General:

- Publish the sections of the Order of the Prosecutor-General no. 211-G dated November 4, 2022 that regulate the procedure of informing a person about the results of covert investigative measures they have been subjected to (if there are such sections in the Order) or, alternatively, regulate the procedure anew by means of a publicly accessible normative act.

7. Freedom of Expression

7.1. Introduction

According to data³⁹¹ published by the authoritative international organization "Reporters Without Borders" in 2023, Georgia has moved from 89th to 77th place in terms of press freedom.³⁹² However, it is noteworthy that according to the 2019-2020 index, Georgia was ranked 60th among 180 countries.³⁹³ According to the report from the human rights organization Freedom House, the indicator of independent media in Georgia has declined.³⁹⁴

In the period from 2022 to 2023, the legislative approach to the media regulation model underwent several changes. Towards the end of 2022, the responsibility for addressing violations related to hate speech shifted from the broadcaster's self-regulatory body to the National Communications Commission of Georgia.³⁹⁵ However, in June 2023, hate speech reverted to self-regulation.³⁹⁶ Within a short timeframe, the legislative body once again amended the law,³⁹⁷ introducing the option to appeal decisions made by the broadcaster's self-regulatory body to the administrative body - the National Communications Commission of Georgia. Following these legislative adjustments, the Public Defender will continue to monitor the Commission's activities to assess whether they might impinge on freedom of expression.

It is noteworthy that during the reporting year, the Constitutional Court of Georgia accepted for consideration³⁹⁸ the 2022 lawsuit filed by the Public Defender concerning the normative content³⁹⁹ of the relevant article of the Georgian Law "On Broadcasting". This article deems it inappropriate for broadcasters to air pre-election/political advertising outside the designated pre-election period and establishes administrative penalties for its dissemination.

7.2. Issues Related to the Protection and Safety of Journalists

During the reporting year, at the initiative of the Office of the Public Defender, an expert from the Council of Europe conducted an overview of Georgia's legislation and practices concerning the protection and

³⁹¹ Follow the link <<https://rsf.org/en/country/georgia>>, [last visited on 4/03/2024].

³⁹² It increased from 59.30 points to 61.69.

³⁹³ see Data by years: <<https://civil.ge/ka/archives/414523>>, [last visited on 4/03/2024].

³⁹⁴ decreased from 3.50 to 3.25, follow the link: <<https://freedomhouse.org/country/georgia/nations-transit/2023>>, [last visited on 4/03/2024].

³⁹⁵ see Amendments to the Law of Georgia "On Broadcasting", 22.12.2023, link: <<https://matsne.gov.ge/ka/document/view/5649707?publication=1#DOCUMENT:1>>, [last visited on 4/03/2024]. see Assessment of the Public Defender of Georgia, Parliamentary Report for 2022, 149, 154.

³⁹⁶ see Amendments to the Law of Georgia "On Broadcasting" 30.06.2023, link: <<https://matsne.gov.ge/ka/document/view/5847958?publication=0#DOCUMENT:1>>, [last visited on 4/03/2024].

³⁹⁷ see Amendments to the Law of Georgia "On Broadcasting" 19.10.2023, link: <<https://matsne.gov.ge/ka/document/view/5945583?publication=0#DOCUMENT:1>>, [last visited on 4/03/2024].

³⁹⁸ see claim in full: <<http://bit.ly/40JBG8v>>, Also, see Parliamentary report of the Public Defender of Georgia, 2022, p. 371; see Minutes №1/7/1753 of the Constitutional Court of Georgia of December 14, 2024.

³⁹⁹ Paragraph 2 of Article 63 of the Law of Georgia "On Broadcasting".

safety of journalists. The document also examines Georgia's legal framework and assesses the alignment of its practices with the standards set by the Council of Europe.⁴⁰⁰

The research results uncover challenges across various fronts that hinder journalists from working in a safe environment. These challenges are directly linked to issues identified by the Office of the Public Defender over the years.⁴⁰¹ Bearing this in mind, the Public Defender shares the review findings and deems it necessary to plan and implement response measures at both the legislative and executive levels. The involvement of media representatives in these processes will be crucial for effectively ensuring media freedom and security.

The document prepared by the expert reviews four key areas: the investigation and criminal prosecution of crimes committed against journalists; the capabilities of law enforcement bodies in ensuring the safety of journalists; the safety of journalists during gatherings; and the capacity and knowledge of the media regarding its rights and obligations concerning security issues. For each topic, the document provides insights from Georgian experiences alongside an overview of international standards and best practices. Consequently, this document presents an excellent opportunity to develop optimal mechanisms for addressing the challenges at hand.⁴⁰²

Based on the findings of the review, several key issues should be highlighted. Specifically, the study emphasizes the importance of high-level elected politicians, both nationally and locally, condemning violence and hatred directed towards the media, and refraining from engaging in anti-media rhetoric themselves.⁴⁰³

The study highlights⁴⁰⁴ that despite an increase in incidents of violence and threats against journalists in recent years, there are significant shortcomings in the investigation and prosecution of these crimes. Even when convictions are made, lenient sentences are frequently imposed. Therefore, an inquiry into the

⁴⁰⁰ The Council of Europe, within the framework of the project, "Strengthening media freedom, Internet governance and personal data protection in Georgia", prepared the document "Law and Practice in Georgia with regard to the protection and safety of journalists" "", the author of the study - expert Peter Nurlander, 2023; In order to discuss the prepared document, a round table was also held, follow the link: <<https://shorturl.at/prFRU>> [4/03/2024].

See the survey in full: < <https://rm.coe.int/georgia-tp-review-of-soj-june2023-eng-2779-4462-8232-3/1680ac9348> > [last visited on 29.03.2024].

⁴⁰¹ For many years, the Public Defender of Georgia has been pointing out the need for complete statistics regarding the criminal acts committed against media representatives, as well as the problems in terms of the safety of journalists, the challenges in the framework of the investigation; the standards of protection of journalists during gatherings, including the problem of requiring "identification sign", the need to develop guidelines and create an appropriate format regarding the activities of journalists during gatherings, cooperation between the police and journalists. see Parliamentary reports of the Public Defender of Georgia at the link: <<https://ombudsman.ge/geo/saparlamento-angarishebi>> [last visited on 29/04/2024]; 2018 report, p: 155-156; 2019 report, pp. 224, 234; 2020 report, p: 233-239; 2021 report, p: 172-177; 2022 report, pp. 149-152. Special Report of the Public Defender of Georgia "Freedom of Peaceful Assembly (sphere protected by the right and standard for managing assemblies)", pp. 32-34, 63-64, see Link: <<https://shorturl.at/fgmv8>>, [4/03/2024].

⁴⁰² See the survey in full: < <https://rm.coe.int/georgia-tp-review-of-soj-june2023-eng-2779-4462-8232-3/1680ac9348> >, [last visited on 4/03/2024].

⁴⁰³ Ibid, 39.

⁴⁰⁴ Ibid, 6.

quality of investigations into crimes against journalists is warranted, alongside the development of specific and detailed instructions for all law enforcement agencies to investigate such cases thoroughly.

Regarding investigation and criminal prosecution, the primary legal instrument is Article 154 of the Criminal Code of Georgia. The study thoroughly examines⁴⁰⁵ its deficiencies, and to enhance the investigation and prosecution of violence against journalists, the expert deems it necessary to reformulate it. The article should encompass all instances of violence or threats against individuals and legal entities that are related to journalistic activities. Furthermore, the penalties should be heightened to account not only for the physical or material harm inflicted on the victim but also for the harm to democracy itself. This would send a clear message to the public that an assault on a journalist is incompatible with democratic principles.

To comprehend the extent of violence perpetrated against journalists and assess the responsiveness of law enforcement agencies, it is imperative to compile statistics.⁴⁰⁶ Currently, Georgia does not generate comprehensive statistics on this matter. These statistics should encompass data disaggregated according to various criteria, covering all instances of violence or threats against individuals or legal entities that are related to journalistic activities.

The study dedicates a distinct chapter⁴⁰⁷ to the safety of media representatives during gatherings, as the most prominent incidents jeopardizing journalists have taken place amid demonstrations. According to the study, considering international standards, the mandatory imposition for journalists to wear identification badges is unjustifiable. Therefore, the author suggests amending Georgia's Law "On Assemblies and Demonstrations" to abolish the requirement for journalists to wear identification badges.⁴⁰⁸

It was also found that the lack of effective communication between the media and law enforcement agencies is a significant drawback, both concerning general security issues and in terms of safeguarding journalists during demonstrations.

Furthermore, the document provides an assessment of the term "journalist". Since the national legislation lacks a definition, the study suggests that any definition adopted should be functional, and the granting of status should not be contingent upon formal accreditation or place of employment. Consistent with international best practices, the term should encompass anyone regularly or professionally involved in gathering and disseminating information to the public through any means of mass communication.⁴⁰⁹

⁴⁰⁵ Ibid, 16-18.

⁴⁰⁶ Ibid, 18.

⁴⁰⁷ Ibid, 32-33.

⁴⁰⁸ Ibid, 44.

⁴⁰⁹ Ibid, 23, 40.

7.3. Protection of Media Representatives During the Reporting Year

In 2023, the Public Defender identified challenges to the safety and security of media representatives in the following instances:

During the reporting year, from March 2nd to 9th, various reports surfaced regarding injuries sustained by journalists and other media representatives, as well as disruptions to their activities.⁴¹⁰ These incidents included the use of force and special measures against participants in gatherings near the Parliament of Georgia and its vicinity. According to the report from the Special Investigation Service,⁴¹¹ an investigation was initiated during this period into alleged instances of excessive force by Ministry of Internal Affairs personnel during the protest rally on the Parliament of Georgia's premises.⁴¹² As part of these cases, a total of 18 media representatives were interviewed, with 8 individuals reporting instances of physical violence by law enforcement officials. The investigation is ongoing.

Furthermore, in connection with several cases involving alleged illegal interference with the professional activities of media representatives, the Special Investigation Service, in response to addresses⁴¹³ from the Public Defender's Office, informed us that investigations had not been launched in relation to several incidents,⁴¹⁴ as no evidence of criminal activity was found. As for two cases,⁴¹⁵ the service has yet to reach a decision.⁴¹⁶

According to information provided by the Special Investigation Service to the Office of the Public Defender, in the year 2023, investigations into instances of illegal interference in the professional activities

⁴¹⁰ In particular, on March 2, 2023, "On.ge" editor, "Netgazeti" journalist M.G. and "Formula" photojournalist V.K. They were expelled from the yard of the Parliament using physical force; According to their explanation, they had a permit to work in the parliament, see links: <<https://formulanews.ge/News/86932>>; <bit.ly/3LqBK8K>;

On March 2, during the gathering held near the Parliament of Georgia, the law enforcement officers arrested two media representatives - the director of the publication "Publica" and the journalist of "Tabula"; <<https://formulanews.ge/News/86144>>; <bit.ly/400Mntq> [last visited on 4/03/2024].

On March 2, "TV First" operator N.K. was also injured. see Link: <bit.ly/3n0EkIs>; Media representatives were injured and their activities were hindered on March 7-9, as a result of the use of force and special means against the participants of the ongoing gatherings near the Parliament, see links: <bit.ly/3lhdo6u>, <bit.ly/3kz77wk>, <bit.ly/3YQY2DA>, <bit.ly/3J0Zc9H>, <bit.ly/3JB8GtX>, <bit.ly/3J22QA4>

⁴¹¹ Letter of the Special Investigation Service dated 27.03.2023, №3 23 00004870.

⁴¹² Criminal law cases No. 199080323001 and No. 199030323002.

⁴¹³ Letters of the Special Investigation Service 17.05.2023, №1 23 00008487, 21.12.2023, №5 23 00023493, №3 23 00013492 28.07.2023.

⁴¹⁴ On May 5, 2023, information was spread about possible interference in the professional activities of "TV Monitoring" journalists <bit.ly/428Pme3>; On November 24, 2023, online media "Mautskebeli" journalist GA was illegally interfered with his professional activities while covering the ongoing action at the Ministry of Environment Protection and Agriculture of Georgia, <<https://www.facebook.com/mautskebeli.ge/videos/1338590096778385/>>, [last visited on 4/03/2024], (the materials were sent to the General Inspection of the Ministry of Internal Affairs of Georgia).

⁴¹⁵ Alleged threat and interference in the Professional activity of the Mtavari TV journalist B.K. in Kaspi, while covering Meeting of the Party United National Movement. Alleged interference in the professional activities of Mtavari TV journalist G.A. <<https://rb.gv/gfdlc>>, [4/03/2024].

⁴¹⁶ According to the agency, journalist B.K. did not appear for the interview at the Special Investigation Service, 15.01.2024, №3 24 00000503 letter; And the journalist G.A. refused to provide complete information and explained that if he wanted, he would later contact the Special Investigation Service, letter №3 23 00013492 dated 28.07.2023.

of journalists were initiated in 16 criminal cases.⁴¹⁷ Investigation was terminated in 1 case,⁴¹⁸ and criminal prosecutions were carried out in 7 cases.

The Special Investigation Service also informed us⁴¹⁹ that in 2022, 5⁴²⁰ out of 7 criminal cases⁴²¹ related to criminal acts committed against media representatives were under investigation and no summary decision has been made. In addition, there is no known victim and/or accused.

The Public Defender points out once again that the appropriate response of investigative agencies is of crucial importance both for the enforcement of the rule of law in individual cases and for creating a safe environment for media representatives in general.

7.4. Accreditation Rule at the Parliament

In addition to crimes committed against media representatives, issues impeding the enjoyment of freedom of expression remained relevant during the reporting year.

In 2023, the Parliament of Georgia approved the procedure for accrediting mass media representatives.⁴²² The regulation includes the requirement for accredited journalists to "terminate the interview if a member of the Parliament of Georgia, a staff member, or a visitor to the Parliament refuses to have the interview recorded".⁴²³

⁴¹⁷ With the letter of the Special Investigation Service dated 18.01.2024 N 0 24 00000771, the investigation was launched: on the fact of illegal interference in the professional activities of the journalist N.B. (Case N199250323001); on the fact of illegal interference in the professional activity of journalist N.K. (Case N1990323001); on the fact of illegally interfering with the professional activities of "TV Pirveli" journalist N.G. (case N199150323003); on the fact of illegally interfering with the professional activities of the journalist T.K. (Case N199150323001); On March 7-8, during the events that took place during the protest held near the Parliament building; on the fact of illegal interference in the journalist's professional activities (case N19908323001); on the fact of violent interference with the professional activity of journalist M.A. (case N199010523001); on the fact of illegally interfering with the professional activities of the editor/journalist G.M of the "Information Centers Network" LLC, by threat to violence (Case N199060723001); on the fact of interference in journalistic activities against the "Mtavari TV" journalist E.G. and cameraman N.G. (case N199201223002); on the fact of illegal interference in the professional activities of "TV Pirveli" and "Formula" employees (case N1992200923002); on the fact of illegal interference in the professional activities of journalists, G.B. and S.C. (case N199040923001); on the fact of illegal interference in the professional activity of journalist N. C. (Case N199040923001); on the fact of illegal interference in the professional activities of journalist N.C. (Case N199061023001); on the fact of illegally interfering with the professional activities of "TV Pirveli" journalist N.K. (Case N199201222001); On the fact of illegal interference in the professional activities of "TV Pirveli" journalists (Case N199190622001).

⁴¹⁸ Due to the absence of signs of crime (N.K.'s case).

⁴¹⁹ Letter of Special Investigation Service SIS 1 24 00002996, 20/02/2024.

⁴²⁰ №199050722006; №199140722003; №199301222001; №199140422002 and №199110522002 cases.

⁴²¹ Letter of the Special Investigation Service SIS 2 23 00002457, 17/02/2023, cases №199050722006; №199140722003; №199140422002; №199110522002; №199180322001; №199240622002; №199201222001; №199301222001

⁴²² Order №1/31/23 of the Speaker of the Parliament of Georgia dated February 6, 2023 "On approval of the accreditation procedure for mass media representatives in the Parliament of Georgia", see the link: <<https://shorturl.at/wHPZ3>>, [last visited on 4/03/2024].

⁴²³ Article 15, Par. 2, subparagraph "c" of the rule, as a result of violation of the mentioned and other types of obligations, according to Article 13, Paras. 1 and 2, by the decision of the head of the department, the parliamentary journalist's accreditation may be suspended for 1 month, and in case of repeating the violation - for 6 months, as for the journalist with special accreditation, he/she may be restricted from issuing accreditation for the same period. In addition, in

The provisions outlined in this rule were challenged in court by "Pirveli TV" which sought partial abolition,⁴²⁴ while the Public Defender presented an amicus curiae opinion.⁴²⁵ According to the Public Defender, the court should evaluate the extent to which the obligation imposed on journalists to terminate an interview if a member of the Parliament of Georgia, a staff member, or a visitor to the Parliament refuses to have the interview recorded is "necessary in a democratic society". Additionally, the court should assess the proportionality of the contested restrictive measures.

To make such assessments, it is crucial to consider the broader context prevailing in the country. Individual politicians, including members of parliament, often avoid visiting specific media outlets with which they disagree on editorial policies. Consequently, in some instances, journalists may only have the chance to ask desired questions and disseminate acquired information within the premises of the parliament. Preserving this opportunity for journalists is of utmost importance to fulfill the "public watchdog role" inherent in the media's function.

7.5. Facilitating the Enjoyment of Freedom of Expression

The government is obligated not to restrict freedom of expression unjustifiably; at the same time, it must take proactive steps to ensure the proper enjoyment of this right. To achieve this, the state, among other responsibilities, must ensure the protection of citizens from actions by third parties that could impede the exercise of freedom of expression.⁴²⁶

On January 15, 2023, in Kvareli, a group of citizens prevented Levan Berdzenishvili from delivering a lecture. Following an examination by the Office of the Public Defender, it was found that the representatives of the Ministry of Internal Affairs of Georgia failed to fulfill their duty to ensure Levan Berdzenishvili's full exercise of freedom of expression during the incident.⁴²⁷

From this perspective, it is noteworthy to mention another incident that occurred during the reporting year. In the Borjomi municipality, a group of citizens threw stones and paint towards one of the hotels and its visitors.⁴²⁸ The hotel was hosting a camp organized by representatives of "*Girchi - More Freedom*", where a lecture was also scheduled as part of the event. Additionally, vacationers and minors were present

accordance with the Par. 4 of the same article, it is not allowed to replace a journalist whose accreditation has been suspended for a certain period of time with another journalist.

⁴²⁴ Shortly after the enforcement of this rule, the journalists and operators of "Pirveli TV", "Mtavari TV" and "Formula" appealed to the Office of the Public Defender, whose accreditation was suspended precisely because of the violation of this obligation. Violation of the accreditation rule was the basis for the suspension of accreditation for the journalist of the online publication "Publica".

⁴²⁵ Public Defender's amicus curiae brief №04-2/5436 of June 7, 2023, which refers to subsection "c" of Article 15, Par. 2, the first and 2nd paras. of Article 13 of the Rule on the Accreditation of Mass Media Representatives in the Parliament of Georgia.

⁴²⁶ UN Human Rights Committee (HRC), General Comment No. 34, Article 19, Freedom of Opinion and Expression, 12 September 2011, CCPR/C/GC/34, para. 7; The Judgment of the European Court of Human Rights on March 16, 2000, case of Özgür Gündem v. Turkey, Para. 43.

⁴²⁷ On this issue, the Public Defender of Georgia addressed the Minister of Internal Affairs of Georgia with proposal №04-2/6363, 3.07.2023

⁴²⁸ Follow the link: <<https://tvpirveli.ge/ka/siaxleebi/sazogadoeba/40766-vitareba-ukontroloa-borjomshi-mobilizebulma-jupis-tsevrebm-sastumros-qvebi>>; <<https://formulanews.ge/News/92557>>, [last visited on 4/03/2024].

at the hotel. According to reports, the group's actions resulted in damage to a vehicle. Eyewitnesses on the scene stated that law enforcement officers failed to intervene to halt the violent actions. Furthermore, individuals at the hotel reported that despite notification, it took approximately 30 minutes for a patrol unit to arrive on the scene. Additionally, Zurab Girchi Japaridze, the leader of "Girchi - More Freedom," was attacked on his way to the camp.⁴²⁹ Similar to the previously discussed case, in this instance, the state had a positive obligation to take proactive measures to facilitate the exercise of freedom of expression.

The Public Defender calls on the Ministry of Internal Affairs of Georgia to take proactive measures in the future; in cases where third parties interfere with citizens' freedom of expression, law enforcement officers should independently take all necessary actions to ensure the complete enjoyment of this right.

Recommendations

To the Minister of Internal Affairs of Georgia, the Prosecutor General of Georgia, and the Head of the Special Investigation Service of Georgia:

- Specific and detailed guidelines should be developed for all law enforcement agencies to investigate violence committed against journalists.

To the Minister of Internal Affairs of Georgia:

- Form a working group comprising diverse media representatives and develop guidelines for media coverage of gatherings, demonstrations, and other significant events based on international best practices;
- Prior to gatherings, demonstrations, and other significant events (such as elections, protests, or large sporting events), meetings should be arranged between journalists and representatives of law enforcement agencies to discuss security concerns and collaboratively establish security protocols.

⁴²⁹ See the Public Defender's Assessment of this case in the chapter of this parliamentary report, "Torture and other cruel, inhuman and degrading treatment."

8. Freedom of Information

According to the Constitution of Georgia, everyone has the right to access and disseminate information, as well as to acquaint oneself with documents in public institutions in accordance with the law.⁴³⁰ Open governance and transparency are crucial in a democratic society to bolster trust between state institutions and citizens, prevent legal misconduct, and promptly identify existing violations.⁴³¹ Simultaneously, to ensure public institutions' accountability to the citizenry, it is vital to establish legal guarantees for the right to access public information, align them with international standards, and enforce them effectively.

One of the primary obstacles to protecting the right to access public information in the country is the outdated legislation governing the provision of public information⁴³² and the absence of an effective oversight institution to safeguard this right. As of now, the Council of Europe Convention of June 18, 2009, on "Access to Official Documents" has not been acknowledged as binding. Article 8 of this convention stipulates that the applicant should have the opportunity to appeal decisions regarding the non-disclosure of public information either in court or before an independent and impartial body, with a procedure that is swift and cost-effective. Several studies confirm⁴³³ that the duration of dispute resolution in court is notably lengthy. Consequently, relying solely on the judiciary as an oversight body cannot ensure timely access to information for interested parties, nor does it meet the standard established by Article 8 of the Council of Europe Convention of June 18, 2009, on "Access to Official Documents."

In 2023, the Public Defender of Georgia became aware of over 100 cases where information was refused to be accessed within the legally established timeframe. Most of these cases involved complaints from human rights organizations and journalists. The majority of complaints revolved around public institutions' prolonged inactivity regarding requests for public information. Throughout the year, the Government of Georgia's administration, ministries, and other public institutions disregarded applications and complaints from the "Institute for Development of Freedom of Information" (IDFI) regarding public information disclosure.⁴³⁴ Similarly, requests from the "Transparency International - Georgia" toward the Administration of the Government of Georgia went unanswered.⁴³⁵ Only after the Public Defender's Office intervened by addressing correspondences to the relevant agencies did the IDFI and other human rights defenders⁴³⁶ receive responses to some of their inquiries for public information. This underscores that, in

⁴³⁰ Constitution of Georgia (786-სს, 24/08/1995), Article 17, Article 18.

⁴³¹ Decision No. 1/4/757 of the Constitutional Court of Georgia dated March 27, 2017 in the case, "Citizen of Georgia Giorgi Kraveishvili vs. Government of Georgia".

⁴³² General Administrative Code of Georgia, Chapter III.

⁴³³ see Democracy Index - Georgia Study on "Problem of delay of cases in the general courts of Georgia", 19-25 <https://democracyindex.ge/uploads_script/studies/tmp/phpn0PDUK.pdf> [18.03.2024].

see "Media Access to Public Information - Legislation v. reality" <<https://shorturl.at/BPS37>> 37-39, [18.03.2024].

⁴³⁴ Applications 991/24, N984/24 and application №11600/23, the human rights organization could not receive public information from any ministry/minister's office (12 public institutions) and 77 agencies subordinate to the ministry. Detailed information is available at: <https://idfi.ge/ge/sharp_decline_in_access_to_public_information> [last visited on 04.03.2024].

⁴³⁵ Applications №11600/23 and №12957/23.

⁴³⁶ Applications №11600/23, №194/24, №15475/24, №6495/23.

many instances, public institutions unjustly restricted human rights organizations' access to public information. Journalists from "Publica", "Mountain News", and "Georgia News" also lodged complaints with the Public Defender due to unanswered inquiries concerning public information requests during the reporting period.⁴³⁷ Despite the Public Defender's recommendation, the Rustavi Municipality City Hall failed to provide public information to Kvemo Kartli Media.⁴³⁸

Timely access to public information is crucial and decisive, particularly for human rights defenders and journalists, as delayed information may diminish its significance to the public. During the reporting period, among the cases studied regarding the restriction of access to public information, notable instances include unjustified limitations on information concerning environmental protection issues, which are of high public interest.⁴³⁹ For human rights defenders and media representatives, who serve as public watchdogs, information gathering is an essential aspect of their work. Restricting access to public information for non-governmental organizations impedes their ability to fulfill their role as watchdogs, as their efforts contribute to facilitating informed public discourse on various issues. The existing challenges regarding the availability of public information in the country jeopardize the effectiveness of media activities.⁴⁴⁰

The challenges highlighted by the Public Defender of Georgia regarding the availability of public information once again underscore the pressing need to initiate reforms in the legislation governing freedom of information in the country and to establish an effective oversight institution.

Recommendations

To the Government of Georgia:

- Draft legislative amendments to enhance the legal standards for protecting public information, with consideration given to establishing an effective and independent supervisory mechanism to guarantee access to information.

⁴³⁷ Applications №12107/23, №15475/23, №189/23, №194/23 and №662/24.

⁴³⁸ Recommendation of the Public Defender of Georgia №04-5/9055 11.09.2023., Response of the Rustavi Municipality City Hall №01-3823262388 19.09.2023.

⁴³⁹ Applications №5383/23 and №12107/23.

⁴⁴⁰ See Judgments of the European Court of Human Rights; *Guseva v. Bulgaria*, § 37; *Shapovalov v. Ukraine*, § 68. *Medžlis Islamske Zajednice Brčko and Others v. Bosnia and Herzegovina*, § 86, *TÁRSASÁG A SZABADSÁGJOGOKÉRT v. HUNGARY*.

9. Freedom of Assembly

9.1. Introduction

The year 2023 was remarkable by many gatherings of different scale, content and form. Against the background of the gatherings of radical groups, there were challenges related to the usefulness of peaceful gatherings, legislative initiatives related to limiting the form and content of gatherings, disproportionate and, in some cases, illegitimate measures implemented to break up gatherings. The practice of administrative detention of assembly participants was still used. In general, during the reporting period, a number of challenges related to freedom of assembly remained unchanged, and in individual cases, the use of freedom of assembly became even more complicated.

It should be mentioned, that all the problems described in the 2020 special report of the Public Defender - "Freedom of peaceful assembly (area protected by rights and standard of assembly management)"⁴⁴¹ are still present. One of the issues that was in focus in the special report was improper regulation of spontaneous gatherings, Public Defender carried out constitutional lawsuit in relation to it.⁴⁴² On December 14, 2023, the Plenum of the Constitutional Court upheld the constitutional claim and, in relation to Article 21 (freedom of assembly) of the Constitution, recognized as unconstitutional the normative content of the Law of Georgia "On Assemblies and Manifestations", which provides for the obligation to notify the executive body of the municipality no later than 5 days before the assembly/manifestation is held. When warning within this period is not possible due to the spontaneity of the assembly/manifestation⁴⁴³. It should be noted that the court changed the practice⁴⁴⁴ established⁴⁴⁵ in the past and explained that the freedom of assembly protected by Article 21 of the Constitution protects the possibility of holding both pre-organized and spontaneous assembly and demonstration. At the same time, the court noted that the state is entitled to determine the obligation to inform/warn the relevant authorities about traffic disruptions from the moment when the organizers of the spontaneous assembly objectively have the opportunity to do so. The Public Defender believes that, based on the principles of this decision of the Constitutional Court, the issues related to the definition of different types of (including spontaneous) gatherings and the manner of their holding should be reflected in the law. It is extremely important that any changes are made in strict compliance with international standards.

⁴⁴¹ The report is available at: <<https://shorturl.at/FVW14>> [last accessed 04.03.2024].

⁴⁴² see Constitutional Lawsuit of the Public Defender of July 26, 2021 No. 1635, available at: <<https://rb.gy/7jx970>> [last viewed 03.04.2024].

⁴⁴³ Decision No. 3/3/1635 of the Constitutional Court of Georgia dated December 14, 2023 in the case, "The Public Defender of Georgia against the Parliament of Georgia, III, 1.

⁴⁴⁴ Decision No. 2/2/180-183 of the Constitutional Court of Georgia dated November 5, 2002 and protocol record No. 4/482,483,487,502 dated November 10, 2010.

⁴⁴⁵ According to the practice established by the decisions indicated in footnote 4 of the Constitutional Court, the freedom of assembly in the place of movement of people and transport, the right to hold a spontaneous protest demonstration without prior warning, was not considered even in the case when the participants of the protest occupied the place of movement of transport and people, blocked it or obstructed the movement.

9.2. March 7-9, 2023 Protest

On March 7-9, 2023, in front of the Parliament of Georgia, more than 100 people⁴⁴⁶ were arrested and special means were used during the protests against the adoption of so-called "foreign agents" draft law. In order to assess the issue of how legitimately and proportionally the interference with the right to assembly was carried out, the Office of the Public Defender requested information about the use of force during the protest, the grounds for stopping the protest, the special means used and the specific circumstances that led to the use of such means. We also requested information on making a warning before using special means and conducting negotiations with the participants of the protest.⁴⁴⁷

The Ministry did not provide information about the number of participants of the assembly who took illegal actions and the circumstances that led to the use of force against the peaceful participants of the assembly. The Ministry of Internal Affairs, in response,⁴⁴⁸ highlighted that on March 7 and 8, 2023, the protests held in the vicinity of the Legislative Body of Georgia and on Rustaveli Avenue repeatedly exceeded the norms permitted by the Law of Georgia "On Assemblies and Manifestations" and turned into massively violent, non-peaceful actions. The Ministry of Internal Affairs explains that they had information that a certain part of the protestors was ready to block the legislative building. The ministry's decision to deploy additional police forces resulted in the blocking of several streets. Later, the police officers were replaced by officers of the Department of Special Tasks, who were equipped with special protective equipment.

According to the Ministry, on March 7, in the evening hours, the use of "pepper spray" and "water jet" by the police was based on the verbal aggression of the citizens gathered at the entrances of the Parliament, throwing objects at the police officers. Subsequently, on the basis of deliberate damage to the barriers at the central entrance of the Parliament from the side of Rustaveli Avenue, attempts to enter the Parliament and throwing blunt objects at the police, the Ministry considered that the action completely went beyond the form of a peaceful gathering and took on a violent character.

According to the Public Defender's assessment, the Ministry's argumentation is not sufficiently substantiated, because on March 7, at the time of the announcement of the warning by the Ministry of Internal Affairs, the protest had a peaceful character and there was no reason to stop it completely and use force against all its participants. The Public Defender especially points out that isolated incidents of violence are not enough to consider the entire gathering as violent,⁴⁴⁹ in such cases, any kind of intervention should be aimed at implementing an individual, necessary and proportionate response to

⁴⁴⁶ According to the information of the Ministry of Internal Affairs, 146 (one hundred forty-six) persons were arrested administratively, including 2 (two) minors, and 1 (one) person was arrested under criminal law during the March 7-9 protests. Letter of the Ministry of Internal Affairs of Georgia dated October 31, 2023 MIA 1 23 03192240.

⁴⁴⁷ Letter of the Office of the Public Defender of March 17, 2023 No. 04-2/2774.

⁴⁴⁸ Letter MIA 5 23 01937186 of July 6, 2023 of the Ministry of Internal Affairs.

⁴⁴⁹ UN Human Rights Committee General Comment No. 37 (2020) on the Right to Peaceful Assembly (Article 21), CCPR/C/GC/37, 17 September 2020, paras.15,19.

the violent actions of specific individuals, and due to such isolated incidents, the entire gathering-manifestation cannot be considered as violent.

As for the events that took place on March 8, the use of coercive measures and special means in the evening hours was based on the violent actions of a certain group of participants of the meeting at the back entrance of the Parliament of Georgia. After the appropriate response to these actions, the use of force continued against the participants of the demonstration standing in front of the Parliament, who continued to gather peacefully. According to the position of the Ministry of Internal Affairs, despite numerous attempts to ease the situation, the participants of the gathering started throwing stones, various breakable objects and pyrotechnics at the policemen. According to the Public Defender's assessment, in this case, there was no reason to use force against the peaceful participants of the gathering in front of the Parliament. It should be noted⁴⁵⁰ that unjustified cases of use of force became the main reason for the escalation of the situation. During the actions, after the use of force, the situation became tense many times. Law enforcers used special means even when there was no such necessity. The footage published by the media⁴⁵¹ proves that the police officers used special means even when the participants of the gathering approached the law enforcement officers peacefully. In such a case, law enforcement officers used special means several times, including targeting the face.

9.3. The Practice of Administrative Detentions During Peaceful Assembly

For years, the participants of various peaceful gatherings have been subject to arrests on the grounds of petty hooliganism and disobedience to the legal request of a law enforcement officer, provided for in the Code of Administrative Offenses. Arrests of peaceful assembly participants, in many cases, can have a significant impact on the course of the assembly as a whole. The practice of administrative detention of peaceful assembly participants was used last year as well.⁴⁵² The grounds for detention are mostly related to the content and/or form of the expressions of peaceful assembly participants. In some cases, the only reason for detention was the political expression.⁴⁵³

Last year, the Public Defender's Office also became aware of the facts of taking away and tearing down protest posters from the participants of a peaceful gathering.⁴⁵⁴ Along with presenting the opinion of the

⁴⁵⁰ Public Defender's Special Report, "Freedom of Peaceful Assembly (Field Protected by Right and Standard of Assembly Management)", p. 45, available at: <<https://shorturl.at/FVW14>> [last accessed 04.03.2024].

⁴⁵¹ Available at: <<https://rb.gy/yq5eji>> [last seen: 04.03.2024].

⁴⁵² For example, on March 2, 3, 7, 8, June 2-3, 2023, in Tbilisi and Batumi, on July 31, the facts of arrests at the ongoing protest at Batumi port.

⁴⁵³ It should be mentioned that on June 2-3, 2023, in Tbilisi, in the cases of the arrest of human rights defenders at the protest taking place in front of the parliament, the public defender presented the opinions of the friend of the court to the court, where he pointed out that criticism of the government is not allowed to be the basis for interfering with the right. Unfortunately, the court did not share the standards set forth in the friend of the court opinion and found the detainees to be offenders.

⁴⁵⁴ From May 29 to June 3, 2023, during the meeting for the members of the civil activist movement "Stubborn", the representatives of the patrol police of the Ministry of Internal Affairs took place and tore down protest posters.

friend of the court, the Office of the Public Defender addressed several times⁴⁵⁵ to the investigative agencies with the question whether the investigation has been started in connection with the above-mentioned facts. In response,⁴⁵⁶ we were informed that the circumstances indicated in the appeal of the Public Defender are being studied.⁴⁵⁷

9.4. Restrictions on the Use of Temporary Constructions

Forms of expression, among others, include the possibility of creating yurts, tents and other types of structures.⁴⁵⁸ This issue has been a subject of judgment and discussion for years, because, despite legal guarantees, this component of the right is often restricted.⁴⁵⁹ In relation to this issue, in 2023 it was significant that the Parliament initiated a draft law that severely limited the possibility of creating temporary constructions (including tents) by the participants of gatherings/manifestations.⁴⁶⁰ In connection with this issue, the Public Defender issued a statement and explained that the presented draft law could not meet the requirements stipulated by international human rights law and contradicted the constitutional standards of freedom of assembly.⁴⁶¹ A negative conclusion was prepared by the OSCE/ODIR Institute, it directly states that the draft law should not be adopted.⁴⁶² The draft law, which was adopted by the Parliament in an accelerated manner, was vetoed by the President of Georgia, and at this stage the process of adopting the law is suspended.⁴⁶³ The Public Defender points out that it is extremely important for the Parliament of Georgia, taking into account the relevant international standards, to refuse to adopt the law.

⁴⁵⁵ Letter No. 04-2/6200 dated June 28, 2023 of the Office of the Public Defender, Letter No. 04-7/12448 dated December 25.

⁴⁵⁶ Letters No. 13/50432 of July 21, 2023 and No. 13/213 of January 8, 2024 of the General Prosecutor's Office of Georgia.

⁴⁵⁷ see Freedom and Security Chapter of the 2023 Parliamentary Report of the Public Defender of Georgia.

⁴⁵⁸ OSCE/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and European Commission for Democracy through Law (Venice Commission); Guiding Principles on Freedom of Assembly, Second Edition, 2010, para. 18-20.

⁴⁵⁹ On June 1, 2023, Beka Grigoriadis was not allowed to set up a tent in a public space near the Parliament, in Oliver Wardrop garden, and she was arrested on this basis, also on November 23, 2023, people at the assembly in front of the Ministry of Environment and Agriculture persons were limited in opportunity to create tents and temporary constructions

⁴⁶⁰ According to the draft law, the participants of the assembly or demonstration are prohibited from setting up a temporary structure, if its arrangement: a) poses a danger to the participants of the assembly or demonstration or other persons; b) prevents the protection of public order and security by the police; c) causes disruption of the normal functioning of the enterprise, institution or organization; d) it is not related to holding a gathering or demonstration; e) If the holding of the assembly and demonstration is not significantly hindered without its arrangement, the draft law is available at: <<https://shorturl.at/CGOS8>> [last viewed 04.03.2024].

⁴⁶¹ See the statement of the Public Defender regarding the planned amendments to the Law of Georgia "On Assemblies and Manifestations" is available at: <<https://shorturl.at/AKRU9>>, [last viewed on 12.01.2024].

⁴⁶² see Urgent conclusion on the planned amendments to the law of Georgia on gatherings and demonstrations by OSCE/ODIR, available on the website: <<https://shorturl.at/dozCN>> [last viewed on 04.03.2024].

⁴⁶³ Motivated remarks of the President of Georgia are available on the website: <<https://shorturl.at/cCH13>> [last viewed on 04.03.2024].

9.5. Counter meetings and actions organized by radical groups

The legislation of Georgia only partially regulates simultaneous gatherings. The law does not define the norms regulating different types of specific gatherings. Synchronous gatherings are gatherings scheduled at the same time and place. Its special form is counter-meetings, the participants of which protest against the opinions expressed⁴⁶⁴ at another meeting. It is an opportunity for the public to express and hear different views on controversial issues. In such cases, the coincidence of time and place for the purposes of holding peaceful assemblies becomes an essential part of the message conveyed by the counter-assembly, during which time it should be possible to deliver the message to the target audience (the so-called Sight and Sound principle).

At the same time, the participants of the counter-meetings, with the support of the state, should have the opportunity to hold a demonstration without fear of physical retribution from the opponents; Such fear can prevent unions or other groups with common ideas and interests from expressing their opinions openly on highly controversial issues affecting society. In a democracy, a counter-demonstration cannot turn into an obstacle to the exercise of the right to demonstrate.⁴⁶⁵ The Public Defender points out that, although the term "peaceful assembly" should be interpreted in such a way as to include actions that may annoy or offend someone, or temporarily hinder or interfere with the activities of third parties, but when the purpose of the assembly is inhumane or humiliating treatment or their intentional intimidation or harassment, such expression of the participants of the assembly goes beyond the scope of the protected area and its purpose is to retaliate against specific individuals or groups.⁴⁶⁶ When an assembly (manifestation) is specially assembled for the purpose of committing a criminal act, it is not only against the law, but also outside the scope protected by the constitution.⁴⁶⁷

The case of confrontation of counter-meetings took place on June 30, 2023, in Kaspi, during the organization of an action against the members of the political party "United National Movement", when the members of the United National Movement, persons present at the party's meeting and journalists were confronted verbally and physically.⁴⁶⁸ The Office of the Public Defender started studying the incident on its own initiative and referred it to the investigative bodies.⁴⁶⁹ According to the information provided by the Ministry of Internal Affairs, an investigation was started on the facts of damage to other people's

⁴⁶⁴ Special Report of the Public Defender of Georgia Freedom of Peaceful Assembly (sphere protected by right and standard of assembly management), 2020, 10.

⁴⁶⁵ *Identoba and Others v. Georgia*, Application 73235/12, Judgment of the European Court of Human Rights of 12 May 2015, paragraph 95.

⁴⁶⁶ OSCE/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and European Commission for Democracy through Law (Venice Commission); *Guiding Principles on Freedom of Assembly*, Second Edition, 2010, para. 25.

⁴⁶⁷ Decision No. 2/482,483,487,502 of the Constitutional Court of Georgia of April 18, 2011 II, 101.

⁴⁶⁸ The information was spread by a number of media outlets: <<https://rb.gy/uv1zc>>, <<https://rb.gy/2z82h>>, [last viewed on 04.03.2024].

⁴⁶⁹ Letters No. 04-7/7144 and No. 04-7/7146 of the Office of the Public Defender of July 20, 2023.

property and possible physical abuse.⁴⁷⁰ The General Prosecutor's Office explained that at this stage, a specific person is not known as a victim or accused, and the investigation continues.⁴⁷¹

Particularly problematic regarding the holding of counter-assemblies was the gathering of radical groups in opposition to the July 8, 2023 Pride event to disrupt the Pride event. The Public Defender points out that, from this point of view, it is important to assess the use of hate speech by the counter-demonstrators, especially statements with homophobic meaning, as well as appropriate actions.⁴⁷² Considering this issue, it should be assessed whether the constitutional scope of the right is protected or not.⁴⁷³

Proposals

To the Parliament of Georgia

- Issues related to the manner of holding various types of gatherings (including spontaneous and simultaneous gatherings) should be regulated;
- In order to prevent the escalation of the situation and forceful interference with the right as much as possible, a mechanism for dialogue and negotiation with the participants of the meeting should be introduced at the legislative level.

⁴⁷⁰ Letter MIA 3 23 02268807 of the Ministry of Internal Affairs dated August 4, 2023.

⁴⁷¹ Letter No. 13/5374 of the General Prosecutor's Office of Georgia dated January 29, 2024.

⁴⁷² Berkman v. Russia, application 46712/15, judgment of the European Court of Human Rights of 1 December 2020, paragraph 56.

⁴⁷³ Regarding this issue, see Equality chapter of this report.

10. Human Rights Defenders

The role of human rights defenders—individuals who act independently or collaboratively to safeguard, uphold, and advance human rights—is pivotal in advancing human rights, democracy, the rule of law, and governmental accountability.⁴⁷⁴

The primary duty of the Public Defender is to safeguard and advance the work of human rights defenders, a responsibility executed within the framework of the authority vested in the role. Regrettably, in 2023, a discretization campaign targeted human rights defenders, resulting in constraints on their freedom of expression, assembly, and the essential democratic environment crucial for their unrestricted advocacy.

In 2023, the introduction of the "foreign agents" bills sparked significant criticism from numerous local and international organizations, as well as strategic partners of the country.⁴⁷⁵ While parliamentary discussions on the draft law were halted, high-ranking politicians persisted in attempting to discredit both human rights defenders and non-governmental organizations throughout the year.⁴⁷⁶ Allegations ranged from attempts to link non-governmental organizations with specific political parties to accusations of financial opacity in their operations and claims of actions detrimental to obtaining EU candidate status. Additionally, some human rights defenders faced public criticism and accusations from politicians for their expressed positions.⁴⁷⁷ There were even instances of violent groups issuing threats of physical harm against human rights defenders.⁴⁷⁸ The Public Defender emphasizes that prosecuting or retaliating against individuals for expressing their opinions is unacceptable. It is crucial to remember that freedom of expression also safeguards ideas that may offend or disturb the state or certain societal groups.⁴⁷⁹ The Public Defender further highlights that discreditory remarks directed at human rights defenders create a chilling effect on their activities. For years, the Public Defender has stressed that government representatives, while exercising their lawful powers, must adhere strictly to internationally recognized standards concerning human rights defenders. This includes refraining from engaging in campaigns aimed at discrediting them and providing support for their endeavors.⁴⁸⁰

During the reporting period, it was revealed that the government erected barriers to the operations of non-governmental organizations and media representatives. Specifically, concerns and complaints raised by these entities regarding the access to public information went unaddressed by the administration of the Government of Georgia, ministries, public institutions under the ministries, or other relevant

⁴⁷⁴ See Information posted on the websites of the Office of the United Nations High Commissioner for Human Rights, the Council of Europe and the Organization for Security and Cooperation in Europe (OSCE): < <https://bit.ly/36GAaY4> > < <https://bit.ly/37CVhvW> > < <https://bit.ly/2GzVbsT> > [04.03.2024].

⁴⁷⁵ For details see the Report on the State of Human Rights Protection in Georgia 2022, p. 166.

⁴⁷⁶ See for example, < <https://shorturl.at/uzOX9> > < <https://shorturl.at/afFL4> > < <https://shorturl.at/grzDS> > [04.03.2024].

⁴⁷⁷ Information available at: < <https://shorturl.at/tuEJ1> > [04.03.2024].

⁴⁷⁸ The facts of the verbal threats made by the violent groups against civil activist Nata Feradze and the fact of approaching her residence, information is available at: < <https://shorturl.at/CFKS3> > [04.03.2024].

⁴⁷⁹ Gachechiladze v. Georgia Application: 2591/19, Judgment of the European Court of Human Rights of July 22, 2021, paragraph 49.

⁴⁸⁰ See For example, the Report on the Public Defender of Georgia on the State of Human Rights Protection in Georgia 2020, Tbilisi, 2021, 260; 2021 Report, Tbilisi, 2022,197; 2022 Report, Tbilisi, 2023, 168.

agencies.⁴⁸¹ This lack of response significantly impeded their ability to function effectively as public watchdogs.

Recommendations

To the Minister of Internal Affairs of Georgia:

- To delineate the concept of human rights defenders and compile comprehensive statistics on all criminal acts perpetrated against them in connection with their activities, in adherence to international standards, such as the 1998 UN Declaration on Human Rights Defenders and the OSCE/ODIHR Guidelines on the Protection of Human Rights Defenders.

To Officials:

- To adhere to internationally recognized standards for human rights defenders, while exercising the authorities conferred by legislation. This includes refraining from participating in campaigns to discredit them and providing support for their endeavors. Simultaneously, it is essential to ensure meaningful involvement of civil society in the decision-making process.

⁴⁸¹ For details see Freedom of Information Chapter of the 2023 Parliamentary Report of the Public Defender of Georgia.

11 . Right to Property

The right to property is constitutionally guaranteed in Georgia. The 2022 Parliamentary Report highlighted the persistent issue of unjustified delays in the process of reclaiming immovable property from illegal possession to the completion of enforcement proceedings, a concern that has persisted into the current reporting year. Delays in the adjudication of civil cases, including those involving requisitioning of immovable property, remain problematic.⁴⁸² According to the National Bureau of Law Enforcement,⁴⁸³ between January 1, 2023, and January 1, 2024, the agency received 610 cases related to illegal possession of immovable property, with an additional 1,861 ongoing enforcement cases recorded as of the end of January 2024. The number of pending cases remains largely unchanged from the previous year,⁴⁸⁴ underscoring the urgent need for measures to ensure the prompt realization of property rights. The Parliament of Georgia has endorsed the recommendation of the Public Defender of Georgia, as outlined in the Resolution "On the State of Protection of Human Rights and Freedoms in Georgia in 2022," to streamline the management of cases involving the requisitioning of property by the National Bureau of Law Enforcement. This initiative aims to prevent unjustified delays in satisfying the rights of property owners. The Parliament has instructed relevant authorities to propose solutions to address this issue effectively.

11.1 Property Rights of Individuals Affected by Incomplete Cooperative Apartment Buildings

For numerous years, the Public Defender of Georgia has prioritized addressing the obligation owed to individuals impacted by cooperative housing construction, acknowledged as an internal debt. Applications received by the Office of the Public Defender of Georgia⁴⁸⁵ during the reporting period underscored that this issue remains unresolved and problematic in various regions.

In the Parliamentary Reports spanning 2015 to 2017,⁴⁸⁶ the Public Defender of Georgia urged the Government to establish a unified protocol for repaying domestic debt associated with cooperative housing and to implement an efficient mechanism to fulfill obligations to affected populations, thus addressing this issue. Positive steps were taken in Tbilisi in 2018 to tackle this problem. Specifically, following the Public Defender's recommendation, the rating points provided by the LEPL Social Service Agency and territorial principle were determined as defining factors for order of priority to allocate real estate to affected individuals from cooperative housing projects. These efforts by competent authorities in Tbilisi Municipality have yielded results, with the number of individuals whose entitlements have not been fulfilled by the state decreasing by 283 in the reporting year. According to the information from the

⁴⁸² Democracy Index - According to the Georgia Independent Lawyers Group's 2023 study titled Problem of Case Delays in the General Courts of Georgia, "the significant delays in case proceedings in court primarily stem from administrative and civil cases in the courts of first instance". Deadlines set by legislation are frequently breached. This information can be found at: < https://democracyindex.ge/uploads_script/studies/tmp/phpn0PDUK.pdf > [last visited on 29.03.2024].

⁴⁸³ Letter №3637 of the LEPL National Bureau of Enforcement, dated January 22, 2024.

⁴⁸⁴ 1920 ongoing enforcement cases related to the recovery of real estate from illegal possession.

⁴⁸⁵ Application №14042 of G.G. November 22, 2023; Application №15183 of D.L. December 22, 2023.

⁴⁸⁶ 2015 Report of the Public Defender of Georgia on the State of Human Rights Protection in Georgia, p. 557.

2016 Report of the Public Defender of Georgia on the State of Human Rights Protection in Georgia, pp. 821-823. 2017 Report of the Public Defender of Georgia on the State of Human Rights Protection in Georgia, p. 178.

Property Management Agency of Tbilisi Municipality,⁴⁸⁷ between January 1, 2023, and the beginning of the current year, the Municipality provided real estate to 283 former cooperative apartment building members or their successors. In total, the number of individuals impacted by cooperative housing construction within Tbilisi's territorial boundaries, yet to have their entitlements fulfilled by the state, was 3892⁴⁸⁸ in 2019, reducing to 1192⁴⁸⁹ by 2024.

In contrast, the situation in other regions of Georgia markedly differs. According to the information provided by the municipalities,⁴⁹⁰ over the past eight years, municipalities have failed to implement effective measures to fulfill obligations to those affected by cooperative housing, with little to no engagement with the Government of Georgia or the Ministry of Finance. Batumi municipality presents a slight difference from this trend. Per the provided information,⁴⁹¹ Resolution No. 15 of the City Council of Batumi Municipality, dated July 19, 2022, approved the "Spatial Planning, Architectural and Construction Code of Georgia" within the municipality's jurisdiction, outlining measures for temporary support and compensation, along with the operational guidelines for the Deliberative Council as stipulated by law. In conjunction with other social and infrastructural support initiatives, this rule includes provisions for implementing measures aimed at aiding the satisfaction of individuals impacted by cooperative housing issues. Nevertheless, the general provisions of this legal act do not constitute an effective mechanism for fulfilling obligations towards them. Consequently, the number of individuals affected by cooperative housing in Georgia's regions, yet to have their entitlements fulfilled by the state, remains unchanged. According to the Ministry of Finance's 2019 database of cooperative housing members,⁴⁹² 2801 individuals were affected by cooperative housing across Georgia's regions, a figure that has remained stagnant.⁴⁹³

For decades, individuals impacted by cooperative housing have been awaiting in vain for the government to fulfill its obligations toward them. It is crucial to promptly develop suitable regulations for the

⁴⁸⁷ Letter №61-0124036812 of the LEPL Property Management Agency of Tbilisi Municipality dated February 5, 2024.

⁴⁸⁸ Letter №08-02/14791 of the Ministry of Finance of Georgia, dated February 11, 2019.

⁴⁸⁹ Letter №08-02/10484 of the Ministry of Finance of Georgia, dated February 12, 2024.

⁴⁹⁰ Letter №12-1224026119 of Akhaltsikhe Municipality City Hall, dated January 26, 2024;

Letter №42-4224025110 of Poti Municipality City Hall, dated January 25, 2024;

Letter №36-3624024202 of Ozurgeti Municipality, dated January 24, 2024;

Letter №62-622402429 of Samtredia Municipality City Hall, dated January 24, 2024;

Letter №34-3424023279 of Mtskheta Municipality City Hall, dated January 23, 2024;

Letter №26-262402279 of Telavi Municipality City Hall, dated January 22, 2024;

Letter №01-3824018371 of Rustavi Municipality City Hall, dated January 18, 2024;

Letter №114-11424030515 of Kobuleti Municipality City Hall, dated January 30, 2024;

Letter №44-4424031361 of Kutaisi Municipality City Hall, dated January 30, 2024;

Letter №56-562404013 of Dedoplistkharo Municipality City Hall, dated February 9, 2024.

⁴⁹¹ Letter №14-1424047443 of Batumi Municipality City Hall, dated February 16, 2024.

⁴⁹² Letter №08-02/14791 of the Ministry of Finance of Georgia, dated February 11, 2019.

⁴⁹³ Letter №08-02/10484 of the Ministry of Finance of Georgia, dated February 12, 2024; Akhaltsikhe- 24 coop. members, Akhgori - 30 coop. members, Akhalkalaki - 50 coop. members, Batumi - 547 coop. members, Poti - 27 coop. members, Mtskheta - 46 coop. members, Ozurgeti - 53 coop. members, Dedoplistskaro - 40 coop. members, Kobuleti - 58 coop. members, Kutaisi - 729 coop. members, Rustavi - 103 coop. members, Senaki - 51 coop. members, Chiatura - 24 coop. members, Khashuri - 82 coop. members, Samtredia - 87 coop. members, Zugdidi - 149 coop. members, Telavi - 295 coop. members, Gardabani - 35 coop. members, Gori - 371 coop. members.

repayment of recognized domestic debt linked to cooperative housing construction within Georgia's municipalities. This includes establishing priority criteria for satisfaction and devising an effective mechanism to fulfill recognized obligations to the affected population.

11.2. Right to Property in Criminal Cases⁴⁹⁴

During the reporting period, the Office of the Public Defender uncovered a legislative gap concerning the responsibility for the cost of keeping the physical evidence obtained/removed by the investigation in the criminal case - the vehicle in the parking lot to be born my the owner/possessor of the vehicle regardless of their status in the case. Specifically, the current version of the Law of Georgia on LEPL Public Security Management Center – “112” under the Ministry of Internal Affairs of Georgia, imposes the obligation to reimburse storage costs on any participant in the criminal process (whether convicted, accused, acquitted, victim, or witness) provided they are the owner or legal owner of the vehicle in question. This obligation applies regardless of the linkage of the vehicle to the crime or the duration of the vehicle's storage in the secured parking lot. The law fails to distinguish between situations where the vehicle is retained by the prosecution as physical evidence in the interest of investigation and justice, or if it is presented by the defense,⁴⁹⁵ as distinguished by the Criminal Procedure Code.

According to the assessment by the Public Defender, the practice of charging the owner or legal owner for the expenses related to retaining evidence obtained by the prosecution contradicts the Criminal Procedure Code of Georgia. Specifically, the Code stipulates that concerning material evidence, the convicted individual is solely responsible for covering the expenses associated with the storage and transmission of evidence presented by them or their legal representative.⁴⁹⁶ This includes reimbursement for storage and transportation costs. Moreover, the legislation does not impose an obligation on victims and witnesses to bear the costs of legal proceedings.

According to the legislation: (1) If a vehicle is seized by the investigation as material evidence and is considered an object of the crime and/or a weapon, or if it was used in the commission of a crime or obtained through criminal means, the court must confiscate the vehicle from the convicted person; (2) If the vehicle is not an object of the crime or a weapon, it shall be returned to the convicted person.

In this latter scenario, pursuant to the Law of Georgia on LEPL Public Security Management Center – “112” under the Ministry of Internal Affairs of Georgia, the expenses are covered by the convicted individual, which contradicts procedural legislation. Furthermore, it is noteworthy that in the case of a convicted individual, material evidence obtained by the prosecution may be retained until the completion of the imposed prison sentence.⁴⁹⁷ During this period, storage costs for the vehicle may also be levied.

In situations where the owner or legal owner's use of the vehicle is restricted against their will due to investigative interests, imposing additional charges on them for storing the vehicle in a secured parking

⁴⁹⁴ See this issue in detail in the 2023 Activity Report of the Criminal Justice Department of the Public Defender.

⁴⁹⁵ Paragraph 3 of Article 71 of the Law of Georgia on LEPL Public Security Management Center – “112” under the Ministry of Internal Affairs of Georgia.

⁴⁹⁶ Paragraph 2 of Article 91 of the Criminal Procedure Code of Georgia.

⁴⁹⁷ If he/she cannot give a power of attorney to another person with regard to the vehicle due to various circumstances.

lot contravenes legislation. According to this legislation, the state, as the entity responsible for investigation and the administration of justice, is obliged to bear procedural costs, except those regulated by Article 91 of the Criminal Procedure Code of Georgia.

The investigation and trial of a criminal case can often span months or even years, reaching until the expiration of the statute of limitations for the relevant crime.⁴⁹⁸ Moreover, if an individual is being sought, the statute of limitations is put on hold until they are apprehended or reported to law enforcement,⁴⁹⁹ a situation that could potentially extend indefinitely. Consequently, storage costs may inflict considerable financial harm on the owner or legal owner of the vehicle and impinge upon their property rights.⁵⁰⁰

Therefore, the owner or legal owner of the seized vehicle is inherently deprived of the right of ownership due to the legitimate interests of the investigation. However, imposing storage costs on the owner or legal owner, when the seizure and prolonged storage of the vehicle serves the investigative purpose, unjustly burdens the individual financially and runs counter to the principles outlined in the Criminal Procedure Code of Georgia regarding the allocation of procedural costs.

To address the legislative gap identified through the examination of the issue, and to align the Law of Georgia on LEPL Public Security Management Center – “112” under the Ministry of Internal Affairs of Georgia with the norms of the Criminal Procedure Code of Georgia, thereby safeguarding the property rights of participants in the criminal process, the Public Defender of Georgia has submitted a legislative proposal to the Parliament of Georgia.⁵⁰¹

Proposals

To the Parliament of Georgia:

- To introduce amendments to subparagraphs "a" and "b" of Paragraph 3 of Article 7¹ of the Law of Georgia on LEPL Public Security Management Center – “112” under the Ministry of Internal Affairs of Georgia, to ensure that participants in criminal proceedings are not held responsible by the prosecution for reimbursing the costs associated with the removal of vehicle.

Recommendations

To the Government of Georgia:

- To develop rules for the repayment of acknowledged domestic debts linked to cooperative housing across Georgian municipalities, including the establishment of a prioritization scheme for satisfying individuals and devise an efficient mechanism for fulfilling recognized obligations to affected populations.

⁴⁹⁸ Article 103 of the Criminal Procedure Code of Georgia.

⁴⁹⁹ Paragraph 3 of Article 71 of the Criminal Code of Georgia.

⁵⁰⁰ Paragraph 2 of Article 19 of the Constitution of Georgia.

⁵⁰¹ Proposal N15-2/2465 of the Public Defender of Georgia, dated March 11, 2024.

12. Freedom of Belief and Religion

12.1. Introduction

This chapter is a review of the main challenges related to the freedom of belief and religion in 2023, including the discriminatory legal provisions pertaining to various religious associations, alleged hate crimes committed on religious grounds, and issuing a construction permit for building a place of worship.

The Public Defender welcomes the amendments to the Law of Georgia on Patient Rights, which require written informed consent for the procedure of transfusion of human blood or its components.⁵⁰²

Unfortunately, the rest of the recommendations/proposals made by the Public Defender were not implemented and as a result, discriminatory legislative provisions remain intact. No guidelines have been developed for the medical establishments operating in Georgia regarding the permission or instructions for the use of alternative methods/preparations that can replace the hemotransfusion procedure. The issue of returning the buildings of worship confiscated during the Soviet period to their historical owners also remains a challenge. Unfortunately, no steps have been taken to date, to itemise and evaluate the confiscated properties and the extent of damage inflicted by the Soviet regime upon the religious associations within the territory of Georgia.

For many years, the Public Defender has been submitting a proposal to the parliament, calling upon the legislative body to introduce an alternative legislative provision in the Labour Code of Georgia, allowing the non-Orthodox population, if they wish, the opportunity to avail themselves of guaranteed religious holidays specific to them.⁵⁰³ It is noteworthy that on 29 May 2023, at a meeting with the working group studying the issue of the feasibility of accepting the proposals made in the Report of the Public Defender on the Protection of Human Rights and Freedoms in Georgia in 2022, which was submitted to the parliament, the Office of the Public Defender learned that the parliament accepts the above-mentioned proposal and work is underway on legislative amendments to grant the non-Orthodox population the right to religious holidays specific to them. In order to find out more on this matter, since the letter sent by the Office of the Public Defender to the parliament⁵⁰⁴ was left unanswered as of March 2024, it is not known to us what specific measures were implemented to fulfil the proposal.

In the context of freedom of religion, the judgment adopted by the European Court of Human Rights in 2023 regarding a Muslim boarding school in Kobuleti is noteworthy. In this case, the ECtHR found the violation of positive obligations by the respondent State – Georgia – of the applicants' rights under Article 8 (right to respect for private life) and Article 9 (freedom of thought, conscience and religion) in conjunction with Article 14 (prohibition of discrimination) of the European Convention on Human Rights.⁵⁰⁵ The ECtHR concluded that the applicants had been subjected to unlawful mob action, hate speech and other discriminatory actions on account of their religion and had been prevented from opening a Muslim boarding school in Kobuleti. The discriminatory behaviour, which consisted mostly of

⁵⁰² The Law of Georgia on Patient's Rights, Article 22.g)¹.

⁵⁰³ The 2022 Parliamentary Report of the Public Defender of Georgia, Tbilisi, 2023, p. 185; the 2021 Parliamentary Report of the Public Defender of Georgia 2022, Tbilisi, p. 170; the 2020 Parliamentary Report of the Public Defender of Georgia, Tbilisi, 2021, p. 224.

⁵⁰⁴ Letter no. 12-5/9628 of the Public Defender of Georgia, dated 25 September 2023.

⁵⁰⁵ *Georgian Muslim Relations and Others v. Georgia*, application no. [24225/19](#), ECtHR judgment of 30 November 2023.

hate speech, threats and humiliating treatment, coupled with the police's inactivity, created in the target population feelings of fear and insecurity and resulted in them not being able to open a Muslim boarding school. It was essential for the relevant domestic authorities to take all reasonable steps, including conducting an investigation in that specific context to unmask the role of possible religious bias, if any, in the events in question and in protecting the applicants from religious discrimination. The Court found, however, in the light of the limited and delayed efforts employed in the present case, that the national authorities had failed in their duty to establish whether religious prejudice may have played a role in the events and react accordingly as required under the Convention. In the light of these findings, the Court concluded that there had been a breach of the respondent State's positive obligations, *inter alia*, under Article 9 of the Convention.⁵⁰⁶ The facts of this case are extensively reviewed in the parliamentary reports of the Public Defender of the past years.⁵⁰⁷

12.2. Defence Code

In the reporting period, the Parliament of Georgia adopted a new Defence Code. In terms of freedom of religion, one of the important innovations of the code is that the clergy will no longer be exempted from national military service⁵⁰⁸ and instead will be called up for non-military, civil service.⁵⁰⁹ At the same time, the Constitutional Agreement Between the State of Georgia and the Apostolic Autocephalous Orthodox Church of Georgia, the so-called Concordat, exempts Orthodox clergymen from military duties.⁵¹⁰ According to the information received from the Ministry of Defence, Orthodox priests have never benefited from this provision of the constitutional agreement and instead availed themselves of the mechanism provided by the legislation in force, which allowed them a deferment from being drafted into the national military service.⁵¹¹ The Public Defender will monitor how the said amendment will be applied equally in practice regardless of the religious organisation.

12.2.1. The Provision on Religious Convictions

The Defence Code, *inter alia*, regulates the maintenance of the electronic system of the mobilisation reserve, in which personal data about all persons subject to mobilisation are entered.⁵¹² Maintenance of the electronic system is a part of the mandate of the LEGAL ENTITY UNDER PUBLIC LAW (LEPL) which is part of the Ministry of Defence.⁵¹³ The code lists exhaustively the personal data that must be entered into

⁵⁰⁶ *Ibid.*, paras. 98-100.

⁵⁰⁷ The 2014 Parliamentary Report of the Public Defender of Georgia, pp. 432-434. The 2015 Parliamentary Report of the Public Defender of Georgia, pp. 420-421.

⁵⁰⁸ The provision will come into force on 1 January 2025.

⁵⁰⁹ [The Law of Georgia on Non-Military, Alternative Civil Service](#), Article 4.b). For comparison, see the wording of Article 4 of this law before 21 September 2023.

⁵¹⁰ See the Constitutional Agreement Between the State of Georgia and the Apostolic Autocephalous Orthodox Church of Georgia, Article 4.1.

⁵¹¹ The information was supplied to the representatives of the Office of the Public Defender by the Deputy Minister of Defence, Mr Grigol Giorgadze, on 17 January 2023, at the meeting held in the Ministry of Defence regarding the Draft Defence Code of Georgia.

⁵¹² Such persons are mostly male citizens of Georgia between 18 and 60 years of age, whose total number exceeds 1.02 million according to the 2023 data of the National Statistics Office of Georgia.

⁵¹³ The Defence Code of Georgia, Article 97, paras. 1-3.

the electronic system of the mobilisation reserve. Information about the religious convictions of persons subject to mobilisation is one of the collected data components.⁵¹⁴

Under the ECtHR case-law, the freedom to manifest one's beliefs also contains a negative aspect, namely the individual's right not to manifest his or her religion or religious beliefs and not to be obliged to act in such a way as to enable conclusions to be drawn as to whether he or she held – or did not hold – such beliefs.⁵¹⁵ In one case, the Court explained that the indication of a person's faith on an official document, whether obligatory or optional, is incompatible with the right to thought and religion protected by the Convention.⁵¹⁶ Accordingly, during the processing of data about religious beliefs, the state has a special responsibility to justify the compliance of the intervention with national or international human rights standards.

Based on the communication of the Public Defender's Office,⁵¹⁷ the Ministry of Defence presented information on possible legitimate aims, by which it was guided in drafting the above-mentioned amendments.⁵¹⁸ According to the ministry, the information about the religious convictions of a person is entered into the electronic system of the mobilisation reserve for the following purposes:

- The commander of the unit should be able to provide equal conditions for servicemen of different faiths during their military service and to support the demonstration of their abilities;

The mentioned legitimate aim is vague and does not allow making concrete conclusions. It is not clear what is meant by "providing equal conditions" and "supporting" employees of different faiths.

- During the reserve preparation period, depending on religious convictions, specific dietary requirements will be taken into account;

Despite the fact that the state is obliged to take into account the particularities of the servicemen's religious and other convictions when providing food to them, the indicated legitimate aim cannot sufficiently justify recording data about religious convictions. In particular, the ministry can achieve this aim by using other, less intrusive means. For example, the ministry may request information about the dietary restrictions of military personnel. In this way, a higher standard of protection of the right will be guaranteed, because, in addition to religious beliefs, the individuals may have other beliefs – for example, vegetarianism – which, naturally, affects their dietary requirements.

- In the case of the death of a military serviceman during hostilities, funeral and honouring events should be held in accordance with his religious belief;

⁵¹⁴ *Ibid.*, Article 97.5.g).

⁵¹⁵ *Alexandridis c. Grèce*, application no. [19516/06](#), ECtHR judgment of 21 February 2008, para. 38.

⁵¹⁶ *Sinan Işık v. Turkey*, application no. [21924/05](#), ECtHR judgment of 2 February 2010, paras. 51-53.

⁵¹⁷ Letter no. 12-5/765 of the Office of the Public Defender of Georgia, dated 4 August 2023.

⁵¹⁸ Letter no. MOD 6 23 00959851 of the Minister of Defence of Georgia, dated 16 August 2023.

It should be noted that in the event of a person's death, the decision about the religious aspect of his burial and honouring is made together with the family.⁵¹⁹ The burial group set up to organise the funeral with military honours works in coordination with the family of the deceased.⁵²⁰

– During military service, to facilitate the practice of religious customs in the territory of military units in accordance with the legislation;

The aim indicated by the ministry can be achieved by less restrictive means. Military personnel should be able to approach their superiors if they wish to perform any religious rituals and request the provision of an appropriate environment.

– Persons enrolled in non-military or alternative labour service reserve shall not be called to the mobilisation reserve.

Under Article 97 of the Defence Code, in order to maintain data on the mobilisation reserve, the electronic system of the mobilisation reserve shall include information on the completion of non-military, alternative civil service by a person.⁵²¹ Thus, the achievement of the legitimate aim indicated by the ministry is ensured under the relevant provision of the Defence Code, and the ministry should already have information at its disposal about an individual's alternative civil service.

Based on all of the above, in the opinion of the Public Defender, the provision of the Defence Code, which forms the normative basis for entering the data about the religious convictions of persons subject to the military mobilisation reserve in the mobilisation database, raises questions as to how sufficient and proportionate the arguments given by the state are to justify interference in the freedom of belief and religion of individuals.

12.2.2. Appeals Mechanism

Another change introduced by the Defence Code concerns appeals of acts related to conscription into national military service or conscription into non-military alternative civil service. While before the change these acts were automatically suspended upon appeal, after the change, this is not the case save some exceptional situations.⁵²² Short terms for challenging acts and consideration of the merits by the court were also established. These disputes will no longer be reviewed with by the Supreme Court. The appeal rules also apply to refusals to join conscription into alternative service and in this sense will have an impact on the freedom of religion. The right to be drafted into alternative service is enjoyed by both clergymen and persons who refuse military service on the grounds of freedom of belief, religion and conscience.

Under the ECtHR case-law, The automatic suspension of decisions by military commissariats pending a final court decision is an important safeguard for individuals and protects them from conscription while the trial is pending.⁵²³ It is important that this safeguard should also be available in the Georgian

⁵¹⁹ Order no. 14 of the Minister of Defence of Georgia of 19 March 2019 on Approval of the Rules for Conducting Military Ceremonies and Rituals, Annex, Article 2.

⁵²⁰ *Idem*.

⁵²¹ The Defence Code of Georgia, Article 97.5.f).

⁵²² The Defence Code of Georgia Article 57.10 and Article 67.12.

⁵²³ See *Dyagilev v. Russia*, application no. [49972/16](#), ECtHR judgment of 10 March 2020, para. 77.

legislation too. As regards the legislative change, the Public Defender will monitor the practice as to how closely the courts will follow the new terms and the impact the judicial practice will have on the freedom of religion.

12.3. Alleged Religious Hate Crimes

Similar to the previous years, in the reporting period, the trend of fewer serious incidents of abuse and violence against Jehovah's Witnesses was maintained.

In the reporting period, the Office of the Public Defender was apprised of two incidents of aggression and attacks against Jehovah's Witnesses. According to one of the statements, in Tbilisi, an unknown person attacked Jehovah's Witnesses next to their stand near Galleria Tbilisi. In addition to the attack, the Jehovah's Witnesses pointed out that during the questioning, the police officers tried to record only the verbal abuse in the questioning report as they would have to institute a criminal investigation in case of reference to physical violence. The case will be studied by the Special Investigative Service under Article 156 of the Criminal Code of Georgia. As of January 2024, the Jehovah's Witnesses have not been granted the victim status, nor have charges been brought against any person. The second case concerned the beating of Jehovah's Witnesses near their stand in the settlement of Tsmindatskali in Gori. An aggressive man ordered the Jehovah's Witnesses to leave the area, after which he threw religious items on the road and physically assaulted one of the members. The Special Investigative Service instituted an investigation under Article 156 of the Criminal Code of Georgia. The Jehovah's Witnesses were given the status of victims, and the person was arrested and charged with persecution for beliefs and religious activities.⁵²⁴

12.4. The Problem of Obtaining Construction Permits

In the reporting period, on 16 March 2022, the Sheikh of the Administration of All Muslims of Georgia applied to the City Hall of the Gardabani Municipality for a construction permit to build a shrine in the village of Kalinino. The infrastructure service of the office of the municipality's mayor has rejected the application, stating that the documentation was not complete and that the organisation failed to submit the position of the LEPL State Agency for Religious Issues of Georgia.⁵²⁵

It should be noted that the legislation of Georgia does not lay down the obligation to submit the position of the agency as a prerequisite for obtaining a construction permit to build a place of worship.⁵²⁶ The administrative body is obliged to request only those documents/information from the applicant that are determined by the legislation in express terms. Otherwise, it is not allowed to suspend the administrative proceedings or refuse to consider the application based on the failure to submit the documents or information not required by law.⁵²⁷ Therefore, in this case, it is illegal to refuse to admit the application

⁵²⁴ On 13 October 2023, the criminal case was referred to the Tbilisi City Court for the consideration of the merits. Letter no. SIS 7 23 00024232 of the Special Investigative Service, dated 28 December 2023; Letter no. 13/2244 of the Office of the Prosecutor General of Georgia, dated 16 January 2024.

⁵²⁵ Letter no. 01/75 of the Administration of the State Representative in the administrative-territorial units of Georgia – Bolnisi, Gardabani, Dmanisi, Tetritskaro, Marneuli, Tsalka municipalities and Rustavi municipality, dated 23 January 2024.

⁵²⁶ See the Code of Spatial Planning, Architecture and Construction of Georgia and Resolution no. 255 of the Government of Georgia of 31 May 2019.

⁵²⁷ The General Administrative Code of Georgia, Article 81.1-2.

for a construction permit to build a place of worship due to the failure to submit the position of the LEPL State Agency for Religious Issues.⁵²⁸

It is regrettable that the construction of the new mosque in Batumi remains unresolved.⁵²⁹ It is noteworthy that in 2017, the Public Defender looked into the legality of the decision of the Batumi City Hall and found that the decision had been adopted without proper justification and had not been based on the relevant circumstances of the case. The Public Defender recommended that Batumi City Hall declare the decision refusing the construction permit as a void and adopt a new reasoned decision that would be based on the relevant circumstances of the case.⁵³⁰

Proposals

To the Parliament of Georgia:

- Amend the Defence Code of Georgia and invalidate the wording about religious beliefs in Article 97.5.j);
- Provide for an alternative legal provision in the Labour Code of Georgia, allowing the non-Orthodox population the opportunity to have guaranteed day-offs during their religious holidays subject to their wish;
- Draft the Law of Georgia on Restitution, with the involvement of the Council of Religions under the Public Defender as well as NGOs, determining the procedure, the criteria, responsible agencies and deadlines for the return of properties confiscated from religious associations during the Soviet period to their historical owners.

Recommendations

To the Government of Georgia:

- Itemise and evaluate the confiscated property and the amount of damage inflicted by the Soviet regime upon the religious associations in the territory of Georgia.

To the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Security of Georgia:

- Develop guidelines for the medical institutions operating in Georgia regarding the permission and instructions for the use of those methods/preparations that can replace the hemotransfusion procedure.

To the City Hall of the Gardabani Municipality:

⁵²⁸ In 2017, the NGO sector drew attention to this problem and the Tbilisi Court of Appeal agreed as well. Tolerance and Diversity Institute (TDI), the Court: It is illegal to request the agency's recommendation for the construction of a place of worship, 2017, <<https://shorturl.at/bHMR3>> [14.02.2024].

⁵²⁹ It is noteworthy that on 25 May 2023, the Supreme Court remitted the case initiated regarding this dispute in 2017 to the Kutaisi Court of Appeal for consideration of the merits. See The Case of the New Mosque of Batumi, Tolerance and Diversity Institute (TDI), 2023, <<https://shorturl.at/qORV5>> [06.02.2024].

⁵³⁰ The 2018 Parliamentary Report of the Public Defender of Georgia, p. 150.

- Eliminate the illegal practice of requiring the applicant to present the position of the State Agency for Religious Issues in the administrative proceedings to obtain a construction permit for building a place of worship.

13. The Right to Equality

13.1. Introduction

The Public Defender of Georgia has served as a key mechanism for promoting equality in the country for almost ten years, evaluating the situation of equality every year within the framework of a special or parliamentary report.

In 2023, the State did not take any significant effective step to improve the equality policy or the situation of vulnerable groups. Neither policy documents, nor legislative regulation were improved. Furthermore, politicians and executive authority representatives did not undertake significant actions to promote equality during this reporting period.

The importance of implementing complex and multi-layered measures to raise awareness has been proven once again as essential for overcoming the challenges to equality in the country.

13.2. Equality of Women

In recent years, important steps have been taken to strengthen women's rights, both in terms of creating legal guarantees and raising awareness, however, the past year proved that eliminating discrimination against women and achieving equality remain to be serious challenges. Women continued to report cases of sexual harassment to the Public Defender's Office. In the reporting year, it was significant that the Public Defender's Office studied cases of sexual harassment in the academic sphere for the first time. Concurrently, the issues of sexism against women in political and public roles, along with the continued use of explicitly derogatory language based on gender, remained concerning. The Public Defender especially notes that for a healthy political and public environment, it is of utmost importance that the public space be free from a hostile environment and not be aimed at humiliating, insulting or threatening women.

When talking about women's equality, the challenges faced by female athletes are also important. The Public Defender started working on this issue in recent years.⁵³¹ In this regard, it is welcome that in 2023 the Georgian Football Federation implemented the recommendation⁵³² of the Public Defender and as a result, it became possible to provide medical insurance for female football players, which is an important positive step in the process of achieving equality.

13.3. Rights of Persons with Disabilities

Even though there have been several positive legislative changes in recent years, the situation of persons with disabilities in terms of their rights has not seen significant improvement. Access to the physical environment, information, means of communication, banking and other services remains a serious challenge for persons with disabilities, including blind people. Providing inclusive education tailored to individual needs of children with disabilities remains a challenge. Until now, no national accessibility plan

⁵³¹ Additionally, see the 2022 Special Report of the Public Defender on the Situation of Equality and Combating and Preventing Discrimination, pp. 6-7.

⁵³² Additionally, see: < <https://rb.gy/8xa2mo> > [last accessed 29.03.2024].

has been approved, which significantly complicates the timely provision of accessibility of buildings and infrastructure for persons with disabilities. It is also significant that the standards defined by the already approved technical regulation (National Accessibility Standards) are not effectively implemented in practice.

It is crucial to ensure timely shift from the medical model of granting disability status to the biopsychosocial model, a change for which the Public Defender made a general proposal to the Minister of IDPs from the Occupied Territories, Labour, Health, and Social Affairs last year.⁵³³

13.4. Systemic Challenges Faced by Teachers of Non-Georgian Schools

The reforms implemented in the education system do not adequately address the challenges faced by ethnic minorities. As a result, non-Georgian schools/sectors still face a number of problems and challenges. The difficulty for practicing teachers in obtaining the status of senior, leading, and mentor teachers within the framework of the Teacher Professional Development and Career Advancement Scheme is particularly noteworthy.⁵³⁴ This issue is complex in nature and is caused by a number of reasons, including: the low level of knowledge of the official language, the difficulty of learning the language by the older generation and the scarcity of methods and encouraging activities adapted to their individual needs, less motivation to learn the Georgian language among the people of older generation, insufficient geographical coverage of the official language programmes, etc. In addition, it is noteworthy that the teachers of non-Georgian schools/sectors were given the opportunity to certify their professional competence and career advancement late, which put them in unequal conditions compared to the teachers of Georgian schools.

In order to identify specific needs and to respond to them, the Public Defender called on the Ministry of Education and Science⁵³⁵ to review the professional development scheme and, in coordinated cooperation with the relevant agencies, to plan activities that would provide timely and effective opportunities for teachers of non-Georgian schools/sectors to change their status; in addition, in order to popularize the official language programme, to expand the geographical area of the programme so that it covers all territorial units densely populated by ethnic minorities and to introduce teaching components adapted to the needs of the older generation representing ethnic minorities.

⁵³³ General proposal of the Public Defender of Georgia of October 25, 2022 to the Minister of IDPs from the Occupied Territories, Labour, Health and Social Affairs. Available at: <https://bit.ly/41DuOA> > [last accessed: 29.03.2024].

⁵³⁴ Case No. 5852/23 studied by the Public Defender's Office.

⁵³⁵ General proposal of January 17, 2024 regarding the challenges faced by teachers of non-Georgian schools/sectors <https://rb.gy/e61hgo>

13.5. Equality of the LGBT+ Community

As in previous years, the rights situation of LGBT+ people remains an important/serious challenge. Members of the LGBT+ community still face violence, discrimination, and harassment, and this is caused by homophobic attitudes, hate crimes, and other discriminatory attitudes in society.

Individuals with far-right ideologies, through their actions and statements, contribute to the spread of homophobic sentiments, incite discrimination and, at the same time, commit actions that are often manifested in serious violations of the rights of LGBT+ people.

The Public Defender of Georgia referred to the mentioned challenges in a communication submitted to the Committee of Ministers of the Council of Europe regarding the enforcement of the judgements of the European Court of Human Rights relating to the Identity Group cases. The communication reviews: homophobic statements, the violent disruption of the Pride festival on July 8, 2023, the shortcomings of ongoing investigations and prosecutions of hate crimes (including the events of July 5, 2021), the production of statistics on hate crimes, and the disregard for the LGBT+ community in the new National Human Rights Strategy.⁵³⁶ The enjoyment of freedom of assembly and freedom of expression by LGBT+ persons and their supporters is substantially complicated. This is related to the violent actions of the far-right groups, both in public space and within closed events, on the territory of the private property, against the realization of the above rights, which was evident during the events surrounding the Tbilisi Pride festival on July 8, 2023.

The Public Defender states that the events of July 8 clearly prove that the protection of the LGBT+ community, and the prevention of violence and discrimination on this scale, cannot be managed solely by police forces and is often insufficient. In order to address this challenge, it is necessary to take timely measures planned in various directions, with the involvement of various agencies and the public.

13.6. Discrimination in Labour Relations

Cases of alleged discrimination in labor relations are among the most frequent disputes reported to us by citizens. As in previous years, applicants mostly pointed to dissent and trade union activities as the protected grounds of discrimination. In some cases, applicants linked the restriction of their labour rights to the provision of certain information to the Public Defender's Office.

Protests and strikes by people employed in various sectors did not go unnoticed by the Public Defender. He called upon the employers, in case employees express dissatisfaction with the essential working conditions, to actively communicate with them, to use all opportunities to reach a consensus, and to

⁵³⁶ Additionally, see: <https://rb.gy/s4rzmj>

refrain from degrading and discriminatory actions, and especially not to resort to the radical measures such as termination of labour relations.⁵³⁷

In addition, it is worth noting that in the reporting period, the Public Defender submitted a general proposal to the Advisory Board of the Labour Inspection Service.⁵³⁸ At the same time, the Public Defender reviewed the cases of discrimination of persons employed through the platform in 2023 as well.⁵³⁹

13.7. Discriminatory Treatment in the Field of Services

In the reporting year, the disparity in the field of provision of services was evident in many directions. In particular, the Public Defender identified cases of discriminatory treatment in the medical⁵⁴⁰ and educational fields.⁵⁴¹

In addition, at the beginning of the reporting year, the Public Defender received about 30 reports relating to the restriction of access of Georgian citizens to receiving various goods and services.

Problems were also identified in the financing of higher education fees for convicts. It is true that there is a social programme in the Special Penitentiary Service, within the framework of which the higher education fees are financed for the purpose of promoting rehabilitation and resocialization of convicted students, but this programme only applies to student convicts involved in the digital learning format, but leaves students using the correspondence education format out of the programme. Despite the fact that the new Penal Code has been adopted, which essentially improves the access of convicted persons to the right to education, taking into account the information provided by the Ministry of Justice,⁵⁴² no specific steps are planned to be taken in the direction of financing the higher education tuition fees for the convicted students involved in correspondence education.

13.8. Incitement to Discrimination

⁵³⁷ Additionally, see: <https://cutt.ly/twFAQ4jr> [last accessed: 29.03.2024].

⁵³⁸ General proposal of the Public Defender of September 4, 2023 to the Advisory Board of the Labour Inspection Service <https://shorturl.at/hJNP2> [last accessed: 29.03.2024].

⁵³⁹ Public Defender's recommendation of March 15, 2023 to Glovo App Georgia LLC <https://rb.gy/b6i7gc> [last accessed: 29.03.2024]; Public Defender's recommendation of July 4, 2023 to Wolt Georgia LLC <https://shorturl.at/fgkzL> [last accessed: 29.03.2024].

⁵⁴⁰ Public Defender's recommendation of March 15, 2023 to L.J. and the company on establishing discrimination based on gender. Available at: <https://bit.ly/3THFnel> [last accessed: 29.03.2024].

⁵⁴¹ Public Defender's recommendation of September 7, 2023 to the Georgian National University (SEU) LLC, regarding the establishment of direct discrimination on the ground of different opinion. Available at: <https://bit.ly/41HiwS5> [last accessed: 29.03.2024].

⁵⁴² Correspondence No. 11389 of the Ministry of Justice of Georgia of October 9, 2023; Correspondence No. 14400 of the Ministry of Justice of Georgia of December 21, 2023.

The making of homo/transphobic statements, use of hate speech, and incitement of discrimination in the media in various areas of public life remains a significant challenge. Attitudes containing stigma and stereotypes towards women, persons with disabilities and members of the LGBT+ community are firmly entrenched in society. Consequently, public expressions inciting sexist, homo/transphobic or other kind of discrimination further reinforces negative attitudes towards vulnerable groups, the fight against which is the responsibility of each member of society.

Accordingly, the Public Defender calls upon especially public figures, employers, journalists, and media representatives not to allow or tolerate the spread of discriminatory statements and to pay special attention to their role in overcoming stereotypes and stigma in society and promoting the establishment of the idea of equality in the country.

During the same period, discriminatory statements and expressions containing sexist content against women involved in the public, political, and social spheres were concerning.⁵⁴³ The Public Defender condemns sexist attitudes and expressions inciting discrimination against socially active women, which undermine human honor and dignity, diminish the importance of women's participation in public life, and reinforce the wrong and humiliating stereotypes established in society regarding the role of women. While the low political participation of women in Georgia still remains a challenge, such actions create a hostile environment for female politicians and generally aggravate the political environment.

It should be noted that according to subparagraph o) of Article 3 of the Code of Ethics of the Member of Parliament of Georgia, "Offensive, obscene, sexist, discriminatory speech, statement, action, or other use of hate speech is not permissible for the Member of Parliament." However, the Code of Ethics of the Member of Parliament of Georgia does not provide for effective or efficient mechanisms against the use of hate speech by Members of Parliament. Unfortunately, at this stage, the co-chairmen of the Ethics Council of the Parliament of Georgia have not been elected. Therefore, these issues cannot be discussed in the format of the Council.⁵⁴⁴

13.9. Investigation of Hate Crimes

Similar to the previous year, the cases studied by the Office still showed challenges in the direction of investigation and criminal prosecution of crimes allegedly committed on the motive of intolerance. The reason for this is, on the one hand, improper fulfillment of the positive obligations by law enforcement officers in terms of protecting the equality of vulnerable groups, and, on the other hand, by the ineffective

⁵⁴³ Irakli Beraia to Teona Akubardia: *"An opportunity to take selfies with people like that and post them on Facebook, to enter the airport lounges and act gluttonously. Those who know this person will understand very well what I am talking about. And therefore I call upon this person to refrain from mentioning my and my committee's name with her long tongue that has been everywhere."* October 31, 2023. Available at: <https://www.youtube.com/watch?v=zyb7RiCYptM>

⁵⁴⁴ The Public Defender pointed to this problem in previous years as well, including in the 2022 parliamentary report. See the Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2022, pp. 152-153. Available at: <https://bit.ly/41DVAmU> [last accessed: 29.03.2024].

response to criminal acts committed by extreme right-wing radical violent groups and their leaders. In the applications received by the Public Defender, the applicants again pointed to the lack of trust in law enforcement officers, as well as their practice of using terminology inciting discrimination and expressing homophobic attitudes or sentiments.

The above-mentioned challenges were evident in the context of the investigation of the violence committed against Mikheil Mshvildadze.⁵⁴⁵ On June 27, 2023, Mikheil Mshvildadze was attacked by an unknown person who hit him repeatedly, which caused his physical pain. The Ministry of Internal Affairs launched an investigation into the case under the first part of Article 126 of the Criminal Code, which pertains to beating or other violence. The Public Defender considers that the Prosecutor's Office, which did not change the classification of the case, left the discriminatory motive of the alleged crime without a legal assessment. According to the Public Defender's position, beating and violence, motivated by unacceptability and hatred of a specific person's opinion or view, should be classified under a special article, namely, as a persecution carried out by the use of physical violence due the expression of an opinion.⁵⁴⁶ This very kind of action is criminalized by Article 156 of the Criminal Code, and it represents a crime not only against human health and physical integrity, but also against human equality.

An identical problem could be identified in the case of violence against Zurab Girchi Japaridze on June 17, 2023.⁵⁴⁷ Zurab Girchi Japaridze also allegedly became a victim of violence because of affiliation, expression of his position and political opinion. The Ministry of Internal Affairs launched an investigation into the case under the first part of Article 126 of the Criminal Code. However, in this case too, there was likely a reason to continue the investigation under part 2 of Article 156 of the Criminal Code, into the persecution on the ground of expression of an opinion. When the alleged motive for the attack on Zurab Girchi Japaridze became known for the investigation, the Prosecutor's Office should have given the criminal case to the Special Investigation Service for further investigation, according to the criminal jurisdiction, and the investigation should have continued under special classification.

Another case concerns civil activist Samira Bairamova. On October 4, 2023, unidentified individuals painted the symbol of the Christian religion - a cross - and a Russian flag on her door.⁵⁴⁸ This case is being investigated by the Special Investigation Service on the basis of the first part of Article 156 of the Criminal Code.⁵⁴⁹ As of now, Samira Bairamova has not been formally identified as a victim, nor have charges been brought against any specific individual at this stage.⁵⁵⁰

⁵⁴⁵ The criminal case materials were fully studied by the Public Defender's Office.

⁵⁴⁶ Article 156 of the Criminal Code, part 2, subparagraph a).

⁵⁴⁷ The criminal case materials were fully studied by the Public Defender's Office.

⁵⁴⁸ Available at: <https://bit.ly/3RYZ6F9> [last accessed: 29.03.2024].

⁵⁴⁹ Letter SIS 7 23 00024232 of the Special Investigation Service of December 28, 2023.

⁵⁵⁰ Letter No. 13/2244 of the Prosecutor's Office of Georgia of January 16, 2024.

Identifying the motive of intolerance during the investigation and prosecution of intolerance-motivated crimes was one of the significant challenges in the aforementioned cases. Considering that identifying the motive of intolerance and correctly classifying it during crime investigations are essential not only for ensuring justice in specific criminal cases but also for preventing similar crimes in the future, overcoming distrust towards law enforcement agencies, and accurately processing statistical data, the Public Defender believes that law enforcement authorities should intensify efforts in this direction.

Proposals

To the Parliament of Georgia:

- Determine the minimum term of punishment for the crime provided for in subparagraph a) of part 2 of Article 156 of the Criminal Code, which will correspond to the standard established by Article 53¹ of the same Code and will not leave the possibility of using the 6-month imprisonment;
- Ensure the practical enforcement of the Code of Ethics through an effective mechanism, and in cases where Members of Parliament use language inciting discrimination, implement disciplinary sanctions as outlined in the Code of Ethics.

Recommendations

To the Government of Georgia:

- Ensure access to buildings, infrastructure, information and means of communication for persons with disabilities, develop a national accessibility plan and standards for accessibility of information and communication in a timely manner.

To the Minister of Internal Affairs of Georgia:

- Provide intensive and continuous training programs for employees of the Ministry of Internal Affairs on issues of sexual harassment in public spaces.

To the Prosecutor General of Georgia:

- Provide continuous training programs for employees to enhance their qualifications in the investigation of crimes motivated by intolerance.

To the Minister of Justice of Georgia:

- Draft changes to make it possible to extend the social programme provided for by Order No. 864-No.100/N of September 6, 2022 on Approval of Procedures for Receiving Academic Higher Education by Convicted Persons to student convicts involved in correspondence education.

To the Minister of Education, Science and Youth of Georgia:

- Collaborate with the appropriate legal entities of public law to revise the professional development scheme for teachers of non-Georgian schools/sectors, identify their specific needs,

and plan appropriate activities that will give them the opportunity to change their status in a timely and effective manner.

- Popularize the official language programme and expand the geographical area of this programme so that to cover all the territorial units densely populated by national minorities and introduce teaching components adapted to the needs of the older generation representing ethnic minorities.

To the Minister of Education, Science and Youth of Georgia and the National Center for Teacher Professional Development:

- Inform and train school teachers on the psychological aspects of educational approaches and strategies aimed at promoting the physical and psychological well-being of children with special educational needs.

14. Gender Equality

14.1. Introduction

Georgia's efforts over the past years towards achieving gender equality have had significant results in terms of improving legislation and policy. However, many challenges remain unresolved in this regard. An unequal environment hinders equal participation of women in political and economic life. The legal status of women living in the villages adjacent to the occupation line, their involvement in decision-making, the peace process and their empowerment are noteworthy.

In the reporting period, positive steps have been taken in terms of combating violence against women and domestic violence. Among these measures, it is worth noting that the existing barrier has been eliminated through legislative amendments, and shelter and crisis centre services are provided to victims based on their actual needs. Furthermore, the criteria for the use of electronic monitoring have been revised and the possibility of access to electronic monitoring has been improved for victims of violence. However, the full compatibility of the legislation with the Istanbul Convention remains a challenge. The document of the National Referral Procedures for Identification, Protection, Assistance and Rehabilitation of Victims of Violence Against Women and/or Domestic Violence was approved with a delay. Unfortunately, the sub-chapter on gender equality of the Government Action Plan on Human Rights for 2024-2026 duplicates the tasks and activities⁵⁵¹ determined in the thematic national action plans.⁵⁵² Many challenges remain in preventing violence and protecting and assisting victims. As a result, the number of incidents involving murder/attempted murder of women remains alarming.

The adequate protection of girls and the elimination of harmful practices of child marriage and engagement remain a challenge. The effective implementation of reproductive health and access to services is problematic.

14.2. Women's Political Participation and Their Economic Empowerment

Gender stereotypes, bias towards gender roles as well as an unequal environment in the country have a significant negative impact on women's political and economic empowerment. According to the national survey published by the UN Women in 2023,⁵⁵³ 59.9% of women and 74.7% of men still believe that the most important role of a woman is to run the household.⁵⁵⁴ Such attitudes increase the burden of housework and unequal duty of care on women.

⁵⁵¹ The National Action Plan of Georgia for the Implementation of the UN Security Council Resolutions on Women, Peace and Security in 2022-2024. The Action Plan for Measures to Combat Violence Against Women and Domestic Violence and to Protect Victims in 2022-2024.

⁵⁵² It should be noted that the thematic action plans expire in 2024 and action plans for 2025-2027 need to be developed on time.

⁵⁵³ National Survey of Violence Against Women in Georgia, 2022, <<https://shorturl.at/agUY4>> [18.03.2024].

⁵⁵⁴ According to survey respondents, women are expected to fulfil gender roles that prioritise family and marriage and take care of others at the expense of their own needs and aspirations. A woman is expected to submit to a man and tolerate

According to the 2023 Global Gender Gap Index,⁵⁵⁵ there has been a significant regression in terms of the indicator of the political empowerment of women as Georgia moved from the 57th place to the 91st place. According to the data of the Inter-Parliamentary Union, Georgia moved from 121st to 128th place with 26 women in the parliament.⁵⁵⁶ In addition, women make up only 16.67% of ministers in Georgia.

According to a survey published in 2023,⁵⁵⁷ more than half of female politicians (54%) have experienced a form of violence in office or during the election campaign. More than half of the interviewed politicians (56%) have personally experienced discrimination in the workplace. In parallel, the Human Rights Action Plan for 2024-2026, approved in 2023, provides for minimal political empowerment of women, and the elimination of gender stereotypes in politics and is not focused on real outcomes.⁵⁵⁸ Furthermore, misogynistic and sexist statements are still voiced by public figures towards female politicians.

According to the data of 2023, the number of women public employees at the level of the executive authority is high.⁵⁵⁹ However, the number of women employed in decision-making positions in the Ministry of Defence is still low; 16.7% of senior officials are women and 31.9% of rank I-II public employees are women. The percentage of women employed in decision-making positions in the Ministry of Internal Affairs of Georgia is even lower; 9.8% of rank I-II public employees are women and none of the top officials are women.

The involvement of women in the decision-making process in rural areas is extremely low. According to the information provided, women's needs are rarely discussed in village assemblies. Solving the issues raised by women is problematic.⁵⁶⁰

It should be noted that, according to the 2023 Global Gender Gap Index, in terms of women's economic participation and opportunities, Georgia was promoted from the 72nd to 68th position. It is significant that, according to the same data, girls and boys in Georgia receive basic education equally, while 11.85% more

him. In contrast, men are expected to be strong, aggressive and dominant, to be the breadwinner and leader of the household.

⁵⁵⁵ Available at: <<https://shorturl.at/fyJY4>> [18.03.2024].

⁵⁵⁶ The data are given as of 1 December 2023.

⁵⁵⁷ The survey was conducted by the UN Women and CRRC Georgia, <<https://shorturl.at/rzOX5>> [18.03.2024].

⁵⁵⁸ Only activity 21.2.3 (training of electoral subjects/female candidates) and activity 21.2.4 (promotion of female military personnel to commanding positions in the defence forces by providing appropriate policies) of the mentioned action plan refer to women's political participation.

⁵⁵⁹ The data varies by position. For example, according to letter no. G177 of the Public Service Bureau, dated 12.03.2024, 63.8% of III-IV rank public employees are women and 49.8% of I-II rank public employees are women whereas 40.9% of senior officials are women.

⁵⁶⁰ The informational meetings held by the Public Defender's Office in 2023 demonstrated that, according to the information provided by the women living in the village of Ganmukhuri, their request to build a kindergarten in the village was met after many years, although other issues they raised, for example, the installation of outdoor lighting, are still problematic. According to the women living in the village of Etsperdi, they had repeatedly raised the problems of access to natural gas, road infrastructure and drinking water without results. In the village of Koki, the issues raised by women (for example, regarding a road, a kindergarten, and street dogs) are being partially resolved. Neglecting the needs of women is an issue in the villages of Tkaia, Shamgona, Kodistskaro, Saribari and Karapila. In the villages of Satsikhuri, Abano, Koda, Akhalubani, Karbi, Khviti and Bozhami, women only participate in general meetings. Considering the existing gender norms and roles in the country, restricted access to kindergartens, drinking water, natural gas and outdoor lighting has a particularly negative impact on women's daily lives.

women receive higher education than men.⁵⁶¹ Nevertheless, only 16.5% of top managers employed in organisations are women. In contrast, the employment share of women in professional and technical positions is high, where 61.7% of employees are women and 38.3% are men.⁵⁶²

In 2023, the percentage of women entrepreneurs in the projects of the grant programme Produce in Georgia, Micro and Small Entrepreneurship Promotion Programme remains high (49.9%). The measures implemented by the state in terms of women's economic empowerment are also welcoming.⁵⁶³ However, women living in rural areas still identify the lack information about existing programmes,⁵⁶⁴ as well as the need for women's retraining⁵⁶⁵ and employment, as a problem.⁵⁶⁶ Furthermore, according to a study published by UN Women,⁵⁶⁷ female entrepreneurs cite household duties and access to initial financial resources as the main challenges when starting a business.

As of 1 January 2023, it is welcoming that maternity leave for public school teachers is reimbursed.⁵⁶⁸ However, this issue is still problematic in the private sector and state trade colleges, which puts women employed there in an unequal position. Compared to previous years, the rate of taking paternity leave by men has increased substantially.⁵⁶⁹ However, in order to increase this indicator, it is necessary to continue working on raising awareness in this regard.

In the reporting period, following the relevant legislative amendments,⁵⁷⁰ the statistical rate of single parents has increased. However, it is worth noting that the statistical data collection of single parents needs to be improved.⁵⁷¹

⁵⁶¹ Global Gender Gap Index, 2023, <<https://shorturl.at/fyJY4>> [18.03.2024].

⁵⁶² *Idem*.

⁵⁶³ In 2023, eight informational meetings were held with women entrepreneurs. The LEPL Innovation and Technology Agency of Georgia carries out activities supporting women entrepreneurs within the framework of various action plans. Letter no. 19/12103 of Ministry of Economy and Sustainable Development, dated 29.12.2023; Letter no. 10394/01 of the Ministry of Environmental Protection and Agriculture of Georgia, dated 29.12.2023.

⁵⁶⁴ Informational meetings held by the Public Defender's Office in the villages of Nashamgu, Ghogheti, Khviti, Bozhami, Akhalubani, Tsitsagiantkari and Kvemo Khviti.

⁵⁶⁵ According to a study carried out by UN Women, only 9% of women entrepreneurs surveyed have been trained in entrepreneurship or small business management. According to the informational meetings held by the Public Defender's Office, the problem of conducting project writing training was identified in the villages of Etsperdi, Koki, Ganmukhuri, Satsikhuri, Abano da Koda, Ghogheti, Khviti, Bozhami, Akhalubani, Tsitsagiantkari, Kvemo Khviti, Koshka and Kardzmani.

⁵⁶⁶ In 2023, during an informational meeting held by the Public Defender's Office, it was requested to open a sewing factory or a clay factory in the village of Chale.

⁵⁶⁷ See Survey of Female Entrepreneurs in Georgia, <<https://shorturl.at/CILOQ>> [18.03.2024].

⁵⁶⁸ Resolution no. 33 of the Government of Georgia of 24 January 2024, <<https://shorturl.at/hyBMQ>> [18.03.2024].

⁵⁶⁹ According to the data of the Public Service Bureau, 16 men employed in the ministries and 53 men employed in other public agencies availed themselves of paid paternity leave in 2023. For comparison, in 2022, five men employed in public service used paid paternity leave.

⁵⁷⁰ Law of Georgia on Amendments to the Civil Code of Georgia (no. 1651-VIIIIMS-XMP), 09.06.2022, available at: <<https://shorturl.at/suVX5>> [18.03.2024].

⁵⁷¹ As a result of the analysis of the status granting statistics, it is clear that in most cases the basis for granting the status is not indicated. The single mother's statistical data includes cases where the single mother's status is assigned due to the absence of the mother's data in the record.

14.3. Women, Peace and Security

Unfortunately, Russia's occupation of Georgia's territories and continuous illegal and aggressive actions endanger peace and security in the country. The situation of women's rights in the villages, especially in the villages adjacent to the occupation line, has been severely affected.

In order to implement the resolutions of the UN Security Council, the Fourth National Action Plan on Women, Peace and Security approved by the Government of Georgia⁵⁷² provides for the involvement of women, including the conflict-affected women, in decision-making and other ongoing and planned processes regarding peace and security. While within the framework of the Incident Prevention and Response Mechanism (IPRM) meeting⁵⁷³ held by the State Minister's Office, approximately 50% of the issues were raised by women's organisations.⁵⁷⁴ The majority of women living in the villages adjacent to the occupation line have no information about the peace talks and their involvement at any level remains a problem.

In 2023, three rounds of Geneva international discussions were held, where the participation of women in the Georgian delegation remained low.⁵⁷⁵

Projects aimed at economic empowerment of conflict-affected women are implemented in the country. However, the involvement of women in the mentioned projects is low.⁵⁷⁶ This may be explained by the lack of information and access to the above-mentioned programmes.⁵⁷⁷

The Public Defender of Georgia positively evaluates the funding of education for displaced and conflict-affected students. However, in some municipalities, transport and travel expenses for the students of public trade schools are not provided, which is why women and girls often refuse to receive education.⁵⁷⁸

Despite numerous recommendations of the Public Defender of Georgia, access to psychological services remains a challenge for the conflict-affected women. Medicines are not available to the population in most

⁵⁷² See at: <<https://shorturl.at/aqGY0>> [18.03.2024].

⁵⁷³ The purpose of the meetings was to share information about the IPRM meetings, including information about the needs of women affected by the conflict.

⁵⁷⁴ Letter no. 2257 of the Office of the State Minister for Reconciliation and Civic Equality of Georgia, dated 25/12/2023.

⁵⁷⁵ Curators and/or heads of specific structural units of relevant state agencies determine the composition of the Georgian delegation in Geneva international discussions thematically. Accordingly, the number of women participating in the interdepartmental delegation depends on the persons in the managerial positions of these structural units.

⁵⁷⁶ In 2023, the non-commercial legal entity/non-profit legal entity Peace Fund for a Better Future funded 22 applications from occupied regions of Georgia. 43% of these beneficiaries were women. In 2023, within the framework of the state programme Plant the Future, a contract was signed with one woman from the village adjacent to the occupation line. 93 women benefited from the Agricultural Insurance Programme. 12 women benefited from the state programme Modernise the Dairy Industry and Market Access. One woman benefited from the Programme Promotion of Entrepreneurial Activities in Mountainous Settlements. Letter no. 10394/01 of the Ministry of Environmental Protection and Agriculture of Georgia, dated 29.12.2023. Only 31.6% of the beneficiaries of economic and agricultural programmes are women. Letter no. IDP 1 24 00049090 of the LEPL Agency for IDPs, Eco-Migrants and Livelihood Provision, dated 16.01.2024.

⁵⁷⁷ At the informational meetings held by the Public Defender's Office, women pointed out that, they do not have information or access to projects; the rate of rejection of applications to participate in the projects is high.

⁵⁷⁸ During the informational meetings held by the Office of the Public Defender of Georgia in the villages adjacent to the occupation line in the Shida Kartli region, it became known that trade schools are located in Gori and Kaspi municipalities. Therefore, due to the lack of transport and financial resources, the school is not available for women and girls.

villages as there are no chain pharmacies,⁵⁷⁹ and in some cases, there is a problem with the adequate functioning or unavailability of ambulatories.⁵⁸⁰

14.4. Sexual and Reproductive Health and Rights

Unfortunately, access to sexual and reproductive health services remains a challenge in the country. During the informational meetings⁵⁸¹ held by the Office of the Public Defender of Georgia, the problem of shortage and accessibility of maternity homes was pointed out. This problem may endanger the life and health of women and newborns living in a number of municipalities.⁵⁸²

Despite the recommendation of the Public Defender of Georgia,⁵⁸³ the procedure approved by the state maternal and child healthcare programme⁵⁸⁴ is still problematic. It does not provide for the exceptions of applying for antenatal care services after the 13th week, which limits unambiguously the access of pregnant women to services.⁵⁸⁵ In addition, awareness of the number of free antenatal services and access to them is low among women.⁵⁸⁶

It is welcome that the age group for free vaccination against papillomavirus (HPV) for the prevention of cervical cancer has been expanded and men can also benefit from the vaccine. Nevertheless, awareness about the vaccine is still low in the regions. Some women also lack information and access to screening programmes.

⁵⁷⁹ The Office of the Public Defender of Georgia held outreach meetings held in the villages of Chale, Potskho-Etseri, Rike, Koki, Etserperdi, Ganmukhuri, Kvemo Khviti, Karbi, Akhalubani, Bozhami, Kodistskaro, Saribari, and Karapila.

⁵⁸⁰ Outreach meetings were held by the Office of the Public Defender of Georgia in the villages of Potskho-Etseri, Tkaia, Bozhami, Khviti, Ghogheti, Sakhitsuri and Tsitsagiantkari. See also, the Public Defender's report on the results of monitoring access to primary healthcare services for the population within the framework of the Village Doctor state programme – infrastructure assessment, <<https://shorturl.at/eJS29>> [29.03.2024].

⁵⁸¹ Meetings were held with women living in rural areas, IDPs living near the occupation line and representatives of ethnic minorities.

⁵⁸² In addition to creating health hazards, women have to travel long distances to receive services due to physical inaccessibility, which causes additional costs other than transportation. The above-mentioned information, which refers to the problem of access to maternity and gynaecologist services, is also confirmed by the meetings of the Public Defender's Office held with women in the regions. In response to the above, letter no. MOH 2 24 00345716 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Security of Georgia, dated 26 March 2024, informed the Office of the Public Defender of Georgia that, in terms of geographical availability, the medical establishments providing perinatal services are located in such a way that they cover the mountainous regions as well and, accordingly, they are tailored to the needs of the country.

⁵⁸³ The 2022 parliamentary report of the Public Defender of Georgia (p. 207) made a recommendation regarding this issue.

⁵⁸⁴ The procedure approved by the state programme for maternal and child healthcare determined by resolution no. 4 of the Government of Georgia of 12 January 2022 on the Approval of State Programmes for Healthcare in 2022, <<https://shorturl.at/forv5>> [18.03.2024].

⁵⁸⁵ A woman living in the village of Chkhakaura could not use eight free antenatal services because she was pregnant for more than 13 weeks when she found out about her pregnancy.

⁵⁸⁶ According to some of the women interviewed by the representatives of the Public Defender of Georgia, they did not have information about the eight free antenatal visits and in many cases, they covered the consultation fees themselves.

The Public Defender will observe the changes brought about by the order of 26 October 2023 on the Approval of the Abortion Rules⁵⁸⁷ and will monitor this issue based on the Abortion Care Guideline⁵⁸⁸ developed by the World Health Organisation (WHO) in terms of the international standards established with regard to access to services and the right to use the highest standard of health.⁵⁸⁹

Free abortion service is not available for women in prison and, if necessary, women search for the clinic providing the service and cover the costs with their own funds.⁵⁹⁰ Stereotypical views about contraceptives are still evident, especially unmarried women are reluctant to buy contraceptives and pregnancy tests. The high price of contraceptives is also a challenge.⁵⁹¹

The LGBT+ community experiences physical, informational and financial barriers. They lack access to sensitive, supportive and tailored health services, which in the end will have a negative impact on their health.⁵⁹²

14.5. Violence Against Women and Domestic Violence

Despite numerous significant steps taken to tackle violence against women and domestic violence in the country,⁵⁹³ this issue remains one of the key challenges in Georgia and it is still necessary to make legislative and practical changes.

Similar to the previous years, the criminal law of Georgia does not fully comply with the requirements of the Istanbul Convention. In 2023, the working group⁵⁹⁴ drafted legislative changes to amend Articles 137-139 of the Criminal Code. However, the authorities took no effective steps to adopt the amendments. The law still does not determine the possibility of temporary removal of the accused person from the courtroom or remote examination of victims of violence against women and domestic violence, including sexual violence crimes.

Despite the recommendation of the Public Defender, there were still no relevant changes in the rules for determining and issuing the amount of compensation to be given to victims of violence against women

⁵⁸⁷ Within a 5-day waiting period before the abortion, consultation with a psychologist and a social worker becomes mandatory. In addition, after the pre-abortion consultation and the expiration of the 5-day waiting period, the results and image of the ultrasound screening conducted before the procedure should be included in the patient's medical case-file, <<https://shorturl.at/slLU5>> [18.03.2024].

⁵⁸⁸ WHO, (2022), Abortion Care Guideline. Geneva, <<https://shorturl.at/hFJY4>> [18.03.2024].

⁵⁸⁹ WHO standard: "While counselling should be made available and accessible, it should always be voluntary for women to choose whether or not they want to receive it"; and "For both medical and surgical abortion: Recommend against the use of ultrasound scanning as a prerequisite for providing abortion services"; <<https://shorturl.at/hFJY4>> [18.03.2024].

⁵⁹⁰ Receiving other gynaecological/reproductive services is free for female prisoners. Public Defender's Monitoring Report on Special Penitentiary Service's Special Establishment for Women No. 5, <<https://shorturl.at/rxAKW>> [18.03.2024].

⁵⁹¹ According to the information obtained from the meetings conducted by the Office of the Public Defender of Georgia, contraceptives are not available for women living in the regions. Gynaecologists working there positively evaluate the project funded by international organisations in the past, within which women received contraceptives free of charge.

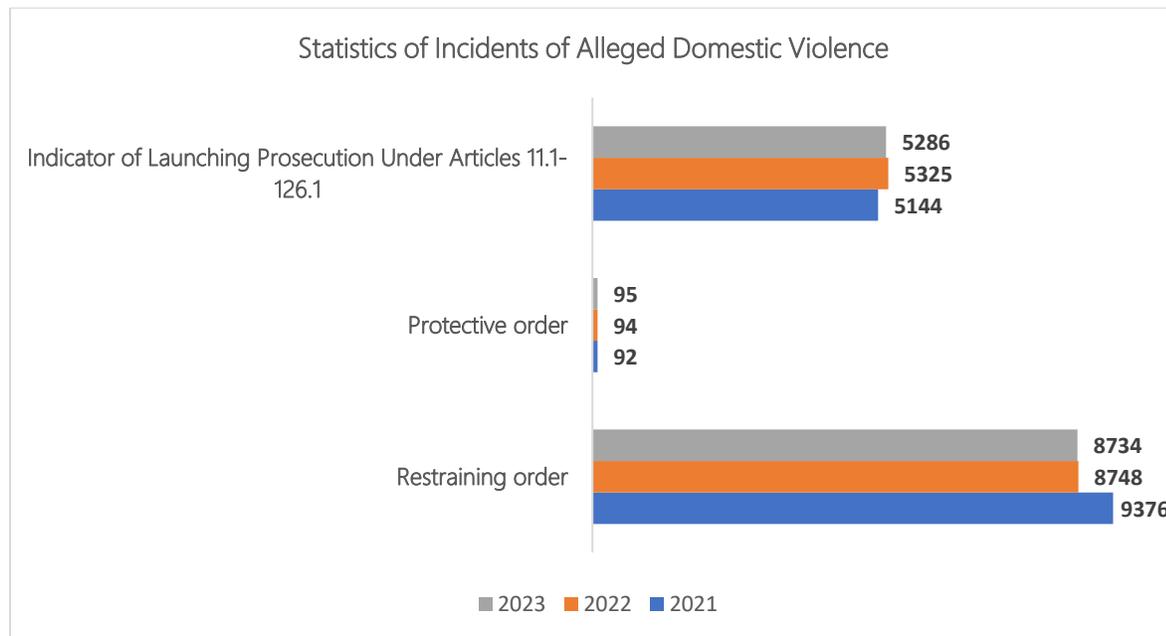
⁵⁹² Sexual and Reproductive Health and Rights of LGBT+ Community (needs-assessment survey) (2023).

⁵⁹³ For instance, the risk assessment document has been revised and the victim status as a precondition for receiving the services has been invalidated.

⁵⁹⁴ Members of the working group were representatives of the parliament, state agencies, local and international organisations and the Public Defender.

and/or domestic violence. Furthermore, in order to increase the number of people receiving compensation,⁵⁹⁵ it is necessary to inform the public more about this possibility.

Specific guidelines for social workers working on incidents of violence against women and domestic violence have still not been approved.⁵⁹⁶ After years of delay,⁵⁹⁷ the document of the National Referral Procedures for Identification, Protection, Assistance and Rehabilitation of Victims of Violence Against Women and/or Domestic Violence was adopted. The document in general concerns early identification and prevention of violence against women and domestic violence, powers of relevant agencies and coordination among them. This document does not determine coordinated steps to be taken by state agencies for the prevention of gender-based violence.⁵⁹⁸



The revision of the risk assessment document and tailoring it to the legislative amendments to increase the use of electronic monitoring, resulting in an increase in the use of GPS monitoring in cases of violence against

⁵⁹⁵ Under the resolution, the state compensates the damage only where the amount recovered through forced enforcement is less than 40% of the amount determined by the court judgment on compensation. In addition, there is still no special rule for cases where the criminal prosecution against the abuser was terminated due to him being *non compos mentis* or his death. In 2023, 14 applications were lodged with the agency requesting compensation for victims of violence against women and/or domestic violence. Ten applications were upheld, three cases are pending and one application was withdrawn by the applicant. Letter no. SCA 2 24 00060715 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 18.01.2024.

⁵⁹⁶ The 2020 parliamentary report of the Public Defender of Georgia (p. 210) made a recommendation on this issue. An order of the Director the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking approved the toolkit of the social worker's response to violence against persons with disabilities. Letter no. SCA 2 24 00060715 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 18.01.2024.

⁵⁹⁷ It should be noted that the approved version is largely different from the draft version previously shared by the Government of Georgia with the Public Defender's Office and numerous significant issues such as detailed information about concrete measures carried out by agencies regarding violence against women and domestic violence are omitted.

⁵⁹⁸ For example, the document does not incorporate the specific responsibilities and measures to be implemented by the agencies or concrete steps to be taken to improve coordination.

women and domestic violence should be positively mentioned.⁵⁹⁹ However, in the reporting period, the unjustified refusal to assess the risk against women and in some cases of domestic violence was highlighted as a particular problem.⁶⁰⁰ Improper/incomplete investigation of a number of cases of violence against women and domestic violence was identified as a problem, due to which the prosecutor responsible for the procedural guidance of the case had to issue instructions.⁶⁰¹

For years, no effective steps have been taken to increase the involvement of offenders in violent behaviour corrections programmes.⁶⁰² No violent behaviour correction programme has been developed for offenders issued with a protective order.⁶⁰³

According to the information supplied by the Office of the Prosecutor General of Georgia,⁶⁰⁴ in 2023, there were incidents of murder of 24 women, out of which the murder in 16 incidents was committed by a family member. Out of 27 incidents of attempted murder, a family member committed 20.⁶⁰⁵

It is welcoming that, from 2023, victims of violence receive state services without being granted a special status. It should also be positively noted that in the majority of shelters for victims of violence, the service receivers feel reassured and safe. However, the services of shelters and crisis centres are punctuated with a number of challenges. Similar to the previous years, the social rehabilitation of the beneficiaries is particularly problematic as well as the issue of the separation of some shelter areas for the safety of the beneficiaries.

Referrals to regional crisis centres are low and there is still a need to equip them with both human and material resources.⁶⁰⁶

⁵⁹⁹ In 2023, electronic monitoring was mandated for 104 persons. Letter no. MIA 5 24 00461751 of the Ministry of Internal Affairs of Georgia, dated 15.02.2024. In comparison, in 2022, electronic monitoring was mandated in 16 cases and in 15 cases in 2021.

⁶⁰⁰ The legislation of Georgia does not determine any kind of legal basis for filling out the risk assessment document. Nevertheless, as a result of the studied cases, it was determined that in practice a legal basis is required for filling out the risk assessment document and, after interviewing the women who are victims of violence, it is decided whether to fill out the risk assessment document and, therefore, whether to issue a restraining order.

⁶⁰¹ In the cases studied by the Public Defender's Office, the prosecutors needed to issue instructions on such basic issues as a comprehensive and complete study of the case, including interviewing all persons involved in the case, conducting forensic examinations, avoiding secondary victimisation. Cases nos. 9947/23, 12949/23, 8723/23, 14140/23, 7140/23, 12977/23, 12280/23, and 10390/23.

⁶⁰² From 1 January 2023 to 30 November 2023, enforcement cases were filed against 302 persons who were sentenced to non-custodial measures for domestic violence, and 185 beneficiaries underwent violent behaviour correction courses. According to the study, offenders who underwent courses on changing violent attitudes and behaviour mostly showed an accepting attitude towards gender equality, and the majority did not support gender-based violence, noting that victims should not tolerate violence and should act to put an end to it. Letter no. 2/5339 of the LEPL National Agency for Crime Prevention Execution of Non-Custodial Sentences and Probation, dated 22.01.2024.

⁶⁰³ In this regard, in 2021-2022, recommendation was made in the parliamentary reports of the Public Defender of Georgia (2021 – p. 157; 2022 – p. 206).

⁶⁰⁴ According to the information supplied by the General Prosecutor's Office of Georgia, in nine incidents out of 24 murders, a gender bias was identified, and out of 27 incidents of attempted murder, a gender bias was identified in 14 cases. Letter no. 13/4150 of the Office of the Prosecutor General of Georgia, dated 24.01.2024.

⁶⁰⁵ For detailed information, see the Right to Life in the 2023 parliamentary report of the Public Defender of Georgia.

⁶⁰⁶ Monitoring report of service facilities for victims of violence and trafficking.

Administration of Justice in Cases of Sexual Violence

It is welcomed that, according to the research conducted by the Public Defender,⁶⁰⁷ the investigation of sexual violence cases is, largely, initiated on time, with proper qualification of the act, and the investigative process is not delayed.⁶⁰⁸ However, a narrow interpretation of the methods of committing rape and the initiation of criminal prosecution in cases where the crime is committed by physical violence, threat of killing/destruction of property, or using the victim's helpless condition in a limited sense remain problematic. Largely, cases where the victim physically resisted the perpetrator reach the stage of criminal prosecution and trial.

Progress is noticeable in terms of establishing gender bias in cases of sexual violence. However, this remains a challenge and gender stereotypes continue to influence the proceedings. At the stage of investigation and trial, the details of the personal life of the victims, including their sex life, which are not related to the crime and should not influence the determination of the fact of sexual violence, are still taken into consideration.

The research of the Office of the Public Defender positively assessed the issue of witness and victim coordinators' involvement in sexual violence incidents.⁶⁰⁹ However, for similar types of crimes, there is a need to increase their involvement.⁶¹⁰

It is still problematic that, under the law,⁶¹¹ after 12 weeks of pregnancy, the abortion of a pregnancy resulting from violence can only be carried out after the conviction.⁶¹² While the majority of cases of sexual violence studied by the Public Defender within the scope of the research were examined by the courts within 6 or 9 months, which makes the abortion impossible.

14.6. Early/Child Marriage

Early/child marriage remains a significant challenge. While the number of underage pregnancies and births has decreased in the current reporting year compared to the last year, the rate is still high. According to the

⁶⁰⁷ Administration of Justice for Crimes of Sexual Violence against Women in Georgia (2021-2022).

⁶⁰⁸ This only concerns the cases that are prosecuted and examined in the court. The timeframes of the institution of investigation/prosecution of those criminal cases that have not reached the court cannot be analysed.

⁶⁰⁹ In 2023, the Public Defender's Office expressed the desire to evaluate in depth the Service of the Witness and Victim Coordinator of the Ministry of Internal Affairs and the General Prosecutor's Office and their work. However, the Public Defender's Office was not given this opportunity.

⁶¹⁰ In 2021-2022, coordinators of the Ministry of Internal Affairs of Georgia were involved in 34 cases and the witness and victim coordinators of the General Prosecutor's Office were involved in 82 cases involving crimes under Articles 137-139 of the Criminal Code of Georgia. Victims in these cases were adult women. The registered crime rate in this period was 572. 177 women were granted a victim status. Letter no. MIA 0 23 02821160 of the Ministry of Internal Affairs of Georgia, dated 27.09.2023. Letter no. 13/53544 of the Office of the Prosecutor General of Georgia, dated 03.08.2023.

⁶¹¹ Annex no. 5 Approved by Order no. 01-74/N of the Minister of Labour, Health and Social Security of Georgia of 7 October 2014 on the Approval of the Abortion Rules.

⁶¹² The Public Defender of Georgia challenged the constitutionality of this rule before the Constitutional Court on 6 November 2023, <<https://shorturl.at/duxPS>> [18.03.2024].

information supplied by the National Health Agency, in 2023, 679 pregnant underage girls were registered⁶¹³ and 409 persons were registered as underage parents.⁶¹⁴

Along with the practice of child marriage, the engagement of underage girls remains a challenge, which mostly takes place through a deal between parents. According to the studies of such incidents by the Public Defender, the practice of child engagement violates a number of children's rights, therefore, it is important to criminalise a deal made for the purpose of engagement or marriage of a child.⁶¹⁵ The Public Defender welcomes the creation of a working group on child marriage at the initiative of the United Nations Population Fund (UNFPA) and the discussion of the initiative of legislative amendment drafted by an expert on the issue of child marriage within the framework of the working group.

According to the studies of the incidents of child marriage/engagement, the coordination between the Ministry of Internal Affairs of Georgia, the educational institutions and the care agency⁶¹⁶ and the smooth operation of the referral mechanism remains problematic. To this day, the responsible agencies have no guidelines for working on child marriage/engagement incidents.⁶¹⁷ There is still no unified communication strategy for the prevention of child marriages. As a result, many cases are punctuated with inadequate response and inefficient use of the existing protection and assistance mechanism.⁶¹⁸

⁶¹³ For comparison, in 2022, 815 pregnant underage girls were registered, and 433 persons were registered as underage parents. Letter no. MOH 3 23 00102285 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Security of Georgia, dated 31.01.2023; Letter no. HA 4 23 01386068 of the LEPL National Health Agency, dated 25/12/2023.

⁶¹⁴ According to the information supplied by the Agency for Development of Public Services, 401 girls and eight boys were registered as underage parents. Letter no. 01/8904 of the Agency for Development of Public Services, dated 15.01.2024.

⁶¹⁵ Engagement of a child is a crime in which adults make a deal over the aspects of a child's personal and family life, on which the child has no control until the age of 18. In this process, the child is the object of the transaction. At the same time, the child is in a situation that suppresses their will, the engagement has a negative psychological impact on the child, limits the child's free behaviour, affects the child's right to education, etc.

⁶¹⁶ In 2023, the LEPL State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking examined 313 incidents of child marriage. Letter no. SCA 9 24 00109114 of the LEPL State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 30.01.2024.

⁶¹⁷ In this regard, in 2022, the Parliamentary Report of the Public Defender of Georgia (pp. 206-207) made recommendations. It is important that, with the support of the United Nations Population Fund (UNFPA), in accordance with the recommendation of the Public Defender, in order to develop guidelines for responding to incidents of child marriage, work is underway with the care agency, as well as with the Ministry of Education, Science and Youth of Georgia, although it is important to implement the aforementioned in a timely manner. Letter no. MES 4 24 0000290697 of the Ministry of Education, Science and Youth of Georgia, dated 11/03/2024. Letter no. MOH 5 24 00253252 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Security of Georgia, dated 01/03/2024.

⁶¹⁸ Case no. 12443/23 – appropriate communication could not be established with the 14-year-old girl and her trust could not be gained. Furthermore, protection or assistance mechanisms were not used effectively (no application requesting the protective order has been filed with the court). As a result, the authorities left a 14-year-old girl in an unfavourable environment in the family, with a 28-year-old man. Case no. 12970/23 – according to the available information, an underage girl was impregnated by a 27-year-old man. According to the information supplied by the agency, the Ministry of Internal Affairs instituted an investigation after the third application. According to the information supplied by the General Prosecutor's Office, the police officers are not investigated for a possible crime. Furthermore, due to inadequate assessment/study of the incident, the girl received medical services at the 25th week of pregnancy. The investigation failed to look into the late admission of the girl in the medical establishment in the 25th week of pregnancy. Case no. 481/23 – according to the available information, a 12-year old girl was forcibly engaged. An investigation was instituted into the

In the Ministry of Internal Affairs, an investigation was initiated on 152 possible crimes of child marriage.⁶¹⁹ According to the prosecutor's office, 73 children were recognised as victims of crimes of child marriage and criminal prosecution was initiated against 84 persons.⁶²⁰ The need for a strict policy on child marriage-related crimes was clearly demonstrated in the reporting year by the murder of a 14-year-old girl, which was preceded by various forms of gender-based violence. It should be noted that, compared to previous years, the registered rate of school dropouts due to marriage/engagement has decreased and, in 2023, 38 children left school due to marriage.⁶²¹ Girls often stop receiving education due to early marriage. Therefore, despite the reduction, the data is still alarming.

Proposals

To the Parliament of Georgia:

- Adopt the legislative amendments drafted within the framework of the working group to bring the legislation governing sexual violence in compliance with the Istanbul Convention;
- Make amendments to the criminal legislation to allow remote examination of a person known to be a victim of violence against women/domestic violence, including sexual crimes, or temporary removal of the accused person from the courtroom;
- Make amendments to the criminal legislation to allow a judge to order those convicted of domestic crimes to undergo a training course focused on changing violent attitudes and behaviour; and
- Criminalise child engagement through amending the Criminal Code of Georgia.

Recommendations

To the Government of Georgia:

case, but it was discontinued due to the lack of the elements of crime and the investigation was resumed after the Public Defender's Office was involved in the case. Case no. 2476/23 – An investigation into the incident of forced marriage was discontinued due to the lack of element of crime. However, it was later resumed, an individual was charged and an underage girl was placed in a shelter for victims of violence. Case no. 13507/23 – The Ministry of Internal Affairs looked into the incident of possible marriage coercion as part of the administrative proceedings as elements of crime could not have been established. After some time, the underage girl married the person against whom the issue of marriage coercion was studied within the administrative proceedings and the investigation into the marriage coercion was instituted. Case no. 12701/23 – A 14-year-old girl's marriage was reported to the law-enforcement agency with a delay, after the girl gave birth. However, the investigation into the incident of non-reporting of a possible crime was started after the application of the Public Defender's Office. The involvement of an interpreter and a psychologist in this case by the agency was also problematic. The problem was also identified in terms of coordinated work between the agencies.

⁶¹⁹ Furthermore, during the investigation, 67 restraining orders have been issued. Letter no. MIA 5 24 00419569 of the Ministry of Internal Affairs of Georgia, dated 12/02/2024.

⁶²⁰ Letter no. 13/4356 of the Office of the Prosecutor General of Georgia, dated 24/01/2024.

⁶²¹ In 2023, the pupil status was terminated for twelve girls and one boy due to marriage, and the pupil status was suspended for 25 girls. Initially, the Ministry of Education, Science and Youth informed us about only four incidents of termination of studies (in the following regions: Imereti, Kakheti, Kvemo Kartli and Samegrelo-Zemo Svaneti). In a later correspondence, we are informed about 13 cases of termination of studies due to marriage (in regions: Tbilisi, Kakheti, Kvemo Kartli and Samegrelo-Zemo Svaneti). Letter no. MES 8 24 0000020177 of the Ministry of Education, Science and Youth of Georgia, dated 12/01/2024; and Letter no. MES 8 24 0000307494, of the Ministry of Education, Science and Youth of Georgia, dated 14.03.2024. For comparison, in 2022 47 girls and one boy stopped receiving education due to marriage.

- Revise the national referral procedures document for identification, protection, assistance and rehabilitation of victims of violence against women and/or domestic violence:
 - Determine the responsible agencies and their duties to ensure the prevention of violence against women and domestic violence; and
 - Determine in detail the obligations of the responsible agencies towards women and in the process of referral and coordinated work on cases of domestic violence;
- Improve the procedure for determining the amount and granting compensation to victims of violence against women and/or domestic violence. In particular:
 - Develop a special procedure for granting compensation where the criminal prosecution of violence against women and/or domestic violence is terminated due to the death of the accused persons or them being *non compos mentis*; and
 - The state should compensate the damage even in cases where the amount recovered from forced enforcement amounts to more than 40% of the amount determined by the final court judgment on the compensation of damages;
- Revise the legislation governing the compensation of maternity leave and make paid maternity leave available for teachers employed in the state professional college; and
- Develop a unified communication strategy to prevent child marriage and related crimes.

To the Minister of Internal Affairs of Georgia and the Prosecutor General of Georgia:

- Increase the involvement of witness and victim coordinators with victims of crimes of sexual violence. Subject to the wish of the victim, they should be included in the proceedings at the initial stage of the investigation. If necessary, ensure the participation of the coordinator during the examination of the victim in court. In order to achieve this goal, agencies should consider the need for legislative amendments to be made to the Criminal Procedure Code as well as increasing the number of coordinators.

To the Minister of Economy and Sustainable Development of Georgia:

- Increase the number of informational meetings and training sessions on entrepreneurship for women in regions, both novice and experienced entrepreneurs, including through geographical coverage.

To the LEPL Service Development Agency:

- Revise and improve the collection of statistical data on single-parent status.

To the Office of the State Minister of Georgia for Reconciliation and Civic Equality and the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Security of Georgia:

- Hold regular informational meetings with women living in villages and IDP settlements near the occupation line in order to identify their needs.

To the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Security of Georgia:

- Revise access to maternity homes and gynaecologist services in terms of geographic coverage and, if necessary, increase their number; and
- Conduct regular awareness-raising outreach meetings in the regions about HPV vaccination and screening programmes.

To the Minister of Justice of Georgia:

- Make abortion services free of charge for women in penitentiary establishments, similar to other gynaecological/reproductive services.

To the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking:

- Separate the territory of shelters from other establishments to ensure the safety of the beneficiaries; and
- Strengthen the social rehabilitation component and systematically plan educational/rehabilitation activities in state shelters and crisis centres.

15. The Right to Protect Cultural Heritage

Caring for cultural heritage is a basic human right recognized by the Constitution of Georgia and it is protected by law.⁶²² At the same time, care for the protection of cultural heritage is part of the principle of the social state.⁶²³

Cultural heritage, in addition to representing the cultural value of the state, also has a powerful resource for sustainable progress in the overall socio-economic condition of the country. Thus, it is important to identify and protect this resource and develop it for future generations. The concept of cultural heritage management in the modern world is based on three components: the social component; the territorial and economic development component; the knowledge and education component ("21st Century European Cultural Heritage Strategy").⁶²⁴ The framework convention of the Council of Europe "On the Value of Cultural Heritage for Society" (the so-called Faro Convention)⁶²⁵ is fully devoted to The rights of individuals and society interested in the protection and development of cultural heritage and the state's obligations.

The contribution of cultural heritage to the sustainable development of the country is indicated by the National Culture Strategy ("Culture Strategy 2025").⁶²⁶ The strategy refers to such areas as principles of culture management, awareness raising/education, relationship between culture and different fields, etc. According to the strategy, as a result of the introduction of cultural management principles, cultural policy should be based on research and professional circles and the general public should be involved in the open and transparent process of its development.⁶²⁷ In addition, the document defines numerous tasks⁶²⁸ related to the protection of cultural heritage, the Ministry of Culture and Sports of Georgia is responsible for the coordination, monitoring, and evaluation of their implementation, and the specially created "Strategy Monitoring Group" is responsible for ensuring public involvement.

⁶²² Constitution of Georgia, Art. 20, Pun. 4.

⁶²³ Constitution of Georgia, Art. 5, Pun. 6.

⁶²⁴ Recommendation of the Committee of Ministers to member States on the European Cultural Heritage Strategy for the 21st century, CM/Rec (2017)1, see link: <<https://shorturl.at/lmnop>> [last seen: 29.03.2024].

⁶²⁵ see Council of Europe Framework Convention "On the Value of Cultural Heritage for Society" (so-called Faro): <<https://shorturl.at/auZ07>> see Unofficial translation: <<https://shorturl.at/movzS>>, the convention has been ratified by Georgia since 2011, <<https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treatynum=199>> [last seen on 29.03.2024].

⁶²⁶ "Culture Strategy 2025" approved by Resolution No. 303 of the Government of Georgia of July 1, 2016, p. 3, <<https://www.matsne.gov.ge/ka/document/view/3328805?publication=0>>, <<https://shorturl.at/isJM8>> [last viewed 29.03.2024].

⁶²⁷ Ibid, from p. 32

⁶²⁸ Ibid., p. 28-32. Tasks include, for example, improving the system of classification and categorization of cultural heritage and taking into account definitions corresponding to international standards; digitization of cultural heritage, creation/development of catalogs; establishment of an expertise, restoration-conservation laboratory equipped with the latest achievements of modern technology; physical protection of material cultural heritage (restoration, conservation, rehabilitation) based on international standards and relevant studies; raising the awareness of the public about the works to be carried out on cultural heritage monuments and their maintenance through the development and dissemination of uniform instructions, guides and programs, etc.

Unfortunately, the annual action plans for the implementation of the strategy and their monitoring reports, as well as the interim (2020) report on the results achieved by the implementation of the strategy, are not publicly available.

One of the primary tasks of the strategy in the field of cultural heritage protection is to develop a cultural heritage code taking into account international agreements, in order to harmonize existing legislation in the field of cultural heritage and adequately reflect all relevant topics.⁶²⁹ The Public Defender has been pointing out the necessity of creating legal regulations focused on the proper and effective protection of cultural heritage for many years. Unfortunately, the draft of the mentioned code was not submitted to the Parliament of Georgia in the reporting year either.⁶³⁰ It is important to let the public know at what stage the development of the code is and what circumstances prevent its submission to the legislative body.

In order to ensure the transparency of cultural heritage management and access to information, it is problematic that there is no official website of the Ministry of Culture and Sports of Georgia,⁶³¹ which makes it difficult to find public information on various topics. The website of the National Agency for the Protection of Cultural Heritage of Georgia is also lacking the information and needs to be updated. For example, after 2016-2017, none of the agency's reports are available.⁶³²

The issues related to the protection of the Gelati monastery complex have been acute for the last few years. In 2023, the Georgian Patriarchate took over the rehabilitation works in the reporting year, under the leadership of which the "Gelati Rehabilitation Committee" was established. An internet site has also been created, where up-to-date information and documentation can be found.⁶³³ It is significant that, according to the information of the Ministry of Culture and Sports of Georgia, after the transfer of the authority to carry out works in the Gelati monastic complex to the Patriarchate, applications in relation to the issuance of permission for works on the churches were not submitted to the Agency regarding the temple of assumption of the Gelati monastery complex, St. Nicholas and St. George cathedrals, therefore, the agency did not issue permission for the mentioned temples until now.⁶³⁴ It should also be noted that the work carried out on the monument, including research, requires a permit. The Public Defender of Georgia will monitor the process of conducting the works within the mandate and hopes that these works will be in line with the international standards established in this field and the legislation of Georgia.

Recommendations

⁶²⁹ P. 28

⁶³⁰ See more, Parliamentary reports of the Public Defender of Georgia, 2020, 330; 2021, 248.

⁶³¹ The website is still under construction < <http://culture.gov.ge/> > [last seen on 29.03.2024].

⁶³² see Link: < <https://www.heritagesites.ge/ka/files/65> > [last seen: 29.03.2024]; The website does not contain even basic information such as the structure of the administrative body and data about their heads, etc.

⁶³³ See link <<https://gelatirehabilitation.ge/ka/>> [last seen 29.03.2024].

⁶³⁴ Letter No. 00005829 dated February 21, 2024 of the Ministry of Culture and Sports of Georgia.

To the Minister of Culture and Sports of Georgia, the National Agency for the Protection of Cultural Heritage of Georgia:

- to ensure elaboration of the cultural heritage code draft, the transparency of the process, and the submission of the draft to the Parliament of Georgia;
- to ensure the creation/updating of official websites of administrative bodies and the availability of information as well as documentation related to the activities of agencies on online platforms;
- to ensure the publishing of the annual action plans for the implementation of the national culture strategy and their monitoring reports, as well as the interim (2020) report on the results achieved by the implementation of the strategy.

16.Environment Protection

16.1.Tragedy of Shovi

The Public Defender of Georgia still intensively supervises the realization of the right to environmental protection.

Society remembered the reporting year by tragic natural disaster and its worst consequences. On August 3, the Shovi tragedy killed 33 people and destroyed the famous resort. An investigation⁶³⁵ has been started on the fact of the natural disaster that happened in Shovi. Occurred tragedy raised numerous acute questions related to the fulfillment of relevant obligations by the state. Among them, in relation to the possibility to avoid the disaster, possibility to take timely preventive steps, as well as the effectiveness of the subsequent planned and carried out measures.

This tragedy created a high public interest towards annual bulletins prepared by the LEPL National Environmental Agency describing the results of the development of natural geological processes and the forecasts for the next year. However, at this stage, these Environmental Protection Agency bulletins are not published publicly.

The Public Defender points out that the right to receive complete information on the state of the environment is a right⁶³⁶ guaranteed by the Constitution of Georgia, the principle of access to information in the field of the environment implies that information on the state of the environment is open and available to the public.⁶³⁷ Furthermore, the availability of information related to the environment is also a requirement of the Aarhus Convention.⁶³⁸ The convention also refers to the importance of gradually increasing the volume of environmental information in electronic databases, which, in its turn, will help the public to access information more easily.⁶³⁹

In order to ensure compliance with the above-mentioned standards of openness and availability of information on the state of the environment, it is important that the documents prepared by the LEPL National Agency of Environment on natural geological processes be published electronically every year and interested persons can easily access them.

Also, it should be noted that the National Agency of Environmental Protection provided various requested information in connection with the tragedy in Racha to the online edition "Mountain News" only after filing a lawsuit in the court, within the framework of a legal dispute.⁶⁴⁰

⁶³⁵ Criminal law case No. 059030823001 is in the processing of the police department of Imereti, Racha-Lechkhumi and Kvemo Svaneti, investigation was started according to the 2nd part of Article 116 and the 2nd part of Article 240 of the Criminal Code of Georgia; Letters No. MIA52302833838 of September 28, 2023 and No. MIA42303387742 of November 17, 2023 of the Ministry of Internal Affairs of Georgia.

⁶³⁶ Constitution of Georgia, Article 29, p. I.

⁶³⁷ Law of Georgia "On Environmental Protection", Art. 5 points 2, sub. "n".

⁶³⁸ "Convention on access to information on environmental issues, public participation in the decision-making process and access to justice in this area".

⁶³⁹ Ibid, Art. 5, ph.3

⁶⁴⁰ Case №12107/23.

Based on the tragedy of Shovi, the Public Defender of Georgia, on its own initiative, began to study the issues related to the realization of the right of citizens to live in a safe environment.⁶⁴¹ Within the framework of the case, the office investigated⁶⁴² a number of issues and documents and continues to study them.

The Public Defender of Georgia believes that for the final assessment of the events of August 3, it is crucial to carry out a complete investigation, the investigation should answer the questions related to the events that occurred both before and after the tragedy.

At the same time, it is important for the state to give priority to the in-depth study of the threats identified in the documents showing the results and forecasts of the development of natural geological processes, to plan in cooperation with the local self-government bodies, what measures should be taken to fully identify the risks and to avoid them, to strengthen the monitoring systems in the regions, including on-site monitoring with the involvement of specialists. In the process, prioritize all efforts to fully integrate early warning and alarm systems into the national disaster risk reduction system.

16.1.1. The Situation Before the Disaster

According to the initial assessment document⁶⁴³ of the LEPL National Agency of Environment, on August 3, 2023, in the Bubisskali River valley, the coincidence of natural geological and hydrometeorological events (intensive melting of the glacier, precipitation in the form of rain, rock avalanches in the headwaters, landslide-erosive processes and the passage of mudslides) led to the formation⁶⁴⁴ of an extreme mudflow. The activation of natural processes in the river Bubisskali Valley, together with the high energy potential of the terrain, was caused by various reasons, including harsh climatic conditions, geological structure of the area, seismic conditions, etc. The formation of an instantaneous, complex natural event depended on many factors.⁶⁴⁵

According to the explanation⁶⁴⁶ provided by the LEPL National Agency of Environment to the Office of the Public Defender, it was practically impossible to predict the cascading event that developed on August 3, 2023, and to prepare/distribute the relevant early warning, both in Georgia and in highly developed countries, as well as early warning system implemented in the country could not ensure warnings of a cascading developed on August 3. According to the agency's explanation, in order to mitigate the risks

⁶⁴¹ see Public Response of the Public Defender on the link: <<https://shorturl.at/exLN2>>, [4/03/2024].

⁶⁴² Letters of the Office of the Public Defender of Georgia #04-9/141, #04-9/136, #04-11/11627, #04-11/11169, #04-9/10202, #04-11/8293, #04-9/8272, №04-9/8254, №15-5/11743, №15-5/10557, №15-5/9361, №15-5/8136, addressee agencies: Emergency Situations Management Service of the Ministry of Internal Affairs of Georgia, Public Safety Management Center "112" of the Ministry of Internal Affairs of Georgia, Border Police of the Ministry of Internal Affairs of Georgia, Ministry of Internal Affairs of Georgia, National Agency of Environment of the Ministry of Internal Affairs of Georgia, City Hall of Oni Municipality.

⁶⁴³ See documents on the link: <<https://shorturl.at/vEOT5>>, [4/03/2024].

⁶⁴⁴ LEPL National Agency of Environment "Initial assessment of the natural events developed in the river Bubisskali valley on August 3, 2023 (Chanchakhi river basin)".

⁶⁴⁵ Ibid p. 9-10

⁶⁴⁶ letter No. #21/7494 of the National Agency of Environment; 6.09.2023,

of this type of disasters, alarm systems are used, responding only after the beginning of the disaster and automatically issuing sound signals to the objects at risk. However, as per the agency, the decision to install such a system is made in case of the frequent recurrence of unfavorable glacial processes and the high efficiency⁶⁴⁷ expected through installing such a system based on detailed researches. In the same letter, the agency explains that in the valley of the river Bubistskali, the issue of installing a similar system has not been discussed, as historically there have been no unfavorable glacial and geodynamic processes in the past, processes similar to the natural event that developed on August 3 are not recorded in historical sources, only eyewitnesses report that there were separate floods in the river basin. Nonetheless, it did not cause negative consequences, especially human fatalities. Accordingly, targeted research in the field of hydrometeorology and geology was not conducted in the valley.

River Bubistskali is the right tributary of river Chanchakhi, which originates from the base of the Buba glacier and joins the river Chanchakhi near the resort Shovi.⁶⁴⁸ According to the LEPL National Agency of Environment, there were not any requests submitted to it in relation to the Bubisskali gorge, in order to study the dangers of geological or hydro-meteorological processes.

The local population was referring to the dangers in the Shovi resort in the past years and was asking to express an interest in the situation.⁶⁴⁹ In particular, in July 2020, water and mud from the river Buba completely flooded the area of the cottages, as well as the living and dining rooms located there, blocked the resort road and destroyed the cottages.⁶⁵⁰ River Buba came out of its bed also on July 7, 2017, partly flooded the area of the cottages and damaged the infrastructure. Oni municipality city hall also released the video in this regard.⁶⁵¹

The Office of the Public Defender was interested, in whether the City Hall of Oni municipality planned and carried out measures in order to study the risks in Shovi and plan any type of preventive measures considering events that took place in different years (overflow of the Buba River, flooding of cottages in the Shovi resort and damage-destruction of the infrastructure). Among them, whether the municipality applied to the competent agency(ies) in any year with the request to study and monitor the relevant risks. It is clear from the information⁶⁵² provided by City Hall of Oni municipality that the response was mainly related to dealing with the consequences of the developed events, which meant mobilizing⁶⁵³ the

⁶⁴⁷ Ibid, for example, after the processes developed on the Devdorak glacier in 2014, foreign experts conducted detailed studies and issue of feasibility of installing an alarm system on Devdoraki river was determined.

⁶⁴⁸ LEPL National Agency of Environment " Initial assessment of the natural events developed in the river Bubisskali valley (Chanchakhi river basin) on august 3, 2023", p. 1.

⁶⁴⁹ For example, see Information distributed via social network at the link: <<https://shorturl.at/fvHLY>>, [4/03/2024].

⁶⁵⁰ See link: <<https://shorturl.at/fmxDM>>, [4/03/2024].

⁶⁵¹ See link: <<https://shorturl.at/uDLS2>>, [4/03/2024].

⁶⁵² Letter of Oni Municipality City Hall No. 78-78240228, 22/01/2024.

⁶⁵³ In 2017, after the disaster that happened in the village of Glola (flowing from the Buba River), the city hall of municipality applied to the state trustee's administration to petition the state for the allocation of funds needed for the liquidation works of the disaster. Restoration and rehabilitation works of the areas damaged by natural disasters were carried out with the allocated funds. Regarding the allocation of funds for the liquidation of the areas damaged by the natural disaster that occurred in 2020, which amounted to 10,400,000 GEL, they applied to the administration of the State Trustee. In order to eliminate the consequences of the natural disaster, the damaged sections of the rural roads were repaired, the damaged

necessary financial resources for infrastructure restoration and rehabilitation. The letter of the Oni municipality does not mention whether the municipality applied to the competent agencies after these events, regarding the establishment of risk studies and monitoring, which was also the subject of interest of the Public Defender's office.⁶⁵⁴ On the other hand, the LEPL National Agency of Environment informed us that a request to study threats of geological and hydrometeorological processes in the Bubisskali valley was not submitted to it.⁶⁵⁵

LEPL National Agency of Environment sent bulletins on the results of the development of natural geological processes in 2020, 2021, 2022 and the forecast for the next year to the Office of the Public Defender of Georgia.⁶⁵⁶ The bulletin prepared for the year 2020 names the surrounding area of Shovi Resort and the river Chanchakhi among risk zones of geological processes. In relation to the dynamic state of the geological process in the Chanchakhi valley, erosion processes are indicated, which are activated seasonally, and the danger risk is assessed as "high".⁶⁵⁷ In the next year's bulletin, it is said that in the risk zone is the village Glola, river Chanchakha left tributary, river Bdgviara valley, landslides pose a danger to the central highway and Shovi resort infrastructure facilities, the risk of danger is high, it is necessary to conduct continuous monitoring⁶⁵⁸ of geodynamic processes in the valley, in the bulletin of 2022, regarding this area, the assessment of the previous year is repeated.⁶⁵⁹

As per information possessed by the Office, annual informational geological bulletins are provided by the LEPL National Agency of Environment to government agencies (ministries) and municipality city halls. Also, every year, the agency's specialists provide information to the representatives of regional administrations and municipalities of the country on the results on site.⁶⁶⁰

By comparing the above-mentioned information, explanations provided by the National Agency of Environment and Oni Municipality as well as public sources it is clear that in response to the floods that

bridge crossings and others were also rehabilitated. Works on embankments and drainage systems were also carried out, river beds were cleaned. Damaged water supply systems were restored. Rehabilitation was carried out at the stadium with an artificial surface in the village of Patara Ghebi. On the part of the state, the rehabilitation works of the damaged road section from 117 km to 140 km of the Kutaisi-Alpana-Mamisoni state road were carried out, bridges were restored and built, river beds were formed and embankments were arranged. About 50,000,000 GEL was spent on these works. Cleaning and formation of the beds of Chanchakhi and Bdgviara rivers in the village of Glola was carried out and embankment protection structures were arranged.

⁶⁵⁴ Letter of the City Hall of Oni Municipality dated 22.01.2024, No. 78-78240228, Letter of the Office of the Public Defender of Georgia dated 14.11.2023, No. 04-11/11169.

⁶⁵⁵ Letter of 6.09.2023, No. 21/7494 of the LEPL National Agency for the Environment.

⁶⁵⁶ Bulletins of the LEPL National Environmental Agency: "About the results of the development of natural geological processes in Georgia in 2020 and the forecast for 2021" (2021); "About the results of the development of natural geological processes in Georgia in 2021 and the forecast for 2022" (2022); "About the results of the development of natural geological processes in Georgia in 2022 and the forecast for 2023" (2023).

⁶⁵⁷ Bulletin of the LEPL National Environmental Agency "On the results of the development of natural geological processes in Georgia in 2020 and the forecast for 2021" (2021); p. 277.

⁶⁵⁸ Bulletin of the LEPL National Environmental Agency "On the results of the development of natural geological processes in Georgia in 2021 and the forecast for 2022" (2022); p. 243.

⁶⁵⁹ Bulletin of the LEPL National Environmental Agency "On the results of the development of natural geological processes in Georgia in 2022 and the forecast for 2023" (2023). p. 223.

⁶⁶⁰ The agency indicates this in one of the letters sent to the Office of the Public Defender, letter No. 21/3939, 9.12.2020.

occurred in various years, measures were mainly planned to repair existing infrastructural damage. There was practically no coordination between the municipality and the central authorities in the direction of establishing additional studies and enhanced monitoring. According to the instructions of the National Agency of Environment, targeted research in the field of hydrometeorology and geology was not conducted in the Bubisskali River valley on the example of particular natural events. Furthermore, in the annual bulletin, the surrounding area of Shovi resort and the river Chanchakhi valley is assessed as a zone of high danger of geological processes, and in the bulletins of other years, as already mentioned, high danger of geological processes is indicated for the infrastructure facilities of the Central highway and resort Shovi. Therefore, it was important to conduct a comprehensive and diverse investigation of the entire resort of Shovi as a high-risk area.

As part of the ongoing investigation, it will be important to ultimately determine whether the state and local authorities in this particular case knew or should have known of a real and urgent threat and whether they took reasonable steps to prevent the threat.

16.1.2. Rescue/Liquidation Works

The second important direction, on which the Public Defender of Georgia focused during the study of the tragedy that happened in Shovi, was the rescue/liquidation works. On the one hand, the planning and implementation of preventive measures, and on the other hand, the effectiveness of post-damage rescue/liquidation works ensure the protection of the right to live in a healthy environment and also the right to human life in the country.

According to the current legislation, the leading body of the national civil security⁶⁶¹ system is the state sub-departmental institution of the Ministry of Internal Affairs of Georgia, the Emergency Situations Management Service.⁶⁶² However, the national civil security system is not limited to this agency and it unites a network of legal entities under public law and state sub-departmental institutions, government bodies of autonomous republics, municipal bodies and state trustees (subjects of the national system), which at strategic (political), operational and tactical levels, using appropriate resources, implements appropriate complex measures to protect human life and health, environment and/or property from incidents/emergency situations caused by natural and/or human factors.⁶⁶³

Subjects of the National Civil Security System shall develop emergency management plans to manage emergency situations and plan actions during emergency situations⁶⁶⁴. Despite numerous attempts, the Office of the Public Defender of Georgia was unable to receive information on whether there was an

⁶⁶¹ According to Article 3, subsection "A" of the Law of Georgia "On Civil Security", civil security is the result of complex measures implemented by state, autonomous republics and municipal bodies, as well as organizations defined by the same law, to protect human life/health, environment and property from emergency situations and ensuring the normal functioning of state institutions.

⁶⁶² Paragraph 3 of Article 4 of the Law of Georgia on Civil Security.

⁶⁶³ Paragraph 1 of Article 4 of the Law of Georgia "On Civil Security".

⁶⁶⁴ The rules for the preparation of this plan are determined by the Resolution No. 452 of October 6, 2017 of the Government of Georgia "On the development of the rules for the preparation of the emergency management plan".

emergency management and emergency action plan for the Racha region and/or Oni municipality.⁶⁶⁵ Here, according to the Oni municipality, there was no security passport⁶⁶⁶ of the municipality in 2023, which is a pre-developed document⁶⁶⁷ for planning the degree of emergency risk in the municipality, the expected results, the evaluation of the activities carried out by the municipal body for the prevention of an emergency and the development and implementation of measures to reduce the risk of an emergency. Thus, it is not known how prepared the subjects of the national civil security system met the natural disaster that developed in Shovi.

Within the framework of the case study, LEPL Emergency Situations Management Service provided information on the actions taken since receiving the notification regarding disaster that took place in Shovi on August 3, 2023.⁶⁶⁸ It is clear from the letters that the first response team in the disaster area went to the scene of the accident on August 3, 2023, immediately after receiving the message,⁶⁶⁹ at 15 hours and 12 minutes.⁶⁷⁰ Due to the created situation, the mobilization of rapid response groups and aviation began in parallel.

According to the provided information, aviation deployed in Tbilisi and Kutaisi, listed on the balance of the sub-agency of the Ministry of Internal Affairs of Georgia – Georgian Border Police - was mobilized.⁶⁷¹ However, due to the created meteorological conditions, the helicopter from Kutaisi could not fly to its destination. Aviation was not used for rescue/search operations during the night hours and the helicopter resumed its work on August 4, at 6 o'clock in the morning. It was also clarified, that "despite the fact that the helicopters on the balance of the Ministry are equipped with night vision devices, in this particular case, taking into account the existing terrain, meteorological conditions and the fact that the people who

⁶⁶⁵ Letters of the Office of the Public Defender of Georgia No. 04-9/8272 of August 18, 2023, No. 04-9/136 of January 4, 2024.

⁶⁶⁶ Letter No. 78-782403830 of Oni Municipality City Hall dated February 7, 2024.

⁶⁶⁷ Article 3 of the Law of Georgia "On Civil Security", subsection "v".

⁶⁶⁸ LEPL Emergency Management Service No. MIA 6 23 02839950 of September 28, 2023; Letters No. MIA 2 23 03092189 of October 23, 2023 and No. MIA 7 24 00115964 of January 15, 2024.

⁶⁶⁹The LEPL public security management center - "112" received the message on August 3, 2023 at 15:07, the duration of the call was about 2 minutes, which was handed over to the authorized entities at 15:10.

⁶⁷⁰ The first group arrived at the site at 15:40. And the group that left from Ambrolauri could no longer move along the same route, because the landslide took away the bridge near the village of Glola, through which the first group reached the disaster zone. Due to this, the rescue team from Ambrolauri had to use a detour and reached the disaster site at 16:05. Later, additional rescue teams from Oni and Ambrolauri entered the disaster area. On August 3, 400 firefighters with appropriate equipment, a group of canine experts and more than 100 police officers were mobilized in the disaster area and involved in rescue measures. Also, other employees of the service, representatives of the department of logistics, technological provision and civil security.

⁶⁷¹ The first helicopter flew to the disaster area from Tbilisi at 16:54. According to the explanation of the Emergency Situations Management Service, despite the difficult meteorological conditions, it was involved in the rescue operation approximately three hours after the start of the disaster (necessary measures are taken prior to the helicopter's involvement in the rescue operations - determination of the necessary forces and equipment, mobilization, loading of the relevant equipment, which in this case amounted to one and a half tons Here, the duration of the flight due to difficult meteorological conditions should also be taken into account. Soon the second helicopter left. Both rescue helicopters, as part of the search and rescue measures, made 5 flights before nightfall on August 3 and evacuated 70 people directly from the collapsed area.

survived the disaster were in a safe place together with the police forces, it was not advisable to carry out the flight at night, Because the danger could threaten the lives of the rescued people and the persons involved in the search-and-rescue operation".⁶⁷²

As per information provided to the Office, on August 3-4, 2023, search and rescue operations continued throughout the night. Directly in the disaster zone, manpower was working with appropriate special search equipment and thermal drones (5 in total). Helicopter flights, drones, and the monitoring of the area by fire-rescuers did not reveal any people in the landslide who needed help.

The use of thermal drones played an important role in the search/rescue operations, the footages of which were requested by the Office. According to the information provided⁶⁷³, monitoring with drones was carried out in live mode, and when necessary/remarkable shots were found, the recording was fixed. The records of the flying machines (drones) belonging to the Emergency Situations Management Service were seized by the relevant police unit of the Ministry of Internal Affairs for inclusion in the criminal case. Accordingly, the investigation should answer the question of whether the rescue/liquidation works were planned and executed properly.

16.2.Exploration of Glacial Valleys, Early Warning/Alarm Systems

The natural disaster has raised the issue in the society of how much the glacial valleys in the country have been explored and what risks these valleys are facing. Also, what is the situation regarding the implementation of warning and alarm systems in the country.

Climate change and its consequences are a challenge for the whole world. One of the visible results of climate change in Georgia is the retreat of glaciers. According to climate change projections, the retreat of glaciers will continue in the future.⁶⁷⁴ Considering these challenges, identification, detailed assessment, and monitoring of risk zones are necessary.

As it turns out, glacial valleys have not been studied in detail until now. According to the explanation of the LEPL National Environment Agency, due to the increase in the frequency and intensity of glacial and geodynamic cascading events caused by climate change, in order to avoid/mitigate possible risks, a detailed study of up to 20 glacial valleys (including Shovi) is planned from 2024; These glacial basins pose a potential threat to human settlements and critical infrastructure. Risk mitigation measures are determined as a result of the study.⁶⁷⁵

As for the implementation of early warning and alarm systems, the integration of early notification and alarm systems into the national system of disaster risk reduction was one of the declared main priorities

⁶⁷² Letter No. MIA 6 23 02839950 dated September 28, 2023 of the State Emergency Situations Management Service.

⁶⁷³ the letter of the LEPL Emergency Situations Management Service No. MIA 6 23 02839950 of September 28, 2023, and No. MIA 2 23 03092189 of October 23, 2023 and No. MIA 7 24 00115964 of January 15, 2024.

⁶⁷⁴ Fourth National Program of Environmental Protection Actions of Georgia for 2022-2026 (the document was prepared by the Ministry of Environment Protection and Agriculture of Georgia), p. 36; see Link: <<https://mepa.gov.ge/Ge/PublicInformation/34047>>, [4/03/2024].

⁶⁷⁵ Letter of the National Agency for the Environment of the State Council for Environment No. 21/7494, dated 6.09.2023.

of Georgia's disaster risk reduction in the 2017-2020 policy document.⁶⁷⁶ Unfortunately, the documents have not been updated until now. In addition, as the administration of the Government of Georgia⁶⁷⁷ informed us, in 2017, as a result of legislative changes, after the cancellation of the State Security and Crisis Management Council, a unified analytical document for the evaluation of the activities defined by the action plan was not prepared. The abolition of the council also affected the preparation of updated documents. According to the agency, the national disaster risk reduction strategy and action plan of Georgia will be prepared as soon as possible.

The malfunction of the monitoring and early notification system is discussed in the fourth national program of environmental protection actions of Georgia (2022-2026).⁶⁷⁸ The document refers to challenges in this direction in detail, solving those challenges will make it possible to prepare more accurate and precise weather and hydrological forecasts necessary for an early warning system.⁶⁷⁹ Hereby, it is noted that the addressees of widespread warnings are government agencies, and the country has not yet created a mechanism to deliver early warnings directly to the population at risk, risk assessment and study-based planning and implementation are not done in relation to natural events; Also, not all high-risk locations have been fully identified.

As per information provided by the LEPL National Agency of Environment,⁶⁸⁰ a large-scale program has been underway since 2019, one of the components of which is the creation of an early warning system, and it is planned to be completed in 2025. Various measures have already been implemented within the framework of the program, but a lot of measures have not yet been completed. The existing early warning system needs constant improvement and development.

16.3. Forest Cover and Current Challenges

Implementation of the principles of sustainable forest management occupies an important place in the field of environmental protection. Thus, the measures implemented/planned by the state in this direction are the subject of interest of the Office of the Public Defender of Georgia.

The Office of the Public Defender was interested in the violations of law and the damage caused to the environment during the years 2020-2023. As it turns out, over the years, more than 13,000 cases of various types of violations have been reported to the Department of Environmental Supervision.⁶⁸¹ It is clear from the statistical data of the department⁶⁸² that illegal cutting of timber,⁶⁸³ as well as illegal transportation of

⁶⁷⁶National strategy of Georgia for 2017-2020 years on reduction of risks and approval of its action plan – the annex 1, 3.5 p approved by the resolution of Government of Georgia approved on January 11, 2017.

⁶⁷⁷ Letter of the Administration of the Government of Georgia dated 12.02.2024, No. 7 24 00003615.

⁶⁷⁸ see Link: <<https://mepa.gov.ge/Ge/PublicInformation/34047>>, p. 112, [4/03/2024].

⁶⁷⁹ Ibid, p.113-114

⁶⁸⁰ Letter of the National Agency for the Environment of the State Council for Environment No. 21/7494, dated 6.09.2023.

⁶⁸¹ Statistical data provided by the letter of the Department of Environmental Supervision dated 15/01/2024, DES 7 24 00002027

⁶⁸² ibid

⁶⁸³ Ibid, 2020:1 424; 2021:1 695; 2022:1 585; 2023:1 265.

timber,⁶⁸⁴ arrangement of illegal sawmills,⁶⁸⁵ and operation of sawmills in violation of relevant regulations, are among the detected violations.⁶⁸⁶ It is alarming that during these four years, the damage caused to the environment exceeded 8.9 million GEL.⁶⁸⁷

For many years, obtaining firewood to meet social interests has given rise to a number of challenges, which are also related to the above-mentioned violations. So-called social woodcutting led to the establishment of illegal logging, transportation, and sales practices. This was facilitated by the existing problems in terms of supervision.⁶⁸⁸ Overall, many years of unsystematic logging have damaged the ecosystem and hindered sustainable forest development. In addition, the complete forest inventory in Georgia had not been conducted for several decades.⁶⁸⁹

According to the first report on the national forest census in Georgia,⁶⁹⁰ studies have established that a large part of Georgia's forest areas is degraded, which is mainly caused by the increasing extraction of firewood and the decrease in the quality of timber as a result of unsystematic cutting. At the same time, the lack of updated information on the qualitative and quantitative characteristics of forests in Georgia remains a challenge for the country's forestry sector.⁶⁹¹

The fact that a number of issues have been regulated differently by the Forest Code of Georgia, which came into effect on January 1, 2021, is welcome. Among them, it was determined that the existing system of so-called social logging, in particular, taking into account the individual social interests, issuing the right to get firewood on the basis of a timber production ticket became permissible only until January 1, 2023.⁶⁹² However, unfortunately, with the change made in 2022, the mentioned deadline for the implementation of the law was extended to January 1, 2026. The reason for this was the need for an additional term to carry out the preparatory works.⁶⁹³ In order to prohibit the extraction of timber resources by citizens for social purposes, is necessary for forest management authorities to offer alternative services to the population.⁶⁹⁴ As an alternative, in order to facilitate the effective enforcement

⁶⁸⁴ Ibid, 2020:1 245; 2021: 1 389; 2022:1 294; 2023:899.

⁶⁸⁵ Ibid, 2020: 85; 2021:88; 2022:87; 2023:73.

⁶⁸⁶ Ibid, 2020:284; 2021:520; 2022:704; 2023:623

⁶⁸⁷ Ibid, 8 923 368 GEL

⁶⁸⁸ For example, see extensive information on the named issues. In the document prepared by the Parliament of Georgia - "Assessment of the impact of social security reform regulation", 2018; The document is available at the link: <<https://shorturl.at/pryX7>>, [4/03/2024].

⁶⁸⁹ Ibid, p.27

⁶⁹⁰ According to the letter of the Ministry of Environment and Agriculture of Georgia dated 22.12.2023, No. 10207/01, in 2019-2021 field works of the national forest registration were carried out throughout the country, in 2022-2023 the information obtained as a result of the field works was processed and the corresponding report was prepared based on the obtained results and publication. National forest registration works were carried out according to regions and covered the whole Georgia. see Report on the first national forest census in Georgia, 2023, at the link: <<https://mepa.gov.ge/Ge/Files/ViewFile/53933>>, [4/03/2024].

⁶⁹¹ Ibid, p.12

⁶⁹² Section 9 of Article 93 of the Forest Code of Georgia valid before the amendment.

⁶⁹³ see Explanatory card of the draft law "On Amendments to the Forest Code of Georgia" at the link: <<https://info.parliament.ge/file/1/BillReviewContent/312019>>, [4/03/2024].

⁶⁹⁴ Ibid

of the Code, to simplify the access to timber resources of the population and the private sector, and to develop forestry, as well as to eliminate gradually social logging system, business yards are being organized in the LEPL National Forestry Agency. At the moment, 42 business yards have already been arranged and 17 business yards are being arranged in addition. Construction of business yards across the country will be completed by the end of 2025.⁶⁹⁵

As the statistical data shows, the challenges are continuous and systemic, there are no radical positive changes in the number of violations over the years. Considering the importance of the issue, the Public Defender recalls the state agencies to implement the necessary measures for the replacement of the social system within the shortest time possible, and the Parliament of Georgia to discuss the possibility of changing the above-mentioned deadline (January 1, 2026). Also, it is important that, before the implementation of the updated system, the supervisory authorities provide the most effective and proactive control to prevent and stop violations.

16.4. Impact of Infrastructure Projects

As in previous years, in the reporting year, citizens appealed to the Office of the Public Defender regarding the neglect of their interests during the implementation of infrastructure projects.

In 2021, the Public Defender in the report spoke extensively about the challenges⁶⁹⁶ arising during the construction of highways, including the damage to the property of citizens living nearby and the deterioration of the living environment as a result of construction and operation. Citizens' complaints were often related to the fact that their property was not subject to compensation, despite the expected negative impact, or that they did not accept the compensation offered, or that they believed that their families were unfairly excluded from resettlement. Regarding the neglect of citizens' interests during the implementation of projects, several applications⁶⁹⁷ submitted to the Office in 2023 were related to the Shorapani-Argveta highway project of international importance.

It should be noted that before the start of the construction works, the contractor was obliged to conduct a preliminary study of all the buildings in the 250-meter corridor of the tunnel in order to determine the technical condition of the buildings and construction conditions.⁶⁹⁸

Within the scope of the one case study,⁶⁹⁹ the Department of Highways of Georgia clarified that it did not apply to the Bureau of Expertise to assess the impact on the property of the applicants, as the impact of

⁶⁹⁵ Letter of the Ministry of Environment Protection and Agriculture of Georgia dated 22.12.2023, No. 10207/01.

⁶⁹⁶ from p. 203, see Link: <<https://www.ombudsman.ge/res/docs/2022040413242699860.pdf>>, [4/03/2024].

⁶⁹⁷ No. 1228/23 (joint statement of 30 citizens living at No. 93 Uznadze St. in Zestafon);

No. 7375/23 (statement of Sh.M., a citizen living at No. 87 Uznadze St. in Zestafon); No. 7376/23 (joint statement of 3 citizens living in the village of Zeda Sakara, Zestafon Municipality).

⁶⁹⁸ Letter of the Roads Department of Georgia dated 14.07.2023, No. 2-08/11244, Clause 2 of Paragraph 808 of the RRW. According to the agency's explanation, in order to fulfill the mentioned obligations, relevant buildings and structures were described before the start of the works and their condition was recorded before the start of the construction works.

⁶⁹⁹ No. 7376/23 (joint statement of 3 citizens living in Zeda Sakara village of Zestafon municipality).

construction works was not determined within the scope of the project.⁷⁰⁰ This assessment was made on the basis, that according to monitoring results, the vibrations generated during the works should not have caused damage to residential buildings. It is significant that, according to the information provided by the agency itself, according to the results of the vibration study, the excess was not recorded in the case discussed below,⁷⁰¹ although there, the department applied to the LEPL National Bureau of Expertise named after Levan Samkharauli to assess the impact. The fact indicates the inconsistent practice of the department in relation to the decision to apply to the bureau for impact assessment.⁷⁰² It should be noted that this process is of crucial importance for citizens, as further measures are related to the restoration of their rights are related to the determination of the impact.

A review of the cases⁷⁰³ reveals that in particular situations, it is unclear what impact the works have had on the applicants' property. This ambiguity was caused by ineffective communication⁷⁰⁴ between the Department of Highways and the LEPL National Bureau of Expertise named after Levan Samkharauli, and their positions are somewhat contradictory regarding the possibility of assessing impact issue.⁷⁰⁵

Since the Examiner indicates the need for specific materials⁷⁰⁶ for evaluation and analysis, the Department of Highways must take this into account, both in these specific cases and in future cases, as well as make every effort to obtain these materials and provide them to the Bureau.

16.5.Challenges Related to Animals

The problem of homeless animals is one of the main concerns of citizens in the capital and regions.⁷⁰⁷ The severity of the problems is indicated by the statistical data related to the capital, as well as by a

⁷⁰⁰ According to the applicants, the works significantly damaged their houses, practically destroyed them.

⁷⁰¹ Letter of the Roads Department of Georgia No. 2-08/3346, dated 10/03/2023.

⁷⁰² Case №1228/23

⁷⁰³ No. 1228/23 (joint statement of 30 citizens living at 93 Uznadze St. in Zestafon); No. 7375/23 (statement of Sh.M., a citizen living at No. 87 Uznadze St. in Zestafon).

⁷⁰⁴ Within the framework of case study No. 1228/23, the National Bureau of Forensic Expertise named after Levan Samkharauli, with letters of 20.07.2023, No. 50004669123, 9.10.2023, No. 5006440423 informed us that the documentation submitted for the preparation of the conclusion was incomplete, and in addition, the bureau failed to open the files provided later by the Department of Highways; The Bureau requested additional materials, and the Road Department provided the materials via electronic links, through which the files could not be downloaded. According to the department, they were not aware of the problem of access to materials.

⁷⁰⁵ The Department of Highways believes that the materials named by the expert (the register of monitoring the technical condition of buildings) were only additional evidence, and even in its absence, the results of monitoring allowed for evaluation, letter No. 2-08/13946, 24.08.2023; And according to the instructions of the National Bureau of Expertise, it was impossible to make an analysis based on the above, 6.10.2023, letter No. 5006440423.

⁷⁰⁶ conceptual construction project; photo and video showing the technical condition of the buildings in the given area of the highway before the construction (with inspection act); Results of monitoring of vibrations during construction (monitoring should be constant and daily during the construction period) and analysis of vibration results made by the research company (as a conclusion), letter of the Bureau 6.10.2023, No. 5006440423.

⁷⁰⁷ For example, according to a study published by the National Democratic Institute (NDI) and CRRC - Georgia on December 11, 2023, the issue of homeless animals, especially dogs, has become the most important problem at the local level. After 2020, the severity of the problem related to homeless animals has increased significantly. This issue concerns

number of serious cases across the country. For example, 3 cases of rabies were confirmed in the municipality of Ambrolauri, and due to this quarantine was declared;⁷⁰⁸ Rabies was confirmed in case a dog in Martville, which bit more than 20 people, and it became necessary to announce a veterinary quarantine there as well;⁷⁰⁹ Rabies virus was confirmed in the dog that bit 3 minors in Khoni Municipality;⁷¹⁰ Rabies was also confirmed in a dog that scratched a teenager on the Kakheti highway.⁷¹¹ 2 children were bitten by a dog in Guria, one of whom needed emergency medical intervention due to a life-threatening condition.⁷¹² In addition, cases of cruel treatment towards animals were revealed, among them, a homeless dog died⁷¹³ as a result of severe violence in Bagdati, the fact of cruel treatment of a dog occurred in the beginning of 2024, in Marneuli.⁷¹⁴

According to the data of the LEPL Animal Monitoring Agency,⁷¹⁵ which operates within Tbilisi Municipality, during 2023, more than 67,500⁷¹⁶ notifications were received in relation to the animals (dogs/cats) by the agency, which is an increased number compared to previous years.⁷¹⁷ Compared to the previous year, the number of dogs⁷¹⁸ transferred to the shelter has also increased, almost half of them returned⁷¹⁹ to the natural area, some were transferred to a breeder, were given away, and the smallest part (115) returned to their owners. It is significant that more than 2,000 animals ended their lives by euthanasia/natural death.⁷²⁰ In 2023, the rate of sterilization and castration of dogs/cats has increased and exceeded 6,500.⁷²¹

Only the above-mentioned data, the reality around us, and specific examples show how serious the challenges are and how dangerous the situation is for everyone, which requires immediate steps to be taken by the state.

In the reporting year, an amendment was made to the Code of Administrative Offenses of Georgia, by which the sanction for having a dog without a leash (in a boulevard, park, or square) was relatively tougher, the warning was canceled, and the fine was increased from 20 GEL to 150 GEL, and the 50 GEL

the majority of the population (68 percent), especially in Tbilisi and small cities. See link: <https://shorturl.at/oBOT4>> 6, (last seen: 4/03/2024).

⁷⁰⁸ See link: <<https://bit.ly/3x9pfco>>, [last seen: 4/03/2024].

⁷⁰⁹ See link: << <https://bit.ly/3PCCd8P>>, [last seen: 4/03/2024].

⁷¹⁰ See link: <<https://bit.ly/3Q5dbzN> [last seen: 4/03/2024].

⁷¹¹ See link: <<https://bit.ly/4cz5NWN>, [last seen: 4/03/2024].

⁷¹² See link: <<https://formulanews.ge/News/103373>>, [last seen: 4/03/2024].

⁷¹³ See link: < <https://shorturl.at/cjHLZ>>, [last seen: 4/03/2024].

⁷¹⁴ See link : <<https://formulanews.ge/News/104350>>, (last seen: 4/03/2024).

⁷¹⁵ Letter of 23.01.2024, No. 73-01240234119 of the LEPL Animal Monitoring Agency.

⁷¹⁶ 67 623 Notifications, letter of the LEPL Animal Monitoring Agency dated 23.01.2024, No. 73-01240234119

⁷¹⁷ In 2021: 58,314 messages; In 2022: 65,922 messages.

⁷¹⁸ 9 425 dogs, letter of the LEPL Animal Monitoring Agency dated 23.01.2024, No. 73-01240234119

⁷¹⁹ Out of 9,425 dogs, 4,696 dogs returned to the natural area, letter of the LEPL Animal Monitoring Agency dated 23.01.2024, No. 73-01240234119

⁷²⁰ 361 facts of euthanasia and 1,978 natural deaths, letter of the LEPL Animal Monitoring Agency dated 23.01.2024, No. 73-01240234119

⁷²¹ A total of 6,529, in 2022: 5,633, letter of the LEPL Animal Monitoring Agency dated 23.01.2024, No. 73-01240234119.

fine for repeated offenses was increased to 300 GEL. In addition, the sanctions established for keeping small and/or large livestock or other animals under supervision or without supervision were tightened.⁷²²

According to the data of the LEPL State Animal Monitoring Agency, during 2023,⁷²³ 371 cases of violation of the rules related to having a dog/cat were detected,⁷²⁴ as well as 28 cases of violation of the rule related to keeping the animal under supervision or without supervision were recorded.⁷²⁵

According to the Public Defender's assessment, the tightening of individual sanctions will not be enough to eliminate existing and above-discussed large-scale challenges facing the country. Unfortunately, by the time the report was prepared, the Parliament had not adopted new appropriate legislative regulations that would regulate the legal status of animals, rules of care, liability issues, and other important circumstances to ensure a safe environment for both humans and animals. The agency also points to the absence of a proper legal framework and a unified approach.⁷²⁶ The public defender definitely believes in the development/implementation of a systematic approach in this direction, since temporary measures cannot eliminate the problems in the long term. Until appropriate legal guarantees are in place, it is necessary to conduct an active castration/sterilization process throughout the country, as this is the only proven, humane, and effective method of animal population management.

It should be noted here that within the framework of one of the cases⁷²⁷ in the reporting year, LEPL State Animal Monitoring Agency explained to us that the threat from the animal and obvious expression of aggression at a specific address is evaluated by the operative response group of the agency. Aggression is mainly expressed by an animal trying to bite a person, an operative group, or a third person. Besides, according to the provided information, there is no single regulated methodology for determining aggression in Georgia. The relevant rule⁷²⁸ established by the municipality defines the cases subject to mandatory capture (to ensure further procedures) in order to prevent threats from animals to people and/or animals, including cases where the animal poses a threat to human and/or animal life and/or health, as well as contains obvious signs of aggression.⁷²⁹ Thus, to ensure efficiency, this issue should also be regulated by new legal regulations.

⁷²² Article 103, Parts 3 and 4 of Article 148 of the Code of Administrative Offenses of Georgia (fines were set at 50-100 GEL instead of 20-50 GEL).

⁷²³ see Statistical data of 2023 at the link: <<http://ama.gov.ge/page/300>>, [4/03/2024].

⁷²⁴ Article 103 of the Code of Administrative Offenses of Georgia.

⁷²⁵ Parts 3 and 4 of Article 148 of the Code of Administrative Offenses of Georgia.

⁷²⁶ Letter of 23.01.2024, No. 73-01240234119 of the State Animal Monitoring Agency.

⁷²⁷ Statement No. 6894/22, Letter No. 04-14/8392 of the Office of the Public Defender of Georgia dated August 17, 2022, No. 04-7/4731 of May 16, 2023 Tbilisi Municipality city council; Letter No. 04-14/1146 of February 3, 2023 of the Office of the Public Defender of Georgia, No. 04-7/3864 of April 19, Letter No. 04-7/4730 of May 16 to the LEPL Animal Monitoring Agency.

⁷²⁸ Clause 6 of Article 8 of Resolution No. 7-28 of April 6, 2015 of the City Council of the City of Tbilisi on the approval of rules for the care and management of animals (dogs, cats) and their populations in the territory of Tbilisi Municipality.

⁷²⁹ Among them: animals that pose a threat to human and/or animal life and/or health, animals with obvious signs of aggression; Unsupervised animals that have bitten/scratched a person or an animal, etc.

16.6. Acoustic Noise Control

In the 2022 parliamentary report, the Public Defender spoke extensively about the challenges in the direction of acoustic noise supervision, which were primarily related to ineffective legal regulations.⁷³⁰ Thus, the Public Defender welcomes the tightening of liability for the violation of acoustic noise norms in the reporting year,⁷³¹ which was also the recommendation of the Public Defender.

In particular, instead of a warning, a monetary fine was established for individuals and private individuals for exceeding the acceptable norms of acoustic noise⁷³²; The amount of the monetary fine in case of repeated offense has been radically increased - instead of 150-300 GEL, 500-1000 GEL for individuals, and 5000-10000 GEL for legal entities, instead of 500-1000 GEL.

About a month after the implementation of the new regulations with increased fine sanctions and protocol warnings, the inspection has already revealed violations on the part of legal entities/individual entrepreneurs.⁷³³ Obviously, these changes cause difficulties for the private sector, however, the Public Defender hopes that the relevant facilities will take preventive measures to avoid committing offenses as well as heavy financial burdens.

In the reporting year, citizens addressed the Public Defender with complaints about the noise related to the activities of various entertainment facilities.⁷³⁴ As it turns out from the information we obtained, for example, in Tbilisi, the fact of exceeding the acoustic noise level by one of the bars on Atoneli Street was revealed 12 times.⁷³⁵ Also, we are informed that in the period of 2023, more than 100 penalty protocols have been drawn up for cafes and bars located on Atoneli Street and its surrounding areas. Another complaint was related to entertainment facilities located on D. Abashidze Street, noise generated during night hours, due to noisy gatherings of young people, loud conversations, etc.

In addition, in the period of 2023, more than 5500 complaints were received⁷³⁶ through the hotline of the City Hall about the alleged exceeding of the permissible norms of acoustic noise, as we know, most of

⁷³⁰ see Parliamentary Report of the Public Defender of Georgia, 2022, p. from 218.

⁷³¹ see Amendments to Article 77¹ of the Code of Administrative Offenses of Georgia at the link: <<https://matsne.gov.ge/ka/document/view/5962411?publication=0#DOCUMENT:1>>, [4/03/2024], the amendment entered into force in 2023 from December 14 of the year.

⁷³² A natural person will be fined in the amount of 150 GEL, and a legal entity/individual entrepreneur - in the amount of 1,500 GEL.

⁷³³ 15 actes were made under Article 77¹, Part I of the Code of Administrative Offenses of Georgia (1500 GEL); According to Part II of Article 77¹ (5,000 GEL) - 5 acts; According to part 3 of Article 77¹ (10,000 GEL) - 7 acts.

⁷³⁴ The facilities are located in Tbilisi, on Atoneli Street, and on D. Abashidze Street.

⁷³⁵ In the period from January 1, 2022 to 11/08/2023.

⁷³⁶ 5836 complaints; In 521 cases of the received notifications, a violation of the law was detected. Municipal inspection of Tbilisi City Hall, 15/01/2024, letter No. 17-01240151358. The regulation also does not apply to the traffic infrastructure and the public events of recreation, culture and sports agreed with the local self-government body, the number of which makes up a large part of the incoming calls - 3528 hotline, on which the complainants were remotely got and provided with the information foreseen by the law.

the complaints were related to tourist places, where there are many cafes, bars, restaurants, and night clubs.⁷³⁷

According to the Public Defender's assessment, it is important for the state to continue to respond effectively to lawbreakers, however, at the same time, as mentioned, it is important for private entities to take into account the need to comply with the rules and take preventive measures to avoid committing an offence, as well as a heavy financial burden.

16.7.Right to Clean Air

Atmospheric air pollution is one of the most important problems in the country, which has been supervised by the Public Defender of Georgia for many years.

One of the challenges preventing the full realization of the right to clean air is the air quality monitoring network. It is crucial to present a complete picture of pollution and to plan the next steps. The network is still not complete and work to expand it continues.⁷³⁸ It is also planned to introduce a modeling and forecasting system from 2024.⁷³⁹ The Public Defender will keep an eye on this process and the measures taken by the state in the direction of perfecting the monitoring network.

In the reporting year, the Government of Georgia approved the technical regulation regarding the introduction of limit norms for the emission of different types of pollutants from transport and other mobile-mechanical means.⁷⁴⁰ Based on this, the primary or temporary registration of a vehicle in Georgia will be carried out only if it meets at least the Euro 5b standard, which largely means limiting the registration of vehicles manufactured before 2013.⁷⁴¹ The introduction of the vehicle emission standard will contribute to the improvement and rejuvenation of the vehicle fleet in the long term.⁷⁴²

Amendments were made to the Code of Administrative Offenses of Georgia, which provides for the control of vehicle emissions on the roads by means of special equipment. From September 4, 2023, road monitoring of vehicles with visible, excessive emissions began in Tbilisi, Rustavi, Batumi and Kutaisi. The public defender believes that the effective control mechanism of one of the biggest sources of pollution,

⁷³⁷ According to the agency's explanation, the following locations are distinguished: the surrounding area of Charden, New Aghmashenebeli, Orbeliani Square, Sh. Dadiani Street, Akhvlediani Street and others. In 521 cases of the received notifications, a violation of the law was detected.

⁷³⁸ According to the letter of 23.01.2024, No. 21/427 of the National Environmental Agency, work will begin in 2024 for the purchase of 9 new stations and one gravimetric instrument, and the placement of these stations is planned for 2025.

⁷³⁹ *ibid*; In 2023, a project related to the strengthening of technical capabilities in the direction of air pollution modeling and forecasting was completed, relevant guidance documents were prepared and trainings were conducted to improve practical knowledge.

⁷⁴⁰ Resolution No. 228 of June 28, 2023, Technical Regulation - "On the implementation of the marginally permissible norms of emission (emissions) from various types of transport and other mobile-mechanical vehicles polluting the atmosphere with harmful substances, provided for by the European Union legislation, in the territory of Georgia".

⁷⁴¹ The regulation came into effect for cars and minibuses on January 1, 2024, and for buses and trucks on January 1, 2025.

⁷⁴² Ministry of Environment Protection and Agriculture of Georgia 24.01. 2024, letter No. 406/01.

motor transport, should be created in other urban areas as well, the periodic review of this list is indicated in the explanatory card.⁷⁴³

An amendment was made to the relevant resolution as well, as a result of which the so-called export of "catalysts" was forbidden, which was caused by the fact that the removal of catalysts from vehicles registered before 2020 and selling them through export took a mass character, which increased atmospheric air pollution with harmful substances.⁷⁴⁴

In the reporting year, the legislative body adopted the "On Industrial Emissions" law, which was one of the recommendations of the Public Defender. The Public Defender hopes that its effective implementation will contribute to the prevention/reduction/control of emissions as a result of industrial activities in the country. The permit system integrated by law will be implemented for future planned activities from September 1, 2026, and for existing activities - from 2029 to 2031, step by step, depending on the sectors.⁷⁴⁵

It should be noted that in 2023, the 2023-2025 Air Quality Management Plan for the Central Zone (which includes Rustavi) was developed and approved.⁷⁴⁶ A baseline study was prepared for the development of an air quality management plan for the Tbilisi agglomeration, and later, a working version of the draft action plan, which is being actively discussed. The development of the air quality management plan for the Black Sea area has also started. In the first stage, it is planned to conduct basic research, on the basis of which a project of an action plan will be developed. From 2024, it will also be planned to develop an air quality management plan for the western zone (which includes Kutaisi).

The Public Defender welcomes the steps taken by the state to improve the state of atmospheric air quality and the monitoring network, it will continue to actively monitor this issue in the future.

16.8.Environmental Impact System

The Public Defender of Georgia has also been monitoring the steps taken⁷⁴⁷ to improve the environmental impact assessment system for many years, since quality, qualified, and comprehensive environmental impact assessment has one of the key roles in the proper realization of the right to environmental protection. The Public Defender welcomes the updating of environmental impact assessment and strategic environmental assessment manuals and hopes that their implementation in practice will

⁷⁴³ see Explanatory card: <<https://info.parliament.ge/file/1/BillReviewContent/316836>>, [4/03/2024].

⁷⁴⁴ According to the information provided by the letter No. 406/01 of the Ministry of Environment Protection and Agriculture of Georgia dated 24.01.2024, an amendment was made to the Resolution No. 259 of June 9, 2016 on banning the export of catalysts "On approval of the list of waste allowed for import into the territory of Georgia, for export from the territory of Georgia and for transit in the territory of Georgia" Due to the fact that catalysts contain precious metals (platinum, palladium, rhodium, etc.) and have a high value, the removal of catalysts from vehicles registered before 2020 and their sale through export had mass character, which increases atmospheric air pollution with harmful substances.

⁷⁴⁵ see assessment in the parliamentary report of the Public Defender, 2022, p: 224-225.

⁷⁴⁶ Decree No. 1431 of the Government of Georgia dated August 7, 2023.

⁷⁴⁷ For example, see Parliamentary Report of the Public Defender of Georgia 2022, p. 216.

contribute to the improvement⁷⁴⁸ of the relevant decision-making process and the full participation of the public in it.

Proposals

To the Parliament of Georgia:

- In order to effectively and humanely manage the animal population, in 2024 the law on "Domestic Animals" should be adopted and the legal status of animals should be determined, uniform rules of care and maintenance should be established, strict liability should be established for the violation of obligations, effective supervision and enforcement mechanisms should be established;
- To review the deadline set by Article 93, Part 9 of the Forest Code of Georgia and discuss the possibility of reducing it.

Recommendations

To the Government of Georgia:

- In 2024, the updated national disaster risk reduction strategy of Georgia and its action plan should be developed and approved.

To the Ministry of Environment Protection and Agriculture of Georgia, to LEPL National Agency of Environment:

- To ensure the publication of bulletins on the website about the results and forecasts of the natural geological processes that have already been prepared and will be developed in the future;
- During the year 2024, plan the necessary measures for the study of the threats identified in the documents showing the results and forecasts of the development of natural geological processes, for the complete detection and avoidance of risks.

⁷⁴⁸ see Links: <National Environment Agency | Nea>; <National Environment Agency | Nea>, [last seen: 4/03/2024].

17.Right to Health

The right to health, as a fundamental and universal right, is the cornerstone on which the individual and society build their aspirations, sustainability and the essence of a dignified life. According to the World Health Organization (WHO), health⁷⁴⁹ is not only the absence of disease, but also a state of complete physical, mental and social well-being. The pursuit of such comprehensive well-being poses challenges that determine health outcomes.

The Public Defender (Ombudsman), in order to promote the protection of the right to health, continued to exercise his authority within the mandate during the reporting period. Among them, he was actively involved in the decision-making process regarding the treatment and provision of drugs for children diagnosed with achondroplasia in 2023.

In terms of patients' rights, in 2023 the Parliament of Georgia shared the recommendation of the Public Defender and instructed the relevant agency to develop new norms/standards defining the procedure of proceedings, which will determine the obligation to submit the review documentation prepared for the assessment of the quality of medical services to the Professional Development Council for consideration in a timely and complete manner.⁷⁵⁰ The Public Defender draws attention to the importance of timely implementation of this recommendation, as it is related to the issue of effective protection of patients' rights, and hopes that he will no longer have to talk about this problem in the next year's report.

17.1. Right of Patient

The right to health care⁷⁵¹ includes the highest possible standard of physical, mental and social condition, which, in turn, depends on the state's scope of discretion and available resources; But it requires the state to create a system in which health care is accessible and safe for everyone, in the shortest possible time.

Patient safety and the provision of quality health services are fundamental to strengthening the health system and ensuring universal access to services. Patient safety is recognized by the World Health Organization as a global health priority. At the WHO World Assembly in 2021, the Global Patient Safety Action Plan for 2021-2030 was approved.⁷⁵² In 2023, the 5th World Ministerial adopted the Montreux Charter on Patient Safety "Less Harm, Better Care – from Resolution to Implementation".⁷⁵³ As a signatory country of the Charter, Georgia has developed a patient safety program,⁷⁵⁴ as well as a patient safety council, whose task is to establish high-reliability health care systems and health care organizations, clinical process safety, promotion of professional education, and strengthening the involvement of patients and their families in the field of health care.⁷⁵⁵

⁷⁴⁹ Constitution of the World Health Organization. In: World Health Organization: Basic documents. 45th ed. Geneva: World Health Organization; 2005 Information available: <bit.ly/3SbSmT9> [Last seen 04.03.2024].

⁷⁵⁰ Resolution of the Parliament of Georgia of November 6, 2023 "On the situation of protection of human rights and freedoms in Georgia in 2022" regarding the report of the Public Defender of Georgia.

⁷⁵¹ The Right to Health | ESCR-Net Information available: <bit.ly/3u35emO> [Last seen 04.03.2024].

⁷⁵² Global Patient Safety Action Plan Information available: <<https://lnnk.in/bPjN>> [Last seen 04.03.2024].

⁷⁵³ The Montreux Charter on Patient Safety galvanizes action to address avoidable harm in health care Information available: <<https://lnnk.in/iJgX>> [Last seen 04.03.2024].

⁷⁵⁴ Order of September 29, 2023 of the Minister of Internally Displaced Persons from the Occupied Territories, Health, Labor and Social Affairs of Georgia No. 69/N "On Approval of the Patient Safety Program of Georgia for 2024-2025".

⁷⁵⁵ Information available: <https://lnnk.in/e3io> [Last seen 04.03.2024].

The creation of similar programs and mechanisms is important, however, in order to effectively protect the right, approving the programs is not enough, and in this case, the main thing is to actually start their implementation.

17.2. Primary Health Care

The need to strengthen primary care, given its potential to provide preventive, curative, long-term management, and palliative care services, has become even more apparent during the pandemic.⁷⁵⁶ In order to improve the health status of the population of Georgia and protect it from health-related risks, it is necessary that the primary health care network is as wide as possible, the service package is complete, and the motivation and professional skills of the employed medical personnel are strong.

The monitoring carried out by the Office of the Public Defender on access to primary health care services for the population within the framework of the "Village Doctor" state program in 2019⁷⁵⁷ and 2022⁷⁵⁸ revealed a number of problems related to the availability and quality of services. One of the main challenges was the outdated infrastructure and compliance with the minimum standards of the relevant requirements. In 2023, the Public Defender monitored the implementation of the recommendations issued by him in previous years. It is commendable that last year the government began working on solving problems gradually and improving services.⁷⁵⁹

The Public Defender also positively evaluates the task set by the authorities - strengthening the primary health care system by providing high-quality, individual-oriented, integrated services.⁷⁶⁰ At the same time, it is important for the state to make appropriate efforts to increase the confidence of the population in primary health care services and to improve the rate of service consumption by them.

17.3. Prevention and Control of Infection in Medical Institutions

One of the most important challenges in the field of healthcare in the world is the problem of infection of patients with various viral and bacterial pathogens in medical institutions. It is, in most cases, caused by the neglect of necessary measures related to sanitation and infection prevention and control.⁷⁶¹

Infection control and prevention in medical facilities is of paramount importance not only for the well-being of individual patients, but also for the public health system as a whole. Accordingly, the state is obliged⁷⁶² to control all health care institutions⁷⁶³ and the quality of medical services⁷⁶³, which, among

⁷⁵⁶ 2021 report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, p. 215. Information available: <bit.ly/47LwEv5> [Last seen 04.03.2024].

⁷⁵⁷ Information available: <<https://bit.ly/3k6rfMv>> [Last seen 04.03.2024].

⁷⁵⁸ Information available: <<https://bit.ly/3EcX9SY>> [Last seen 04.03.2024].

⁷⁵⁹ Considering the 2023 budget resources, the rehabilitation of 24 village ambulatories has begun, 7 new village ambulatories have been constructed, and the construction of 14 new village ambulatories is ongoing. Additionally, in 290 village ambulatories, electrification, water supply, heating systems, doors, and windows have been organized. In 515 village ambulatories, issues related to heating have been addressed (Georgian Medical Holding, letter 1000395 1 24 00031762, dated 12/01/2024)

⁷⁶⁰ Resolution No. 230 of the Government of Georgia of May 2, 2022 "On the Approval of the National Health Protection Strategy of Georgia for 2022 - 2030".

⁷⁶¹ Nosocomial infections: Epidemiology, prevention, control and surveillance; Information available: <<https://bit.ly/3ETKU9o>> [Last seen 04.03.2024].

⁷⁶² Constitution of Georgia, Article 28.

⁷⁶³ See Article 28, Clause 2.

other things, includes issues related to sanitary and infection control.⁷⁶⁴ Implementation of necessary measures is a fundamental aspect of providing safe and quality healthcare.

Taking into account the urgency of the issue and the direct connection with the right to health protection, in 2023, for the first time, the Office of the Public Defender of Georgia conducted monitoring of measures to prevent and control the spread of infections associated with medical services in 9 medical institutions, the detailed results of which are reflected in a special report.

The monitoring showed that there was no systematic monitoring of the observance of hand hygiene measures in any of the inspected medical facilities. In 5 of the inspected institutions, one of the most acute problems was the failure of the ventilation systems in the high and extremely high-risk areas, which increases the risk of spreading the infection through the air from the isolation warehouses. The sterilization space in medical institutions was not properly arranged, malfunctions of ventilation and air conditioning systems, violations of the principles of zoning of "clean" and "dirty" spaces, and insecurity of the requirements for the use of personal protective equipment by personnel when moving between zones were revealed. Also, gross violations of the instrument pre-sterilization process were detected in five institutions. The condition of sterilized instruments also did not meet the established standards, which affects the sterilization quality of reusable surgical and other medical instruments/materials; Also, the requirements for washing, handling, storage and use of medical linens were neglected.

In addition to the above, violations concerning the integrity of medical infrastructure surfaces and waste management processes were revealed in four institutions. Moreover, during the monitoring of medical institutions, it was revealed that the training modules and programs in the majority of medical institutions do not take into account the needs of a specific medical institution, they are just superficial and formal in nature.

The creation of the National Coordination Council⁷⁶⁵ in 2023 and the development of a number of guiding documents in the direction of antimicrobial resistance are related to the same issue and can be positively evaluated.⁷⁶⁶ However, taking into account that infection prevention and control involves a set of comprehensive, structured and organized measures, within the framework of positive commitment,⁷⁶⁷ it is necessary for the state to implement a number of measures not only in the direction of antimicrobial resistance, but also in the direction of infection prevention and control.

17.4. Tobacco Control

In a special report prepared in 2017, the Public Defender of Georgia pointed out the importance of protecting minors from the harmful effects of tobacco and effectively controlling the threats in this

⁷⁶⁴ „... extends to the underlying determinants of health, for example safe and potable water and sanitation. Quality is a key component of universal health coverage (UHC). Quality health services should be: safe: avoiding injuries to people for whom the care is intended “; Information available: < <https://shorturl.at/jJOP9> >[Last seen 18.03.2024].

⁷⁶⁵ Order No. MOH 2 23 00000223 of the Minister of Labor, Health and Social Protection of Georgia dated June 23, 2023 "On the establishment of the National Coordination Council for Infection Control and Antimicrobial Resistance".

⁷⁶⁶ Order No. 96/N of the Minister of IDPs from the Occupied Territories of Georgia, Labor, Health and Social Protection of December 21, 2023 "On the Approval of the Antimicrobial Resistance National Strategy for 2024-2030 and the Action Plan for 2024-2026".

⁷⁶⁷ The obligation of the state to act actively to protect human rights.

direction.⁷⁶⁸ The Public Defender's Special Report discusses, among other things, the undesirable consequences of the packaging of tobacco products attractive to minors. In this regard, the amendments to the Georgian Law "On Tobacco Control" made in December 2023 should be negatively evaluated, according to which, until April 1, 2025, tobacco product sellers were given the opportunity to buy tobacco products that will be placed on the Georgian market with non-standardized packaging until July 31, 2024. Taking into account the fact that the introduction of standardized packaging of tobacco products is not an unexpected innovation for tobacco manufacturers, and the purpose of the forecited legislative change is only to reduce the financial losses of tobacco manufacturers,⁷⁶⁹ the Public Defender of Georgia considers such changes in the tobacco control legislation unjustified. At the same time, it is still important to carry out a public awareness raising campaign regarding the harmfulness of electronic and vaping tobacco use, since for part of the society it is perceived as an acceptable product for use in a closed facility.

17.5. Management of Inhibition Syndrome

The third article of the European Convention on Human Rights (prohibition of torture) obliges the state to provide appropriate medical services to detained persons during the process of drug detoxification.⁷⁷⁰

According to the practice of the European Court of Human Rights, the process of drug detoxification causes such severe physical and mental suffering and stress that it falls under Article 3 of the Convention. The court noted that it is the state's obligation to prove that the detained person was provided with adequate medical services.⁷⁷¹

According to Article 16 of the instruction⁷⁷² on medical services of the persons placed in the temporary detention isolators of the Ministry of Internal Affairs of Georgia, access to replacement therapy is ensured. During the reporting period, those detained persons who were involved in the program before their arrest were provided with replacement therapy. In addition, according to the information received from the Ministry of Internal Affairs of Georgia,⁷⁷³ in 2023 arrested persons who developed withdrawal syndrome while in the temporary detention center and did not benefit from replacement therapy, based on their consent, were included in this program. As for those detainees who were not involved in the program before their arrest, and who did not request to be involved in it after their arrest, like last year,⁷⁷⁴ they were treated symptomatically with sedatives and painkiller.

⁷⁶⁸ see Detailed information, special report of the Public Defender of Georgia "On the current situation in the field of tobacco control" <<https://ombudsman.ge/res/docs/2019041112524031329.pdf> > [Last seen 04.03.2024].

⁷⁶⁹ See explanatory note <<https://info.parliament.ge/file/1/BillReviewContent/342076> > [Last seen 04.03.2024].

⁷⁷⁰ The decision of the European Court of Human Rights of June 2, 2008 in the case Dybeku v. Albania, para. 41; The decision of the European Court of Human Rights of May 24, 2009 in the case of Poghosyan v. Georgia, para. 47-49; The decision of the European Court of Human Rights in the case of Wenner v. Germany (Application no. 62303/13), para. 78-80.

⁷⁷¹ the decision of the European Court of Human Rights in the case of Wenner v. Germany (Application no. 62303/13), paragraph 78-80.

⁷⁷² Approved by Order No. 691 of the Minister of Internal Affairs of Georgia dated December 8, 2016.

⁷⁷³ The position presented by the Ministry of Internal Affairs of Georgia regarding the report of the Public Defender of Georgia "On the state of protection of human rights and freedoms in Georgia in 2022" and the recommendations shared by the Resolution No. 3600-XIIIms-Xmp of the Parliament of Georgia dated November 1, 2023.

⁷⁷⁴ Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2022, p. 233, [last seen 11.10.2024].

The Public Defender has repeatedly noted⁷⁷⁵ in his reports that it is important to create a unified manual for the management of prevention syndrome in a temporary detention center, which will include the amount of assistance to be provided in the detention center and clearly indicate in what cases the detainee should be transferred to a hospital. According to the information received from the Ministry of Internal Affairs in February 2023,⁷⁷⁶ a document on the symptomatic treatment and management of detained persons addicted to narcotic substances in a temporary detention center was developed and should be approved in the near future⁷⁷⁷ and in January-February 2023, the training of medical personnel in this direction began. Nevertheless, during the visits of the National Mechanism of Prevention, it was revealed that most of the medical personnel did not have information about the above-mentioned document and had not received training, and the prevention syndrome was managed as in previous years. As of March 2024, a guidance document on the management of obstructive syndrome has been developed, but is still under review.⁷⁷⁸

Recommendations:

To the Minister of Internal Affairs of Georgia:

- As soon as possible, ensure the approval of a single manual for medical staff to manage the prevention syndrome in the temporary detention center, which will include the scope of assistance in the temporary detention center and will clearly state in which case the detainee should be transferred to a medical facility; On the basis of this document, ensure the training of the medical staff of temporary accommodation isolators.

To the Minister of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs of Georgia:

- To review the findings and results of the public defender's monitoring report on the prevention and control of the spread of infections associated with medical services in a separate medical institution;
- To ensure the processing and public availability of information about the work carried out and planned for the purpose of improving the infrastructure of primary health care in the regions, including rehabilitation facilities, rehabilitation prioritization, sequence and dates.

⁷⁷⁵ Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2022, p. 233; Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2021, p. 222; Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2020, p. 95.

⁷⁷⁶ February 27, 2023 MIA 7 23 00564408 Reply.

⁷⁷⁷ The document was developed within the framework of the Council of Europe project - "Implementation of policing measures with the protection of human rights in Georgia" - which aims to determine and implement effective treatment on the spot for a substance-addicted person placed in an isolator, and if necessary, to be transferred to a civil sector inpatient facility, where appropriate competent and qualified healthcare professionals will provide him with adequate treatment.

⁷⁷⁸ Letter MIA 1 24 00639688 of the Ministry of Internal Affairs of March 1, 2024.

18. Right to Work

In terms of the realization of the right to work, one of the problems in the country remains the lack of a culture of constructive dialogue between the parties of labor relations, which, last year, resulted in many cases of employee strikes.⁷⁷⁹ In order to improve working conditions, workers even resorted to extreme forms of protest.⁷⁸⁰ The Public Defender of Georgia and his representatives met with a part of the striking employees.⁷⁸¹ The most pressing problem of the workers was disproportionately low pay for the work done. The Public Defender of Georgia publicly called on the employers to ensure proper and fair compensation of the employees in order to give the workers and their families a decent life.⁷⁸²

It is commendable to establish the minimum limit of hourly pay for persons employed in the medical field,⁷⁸³ however, the introduction of minimum pay in a specific sector cannot be considered sufficient to properly ensure the right to decent pay for labor in the country. The issue of using the labor rights of persons employed on the digital platform remains a problem. Also, according to the current labor legislation, the private employer has no obligation to pay parental leave for pregnancy, childbirth and child care.⁷⁸⁴

The Office of the Public Defender of Georgia revealed a number of facts of discrimination against employees based on different opinions and/or belonging to professional associations, and addressed the employers with appropriate recommendations in order to restore their right to work.⁷⁸⁵ The Public Defender of Georgia called on the employers to ensure a safe and healthy working environment for the employees, as well as not to harass and illegally fire those employees who protested the working conditions, had different opinions and/or enjoyed the right to strike.⁷⁸⁶ Also, the Public Defender, with the

⁷⁷⁹ Ambulance doctors and drivers' strike, January 2023, available at: <<https://shorturl.at/twF56>> [last accessed 04.03.2024]. Ambulance doctors protest, June 2023, available at: <<https://shorturl.at/dtCPW>> [last accessed 04.03.2024], Volt couriers strike, February 2023, available at: <<https://shorturl.at/fvXY0>> [last seen on 04.03.2024], strike of "Bolt" drivers, available at: <<https://shorturl.at/hqLUW>> [last seen on 04.03.2024], strike of TV company "Formula" operators, available at <<https://shorturl.at/vELX0>> [last seen on 04.03.2024], Sairme Mineral Waters employees strike February-March 2023, available <<https://rb.gy/7lmmzz>> [last seen on 03.04.2024], Chiatura miners' strike, Available at <<https://rb.gy/ecejv8>> [last viewed on 04.03.2024], Strike of persons employed on the construction of the Ricoti highway, June 2023, available at: <<https://rb.gy/z1dgy9>> [last viewed on 04.03.2024], Strike of employees of the Darketi mine in Chiatura, December 2023, available at: <<https://rb.gy/57ez0k>> [last viewed 04.03.2024], Strike of cleaning workers, June 2023, available at: <<https://rb.gy/njv1a8>> [last accessed 04.03.2024], Strike of Tbilisi Opera and Ballet Theater employees, available at: <<https://shorturl.at/nozR5>> [last accessed 04.03.2024].

⁷⁸⁰ A person employed in the Chiatura mine cut off his mouth as a sign of protest, available at: <<https://shorturl.at/cEJ01>> [last viewed on 04.03.2024].

⁷⁸¹ Meeting of the Public Defender with persons employed in the Chiatura mine, available <<https://shorturl.at/cEJ01>>, [last viewed 03.04.2024]. Meeting of representatives of the Office of the Public Defender with striking employees of "Sairme Georgian Waters", available <<https://shorturl.at/yR157>> [last viewed 04.03.2024], meeting of the Public Defender with couriers of "Volt" <<https://shorturl.at/cnET1>>, Meeting of the Office of the Public Defender with the operators of "Formula" TV Company.

⁷⁸² Statement of the Public Defender <<https://shorturl.at/owEK9>> [last viewed on 04.03.2024].

⁷⁸³ Resolution No. 36 of February 22, 2013 of the Government of Georgia "On some measures to be implemented in order to transition to universal health care".

⁷⁸⁴ see Constitutional Lawsuit No. 1698 of the Public Defender of Georgia dated May 6, 2022 against the Parliament of Georgia, available at: <<https://shorturl.at/rvTW1>> [last viewed 29.03.2024].

⁷⁸⁵ see Chapter of the 2023 parliamentary report of the Public Defender of Georgia - Discrimination in labor relations.

⁷⁸⁶ The statement is available at: <<https://shorturl.at/dquJ3>> [last viewed 04.03.2024].

proposals of the Advisory Board of the Labor Inspectorate, developed recommendations aimed at the proper protection of collective labor rights and prevention of discrimination on the grounds of belonging to the labor/trade union.⁷⁸⁷

18.1. Facts of Violations of the Right to Work Revealed by the Office of the Public Defender of Georgia

Protection of labor rights of persons working through the platform remains a problem. Despite the "partner" status granted to couriers by the platform companies, the Public Defender is guided by the standards developed by international institutions and courts of different countries and considers the persons working through the platform as persons in labor relations with the company. The Public Defender first identified discrimination against Bolt Food couriers in 2021.⁷⁸⁸ Two additional decisions were made during the reporting period.⁷⁸⁹ From the complaints studied by the Office of the Public Defender of Georgia in 2023, it is clear that the employers do not indicate in the labor contract about such essential conditions stipulated by the legislation, such as: the type of work to be performed, working time, rest time, the method of using paid leave and overtime pay, they do not record the hours worked and Bypassing the obligation stipulated by the Labor Code,⁷⁹⁰ they sign labor contracts for a period of less than one year.

In 2023, the representatives of the Office of the Public Defender of Georgia, during the monitoring of long-term care facilities for the elderly (including private facilities), revealed the facts of violation of the labor rights of the persons employed there. The workers explained that their working hours were not recorded, they did not have defined rest periods, and they did not properly enjoy their labor rights. The Office of the Public Defender of Georgia applied to the Labor Inspection Service of the State of Georgia to check the compliance of the existing working conditions with the labor legislation in long-term care institutions for the elderly.⁷⁹¹ In September 2023, unplanned inspections conducted in all 7 institutions for long-term care for the elderly revealed the facts of violations of the working conditions of employed persons (174 employees, 88% of whom are women) and the protocols of violations were drawn up against the institutions.⁷⁹²

In 2023, the Office of the Public Defender of Georgia studied the complaint of two convicts employed in the canteen of the Special Penitentiary Service No. 2 institution⁷⁹³ and revealed the facts of labor rights violations. Considering the fact that convicts belong to a vulnerable group of employees, the Office of the Public Defender of Georgia has called upon the Labor Inspection Service to fully inspect the conditions of labor rights protection for convicts employed in private enterprises located within penitentiary

787 The General Proposal of the Public Defender of September 4, 2023 to the Advisory Board of the Labor Inspection of the State Labor Inspectorate, available at <<https://shorturl.at/hJNP2>> [last viewed on 04.03.2024].

788 see The Recommendation of the Public Defender of Georgia to "Bolt" dated June 14, 2021, is available at: <<https://bit.ly/3YiNxJ6>> [last viewed on 03.04.2024].

789 The recommendation of the Public Defender of Georgia of March 15, 2023 to "Mourning", is available at: <<https://bit.ly/41n1A1M>> [last viewed on 04.03.2024], the recommendation of the Public Defender of July 4, 2023 to "Volt Georgia" LLC, available at <<https://shorturl.at/fgkzL>> [last viewed on 04.03.2024].

790 Organic Law of Georgia - Labor Code, Article 12, Art. 3.

791 Letter of the Office of the Public Defender of Georgia No. 04-3/699, 18.07.2023.

792 25.09.2023 of the Labor Inspection Service Letter No. LIO 9 23 01009392.

793 The employer is "Ili Group" LLC (S/K 205265808).

institutions.⁷⁹⁴ The Public Defender explains that in closed institutions, especially when employees have limited opportunities to leave the institution, the risk of violation of labor rights is particularly high, and to avoid this, active monitoring of such institutions by the Labor Inspectorate is important.

It was also revealed that cultural and sports institutions based in Tbilisi City Hall have been signing labor contracts with the same teachers/coaches for an average of 15 years for a period of 10 months, ignoring the principles defined by Article 12, Part 3 of the Labor Code of Georgia. Consequently, over the years, 918 employees (including 780 female employees) cannot enjoy the right to paid leave without justification. At the same time, teachers and coaches are at risk of being terminated due to contract expiration.

The possibility of taking paid leave and unjustified and illegal dismissal from the workplace, in addition to violating the right to work guaranteed by the constitution of employees, has a direct impact on the economic situation of women employed in cultural and sports institutions (as we mentioned above, 85% of employees are women). Accordingly, the labor contracts signed with the teachers/coaches of cultural and sports institutions established by the City Hall of Tbilisi Municipality must be in compliance with the Labor Code of Georgia.

Recommendations

To the Labor Inspection Office:

- Priority should be given to full inspection of private enterprises operating in closed institutions.

794 Proposal of the Public Defender of Georgia No. 04-5/1771 19.02.2024, available <<https://urlis.net/8j304f3h>> [last viewed 04.03.2024].

19. Right to Social Security

In 1948, inclusive social security systems were enshrined as a human right (in the Universal Declaration of Human Rights),⁷⁹⁵ marking them as crucial for fostering equal participation in economic advancement. Social protection encompasses all programs and measures intended to eradicate poverty and inequality or shield individuals from specific shocks throughout their life span.⁷⁹⁶ States are legally obliged to establish social security systems, deriving directly from the right to social security.⁷⁹⁷

19.1. Targeted Social Assistance

As of March 2023, the number of individuals receiving social benefits stood at 676,641, marking the highest figure recorded during the program's timeframe.⁷⁹⁸

For years, the Public Defender has highlighted various challenges⁷⁹⁹ within the social protection system. The Defender emphasizes the importance of periodically assessing the effectiveness of the "targeted social program" based on household research to ensure fair, targeted, and efficient assistance to the population. It is crucial to review the accuracy of family assessments regularly and update the methodology accordingly.⁸⁰⁰ Notably, the current methodology,⁸⁰¹ approved in 2014, has remained largely unchanged since its inception.

In 2022, a new pilot methodology⁸⁰² for evaluating the socio-economic status of households was endorsed, with subsequent analysis of its outcomes and the preparation of recommendations. The methodology document outlines several modifications⁸⁰³ concerning household consumer index and need index variables, aimed at enhancing the identification and incorporation of vulnerable families into

⁷⁹⁵ Universal Declaration of Human Rights (UDHR) Article 22, 25 information available at: <<https://is.gd/tzpM3u>> [last visited 04.03.2024].

⁷⁹⁶ Thematic Brief Social Protection – the United Nations information available at: <<https://is.gd/V8FKPa>> [last visited 04.03.2024].

⁷⁹⁷ International Covenant on Economic, Social and Cultural Rights article 9 information available at: <<https://is.gd/fyS9V3>> [last visited 04.03.2024].

⁷⁹⁸ Information available at: <<https://is.gd/Tk4BTr>> [last visited 04.03.2024].

⁷⁹⁹ Report of the Public Defender on the State of Protection of Human Rights and Freedoms in Georgia, 2020, p. 238.

⁸⁰⁰ Report of the Public Defender on the State of Protection of Human Rights and Freedoms in Georgia, 2022, Tbilisi, 2023, p. 300; Report of the Public Defender on the State of Protection of Human Rights and Freedoms in Georgia, 2019, Tbilisi, 2020, p. 288.

⁸⁰¹ It was launched in 2015.

⁸⁰² Order №MOH 9 22 00000131 of the the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.

⁸⁰³ The new welfare assessment methodology incorporates additional criteria, including factors such as household members residing abroad, livestock ownership (sheep, goats, and pigs), individual hot water systems, the number of employed household members, possession of private health insurance from any provider. Ownership of beehives and birds, sources of income such as pensions, other state benefits, and social assistance, adult children living independently from the family, family head (male/female), and auxiliary buildings (cellars, garages), the type of floor material (parquet) and the location of residence in a mountainous region are no more considered (as indicated in a letter from the Social Service Agency dated January 24, 2024 SSA 2 24 00082355).

the program. It is crucial that, based on the analysis of available information, the current methodology document undergoes timely updates to minimize errors and facilitate the identification of vulnerable families in need.

19.2. Employment in Public Works

The public works employment program⁸⁰⁴ was initiated in 2022 and has been ongoing for two years.⁸⁰⁵ In 2022, 29,323 beneficiaries participated in the public works employment promotion sub-program, followed by 39,999 beneficiaries in 2023.⁸⁰⁶ Participants are citizens registered in the "Unified Database of Socially Vulnerable Families".⁸⁰⁷ The program aims to facilitate their employment in public works while providing social protection and assistance. It offers various measures to socially vulnerable individuals,⁸⁰⁸ and upon selecting one of these options, beneficiaries retain all state-provided benefits for socially vulnerable persons for four years.⁸⁰⁹ However, the program does not specify when beneficiaries should begin seeking employment in the open market—whether immediately or after four years. Additionally, it is essential to evaluate the program's effectiveness and how the employment experience gained through the program assists socially vulnerable individuals in integrating into the labor market.

19.3. Right to Adequate Food/Access to Free Canteens

In 2022, the Public Defender of Georgia conducted monitoring of free canteens, with the findings documented in a special report.⁸¹⁰ Subsequently, recommendations were issued to all municipalities. To assess the implementation of these recommendations, the Public Defender examined the situation in municipalities last year.

Based on the information gathered from municipalities, it can be concluded that the majority of the recommendations outlined in the special report were not fulfilled. Lack of financial resources is cited as the primary reason for not implementing the recommendations, and some municipalities believe that their free canteens are functioning adequately. Several municipalities have expressed their willingness to

⁸⁰⁴ Beneficiaries of the program include family members aged 18 to the retirement age (which is 60 years for females and 65 years for males). They must not be currently employed or registered as self-employed as determined by the database maintained by the LEPL Revenue Service and should be listed in the Unified Database of Socially Vulnerable Families with a rating score of 120,000 or less.

⁸⁰⁵ Resolution No. 17 of the Government of Georgia dated January 16, 2023 "On the Approval of the 2023 State Program for Employment Support".

⁸⁰⁶ Letter SESA 2 24 00171924 of February 13, 2024 of the State Employment Support Agency.

⁸⁰⁷ 120,000 or less living allowance recipient family member aged 18 to retirement age (female - 60 years, male - 65 years) who is not employed and/or registered as self-employed according to the database produced by the LEPL Revenue Service.

⁸⁰⁸ Employment in public works, employment in the open labor market and formalization of informal employment.

⁸⁰⁹ Resolution No. 80 of the Government of Georgia dated February 17, 2023 on amending Resolution No. 145 of the Government of Georgia "On social assistance" dated July 28, 2006.

⁸¹⁰ Information available at: <<https://shorturl.at/hjxK2>> [last visited 04.03.2024].

consider the Public Defender's recommendations during the process of rehabilitating the canteen buildings.⁸¹¹

The Office of the Public Defender has also sought information⁸¹² from the LEPL National Food Agency regarding the outcomes of inspections, monitoring, and supervision conducted at the service/canteens catering to socially vulnerable beneficiaries in 2023. According to the information received, critical non-conformities identified with three business operators in 2023 have been rectified, and they will be allowed to continue operating.

The monitoring conducted in 2022 revealed the absence of a unified standard for managing and delivering the free canteen service. This issue remains unresolved, with no established national standards regarding the quantity and nutritional content of food distributed, as well as mandatory requirements for the physical environment, safety protocols, and sanitary conditions. It is worth noting that according to a Resolution passed by the Parliament of Georgia in response to the Report of the Public Defender of Georgia, the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia was tasked with approving minimum standards for free canteen services. Similar to last year, the lack of a systematic monitoring mechanism for free canteens is considered a significant challenge. In most municipalities, canteen monitoring is conducted solely by the internal audit department of the City Hall, primarily focusing on financial oversight. No reports or recommendations are generated based on service monitoring results. However, a few municipalities have established special monitoring groups responsible for preparing reports on canteen operations.⁸¹³

The absence of a home delivery service for beneficiaries unable to visit a canteen due to age or health conditions persists as a challenge. Some municipalities have not explored this need, while others have not formalized or established specific criteria for providing this service to eligible beneficiaries.

Another issue arises from the fact that not all members of a family are listed as beneficiaries.⁸¹⁴ This situation varies across canteens in Tbilisi, where all family members from registered households, both on the main and additional lists, are included and receive their allocations. While some municipalities include families in the service based on their needs, others, particularly Tbilisi Municipality, prioritize the order of application submission over need when forming the lists of free canteen users.

⁸¹¹ For example, according to the mayor of Tkibuli municipality, in order to improve the relevant infrastructure, the municipality purchased project documentation for building rehabilitation and for creating an environment adapted to all beneficiaries. Letter No. 74-742329164 of the Mayor of Tkibuli Municipality, 18/10/2023.

⁸¹² Letter №04-10/11984 of the Office of the Public Defender, 11/12/2023.

⁸¹³ For example, Municipalities of Zugdidi and Rustavi, Letter №24-2423292183 of the Acting Mayor of Zugdidi Municipality 19/10/2023, Letter №38-3823292374 of the Deputy Mayor of Rustavi Municipality, 19/10/2023.

⁸¹⁴ The City Hall of Gurjaani Municipality took into account the Public Defender's recommendation to enroll all family members in the main list.

Recommendations

To the Government of Georgia and the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia:

- To ensure the timely approval of the new methodology for assessing the socio-economic status of households, along with the adoption of necessary guidance documents and changes in relevant subordinate legal acts to facilitate its implementation.

Local Municipalities:

- To conduct a thorough assessment of residents' needs within their municipality, gather statistical data, and based on this information, mobilize funds to ensure adequate access to food in 2024.

20. Right to Adequate Housing

20.1. Introduction

Systemic challenges regarding the realization of the right to adequate housing have persisted unresolved in the country for years.⁸¹⁵ The reporting period underscored the ongoing legal and practical hurdles faced by homeless individuals in accessing suitable housing. Beyond the absence of framework legislation to facilitate the fulfillment of the right to adequate housing and a legal definition of homelessness, the state lacks a governmental strategy and corresponding action plan for homeless individuals. The root causes and scope of homelessness remain unstudied, and there is no unified database of homeless individuals. Consequently, there is a lack of cohesive policy for homelessness prevention, which should ideally be informed by specific research findings. Regrettably, despite recommendations from the Public Defender, issues related to the realization of the right to adequate housing were not incorporated into the 2022-2030 National Strategy for the Protection of Human Rights.

The state of social housing and the inadequate living conditions therein persist as challenges. There are no established minimum standards for organizing social housing for homeless individuals in the country. Moreover, the lack of a uniform definition of homelessness, consistent with international standards, poses a significant obstacle in municipalities. In response to this issue, the public defender has filed a constitutional lawsuit,⁸¹⁶ though the court has yet to make a decision on hearing on the merits of the case.⁸¹⁷ Some municipalities solely offer programs for temporary shelter or rental assistance. However, it is important to note that due to the shortage of housing stock or social housing for long-term accommodation, as well as overcrowding, such programs cannot systematically address homelessness, nor can they eliminate it in the long term.

In response to these challenges, it is crucial to enhance international mechanisms concerning the right to adequate housing. For instance, it is imperative for Georgia to commit to upholding and fulfilling Article 31 of the European Social Charter, which guarantees the right to housing.⁸¹⁸

20.2. Conditions in Municipalities

20.2.1. The Situation in Social Housing Located in Municipalities and the Visits Made

In 2023, the Public defender, along with its representatives, visited 10 social housing facilities across 5 municipalities.⁸¹⁹ Consistent with assessments from previous years, the conditions of these social housing units were found to be severely unsatisfactory and degrading. Some units failed to meet the international minimum standards for adequate housing, and in certain instances, residing in them posed risks to life

⁸¹⁵ See 2019, 2020, 2021 and 2022 Reports of the Public Defender of Georgia "On the State of Protection of Human Rights and Freedoms in Georgia", chapter: Right to Adequate Housing. Available at: < <https://shorturl.at/aG245> > [last visited 04.03.2024].

⁸¹⁶ See the Constitutional lawsuit of the Public Defender of July 29, 2021, "The Public Defender of Georgia against the Parliament of Georgia, the City Council of the Tbilisi Municipality and others". Available at: < <https://shorturl.at/dqstI> > [last visited 04.03.2024].

⁸¹⁷ The executive session on the lawsuit was held on May 29, 2023.

⁸¹⁸ This issue is reviewed in detail in the 2022 Report of the Public Defender of Georgia on the State of Protection of Human Rights and Freedoms in Georgia. Therefore, we will not touch on it further.

⁸¹⁹ Tbilisi Municipality (3 residences), Gori Municipality (2 residences), Kutaisi Municipality (2 residences), Ozurgeti Municipality (2 residences), Batumi Municipality (2 residences).

and/or health.⁸²⁰ Most social housing units, constructed independently of municipalities, were situated in non-residential buildings.⁸²¹ The inadequate living conditions observed in social housing units in Ozurgeti, Kutaisi, Gori, and Tbilisi were also detailed in the annual reports of the Public Defender.⁸²²

The situation is particularly dire at the residence situated in the former Narcologie building in Gori Municipality. Sanitary conditions there remain extremely poor, with no sewage or drainage systems in place, rendering the building uninhabitable. Notably, on the second floor of the building, there is an institution offering services to beneficiaries of the special drug substitution program, commonly known as the methadone program. According to residents, the contaminated surroundings and lack of safety measures, compounded by the presence of this institution, negatively affect them and their children. The Public Defender has urged the Gori Municipality Mayor's Office since 2022 to expedite the relocation of residents from the residence and provide them with alternative housing that upholds their dignity and meets minimum standards. In response, during the reporting period, the Gori Municipality announced a tender for the renovation of sanitary facilities in the social housing and the construction of a bathhouse. The Municipality explained⁸²³ that as an interim solution, they decided to set up temporary sanitary units near the building and refurbish the bathrooms inside.⁸²³ Regarding long-term housing solutions, the Municipality stated that they are actively collaborating with the government, involving the State Trustee's Administration, to address the issue. It is crucial to highlight the critical importance of resettling individuals from Gori's social housing and providing them with alternative housing.

The conditions in the residence situated at 18 Irakli Abashidze Street in Kutaisi, formerly the Academy of Arts, are inadequate. There are no sewer systems, bathrooms, or access to natural gas. Rainwater leaks into the living areas, and most of the windows are broken. According to Kutaisi City Hall, residents will be provided with suitable housing once the planned construction of the building is completed.⁸²⁴ The roof of the social housing complex located at 40g Nikia Street in Kutaisi, which was damaged in the natural events of January 2023, has been repaired. However, significant housing issues persist. The building is deteriorating, lacking essential housing conditions, and suffering from a faulty drainage system. In Ozurgeti and Village Meria, residents face similar challenges. Faulty sewage systems, basements flooded by rainwater, and damp living spaces due to damaged facades are common issues. These living conditions are particularly concerning for vulnerable individuals, including children with asthma, disabled individuals, and war veterans who are living there.

It's worth noting that in Batumi, infrastructural issues continue to pose the primary challenge in the "City of Dreams" area. Currently, there is no sewage system, and roads and electrical wiring have been installed

⁸²⁰ Regarding the difficult situation in social housing, see The Special Report "Implementation of Housing Services in Georgia, in light of the Rights of Persons with Disabilities", available at the following link: < <https://bit.ly/3mepgg9> > [last visited 04.03.2024].

⁸²¹ In Kutaisi, the social housing complex in Nikea settlement occupies a former telecommunications facility. Similarly, the Ozurgeti social housing is situated within the premises of a former maternity building. In Gori, the housing facility is housed within a former drug clinic building, while in Rustavi, the housing is accommodated in a former vocational school. Additionally, the Orkhevi housing complex is repurposed from a former warehouse.

⁸²² See 2021 and 2022 Reports of the Public Defender of Georgia "On the State of Protection of Human Rights and Freedoms in Georgia".

⁸²³ Letter №20-2023307117 of Gori Municipality City Hall of November 3, 2023.

⁸²⁴ Letter №44-4424033187 of Kutaisi Municipality City Hall of February 2, 2024.

artificially. In response to this, a multi-apartment residential complex consisting of 582 units (currently in the completion phase) is being constructed in the Mejinistskali settlement in Batumi, commissioned by the Ministry of Finance and Economy of the Autonomous Republic of Adjara. The working group has already discussed the order, according to which families in the program will be provided with the housing. Additionally, plans for the second phase of social housing provision include the construction of nine 13-story buildings, totaling 1077 residential units.⁸²⁵

It is important to commend the positive steps taken in Tbilisi, particularly in Orkhevi on 12 Mukhadze Street. Recognizing the inadequate conditions of the social housing, the Tbilisi Municipality's decision to provide rent assistance for families residing there is commendable.⁸²⁶ Additionally, the City Hall plans to grant the possession rights to residential premises to beneficiaries residing in Orkhevi.

20.2.2. Programs to Eliminate Homelessness in Municipalities

Programs related to the provision of adequate housing in municipalities vary and are fragmented. There is a lack of a unified systematic approach to social assistance/programs for homeless individuals in the country. The Office of the Public Defender has requested information from all municipalities⁸²⁷ that have established procedures for registering homeless individuals and providing them with temporary housing. According to the information provided, the majority of municipalities either lack social housing or have fully occupied existing housing. In most municipalities, the homelessness program involves providing housing rent for a single budget year, which, while addressing the immediate need for adequate housing, does not provide a long-term solution to homelessness. In this regard, the municipality of Zugdidi stands out as an exception. Within its program to provide housing for homeless individuals and those with challenging living conditions, Zugdidi constructs individual residential houses for individuals who possess land plots.

It is worth noting that the registration process for homeless individuals in some municipalities is time-consuming,⁸²⁸ further complicating the timely provision of shelter for homeless people.

Proposals

To the Parliament of Georgia:

- To enact framework legislation aligned with international standards to safeguard the right to adequate housing. This should include establishing a legal definition of a homeless person within the legislation, drawing from international standards and best practices.

⁸²⁵ Letter №01-01-10/2217 of the Ministry of Finance and Economy of the Autonomous Republic of Adjara of February 22, 2024.

⁸²⁶ According to the Decree №24.16.27 of the Government of Tbilisi Municipality dated January 11, 2024, the amount of rent was set at no more than 1000 (thousand) GEL per family.

⁸²⁷ The municipalities of Khoni, Kharagauli, Chokhatauri, Senaki, Samtredia, Sagarejo, Rustavi, Ozurgeti, Mestia, Martvili, Tetrtskaro, Zugdidi, Vani, Dusheti, Dmanisi, Gori, Bolnisi, Batumi, Ambrolauri, Adigeni, Tbilisi and Kutaisi.

⁸²⁸ From this perspective, Tbilisi Municipality stands out notably. In 2023, the Health and Social Service of Tbilisi City Hall received applications from 1,139 families seeking homeless status. Currently, the service is in the process of reviewing these applications, with decisions pending for 678 families who applied in 2022. Throughout 2023, the commission held 7 sessions dedicated to registering homeless individuals and providing shelter or housing at Tbilisi Municipality City Hall.

Recommendations

To the Government of Georgia:

- To establish minimum standards for the arrangement of social housing based on best international practices.

To the City Halls of Gori, Kutaisi and Ozurgeti Municipalities:

- To offer residents of social housing alternative accommodation that ensures a dignified standard of living.

21. Rights of Persons with Disabilities

21.1. Introduction

Despite certain positive measures taken by the state to protect the rights of persons with disabilities (hereinafter “PWDs”), several challenges remain.

There still are gaps in the process of providing inclusive education at all educational levels. Among them, the monitoring of resource schools in the reporting period showed that the rights of students with special educational needs (students with disabilities) are not properly realized/enjoyed. In particular, the provision of adequate educational and boarding services is problematic.

According to the research on the state of inclusive education in higher education institutions of Georgia, the infrastructure of universities, university spaces, websites, learning resources and e-learning portals are not fully accessible for students with various types of disabilities.⁸²⁹

It is still a challenge to realise the right to work of PWDs, to support their competitiveness and to employ them in the open labour market.

Access to the physical environment, information, means of communication and various services remains a problem for PWDs.⁸³⁰ Despite the regulation adopted to ensure the accessibility of the physical environment, the continuous training of the employees of the relevant agencies⁸³¹ and the audit of accessibility remain problematic. The access of persons with various types of disabilities to facilities built before the entry into force of the national accessibility standards remains a particular challenge.⁸³² In the reporting period, the National Accessibility Plan was still not approved.⁸³³ It is commendable that the 2024-2026 Action Plan for Human Rights Protection of Georgia determines certain activities for the

⁸²⁹ Regarding this issue, a recommendation was made in the 2020 and 2021 parliamentary reports of the Public Defender of Georgia. See, the 2021 parliamentary report, p. 295, available at: <<https://www.ombudsman.ge/res/docs/2022040413242699860.pdf>> [29.03.2024].

⁸³⁰ Regarding this issue, recommendations were made in the 2020, 2021 and 2022 parliamentary reports of the Public Defender of Georgia. See, the 2022 parliamentary report, p. 258, available at: <<https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>> [29.03.2024].

⁸³¹ For example, since 2021, employees of the LEPL Architecture Service of the Tbilisi Municipality have not been retrained on the requirements of the national standards of universal design and accessibility. Letter no. 60-01240443621 of the LEPL Architecture Service of the Tbilisi Municipality, dated 13.02.2024. Letter no. 64-01240451158 of the Municipal Services Development Agency, dated 14.02.2024.

⁸³² It should be noted that in practice, an examination is not carried out in every case, which would determine to what extent it is possible to adapt certain facilities. The impossibility of adapting a building due to objective technical reasons must be confirmed by an appropriate expert report. Furthermore, in this case, alternative means of action should be determined.

⁸³³ The 2024-2026 Action Plan for the Protection of Human Rights of Georgia (Activity 22.2.9) determined the obligation to develop an action plan for the implementation of the national accessibility standard. The administration of the Government of Georgia was determined as a responsible agency and the parliament and the municipalities as the partners. The deadline for this activity is 2025.

progressive accessibility of media services for PWDs.⁸³⁴ It is, however, imperative to follow up on their timely implementation. Furthermore, it is important to develop the legislative framework to introduce universal services in the field of electronic communications and to supervise its implementation.

Protection of the right to health of PWDs is problematic. For example, universal health care and referral service programmes are not tailored to the individual needs of PWDs. Some of the citizens face various barriers while undergoing necessary examinations to determine the status of their disability. Furthermore, there are no medicines available for certain diseases for those in need.

There are still no significant changes implemented by the state to protect the rights of persons with mental health problems. The 2022-2024 Action Plan of the 2022-2030 Mental Health Care Strategy is being implemented with delays.

The practical implementation of the legal capacity reform does not comply with the requirements of Article 12 of the UN Convention on the Rights of Persons with Disabilities (hereinafter the "CRPD").

There are few services focused on promoting the independent living of PWDs. The geographical coverage of these services is a problem. There is still no rehabilitation programme tailored to the individual needs of adults with disabilities,⁸³⁵ including services for persons with autism aged 18 and older.

The measures carried out to implement the 2023-2030 Strategy for Independent Living and Deinstitutionalisation of PWDs and the 2023-2025 Action Plan should be positively evaluated. However, in the reporting period, a practical example of deinstitutionalisation was revealed that did not correspond to the spirit/essence of the process.

One of the challenges in terms of protecting the rights of PWDs is the identification of incidents of violence against these persons and effective response to them.

The meaningful participation of PWDs/organisations for PWDs in the decision-making process at different levels remains problematic. There still are challenges in terms of the functioning of local self-government councils in this regard.

21.2. Inclusive Education

Obstacles in terms of the education of PWDs persist, preventing them from receiving quality inclusive education.

Early and Preschool Education

The Ministry of Education, Science and Youth of Georgia does not have information on how many children with disabilities are involved in preschool education.⁸³⁶ In the reporting period, certain steps were taken

⁸³⁴ The adoption of necessary measures for the functioning of the online portal about accessibility of audio-visual media services is among them.

⁸³⁵ Regarding this issue, a recommendation was made in the 2020 parliamentary report of the Public Defender of Georgia, p. 394, available at: <<https://www.ombudsman.ge/res/docs/2021040110573948397.pdf>> [29.03.2024].

⁸³⁶ Letter no. MES 5 24 000001787 of the Ministry of Education, Science and Youth of Georgia, dated 11.01.2024.

to identify children with disabilities who are left without preschool education.⁸³⁷ However, it remains a challenge to properly identify the target group in all municipalities and refer them to appropriate services.⁸³⁸ It is important to continue active awareness-raising measures among preschool staff on issues related to inclusive education⁸³⁹ as well as to introduce an early education curriculum. These activities should cover all municipalities throughout Georgia.⁸⁴⁰

21.3. Secondary Education

Out of 2,296 general education schools operating across Georgia, students with special educational needs/disabilities are enrolled in only 1,615 schools. 12,919 students with special educational needs/disabilities study in these establishments and 456 students with special educational needs/disabilities study in resource schools.⁸⁴¹ In order to identify and reduce the number of children who do not receive education, it is necessary to ensure close cooperation between competent agencies and services,⁸⁴² as well as the development of support services within the schools.⁸⁴³ Adaptation of schools built before the entry into force of the technical regulation – National Accessibility Standards – remains a problem.⁸⁴⁴ The challenge is to produce and maintain/follow up to detailed statistics by identifying the factors that lead to children with disabilities dropping out of school.

The Situation in Resource Schools

⁸³⁷ In 2022-2023, within the project, the University's Capacity Building to Support Inclusive Preschool and General Education, in four municipalities, academic staff of higher educational establishments participated in the series of training sessions on inclusive and quality education. A strategy for improving access to preschool education, an action plan for vulnerable children and a monitoring toolkit for strategy implementation were developed for the participating municipality. Letter no. MES 5 24 0000017871 of the Ministry of Education, Science and Youth of Georgia, dated 11.01.2024.

⁸³⁸ Regarding this issue, a recommendation was made in the 2022 parliamentary report of the Public Defender of Georgia. See the 2022 parliamentary report, p. 258, available at: <https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>.

⁸³⁹ Regarding this issue, a recommendation was made in the 2022 parliamentary report of the Public Defender of Georgia. See the 2022 parliamentary report, p. 261, available at: <https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>. It should be noted that, in the 2022-2023 academic year, training programmes were delivered for specialists working in preschool and secondary educational establishments. Training on Early Inclusive Education was completed by 629 specialists from different municipalities and Tbilisi kindergartens. Training programmes were also implemented for 64 municipal kindergarten management units and city hall representatives, where, *inter alia*, implementation of early inclusive education at the local level was discussed. Letter no. MES 5 24 0000017871 of the Ministry of Education, Science and Youth of Georgia, dated 11.01.2024.

⁸⁴⁰ In 2023, the early education curriculum was introduced in 20 target municipalities, within the framework of which early inclusive education training was provided to the educational staff of preschool establishments in the same municipalities.

⁸⁴¹ As of 11 January 2024. Letter no. MES 5 24 0000017871 of the Ministry of Education, Science and Youth of Georgia, dated 11.01.2024.

⁸⁴² Regarding this issue, recommendations were made in the 2020, 2021 and 2022 parliamentary reports of the Public Defender of Georgia. See, the 2022 parliamentary report, p. 258, available at: <https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>.

⁸⁴³ Active involvement of the Social Service Agency and the use of various mechanisms is important. For example, verifying the child's school registration information when determining the social benefits. It is also necessary to introduce additional services at the municipal level.

⁸⁴⁴ As of January 2023, 443 public school buildings have been fully adapted in different regions of Georgia, and 1,551 public school buildings have been partially adapted. In another 200 schools, construction/renovation procedures are to be completed or implemented. Letter no. MES 5 24 0000017871 of the Ministry of Education, Science and Youth of Georgia, dated 11.01.2024.

The monitoring carried out by the Office of the Public Defender in the reporting period⁸⁴⁵ showed that in some resource schools, due to the changes related to the renovation process of the buildings, conducting the educational process adequately is a challenge.⁸⁴⁶ During the same period, infrastructural, sanitary and hygienic problems were also identified.⁸⁴⁷ Few institutions not only do not meet the standards of universal design but also pose a threat to the life and health of students.⁸⁴⁸ Both the insufficient number of specialists⁸⁴⁹ and insufficient retraining of existing personnel in different directions is a challenge.⁸⁵⁰ It should be noted that the production of individual study plans/individualized education program does not comply with the established standard.⁸⁵¹ Also, there is no variety of materials used in the teaching process. Work in the resource rooms is not carried out in accordance with the needs of the students.⁸⁵² Internal monitoring of inclusive education is also problematic.⁸⁵³

Higher Education

In 2023, 39 students with disabilities/special education needs, who graduated from complete secondary/general education, gained the right to continue their studies at higher educational programmes. Unfortunately, in the reporting period, factors that prevent PWDs from continuing to study

⁸⁴⁵ The monitoring was carried out in May-June 2023, with the involvement of the employees of the Public Defender's Office, a special teacher, a psychologist, and a social worker. Within the monitoring, all resource schools in Tbilisi and regions were inspected.

⁸⁴⁶ During the monitoring, two resource schools were moved to another school building. Due to the renovation of Tbilisi Public School no. 202, the educational process took place in Tbilisi Public School no. 126. The boarding part was shifted to Vladimir Komarov Tbilisi Physics-Mathematics Public School no. 199. Public school no. 198 was temporarily located in the building of Public School no. 210. In both cases, teaching took place in the second shift. Teaching in the afternoon in school no. 198 is associated with certain difficulties. For instance, due to the delay, the first lesson is not conducted adequately. Students receive therapeutic services (behavioural therapy and speech therapy) in rehabilitation centres in the morning hours, which makes it difficult for them to concentrate on the learning process. The temporary study space of the same school is not accessible to children with disabilities. It should also be noted that the administration of Tbilisi Public School No. 126 displayed a stigmatizing attitude towards the staff and students of Public School No. 202, denying them access to use the central entrance of the educational institution.

⁸⁴⁷ Toilets at some schools do not meet the sanitary and hygienic standards, and a certain smell can be detected in these places. Providing bathrooms with hot water and hygiene items was problematic.

⁸⁴⁸ For instance, there were a lot of outdated and dangerous items in the yard of Tbilisi Public School no. 203 and Kutaisi Public School no. 45. Among them, iron objects were scattered in the yard of School no. 203. There was also an old car parked in the yard. It should be noted that students had to cross this road every day to reach the study space and the canteen. Due to the inaccessible environment, the student using a wheelchair is deprived of the opportunity to reach the canteen and eat with other peers. Some schools do not have adapted WCs at all.

⁸⁴⁹ the number of students, it should be noted that the number of specialised teachers and psychologists is particularly insufficient in relation to the number of students.

⁸⁵⁰ The existing training modules do not consider the specifics of resource schools. They need to be focused more on the practical challenges. For example, the staff do not have information on child protection referral procedures and internal instructions. Furthermore, teachers find it difficult to prepare resources independently and plan classroom activities tailored to individual student needs.

⁸⁵¹ They are mostly not specific, measurable, achievable, relevant and time-bound.

⁸⁵² Some schools have a single resource room, which is usually shared by several specialists. Considering the number of students and inclusive education specialists in the schools, this is not enough. The cases of improper arrangement of the resource room were also identified.

⁸⁵³ The findings submitted by the schools to the ministry are mostly general and do not include an in-depth analysis of the directions to be inspected. In the monitoring process, the work of inclusive education specialists and the issue of taking into account the individual needs of students with special needs in the learning processes has not been properly evaluated. It should be noted separately that the submitted reports are not followed by appropriate feedback from the ministry.

at the higher level of education after completing the general level have not been studied.⁸⁵⁴ The monitoring carried out by the Public Defender's Office in higher educational establishments⁸⁵⁵ showed that the infrastructure, university spaces, websites, learning resources and e-learning portals are not fully accessible to students with various types of disabilities.⁸⁵⁶ Furthermore, the process of inclusive education is not pre-planned or coordinated, and educational needs are met reactively.⁸⁵⁷ The process of adapting assignments and exam formats to students with disabilities is not organised according to the principle of reasonable accommodation.⁸⁵⁸ Universities do not have sufficient support services, human and technological resources to promote student independence or full access to study materials.⁸⁵⁹ Students with disabilities are less involved in extracurricular and scientific activities. Because of stigmatising attitudes, they often prefer to hide their special educational needs.⁸⁶⁰ The academic staff are not informed about ethical terminology that is based on human rights, the specifics of working with PWDs, the use of modern assistive technologies, the modification of study materials⁸⁶¹ as well as communication with students with mental health problems.

21.4. Employment of Persons with Disabilities

Despite the activities carried out in the reporting period,⁸⁶² supporting/promoting the competitiveness of PWDs and their employment in the open labour market is still challenging. Lack of access to the physical environment, information, labour market management system and low incentives among employers remain the limiting factors. Furthermore, insufficient awareness of employers on the practical use of

⁸⁵⁴ Regarding this issue, a recommendation was made in the 2020 parliamentary report of the Public Defender of Georgia, p. 295, available at: <<https://www.ombudsman.ge/res/docs/2022040413242699860.pdf>> [29.03.2024].

⁸⁵⁵ The monitoring was carried out in September-November 2023 and covered 11 universities. Inclusive education and accessibility experts and representatives of the Public Defender's Office participated in the monitoring along with the employees of the Public Defender's Office.

⁸⁵⁶ The barriers students with low vision have to deal with in terms of accessing information are especially noteworthy.

⁸⁵⁷ In universities, there is generally no structural unit responsible for the coordination of the educational process for persons with disabilities.

⁸⁵⁸ Decisions are made by professors and faculty administration, which are often not based on relevant and sufficient circumstances.

⁸⁵⁹ Regarding this issue, recommendations were made in the 2020, 2021, and 2022 parliamentary reports of the Public Defender of Georgia. See the 2022 parliamentary report, p. 259, <<https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>> [29.03.2024].

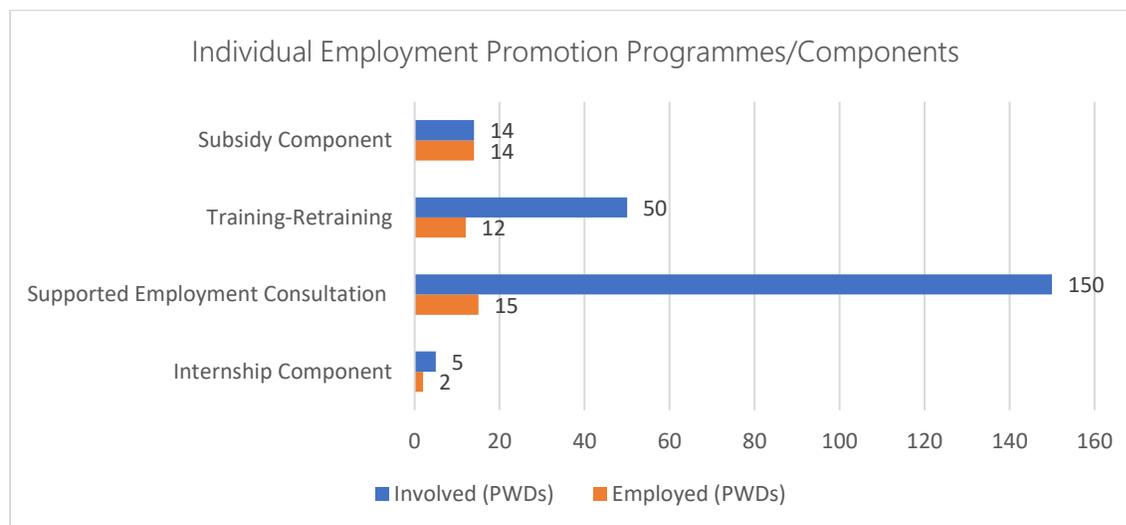
⁸⁶⁰ It is difficult for universities to identify special educational needs that are not visible. These include a learning disability (dyslexia, dyscalculia, etc.), sensory challenges, or a mental health problem.

⁸⁶¹ Most of the time, this is related to the modification of study materials for students who are blind. With rare exceptions, lecturers do not have information about accessible formats for students who are blind. The situation is even more complicated with technical subjects, where the study materials include statistical information, excel files and charts. Lecturers are unable to share this kind of information with students who are blind.

⁸⁶² For example, within the framework of creating an accessible working environment for persons with disabilities/special educational needs of the protected workplace subsidy component, the research conducted under the auspices of the LEPL State Employment Promotion Agency and with the support of the United Nations Development Programme (UNDP) identified the challenges related to the employment of persons with disabilities/special educational needs. Furthermore, within the framework of the international project, Small and Medium-sized Enterprises + East ("i-SME+East"), Action Guidelines were developed, which are a means for cooperation with small and medium businesses. The Action Guidelines contain specific advice and recommendations for those who work in the field of employment of persons with disabilities. Letter no. SESA 3 23 01334645 of the LEPL State Employment Promotion Agency, dated 13.12.2023.

reasonable accommodation measures, including the introduction of support services/assistive technologies appropriate to individual needs in the workplace, remains problematic.⁸⁶³

As of September 2023, a total of 39,343 job seekers, including 3,221 PWDs, were involved in employment promotion services and programmes.⁸⁶⁴ A total of 11,022 job seekers, including 285 PWDs, are employed within the framework of the 2023 state employment promotion programme. The significant difference between the number of persons involved in individual sub-programmes and the number of persons actually employed still points to gaps in employment. Below are the data of individual components of this period.⁸⁶⁵



As regards the public sector, in 2023, the development of an electronic training module on the human rights situation of PWDs for human resource management specialists began.⁸⁶⁶ It is important to continue active capacity-building measures for the personnel in this regard. Furthermore, as of 2023, 69 PWDs are employed as public officers. 22 PWDs are employed in managerial positions and 71 PWDs are employed under labour contracts.⁸⁶⁷ It should be noted that the bureau does not have detailed information about employed PWDs, including the positions in which they are employed. This, to some extent, hinders the identification of gaps and tendencies that are needed for planning further steps.

21.5. Right to Health

The realisation of the right to health of PWDs requires the introduction of additional measures by the state, both because of their health care needs and the barriers they face daily while exercising their rights.

⁸⁶³ Regarding this issue, recommendations were made in the 2021 and 2022 parliamentary reports of the Public Defender of Georgia. See the 2022 parliamentary report, p. 260, <<https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>> [29.03.2024].

⁸⁶⁴ Since the beginning of 2023, 34,521 socially vulnerable persons, including 2,993 PWDs, have been engaged in public service. Letter no. SESA 3 23 01334645 of the LEPL Employment Promotion Agency, dated 13.12.2023.

⁸⁶⁵ As of September 2023. Letter no. SESA 3 23 01334645 of the LEPL Employment Promotion Agency, dated 13.12.2023.

⁸⁶⁶ Letter no. C8012 of the Public Service Bureau, dated 8.12.2023.

⁸⁶⁷ Letter no. C176 of the Public Service Bureau, dated 12.03.2024.

The 2022-2030 National Strategy for Human Rights Protection of Georgia also indicates the need to take additional measures to ensure equal access to the full range of healthcare services. However, in 2023, the state did not take practical steps to improve the realization of the right to health of PWDs.⁸⁶⁸

Access to the physical environment of medical facilities, as well as non-adapted medical equipment, remains an insurmountable obstacle. The personnel involved in medical activities have not been trained to ensure establishing communication with PWDs and improving the availability of relevant health services for them. This not only excludes receiving a decent and confidential service, but also, in many cases, becomes the reason for refusing the necessary medical services.

In the reporting period, measures were not taken to implement the necessary changes in the universal health care programme, which would adapt it better to the individual needs of PWDs. The state programme of referral services also does not take into account the individual needs of PWDs. The grounds for determining the amount of funding and/or denying funding under this programme often remain unclear for PWDs.⁸⁶⁹

The availability of drugs for epilepsy (including Dravet Syndrome/orphan epilepsy) was identified as a problem.⁸⁷⁰ Some of the medicines⁸⁷¹ are not registered in Georgia. Prescribing essential medicines from abroad needs financial resources, which the affected families often do not have. It is also problematic to purchase medicines abroad without an appropriate prescription for subsequent delivery. Vital medicines that enter Georgia are periodically in short supply⁸⁷² and the stocks are not replenished in time.⁸⁷³ The unavailability of medicines necessary for the proper management of epilepsy severely limits the ability of persons with epilepsy to manage their condition and threatens their lives and health.

The current medical model of disability assessment does not provide the opportunity to meet the individual needs of PWDs and the amount of the social benefits determined as a result of this assessment is not sufficient to meet the basic medical and care needs of PWDs.⁸⁷⁴ Furthermore, some citizens face barriers when determining their disability status. Financial reimbursement of this procedure is often controversial. In particular, the examinations required for granting the status of a person with disabilities, except for high-tech examinations, are financed by the state, although the reimbursement of the amount

⁸⁶⁸ Letter no. MOH 6 24 00205517 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Security of Georgia, dated 20.02.2024.

⁸⁶⁹ Case no. 4643/23: the procedures were not adequately explained to the citizen, who has limited mobility and needs physical rehabilitation, and was therefore unable to gather the documents.

⁸⁷⁰ Case no. 3395/21: the statement of the NGO Dravet/Orphan Epilepsy Association – Georgia, On 21 February 2024, a meeting was held with the Head of the Institute of Neurology and Neuropsychology, representative of the Georgian branch of the International League Against Epilepsy, and the parents of children with epilepsy.

⁸⁷¹ Among them, first-line intravenous drugs such as Phenytoin, Vigabatrin, Ethosuximide, and Adrenocorticotrophic hormone, as well as Diacomit, Freezium, Suxilep, Ospolot, and Rivotril drops. From the group of psychotropic drugs: Clobazam, Buccal Midazolam or Diazepam rectal gel.

⁸⁷² For example, Topiramate, Oxcarbazepine, Lorafen (Lorazepam) and Topamax.

⁸⁷³ By letter no. 01/11069 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health, and Social Security of Georgia, dated 26.07.2021 we were informed that in the course of further activities, the issue of adding the necessary medicines will be considered within the scope of the possibility. The issue is still unresolved.

⁸⁷⁴ Cases nos. 14648/23 and 858/24.

to be paid during the examination in a medical establishment, including non-high-tech examinations, is a controversial topic.⁸⁷⁵

21.6. Mental Health

The budget of the mental health programme within the state health care programme tends to grow annually. Nevertheless, there were still no significant changes in the reporting period in terms of the protection of the rights of persons with mental health problems. , The lack of financing results in the shortage of beds, community services, housing, and shelters, as well as qualified personnel, and prevents the introduction of an alternative model of care. The already scarce resources in inpatient psychiatric services are further reduced by the dynamic increase in the number of patients due to the transfer of persons with mental health problems from the penitentiary system.⁸⁷⁶ Against this background, the fact that after the closure of the inpatient psychiatric unit operating in multi-profile hospitals⁸⁷⁷ of the Evex network in 2021, no specific measures have been taken to increase the number of beds should be criticized.⁸⁷⁸

Due to the overloading of the available inpatient beds , those who remain outside the service try to improve their condition with outpatient treatment.⁸⁷⁹ However, community-based outpatient psychiatric services are unevenly distributed geographically and do not fully cover all individuals with relevant needs. Both service availability and quality are problematic in areas situated far from the centre. Access to outpatient psychiatric services is also hindered by strong societal stigma, stereotyping of mental health and persons with mental health problems, and weak referral mechanisms. It should be noted that the standards of outpatient services have not been approved to date and the quality of the services provided is not properly controlled.⁸⁸⁰

Funding for rehabilitation services for persons with mental health problems remains minimal. The number of psychosocial rehabilitation centres has not been increasing for years.⁸⁸¹ The chain of prevention, treatment, rehabilitation, and recovery is broken. No rehabilitation programmes have been developed in

⁸⁷⁵ Referrals to the Public Defender's Office regarding status determination procedures. Information received from information meetings. We have not received a response from the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health, and Social Security of Georgia.

⁸⁷⁶ Thematic Research Report on the Availability and Challenges of Mental Health Services in Georgia, The Parliament of Georgia, December 2023, <<https://parliament.ge/supervision/thematic-inquiry>> [12.03.2024].

⁸⁷⁷ Iv. Bokeria University Hospital in Tbilisi.

⁸⁷⁸ Regarding this issue, a recommendation was made in the 2021 parliamentary report of the Public Defender of Georgia, p. 294, <<https://www.ombudsman.ge/res/docs/2022040413242699860.pdf>> [29.03.2024].

⁸⁷⁹ Thematic Research Report on the Availability and Challenges of Mental Health Services in Georgia, The Parliament of Georgia, December 2023, <<https://parliament.ge/supervision/thematic-inquiry>> [12.03.2024].

⁸⁸⁰ Focus group meetings conducted by the Public Defender's office (four meetings) with specialists in the psychiatric field and representatives of organisations working in the field (August-October 2023) and a workshop on monitoring outpatient psychiatric services (the workshop was led by foreign expert Dainius Pūras and included experts working in the field: psychiatrists, psychologists, social workers, outpatient psychiatric service providers, and service users).

⁸⁸¹ There are three centres operating (in Tbilisi, Telavi, and Kutaisi), with only 57 individuals involved in 2023.

Georgia, which would contribute to the resocialisation, employment, and social integration of persons with mental health problems.⁸⁸²

The 2022-2024 Action Plan of the 2022-2030 Mental Health Care Strategy⁸⁸³ continues to be implemented with delays.⁸⁸⁴ Both implemented and planned activities aimed at raising awareness about mental health are unsatisfactory.⁸⁸⁵

Rights of Persons with Psychosocial Needs

Legal capacity reform and the introduction of a model of support in the decision-making process are the most important steps taken by the state in terms of the implementation of the CRPD. However, the analysis of the current situation shows that the practice of implementing the reform in the country is inconsistent with the requirements of Article 12 of the CRPD and violates their right to equal recognition before the law.

Support does not mean leading a person and giving him direction. Support is establishing a person's wishes and preferences and respecting them. This concept is underdeveloped in Georgia.⁸⁸⁶ There are challenges in terms of administration of the reform, inter-agency coordination, and provision of human and material resources of the guardianship and care body. Problems are evident in the existing reporting tools, in the supervision and monitoring.⁸⁸⁷ The efforts of the guardianship and care authority to improve the monitoring process⁸⁸⁸ do not adequately respond to the existing challenges.

In the reporting period, no changes were made in terms of any critical aspects of implementing the reform. Among them, the state service of support persons was not created; the capacities of the agency

⁸⁸² Thematic Research Report on the Availability and Challenges of Mental Health Services in Georgia, the Parliament of Georgia, December 2023, <<https://parliament.ge/supervision/thematic-inquiry>> [12.03.2024].

⁸⁸³ Resolution no. 23 of the Government of Georgia of 18.01.2022 on the Approval of the Mental Health Strategy of Georgia for 2022-2030, <<https://bit.ly/3Etv9WE>> [22.02.2023].

⁸⁸⁴ With regard to the activities not completed in 2022, which were not fully completed in 2023 either, the 2022 parliamentary report of the Public Defender of Georgia gives a recommendation, p. 259, <https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>.

⁸⁸⁵ Resolution no. 528 of the Government of Georgia of 28.12.2023 on the Approval of the 2024-2026 Action Plan for the Protection of Human Rights of Georgia, <https://matsne.gov.ge/ka/document/view/6053557?publication=0&fbclid=IwAR3nS-PmU_JDq7HCktlez5lBdPB010yisNB8GhZc3VMZxd_RtL4R4dbJil>, Activity 20.11.1 – Planning an informational and educational campaign to raise the awareness and knowledge about mental health among young people and to reduce the stigma associated with mental health issues. Indicator – communication plan is developed, campaigns are implemented. Activities 27.7.1 and 27.7.2 – Seven meetings in two years provided for by measures to raise awareness about PWDs.

⁸⁸⁶ Report of the Special Rapporteur on the rights of persons with disabilities, Gerard Quinn, 03.03.2024.

⁸⁸⁷ Special Report of the Public Defender of Georgia on the Role of the Guardianship and Care Authority in the Process of the Legal Capacity Reform, 2023, <<https://ombudsman.ge/res/docs/2023071916192514202.pdf>> [13.02.2024].

⁸⁸⁸ Letter no. SCA 3 24 00055398 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 17.01.2024 and Letter no. MOH 2 24 00083429 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health, and Social Security of Georgia, dated 24.01.2024. A toolkit for the social worker's response to violence against persons with disabilities was developed. Vehicles corresponding to guardianship and care centres increased by seven units at the beginning of 2023. For the needs of the territorial units of the Agency, a total of 34 contracts were concluded to purchase taxi services throughout Georgia in 2023.

of guardianship and care have not been strengthened with financial and human resources;⁸⁸⁹ there was no training provided for support persons and no awareness-raising measures were carried out for the persons receiving support.

Caseload of social workers and the large number of cases allocated to each social worker remained problematic in the reporting period.⁸⁹⁰ No significant changes were made in terms of monitoring the support process, which would have made the process focused on the persons receiving support and would have allowed adequate identification of violations.⁸⁹¹

Despite the challenges in the administration of the legal capacity reform, this issue is not on the agenda of the CRPD implementation committee. This issue is not addressed either in the new strategy of mental health of Georgia approved in 2022 or the Governmental Human Rights Action Plan for 2024-2026.

21.7. Supporting Independent Living

The realisation of the right to habilitation/rehabilitation of PWDs is a necessary prerequisite for ensuring their independent life. Targeted programmes for PWDs are implemented at the central level within the framework of the State Programme for Social Rehabilitation and Child Care approved by the Government of Georgia, the budget of which increases every year.⁸⁹² An increase in the number of beneficiaries using the programmes was also established.⁸⁹³ Nevertheless, in 2023, no significant changes were made to promote independent living of PWDs. Queues of people waiting to receive services provided by the programme⁸⁹⁴ and geographical coverage of services remain a problem. Based on the changes⁸⁹⁵ made in the 2023 programme, children with disabilities are no longer the target group of the sub-programme for providing personal assistant services. The obligation to implement the personal assistant service in

⁸⁸⁹ Regarding this issue, recommendations were made in the 2021 parliamentary report of the Public Defender of Georgia (p. 295) and the 2022 parliamentary report of the Public (p. 260), <<https://www.ombudsman.ge/res/docs/2022040413242699860.pdf>> and <<https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>> [29.03.2024].

⁸⁹⁰ No appropriate research was carried out to determine the necessary number of social workers, which would make it possible to distribute cases in such a way as to protect the labour rights of social workers and provide effective service to individuals receiving support.

⁸⁹¹ Compared to previous years, the number of freelancers hired for the position of social worker has increased. However, due to the lack of certified social workers with higher education in the country, it is not possible to utilise fully the available vacancies.

⁸⁹² In 2022, the budget of the programme was GEL 52,110.0 (Article 30.2 of the Law of Georgia on the 2022 State Budget of Georgia). In 2023, the budget increased to GEL 66,550 (Resolution no. 69 of the Government of Georgia of 21 February 2023 on Approving the 2023 State Programme of Social Rehabilitation and Child Care, Article 2.1.

⁸⁹³ Information about the beneficiaries who used the programmes in the last three years, received by letter no. SCA 5 24 00171265 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 13.02.2024.

⁸⁹⁴ According to letter no. SCA 5 24 00171265 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 13.02.2024, the waiting list is fixed in the sub-programmes of promotion of early development of children, rehabilitation/habilitation of children and day centres.

⁸⁹⁵ Resolution no. 362 of the Government of Georgia of 19 September 2023 amended Resolution no. 69 of the Government of Georgia of 21 February 2023 on Approving the 2023 State Programme of Social Rehabilitation and Child Care. Article 2 of this sub-programme (Annexe no. 1.6) was amended and PWDs of 18 years of age and over were determined as the target group requiring personal assistant services. Before this amendment, children with disabilities were within the target group. Resolution no. 362 of the Government of Georgia of 19 September 2023, Article 1.b), <https://bit.ly/3SHnU3O>.

municipal bodies is indicated as the reason for the change in the target group.⁸⁹⁶ However, under the Law of Georgia on the Rights of Persons with Disabilities,⁸⁹⁷ municipalities have deadline before 1 January 2025 to provide personal assistant services. Due to the fact that other sub-programmes cannot replace this service, children with disabilities remain without personal assistant services until the aforementioned date, which has a negative impact on meeting their needs.

Continuity of rehabilitation services is critical to promoting independent living of PWDs. In this regard, the opening of the Karavi rehabilitation centre should be considered a good example of the coordinated work of the respective responsible agencies of the state.⁸⁹⁸ However, despite this particular positive experience, to this day, the services available in the country for children with autism do not cover all children with the relevant needs. The service provided by the municipalities is fragmented and the territorial coverage of the service is problematic. The non-existence of necessary services for persons with autism aged 18 and older at both the central and municipal levels is another challenge.

Considering the importance of the continuity of rehabilitation services for adults with disabilities, it is necessary to introduce a rehabilitation programme for adult PWDs, adapted to the individual needs of PWDs, at the central level and develop service standards. Current sub-programmes do not respond to the challenges faced by adults with disabilities.⁸⁹⁹

Deinstitutionalisation

In the reporting period, certain steps were taken to implement the 2023-2030 Strategy for Independent Living of PWDs and Deinstitutionalisation and to fulfil the 2023-2025 Action Plan, which should be evaluated positively.⁹⁰⁰

After the closure of the children's institutions, the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking started deinstitutionalisation of large institutions for adults with disabilities. During the reporting period, 18 PWDs were transferred from the boarding house for PWDs in Martkopi to small family-type houses. However, at this stage, a significant number of the beneficiaries remain in

⁸⁹⁶ Letter no. MOH 7 24 00169483 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health, and Social Security of Georgia, dated 13.02.2024.

⁸⁹⁷ Law of Georgia on the Rights of Persons with Disabilities, Article 37.5.b), <https://bit.ly/49fqZPF>.

⁸⁹⁸ Among the centre's beneficiaries are children with autism spectrum, who were left without rehabilitation services due to the termination of the therapeutic services of the Child Development Institute of the LEPL Ilia University.

⁸⁹⁹ In letter no. MOH 6 24 00205517 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health, and Social Security of Georgia, dated 20.02.2024, the ministry refers to the sub-programmes and legal provisions that can be invoked by adults with disabilities. However, they do not fully cover the rehabilitation of adults and the quality of their implementation remains a problem.

⁹⁰⁰ However, it should be noted that the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health, and Social Security of Georgia has not fully informed the Public Defender's Office about the implementation of the activities determined by the action plan.

the boarding houses.⁹⁰¹ Therefore, it is important that this process continues and that it is effectively monitored.⁹⁰²

, The process of transferring PWDs from large institutions to several family-type houses in conditions close to a family environment in communities should be evaluated positively. However, there were shortcomings in the implementation of the deinstitutionalisation process, in particular with regard to the component of providing alternative housing for persons with mental health problems aged 18 and older within the framework of the Social Rehabilitation and Child Care state programme.⁹⁰³ The monitoring carried out by the Public Defender's Office in 2023 revealed that the alternative housing in Senaki, unlike Dusheti's family-type houses, is not compatible with the policy of deinstitutionalisation and does not serve to promote the independent living of the beneficiaries.⁹⁰⁴

21.8. Violence Against PWDs

Establishing incidents of violence against PWDs and effective responses to such incidents are among the challenges in terms of protecting their rights. In addition to the gaps in the legal regulations, the victims' lack of awareness of their rights, the low number of applications lodged with the agencies, the problem of establishing incidents of violence and access to justice, the qualifications of law-enforcement officers on the issues of PWDs, and the lack of inter-agency coordination are problematic.

The legislative amendment of removing Article 50.5 of the Criminal Procedure Code of Georgia was an important development.⁹⁰⁵ This article prohibited questioning/examination of PWDs as witnesses on account of their disability. This wording was negatively assessed by the UN Committee on the Rights of Persons with Disabilities.⁹⁰⁶ It should also be positively noted that the High Council of Justice of Georgia has started working on adapting court forms (12 forms) and ensuring the involvement of the disability community in the process.⁹⁰⁷

In terms of access to justice for PWDs, both the physical accessibility of the buildings of bodies of administration of justice and the availability of relevant services are practical problems hindering applications from these persons, including with regard to incidents of violence. Challenges include insufficient consideration of the needs of persons with various disabilities in the proceedings, lack of communication skills with PWDs on the part of the staff and stigma and stereotypes that prevent PWDs

⁹⁰¹ According to letter no. SCA 2 24 00126884 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 02.02.2024, 34 PWDs are placed in the boarding house for PWDs in Martkopi, 65 in the boarding house for PWDs in Dzevri, and 43 in the boarding house for PWDs in Dusheti.

⁹⁰² According to the same letter, from 1 January 2024, ten persons employed under labour contracts were added to the Agency's Monitoring and Evaluation Division, who will exercise their assigned powers in different regions of Georgia.

⁹⁰³ Resolution no. 69 of the Government of Georgia of 21 February 2023 on Approving the 2023 State Programme of Social Rehabilitation and Child Care, Annex 1.4, Article 3.5.

⁹⁰⁴ Details are available in the 2023 report of the National Prevention Mechanism of the Office of the Public Defender of Georgia.

⁹⁰⁵ See <<https://bit.ly/4bNAfMx>> [29.03.2024].

⁹⁰⁶ CRPD, Concluding Observations on the Initial Report of Georgia, 18.04.2023, para. 28(a), <<https://bit.ly/4bqsDiL>> [29.03.2024].

⁹⁰⁷ Letter no. 26/29-03-O of the High Council of Justice of Georgia dated 22.2.2024.

from fully participating in investigative and other activities, both directly and indirectly, including as witnesses. Information should be provided to a person with disabilities taking into account the limitations of his/her abilities and in a format that is understandable to him/her.⁹⁰⁸

According to the statistics maintained by the Prosecutor's Office of Georgia, during the reporting period, 76 PWDs were granted a victim status in 73 criminal cases in the General Prosecutor's Office of Georgia. Out of these, a witness and victim coordinator were involved in only 17 cases.⁹⁰⁹ According to the same statistics, violence committed by a family member towards PWDs still prevails.⁹¹⁰

The Prosecutor's Office of Georgia maintains segregated statistics according to the form of disability, gender, disability status, ethnic origin, and the place of the commission of a crime. The incidents of both domestic violence⁹¹¹ and violence in institutions⁹¹² are provided/indicated separately. The statistics are maintained according to both the data of the accused and the categorisation of the crime. The prosecutor's office also registers crimes committed intentionally/with prior knowledge on the ground of a discriminatory motive, including different motives or a combination of motives.⁹¹³ All these are examples of positive developments in the practice. At the same time, the processing of statistical data remains a challenge in the LEPL Public Safety Management Centre (112) in terms of reporting violence against PWDs.⁹¹⁴

In the course of processing cases, the Public Defender's Office identified challenges punctuating investigations. Among them, in practice, there are few examples of the application of the recommendation developed by the Ministry of Internal Affairs of Georgia (on Effective Involvement of Persons with Disabilities at the Stage of Investigation). Because of this, PWDs, especially persons with mental health problems or intellectual disabilities, are often not questioned and sometimes the case does not reach the investigation stage. Therefore, for better identification of the incidents of the violation of rights, it is advisable to extend a similar recommendation to the stage of initial communication with PWDs. It should also be not necessary to have the status of a person with disabilities for its use.

⁹⁰⁸ The lack of knowledge and skills for proper communication with persons with disabilities as well as the lack of the Georgian sign language interpreters remains problematic.

⁹⁰⁹ The information includes the data including September 2023. "Analysis of Crimes Committed Against Persons with Disabilities", Prosecutor's Office of Georgia, p. 27, <<https://bit.ly/3SqB4H0>> [29.03.2024].

⁹¹⁰ 43 victims, *ibid.*, p. 9.

⁹¹¹ 43 victims. In this matter, the participation of the legal representative of adults with disabilities in cases of conflict of interest is recognised as a challenge by the Prosecutor's Office of Georgia, "Analysis of Crimes Committed Against Persons With Disabilities", Prosecutor's Office of Georgia, pp. 27, 33 <<https://bit.ly/3SqB4H0>> [29.03.2024].

⁹¹² According to the data of the Prosecutor's Office of Georgia, five persons with disabilities have been granted the victim status as a result of violence inflicted in institutions, *ibid.*, p. 24. According to the data of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, there have been three such incidents. Letter no. SCA 7 24 00118905 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 01.02.2024.

⁹¹³ Out of the 13 acts committed with this motive, four were committed with a disability bias (among others, one jointly with the ethnic origin bias), *ibid.*, p. 22.

⁹¹⁴ Letter no. MIA 9 24 00163477 of the Ministry of Internal Affairs of Georgia dated 18.01.2024.

21.9. Participation of PWDs in Decision-Making

In 2023, ensuring the meaningful participation of PWDs/organisations for PWDs in the decision-making process at various levels is still a challenge. The involvement of PWDs in the development of action plans by administrative bodies on the rights of PWDs as stipulated in the Law of Georgia on the Rights of Persons with Disabilities is also problematic.

The analysis of the information supplied to the Public Defender shows that the number of agencies/territorial bodies that have approved this document is increasing. In the case of government agencies, the participation of PWDs/organisations for PWDs in the development of annual plans is generally satisfactory, although two agencies adopted plans without engaging PWDs.⁹¹⁵ Those cases should be positively mentioned where the agencies first presented the document to the community of PWDs, or the councils working with the agencies and considered their comments. Furthermore, meetings were held with various focus groups. In the case of territorial authorities, some action plans are identical and include only a few tasks, without determining the deadline and/or indicators for meeting them.⁹¹⁶

In the reporting period, there are still problems in terms of the activities of the councils operating in the local self-governments. While in almost every municipality a council working on the rights of PWDs has been established and PWDs and organisations working on their rights are more or less involved in its activities, the effective functioning of the deliberative body remains problematic.⁹¹⁷

The study of the activities of local councils by the Office of the Public Defender⁹¹⁸ showed that, out of 64 municipalities, sessions were held in only 36 municipalities. While the majority of the regulations refer to holding 3-4 sessions during the year, the number of meetings held in practice ranges from one to two sessions. Against this background, the practice of holding sessions by several municipalities should be evaluated positively.⁹¹⁹

In the reporting period, the Government of Georgia still did not approve the unified strategy and corresponding action plan promoting the implementation of the CRPD and the Law of Georgia on the

⁹¹⁵ According to letter no. 7-2 of the National Statistics Office of Georgia, dated 8.01.2024, "Due to the specificity of the tasks of the agency, there was no need for the involvement of PWDs/organisations for PWDs in the process of developing the action plan." According to letter no. PDPS02400000526 of the Personal Data Protection Service, dated 18.01.2024, the action plan has been developed by the service without the involvement of PWDs/organisations for PWDs.

⁹¹⁶ Tchiatura municipality has yet to approve the action plan. Several territorial bodies (municipalities of Adigheni, Poti, and Kazbegi) informed the office about the approval of the action plan, but did not supply the document.

⁹¹⁷ Regarding this issue, a recommendation was given in each parliamentary report of the Public Defender adopted in the recent years. See the 2022 parliamentary report of the Public Defender, p. 261, <<https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>>.

⁹¹⁸ Information received from 64 municipalities has been requested and processed.

⁹¹⁹ Oni – five sessions, Dmanisi – five sessions, Baghdati – four sessions, Akhmeta – four sessions, Samtredia – three sessions, Senaki – three sessions, Signaghi – three sessions, Keda – three sessions, Tskaltubo – three sessions, and Batumi – three sessions.

Rights of Persons with Disabilities. The second National Strategy for Human Rights Protection (for 2022-2030) does not fully reflect all areas of protection of the rights of individuals with disabilities.⁹²⁰

Recommendations

To the Government of Georgia:

- Supervise the development and implementation by administrative bodies of departmental adaptation/universal design action plans under Article 21 of the Law of Georgia on the Rights of Persons with Disabilities;
- Include problematic issues related to the implementation of the legal capacity reform in the agenda of the CRPD implementation committee to overcome the existing challenges; and
- Develop and implement an effective mechanism for monitoring the annual action plans for the protection of PWDs, including the approval of plans and the supervision of the implementation of activities and the promotion of the involvement of PWDs and organisations for PWDs in the process, especially in territorial bodies.

To the Minister of Education, Science and Youth of Georgia:

- In cooperation with municipalities, promote the retraining of preschool educators/pedagogues/specialists on issues related to early inclusive education and retraining of educators/pedagogues of preschool and general educational institutions, inclusive education staff and members of the multidisciplinary team in the early inclusive education module;
- In cooperation with the Social Service Agency, improve the mechanisms of identifying children with disabilities who are left out of school and update the statistics annually;
- Carry out a study of the factors leading to the discontinuation of education by children with disabilities within the framework of general education, follow-up of cases, take preventive measures and analyse data to reduce the current indicator;
- Take measures to ensure timely completion of rehabilitation of schools in accordance with the requirements of the National Accessibility Standards;
- In order to refine the monitoring process and improve the quality of inclusive education, ensure that schools (including resource schools) provide feedback on the conclusions of internal monitoring of inclusive education;
- Taking into account the best practices, develop a coordinating unit at the level of higher education, which will provide coordination, supervision and consultation to higher educational establishments in terms of inclusive education;

⁹²⁰ Despite the request for information on this issue, by the letter no. GOV62400001418 of the Government of Georgia, dated 17.012024, the Public Defender's Office was only informed about the preparation of the report on the action plans of the responsible agencies and their submission to the Parliament of Georgia. With regard to this issue, a recommendation was made in the 2022 parliamentary report of the Public Defender of Georgia, p. 259, <https://www.ombudsman.ge/res/docs/2023033120380187763.pdf>.

- In cooperation with higher educational establishments, promote the reduction of stigmatising attitudes among academic staff and students towards PWDs. Ensure that academic personnel are adequately informed on ethical terminology to use with regards to PWDs, the specific nature of working with students with disabilities, the integration of modern assistive technology in teaching and learning process, modification of study materials and appropriate communication with students with mental health problems.

To the LEPL Employment Promotion Agency:

- Promote the increase of the readiness of employers to ensure the implementation of individual support services for PWDs at workplaces and develop temporary incentive mechanisms focused on their motivation.

To the Bureau of Civil Service:

- Develop a toolkit for collecting and analysing segregated data about PWDs employed in the public service, in compliance with the requirements of the Law of Georgia on Personal Data Protection; and
- Adapt Public Service Bureau services/resources to ensure their accessibility to PWDs and promote the development of support services for public sector employers (including consultation) for the purpose of forming an inclusive working environment (including methods of communication with PWDs, practical aspects of using reasonable accommodation measures, introduction of modern assistive technologies, etc.).

To the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health, and Social Security of Georgia:

- Ensure the availability of medicines needed for the treatment of children/persons with epilepsy, *inter alia*:
 - with the involvement of specialists and persons with epilepsy and parents of children with epilepsy, determine the list of medicines that need to be registered and are in short supply; and
 - take appropriate measures to eliminate the shortage of medicines and ensure the availability of necessary medicines in Georgia;
- Develop a clear and accessible list of paid and free examinations for PWDs in the process of determining the status of a person with disabilities and ensure monitoring of the status determination process;
- Study the accessibility needs of medical institutions and services for PWDs;
- Ensure the revision of the state health care programmes, in particular, the universal health care programme and the state programme of referral services and adapt them to the needs of PWDs;
- Ensure the retraining of a significant part of the medical personnel on communication with PWDs to provide PWDs with a confidential service based on dignity;

- Take effective measures to increase the number of psychiatric inpatient beds;
- With the involvement of mental health experts and representative organisations, ensure the development and approval of service standards for the relevant components of community psychiatric outpatient services;
- Change the rehabilitation services of persons with mental health problems to enable a substantial increase in the number of psychosocial rehabilitation centres and the number of beneficiaries involved in the services;
- Ensure the timely implementation of the activities provided for in the 2022-2024 Action Plan of the Mental Health Protection Strategy, including the follow-up and timely implementation of the activities that were to be implemented but were not carried out in 2023;
- Take effective steps to overcome the stigma towards mental health and persons with mental health problems and raise public awareness, including among medical personnel;
- Before the mandatory implementation of the personal assistant service in municipal bodies, ensure the inclusion of children with disabilities in the personal assistant service within the State Programme of Social Rehabilitation and Child Care;
- Take effective steps to introduce services for individuals with autism aged 18 and older at both the central and municipal levels;
- In order to reduce waiting lists and increase geographical coverage, take effective steps to expand the services tailored to the needs of PWDs within the State Programme of Social Rehabilitation and Child Care;
- Ensure timely implementation of the activities provided for in the 2023-2030 Strategy for Independent Living of PWDs and Deinstitutionalisation and the 2023-2025 Action Plan; and
- Ensure compliance of the deinstitutionalisation of Senaki Alternative Housing with the CRPD principles.

To the Minister of Internal Affairs of Georgia:

- At all stages of proceedings, including the initial stage, ensure the development/use of recommendations on communication/engagement with PWDs, persons with psychosocial needs and mental health problems, and retrain employees and ensure that the application of these recommendations is not necessarily related to the status of a person with disabilities; and
- Ensure the improvement of competencies of employees, including those of the Public Safety Management Centre (112) to timely identify PWDs and their needs in criminal cases.

To the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking:

- Enhance monitoring and develop an effective methodology to prevent violence both in establishments for PWDs and in families.

To the Minister of Internal Affairs of Georgia, the Office of the Prosecutor General of Georgia and the High Council of Justice of Georgia:

- In accordance with the legislation of Georgia, ensure the accessibility of both the physical environment of the agency's buildings and services, and in this process take into account the needs of persons with physical, sensory and intellectual disabilities.

To the Prosecutor General of Georgia:

- Taking into account the needs and preferences of PWDs, increase the involvement of witness and victim coordinators in cases of violence against PWDs.

To the Local Self-government Bodies, the Personal Data Protection Service, and the National Statistics Office of Georgia:

- In the process of developing action plans on the rights of PWDs as stipulated by the Law of Georgia on the Rights of Persons with Disabilities, ensure the meaningful participation of PWDs/organisations for PWDs.

22. Legal Status of Children

22.1. Introduction

In 2023, the protection of children's rights continued to be riddled with a number of challenges. The protection of children's social rights is particularly noteworthy since the programmes⁹²¹ operating in the country, as in the previous years, failed to support and strengthen in long-term children and their families to achieve independent living. The number of students leaving the school and suspension of the student status remained high. Similar to the previous year, the main reason for this was the families departing the country.

In the reporting period, among the challenges faced by the system of protection from violence against children the following is noteworthy – the need to improve the prevention of violence against children and to raise awareness among children and the public on children's rights and child protection mechanisms. Furthermore, prompt identification of violence against children, effective, coordinated and child-friendly response remain problematic. The absence of such a complex response may lead to tragic consequences, as demonstrated by the murder of Aitaj in 2023.⁹²²

Similar to the previous years, there are a number of challenges linked with providing children with rehabilitation services and an adequate number of support professionals. These problems have serious ramifications for children's well-being. Considering the diversity of children's vulnerabilities and needs for ensuring individually tailored, prompt and adequate support, it is necessary to increase the number of qualified social workers, in the state care agency, municipalities and educational establishments, especially in the regions. In this regard, it should be noted that the number of specialists employed in the State Care Agency decreased compared to 2022, and at the end of 2023, 255 social workers and 19 psychologists were employed throughout the country.⁹²³

⁹²¹ Support components provided by the state programme of social rehabilitation and childcare, as well as financial assistance and municipal programmes for socially vulnerable families.

⁹²² See the chapter of the parliamentary report – Early and Child Marriage.

⁹²³ According to the latest data of 2022, there were 273 social workers and 21 psychologists employed within the agency across the country. See the 2022 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, Tbilisi, 2023, p. 262, <<https://bit.ly/42VzHA1>> [28/02/2024]. As of 2023, according to the information received from the agency, there are 283 staff positions of social workers in the agency, out of these, 255 vacancies are filled, including 15 positions of social workers under employment contracts. As for psychologists, there are 20 staff positions and 19 are actually employed, out of which five specialists are under employment contracts. Letter no. SCA 7 24 00237741 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 28/02/2023.

22.2. Right to Education

22.2.1. Preschool Upbringing and Education

In 2023, compared to the quantitative data of 2022, there was an increase by 40 units and 1,708 early and preschool care and education establishments were functioning, with 141,324 children enrolled.⁹²⁴

From the point of view of infrastructural accessibility of the establishments, the measures implemented in terms of the construction of 330 new kindergartens and the rehabilitation of 555 existing kindergartens initiated by the Government of Georgia should be positively evaluated, although the number of establishments still cannot match the total number of preschool students. There are infrastructural, physical and geographical accessibility problems, especially in regions and for children representing national minorities.⁹²⁵ As for access to quality early and preschool education, this issue is particularly problematic in regions and municipalities with shrinking population. At the same time, there are still significant challenges in terms of capacity building of human resources, which, in turn, has a negative impact on the rights of the preschoolers.

According to the results of the study conducted by the Public Defender's Office, there is an urgent need to find relevant personnel and to retrain the already employed staff on children's rights, protection of children from any form of possible violence, referral procedures, positive behaviour management approaches, etc. At the same time, against this background, kindergartens remain overcrowded.⁹²⁶

22.2.2. General Education

In the 2023-2024 academic year, 210 private and 2,086 public schools were operating in Georgia, 10 of which provided boarding services. In the reporting period, there were in total 634,679 students enrolled in private and public general education institutions throughout the country.⁹²⁷

Regarding the statistics on the student status suspensions, according to the Ministry of Education, Science and Youth,⁹²⁸ in 2023, the statistics form of applications for the status suspension was modified and improved, which, in turn, aims to analyse the risks of the student status suspension with the involvement of relevant actors. Furthermore, the LEPL Office of Resource Officers of Educational Establishments revised the existing indicators of dropping out from school, which, according to the ministry, allows determining

⁹²⁴ Number of preschool establishments by years: 2021/2022 – 1,648; 2022/2023 – 1,668; 2023/2024 – 1,708, <<https://bit.ly/3vRjWxl>> [29/01/2024].

⁹²⁵ In this regard, the statistics maintained by the Ministry of Education, Science and Youth is noteworthy. In particular, the following number of children aged from two to six that are registered in municipalities do not attend public kindergartens: Akhalkalaki - 52%, Akhaltsikhe - 22%, Bolnisi - 61%, Gardabani - 37%, Lagodekhi, 46%, Marneuli - 62%, Ninotsminda - 35%, and Sagarejo - 59%. According to the ministry, in total, approximately 29% of registered children do not attend public kindergartens across the country. Letter no. MES 1 24 0000210043 of the Ministry of Education, Science and Youth of Georgia, dated 26/02/2024. For more information on access to early and preschool education for children belonging to ethnic minority groups, see the chapter of the parliamentary report – Protection of National Minorities and Civic Integration.

⁹²⁶ See the chapter of the parliamentary report – Inclusive Education.

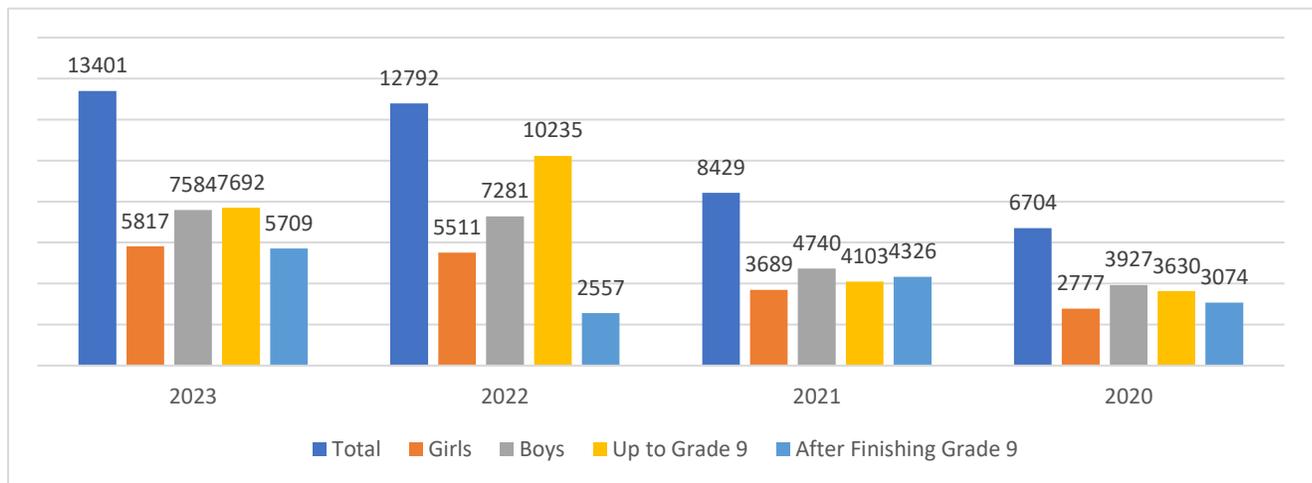
⁹²⁷ Letter no. MES 1 24 0000296986 of the Ministry of Education, Science and Youth of Georgia, dated 12/03/2024.

⁹²⁸ *Idem*.

the actual reasons behind the suspension of the student status.⁹²⁹ Furthermore, work is underway with the Ministry of Internal Affairs to develop the necessary mechanisms for exchanging information in the country and elaborate an accurate data of students whose status is actually suspended.⁹³⁰

According to the information supplied, in 2023 in total, 13,401 students had their student status *suspended* in 2023, were *struck out of the list of students or were struck out after finishing the grade*. Out of this number, 27 students were expelled from the school. Out of 13,401 students, 2,812 are citizens of foreign countries. Furthermore, in the case of 1,598 students, the reason for the suspension of the student status was the continuation of studies in a professional college.⁹³¹ The rate of leaving school and suspension of the student status is the highest in Tbilisi, Ajara, Imereti and Kakheti.⁹³²

Chart no. 1 – Statistics on suspending the student status/ striking out of the list of students/ striking out after finishing the grade and expulsion of students⁹³³



⁹²⁹ *Idem*. The steps taken to prevent suspension of the student status are also noteworthy. The order of the head of the same agency approved the guidebook of the Centre of Psychological and Social Services on Reducing Student Truancy at School. It aims at contributing to the reduction of truancy and suspension of student status, giving recommendations to social workers. It also includes a set of prevention and response measures to be implemented in the educational establishment.

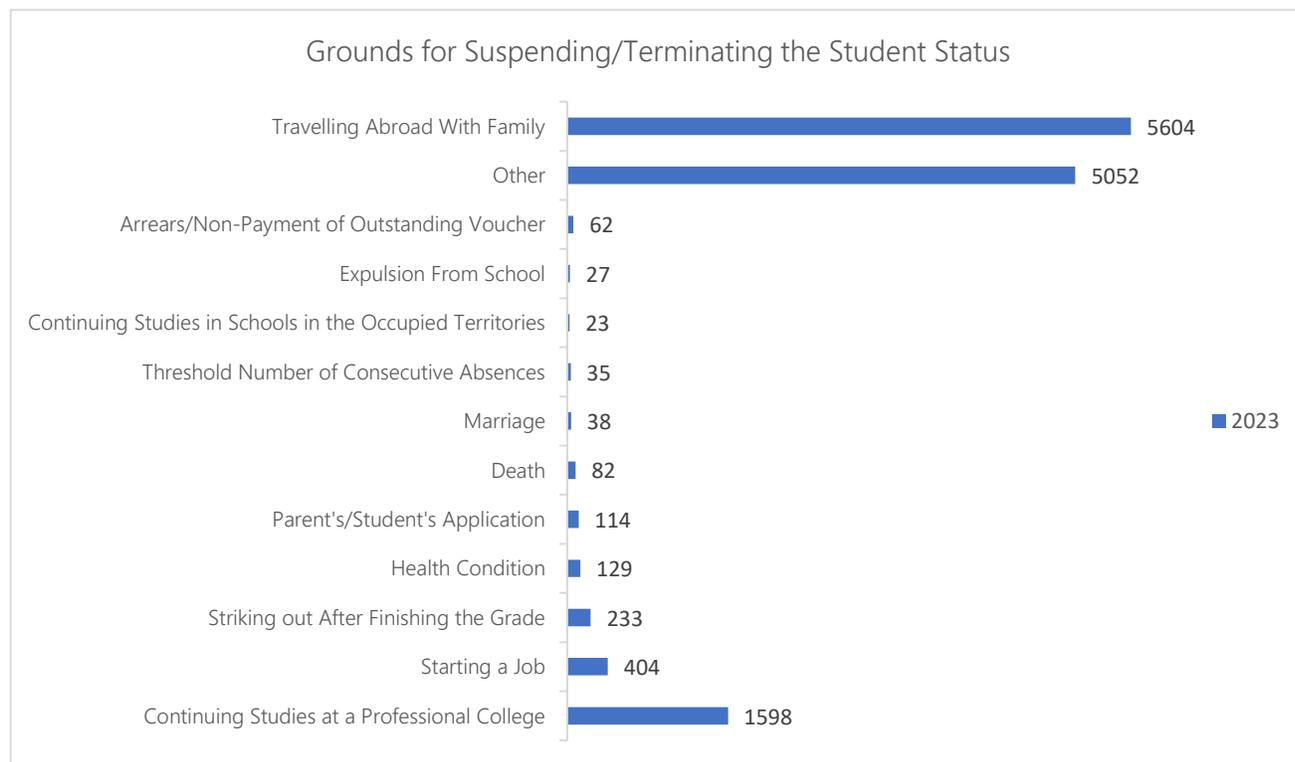
⁹³⁰ Letter no. MES 1 24 0000210043 of the Ministry of Education, Science and Youth of Georgia, dated 26/02/2024.

⁹³¹ According to the statistics supplied by the ministry, the student status was suspended for 10,430 students, out of which 1,598 students were suspended for continuing their studies in a trade school, while 2,647 students were citizens of foreign countries. Additionally, 2,944 students were struck out from schools, 233 of them based on finishing the grade. Among the children struck out from schools, there were 165 foreign citizens in total. Furthermore, according to the information supplied, 27 students were expelled from school, 14 of them were girls, and 13 were boys. Letter no. MES 8 24 0000307494 of the Ministry of Education, Science and Youth of Georgia, dated 13/03/2024. See also the 2022 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, Tbilisi, 2023, pp. 264-265, <<https://bit.ly/42VzHA1>> [28/02/2024].

⁹³² *Idem*.

⁹³³ *Idem*.

Chart no. 2 – Grounds for suspending/terminating the student status⁹³⁴



According to the information provided by the ministry, when a student is absent from school for 45 consecutive academic days, or does not attend the distance learning classes and does not receive grades, or is leaving/left the country and the student's parent/legal representative applies in writing to the school, or the parent/legal representative of the student applies for the suspension of the student status,⁹³⁵ before making a decision to suspend the status, the school is obliged to enquire and, if necessary, through referral to the social worker of the general education system,⁹³⁶ determine the reasons for the application filed by the parent/legal representative. Subsequently, the school makes a referral to the competent authority, if need be.

⁹³⁴ For more information on the segregated and detailed statistics on the grounds for suspension of the student status in 2020, 2021 and 2022, see the 2022 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, Tbilisi, 2023, pp. 264-265, <<https://bit.ly/42VzHA1>> [28/02/2024].

⁹³⁵ Also in other cases established by law.

⁹³⁶ If any.

Despite the fact that actual reasons of suspension/termination of studies are being established and registered and according to the information supplied, further work is underway in this regard, also despite the Public Defender' recommendation on these issues, statistics need more clarification. In particular, the grounds for suspension/termination of the student status, such as "parent's application", "threshold number of absences" or "other", do not convey actual information about the reasons for the child's removal or temporary removal from the educational process.⁹³⁷

As regards the infrastructure of general education institutions, the measures implemented in terms of the construction and rehabilitation programme of 800 schools are commendable.⁹³⁸ However, the results of the study carried out by the Public Defender's Office in the reporting year also revealed certain challenges in terms of the delay of this process.⁹³⁹

Due to the dire socio-economic situation of the country, the issue of free meals for students in general education institutions is problematic. This is also confirmed by the results of the survey carried out by the UNICEF and the National Statistics Office of Georgia.⁹⁴⁰ In this context, the approval of the School Meal Programme by the Ministry of Education, Science and Youth in 2023 is welcome. It is planned within the programme to study and assess at the municipal level the resources and needs of general education institutions to determine the future concept of free school meals.⁹⁴¹ However, given the current needs, it is imperative to run the process based on best practices, promptly and efficiently.

22.3. Protection of Children from Violence

It should be pointed out that it is still necessary to improve the mechanism of registering cases of violence against children and maintaining the detailed statistics. In particular, it is currently problematic to establish the exact number of incidents of child abuse reported and investigated. This makes it impossible to make an accurate assessment of the current situation in the country in terms of violence against children that would allow identifying existing challenges, developing appropriate response mechanisms and shaping effective policies in a timely manner.⁹⁴²

⁹³⁷ For more information about the recommendation made by the Public Defender of Georgia regarding this issue, see the 2022 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, Tbilisi, 2023, p. 277, <<https://bit.ly/42VzHA1>> [28/02/2024].

⁹³⁸ In 2022-2023, in total, 71 public schools were constructed/completely rehabilitated, and 200 public schools were partially rehabilitated. Furthermore, the construction/rehabilitation of 150 public schools is underway, and at the beginning of 2024, it is planned to start the construction of 75 public schools, see <<https://bit.ly/482rc71>> [18/03/2024].

⁹³⁹ This is related to the failure to fulfil the contractual obligations on the part of the companies. Cases nos. 6330/23 and 4397/23, studied during the proceedings.

⁹⁴⁰ "Nutrition during school hours is a major challenge as only a little more than a quarter of children (27%) eat every day during school hours and more than a third of children (34.9%) never eat during school hours. Not eating during school hours is much more common among materially deprived children (44.9%) than among non-deprived children (28.4%). Financial barriers are mentioned as the main reason in case of 37.7% of materially deprived children who do not eat at all during school hours, while the same is true for 3.3% of non-deprived children", the UNICEF and the National Statistics Office of Georgia, the Report on Child Wellbeing in Georgia, 2023, p. 7, <<https://uni.cf/4bcvYBU>> [04/02/2024].

⁹⁴¹ The ongoing reform on secondary education, p. 15, <<https://bit.ly/3HFugeX>> [04/02/2024].

⁹⁴² Letter no. MIA 1 24 00237413 of the Ministry of Internal Affairs of Georgia, dated 26/01/2024.

22.3.1. Domestic Violence

In 2023, 640 children were granted the victim status in cases of domestic violence against children. Furthermore, similar to the previous years, the majority of children who were victims of domestic violence, 404 were children aged 7 to 15.⁹⁴³

Implementation of the mechanism of prevention of violence against children in the family and prompt identification of incidents, provision of appropriate psychological and social services to children, similar to the previous years, are riddled with a number of challenges. Furthermore, this concern refers to the problems of effective involvement of state agencies and educational institutions, as well as, lack of awareness among the children themselves, their family members, and the public on the forms of violence and protection mechanisms.

According to the State Care Agency, in 2023, out of 112 children, the majority (in 83% of incidents) were removed from their biological families and placed in state care due to abuse and neglect.⁹⁴⁴

According to the results of the study of the cases carried out by the Office of the Public Defender of Georgia, incidents of neglect, psychological and physical violence are still relevant among the forms of domestic violence against children. The studied cases demonstrated that psychological violence and manipulation by parents towards children remain a challenge also in the process of enforcement of court judgments on the right of the child to live with both parents, where the involvement of social workers and psychologists is not effective enough, and it remains necessary to promote the introduction of positive parenting mechanisms and behaviour correction programmes.

22.3.2. Sexual Violence

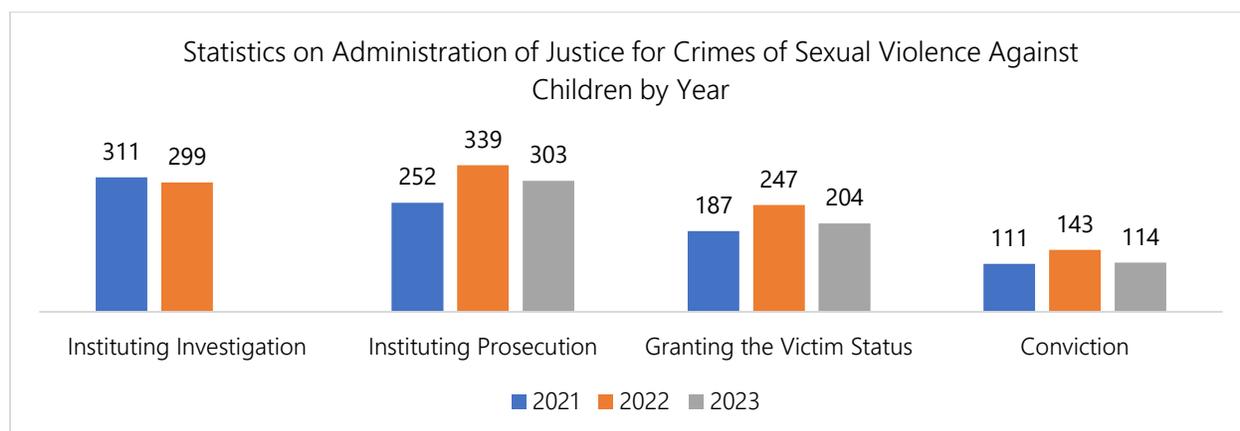
Prevention of crimes of sexual violence against children, prompt identification of incidents, effective response and availability of rehabilitation and support services for children and their families remained problematic in 2023. Despite the proposals made by the Public Defender, the domestic legislation and the existing standard of proof remain incompatible with the obligations under international instruments.⁹⁴⁵ In particular, violence, threats of violence, the use of helplessness are still prerequisites for the categorisation of the crime as a rape and other sexual acts against children. On the other hand, the circumstances suppressing the will, the misuse of trust, authoritative or influential position *per se* do not form *corpus delicti* of rape or other sex crimes. Furthermore, the legislation does not determine the lowest age for consent, which would render the child's consent irrelevant, and the minor would automatically be considered a person in a helpless situation due to their age.

⁹⁴³ Letter no. 13/5033 of the Office of the Prosecutor General of Georgia, dated 26/01/2024.

⁹⁴⁴ Letter no. SCA 0 24 00154746 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 08/02/2024.

⁹⁴⁵ For more information about the proposal made by the Public Defender of Georgia regarding this issue, see the 2022 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, Tbilisi, 2023, p. 276, <<https://bit.ly/42VzHA1>> [28/02/2024].

Chart no. 3⁹⁴⁶



The lack of services focused on children that are survivors of crimes of sexual violence and abuse, geographic coverage of these services and the lack of specialists working with children remained problematic in the reporting period. The Centre of Psychological and Social Services for Children Victims of Violence, which enables all investigative and procedural actions with the child's participation to be conducted in one space, as well as provides rehabilitation services, is only available in Tbilisi, even though it has been planned for years to open a similar centre in Western Georgia. Moreover, given the vague wording of the pertinent legal provisions and the practice,⁹⁴⁷ in contravention of the proposal made by the Public Defender, the video and audio recording of the interview with the child in accordance with the applicable rules is not allowed as evidence, and it is mandatory to draw up printed protocol of the interview.⁹⁴⁸ This further hinders the effective use of a child-centred approach in the administration of justice and the prevention of secondary victimisation.

22.4. Child Poverty

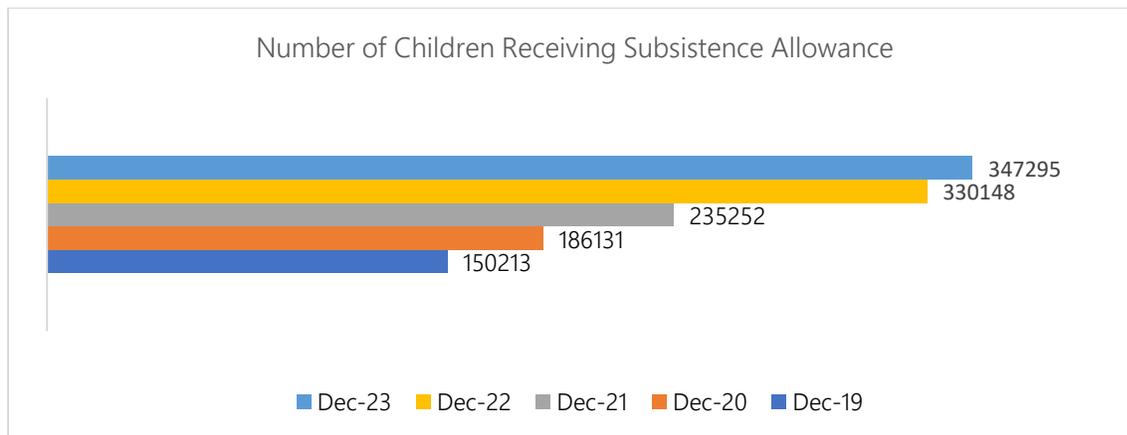
15% of the cases of possible violations of the child's rights studied by the Public Defender's Office were related to the poverty and severe socio and economic situation of children and families with children.

⁹⁴⁶ Letter no. 13/5033 of the Office of the Prosecutor General of Georgia, dated 26/01/2024; letters received from the Supreme Court of Georgia nos. P-1465-22, dated 17/02/2023; P-02-22, dated 16/02/2022; and P-1116-23, dated 05/03/2024; letters received from the Ministry of Internal Affairs of Georgia nos. MIA 7 22 00811864, dated 29/03/2022 and MIA 9 23 00465392, dated 17/02/2023.

⁹⁴⁷ The information was obtained as a result of interviews with the specialists of the Centre of Psychological and Social Services for Children Victims of Violence.

⁹⁴⁸ For the proposal made by the Public Defender of Georgia regarding this issue, see the 2022 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, Tbilisi, 2023, p. 276, <<https://bit.ly/42VzHA1>> [28/02/2024].

Chart no. 4⁹⁴⁹



It should be noted that the number of children registered in the Unified Database of Socially Vulnerable Families increased by 5.2% compared to the previous year. Furthermore, the number of families with at least one child was 25,805, and 45,401 families were registered in the database for the first time.⁹⁵⁰ Furthermore, within the framework of the sub-programme for families with children in a crisis, 2,052 infants were included in the component of supplying infant formula, and 5,053 families were included in the component of providing food products for families with children.⁹⁵¹ Furthermore, the studied cases demonstrate that, apart from central programmes, in most cases, families are also involved in various social programmes at the municipal level.

Despite the above-mentioned, according to the results of the study carried out by the Public Defender's Office, similar to the previous years, the central and municipal programmes targeted towards social protection operating in the country cannot fully respond to the needs of children and their families in a difficult socio-economic situation. Furthermore, despite the recommendation of the Public Defender, it remains a challenge to develop the skills of parents and caregivers, to implement appropriate mechanisms oriented towards achieving the independent living of families and to conduct social work effectively.⁹⁵²

22.5. Legal Status of Children in State Care

There are 37 small family-type homes operating in Georgia, including four specialised family-type homes for children with severe and profound disabilities or health problems, as well as the Tbilisi Children's

⁹⁴⁹ Letter no. SSA 3 23 01407391 of the LEPL Social Service Agency, dated 29/12/2023. Also, see the 2022 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, Tbilisi, 2023, p. 270, <<https://bit.ly/42VzHA1>> [28/02/2024].

⁹⁵⁰ *Idem*.

⁹⁵¹ Letter no. SCA 0 24 00154746 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 08/02/2024.

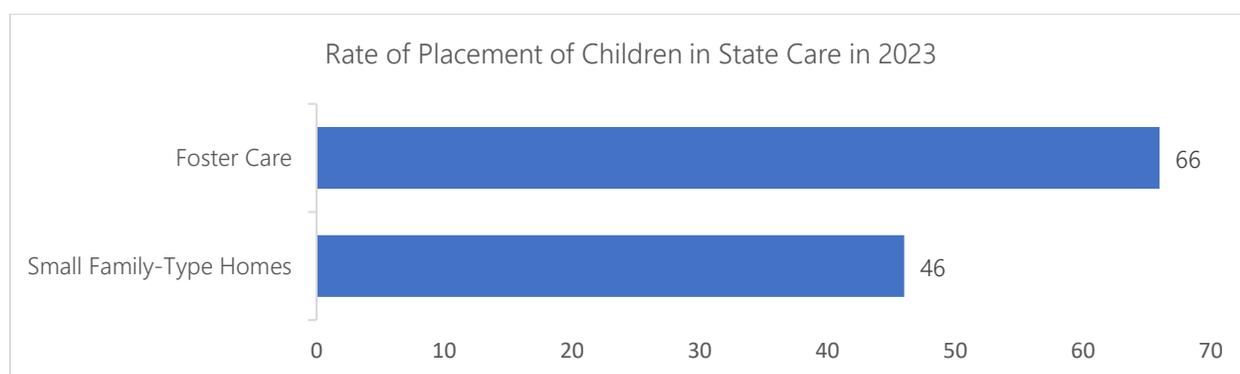
⁹⁵² For the recommendations made by the Public Defender of Georgia regarding this issue, see the 2022 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, Tbilisi, 2023, pp. 276-278, <<https://bit.ly/42VzHA1>> [28/02/2024].

Home,⁹⁵³ the LEPL Self-Governing City – Poti Children's Centre, and Ninotsminda Boarding School for Orphans under the Patriarchate of Georgia.⁹⁵⁴

According to the latest data of 2023, 1,721 children were growing up in state care, of which 1,355 were children in 652 foster care families. In total, 112 children were placed in state care. 34 children reunited with their biological families from the foster care sub-programme, and 18 children reunited with their biological families from small family-type homes. In total, 478 children benefited from the family reintegration sub-programme.⁹⁵⁵

According to state statistics, the separation of a child from a parent is mainly caused by parental violence and neglect of the child (83%), difficulty in the child's behaviour (15.4%), abandonment by the parent (1.2%), health problems of the child or parent (0.4%).⁹⁵⁶

Chart no. 5⁹⁵⁷



Despite the statistics, the Public Defender's systematic assessment⁹⁵⁸ demonstrates that the reason for the separation of children from their biological family was also the scarcity and ineffectiveness of services focused on both social and economic strengthening and support of the family. However, despite the recommendations made by the Public Defender,⁹⁵⁹ the state has not yet taken any substantial steps in

⁹⁵³ In 2022, Tbilisi orphanage was deinstitutionalised and there are three homes operating for beneficiaries.

⁹⁵⁴ *Idem*. Furthermore, it should be noted that nine foster children were placed in Ninotsminda Boarding School for Orphans, however, there are still no further forms of family-type care available for them and this process is protracted. It should also be noted that despite the deinstitutionalisation, one child remained in the educational establishment of the foundation named after Saint Matata the Apostle.

⁹⁵⁵ Letter no. SCA 0 24 00154746 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 08/02/2024.

⁹⁵⁶ *Idem*.

⁹⁵⁷ *Idem*.

⁹⁵⁸ The Special report of the Public Defender of Georgia on the Administration of Justice in the Cases of the Child's Relationship with Both Parents, Tbilisi, 2023, pp. 37-40, <<https://shorturl.at/BCEY3>> [02/03/2024].

⁹⁵⁹ For more information about the recommendations made by the Public Defender of Georgia regarding these issues, see the 2022 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, Tbilisi, 2023, pp. 276-278, <<https://bit.ly/42VzHA1>> [28/02/2024].

this regard. The existing services and the involvement of specialists still do not strengthen parents in such a way as not to allow the circumstances that they are unable to overcome without support, be the reason for the separation of the child from the family.

22.5.1. Legal Status of Children Living in Small Family-type Houses

In 2023, 261 children were enrolled in 37 small family-type homes.⁹⁶⁰ During the reporting period, the survey carried out by the Public Defender⁹⁶¹ demonstrated that effective protection of the rights of children, providing them with safe, child-friendly environment where services tailored to their individual needs would be accessible remains to be a challenge.

The survey revealed many alarming problems in terms of the protection of children's rights in small family-type homes, including physical and psycho-emotional safety risks, challenges in terms of protecting children from violence and neglect. The scarcity and geographic accessibility of supportive, rehabilitation services focused on children, including children with difficulty in behaviour and children with mental health concerns, remained problematic.

Children living in small family-type homes do not have adequate information about their rights and protection mechanisms. At the same time, there is an urgent need for informing specialists working with children and child educators, and for their continuous training on children's rights, protection mechanisms and positive behaviour management approaches.

22.5.2. The Situation Regarding the Rights of Beneficiaries of State Shelters for Mothers and Children

As of December 2023, seven shelters for mothers and children were operating across the country, where 39 mothers (six of them being under the age of 18) and 34 children were housed. In 2023, in total, 75 people were enrolled in shelters.⁹⁶²

According to the Public Defender's assessment, one of the main challenges of the implementation of the state sub-programme remains the scarcity of material and administrative resources, including in terms of meeting the basic needs of the beneficiaries, providing them with food and personal items. Preparing mothers enrolled in the service for the next stage of life, including through their education and training, employment and economic independence, remains problematic due to a shortage of support resources. Consequently, shelters cannot meet the goal of avoiding separation of the child from the family and strengthening the biological family.

Furthermore, it is still problematic in the shelters to effectively manage conflicts among beneficiaries and to avoid future conflicts.

⁹⁶⁰ Letter no. SCA 0 24 00154746 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 08/02/2024.

⁹⁶¹ The Special Report of the Public Defender of Georgia on the Right to Access to Justice for Children in State Care.

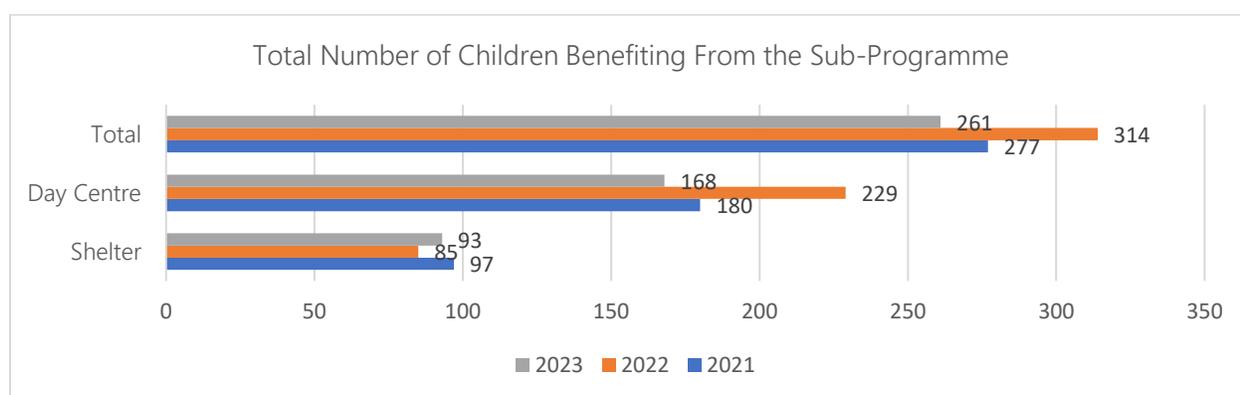
⁹⁶² Letter no. SCA 0 24 00154746 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 08/02/2024.

22.6. Children Living and/or Working in the Street

During the reporting period, the effective protection of the rights of homeless children was still riddled with significant challenges.

According to the data of 2023, within the sub-programme for providing shelter for homeless children, services were provided to 261 children,⁹⁶³ out of which 168 children benefited from the services of the day-care centre, and 93 from the 24-hour shelter. Furthermore, 65 children were enrolled in the service under the sub-programme, out of which 15 children who benefited from the programme were placed in state care, namely in small family-type homes.⁹⁶⁴ However, similar to the previous years, the scarcity of support services and difficulties in identifying respective cases remained alarmingly problematic.

Chart no. 6⁹⁶⁵



Within the provision of shelter services for homeless children, important challenges still include ensuring the safety of children and staff, preventing incidents of violence, having the necessary resources and support services in place, challenges in terms of engaging children in conflict with the law in relevant services and their rehabilitation, tackling substance abuse, and providing appropriate, targeted support services for children with mental health needs.⁹⁶⁶

Due to these systemic challenges, which were not resolved despite the recommendations made by the Public Defender in the previous years,⁹⁶⁷ in 2023, the number of day-care centres and shelters within the

⁹⁶³ There are four day-care centres and four 24-hour shelters operating in the country.

⁹⁶⁴ Letter no. SCA 8 24 00165535 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 12/02/2024.

⁹⁶⁵ *Idem*. See also the 2022 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, Tbilisi, 2023, p. 275, <<https://bit.ly/42VzHA1>> [28/02/2024].

⁹⁶⁶ The Special Report of the Public Defender of Georgia on the Right to Access to Justice for Children in State Care.

⁹⁶⁷ For more information about the recommendations made by the Public Defender of Georgia regarding these issues, see the 2019 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, p. 344, <<https://shorturl.at/ryDSX>> [28/02/2024]; the 2020 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, p. 372, <<https://shorturl.at/euxl3>> [28/02/2024]; the 2021 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in

central sub-programme of shelter for homeless children was further reduced. Currently, two day-care centres and two shelters are functioning in Tbilisi. There are one day-centre and one shelter in Rustavi and Kutaisi. In Batumi, not only a shelter, which had been needed for years, did not open, the day-centre previously available within the sub-programme stopped functioning.⁹⁶⁸

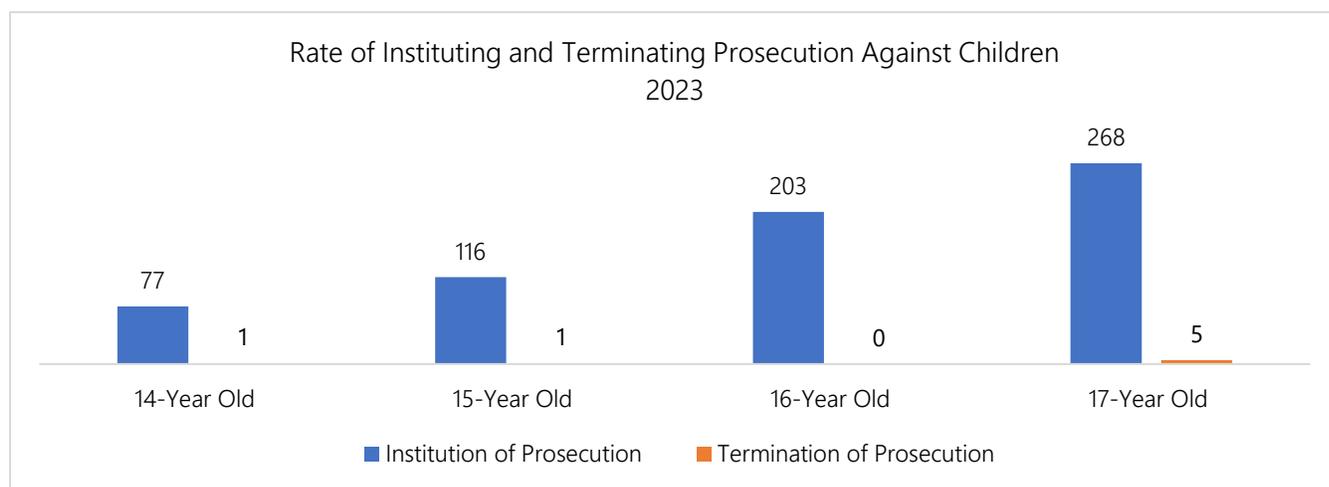
The above-mentioned demonstrates the importance of strengthening the existing services, introducing additional support programmes, implementing timely, effective, coordinated and long-term solution-oriented measures by the competent government agencies.

22.7. The Situation Regarding the Rights of Children in Conflict With the Law

In 2023, prosecution was instituted against 664 children, 544 children were released from criminal responsibility (through diversion), prosecution was terminated against six children, and investigation was terminated in five criminal cases.⁹⁶⁹

Studies carried out by the Public Defender⁹⁷⁰ show that the legislation of Georgia governing juvenile justice, largely corresponds to international law and standards of human rights and child rights. However, the lack of a uniform strategy and action plan for juvenile justice in the country, data collection and unified analysis, and subsequent, evidence-based policy determination and coordinated action implementation remain a challenge.

Chart no. 2⁹⁷¹



Georgia, p. 281, <<https://shorturl.at/gSAG6>> [28/02/2024]; the 2022 Parliamentary Report of the Public Defender of Georgia on the Protection of Human Rights and Freedoms in Georgia, p. 277, <<https://bit.ly/42VzHA1>> [28/02/2024].

⁹⁶⁸ See recommendations made regarding this issue and letter no. SCA 8 24 00165535 of the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking, dated 12/02/2024.

⁹⁶⁹ Letter no. 13/8846 of the Office of the Prosecutor General of Georgia, dated 12/02/2024.

⁹⁷⁰ The Special Report of the Public Defender Legal Status of Children in Conflict with the Law.

⁹⁷¹ Correspondence no. 13/5033 of the Office of the Prosecutor General of Georgia, dated 26/01/2024.

Serious problems are identified in terms of lack of human resources and specialists working with children. This significantly hinders the effective implementation of child-friendly justice. Furthermore, children are not informed adequately about their rights, the stages and aspects of the justice process as a whole, in a child-friendly manner. The lawyer's involvement in the questioning of children as a witness is currently not mandatory, which has an even more negative impact on this process. Accordingly, there are often cases when, after being interviewed as a witness, charges are brought against the child *inter alia* based on the confession of an alleged criminal act obtained during the first questioning and only after that it is obligatory to involve a lawyer in the proceedings. It is also problematic to involve specialists, including social workers, interpreters, psychologists, and to ensure their effective intervention in the process, at all stages of administration of justice.

It is problematic to have qualified professionals working with children, ensure their specialisation in juvenile justice and continuous training.

The study carried out by the Public Defender revealed possible incidents of violation of the rights of children in conflict with the law, including alleged rough treatment, violence, discrimination, biased attitudes, belittling, improper provision of information, violation of defence rights, receiving information from adolescents in an illegal manner.

Proposals

To the Parliament of Georgia:

- Amend the wording of Article 15 of the Code of Juvenile Justice and entitle a child being interviewed to unlimited legal aid; add child witness and child to be interviewed to the group of individuals referred to in Article 28 of the Code of Juvenile Justice;
- In order to implement effectively the Law of Georgia on Social Work and to overcome the shortage of social workers, with the involvement of the professional community, consider in a timely manner the feasibility of extending the term of professional certification of social workers, and the issue of stipulating transitional provisions in the law to this effect.

Recommendations

To the Government of Georgia:

- Determine the agency responsible for the coordination of juvenile justice, a unified coordination mechanism and a unified system of data collection and analysis in the justice system;
- Approve the strategy and action plan of juvenile justice, where, among other things, the unified concept of child-friendly justice and child-friendly environment and the action plan for its implementation will be determined;
- Revise the regulations on the standard of specialisation in juvenile justice in order to determine individually for each agency the modules of specialisation tailored to the needs of children, the

criteria for the selection of professionals for specialisation, the granting and withdrawal of specialisation, and the mandatory component of continuous education;

- To open the Centre of Psychological and Social Services for Children Victims of Violence in Western Georgia and develop an action plan for the gradual strengthening of the centre;
- Plan coordinated awareness-raising campaigns on children's rights with the involvement of children to inform the public.

To the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Security of Georgia:

- Conduct in-depth research on the need for additional, accessible and targeted services, including mental health, addiction treatment and rehabilitation programmes, to improve the effectiveness of residential and support services for children. Develop a specific, time-bound action plan based on the identified needs to implement the necessary services.

To the State Care and Assistance Agency for the (Statutory) Victims of Human Trafficking:

- In coordination with children's residential and support service provider organisations, develop a periodic and necessary training module for caregivers/educators, which, among other things, will cover positive upbringing methods and positive behaviour management approaches;
- Ensure comprehensive retraining of all social workers and psychologists employed in the agency on juvenile justice and establish a continuous training system;
- Develop printed, audio and visual materials adapted to the needs of children living in state care and receiving support services, to ensure every child's access to information about their rights and events around them in a child-friendly language.

To the Minister of Education, Science and Youth of Georgia:

- Based on an urgent assessment of best practices and existing resources, by implementing quality standards and in cooperation with local municipalities, implement timely a free, healthy school meal programme.

To the Ministry of Internal Affairs of Georgia:

- To ensure that the LEPL Public Safety Management Centre (112), when maintaining statistics on reports of alleged violence, severs cases of violence allegedly committed against children and records them separately based on the forms of violence;
- Ensure cases of violence against children are registered separately when maintaining statistics on investigations, including those cases where the article of the Criminal Code concerns the commission of a crime against children as well as other individuals, ensure these cases are grouped according to the status of the victim and are classified separately;
- Ensure an information campaign focused on a wide group of children, to increase trust in law-enforcement officers and, if need be, to promote referral; ensure within such campaigns that

children are provided with information about the role of law-enforcement agencies, rights and protection mechanisms in a form tailored to them;

- Revise the guidelines for the patrol police and other employees who are in contact with children, in terms of the extent it responds to the practical challenges and in accordance with the identified needs, based on international and national standards, impart practical information to specialists on trauma-informed communication strategies, rules of conduct and de-escalation techniques to be used with children, including vulnerable groups, those in state care, children survivors of violence and children under the age of 14 and children with delinquent behaviour.

To the Local Self-governments:

- Within the kindergarten construction/rehabilitation programme, in order to ensure the accessibility of preschool education, consider construction/rehabilitation, and if need be, providing appropriate free transportation for children in regions and municipalities with shrinking population, mountainous regions and municipalities, as well as in villages inhabited by ethnic minorities as a priority;
- Develop and introduce a uniform document at the municipal level for evaluating the work carried out in terms of timely identification of families with children living in poverty, identifying their needs and offering local programmes.

23. Rights of the Elderly

23.1. Introduction

According to current forecasts, by 2050, the number above age 65 in the world will reach 1.6 billion.⁹⁷² Along with the increasing of number of elderly people, the importance of protecting their rights is increasing every day. In response to the challenges, the discussion on necessity of new Convention on the Human Rights of elderly Persons and its normative elements has been going on for more than thirteen years. The Public Defender supports the development of a binding international document for the elderly and, for this purpose, actively participates in the UN Open Working Group on Aging (UN OEWSGA).⁹⁷³

According to the decision⁹⁷⁴ of the 13th session of the Working Group in 2023⁹⁷⁵, participants are required to submit proposed intergovernmental negotiation recommendations to be submitted to the General Assembly for further consideration at the fourteenth session of the Working Group.

It should be noted that among the articles of the Social Charter of the Council of Europe, which have not been ratified by Georgia, is the right to social security for the elderly,⁹⁷⁶ the purpose of which is to provide the elderly with the opportunity to remain as full-fledged members of society for as long as possible, taking appropriate measures by state and private institutions.⁹⁷⁷ The recognition of this norm is particularly important as it would contribute to the adoption of legal regulations focused on the rights of the elderly in the country.

Like other countries, the percentage of elderly people in Georgia is increasing every year.⁹⁷⁸ At the same time, the rate of the socially vulnerable elderly and elderly below the poverty line is high.⁹⁷⁹ Due to this, the elderly in the country belong to a particularly vulnerable group of the population.

During the reporting period, the Public Defender addressed the National Bank of Georgia with a proposal,⁹⁸⁰ the purpose of which was to solve the problems of using a grace period for bank loans during

⁹⁷² Information available: <<https://shorturl.at/dEMOQ>> [last visited 17/01/2024].

⁹⁷³ The working group is a special international forum on the protection and promotion of the rights of the elderly. It was established in December 2010 by the UN General Assembly and unites all UN member states. The UN General Assembly defined the tasks of OEWSGA in a resolution. In particular, the working group should submit a proposal to the General Assembly, which contains the main elements to be included in the international legal instrument for the promotion and protection of the rights and dignity of the elderly.

⁹⁷⁴ Information available: <<https://shorturl.at/blCS3>> [last visited 31/01/2024].

⁹⁷⁵ According to the resolution 77/190 of UN General Assembly

⁹⁷⁶ European Social Charter, Article 23.

⁹⁷⁷ These measures can be access to adequate resources for a dignified life and active participation in public, social and cultural life. Also, provision of various services, information and opportunities to use them for the elderly. Also, provision of housing appropriate to needs and health status, access to health care services.

⁹⁷⁸ According to the data of the National Statistical Service of Georgia, by 2023, people aged 65 and older make up 15.6% of the population. According to the same data, in 2022, people aged 65 and older made up 15.5% of the population, and in 2021 - 15.2%.

⁹⁷⁹ According to the statistics LEPL State Social Services Agency 288,717 persons aged 65+ are registered according to the distribution of persons registered in the database of the targeted social assistance program. Information available at: <<https://shorturl.at/afS45>> [last accessed 18/01/2024].

⁹⁸⁰ Proposal of the Public Defender No. 04-10/297 of January 8, 2024.

the emergency situation created due to the spread of the coronavirus, increasing the price of the loan for the elderly, increasing the duration of the loan agreement and the disproportionately high interest rates of the overdraft offered to pensioners.⁹⁸¹ According to the National Bank, financial organizations were given a written instruction on the possibility of returning to the old payment schedule and informing the loan beneficiaries about the payment schedule. Also, since the customers were not informed in advance about the changes after the end of the grace period, in case of their request, commercial banks should ensure the receipt of payments according to existing schedule before using the grace period.⁹⁸²

During the reporting period, within the scope of one of the cases, it was determined that the LEPL Social Service Agency cuts off the state pension for persons employed in the public sector in a non-public authority position, including those employed as a freelance cleaner in a cultural legal entity of public law.⁹⁸³ According to the Public Defender's assessment, this contradicts the requirements of the legislation and Public Defender addressed the agency with a recommendation on this issue,⁹⁸⁴ however, unfortunately, the agency did not consider it.

Determining the rights of the elderly as a priority direction of the 2024-2026 action plan⁹⁸⁵ for the protection of human rights should be positively evaluated. It is important that, in addition to the social well-being of the elderly, the promotion of the active participation of the elderly in public life was reflected, through the introduction of employment promotion programs focused on the elderly, and the creation of a legal framework focused on the rights of the elderly. Topics of effective detection, response and prevention of violence against the elderly are also considered. It is significant that according to this document, for the first time after 2017,⁹⁸⁶ a national action plan for the years 2024-2025 on elderly issues will be developed for the effective protection of the rights of the elderly. The Public Defender has been highlighting the necessity of this for years.⁹⁸⁷

It is also important that the Parliament of Georgia instructed⁹⁸⁸ the relevant agencies to implement the recommendations⁹⁸⁹ related to the rights of the elderly outlined in the 2022 annual report of the Public Defender, which will improve the legal status of the elderly.

⁹⁸¹ From January 1, 2023, the maximum of 26% of the pension loan was determined.

⁹⁸² Letter of the National Bank of Georgia No. 2-18/220 of January 29, 2024.

⁹⁸³ The Public Defender, as a result of the study of the application of L.D. No. 14479/23, considered as illegal the decision of the LEPL Social Service Agency to terminate the state pension for the person receiving the old-age pension due to his employment as a freelance cleaner in the legal entity of cultural public law entity. According to the Public Defender's assessment, this is not an activity exercising public authority and, in accordance with the law, the applicant was not restricted from receiving a state pension.

⁹⁸⁴ Recommendation No. 04-10/12253 of the Public Defender of December 20, 2023.

⁹⁸⁵ Resolution No. 528 of the Government of Georgia dated December 28, 2023 "On the approval of the action plan for the protection of human rights in Georgia for 2024-2026".

⁹⁸⁶ Resolution No. 490 of the Government of Georgia dated November 2, 2017 "On approval of the 2017-2018 national action plan for the concept of the state policy on population aging in Georgia".

⁹⁸⁷ Report of the Public Defender of 2020 on the state of protection of human rights and freedoms in Georgia, p. 403.

⁹⁸⁸ Resolution No. 3600-XIIIms-Xmp of the Parliament of Georgia dated November 1, 2023 "On the state of protection of human rights and freedoms in Georgia in 2022" regarding the report of the Public Defender of Georgia.

⁹⁸⁹ 2022 report of the Public Defender on the state of protection of human rights and freedoms in Georgia, p. 282-283.

23.2. The Main Findings of the Monitoring of Day Care Facilities for the Elderly

In 2023, the Office of the Public Defender conducted monitoring for the first time in several privately funded elderly institutions.⁹⁹⁰ It should be noted that private institutions for the elderly remain outside of state supervision. There is no legal act regulating their activities, nor is it mandatory for them to fulfill the minimum standards⁹⁹¹ established by the state, which leads to the arbitrary management of care for the elderly in such institutions, within the existing resources. In addition, the heads of institutions do not have information on the minimum standards of care implemented in the country.

The results of the monitoring of the three inspected private institutions revealed that in the absence of a state control mechanism, the risk of violation of the rights is even higher in such institutions. Elderly people, due to their physical health and psycho-emotional condition, as well as dependence on the staff of the institution, often do not talk about their problems and do not take appropriate measures to protect their rights.

It is particularly problematic that the country has not yet collected information on such institutions, there is no unified data on them, their types, services and the number of beneficiaries placed there.

In 2023, the results⁹⁹² of monitoring conducted in long-term care facilities for the elderly located in Bolnisi, Kareli, Gori and Tbilisi⁹⁹³ once again confirm that it is necessary to create unified state care standards for all types of facilities despite of their legal form and source of financing, as well as an effective monitoring mechanism.

It should be noted that according to the decree of the Government of Georgia, the draft law "On the certification of long-term care and educational services"⁹⁹⁴ will be introduced at the parliamentary spring session of 2024, the effect of which will apply to all types of long-term care facilities for the elderly, regardless of their organizational and legal form. It is important that the legislative act extends not only to the certification stage, but also includes the mechanisms for further effective supervision, as well as responding to the challenges related to the legal status of the elderly living in institutions and providing strong guarantees for the protection of the rights of the elderly. Considering the importance of the issue, the Public Defender will monitor the process law adoption.

23.3. Domestic Violence Against the Elderly

According to the statistics⁹⁹⁵ of restraining orders issued by the Ministry of Internal Affairs of Georgia as administrative and legal mechanisms, during the year 2023, 312 male and 821 female victims above the

⁹⁹⁰ Information available: <<https://shorturl.at/akOYZ>> [last visited: 14/03/2024]

⁹⁹¹ Order No. 01-54/n of the Minister of Labor, Health and Social Protection of Georgia dated July 23, 2014 "On approval of the minimum standards of services for persons with disabilities and the elderly in 24-hour specialized institutions".

⁹⁹² Non-commercial legal entity Bolnisi Municipality House of Virtue; Non-commercial legal entity "community organization "Salbuni" located in Kareli; Private institution "Sheni Tbili Kera" located in Gori; A private institution located in Tbilisi - JSC "Tbili Kera".

⁹⁹³ Information available: <<https://shorturl.at/akOYZ>> [last visited: 14/03/2024]

⁹⁹⁴ Decree No. 180 of the Government of Georgia of January 29, 2024, "On the submission to the Parliament of Georgia of the short-term plan of law-making activities of the Government of Georgia for the spring session of the Parliament of Georgia in 2024", draft law No. 38.

⁹⁹⁵ Information available at: <<https://shorturl.at/knA07>> [last visited: 31/01/2024].

age of 61 have been identified, in addition, 19 female victims of the above 61 have been identified as victims of violence based on gender sign.⁹⁹⁶ As for elderly victims of domestic violence within the framework of criminal cases, according to the information⁹⁹⁷ of the General Prosecutor's Office of Georgia, during the reporting period, 680 female and 242 male victims of domestic violence and criminal offenses committed⁹⁹⁸ in the family were identified.⁹⁹⁹

During the reporting period, only 23 notifications of domestic violence against the elderly were received¹⁰⁰⁰ by the State Care and Trafficking Victims' Assistance Agency, while according to the official statistics of the Ministry of Internal Affairs, the number of elderly victims of domestic violence is 1133.

The challenge is the lack of psychosocial services and separate, targeted programs for the protection and assistance of older persons who are victims of violence, both at the level of central and local municipalities. It is important to have a comprehensive approach to the problem of domestic violence against elderly people, coordinated work between state agencies and taking specific steps. In addition, the agency only offers¹⁰⁰¹ services provided by the "State Program of Social Rehabilitation and Child Care" to elderly victims of domestic violence, which is mainly limited to the placement of victims in community institutions or in institutions of victims of violence, that is also confirmed by the cases studied by the Office of the Public Defender.¹⁰⁰²

In order to detect, effectively investigate and prevent domestic violence,¹⁰⁰³ both administrative-legal and criminal violence, it is very important to analyze the facts of domestic violence against the elderly and the current situation in the country through the coordinated work of competent agencies. Also, identify immediate challenges and plan, develop and implement effective mechanisms for detecting, responding to and preventing violence.

23.4. Care for the Welfare of the Elderly by Local Governments

The lack of services and programs tailored to the needs of the elderly in local governments has been a challenge for years.¹⁰⁰⁴ According to the legislation,¹⁰⁰⁵ the municipality carries out social work in its territory.¹⁰⁰⁶

⁹⁹⁶ Information available at: <<https://shorturl.at/efxT2>> [last visited: 02/02/2024].

⁹⁹⁷ Letter No. 13/14923 of the General Prosecutor's Office of Georgia dated March 5, 2024.

⁹⁹⁸ Crimes provided for by Articles 126¹ and 11¹ of the Criminal Code.

⁹⁹⁹ According to the agency's explanation, statistical information is recorded through an electronic program, according to the articles of the Criminal Code, and does not represent a unique number of persons. Accordingly, it is possible that the mentioned data cannot fully reflect the data on crimes committed by family members against the elderly in the country.

¹⁰⁰⁰ Letter of January 23, 2024 SCA 0 24 00076149 of the LEPL State Care and Assistance Agency for Victims of Trafficking.

¹⁰⁰¹ Letter of January 23, 2024 SCA 0 24 00076149 of the LEPL State Care and Assistance Agency for Victims of Trafficking.

¹⁰⁰² Within the scope of study of cases No. 11765/23; No. 11775/23; No. 12467/23; No. 13311/23; No. 5724/23; No. 4937/23, the information provided by the agency, the elderly was offered to be transferred to a shelter.

¹⁰⁰³ see Gender equality chapter, sub-chapter on women and domestic violence of the 2023 parliamentary report of the Public Defender of Georgia.

¹⁰⁰⁴ 2020 and 2021 annual reports of the Public Defender on the state of human rights and freedoms in Georgia.

¹⁰⁰⁵ Article 56 of the Law of Georgia "On Social Work". Article 1. Subparagraph a.

¹⁰⁰⁶ Which, among other things, involves active identification of older persons, identification and assessment of needs, identification of challenges and provision of this information to relevant sectorial institutions.

According to the municipalities, the most important service supporting the elderly - home care was available in only 22 municipalities in 2023,¹⁰⁰⁷ the programs for the elderly in the rest of the self-governing units were limited to the provision of one-time assistance, which is intended for the population of different ages in different municipalities.

Although compared to previous years, the number of municipalities that offer home care services to the elderly has increased, which should be evaluated positively, but still many municipalities do not have this service.

It should be noted that often, transferring elderly to long-term care community facilities, is a quite long-term process,¹⁰⁰⁸ and the absence of home care services worsens the condition of the elderly who do not have the ability to take care of themselves. In addition, there are often cases when an elderly person wants to stay in a family environment and does not need to be transferred to an institution, in such cases, it is necessary to provide access to home care services in order to maintain the psycho-emotional state of the elderly person and for his/her physical well-being.

It should be positively evaluated that, independently from the municipal programs, a home care service¹⁰⁰⁹ was added to the "State Program of Social Rehabilitation and Child Care" from 2023, although at this stage, the program has not been implemented yet.¹⁰¹⁰ In order to improve the legal status of the beneficiaries and solve household problems, it is necessary to launch the program in time.

¹⁰⁰⁷ Tbilisi City Municipality - information available at: <<https://shorturl.at/bdNZ1>> [last viewed 04/03/2024], 2. Bolnisi Municipality City Hall letter No. 106-10624026142 of January 26, 2024; 3. Letter No. 24-242336212 dated December 28, 2023 of Zugdidi Municipality City Hall; 4. Letter No. 46-462402549 dated January 25, 2024 of Chokhatauri Municipality City Hall; 5. Letter No. 92-922402541 dated January 25, 2024 of Lagodekhi Municipality City Hall; 6. Letter No. 01-142402563 of Batumi City Hall, January 25, 2024; 7. Letter No. 52-522401861 dated January 18, 2024 of Sagarejo Municipality City Hall; 8. Letter No. 40-402401810 dated January 18, 2024 of the City Hall of Senaki Municipality; 9. Letter No. 42-422401273 dated January 12, 2024 of Poti Municipality City Hall; 10. Letter No. 62-622401099 dated January 10, 2024 of the City Hall of Samtredia Municipality; 11. Letter No. 44-4424009561 of Kutaisi Municipality City Hall dated January 9, 2024; 12. Letter No. 76-762400991 dated January 9, 2024 of Ambrolauri Municipality City Hall; 13. Letter No. 74-742336314 dated December 29, 2023 of Tkibuli Municipality City Hall; 14. Letter No. 94-942336264 dated December 28, 2023 of Kedi Municipality City Hall; 15. Dusheti Municipality City Hall letter No. 132-1322336235 of December 28, 2023; 16. Letter No. 68-682336242 dated December 28, 2023 of the City Hall of Kharagauli Municipality; 17. Letter No. 108-1082336177 dated December 27, 2023 of the City Hall of Dmanisi Municipality; 18. Letter No. 134-1342336155 of the City Hall of Mestia Municipality dated December 27, 2023; 19. Letter No. 66-6623361160 of the City Hall of Baghdati Municipality dated December 27, 2023 20. Letter No. 20-2023361139 of the City Hall of Gori Municipality dated December 27, 2023 21. Letter No. 02-3824003 of the City Hall of Rustavi Municipality dated January 3, 2024 22 letters; 22. Letter No. 72-722403985 dated January 8, 2024 of the City Hall of Chiatura Municipality.

¹⁰⁰⁸ According to the letter No. SCA 5 24 00213583 dated February 22, 2024 of the State Care and Assistance Agency for Victims of Trafficking, the longest enrollment time from the appeal of an elderly person in 2023 was 3 months.

¹⁰⁰⁹ Resolution No. 69 of the Government of Georgia dated February 21, 2023 "On the approval of the 2023 state program of social rehabilitation and child care"; Information is available at: <<https://shorturl.at/IC467>> [last viewed on 31.01.2024] Resolution No. 558 of the Government of Georgia dated December 29, 2023 "On the Approval of the 2024 State Program of Social Rehabilitation and Child Care" information is available at: <<https://shorturl.at/dOX89>> [last accessed 31/01/2024].

¹⁰¹⁰ Letter of January 24, 2024 MOH 9 24 00082337 of the Ministry of IDPs from Occupied Territories, Labor, Health and Social Protection.

The issue of introducing the concept of healthy and active aging at the municipal level is also an important challenge. During the reporting period, only a few self-governing units,¹⁰¹¹ mainly with the support of local and international organizations, operated services designed to take into account the psychosocial needs of the elderly - day care centers, clubs, etc. Consequently, in the majority of Georgian municipalities, the elderly are not involved in activities promoting healthy and active aging. In addition, municipalities' definition of assistance to the elderly¹⁰¹² within the framework of social and health care programs reveals that the municipalities' awareness of the psychosocial needs of the elderly is low and they do not have adequate information on the need of services supporting healthy and active aging.

Recommendations

To the Government of Georgia:

- To implement all necessary measures in order to ratify Article 23 of the European Social Charter of 1996.

To local self-governments:

- Municipalities, where home care and active aging support services/programs do not operate, should study the needs of the elderly living in their territory and, taking this into account, introduce services tailored to their needs, including home care and active aging support services.

¹⁰¹¹ Tbilisi City Municipality - information available: <<https://shorturl.at/bdNZ1>> [last viewed 04/03/2024], 2. Bolnisi Municipality City Hall letter No. 106-10624026142 of January 26, 2024; 3. Letter No. 24-242336212 dated December 28, 2023 of Zugdidi Municipality City Hall; 4. Letter No. 70-702402580 dated January 25, 2024 of the City Hall of Sachkheri Municipality; 5. Letter No. 46-462402549 dated January 25, 2024 of Chokhatauri Municipality City Hall; 6. Letter No. 01-142402563 dated January 25, 2024 of the City Hall of Batumi Municipality; 7. Letter No. 52-522401861 dated January 18, 2024 of Sagarejo Municipality City Hall; 8. Letter No. 42-422401273 dated January 12, 2024 of Poti Municipality City Hall; 9. Letter No. 62-622401099 dated January 10, 2024 of the City Hall of Samtredia Municipality; 10. Letter No. 44-4424009561 of Kutaisi Municipality City Hall dated January 9, 2024; 11. Letter No. 74-742336314 dated December 29, 2023 of Tkibuli Municipality City Hall; 12. Letter No. 94-942336264 dated December 28, 2023 of Kedi Municipality City Hall; 13. Letter No. 108-1082336177 dated December 27, 2023 of the City Hall of Dmanisi Municipality; 14. Letter No. 20-2023361139 dated December 27, 2023 of the City Hall of Gori Municipality; 15. Rustavi Municipality, information available at: <<https://shorturl.at/DEKQ3>> [last viewed 04/03/2024].

¹⁰¹² The programs are not targeted programs for the elderly and only include assistance to the socially vulnerable and/or population in need of health care services as needed.

24. Protection of National Minorities and Civic Integration

24.1. Introduction

This chapter discusses issues of concern from the perspective of protection and civic integration of national minorities in Georgia in 2023. Unfortunately, many of the issues reported from year to year are one and the same problems that just remained untreated. Our findings provided in this Chapter are based, on the one hand, on analysis of information obtained by the Public Defender's Office from various State authorities in 2023 and, on the other hand, on our meetings conducted in eleven municipalities¹⁰¹³ of three regions (Kvemo Kartli, Samtskhe-Javakheti, Kakheti).

Analysis of this information points to language and awareness barriers as key obstacles faced by national minorities in an array of aspects of their lives for years.

The year of 2023 saw many positive steps toward improvement of teaching of Georgia's State language such as training of bilingual education specialists and their deployment to general education institutions. Also, there was a significant rise in the number of pre-school and general education institutions offering bilingual lessons in 2023. Achieving full-fledged civic integration of national minorities, however, requires more than that such as enhancement of teaching of the State language at both pre-school and general education levels, expansion of the geography of bilingual courses offered, elaboration of two-language textbooks, etc.

Critical importance should be given to more actively promoting the State language teaching program offered by the LEPL – Zurab Zhvania School of Public Administration to anyone interested. National minorities have to be rigorously informed not only about job search assistance programs and other public services but also media products available to them.

Achieving national minorities' full-fledged civic integration also requires that measures be taken to protect and popularize their culture. Unfortunately, we did not spot many steps aimed at promoting national minority cultures specifically.

Culture monuments associated with national minorities remained in difficult physical conditions. Many of these monuments have been needing reinforcement and rehabilitation works for years already.¹⁰¹⁴ Neither have they been rehabilitated in 2023.¹⁰¹⁵ We wish to emphasize that the Public Defender's previous recommendation to develop a long-term plan on conflict prevention and enhancement of inter-community dialogue has remained unimplemented.

24.2. Integration and Participation in Decision-Making

24.2.1. Consultation Mechanisms

¹⁰¹³ Marneuli, Bolnisi, Gardabani, Dmanisi, Tsalka, Rustavi, Akhalkalaki, Ninotsminda, Akhaltsikhe, Telavi, Sagarejo

¹⁰¹⁴ Such as Surb Gevork in Mughni (a church), Shamkhoretsots Karmir Avetaran (a church), Tandoyan Surb Astvatsatsin (basilica), Surb Nshan (Surb Nikoghayos) (a church), Erevanots Surb Minasi (basilica), an Azerbaijanian Drama Theater named after Heydar Alyev.

¹⁰¹⁵ Letter from the Ministry of Culture and Sports of Georgia, 00005441 dated February 16, 2024.

We wish to refer to the Framework Convention for the Protection of National Minorities, which obliges its member states – Georgia being one of them – to create conditions necessary for effective participation of persons belonging to national minorities in cultural, social and economic life, which implies encouraging real equality between persons belonging to national minorities and those forming part of the majority.¹⁰¹⁶

It is to be ensured that consultative bodies have a clear legal status and a sustainable political and public financial support, that the obligation to consult them is entrenched in law and that their involvement in decision-making processes is of regular and permanent nature.¹⁰¹⁷ Consultative bodies must be established as a primary channel for dialogue between governmental authorities and national minorities.¹⁰¹⁸

When it comes to consultative mechanisms in Georgia, they do provide national minority representatives with the possibility of voicing their concerns and wishes. We welcome the example of the State Minister for Reconciliation and Civil Equality who came forward to discuss various papers including a document on the activities carried out by the Minister in the first half of 2023 with the Ethnic Minority Council operational at the Public Defender's Office.¹⁰¹⁹

At the regional level, we would like to also mention the work of consultative (advisory) councils operating within the administrations of State Envoys in the Kvemo Kartli region and Kakheti region. These councils include mayors of municipalities from the respective regions sitting as council members. The council operating within the administration of the State Envoy in Kvemo Kartli specifically consists of both permanent members¹⁰²⁰ and civil society representatives. We welcome the practice that various municipal offices and services advocate and take steps to support issues raised at council meetings.¹⁰²¹

We certainly value the above-described positive practices, but current consultative mechanisms are not, unfortunately, meeting the standards suggested by the FCNM Advisory Committee. The law does not prescribe a legal obligation to engage the consultation bodies, and the consultation bodies are not involved in decision-making as a matter of regular practice, etc. Hence, we can't say the existing consultative mechanisms have the form of an institutionalized dialogue with the legislative and executive authorities and more active steps have to be taken to this end. Enhancing consultative mechanisms has been one of the recommendations, which UN CERD (Committee on the Elimination of Racial

¹⁰¹⁶ Explanatory Report to the Framework Convention for the Protection of National Minorities (FCNM), Strasbourg, 1995, para. 80.

¹⁰¹⁷ Advisory Committee on the Framework Convention for the Protection of National Minorities, Third Opinion on Georgia, 2019, para. 133.

¹⁰¹⁸ Lund Recommendations on the Effective Participation of National Minorities in Public Life and Explanatory Note, 1999, para. 12.

¹⁰¹⁹ Letter from the Office of the State Minister of Reconciliation and Civil Equality no. GOV 139 dated January 30, 2024.

¹⁰²⁰ The State Envoy, deputy State Envoys, and mayors of all of the municipalities belonging to the region.

¹⁰²¹ One such issue, as reported by the administration of the State Envoy in the Kakheti Region, was infrastructure such as covering internal community roads with gravel, arrangement of drainage channels for roads, arrangement of street lighting, rehabilitation of public squares, etc (Letter from the administration of the State Envoy in Kakheti no. 01/123 dated February 1, 2024).

Discrimination) issued to the Georgian Government in its concluding observations concerning Georgia's combined 9th and 10th periodic reports.¹⁰²²

24.2.2. Policies to promote employment of national minorities

As in the previous years, the Georgian Government has not been collecting statistics on the number of minority representatives employed in civil service.¹⁰²³ Although municipalities with ethnic minority populations have been practicing some degree of statistics-keeping on ethnic belonging of civil servants they employ, no such data are maintained by the central government. Introducing a uniform practice of data collection on civil servants belonging to ethnic minorities and availability of credible statistics are necessary preconditions for understanding the level of engagement of national minorities in public life.¹⁰²⁴

Like in the previous years, unfortunately, national minorities were usually underrepresented or not represented at all at the level of central authorities (except for the Office of the State Minister of Reconciliation and Civil Equality). The UN Human Rights Committee's concluding observations on Georgia's 5th periodic report say the same.¹⁰²⁵

National minority representation in local self-governments in territories with ethnic minority populations remained low, much like the situation in previous years. Ninotsminda Municipality stands out in this regard and is much better off in terms of proportional representation of its ethnic minority population.¹⁰²⁶ Negative trends in this regard¹⁰²⁷ continue to be observed in the municipalities of Akhaltsikhe,¹⁰²⁸ Bolnisi¹⁰²⁹ and Dmanisi¹⁰³⁰.

In regard to employment policy for national minorities, no specific programs were implemented in 2023 to support employment of citizens belonging to national minorities.¹⁰³¹ There is a general-profile State

¹⁰²² UN Human Rights Committee, Concluding observations on the combined ninth and tenth periodic reports of Georgia, 13 December 2022, para. 12.

¹⁰²³ Letter from the Georgian Government Administration no. GOV 0 24 00002989 dated February 2, 2024.

¹⁰²⁴ Taking Stock of Ethnic Minority Participation in the Public Service, PMC Research Center, 2022, available at <<https://rb.gy/z7syu8>> [last viewed 15.02.2024].

¹⁰²⁵ UN Human Rights Committee, Concluding observations on the fifth periodic report of Georgia, 13 September 2022, para. 51.

¹⁰²⁶ 93% of persons employed at the mayor's office of the Ninotsminda Municipality are representatives of national minorities (Letter from the Mayor's Office of the Ninotsminda Municipality no. 122-1222402233 dated January 22, 2024).

¹⁰²⁷ These data are derived from a publication of Georgian National Statistics Office (GeoStat) entitled "Key results of the 2014 universal census of Georgia population" and information requested and received by the Public Defender's Office by December 31, 2023 from the municipalities. Regrettably, updated official data on this issue has been non-existent since 2014.

¹⁰²⁸ Only 11% of employees of the mayor's office in the Akhaltsikhe Municipality are representatives of national minorities (Letter from the Akhaltsikhe Municipality no. 12-122403632 dated February 5, 2024), while national minority citizens make 35.2% of the entire population of the municipality.

¹⁰²⁹ Only 15% of the employees of Bolnisi Municipality mayor's office are representatives of the national minority (Letter from Bolnisi Municipality no. 106-10624033127 dated February 2, 2024), while 69.1% of the general population of the municipality are a national minority.

¹⁰³⁰ Only 23% of employees of Dmanisi Municipality mayor's office are representatives of the national minority (Letter from Dmanisi Municipality mayor's office no. 108-1082402928 dated January 29, 2024), while 66.9% of the entire municipality population is the national minority.

¹⁰³¹ Letter from the Georgian Government Administration no. GOV 0 24 00002989 dated February 2, 2024.

program to support employment in the country,¹⁰³² which includes a dedicated sub-program to raise job-seekers professional qualifications.¹⁰³³ Representatives of national minorities are considered one of the beneficiary groups in the sub-program,¹⁰³⁴ but the sub-program does not necessarily focus on the needs of national minorities as such. One of such primary needs is to tackle the language barrier, which significantly affects labor market competitiveness of individuals belonging to national minorities.

The Georgian language and integration program offered by the LEPL – Zurab Zhvania School of Public Administration is a useful opportunity for national minorities to learn the State language, but it lacks a degree of specialization required for learning an occupation in the State language, which is crucial for minority beneficiaries to present themselves as competitive job seekers on the labor market. In this regard, a positive example is a project launched by the Zurab Zhvania School of Public Administration¹⁰³⁵ to devise and implement “A sector-specific practical language course in information technologies”.¹⁰³⁶ Facilitating the employment of national minorities requires more efforts and practical steps to raise not only the minorities’ labor competitiveness but also their awareness of available employment support services.¹⁰³⁷ The year of 2023 did see a number of activities implemented to inform national minority representatives of such services, but the activities were insufficient and the geographical coverage was limited.

Necessary to note is also that Georgian language learning course graduates are entitled to civil service internship (the so-called 1+4 program). However, the effectiveness of the “1+4 program” is limited since requirements the receiving public agencies are supposed to abide by during internship are unclear and interns do not have a clear understanding of what to expect of this internship. Also, no internship evaluation mechanisms have been elaborated this far. What is positive to mention here though is that those wishing to take up internship were offered a special training program to improve knowledge and skills before the start of internship in 2023.¹⁰³⁸

24.3. Access to Public Services

As in the previous years, access to public services by representatives of national minorities continued to be met by obstacles such as language barrier, lack of minority language-speaking civil servants in public service institutions and financial shortage to pay service fees. Properly informing national minority communities of available State programs and public services in a language they understand has been a matter of concern, too. Finally, these communities are not properly informed about municipal programs

¹⁰³² Government Resolution no. 17 dated January 16, 2023 endorsing the „2023 State program to facilitate employment“; Government Resolution no. 27 dated January 29, 2024 endorsing the „2024 State program to facilitate employment“

¹⁰³³ In 2023, the sub-program had the title of „Professional training, further training and raising of qualification for job seekers“, while in 2024 it has been framed as „Sub-program for job seekers to raise their professional qualifications.“

¹⁰³⁴ Government Resolution no. 17 dated January 16, 2023 endorsing the „2023 State program to facilitate employment“, Annex 2.3, Article 3(1)(b.r).

¹⁰³⁵ A UNESCO-funded project „Increasing access to employment and skills for women belonging to ethnic minorities“, Letter from the Georgian Government Administration no. GOV 0 24 00002989 dated February 2, 2024.

¹⁰³⁶ Letter from the Georgian Government Administration no. GOV 0 24 00002989 dated February 2, 2024.

¹⁰³⁷ Activities to be carried out by the State Employment Support Agency include „Prepare information materials on employment support services in Georgian and other languages spoken by national minorities residing in Georgia, print and disseminate the materials“ (Government Resolution no. 17 dated January 16, 2023 endorsing the „2023 State program to facilitate employment“, Annex 1.7, Article 2(4)).

¹⁰³⁸ Letter from the Office of the State Minister of Reconciliation and Civil Equality no. GOV 139 dated January 30, 2024

available in their locations despite the fact that such programs are designed for the very purpose of improving their healthcare and living standards at a municipality level.

Of the six municipalities with most sizeable national minority populations, municipal webpages are translated in languages understandable by local minorities only in Dmanisi¹⁰³⁹ and Akhalkalaki.¹⁰⁴⁰

24.4. The Right to Education

24.4.1. Early and pre-school education

For years has Public Defender been asserting a crucial role of bilingual education in full-fledged civic integration of national minorities.

We welcome the fact that, compared with 2022, 14 more pre-school education institutions are offering bilingual education to date. In particular, 37 non-Georgian preschool institutions are involved in a sub-program entitled “Implementing State standards in pre-school institutions and schools for national minorities”.¹⁰⁴¹ 14 of these preschool institutions joined the sub-program in the school year of 2023-2024.¹⁰⁴²

Visits paid by members of the Public Defender’s Office to preschool institutions in Kvemo Kartli and Samtskhe-Javakheti in 2023 revealed various challenges in bilingual education at these institutions. One such issue is the non-uniformity of the preschool institutions’ practices, partially owing to shortage of relevant personnel.

Another concern about early and preschool education is the geographical accessibility of these institutions. In some villages with a majority of population being national minorities, kindergartens are simply non-existent. For example, there are no kindergartens in many communities of the Bolnisi municipality – all of them being densely populated by national minority representatives – except the village of Tamarisi.¹⁰⁴³ Only 6 kindergartens are operational in national minority-populated villages of Marneuli Municipality. Three kindergartens have mixed groups of children. There are also 13 school prep centers and 1 group for disabled children.¹⁰⁴⁴

In Kakheti, villages with national minority population have only 20 preschool education institutions. The example of Iormughanlo community in the municipality of Sagarejo is illustrative: there are 8 villages in this community but only one of them has a kindergarten. In Samtskhe-Javakheti, preschool education is inaccessible in more than 20 settlements in Ninotsminda municipality. Sadly, only one new kindergarten

¹⁰³⁹ The webpages in translated into Azerbaijanian (Letter from Dmanisi Municipality mayor’s office no. 108-1082402928 dated January 29, 2024).

¹⁰⁴⁰ The webpage is translated into Armenian

¹⁰⁴¹ The sub-program aims at implementing State standards of bilingual teaching at preschool institutions and schools for national minorities and thus equipping preschool and school children belonging to national minorities with knowledge and skills required for full integration into contemporary public life (Letter from Ministry of Education and Science 1 23 0000119028 dated February3, 2023)

¹⁰⁴² Letter from the Ministry of Education, Science and Youth no. MES 1 24 0000210043 dated February 26, 2024

¹⁰⁴³ Letter no. 01/75 dated January 23, 2024 from the Office of the State Envoy in the municipalities of Bolnisi, Gardabani, Dmanisi, Tetrtskaro, Marneuli, Tsalka and Rustavi Town

¹⁰⁴⁴ Ibid.

was built in Ninotsminda in 2023, and only one kindergarten is currently under construction in the municipality of Akhalkalaki.¹⁰⁴⁵

24.4.2. General education

We welcome increase in the number of education institutions offering bilingual education in 2023. In particular, 184 public schools are now part of the program in academic year of 2023-2024,¹⁰⁴⁶ while in 2022-2023 only 41 schools were in.¹⁰⁴⁷ This figure does not necessarily look good though against the background that, according to official statistics, there are as many as 295 non-Georgian schools or academic sectors in Georgia.¹⁰⁴⁸

Visits paid by members of the Public Defender's Office to general education institutions in Kvemo Kartli and Samtskhe-Javakheti in 2023 revealed a number of challenges as to implementation of bilingual education in these institutions. One of the concerns identified was non-uniform practices of these schools attributable, among other reasons, to shortage of relevant personnel.

Various schools employ different numbers of bilingual education specialists.¹⁰⁴⁹ These specialists team up with subject teachers to conduct lessons in two languages. Some non-Georgian schools or teaching sectors have not received bilingual specialists yet. The practice of having consultant teachers on the faculty varies from school to school. Lack of two-language teachers' books and auxiliary resources materials are a problem as well.

Alongside bilingual education specialists, consultant teachers play an outstanding role in teaching Georgian in non-Georgian schools and academic sectors.¹⁰⁵⁰ One of the responsibilities of consultant teachers is to conduct Georgian-language informal activities in schools. In 2023, a total of 146 consultant teachers were deployed in schools of Samtskhe-Javakheti, Kvemo Kartli and Kakheti regions.¹⁰⁵¹ Similar to the situation in previous years, in 2023 there was an imbalance in the ratio of consultant teachers-to-

¹⁰⁴⁵ Letter no. 18/3 dated January 25, 2024 from the Office of the State Envoy in the municipalities of Adigeni, Aspindza, Akhaltsikhe, Akhalkalaki, Borjomi and Ninotsminda.

¹⁰⁴⁶ Letter from the Ministry of Education, Science and Youth no. MES 1 24 0000210043 dated February 26, 2024.

¹⁰⁴⁷ Letter from Ministry of Education and Science 1 23 0000119028 dated February 3, 2023.

¹⁰⁴⁸ Letter from the Ministry of Education, Science and Youth no. MES 1 24 0000210043 dated February 26, 2024.

¹⁰⁴⁹ Incumbent on bilingual educators is to be part of the revision-of-standards process for the relevant school subject (in order to contribute to the process from the bilingual teaching perspective); create teaching resources compatible with the standards set for the relevant school subject; determine concepts, issues, tasks, activities, exercises, supplementary resources (texts, videos, illustrations, etc) and assessment tools for each teaching unit (Letter from the LEPL National Center for Teacher Professional Development, no. MES 1 24 0000081209 dated January 29, 2024).

¹⁰⁵⁰ Consultant teachers are tasked with the following: teach subjects envisaged in the National Curriculum; facilitate informal education in school (for example, by creating an extracurricular subject-specific club, giving additional lessons, implementing educational and informative projects, planning and conducting various extracurricular activities); assist local teachers and care for their professional development, etc (Letter from the LEPL National Center for Teacher Professional Development, no. MES 1 24 0000081209 dated January 29, 2024).

¹⁰⁵¹ The consultant teachers were deployed within a sub-program of the LEPL National Center for Teacher Professional Development to support non-Georgian schools. The sub-program is aimed at facilitating the teaching and learning process and teachers' professional development in non-Georgian schools in minority regions; professional development of teachers and improvement of the schooling process in non-Georgian pre-school institutions by enhanced application of State language; strengthening informal education within school settings (Letter from the LEPL National Center for Teacher Professional Development no. MES 1 24 0000081209 dated January 29, 2024).

schools (non-Georgian schools or non-Georgian academic sectors) in the regions of Kakheti, Kvemo Kartli and Samtskhe-Javakheti. For example, in 2023, only 3 schools in Kakheti had consultant teachers despite the fact that there are 13 non-Georgian schools or academic sectors in the region.¹⁰⁵² In Samtskhe-Javakheti, consultant teachers were deployed in only 34 schools, while there are 108 non-Georgian schools/sectors in the region.¹⁰⁵³ In Kvemo Kartli, 89 schools received consultant teachers even though there are 135 non-Georgian schools or sectors in that region.¹⁰⁵⁴ It is worth noting that the role and activity of consultant teachers becomes even more important amid shortage of bilingual education specialists (for example, some schools have only one such specialist). Lack of teaching resources and materials for consultant teachers is a problem as well.

To date, the bilingual education method is being used in the teaching of four subjects at the beginner level: math, natural science, fine arts, and „I and the Society“. We welcome the fact that student’s working materials in the subjects of „I and the Society“ and math were printed and distributed in 2023. Another positive development was the creation, printing and distribution in 170 schools of the first part of a bilingual method-based textbook in natural science.¹⁰⁵⁵ However, bilingual textbooks, including dual-language auxiliary textbooks for teachers must be made available for all the four teaching subjects and for all the schools engaged in the bilingual teaching program. During the visits of the Public Defender’s Office representatives to general education institutions in Kvemo Kartli and Samtskhe-Javakheti, bilingual education specialists from those schools expressed their criticism of current textbooks, which they believe must be simplified.

It should be mentioned, in the context of general (school) education, that in 2023, a total of 640 teachers from non-Georgian general education institutions or sectors from nine municipalities of Kvemo Kartli, Kakheti and Samtskhe-Javakheti underwent the Georgian-language course provided by the LEPL National Center for Teacher Professional Development¹⁰⁵⁶ However, as in the previous years, teachers from schools of Lagodekhi municipality did not have the chance to take the course in 2023 either.

It is important to note the difficulty for practicing teachers employed by non-Georgian schools and academic sectors to earn the statuses of senior, leading and mentor teachers. Failure to earn such a status may lead to removal of the individual from a practicing teachers’ roster and deprivation of the teacher status.¹⁰⁵⁷ In May 2019, titles in questionnaire for teachers’ self-assessment and status maintenance changed. According to the changes, there can only be three categories of teachers: a senior teacher, a leading teacher and a mentor. The so-called practicing teachers may no longer stay part of the education system unless they complete their professional upgrade risking to lose their status as teachers completely. Hence, it is important that the specific needs of these teachers are identified and a needs-based

¹⁰⁵² Letter from the Ministry of Education, Science and Youth no. MES 1 24 0000210043 dated February 26, 2024.

¹⁰⁵³ Ibid.

¹⁰⁵⁴ Ibid.

¹⁰⁵⁵ Ibid.

¹⁰⁵⁶ Letter from the the LEPL National Center for Teacher Professional Development, no. MES 1 24 0000081209 dated January 29, 2024.

¹⁰⁵⁷ For more information on this issue, see Public Defender’s general recommendation to the Minister of Education and Science dated January 17, 2024 concerning prevention and countering discrimination, available at <<https://ombudsman.ge/res/docs/2024011714551994760.pdf>> [last viewed 15.02.2024].

professional upgrade scheme is devised so that teachers of non-Georgian schools/sectors can undergo steps to have their statuses updated in a timely and effective manner.¹⁰⁵⁸

In the context of general (school) education, what remained a problem for Armenian-, Azerbaijani- and Russian-language schools in 2023, like in previous years, was the insufficiency of Russian native language and literature textbooks created and printed in Georgia and, accordingly, non-use of Georgia-made textbooks in teaching these subjects. In particular, Georgia is receiving donations of Azerbaijani language and literature textbooks from Azerbaijan and Armenian language and literature textbooks from Armenia.

In addition to the problem that Georgia's non-Georgian schools are not being supplied with textbooks made in Georgia, Armenian language and literature textbooks are sometimes outdated because they have been printed years ago. When it comes to Azerbaijani textbooks, they are not outdated but subject teachers say the textbooks are based on a different education system that is not quite compatible with the Georgian one. For example, a textbook for first grade pupils does not start with teaching the Azerbaijani alphabet because pupils in Azerbaijan learn their alphabet before they enter a school, during a pre-school preparatory period. As for Russian language and literature textbooks, they are especially problematic because they have been published in Moscow as long time ago as before 2007.

24.4.3. Teaching small ethnic groups their native languages

Since 2015, small ethnic groups have had the opportunity to learn their native languages. As in the previous years, creation of certified school textbooks and teacher training in the native languages of small ethnic groups has remained a systemic concern (Ossetian, Chechen, Khundz/Avaran, Udi, Assyrian and Kurdish/Kurmanji).

24.4.4. Teaching of the State language

The UN Human Rights Committee's concluding observations on Georgia's fifth period report mention, among other issues, the importance of enhancing the teaching of Georgian, especially to ethnic minority groups who have difficulty accessing opportunities for learning Georgian or reside in remote rural areas.¹⁰⁵⁹

¹⁰⁵⁸ For more details on this matter, see the Right to Equality Chapter of this Report.

¹⁰⁵⁹ UN Human Rights Committee, Concluding observations on the fifth periodic report of Georgia, 13 September 2022, para. 51.

Worth noting here is a Georgian language-learning and integration program offered by the LEPL – Zurab Zhvania School of Public Administration. The course is available by various means such as through 12 regional centers in four regions,¹⁰⁶⁰ mobile groups¹⁰⁶¹ and online.¹⁰⁶²

We are glad to report that, in 2023, mobile groups were allocated to 28 villages in 9 municipalities compared with 2022.¹⁰⁶³ It is commendable that while teaching and learning through mobile groups was not available in 4 villages of the Dmanisi municipality in 2022, this was made possible in 2023.¹⁰⁶⁴ The geographical coverage of the mobile groups, however, does not include all the territories with national minority population. In 2023, teaching of the Georgian language through mobile groups was not possible in the municipalities of Telavi¹⁰⁶⁵ and Tetrtskaro,¹⁰⁶⁶ while in other municipalities the mobile groups were available only in some of the minority-settled villages.

The mobile groups are set up upon beneficiaries' request. But for this option to become viable, geographical coverage of mobile groups should expand and the public should be actively informed on the activities of the Zurab Zhvania School of Public Administration. . The fact that populations of some of the municipalities and villages settled by national minorities have not expressed their wish to use the State language learning services might well be explained by lack of awareness about such learning opportunities. Although the School is carrying out activities to promote their language course, 2023 data demonstrate both shortage and limited geography of these awareness raising activities.¹⁰⁶⁷

Worth noting, from this perspective, is various events to raise awareness of national minority representatives in 2023 such as meetings in Samtskhe-Javakheti region held by the Ministry of Education, Science and Youth.¹⁰⁶⁸ The meetings were dedicated to informing the local population about available

¹⁰⁶⁰ The regional centers are located in Akhalkalaki, Bolnisi, Gardabani, Lambalo, Dmanisi, Tsalka, Marneuli, Ninotsminda, Lagodekhi, Akhmeta, Akhaltsikhe and Kutaisi.

¹⁰⁶¹ At geographical places located at a long distance from the training centers, upon request of the beneficiaries, the School can deploy a mobile group. A minimum of 5 beneficiaries should apply for the School to form a dedicated group for them. Sometimes, depending on the circumstances, a mobile group can be set up also for as small as 3 beneficiaries (Letter from the LEPL – Zurab Zhvania School of Public Administration, no. MES 6 24 0000090989 dated January 30, 2024)

¹⁰⁶² Letter from the LEPL – Zurab Zhvania School of Public Administration, no. MES 6 24 0000090989 dated January 30, 2024

¹⁰⁶³ Six villages in the municipality of Akhalkalaki, 5 villages in the municipality of Akhaltsikhe, 1 village in the municipality of Bolnisi, 2 villages of in the municipality of Gardabani, 4 villages in the municipality of Dmanisi, 1 village in the municipality of Lagodekhi, 5 villages in the municipality Marneuli, 1 village of the municipality of Sagarejo, 3 villages in the municipality of Tsalka.

¹⁰⁶⁴ 2022 Parliamentary Report of the Public Defender, p. 292.

¹⁰⁶⁵ The municipality of Telavi has a population of 38,721 people, of whom 12.8% are Azerbaijanians (The Georgian National Statistics Office (GeoStat), "Key results of the 2014 universal census of the Georgia population", pp. 149-150).

¹⁰⁶⁶ The population of Tetrtskaro municipality is 21,127, of whom 7.3% are Azerbaijanians and 7.3% are Armenians - (The Georgian National Statistics Office (GeoStat), "Key results of the 2014 universal census of the Georgia population", pp. 333-334).

¹⁰⁶⁷ As it follows from the information we received from the Zurab Zhvania School of Public Administration activities to promote the State Language Teaching Program were carried out in three villages of Akhalkalaki municipality, three villages and at the Culture House of Ninotsminda municipality, and one village of Aspindza municipality. Also, the School took part in an event to celebrate the Day of Akhaltsikhe attended by about 500 people (Letter from the LEPL – Zurab Zhvania School of Public Administration, no. MES 6 24 0000090989 dated January 30, 2024).

¹⁰⁶⁸ Letter from the Georgian Government Administration no. GOV 0 24 00002989 dated February 2, 2024.

language-learning programs and new teaching methods employed. The campaign, however, comprised only 18 such meetings¹⁰⁶⁹ omitting many of the national minority-settled municipalities.

It should be mentioned that, as it appeared from our visits to Kvemo Kartli and Samtskhe-Javakheti in 2023, in some municipalities and villages with sizeable national minority populations, local residents are not aware of the activities of and opportunities offered by the the LEPL – Zurab Zhvania School of Public Administration. Local people knew about regional centers run by the School but had no information that they could apply to School for learning the State language through special mobile groups.

24.4.5. University education

According to the Uniform National Examinations results, 1,628 university entrants won the right to enter a university based on Armenian, Azerbaijani and Ossetian language tests. Of this number of students enrolled in universities, 451 students sat for an Armenian-language exam, 1,173 students for an Azerbaijani-, and 4 students for an Ossetian-language exam. Only 12% of 1,628 entrants were granted scholarships for their tuition. This figure is less than the number of scholarship winners in 2022.¹⁰⁷⁰ As the statistics show, much like the previous years, a sizeable part of ethnic minority students remained without tuition funding.

For years already, the Public Defender’s Office has been voicing the need for the State to increase financial aid for students. Unfortunately, neither did the academic year of 2023-2024 see any increase in the budget of the State scholarship for students enrolled in universities based on Azerbaijani- and Armenian-language general skills tests of the Uniform National Examination and the Ossetian language test.¹⁰⁷¹ Like in 2022, instead of allocating additional funds to students based on Ossetian-language test results, the State could issue financial aid to cover the fees of students who entered universities based on an Abkhazian language test.¹⁰⁷²

Relative to university education, we would like to welcome the fact that an application timeframe to join a Georgian language prep class was extended up until the academic year of 2030-2031 for students enrolled on the basis of general skills tests in Azerbaijani and Armenian as well as on the basis of Ossetian and Abkhazian language tests.¹⁰⁷³

In regard to the Georgian language prep class, it should also be mentioned that, as we learned from our meetings in Kvemo Kartli and Samtskhe-Javakheti in 2023, part of the local population has inaccurate information on ways to enroll in the program. In particular, to be admitted to the Georgian language program, it is not required for prospective students to be graduates of an Azerbaijani or Armenian school/sector.¹⁰⁷⁴ There is a misunderstanding about this issue in national minority communities who (wrongly) think they will not be eligible to join the Georgian language prep class if they have attended a

¹⁰⁶⁹ Ibid.

¹⁰⁷⁰ Of the 1,202 university entrants in 2022, 16.3% won the State stipend (tuition grant), 2022 Parliamentary Report of the Public Defender, p. 292.

¹⁰⁷¹ Letter from the Georgian Government Administration no. GOV 0 24 00002989 dated February 2, 2024.

¹⁰⁷² Ibid.

¹⁰⁷³ Law on University Education, Article 90(2²) (Law amending the Law on University Education, published on 17.07.2023).

¹⁰⁷⁴ Law on University Education, Article 52(1²).

Georgian-language school/academic sector.¹⁰⁷⁵ This fact only emphasizes that more active work is needed to raise awareness of the program and admission requirements amongst Azerbaijanian and Armenian communities.

24.5. Access to the Media

In 2023, as in previous years, the Public Broadcaster has been providing simultaneous translation of a Channel One news program entitled “Moambe at 21:00 hours” into Azerbaijanian and Armenian languages. The program is viewable as a regular TV channel.¹⁰⁷⁶ Moreover, the Public Broadcaster broadcasts 4 news programs in Azerbaijanian and Armenian languages on a daily basis that are accessible on the Channel One webpage.¹⁰⁷⁷ The news programs get transmitted to the regional television channels in Kvemo Kartli and Samtskhe-Javakheti free of charge.¹⁰⁷⁸

Notwithstanding steps taken by the Public Broadcaster to inform the public about its products designed for national minority representatives, awareness of such products remains significantly low among the relevant population. As the Public Broadcaster informed us, during the year 2022, they conducted door-by-door meetings with local populations in all the villages of Kvemo Kartli and Samtskhe-Javakheti. The campaign continued in 2023. During the meetings, local residents were receiving information on various products produced by the Public Broadcaster for ethnic minorities.¹⁰⁷⁹ We certainly welcome the endeavor undertaken by the Public Broadcaster, but as real-life practice shows and as it is evident from the Public Broadcaster’s own statistical data, more rigorous action is required to raise public awareness of these products.

Access to the media is crucial for national minorities’ civic integration and involvement in decision-making. The media plays an important role by wide coverage of what is going on in the country. Thus, it is natural that availability of media products in languages understood by national minorities and as broad awareness of such products as possible is indispensable for ensuring that national minority representatives can actively and effectively take part in public life. Actions taken to this end must be continuous and systemic.

As the representatives of the Public Defender found out during their visits to Kvemo Kartli and Samtskhe-Javakheti regions, part of the local population has either limited or no information about products and tools offered by the Public Broadcaster. Hence, it is important to more actively promote the work of the Public Broadcaster so that the target population learns all about the products transmitted by the Public Broadcaster to local broadcasters free of charge and products viewable on TV or via the webpage.

Statistics collected by the Public Broadcaster itself is another corroboration of the need to further spread the word about what the Broadcaster does and offers. According to the statistics, in 2023, Channel One’s

¹⁰⁷⁵ This issue is addressed in a thematic enquiry report by the Parliamentary Committee on Education and Science entitled “Study of National Minorities’ Access to Quality Education”, 2022, p. 55.

¹⁰⁷⁶ According to information we received from the Public Broadcaster, the Azerbaijanian and Armenian translations of the 9pm “Moambe” news program can be viewed live via Set Top Boxes as well as TV sets having a language change option (Letter from Public Broadcaster no. 65/07 dated February 5, 2024).

¹⁰⁷⁷ But also viewable on various social media platforms (Letter from Public Broadcaster no. 65/07 dated February 5, 2024).

¹⁰⁷⁸ According to the Public Broadcaster’s information, all of their Azerbaijanian and Armenian-language programs are available free of charge to television channels operating in ethnic minority regions.

¹⁰⁷⁹ Letter from the Public Broadcaster no. 65/07 dated February 5, 2024.

online platform in Azerbaijani language had 57,032 visitors, while the Armenian page had 72,196 visitors.¹⁰⁸⁰ Converted into daily statistics, this equals about 156 views a day in case of the Azerbaijani webpage and about 197 views a day in case of the Armenian webpage. Compared with the year 2022, the number of daily views dwindled by 62% in case of the Azerbaijani webpage and by 50% in case of the Armenian webpage.¹⁰⁸¹ Sadly, even in 2022 these metrics were not any better compared to the previous year of 2021,¹⁰⁸² showing a steadily declining statistics overall over the last years.

Recommendations

To the Government of Georgia:

- For the academic year of 2024-2025, increase the tuition funding budget for students enrolled solely on the basis of Azerbaijani-language and Armenian-language general skills tests or solely on the basis of an Ossetian language test of Unified National Examination;
- Carry out activities tailored to specific needs of job seekers from national minority communities in order to increase their job competitiveness;
- In all administrative territories having a population of national minorities, promote the available employment support services;
- At the executive government level, create effective and institutionalized mechanisms for consulting with national minorities;
- Adopt a legal act establishing a legal obligation for the executive government to consult with the Public Defender's Office's Ethnic Minority Council in making decisions on matters affecting the protection of the rights and civic integration of national minorities;
- Develop a long-term plan for avoiding inter-ethnic conflicts and enhancing dialogue between communities in municipalities having past experience of conflicts.

To the Minister of Education, Science and Youth:

- In all administrative territories having a population of national minorities, expand the geography of pre-school bilingual education programs;
- In schools where the language of instruction is a national minority language, introduce a multi-lingual teaching model; develop school textbooks required in multi-lingual teaching; train or re-train bilingual teachers;

¹⁰⁸⁰ Letter from the Public Broadcaster no. 65/07 dated February 5, 2024.

¹⁰⁸¹ In the period between January 1, 2022 and October 1, 2022, number of views of the simultaneous translation into the Azerbaijani language of the "Moambe" news program on online platforms was about 115,000, and the same figure for Armenian translation equaled about 108,000. Divided by days, the Azerbaijani translation was receiving about 420 views per day, while the Armenian translation was being viewed around 394 times a day (2022 Parliamentary Report of the Public Defender, p. 294).

¹⁰⁸² According to the Public Broadcaster-collected statistics of online platforms, the simultaneous translation of Moambe news program was getting 500 to 1,500 views a day in 2021.

- Take active measures to ensure that Georgia-made native language and literature textbooks are created, printed and used for instruction in Georgia's Armenian, Azerbaijanian and Russian-language schools
- Create and print school textbooks and train teachers in the native languages of small ethnic groups (Ossetian, Chechen, Khundz/Avaran, Udi, Assyrian and Kurdish/Kurmanji)
- Promote multi-lingual programs by making available student and pupil exchange programs at the domestic country level (within Georgia);
- Work with local self-governments to support, including by providing technical and logistics support to, educational and informational events at local culture houses / culture centers in the municipalities and villages with ethnic minority populations.

To the Minister of Culture and Sports:

- Work with local self-governments to support the functioning and restoration of local culture houses / culture centers as well as the holding of culture events at such centers in the municipalities and villages with ethnic minority populations;
- Conduct stocktaking and registration of national minorities' culture monuments and start their conservation and/or rehabilitation works.

To the Zurab Zhvania School of Public Administration:

- Promote the State language learning program in all the administrative units populated by national minorities and expand the geography of teaching of the program, including the geographical coverage of language-teaching mobile groups.

To the National Center for Teacher Professional Development:

- Expand the geography of teacher training activities by the National Center to include all the administrative territories with national minority populations and increase the number of teachers trained within its programs in these territories.

To the Public Broadcaster:

- Strengthen its efforts to promote news and analytical programs in national minority languages in all the administrative territories with ethnic minority residents in order to expand the audience for these programs;
- In all administrative territories with ethnic minority populations, facilitate the broadcasting of Public Broadcaster's media products (including those in ethnic minority languages) by all available means and channels; inform local populations of these possibilities.

To the Civil Service Bureau:

- Collect data on the number ethnic minority representatives employed in civil service while adhering to the principles of self-identification, voluntary basis and anonymity in doing so.

To the State Minister for Reconciliation and Civil Equality:

- Provide a clear definition of the “1+4” internship program requirements for receiving institutions; clearly define expected results of internship; implement assessment tools and activities aimed at improving skills of young people.

To the Minister of Education, Science and Youth, and to the municipalities of Sagarejo, Lagodekhi, Telavi, Gardabani, Marneuli, Bolnisi, Dmanisi, Tsalka, Tetrtskaro, Akhaltsikhe, Akhalkalaki, Ninotsminda:

- Make pre-school education and school prep programs available in all administrative territories having ethnic minority populations.

To the municipalities of Sagarejo, Lagodekhi, Telavi, Gardabani, Marneuli, Bolnisi, Dmanisi, Tsalka, Tetrtskaro, Akhaltsikhe, Akhalkalaki, Ninotsminda:

- Further train pre-school teachers, including non-Georgian teachers, and create and provide teaching and learning resources and materials to the trained teachers in order to raise teaching and functioning quality of pre-school education instructions;
- Make information published on webpages and social media pages of municipalities available in the native languages of national minority populations;
- Make sure that normative acts enacted by municipalities that may be of interest to local public (for example, municipal healthcare and social programs) are accessible in the native languages of local ethnic minority populations.

25. Human Rights Situation of Internally Displaced Persons - IDPs

Since January 1, 2023, amendments to the Law of Georgia "On internally displaced persons from the occupied territories of Georgia - IDPs"¹⁰⁸³ have come into effect, completely restructuring the provision of durable housing for IDPs and fundamentally altering the previous landscape. This is due to the state's removal of the obligation to provide durable housing to IDPs born from this point forward.¹⁰⁸⁴ These implemented changes reflect a shift in the policy concerning the long-term resettlement of IDPs. One of the objectives¹⁰⁸⁵ of these changes is to accurately determine the number of resettled displaced families, whether exact or indicative. It is crucial not only to ascertain the number of families requiring resettlement but also to strategize their durable resettlement process, setting a defined timeframe and ensuring its execution within the designated period.

As of the end of 2023, Georgia has registered 295,872 internally displaced persons and 95,308 displaced families. Among these, 54,862 families have undergone durable resettlement, while 51,845 families have submitted applications for housing under various durable resettlement programs¹⁰⁸⁶ (it should be noted that the same family may have applications registered under multiple resettlement programs). Additionally, 603 families have received administrative promises for imminent housing provision.¹⁰⁸⁷

By the end of 2025, the state is planning a large-scale resettlement of IDPs. Specifically, there are plans to resettle displaced families in Tbilisi, Zugdidi, Kutaisi, Rustavi, and Borjomi in newly constructed and/or rehabilitated buildings, with construction already underway for this purpose. Considering these developments, the number of families satisfied with housing in 2023¹⁰⁸⁸ has decreased compared to 2022.¹⁰⁸⁹

¹⁰⁸³ Article 23¹ of the Law of Georgia "On Internally Displaced Persons from the Occupied Territories of Georgia".

¹⁰⁸⁴ Unless the displaced parent or parents passed away before providing durable housing. Additionally, any individual who was a minor until January 1, 2023, will be considered for durable housing alongside family members from their ascending branch, forfeiting the right to request housing independently thereafter.

¹⁰⁸⁵ Explanatory note of the amendment introduced on December 16, 2022 in the Law of Georgia "On Internally Displaced Persons from the Occupied Territories of Georgia". Available at: <<https://info.parliament.ge/file/1/BillReviewContent/314384>> [last visited on 04.03.2024].

¹⁰⁸⁶ Letter № IDP 7 24 00032599 dated January 12, 2024 and letters № IDP 8 24 00273836 dated March 6, 2024 of the IDPs, Eco-Migrants and Livelihood Agency; 35,347 families with a request for accommodation in newly built and/or rehabilitated buildings, 16,441 with the request to benefit from the so called rural house purchase program and the request for durable accommodation of 57 families in individual residential houses built on state-owned plots of land in the village of Dzevera, Gori municipality.

¹⁰⁸⁷ Letter № IDP 7 24 00032599 dated January 12, 2024 of the IDPs, Eco-Migrants and Livelihood Agency;; 3,130, families were resettled in 2021 and 3,530 families in 2022 respectively.

¹⁰⁸⁸ 2 278 IDP families, letter IDP 4 24 00108961 of January 30, 2023 of the IDPs, Eco-Migrants and Livelihood Agency.

¹⁰⁸⁹ In 2022, 3,500 displaced families were resettled. see 2022 Parliamentary Report of the Public Defender of Georgia, p. 298.

25.1. Resettlement of IDPs

The state provides both short-term (rent program) and durable housing options to internally displaced persons (IDPs). During the reporting period, a total of 2,278 families were resettled within various durable resettlement programs,¹⁰⁹⁰ while 695 families were granted rental assistance.¹⁰⁹¹ Since 2017, the maximum rental amount allocated has been 300 GEL. However, many displaced families express difficulty in finding housing within this established limit. With the state planning a large-scale resettlement of IDPs by the end of 2025 and the long-term resettlement process in newly constructed and/or rehabilitated buildings will not be conducted during 2024,¹⁰⁹² the 300 GEL limit for rent may pose a significant challenge for IDPs. The Public Defender emphasizes the importance of reviewing this established limit and suggests mobilizing funds accordingly in the budget. Additionally, in several municipalities, the rental assistance limit for vulnerable families surpasses that set for by IDPs, Eco-Migrants and Livelihood Agency. For instance, in Khelvachauri municipality, the rent compensation amount is 500 GEL,¹⁰⁹³ a sum also mirrored by the Tbilisi Municipality City Hall.¹⁰⁹⁴

In 2023, the Office of the Public Defender of Georgia examined approximately 60 applications/complaints from IDPs, which were related to alleged violations of rights during the durable resettlement process. Among the cases reviewed, it was found that in nine instances, decisions were made without proper substantiation and lacked investigation into significant circumstances relevant to the case.

The process of durable housing solution continues to pose a persistent challenge, particularly evident in the significant delay in reaching final decisions regarding placement in the rural housing program, spanning multiple years. Among those who have been accommodated under this program are families who initially requested housing between 2020 and 2022. This underscores the prolonged duration, sometimes up to three years, from the application for housing provision to the ultimate decision, which can prove problematic, especially when families have already embarked on the search for a residential property to purchase. As of the end of 2023, the number of families expressing willingness to participate in the specified resettlement program stood at 16,441. Consequently, the Public Defender deems it necessary to expedite the processing of applications in a timely manner.

As previously mentioned, the LEPL IDPs, Eco-Migrants and Livelihood Agency has outlined plans to accommodate IDPs in newly constructed and/or rehabilitated buildings across several cities in Georgia by 2025. To this end, applications were accepted at the end of 2023. According to the agency's stated policy, families are expected to be resettled in these buildings by 2025. It is evident from the agency's response that construction has commenced in certain cities, with some buildings partially completed.

¹⁰⁹⁰ 512 families in newly built and/or rehabilitated buildings in Kutaisi; 56 families in Tbilisi; 12 families were accommodated in individual houses built according to modern standards on a plot of land owned by the state in the vicinity of Dzevera in Gori; 1,581 families agreed to purchase housing within the framework of the private housing purchase program; 117 families were bought housing as a result of the administrative promise.

¹⁰⁹¹ Letter № IDP 8 24 00021745 dated January 10, 2024 of the LEPL IDPs, Eco-Migrants and Livelihood Agency.

¹⁰⁹² Letter № IDP 5 24 00021751 dated January 10, 2024 of the LEPL IDPs, Eco-Migrants and Livelihood Agency.

¹⁰⁹³ Letter №128-1282402389dated January 23, 2024 of Khelvachauri Municipality City Hall.

¹⁰⁹⁴ Resolution №35-101 of December 28, 2023 of the City Council of Tbilisi Municipality "On approval of the rules for the implementation of the sub-program "Compensation for residents of demolished houses" provided for in the 2024 budget of Tbilisi Municipality, Article 6, Paragraph 4.

Although February¹⁰⁹⁵ and April¹⁰⁹⁶ 2026 are specified as the deadlines for final construction completion, construction permits have yet to be issued in some municipalities,¹⁰⁹⁷ resulting in delays in commencing construction work.¹⁰⁹⁸ It is crucial to utilize all available legal means to ensure construction is completed within the designated timeframe. Additionally, it will be essential to provide displaced families with periodic updates on the construction progress.

25.2. Resettlement of Displaced Persons from Objects Containing Increased Danger to Life or Health

As of the end of 2023,¹⁰⁹⁹ 506 families continue to reside in 29 facilities that present an elevated risk to life and health. During the reporting period, there was not a significant increase in the number of families resettled from these hazardous structures. Specifically, in 2023, **4 so-called demolished facilities and 17 facilities important for state or municipalities were closed**, resulting in a positive decision to resettle 259 families living in such precarious conditions.¹¹⁰⁰

For years, the Public Defender of Georgia has consistently addressed the human rights situation of families residing in dilapidated buildings in parliamentary reports. Despite the prolonged presence of a high number of collapsing buildings, the rate of resettlement of displaced persons from such facilities has witnessed a decline over the past two years.¹¹⁰¹ Concurrently, there persists a flaw in the process of accurately counting families residing in structures that endanger their lives and health, a concern highlighted by the Public Defender of Georgia in previous parliamentary reports.¹¹⁰² The LEPL IDPs, Eco-Migrants and Livelihood Agency has outlined plans to vacate former compact accommodation facilities by 2025, despite their deteriorating condition.¹¹⁰³ However, it remains imperative to swiftly provide safe housing for displaced persons residing in buildings posing imminent danger. Additionally, addressing the shortcomings identified by the Public Defender of Georgia and completing the census of displaced families residing in compromised structures is crucial.

¹⁰⁹⁵ Kutaisi and Rustavi.

¹⁰⁹⁶ Tbilisi.

¹⁰⁹⁷ Zugdidi.

¹⁰⁹⁸ Letter №IDP 4 24 00108961 dated January 30, 2024 of the IDPs, Eco-Migrants and Livelihood Agency; Order №6727605dated October 25, 2023 of the Architectural Service of Tbilisi City Municipality. State procurement contract №270603/2 of February 13, 2023.

¹⁰⁹⁹ Letter № IDP 5 24 00177317 dated February 14, 2024 of the LEPL IDPs, Eco-Migrants and Livelihood Agency.

¹¹⁰⁰ Administrative promises were made to the families living in 6 facilities, and families living in 15 facilities were resettled in a safe environment.

¹¹⁰¹ In 2022, 272 such families were resettled. See 2022 Parliamentary Report of the Public Defender of Georgia, Tbilisi, 2023, p. 300.

¹¹⁰² See 2022 Parliamentary Report of the Public Defender of Georgia, Tbilisi, 2023, pp. 300-302

¹¹⁰³ Letter IDP 4 24 00108961 of January 30, 2024 of the LEPL IDPs, Eco-Migrants and Livelihood Agency.

Recommendations

To the Minister of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs of Georgia:

- Considering the prevailing market prices, to reassess and potentially increase the rental limit set for displaced persons seeking accommodation.

To the LEPL IDPs, Eco-Migrants and Livelihood Agency:

- To disseminate information to the public on a quarterly basis, updating details about ongoing construction projects in Tbilisi, Zugdidi, Kutaisi, Rustavi, and Borjomi through the relevant website or other accessible channels
- In cases of urgent necessity, to expedite the implementation of measures such as providing safe housing for IDPs residing in structurally compromised facilities until 2025.

26. Human Rights Situation of Eco-Migrants

In 2023, the geological processes that occurred in Shovi and later in Guria resulted in significant damage to residences and infrastructure, tragically leading to the loss of many lives.

Unfortunately, the number of families affected by natural disasters and requiring preventive measures is steadily increasing each year. The geological phenomena occurring across the country necessitate systematic analysis, evaluation, and coordinated responses, as the implementation of preventive measures by municipalities at the local level remains inconsistent, failing to adequately address the prevailing challenges. Conversely, without timely preventive actions, the likelihood of families needing resettlement escalates. As of the end of 2023, out of the 9,326 eco-migrant families registered in the database of the LEPL IDPs, Eco-Migrants and Livelihood Agency (hereinafter referred to as the Agency), only 3,088 have been provided with housing.¹¹⁰⁴

The insufficient allocation of funds for resettlement continues to pose a significant challenge. Additionally, the process of transferring residential houses to private ownership for eco-migrants resettled between 2004 and 2012 has not been finalized yet.¹¹⁰⁵ Out of the 1,062 families resettled in various regions of Georgia during this period, 420¹¹⁰⁶ families have yet to complete the transfer of their real estate.

26.1. Re-settlement of Eco-Migrants

During the reporting period, housing was purchased¹¹⁰⁷ to 376¹¹⁰⁸ eco-migrant families. Among those who received housing, there are families who initially requested accommodation between 2016 and 2022. This illustrates that sometimes the period of six years from the application for housing provision to the final decision is insufficient, representing an unreasonably long timeframe, particularly for families impacted by natural disasters and residing in areas with heightened risks to life and/or health due to geological processes.

In 2023, the number of families receiving rental assistance from the agency remained low. Specifically, only 14 eco-migrant families applied to the agency and benefited from rental financing during the reporting year. This low application rate may stem from a lack of awareness among affected families. Despite efforts by the LEPL IDPs, Eco-Migrants and Livelihood Agency to collaborate with local municipalities¹¹⁰⁹ to inform eco-migrant families, the number of families receiving rental assistance remains disproportionately small. The Public Defender of Georgia emphasizes the importance of the agency making greater efforts to disseminate information to eco-migrant families.

¹¹⁰⁴ Letter № IDP 1 24 00036427 dated January 12, 2024 of the LEPL IDPs, Eco-Migrants and Livelihood Agency.

¹¹⁰⁵ The process of ownership transfer started in 2016.

¹¹⁰⁶ Letter № IDP 1 24 00036427 dated January 12, 2023 of the LEPL IDPs, Eco-Migrants and Livelihood Agency.

¹¹⁰⁷ Letter № IDP 1 24 00036427 dated January 12, 2023 of the LEPL IDPs, Eco-Migrants and Livelihood Agency and letter № 05/7341 dated December 29, 2023 of the Ministry of Health and Social Protection of Adjara A/R.

¹¹⁰⁸ 286 residential houses were purchased by the LEPL IDPs, Eco-Migrants and Livelihood Agency, and 90 residential houses were purchased by the Ministry of Health and Social Protection of the Republic of Adjara.

¹¹⁰⁹ Letter № IDP5 24 00145141 dated February 7, 2023 of the LEPL IDPs, Eco-Migrants and Livelihood Agency.

The inclusion of rental assistance in the budget of certain local self-governing units¹¹¹⁰ is a positive development and should be commended. Ensuring timely relocation to a safe environment is critical for families facing threats, particularly amidst the protracted process of durable housing process.

The Office of the Public Defender of Georgia, in assessing the human rights situation of eco-migrants, places particular emphasis on the allocation of funds for resettlement. It is noteworthy that the resettlement of eco-migrant families registered in the Autonomous Republic of Adjara falls under the purview of the Ministry of Health and Social Protection of the Autonomous Republic of Adjara, whereas families registered elsewhere in Georgia are resettled by the LEPL IDPs, Eco-Migrants and Livelihood Agency. In the case of the Autonomous Republic of Adjara, the housing purchase limit for the reporting year was set at 40,000 GEL, which increased to 50,000 GEL from 2024. Conversely, for the LEPL IDPs, Eco-Migrants and Livelihood Agency the limit has remained at 30,000 GEL since 2021 and has not been revised as of 2024. Given the context of inflation and the escalating market value of real estate,¹¹¹¹ we believe it is important for the LEPL IDPs, Eco-Migrants and Livelihood Agency to reassess the financial limit allocated for resettlement. Furthermore, it is important to consider that, for eco-migrants, the primary active resettlement program involves financing the purchase of housing they seek, with no alternative options available (excluding selected municipalities¹¹¹² that provide eco-migrants with housing, which cannot be considered a comprehensive alternative resettlement program).

26.2. Prevention of Eco-Migration

In 2023, similar to previous years, there was lack of attention from municipalities towards preventive measures. The number of municipalities prioritizing the prevention of geological processes remains limited.¹¹¹³ While some municipalities finance measures for immediate hazard mitigation,¹¹¹⁴ these efforts, while undoubtedly crucial, often fail to address the root causes of the disasters. In such cases, the risk of recurring disasters persists, and the effectiveness of such mitigation measures may ultimately prove insufficient.

Municipalities often attribute their failure to implement preventive measures to a lack of adequate finances,¹¹¹⁵ which can stem from various factors: incomplete data on geologically active areas/processes,¹¹¹⁶ insufficient information on the costs associated with preventive measures,¹¹¹⁷ and a

¹¹¹⁰ Lagodekhi, Terjola, Baghdati, Khelvachauri, Khulo, Batumi, Kobuleti, Akhaltsikhe, Tsageri, Khobi and Tbilisi municipalities.

¹¹¹¹ Data of the National Statistics Agency. Available at: <<https://www.geostat.ge/ka/news?year=&month=&category=7>> [last visited on 18.03.2024].

¹¹¹² For example, Terjola Municipality.

¹¹¹³ Mestia, Khelvachauri, Khulo, Lentekhi, Vani Municipalities.

¹¹¹⁴ Letter №110-1102336323 dated December 29, 2023 of the City Hall of Chkhorotsku Municipality and letter №28-282402290 dated January 22, 2024 of the City Hall of Terjola Municipality.

¹¹¹⁵ Letter №28-282402290 dated January 22, 2024 of Terjola Municipality City Hall, Letter №22-222401058 dated January 10, 2024 of Zestafoni Municipality City Hall, Letter №96-962336312 dated December 29, 2023 of Lentekhi Municipality City Hall and Letter №40-4024030124 dated January 30, 2024 of Senaki Municipality City Hall.

¹¹¹⁶ Letter №28-282402290 dated January 22, 2024 of Terjola Municipality City Hall, Letter №66-662401673 dated January 16, 2024 of Baghdati Municipality City Hall, and Letter №12-1224017118dated January 17, 2024 of Akhaltsikhe Municipality City Hall.

¹¹¹⁷ Letter №22-222401058 dated January 10, 2024 of Zestafoni Municipality City Hall, Letter №128-1282402389 dated January 23, 2024 of Khelvachauri Municipality City Hall, Letter № 98-98233627 dated December 28, 2023 of Khulo

lower priority given to eco-migration prevention. Considering the uptick in geological activities and the growing number of affected families, there is a pressing need to develop and execute systematic measures for managing/preventing geological processes nationwide. Against the backdrop of frequent natural events amid global climate change, the LEPL National Environmental Agency recognizes the necessity for more comprehensive research. Over the next 3-5 years, the agency plans to establish three additional regional geological departments equipped with necessary resources.¹¹¹⁸

While the Public Defender of Georgia acknowledges the commendable initiative to establish regional offices, it is also imperative to systematically initiate and execute effective measures for managing/preventing geological processes through inter-agency collaboration amidst global climate change and frequent natural events. This includes determining the agency/body responsible for overseeing the implementation of recommendations provided in bulletins or individual conclusions by the LEPL National Environmental Agency.

In addition to the aforementioned issues, challenges highlighted in previous parliamentary reports remain pertinent. One such challenge is the failure to provide information about prevention efforts to the recommending authority. To enhance municipal awareness, it is crucial for the LEPL National Environmental Agency, and in the case of the Autonomous Republic of Adjara, the Unit of Environmental Protection and Natural Resources of the Autonomous Republic of Adjara, to emphasize the importance of informing the respective municipalities.

Recommendations

To the Minister of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs of Georgia:

- Considering current market prices, to increase the limit set for purchasing residential houses for eco-migrants.

To the LEPL IDPs, Eco-Migrants and Livelihood Agency:

- To increase awareness of the rental assistance program, a joint information campaign involving local municipalities should be conducted.
- To finalize the transfer of ownership of residential properties to eco-migrants resettled between 2004 and 2012 in 2023.

To the LEPL National Environmental Agency and the Unit of Environmental Protection and Natural Resources of the Autonomous Republic of Adjara:

Municipality City Hall, Letter №110-1102336323 dated December 29, 2023 of Chkhorotsku Municipality City Hall, Letter №80-802402642 dated January 26, 2024 of Tsageri Municipality City Hall, Letter №50-502402936 dated January 29, 2024 of Khobi Municipality City Hall, Letter №40-4024030124 dated January 30, 2024 of Senaki Municipality City Hall and Letter № 24-2424036196 dated February 5, 2024 of Zugdidi Municipality City Hall.

¹¹¹⁸ Letter № 21/1296 dated February 12, 2024 of the LEPL National Environmental Agency.

- To highlight the necessity of providing information to the recipients of the geological report regarding preventive measures.

To the Mayors of local municipalities:

- To notify the LEPL National Environmental Agency and the Unit of Environmental Protection and Natural Resources of the Autonomous Republic of Adjara regarding the preventive measures implemented.

27. Legal Status of Asylum Seekers and Persons with International Protection

27.1. Introduction

The number of internally displaced persons in the world is increasing every year. As of 2023, there are more than 110 million such persons, of whom up to 43 million are internationally protected and asylum seekers.¹¹¹⁹ Despite the increase in the number of internally displaced persons in the world, a slight decrease is observed in Georgia compared to the last reporting year.¹¹²⁰ As of the end of 2023, 1,395 persons with international protection live in Georgia. 450 have been granted refugee status, and 945 - humanitarian status.¹¹²¹ The number of asylum seekers is 1,060¹¹²², 19 of them requested international protection at the state border. The majority of persons under international protection in Georgia are citizens of Ukraine, Russia, Iraq and Syria.¹¹²³

In 2023, the number of reviewed cases was halved.¹¹²⁴ The average term for considering an application for international protection is 10 months.¹¹²⁵ Out of 654 considered cases, international protection was refused to 472 persons. 166 were granted humanitarian status, and 16 - refugee status. The basis for the negative decision was mainly the lack of relevant reasons - in the case of 454 persons, security - in the case of 17 persons, and in 1 case - the recognition of a person as a refugee by another country. Among those who were refused international protection on grounds of security, there are 6 citizens of Eritrea, 2 citizens of Ukraine, 2 citizens of Iraq and 2 citizens of Syria.

In the reporting year, the rules for placing an asylum seeker¹¹²⁶ in a reception center were changed, and priority is given to the most vulnerable asylum seekers. In 2023, a working version of the "Document of Common Approaches" to the Integration of Immigrants was developed, although it has not been finally approved. The situation has not improved in terms of informing beneficiaries about integration programs. In particular, information on integration programs and activities¹¹²⁷ is not updated on the social network, and on the website of the IDPs, Ecomigrants and Livelihoods Agency, information is only available in Georgian,¹¹²⁸ which may be an obstacle for interested persons.

¹¹¹⁹ Information available < <https://www.unhcr.org/refugee-statistics/> > last seen: 08.02.2024].

¹¹²⁰ 2022 Parliamentary Report of the Public Defender of Georgia, Tbilisi, 2023, 307.

¹¹²¹ Letter of the Ministry of Internal Affairs of Georgia dated January 25, 2024 No. MIA 9 24 00229573.

¹¹²² Information is available at: < https://info.police.ge/page?id=768&parent_id=258 > [last viewed on 08.02.2024].

¹¹²³ Citizen of Ukraine - 474; Russian citizen - 156; Citizen of Iraq - 265; Syrian citizen - 107.

¹¹²⁴ 2022 Parliamentary Report of the Public Defender of Georgia, p. 308.

¹¹²⁵ Letter of the Ministry of Internal Affairs of Georgia dated January 25, 2024 No. MIA 9 24 00229573

¹¹²⁶ Order No. 62 of the Minister of Internal Affairs of Georgia "On approving the procedure for placing an asylum seeker in a reception center or in another place" of August 17, 2023

¹¹²⁷ Information available at: < <https://www.facebook.com/IntegrationCenterGeorgia/> > [Last viewed 08.02.2024].

¹¹²⁸ Information is available at: < <https://idp.moh.gov.ge/mainlist.php?lang=1&uid=202301081804126835922998> > [last viewed on 08.02.2024].

27.2. State Border Monitoring

During the reporting year, as part of the monitoring of the state border,¹¹²⁹ along with the observation of the border crossing process, attention was also focused on asylum issues and the legal status and conditions of employees. In most cases, the infrastructural aspect of the border-immigration control units is more or less satisfactory,¹¹³⁰ although the checkpoints are not equipped with special interview rooms. Interviews are mostly held in the office of the supervisor or shift supervisor, where no confidential environment is provided. The existence of a language barrier is problematic. In some cases, persons employed at the border have to communicate with foreigners using the Google Translate program.

As in previous years, in connection with the crossing of the border, it remains a challenge to use Article 11, subsection "i" of the Law of Georgia "On the Legal Status of Foreigners and Stateless Persons", when a foreigner may be refused entry to Georgia on the basis of "other cases provided for by the legislation of Georgia". The mentioned record does not refer to any other legal norm, which the Public Defender of Georgia has assessed as problematic¹¹³¹ for years and noted that since the norm is indicative and does not produce separate legal consequences, for its application there must be a specific case defined by law, when a foreigner will be subject to restrictions on crossing the border. The indicated problem was relevant in the reporting year as well, and the Public Defender of Georgia received a number of applications/complaints where the applicants were refused entry to Georgia on the aforementioned basis.

The lack of full-fledged databases remains a challenge. According to the information of the Ministry of Internal Affairs of Georgia, in 2023, 4,138,882 citizens of foreign countries entered Georgia, and 22,904 foreigners were restricted from entering Georgia, although the Ministry does not have data on the specific legal grounds for refusal,¹¹³² including no data on how many foreigners were restricted from entering the territory of Georgia on the basis of the Article 11, subsection "i" of the Georgian Law "On the Legal Status of Foreigners and Stateless Persons". In addition, it should be noted that the Ministry of Internal Affairs of Georgia does not even produce statistics of those foreigners who, before returning, have to be placed in special detention rooms at the international airports of Tbilisi, Kutaisi and Batumi for more than one day. The Public Defender of Georgia believes that the production of this kind of statistics is important to assess how frequent the practice of placing foreigners in similar spaces is and how intensive the intervention is.

Even in 2023, no guidance document was developed that would regulate the conduct of an interview with a foreigner during the inspection at the state border crossing.¹¹³³ The Public Defender of Georgia considers the existence of such a document to be important, which will take into account the technique

¹¹²⁹ The monitoring was carried out in the border-immigration control departments of "Sarfi", "Batumi International Airport", "Kutaisi International Airport", "Vale", "Sameba", "Red Bridge", "Guguti" and "Saddhalo"..

¹¹³⁰ There is also an exception, for example "Sameba", where the construction of a new border-immigration department is underway during the reporting period.

¹¹³¹ For example, the 2018 parliamentary report of the Public Defender of Georgia, p. 331; 2019 Parliamentary Report of the Public Defender of Georgia, Tbilisi, 2020, 422-423

¹¹³² Letter of the Ministry of Internal Affairs of Georgia dated February 2, 2024 No. MIA 8 24 00320624.

¹¹³³ Letter of the Ministry of Internal Affairs of Georgia dated February 2, 2024 No. MIA 8 24 00320624.

of interviewing in compliance with uniform standards and take into account the needs of age, gender, disabled persons and other vulnerable groups.

27.3. Integration

The 2021-2030 migration strategy, among other things, sets out the state's vision for the integration of foreigners. The "document of a unified approach" on the integration of immigrants was supposed to be developed in 2021, although the working version was created only in the reporting year and has not been approved.

The following programs are still active in the direction of integration services: Georgian language courses, socio-cultural awareness raising, civic education course, counseling service and referral, financing of medical assistance and/or medicines for people with identified medical needs. In the reporting year, 107 students attended Georgian language courses, 37 attended socio-cultural awareness raising courses, and 24 individuals benefited from funding for medical needs. It is important that in case of taking the courses remotely, the beneficiaries are financed with the Internet fee, and in case of the need to move - the travel fee.¹¹³⁴ During the interviews with the representatives of the Public Defender of Georgia, individual beneficiaries still expressed dissatisfaction with the methods of teaching the Georgian language.¹¹³⁵

It is welcome that some municipalities provide social benefits for persons under international protection. For example, in the budget of Akhmeta municipality, funding is provided for persons with residence permits actually living in the municipality, in case of acute medical emergencies.¹¹³⁶ Also, the City Hall of Kutaisi Municipality allows persons with permanent residence permits, humanitarian or refugee status, and non-citizens with status in Georgia to participate in the "Medical Assistance" and "Medicine Provision" programs.¹¹³⁷

One of the components of integration is employment. It is a pity that the labor market management information system of the LEPL State Agency for the Assistance of Employment allows users to register on worknet.gov.ge only in the Georgian language. As informed by the Office of the Public Defender of Georgia, it is planned to update the program and job seekers will be able to register at least in Armenian and Azerbaijani languages. The Public Defender of Georgia, in order to promote the integration of foreigners, considers it important to expand the languages of registration so that it is accessible to wide groups. In addition, the State Employment Assistance Agency does not keep statistics on how many foreigners are registered as job seekers, including how many are stateless persons with refugee or humanitarian status, asylum seekers or status in Georgia. The agency does not have statistical data on foreign persons employed through this program either.¹¹³⁸ In order to assess the degree of integration of foreigners, the Public Defender of Georgia considers it important to process similar statistical data.

The issues of informing the interested persons and the language barrier are still relevant in the case of the LEPL Agency of IDPs, eco-migrants and providing livelihood sources. The agency, which implements

¹¹³⁴ Letter IDP 1 24 00054652 dated January 17, 2024 of the Agency for IDPs, Eco-Migrants and Livelihoods.

¹¹³⁵ For example, they said that the teacher did not explain the lesson well enough for them to understand.

¹¹³⁶ Letter No. 86-86240439 of Akhmeta Municipality City Hall dated February 12, 2024.

¹¹³⁷ Letter No. 44-4424022782 of the Mayor of Kutaisi Municipality dated January 22, 2024.

¹¹³⁸ Letter of the LEPL State Agency for the Assistance of Employment No. SESA 7 24 00100602 of January 29, 2024.

the main integration programs, does not update information¹¹³⁹ on integration programs and activities on the social network, and the information on the website is only available in Georgian.¹¹⁴⁰ The Office of the Public Defender of Georgia was informed that with donor support, it is planned to develop a communication web-platform, which will contribute to the provision of complete and updated information to the beneficiaries.¹¹⁴¹

It is possible to use the provided services for foreigners with the relevant document. In the last parliamentary report, the Public Defender of Georgia talked about the legal shortcomings of issuing identification documents to persons subject to non-deportation based on the principle of family unity.¹¹⁴² Despite the fact that the Ministry of Internal Affairs of Georgia worked to settle the issue, the problem is still relevant and no legislative changes have been made in this direction.¹¹⁴³

Recommendations

To the Minister of Internal Affairs of Georgia:

- through the software, to process statistical data on the refusal to enter Georgia and indicate the specific legal basis for the refusal to enter the country;
- To produce statistics on the number of foreigners placed in special detention rooms for more than one day and the duration of their placement at the international airports of Tbilisi, Kutaisi and Batumi.

LEPL State Agency for Employment Assistance:

- Expand the languages of registration on the labor market management information system, worknet.gov.ge;
- Process statistical data on the labor market management information system, worknet.gov.ge, according to the citizenship of persons registered/employed/offered for employment and their status in Georgia (humanitarian status/refugee status/asylum seeker/stateless person with status in Georgia).

LEPL Agency for IDPs, Eco-migrants and Livelihood Provision:

- Disseminate information about integration programs through the social network and website, in a language understandable to the beneficiaries.

¹¹³⁹ Information is available at: < <https://www.facebook.com/IntegrationCenterGeorgia/> > [last viewed 18.03.2024].

¹¹⁴⁰ Information is available at: < <https://idp.moh.gov.ge/mainlist.php?lang=1&uid=202301081804126835922998> > [last viewed on 18.03.2024].

¹¹⁴¹ Letter IDP 1 24 00054652 dated January 17, 2024 of the Agency for IDPs, Eco-Migrants and Livelihoods.

¹¹⁴² 2022 Parliamentary Report of the Public Defender of Georgia, p. 312-313.

¹¹⁴³ Letter of the Ministry of Internal Affairs of Georgia dated February 29, 2024 No. MIA 5 24 00615255.

28. Human Rights in the Military

28.1. Introduction

In respect of the country's defense forces, the Public Defender's mandate is to look into the protection of the rights of conscripts and military servicemembers of all ranks by means of preventive visits. This chapter discusses issues such as protection of military servicemembers from ill-treatment; their living and working conditions; and economic, social, civil and political rights of military personnel.

Within its monitoring activities in 2023, members of the Public Defender's office paid visits to six military units of the Ministry of Defense of Georgia and six paramilitary subsections of the Ministry of Internal Affairs of Georgia. The monitoring group looked into the conditions and documents held at these bases and conducted individual interviews with military servicemembers.

The Public Defender commends the adoption of a new Defense Code, which stipulates that, since January 2025, conscripts will be called up to fulfill their national military duty only within the Ministry of Defense's system. The Public Defender hopes that every single fixed-term military servicemember fulfilling their National Military Service for Conscripts within the Ministry of Interior system before January 1, 2025 will be provided with decent living and working conditions.

28.2. The Defense Forces of Georgia

28.2.1. Protection from ill-treatment

In the reporting period, during the visits to military units, the Special Preventive Group has not received any information of higher-ranking or other military personnel using physical violence against military servicemembers. However, as in the previous years,¹¹⁴⁴ informal and collective punishment remained a systemic problem. This practice includes sit-ups, push-ups, running, coercion to stay in the military unit after working hours, etc. It is a common informal punishment to leaving a servicemember in the military unit overnight for misconduct such as taking a sit, falling asleep or speaking loud while on sentry duty.

Occurrences of use of informal punishment are most common at the initial combat training center of the Defense Forces. It happens during the initial military training course aka "the quarantine period". Punishments can be both individual and collective, based on the principle of "one for all, all for one". As fixed-term military servicemembers stated at the center, they are constantly getting punished informally by receiving orders to do sit-ups, push-ups or do running with a backpack for every single misconduct.

According to Council of Europe recommendations, in case of commission of disciplinary misconduct, a member of armed forces may be imposed disciplinary punishment only as a result of disciplinary proceeding if the commission of misconduct is proven, and only the measure of punishment used must

¹¹⁴⁴ Public Defender's Report of 2021, Tbilisi 2022, 316; Public Defender's Report of 2022, Tbilisi 2023, 316;.

be foreseen in the law.¹¹⁴⁵ Also, immediately after a disciplinary proceeding is initiated, a member of the armed forces must be informed promptly and must be given the opportunity to take part in it as well as to appeal a decision made as a result of the proceeding.¹¹⁴⁶ In the above-mentioned recommendation, the Council of Europe emphasizes that the practice of collective and informal punishment of military personnel is unacceptable, including unreasonable restrictions on the right to leave the military unit in non-working hours and forced labor.¹¹⁴⁷

Like in previous years,¹¹⁴⁸ service personnel lacked knowledge of their rights and complaints procedures. When speaking to representatives of the Special Preventive Group, many fixed-term servicemembers admitted to being subjected to informal and collective punishment during their compulsory military service but said they never used a remedy to challenge it. A primary reason for not resorting to legal remedies ever is no awareness of own rights and remedies. The Public Defender has been raising this issue before the Ministry of Defense in its recommendation¹¹⁴⁹ to make this information available, in a plain language without complex legal terms and phrasings, to members of armed forces in the form of brochures published at easily accessible places. In response to our recommendation, the Ministry of Defense has been replying, for the last 2 years, that they're still working on processing a brochure on human rights and duties of, and complaints mechanisms for, military servicemembers.

The Public Defender believes that ordering a member of armed forces to stay in the military unit as a measure of informal punishment is illegal resulting in unlawful restriction of the freedom of movement of the servicemember.¹¹⁵⁰ In the same line, having military personnel perform additional physical activities as a form of informal individual or collective punishment is illegal practice that is likely to include ill-treatment since – depending on an individual servicemember's health condition, physical abilities, their subjective perception, difficulty and nature of the physical activity ordered – use of such punishment may cause more stress and suffering than what is naturally inherent in serving one's military duty and may attain and surpass the minimum threshold of inhuman and degrading treatment.¹¹⁵¹

28.2.2. Living and working conditions

Infrastructure issues

The Public Defender welcomes the elimination of a number of infrastructure issues in Defense Forces last year. For example, refurbishment/construction works in major residential/working buildings were completed in 6th Artillery Brigade and 3rd Infantry Brigade of the Western Command of Defense Forces. Also, during the visit of Public Defender's representatives to the 3rd Infantry Brigade, asphalt pavement

¹¹⁴⁵ Recommendation CM/Rec(2010)4 of the Committee of Ministers to member states on human rights of members of the armed forces, para. 19, February 24, 2010, para. 19, accessible at < <https://bit.ly/3lmETRw> > [last viewed 26.02.2024].

¹¹⁴⁶ Ibid, para. 21.

¹¹⁴⁷ Ibid, paras. 16 and 18

¹¹⁴⁸ Public Defender's Report of 2021, Tbilisi 2022, 318; Public Defender's Report of 2022, Tbilisi 2023, 317.

¹¹⁴⁹ Public Defender's Report of 2021, Tbilisi 2022, 324; Public Defender's Report of 2022, Tbilisi 2023, 321.

¹¹⁵⁰ Constitution of Georgia, Article 14.

¹¹⁵¹ ECtHR, CHEMBER v. RUSSIA (7188/03), para. 49; see also Lyalyakin v. Russia.

installation works were ongoing on the marching drill pad and running paths. According to information we received from the Ministry of Defense,¹¹⁵² refurbishment/construction works were performed at 20 buildings during 2023 (residential barracks, barracks and hotels).

In some military units, however, inadequate living and working conditions for members of military personnel remain a matter of concern.

The Public Defender wishes to emphasize the living and working conditions of fixed-term military members serving in the Defense Force's Aviation and Air Defense Command's Mixed Air Squadron, Marneuli Unit. Walls in residential rooms and classrooms have cracks and significant visible damages. Also, sewage and ventilation in restrooms and other water closets are out of order. We regret to recall that we encountered the same infrastructural concerns also during our visit to the same institution in 2022.¹¹⁵³ According to the information provided by the Ministry of Defense,¹¹⁵⁴ the building requires a major overhaul, but relevant works and costs have already been included in the 2024 infrastructure development plan.

In the Guard Battalion of the Defense Forces Army Logistics Command (East), fixed-term soldiers said toilet was damaged in the guardroom where they spend most of their time. Also, fixed-term soldiers were not provided with dressers, bedside closets and chairs.

Adherence to fire safety norms remains an acute challenge. According to the words of fixed-term armed forces members, they have not been given any theory or practice training in fire safety either during the initial military training course or after assignment to their respective military units. Neither are they aware of an anti-fire plan and a majority of them have never been informed about its existence.¹¹⁵⁵ Contrary to this, standards require that each military servicemember knows and observes rules of fire safety. In case of fire, every member of the defense forces must take measures immediately to call a fire brigade and extinguish fire with available means to save weapons, ammunition, machinery and other property harmless. Each military unit must have an anti-fire plan to be approved by a unit commander. The entire unit personnel must be educated about the anti-fire plan.

28.2.3. Food and potable water

A majority of military servicemembers interviewed in the reporting period¹¹⁵⁶ were happy with the quality of food, size of food ration and being able to eat seconds. According to the soldiers, although there is no legal obligation to give regard to religious and ethnic preference when food is cooked, the meals offered are so diverse that there is always plenty of alternatives.

¹¹⁵² Reply from the Ministry of Defense MOD 0 24 00060761 dated January 18, 2023

¹¹⁵³ Public Defender's Report of 2022, Tbilisi 2023, 318.

¹¹⁵⁴ Letter from Defense Forces Aviation and Air Defense Command no. MOD 72400165708 dated February 9, 2024

¹¹⁵⁵ Regulations of the Internal Service of the Georgian Ministry of Defense's Defense Forces endorsed by Government Resolution no. 519 dated August 21, 2020, Article 113: Fire prevention.

¹¹⁵⁶ Except for the guard battalion of the Defense Forces army logistics command (east).

In the Guard Battalion of the Defense Forces Army Logistics Command (East), all the military members interviewed were unhappy with food served. In particular, they complained of insufficient meal rations and no possibility of eating seconds. Also, according to them, soldiers assigned to carry out a military detail in the guardroom do not receive individual meals; instead, meals for all soldiers tasked with the guard detail are brought as a whole and not in separate rations, and the rations are then insufficient.

When it comes to potable water, all of the above-mentioned military units had uninterrupted supply of potable water. However, water dispensers did not have disposable plastic cups and soldiers could do nothing but to use a shared cup, which is unacceptable from a proper hygiene perspective.

28.2.4. Healthcare services

Men enlisted in Georgian Defense Forces can receive primary healthcare services in military units' healthcare sections or field hospitals.¹¹⁵⁷ If required treatment cannot be provided on the spot, servicemembers will be transported to an appropriate medical institution with a medical section / field hospital special vehicle called "ambulance". We are glad to emphasize that soldiers had no complaints as to healthcare services. At the time of our visits, medical procedure rooms in military units' medical sections and field hospitals were not equipped with sinks and the medical personnel had to use a bathroom for handwashing.¹¹⁵⁸

At the time of our visits last year, medical sections in military units remained understaffed. According to information received from the Ministry of Defense,¹¹⁵⁹ as a result of recent amendments in the Defense Code, both healthcare personnel with military status and those employed as civilian doctors can run their medical practice also outside the Ministry of Defense system. Furthermore, procedures for enlisting in Ministry of Defense's contracted professional military service have been simplified and rank-related emoluments have increased. Also, according to the Ministry of Defense's letter, 82% of medical sections and field hospitals are [fully] staffed with healthcare personnel.

Information received from the Ministry of Defense¹¹⁶⁰ suggests that healthcare personnel are provided with training at the military hospital. Also, based on a memorandum of understanding between the Ministry of Defense and the Ministry for IDPs from Occupied Territories, Labor, Health and Social Protection, the Ministry of Defense personnel with tertiary medical education are entitled to quotas upon request and can enroll in prep courses offered at the Training Center of the Public Law Entity "Emergency Situation Coordination and Emergency Assistance Center". The course earns them a certified paramedic diploma. Also, they are not charged any tuition fee. Despite this education opportunity, our visits showed that the healthcare personnel have not actually received professional training in 2023.

¹¹⁵⁷ Medical units/field hospitals are equipped with first aid medicines with a reserve of painkillers and anti-flu drugs.

¹¹⁵⁸ Initial Training Center named after Zaza Peradze, Guard Battalion of the Defense Forces Army Logistics Command (East), Defense Forces' special ops forces' special ops ranger battalion

¹¹⁵⁹ Reply from the Ministry of Defense MOD 0 24 00060761 dated January 18, 2023

¹¹⁶⁰ Reply from the Ministry of Defense MOD 0 24 00060761 dated January 18, 2023

28.2.5. Economic, social and political rights

The Public Defender commends the Ministry of Defense’s decision to increase the monthly wages for military servicemembers enlisted in the National Military Service for Conscripts and hopes this trend is maintained in the future too.¹¹⁶¹

During preventive visits in the reporting period, the Special Preventive Group found out that members of the Defense Forces were not been reimbursed 50% of their transportation costs and utility fees as envisaged by the law.¹¹⁶²

The National Preventive Mechanism’s visits to Defense Forces’ military units last year, identified problems related to language barriers remained unchanged – something the Public Defender has been reporting for years now.¹¹⁶³ A sizable number of military servicemembers enlisted in the National Military Service for Conscripts does not speak Georgian (these are mostly ethnic Armenians and Azerbaijanians). Because of lack of knowledge of the State Language, these members of the defense forces cannot receive proper military education¹¹⁶⁴ and are not completely understanding the details of their rights and obligations. Also, they have problem communicating with their fellow soldiers and their communication with other servicemembers is limited. Worth mentioning especially is that when necessary or when they wish to do so, they are deprived of the possibility to talk to their immediate commander or other commanding staff confidentially. It can be said with surety that the Georgian language course taught during the initial combat prep training is not effective enough to allow learners to speak Georgian independently.

Recommendations

To the Minister of Defense of Georgia:

- The Defense Forces Military Police of the Ministry of Defense to carry out systemic oversight and eliminate use of non-statutory punishment of military servicemembers as a form of discipline as well as collective punishment practices; inform the Public Defender’s Office on measures taken to this end;
- Make personnel enlisted in Defense Forces aware of human rights and duties of members of armed forces and remedies available; for this purpose, include in the job description of military unit lawyers’ a clear formulation that a military unit lawyer must at least once a month conduct individual and group meetings with servicemembers; make this information available, in a plain language without complex legal terms and phrasings, to members of armed forces in the form of brochures published at easily accessible places;

¹¹⁶¹ Monthly wages of Defense Forces conscripts enlisted in National Military Service was raised from GEL 100 to GEL 200 in 2023 and from GEL 200 to GEL 400 in 2024

¹¹⁶² Defense Code, Article 32 Rights and privileges of military servicemembers

¹¹⁶³ Public Defender’s Report of 2020, Tbilisi 2021, 419.

¹¹⁶⁴ Defense Code, Article 111: The goal of military education is to develop knowledge and skills required for Georgia’s defense and security

- Timely carry out the refurbishment works at residential quarters in premises belonging to Defense Forces, eliminate infrastructure problems and improve sanitation and hygienic conditions; provide all servicemembers with individual inventory;
- Order commanders of military units of Defense Forces (or other officials as appropriate) to ensure that personnel under their command undertake a fire safety course per requirements of applicable standard;¹¹⁶⁵
- Fill all the vacancies at Defense Forces' medical sections and field hospitals in 2024; continue taking steps to motivate and attract candidates to work as Defense Forces healthcare personnel;
- Ensure that at least 50% of healthcare personnel employed in military units are retrained through professional training and education courses until the end of 2024;
- Equip medical procedure rooms in military units' medical sections and field hospitals with sinks;
- Apply legally established deductions on transportation costs and utility fees to members of the Defense Forces as envisaged by the law;¹¹⁶⁶
- Apply an accelerated procedure to contract interpreters as a matter of urgency, as per the Government's private order no. 1954 dated November 3, 2021.

¹¹⁶⁵ Regulations of the Internal Service of the Georgian Ministry of Defense's Defense Forces endorsed by Government Resolution no. 519 dated August 21, 2020, Article 113

¹¹⁶⁶ Defense Code, Article 32, Rights and privileges of military servicemembers

29. Human Rights Education

29.1. Introduction

A primary challenge in respect of human rights education in 2023 has been the fact that human rights issues are integrated in policy documents in a fragmented manner.¹¹⁶⁷ In an action plan to implement the National Human Rights Protection Strategy, activities to expand the teaching of human rights are understood as something pertaining only to the general education level rather than to other levels.¹¹⁶⁸

With such a background, it is unclear what is the State's approach to teaching human rights at other levels of formal education. The general education level has certainly seen steady improvement in this respect, but satisfactory integration of the teaching of human rights at vocational and pre-school levels is a continuing concern.

Like in previous years, we welcome the fact that the Ministry of Education, Science and Youth included Public Defender-nominated human rights experts into substantive review of school textbook drafts. In addition, members of the Public Defender's Office conducted training sessions in human rights education for 84 reviewers involved in school textbook reviews. Rights of people with disabilities, children's rights, gender equality, prohibition of discrimination and importance of such prohibition were among the topics tackled during the training.

In 2023, members of the Public Defender's Office held 1,324 educational meetings with various target groups. While exercising this human rights education limb of its mandate, the Public Defender's representatives dedicated 360 meetings to children's rights, 299 meetings to women's rights and 71 meetings to the right to equality. Meetings with local residents and diverse target groups in the regions of Georgia by PDO's regional representatives stood out as especially vibrant. A total of 1,051 of such meetings of educational and informational nature, including with vulnerable groups, were held.

29.2. State Policy on Teaching Human Rights

A new National Strategy on the Protection of Human Rights was approved in 2023, but it does not pinpoint human rights education as a strategic priority;¹¹⁶⁹ instead, the Strategy's Action Plan views human rights education activities envisaged at all levels of the general education system as a matter of education accessibility.¹¹⁷⁰ The Action Plan also envisages informal education activities for raising pupils' and teachers' awareness of equality and gender equality issues.¹¹⁷¹ But it does not pay regard to integrating and developing human rights education at other levels of formal education.¹¹⁷²

¹¹⁶⁷ Cf. Public Defender's "Report on the Protection of Human Rights and Freedoms in Georgia in 2022", p. 335.

¹¹⁶⁸ A 2024-2026 Action Plan for the Protection of Human Rights endorsed by Government Resolution no. 528 dated December 28, 2023, Annex, Goal 13, Priorities 13.1.1 – 13.1.6

¹¹⁶⁹ A 2022-2030 National Strategy on the Protection of Human Rights endorsed by Parliament Resolution no. 2663-XXms-Xmp, see Annex approved by Article 1

¹¹⁷⁰ A 2024-2026 Action Plan for the Protection of Human Rights endorsed by Government Resolution no. 528 dated December 28, 2023, Annex, Goal 13, Priorities 13.1.1 – 13.1.6

¹¹⁷¹ Ibid, Priority 3.

¹¹⁷² Ibid, Goal 13.

Apart from that, some municipalities have not yet adopted normative acts they had obligation to adopt under the Law on Early and Preschool Education.¹¹⁷³

29.3. Preschool Education

29.3.1. Human rights in training programs for educators

In 2023, Public Defender assessed to what extent knowledge of human rights/rights of the child was integrated into the Framework Document of professional training program for pre-school upbringing and education institution teachers.¹¹⁷⁴

According to the UN Committee on the Rights of the Child, individuals involved in children's education must have knowledge of the rights of the child.¹¹⁷⁵ Moreover, as international standards suggest, States should ensure that human rights are taught as part of vocational education programs and that teachers implementing such programs are given systemic training in human rights.¹¹⁷⁶

In our assessment of the Framework Document against these standards as it does not contain it is a module to convey the knowledge about human rights, children's rights or democratic citizenship to professional learners.¹¹⁷⁷ According to information we received from public education institutions implementing the program, a majority of teachers involved in implementing the program have not received training in human rights.¹¹⁷⁸ Giving them training in human rights is not understood as part of State policy.¹¹⁷⁹

The Public Defender has stated that "despite [preschool] educators' auxiliary role, it is critically important to insert a module focusing specifically on human rights and children's rights into a training program for educators".¹¹⁸⁰ We'd like to note positively that the Public Defender's proposal was taken up by the Ministry and it is planning to make a relevant change in the Framework Document.¹¹⁸¹

¹¹⁷³ Municipalities of Dedoplistkaro, Signagi, Chiatura and Khoni have not enacted these normative acts yet. The municipality of Dedoplistkaro started working on draft versions of the normative acts.

¹¹⁷⁴ Order of the Minister of Education and Science no. 192/N dated December 12, 2017 endorsing a framework document for educators' professional training programs, Annex approved in Article 1; Proposal of the Public Defender no. 17-1/8855 dated September 5, 2023.

¹¹⁷⁵ UN Committee on the Rights of the Child (CRC), General comment No. 7 (2005): Implementing Child Rights in Early Childhood, 20 September 2006, CRC/C/GC/7/Rev.1, par. 41, accessible at < <https://rb.gy/t20m9t> > [last viewed 30/12/2023]; UN Committee on the Rights of the Child (CRC), General comment No. 1 (2001), Article 29 (1), The aims of education, 17 April 2001, CRC/GC/2001/1, par. 18, accessible at < <https://rb.gy/4q2fy4> > [last viewed 30/12/2023].

¹¹⁷⁶ Recommendation CM/Rec(2010)7 of the Committee of Ministers to Member States on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education Adopted on 11 May 2010, par. 9, accessible at < <https://rb.gy/exb7vp> > [last viewed 30/12/2023];

¹¹⁷⁷ Order of the Minister of Education and Science no. 192/N dated December 12, 2017 endorsing a framework document for educators' professional training programs, Annex approved in Article 1, Article 6(a)

¹¹⁷⁸ Proposal of the Public Defender no. 17-1/8855 dated September 5, 2023, 2.

¹¹⁷⁹ Letter from the Ministry of Education, Science and Youth no. 219/24 dated January 9, 2024.

¹¹⁸⁰ Proposal of the Public Defender no. 17-1/8855 dated September 5, 2023, 4.

¹¹⁸¹ Letter from the Ministry of Education, Science and Youth no. 12922/23 dated October 25, 2023.

29.3.2. Continuous human rights training for education personnel

Under international standards, personnel of preschool upbringing and education institutions must be given human rights training in a systemic manner.¹¹⁸² In the reporting period, the Public Defender looked into the practices of teaching human rights to relevant personnel in all municipalities on the Georgia-controlled territory.¹¹⁸³

As we found out, training courses on various human rights topics were conducted for preschool upbringing and education personnel only in 21 municipalities during 2023.¹¹⁸⁴ And municipalities have not yet created any substantive or methodological resources to teach human rights.¹¹⁸⁵

Hence, contrary to what is required by the Convention on the Rights of the Child, human rights education in preschool upbringing and education institutions in Georgia is a major challenge.¹¹⁸⁶

29.4. General Education

29.4.1. Teaching the subject named “Citizenship” to Grade 8 students

The Public Defender assessed compatibility with international standards of the quantity of academic hours allocated in the National Curriculum to teaching the subject of “Citizenship” to Grade 8 school students.¹¹⁸⁷ Unlike other grades, the subject is allotted only one hour a week during both semesters of that grade.¹¹⁸⁸

Based on analysis of the European experience and the Georgian practice of teaching the subject of “Citizenship”, the Public Defender’s view is that the number of weekly academic hours envisaged by the National Curriculum for teaching “Citizenship” to Grade 8 students is insufficient and incapable of achieving the learning objectives.¹¹⁸⁹ The Public Defender considers continuity of human rights education important and that it implies that adequate academic time be devoted to teaching of the subject.¹¹⁹⁰

Worth noting here is also an amendment in the National Curriculum, which effectively makes it incumbent upon schools to elaborate their own academic timetables by themselves. Hence, the State-authored timetable has a recommendatory force only.¹¹⁹¹ Schools possessed the same power also before the

¹¹⁸² UN Committee on the Rights of the Child (CRC), General comment No. 7 (2005): Implementing Child Rights in Early Childhood, 20 September 2006, CRC/C/GC/7/Rev.1, para. 33, 41.

¹¹⁸³ Law on Early and Preschool Upbringing and Education, Articles 19(1)(a), 10(3)(a)

¹¹⁸⁴ Letters from the municipalities: 354/24, 580/24, 544/24, 512/24, 427/24, 415/24, 283/24, 602/24, 599/24, 647/24, 663/24, 1069/24, 1109/24, 1173/24, 1449/24.

¹¹⁸⁵ Ibid. See also letters nos. 1291/24, 1110/24, 671/24 685/24 802/24 809/24 926/24 936/24, 979/24, 1050/24, 1054/24, 1222/24, 597/24, 594/24, 622/24, 579/24, 548/24, 438/24, 339/24, 340/24, 310/24, 293/24, 277/24, 1637/24, 1629/24.

¹¹⁸⁶ Convention on the Rights of the Child, adopted November 20, 1989, entered into force for Georgia since July 2, 1994. Article 29(1)(b).

¹¹⁸⁷ Public Defender’s Proposal no. 17-1/7976 dated August 11, 2023.

¹¹⁸⁸ National Curriculum endorsed by an Order of the Minister of Education and Science no. 40/N dated May 18, 2016, Annex, Article 56(2¹) [as at the date of March 17, 2023]; Amendments dated November 17, 2023 did not introduce any change from this perspective. See National Curriculum endorsed by an Order of the Minister of Education and Science no. 40/N dated May 18, 2016, Annex, Article 21(3) [as at the date of March 17, 2023].

¹¹⁸⁹ Public Defender’s Proposal no. 17-1/7976 dated August 11, 2023, p. 5.

¹¹⁹⁰ Cf. Public Defender’s “Report on the Protection of Human Rights and Freedoms in Georgia in 2019”, p. 314.

¹¹⁹¹ National Curriculum endorsed by an Order of the Minister of Education and Science no. 40/N dated May 18, 2016, Annex, Article 9(8) [as at the date of March 17, 2023]

amendment but they were nevertheless following a timetable provided for in the National Curriculum.¹¹⁹² In our opinion, it is advisable to increase the number of academic hours provided as a recommendation in the National Curriculum for the teaching of “Citizenship” to Grade 8 school students.

29.4.2. The process of reviewing school textbook drafts

The cooperation between the Public Defender’s Office and the Ministry of Education, Science and Youth in the process of certification of school textbooks, which originated in 2019, continued also in 2023.¹¹⁹³

Despite some positive trends observed in respect of school textbook reviews, what remains a concern is insufficient human rights training for reviewers.¹¹⁹⁴ School textbook reviewers were given one training course on human rights by members of the Public Defender’s Office.¹¹⁹⁵ Despite the Ombudsman’s numerous recommendations, the State has not yet developed a mandatory training program for textbook reviewers.¹¹⁹⁶ Worth noting in this context is also the fact that reviewers’ selection criteria do not require candidates’ allegiance to human rights values.¹¹⁹⁷

Reviewers’ decisions as a result substantive review of textbooks can be challenged in an Appeal Commission established by the Minister within its discretionary ministerial power.¹¹⁹⁸ Having examined a complaint made under an individual criterion, the Appeal Commission is authorized to issue a new recommendation, revise the content of reviewers’ recommendations or leave them unchanged.¹¹⁹⁹

As in the previous years, the Public Defender wishes to re-emphasize the problematic nature of the way this body is staffed and the way it functions.¹²⁰⁰ For example, in the reporting period, the Ministry’s administrative officials and school principals continued to serve as Commission members.¹²⁰¹ Also, Commission decisions continue to be made without reasoning, without providing any explanation and discussion of facts and legal provisions.¹²⁰² These practices jeopardize successful intake of human rights-

¹¹⁹² Ibid, Article 56(1)(1) {as at the date of March 17, 2023}; Annex to the minutes no. 4191-23 dated August 7, 2023; minutes no. 4189-23 dated August 7, 2023

¹¹⁹³ Letter from the Ministry of Education, Science and Youth no. 765/23 dated January 26, 2023; Letter from the Public Defender’s Office no. 17-1/1286 dated February 7, 2023; Public Defender’s Proposal no. 17-1/10739 dated November 1, 2023.

¹¹⁹⁴ Letter from the Ministry of Education, Science and Youth no. 8864/23 dated July 27, 2023

¹¹⁹⁵ Ibid.

¹¹⁹⁶ Ibid; Public Defender’s “Report on the Protection of Human Rights and Freedoms in Georgia in 2022”, 338.

¹¹⁹⁷ Letter from the Ministry of Education, Science and Youth no. 8864/23 dated July 27, 2023.

¹¹⁹⁸ Rules of Certification of Textbooks/Series for Use by General Education Institution endorsed by an Order of the Minister of Education and Science no. 28/N dated February 16, 2017, Article 2(v)

¹¹⁹⁹ “Rules and timeframes for the submission by applicants of complaints, and examination and review of the complaints, in the process of certification of textbooks/series for general education institutions” endorsed in an Order of the Minister of Education, Science, Culture and Sports no. 582 dated May 10, 2019, as amended by an Order of the Minister of Education and Science no. MES 1 23 0000602131 dated May 25, 2023, Article 7(2)(b.a – b.c)

¹²⁰⁰ Public Defender’s “Report on the Protection of Human Rights and Freedoms in Georgia in 2022”, 339.

¹²⁰¹ Order no. MES 1 23 0000563070 dated May 18, 2023 setting up an Appeal Commission to receive and decide complaints from natural persons or legal entities who have applied to the Ministry of Education and Science for certification of an individual textbook/series prototype.

¹²⁰² Public Defender’s Proposal no. 17-1/10739 dated November 1, 2023, p. 10; Public Defender’s “Report on the Protection of Human Rights and Freedoms in Georgia in 2022”, 339.

compatible teaching materials into school environments and achievement of national goals of general education.¹²⁰³

What should be mentioned as a positive development compared with previous years is that, during the reporting period, the Appeal Commission has always been inviting reviewers specializing in human rights to its complaint hearings in every single case,¹²⁰⁴ but – on a rather negative note – the position of the reviewers would not be reflected in Appeal Commission decisions.¹²⁰⁵ The Public Defender would like to emphasize, once again, the importance of having a human rights expert on the Commission, since reviewers and independent experts invited to hearings have no decision-making power.¹²⁰⁶ The Ministry has stated that it will consider Public Defender’s proposals in planning the next certification process.¹²⁰⁷

29.4.3. How the process of obtaining approval for school textbooks is regulated

Schools have the obligation to use either certified teaching materials or textbooks that have obtained the Ministry’s approval or both.¹²⁰⁸ Rules of obtaining Ministry’s approval of textbooks endorsed in 2023¹²⁰⁹ are not necessarily clear about having a human rights expert onboard along with a teacher, a Field Expert, a National Curriculum Specialist and a Psychologist as members of a subject-assessing expert group.¹²¹⁰ Remarkably, similar to the legal framework governing the review process, the Rules of obtaining the Ministry’s approval envisage “Other Specialist” as one of the members of the expert group.¹²¹¹ But the Rules allow for not having this “Other Specialist” in the group of assessors at all.¹²¹²

We believe whenever the Ministry adopts criteria for Ministry’s approval of textbooks, it should include human rights as one of the substantive approval criteria, similar to what is required by textbook review regulations.¹²¹³ The Public Defender considers it critically indispensable that all the textbooks subject to Ministry’s approval are assessed for their compatibility with human rights to make sure the national goals of general education are met.

Pursuant to the Rules for Textbook Approval, an expert group of subject assessors makes decisions by a majority of votes of its members.¹²¹⁴ Hence, candidates’ allegiance to human rights is important to be taken into consideration during candidate selection for such group membership. Also, members of an

¹²⁰³ Ibid.

¹²⁰⁴ Letter from the Ministry of Education, Science and Youth no. 8864/23 dated July 27, 2023

¹²⁰⁵ Public Defender’s Proposal no. 17-1/10739 dated November 1, 2023, p. 10;

¹²⁰⁶ Rules of Certification of Textbooks/Series for Use by General Education Institutions endorsed by an Order of the Minister of Education and Science no. 28/N dated February 16, 2017, Article 10(3)

¹²⁰⁷ Letter from the Ministry of Education, Science and Youth no. 14169/23 dated November 24, 2023.

¹²⁰⁸ Law on General Education, Article 33(1)(d).

¹²⁰⁹ “Rules and timeframes for obtaining textbook approval from the Ministry of Education and Science” endorsed by an Order of the Minister of Education and Science no. MES 0 23 0001573130 dated November 17, 2023, Annex.

¹²¹⁰ Ibid., Article 2(i)

¹²¹¹ Ibid.

¹²¹² “Rules and timeframes for obtaining textbook approval from the Ministry of Education and Science” endorsed by an Order of the Minister of Education and Science no. MES 0 23 0001573130 dated November 17, 2023, Annex, Article 5(4) .

¹²¹³ “Rules of reviewing textbook/series prototypes for primary, basic and secondary levels of education in general education institutions” endorsed by an Order of the Minister of Education and Science no. MES 6 23 0000032029 dated January 16, 2023, Annex, Reviewer Responsibilities, Criteria 7.1.-7.3, 7.5-7.6.

¹²¹⁴ Ibid. Article 5(5)

expert group should be given a needs-based training in human rights before they even take up their responsibility as subject assessors.¹²¹⁵

29.5. Tertiary Education

In 2023, the Public Defender assessed to what extent human rights are integrated into the sectoral requirements for teachers' education, teachers' training and medical programs. The programs selected are those subject to regulation, and sectoral requirements are compulsory governing standards of the accreditation process.¹²¹⁶

29.5.1. Sectoral requirements for teachers' education programs

Analysis of sectoral requirements for teachers' education and training programs showed the absence of a human rights component in the relevant governing documents.¹²¹⁷ Standards developed within the United Nations and Council of Europe systems unequivocally require that teachers are continuously provided with knowledge of human rights¹²¹⁸ – something that is necessary for achieving the purpose of children's rights and right to education.¹²¹⁹

In the Public Defender's opinion, sectoral requirements for teachers' education programs should be updated in a manner that it is made the learning outcomes of these programs that learner has knowledge of human rights and is able to plan learning activities based on respect for human rights.

29.5.2. Sectoral requirements for tertiary medical education

The subject of human rights is included in sectoral requirements for medical education but in a rather fragmented manner.¹²²⁰ In particular, the human rights component included in the document comprises

¹²¹⁵ Cf. Public Defender's Proposal no. 17-1/10739 dated November 1, 2023, p. 6.

¹²¹⁶ Regulations and Fee for Accrediting Tertiary Education Programs endorsed by an Order of the Minister of Education and Science no. 65/N dated May 4, 2011, Annex, Article 18; Law on University Education, Article 75(2)(c)

¹²¹⁷ "Sectoral Education Requirements for Tertiary Teacher Education" endorsed by an Order of the Director of the Public Law Entity "National Education Quality Development Center" no. 8 dated January 3, 2018, Annex; "Sectoral Education Requirements for Teacher Training Programs", endorsed by an Order of the Director of the Public Law Entity "National Education Quality Development Center" no. 622/I dated July 10, 2018 as amended by an Order of the Center Director no. MES 4 20 0001231866 dated December 25, 2020, Annex.

¹²¹⁸ Recommendation CM/Rec(2010)7 of the Committee of Ministers to Member States on the Council of Europe Charter on Education for Democratic Citizenship and Human Rights Education Adopted on 11 May 2010, para. 9, accessible at <<https://rb.gy/exb7vp>> [last viewed 30/12/2023]; UN Committee on the Rights of the Child (CRC), General comment No. 1 (2001), Article 29 (1), The aims of education, 17 April 2001, CRC/GC/2001/1, para. 18, accessible at <<https://rb.gy/4q2fy4>> [last viewed 30/12/2023].

¹²¹⁹ UN Committee on the Rights of the Child (CRC), General comment No. 1 (2001), Article 29 (1), The aims of education, 17 April 2001, CRC/GC/2001/1, para. 18, accessible at <<https://rb.gy/4q2fy4>> [last viewed 30/12/2023].

¹²²⁰ "Sectoral requirements for tertiary medical education" endorsed by an Order of the Director of the Public Law Entity "National Education Quality Development Center" no. 225 dated June 1, 2011 as amended by an Order of the Director of the Public Law Entity "National Education Quality Development Center" no. MES 4 22 0001465694 dated November 16, 2022, Annex, pp. 10, 11, 16.

only the rights of disabled people and the rights of patients.¹²²¹ Moreover, the description of learning outcomes includes a discriminatory term of “handicapped person.”¹²²²

The Public Defender thinks that the medical profession closely relates to a large spectrum of human rights.¹²²³ Thus, under international standards, it is critical that medical students are provided with comprehensive information on human rights and that this is guaranteed via including the subject into the sectoral requirements for medical education.¹²²⁴

Finally, the discriminatory term used in the medical education sectoral requirements should be replaced with a human rights-friendly term of “persons with disabilities”.¹²²⁵ In Public Defender’s opinion, it is also necessary to add to children’s rights and basics of human rights law in addition to the rights of disabled persons and patients provided for in the sectoral requirements.¹²²⁶

Recommendations

To Minister of Education, Science and Youth:

- Have an expert with appropriate working experience in human rights sit on the Appeal Commission that hears complaints against reviews of school textbook/series drafts with full power of taking part in the Commission’s decision-making
- Ensure that an Appeal Commission that hears complaints against reviews of school textbook drafts gives reasoning in its decisions; this implies also that commission decisions must include a description of opinions of individual experts invited to commission hearings and reasoning of their findings;
- In regard to approval of school textbooks by the Ministry,
 - Include indicators for assessing human rights compatibility of textbooks in the substantive criteria for textbook assessment;
 - Make it incumbent on the so-called “Other Specialist” of the subject-assessing expert group to assess teaching materials for their compatibility with human rights;
 - Develop mandatory continuous training programs in human rights and conduct them for all members of subject-assessing expert groups.

To Director of the Public Law Entity “National Education Quality Development Center”:

¹²²¹ Ibid, p. 11.

¹²²² Ibid, p. 15; see also an alternative report by the Public Defender as a national human rights institution to the UN Committee on the Rights of People with Disabilities, 2017, pp. 6-7; Law on People with Disabilities, Article 2(a)

¹²²³ See Right of everyone to the enjoyment of the highest attainable standard of physical and mental health, adopted on 19 July 2019, A/74/174 para. 30, accessible at < <https://bit.ly/3BUzMHP> > [last viewed 29/12/2023]; CESCR, General Comment No. 14: The Right to the Highest Attainable Standard of Health, Adopted on 11 August 2000 para. 13 (d), accessible at < <https://bit.ly/3Olswfj> > [last viewed 29/12/2023]; Cf. Law on Patient Rights, Chapter 8; Law on Medical Doctors’ Activities, Articles 48 and 49

¹²²⁴ See. Right of everyone to the enjoyment of the highest attainable standard of physical and mental health, adopted on 19 July 2019, A/74/174 para. 30, accessible at < <https://bit.ly/3BUzMHP> > [last viewed 29/12/2023].

¹²²⁵ Convention on the Rights of Persons with Disabilities, adopted December 13, 2006, entered into force for Georgia since March 13, 2014, Article 1.

¹²²⁶ Cf. Law on Patient Rights, Chapter 8; Law on Medical Doctors’ Activities, Articles 48 and 49

- Amend the “Sectoral Education Requirements for Tertiary Teacher Education” endorsed by an Order of the Director of the Public Law Entity “National Education Quality Development Center” no. 8 dated January 3, 2018 and the “Sectoral Education Requirements for Teacher Training Programs”, endorsed by an Order of the Director of the Public Law Entity “National Education Quality Development Center” no. 622/1 dated July 10, 2018 as amended by an Order of the Center Director no. MES 4 20 0001231866 dated December 25, 2020 to say the following: “After completion of the program, the learner knows the basic nature and standards of human rights, and is able to plan and implement lessons based on the respect for human rights principles”
- Amend the “Sectoral requirements for tertiary medical education” endorsed by an Order of the Director of the Public Law Entity “National Education Quality Development Center” no. 225 dated June 1, 2011 as amended by an Order of the Director of the Public Law Entity “National Education Quality Development Center” no. MES 4 22 0001465694 dated November 16, 2022, in the following manner:
 - replace the discriminatory term “handicapped person” with a normal term of “persons with disabilities”;
 - add children’s rights and basics of human rights law to the knowledge required under sectoral requirements.

. [To local self-governments:](#)

- Mayors’ offices and local legislatures of the municipalities of Dedoplistkaro, Signagi, Chiatura and Khoni to elaborate and enact normative acts required by Law on Early and Preschool Education, Article 28(4)(d)-(e);
- All municipalities to conduct thematic training in human rights for education personnel of preschool upbringing and education institutions;
- All municipalities to facilitate to elaboration and dissemination of methodological and substantive resources for teaching human rights at preschool upbringing and education institutions.

30. Information on the implementation of Public Defender’s recommendations and proposals issued in 2022 Parliamentary Report

30.1. General overview

This chapter discusses the fulfillment by State agencies of the Public Defender’s recommendations and proposals issued to them in PD’s previous parliamentary report. It is a regular practice for Public Defender to recommend State agencies concrete actions for mending defective sides of their activity through its “recommendations”; similar to this, the ombudsman addresses President and Parliament with its “proposals”. These recommendations and proposals are elaborated within the Public Defender’s activity as an oversight body for individual human rights¹²²⁷ with the overall aim of improving the protection of human rights in the country. Fulfillment of Public Defender’s recommendations will not only positively impact the protection of human rights but will also facilitate Georgia’s integration into the European Union amid the current constitutional obligation for all of Georgia’s constitutional authorities to take steps within their competences to this end, as mandated by Article 78 of the Georgia Constitution.¹²²⁸

In its 2022 Parliamentary Report, the Public Defender issued a total of 281 recommendations to central and local authorities and addressed Parliament and President with 63 proposals.¹²²⁹ Of these 281 recommendations, 263 pertained to central authorities¹²³⁰ and 17 to municipal bodies. 1 common recommendation was issued to all the officials employed in public authorities.

Below we provide a table of information on the fulfillment by State bodies and agencies of our 263 recommendations issued to them:

	Quantitative indicator	Percentage indicator	Percentage difference compared with previous year
Fulfilled completely	29	11%	1% (reduction)
Fulfilled in part	52	19,8%	3,4% (reduction)
Not fulfilled	138	52,5%	2,2% (reduction)

¹²²⁷ Pursuant to the Constitution of Georgia, Article 35(1), the Public Defender exercises oversight of human rights protection in Georgia nationwide.

¹²²⁸ In assessing the accountability of Georgia’s administrative bodies, the European Commission relied on statistical data adduced in the above-referenced chapter of Public Defender’s parliamentary report for the previous year. See European Commission, 2023 Communication on EU Enlargement policy, 2023, p. 19. < <https://shorturl.at/bjqvW> > [21.03.2024].

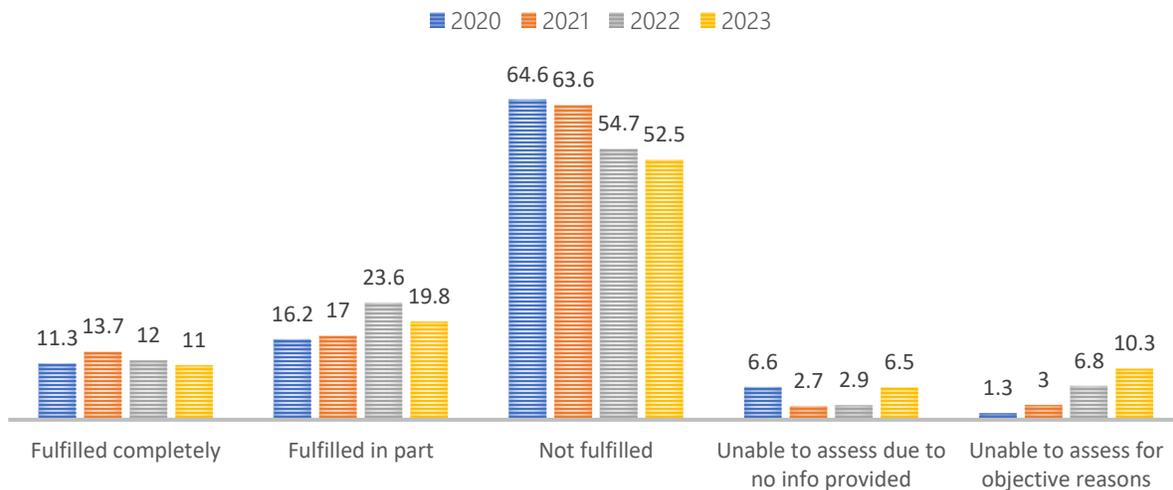
¹²²⁹ The Parliament received 62 proposals and the President received 1 proposal from us.

¹²³⁰ One recommendation was issued to Director of the Georgian Public Broadcaster and one recommendation to directors of mental health institutions.

Unable to assess fulfillment status due to failure by the respective agency or body to provide relevant information	17	6,5%	3,6% (increase)
Assessment of fulfillment status impossible for objective reasons ¹²³¹	27	10,3%	3,5% (increase)

Statistics of fulfillment of recommendations since 2020:

Recommendations fulfilled in 2020-2023 shown in percentages



What above data suggest is that, level of fulfillment of our recommendations has remained unsatisfactory. Moreover, this trend of less number of recommendations being fulfilled by government bodies continues: this year, the fulfillment indicator fell by 1% amounting to only 11% of all recommendations fulfilled. The number of partially fulfilled recommendations also fell by 3.4%. However, on a positive note, we saw less number of unfulfilled recommendations, which was down to 52.5% in 2023.

¹²³¹ These are recommendations that could not be assessed as fulfilled or unfulfilled due to various objective reasons. Examples of such reasons are recommendations becoming no longer relevant, lack of information for the Public Defender's Office to assess the situation, etc.

In terms of individual human rights to which our recommendations pertained, below we provide statistics of fulfillment of our recommendations per right:

Description of an individual human right	Fulfilled completely	Fulfilled in part	Not fulfilled	Fulfillment could not be assessed ¹²³²	Total number of recommendations issued
Prohibition of torture and right to life ¹²³³	8%	13%	61%	18%	135
Civil, political, economic, social and cultural rights ¹²³⁴	16%	32%	34%	18%	46
Rights of ethnic and religious minorities ¹²³⁵	15%	55%	15%	15%	26
Rights of persons with disabilities	0	63%	26%	11%	19
Right to equality ¹²³⁶	14%	36%	43%	7%	14
Protection of the right of children	0	50%	25%	25%	12
Right to fair trial	33%	0	67%	0	6
Human rights education	0	0	100%	0	5

¹²³² Because we were not provided the requested information or some other objective reason.

¹²³³ This category comprises recommendations provided for in the following chapters of our parliamentary report: human rights in the military; right to liberty and security of person; right to life; prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment.

¹²³⁴ This category is made of recommendations contained in the following chapters of our parliamentary report: freedom of expression; right to environment; situation of ecomigrants; protection of the rights of asylum seekers and international protection applicants; freedom of information; rights of forcibly displaced individuals (IDPs); right to protection of cultural heritage; right to inviolability of private life; right to property; right to social protection; human rights defenders; right to labor; rights of the elderly; right to healthcare; right to a proper dwelling; protection of the rights of conflict-affected populations.

¹²³⁵ This category consists of recommendations under the following chapters of our parliamentary report: protection and civic integration of national minorities; freedom of belief and religion.

¹²³⁶ This category includes recommendations from the following chapters of the parliamentary report: right to equality and gender equality.

As to implementation rate of Public Defender’s proposals to Parliament and President contained in PD’s 2022 parliamentary report, 1 proposal addressed to the President was fulfilled completely; and of the 63 proposals directed to the Parliament, 47 were not fulfilled at all, 4 were fulfilled in part and 12 were fulfilled completely.

Fulfillment of recommendations by State authorities who happened to be the recipients of the largest number of recommendations from the Public Defender

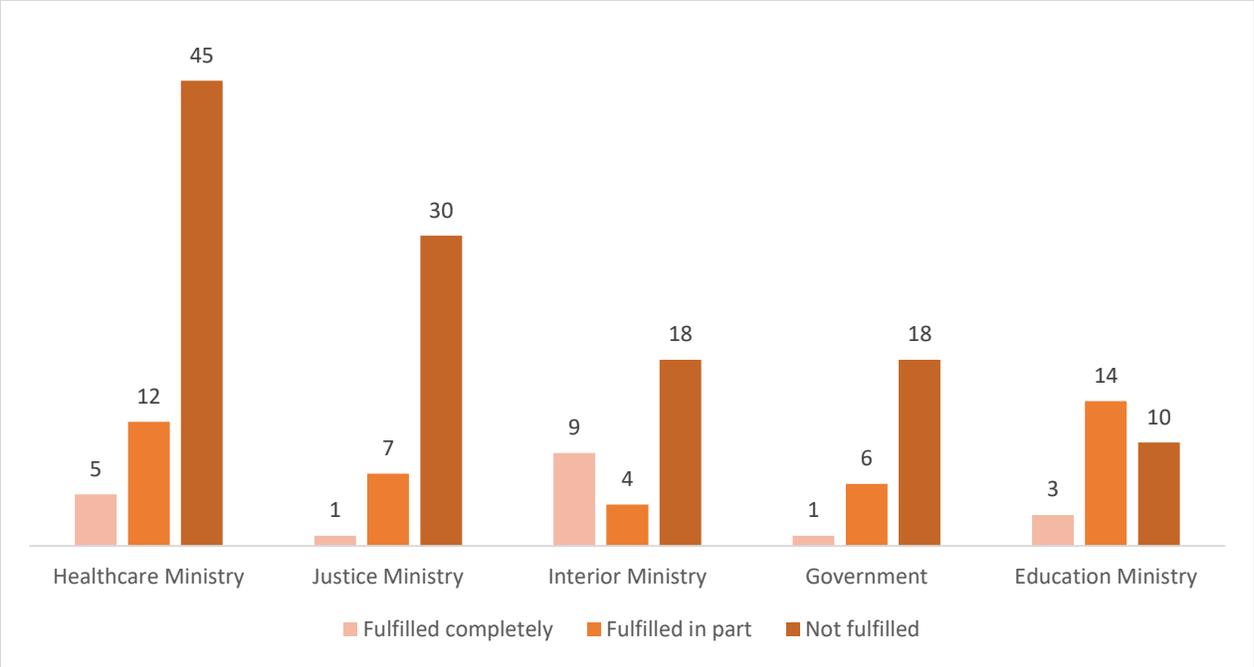
In 2022 report to the Parliament, the largest number of PD’s recommendations were issued to the following State authorities:¹²³⁷

	State authority	Number of recommendations
1.	Minister for IDPs from Occupied Territories, Labor, Health and Social Protection	70
2.	Minister of Justice	56
3.	Minister of Interior	39
4.	Minister of Education, Science and Youth	30
5.	The Government	25

Among the public authorities listed above, the Minister of Justice fulfilled the least number of recommendations and the Minister of Education fulfilled the biggest number of them. In more detail, in 2023, the Justice Minister fulfilled about 14% of all of our recommendations either in full or in part, while the Education Minister implemented as high as 57% of them. The other three agencies showed the following rates in implementing our suggestions either in full or in part: the Interior Minister implemented 31%, the Government 28% and the Healthcare Minister 24%.

The below chart shows fulfillment by the abovementioned State agencies of PD’s recommendations in percentages:

¹²³⁷ These figures also include data from public law entities operating under the direction of the above main State agencies



30.2. Fulfillment data by State authorities in detail

30.2.1. The Government

The Government was issued 25 recommendations in the 2022 parliamentary report, of which the Government

- Completely fulfilled: 1
- Fulfilled in part: 6
- Did not fulfill: 18

30.2.2. Minister of Internal Affairs

The Minister of Interior was issued 39 recommendations in the 2022 parliamentary report, of which the Minister

- Completely fulfilled: 9
- Fulfilled in part: 4
- Did not fulfill: 18
- We were unable to assess fulfillment because the Ministry did not provide pertinent information: 3
- We were unable to assess fulfillment for reasons unrelated to the Ministry: 5

30.2.3. Minister of Justice

The Minister of Justice was issued 56 recommendations in the 2022 parliamentary report, of which the Minister

Completely fulfilled: 1

Fulfilled in part: 7

Did not fulfill: 30

We were unable to assess fulfillment because the Ministry did not provide pertinent information: 6

We were unable to assess fulfillment for reasons unrelated to the Ministry: 12

30.2.4. Minister for IDPs from Occupied Territories, Labor, Health and Social Protection¹²³⁸

The Minister of IDPs was issued 70 recommendations in the 2022 parliamentary report, of which the Minister

Completely fulfilled: 5

Fulfilled in part: 12

Did not fulfill: 45

We were unable to assess fulfillment because the Ministry did not provide pertinent information: 6

We were unable to assess fulfillment for reasons unrelated to the Ministry: 2

30.2.5. Minister of Education, Science and Youth¹²³⁹

The Minister of Education was issued 30 recommendations in the 2022 parliamentary report, of which the Minister

Completely fulfilled: 3

Fulfilled in part: 14

Did not fulfill: 10

We were unable to assess fulfillment for reasons unrelated to the Ministry: 3

30.2.6. Minister of Defense

The Minister of Defense was issued 9 recommendations in the 2022 parliamentary report, of which the Minister

Completely fulfilled: 1

Fulfilled in part: 2

Did not fulfill: 2

¹²³⁸ This sub-chapter also includes information also from the following public law entities operating under the Ministry for IDPs from Occupied Territories, Labor, Health and Social Protection: 1. Legal Entity of Public Law "Agency for State Care and Assistance to Statutory and non-Statutory Victims of Trafficking"; 2. Legal Entity of Public Law "Agency for IDPs, Eco-migrants and Provision with Livelihoods"; 3. Legal Entity of Public Law "Labor Inspection Service"; 4. Legal Entity of Public Law "Medical and Pharmaceutical Activity Regulation Agency"; 5. Legal Entity of Public Law "Employment Support Agency"

¹²³⁹ This sub-chapter also includes data for two public law entities operating under the Ministry of Education, Science and Youth: "National Center for Teachers' Professional Development" and "Zurab Zhvania School of Public Administration"

We were unable to assess fulfillment for reasons unrelated to the Ministry: 4

30.2.7. Prosecutor-General

The Prosecutor-General was issued 3 recommendations in the 2022 parliamentary report, of which the Prosecutor-General

Completely fulfilled: 1

Did not fulfill: 1

We were unable to assess fulfillment for reasons unrelated to Prosecutor-General's Office: 1

30.2.8. State Security Service

The State Security Service was issued 3 recommendations in the 2022 parliamentary report, of which the Service

Completely fulfilled: 1

Did not fulfill: 1

We were unable to assess fulfillment for reasons unrelated to State Security Service: 1

30.2.9. Minister of Internal Affairs and Head of Special Investigation Service

These agencies were issued 1 common recommendation in our 2022 parliamentary report, which they fulfilled in part. In particular, the Special Investigation Service did fulfill our recommendation and the Interior Ministry did not.

30.2.10. Minister of Culture and Sports

The Minister was issued 1 recommendation in the 2022 parliamentary report, which the Minister did not fulfill.

30.2.11. Minister of Foreign Affairs

The Minister was issued 1 recommendation in the 2022 parliamentary report, which the Minister did not fulfill.

30.2.12. Minister of Education, Science and Youth and State Minister for Reconciliation and Civic Equality

The two Ministers were issued 1 joint recommendation in the 2022 parliamentary report, which the Ministers did not fulfill.

30.2.13. Minister of Justice and Minister for IDPs from Occupied Territories, Labor, Health and Social Protection

The two Ministers were issued 1 joint recommendation in the 2022 parliamentary report, which the Ministers did not fulfill.

30.2.14. The Government and the Minister of Foreign Affairs

The Government and the Minister of Foreign Affairs were issued 2 joint recommendations in the 2022 parliamentary report, which they fulfilled completely.

30.2.15. Minister of Justice and the Public Law Entity „ Levan Samkharauli National Forensics Bureau “

The Minister of Justice and the National Forensics Bureau were issued 1 joint recommendation in the 2022 parliamentary report, but we cannot assess whether the recommendation was fulfilled because these authorities to provide us with pertinent information.

30.2.16. Prosecutor-General and Minister of Interior

The Prosecutor-General and the Minister of Interior were issued 5 joint recommendations in the 2022 parliamentary report, of which they

Completely fulfilled: 1

Fulfilled in part: 2

Did not fulfill: 2

30.2.17. High Council of Justice

The Council was issued 6 recommendations in the 2022 parliamentary report of which none were fulfilled.

30.2.18. Public Broadcaster

The Public Broadcaster was issued 2 recommendations in our 2022 parliamentary report, of which it fulfilled 1 recommendation in full and 1 recommendation in part.

30.2.19. Department for Environmental Oversight and National Agency of Mineral Resources

These agencies were issued 1 joint recommendation in our 2022 parliamentary report, which they fulfilled completely.

30.2.20. Minister of Environmental Protection and Agriculture

The Minister was issued 1 recommendation in the 2022 parliamentary report, which the Minister fulfilled completely.

30.2.21. Directors of psychiatric institutions

Directors of mental health institutions were issued in our 2022 parliamentary report, of which they fulfilled 1 recommendation in part and did not fulfill 1 recommendation.

30.2.22. LEPL “National Enforcement Bureau“

The Bureau was issued 2 recommendations in our 2022 parliamentary report, of which it fulfilled 1 recommendation completely and did not fulfill 1 recommendation.

30.2.23. LEPL „Levan Samkharauli National Forensics Bureau“

The Bureau was issued 1 recommendation in the 2022 parliamentary report, which the Bureau fulfilled in part.

30.3. Recommendations / tasks issued endorsed by parliamentary resolutions that have been recurring year to year

Once the Parliament of Georgia hears a Public Defender’s annual report, it assesses the report on the protection of human rights and freedoms in the country and adopts a resolution on the matter. In its resolution, the Parliament gives State agencies tasks on fulfillment of recommendations provided in the PD’s report. By endorsing PD’s recommendations via a parliamentary resolution and issuing tasks to various State agencies, the Parliament brings the fulfillment of PD’s recommendation within the domain of its oversight. Whether or not the State agencies fulfill the recommendations ordered by the Parliament is then monitored by the Parliamentary Committee for Human Rights and Civic Integration. Although tasks given by the Parliament to public bodies and public officials accountable to the Parliament are mandatory for these bodies and officials, we regret that many of parliamentary tasks to State agencies remain unfulfilled by the incumbent public bodies.

For years already, the Public Defender has been issuing its “special reports” to inform to public about the fulfillment of its recommendations that have been endorsed by the Parliament through parliamentary resolutions.¹²⁴⁰ It is important to note the difference in methodologies used by the Parliament and the Public Defender to assess whether the recommendations (endorsed in the form of parliamentary tasks) have been fulfilled. The difference in methodologies on its turn leads to difference in assessments by the two. For this reason, the Public Defender advocates for better coordination between the Public Defender and the Parliament, for example, by setting up additional working formats when necessary to design a uniform methodology. Using one and the same methodology for assessing the fulfillment of PD’s recommendation by both Parliament and Public Defender will help streamline and enhance monitoring the oversight of implementation.

The Public Defender calls on State agencies to realize the importance of fulfilling Parliament-issued tasks. It also calls on the Parliament to use all control levers envisaged by the Constitution and Parliamentary Rules of Procedure more rigorously with a view to improving actual compliance with the parliamentary tasks to State agencies.

Below we present a list of recommendations issued by the Public Defender to State agencies for the last three years¹²⁴¹ in its parliamentary reports, which have been endorsed by the Parliament in full or in part

¹²⁴⁰ The reports are accessible on Public Defender’s official webpage at <https://www.ombudsman.ge/geo/220505041838angarishebi> [22.03.2024].

¹²⁴¹ The only exception is recommendations from a chapter on people with disabilities because we started to include recommendations focused specifically on disable people since last two of our parliamentary reports.

and have been re-issued in the form of parliamentary tasks to the State agencies without changing the content of the recommendations, but which remain unfulfilled from year to year:

To the Government:

Title of the relevant chapter in parliamentary report	PD's recommendations	Task issued by the Parliament
Freedom of information	Draft legal amendments to improve the legal standards for the protection of freedom of information, and consider introducing an effective and independent oversight mechanism to ensure access to information	Continue working on the draft Freedom of Information Act and accompanying draft legal amendments
Protection and integration of national minorities	Come up with new employment programs to help increase the number of national minority representatives employed in civil service	In coordination with the Government, develop new employment programs to increase the employment rate of national minority representatives ¹²⁴²
Protection and integration of national minorities	Create effective and institutionalized consultation mechanisms at the executive government level for consulting with national minorities	Work with the Parliament to create consultation mechanisms with national minorities within the Parliament ¹²⁴³
Gender equality	Develop violent behavior correction programs for violence perpetrators who have been issued protective warrants; make such programs mandatory for those convicted for violent crimes	Develop violent behavior correction programs for violence perpetrators who have been issued protective warrants; make such programs mandatory for those convicted for violent crimes
Rights of people with disabilities	Approve National Plan and Standards of Accessibility to ensure people with disabilities with access to information, means of communication, webpages and mobile apps. Develop both of these documents through meaningful participation of disabled people and	Either approve National Plan and Standards of Accessibility to ensure people with disabilities with access to information, means of communication, webpages and mobile apps or include them [such standards] in other document on the topic; ensure meaningful participation of disabled

¹²⁴² The Parliament issued this task to the Ministry for IDPs from Occupied Territories, Labor, Health and Social Protection

¹²⁴³ The Parliament issued this task to the State Minister for Reconciliation and Civic Equality .

	organizations working on disability issues in this working process	people and organizations working on disability issues in developing these documents
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To the Minister of Education, Science and Youth:

Title of the relevant chapter in parliamentary report	PD's recommendations	Task issued by the Parliament
Human rights education	Develop a unified human rights education strategy and action plan while taking into consideration applicable international guiding principles	Include human rights teaching components in its policy documents
Human rights education	Stipulate that an expert with appropriate working experience in human rights sits on the Appeal Commission for textbook/series/prototype reviews with full power to take part in the commission's decision-making	Revise the current certification procedure for school textbooks and, based on needs identified, ensure involvement of a human rights expert in all phases [of certification]
Protection and integration of national minorities	Start taking active measures to ensure that Georgia-made native language and literature textbooks are created, printed and used for instruction in Georgia's Armenian, Azerbaijani and Russian-language schools	Take active measures to ensure that Georgia-made native language and literature textbooks are created, printed and used for instruction in Georgia's Armenian, Azerbaijani and Russian-language schools
Protection and integration of national minorities	Create and print school textbooks and train teachers in the native languages of small ethnic groups (Ossetian, Chechen, Khundz/Avaran, Udi, Assyrian and Kurdish/Kurmanji)	Create and print school textbooks and train teachers in the native languages of small ethnic groups (Ossetian, Chechen, Khundz/Avaran, Udi, Assyrian and Kurdish/Kurmanji)
Protection and integration of national minorities	Promote both multi-cultural programs and national minority cultures specifically by making available student and pupil	Within its competence, facilitate the holding of education events to promote both multi-cultural programs and national minority cultures proper

	exchange programs at the domestic (country) level	
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To the Minister of Justice:

Title of the relevant chapter in parliamentary report	PD's recommendations	Task issued by the Parliament
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Create a safe environment in de-escalation rooms and solitary confinement (safe) cells, including by furnishing walls and floors with soft materials	Create even safer environment in de-escalation rooms and solitary confinement (safe) cells, including by furnishing walls and floors with soft materials
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Abolish the "barrack-type" residential quarters in Penitentiary Institution no. 17	Abolish the "barrack-type" residential quarters in Penitentiary Institution no. 17
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Ensure that in penitentiary institutions each prisoner gets a residential space of 4 square meters	Continue to work as hard as possible to ensure that in penitentiary institutions each prisoner gets a residential space of 4 square meters
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Due to the specific nature penitentiary institutions, determine at a secondary legislation level: membership of multi-disciplinary mental health teams; responsibilities of each member of the team; procedures for organizing and providing mental help; Determine at the primary legislation level the responsibilities of multi-	Due to the specific nature penitentiary institutions, determine at the level of a bylaw: membership of multi-disciplinary mental health teams; responsibilities of each member of the team; procedure for organizing and providing mental help; Determine at the primary legislation level responsibilities of

	disciplinary mental health teams such as to assess the needs of mental health patients who do not require hospital treatment; based on needs identified as a result of such assessment, devise an individual plan for bio-psycho-social aid and provide help accordingly	multi-disciplinary mental health teams
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Provide all foreign-language prisoners with interpretation services, when needed, which includes provision of information, in a language they understand, on services available and rules applicable in the institution	Provide all foreign-language prisoners with interpretation services, when needed, which includes provision of information, in a language they understand, on services available and rules applicable in the institution
Liberty and security of person	With a view to motivating convicted prisoners to engage in various rehabilitation activities, create and implement a mechanism having a direct impact of reducing the remaining sentence or altering the current of sentence	With a view to motivating convicted prisoners to engage in various rehabilitation activities, create and implement a mechanism having a direct impact of reducing the remaining sentence or altering the current of sentence
Right to inviolability of private life	Equip institutions nos. №2, №3, №6, №10, №12 and №18 with infrastructure required for video visitations, as a matter of priority	Equip institutions nos. №2, №3, №6, №10, №12 and №18 with infrastructure required for video visitations, as a matter of priority
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	In a plan on reducing prison overcrowding, consider increasing the number prison regime officers stationed in prisoners' residential buildings so that there is at least one regime officer responsible for order and safety per 15 prisoners	Establish a standard ratio of legal regime officers stationed in prisoners' residential buildings to prisoners and schedule actions to reduce prison overcrowding based on that standard
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	By mutual cooperation with the Minister for IDPs from Occupied Territories, Labor, Health and Social Protection, develop a clearly-timed plan for fully integrating penitentiary healthcare into the Ministry's system	In cooperation with the Minister for IDPs from Occupied Territories, Labor, Health and Social Protection, conduct a profound study into the need for integrating penitentiary healthcare into the

		Ministry's system with a view to improving the existing situation
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Develop and implement a tool for periodic screening of prisoners for mental health condition in penitentiary institutions	Develop and implement a tool for periodic screening of prisoners for mental health condition in penitentiary institutions, which takes into account the principles of human rights protection

To the Minister for IDPs from Occupied Territories, Labor, Health and Social Protection:

Title of the relevant chapter in parliamentary report	PD's recommendations	Task issued by the Parliament
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	<p>Until the shelters are shut down and fully de-institutionalized, do the following about shelters and accommodation places:</p> <p>At a normative level, create a legal mechanism for revealing, documenting and reporting to investigation authorities' violations of rights guaranteed in Articles 15 and 16 of the UN Convention on the Rights of People with Disabilities (CERD)</p> <p>Develop a strategy on preventing and responding to conflicts between beneficiaries;</p> <p>At a normative level, introduce the obligation to provide mental help to beneficiaries who are violence victims</p>	Create and implement, at a normative level, a legal mechanism for revealing, documenting and reporting to investigation authorities' violations of rights guaranteed in Articles 15 and 16 of the UN Convention on the Rights of People with Disabilities (CERD)
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	The Ministry to develop a strategy on preventing and responding to conflicts between beneficiaries, which sets forth among other things the obligation to provide mental help to beneficiaries who are violence victims.	Develop and implement for mental health institutions a strategy on preventing and responding to conflicts between beneficiaries, which also sets forth among other things the obligation to provide mental help to beneficiaries who are violence victims.
Prohibition and investigation of	The Ministry to conduct training for the personnel of psychiatric	Ensure conducting training for the personnel of mental health

<p>torture and other cruel, inhuman or degrading treatment or punishment</p>	<p>institutions in the following issues at minimum: Multidisciplinary work, de-escalation techniques, patient rights and ethics standards, restorative approach and modern psychiatry. Pay special attention to that the personnel understands the bio-psycho-social model of mental health assistance and develops skills for implementing the model in practice</p>	<p>institutions in the following issues at minimum: Multidisciplinary work, de-escalation techniques, patient rights and ethics standards, restorative approach and modern psychiatry. Pay special attention to that the personnel understands the bio-psycho-social model of mental health assistance and develops skills for implementing the model in practice</p>
<p>Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment</p>	<p>The Ministry to conduct monitoring of mental institutions to reveal and suppress instances of violence by personnel against patients, including by giving injections and medications against their will, coercively; report such cases to investigation authorities</p>	<p>By means of monitoring, reveal and suppress instances of violence by personnel of mental health institutions against patients (including by giving injections and medications against their will, coercively); report such cases to investigation authorities</p>
<p>Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment</p>	<p>Elaborate and implement an internal guidebook on the prevention and management of crisis situations that is mandatory for mental health institutions in order to reduce escalation risk to minimum and prevent the need for taking measures of last resort</p>	<p>Elaborate and implement an internal guidebook on the prevention and management of crisis situations that is mandatory for mental health institutions in order to reduce escalation risk to minimum and prevent the need for taking measures of last resort</p>
<p>Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment</p>	<p>By means of monitoring, the Ministry to examine the lawfulness and reasonability of using restraint methods by mental health institutions; in regard to patients who are formally on voluntary treatment, assess revision of patients' status after restraint methods have been used</p>	<p>By means of monitoring, the Ministry to examine the lawfulness and reasonability of using restraint methods by mental health institutions; in regard to patients who are formally on voluntary treatment, assess revision of patients' status after restraint methods have been used</p>
<p>Prohibition and investigation of torture and other</p>	<p>In consultation with the Public Defender's Office, update the Instruction on the rules and</p>	<p>In consultation with the Public Defender's Office, update the Instruction on the rules and</p>

cruel, inhuman or degrading treatment or punishment	procedures for using physical restraint methods	procedures for using physical restraint methods in regard to patients with mental disorders
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Examine instances where patients who are receiving mental treatment formally on a voluntary basis might have been hospitalized against their true will; take all necessary measures to discharge such patients from an inpatient clinic where no legal basis exists for subjecting them to involuntary mental help procedures	Examine instances where patients who are receiving mental treatment formally on a voluntary basis might have been hospitalized against their true will; take all necessary measures to discharge such patients from an inpatient clinic where no legal basis exists for subjecting them to involuntary mental help procedures
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Elaborate a uniform consent form on the placement of a person in a mental hospital and have it endorsed by a ministerial order, which provides a complete, accurate and detailed account of the nature of mental health help provided and the rights of a patient; include in the ministerial order an obligation for mental health institutions to give the patient a copy of the informed consent as well as information on who the patient can address if he/she does not wish to stay in the hospital anymore	Elaborate a uniform consent form on the placement of a person in a mental hospital and have it endorsed by an order of the Minister for IDPs from Occupied Territories, Labor, Health and Social Protection, which provides a complete, accurate and detailed account of the nature of mental health help provided and the rights of a patient; in the ministerial order, also determine an obligation for mental health institutions to give the patient a copy of the informed consent as well as information on who the patient can address if he/she does not wish to stay in the hospital anymore
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Amend the ministerial order to the effect that it is mandatory at the start of patient's treatment, during treatment and at every stage treatment is altered to fill out Form IV-300-12/a endorsed by an Order of the Minister for IDPs from Occupied Territories, Labor, Health and Social Protection no. 108/N dated March 19, 2009	Amend the Rules of Maintaining Inpatient Medical Documents by Medical Institutions endorsed by an order of the Minister for IDPs from Occupied Territories, Labor, Health and Social Protection no. 108/N dated March 19, 2009 with a view to making it mandatory at the start of patient's treatment, during treatment and at every stage treatment is altered to fill out Form IV-300-12/a incorporated into Annex 13 to the Rules

Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Examine whether patients are provided with information on their treatment regularly and in a language they understand	Elaborate and endorse, by an order of the Minister for IDPs from Occupied Territories, Labor, Health and Social Protection, an obligation for mental health institutions to inform patients, both orally and in writing, regularly and in a language they understand, about the institution's internal regulations and patient rights, immediately after a patient is placed in the institution and thereafter regularly
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Elaborate and endorse, by a ministerial order, accessible, simple and confidential inside-the-hospital and outside-the-hospital complaint / application procedures that are mandatory for psychiatric institutions	Elaborate and endorse, by an order of the Minister for IDPs from Occupied Territories, Labor, Health and Social Protection, accessible, simple and confidential inside-the-hospital and outside-the-hospital complaint / application procedures that are mandatory for psychiatric institutions
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Take all measures in order to ensure, by means of systemic monitoring, compliance of conditions at psychiatric institutions with the standards endorsed in the Statute on Issuing Medical Activity Licenses and Inpatient Institution Permits	Take all measures in order to ensure, by means of systemic monitoring, compliance of conditions at psychiatric institutions with the standards endorsed in the Statute on Terms and Conditions for Issuing Medical Activity Licenses and Inpatient Institution Permits
Inviolability of private life	Ensure that patients can use phones and other means of communication as mandated by the Law on Mental Health	Ensure that patients can use phones and other means of communication as mandated by the Law on Mental Health
Gender equality	Include postnatal care and psychological support services into the Maternal Healthcare State Program	Include postnatal care and psychological support services into the Maternal Healthcare State Program
Rights of disabled people	Reinforce the guardianship and care authority with financial and human resources so that it is able to effectively administer the support system and provide quality monitoring and oversight	Reinforce the guardianship and care authority with financial and human resources so that it is able to effectively administer the support system and provide quality monitoring and oversight

Rights of disabled people	Develop an appropriate strategy for streamlined de-institutionalization of the mental healthcare system; develop community-level services and strengthen the component of providing persons having mental problems with housing	Develop standards for shelters for individuals having mental health problems and ensure that these individuals are accommodated in dwellings compliant with such standards amid the ongoing de-institutionalization process
Rights of disabled people	Ensure that a mental healthcare de-institutionalization strategy is approved and implemented; (Develop an appropriate strategy for streamlined de-institutionalization of the mental healthcare system)	Develop an appropriate strategy for streamlined de-institutionalization of the mental healthcare system; develop community-level services and strengthen the component of providing persons having mental problems with housing
Right to adequate housing	Develop minimum standards for social housing that are compliant with best international practices	Develop minimum standards for social housing that are compliant with best international practices
Right to life	Examine the death of every patient in a mental health institution or a patient transferred from a mental health institution in order to ascertain the reason of death and timeliness of transferring the patient to an appropriate treatment institution; based on examination results, take measures to avoid death of patients as much as possible	Examine the case of every patient who dies in a mental health institution or after being transferred from a mental health institution, ascertain the reason of death, timeliness of admitting the patient to an appropriate institution and based on examination results take measures to avoid patient deaths as much as possible
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	The Ministry to elaborate and implement detailed instructions on how the personnel of mental health institutions should communicate with patients, including standards for the protection of the rights of patients and provision of quality psychiatric assistance	The Ministry to elaborate and implement detailed instructions on how the personnel of mental health institutions should communicate with patients, including standards for the protection of the rights of patients and provision of quality psychiatric assistance
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Examine and eliminate the practice of isolating patients from other patients for extended time periods at the "Academician Naneishvili National Mental Health Center " and "Medical Center of Batumi" Ltd	Examine and eliminate the practice of isolating patients from other patients for extended time periods at the "Academician Naneishvili National Mental Health Center" and "Medical Center of Batumi" Ltd

Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Elaborate and endorse, by a ministerial order, an obligation for mental health institutions to inform patients, both orally and in writing, regularly and in a language they understand, about the institution's internal regulations and patient rights, immediately after a patient is placed in the institution and thereafter regularly	Elaborate and endorse, by an order of the Minister for IDPs from Occupied Territories, Labor, Health and Social Protection, an obligation for mental health institutions to inform patients, both orally and in writing, regularly and in a language they understand, about the institution's internal regulations and patient rights, immediately after a patient is placed in the institution and thereafter regularly
Right to life	A relevant unit in the Ministry to create a registry and keep comprehensive statistics on individuals who die in Georgia's mental health institutions also indicating the reason and place of death	Ensure that the Ministry's relevant unit improve the keeping of statistics of individuals who die in Georgia's mental health institutions (including data on the reason and place of death)

To the Minister of Interior:

Title of the relevant chapter in parliamentary report	PD's recommendations	Task issued by the Parliament
Prohibition and investigation of torture and other cruel, inhuman or degrading treatment or punishment	Amend an Order of the Interior Minister no. 625 dated August 15, 2014 to the effect of adding additional sections for entering the following information into the Administrative Arrest Protocol Form contained in Annex 9 of the Order: Time of drafting the protocol; description of how the arrest took place; whether or not the arrestee rendered resistance; whether or not any measures of coercion were used and what were the measures	Amend the Administrative Arrest Protocol Form contained in Annex 9 of the Order of the Interior Minister no. 625 dated August 15, 2014 "Approving forms of documents to be completed by authorized persons of the Interior Ministry in regard to administrative offence cases and rules of completing and keeping such documents" by adding sections to the Administrative Arrest Protocol Form for entering the following information: Time of drafting the protocol; description of how the arrest took place; whether or not the arrestee rendered resistance; whether or not any measures of coercion were used and what were the measures
Prohibition and investigation of torture and other	Ensure that meetings between individuals detained in temporary detention facilities	Continue ensuring that meetings between individuals detained in temporary detention facilities and

cruel, inhuman or degrading treatment or punishment	and investigators from an independent investigation authority (including online meetings) are held in a confidential environment	investigators from an independent investigation authority (including online meetings) are held in a confidential environment
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To the Minister of Defense:

Title of the relevant chapter in parliamentary report	PD's recommendations	Task issued by the Parliament
Human rights in the military	Military Police Department of the Defense Ministry's Defense Forces to provide systemic control of, and eliminate the use of, non-statutory punishment and the practice of collective punishments as a measure of liability for military servicemembers; inform the Public Defender's Office on measures taken	Continue to monitor the use of non-statutory punishment and the practice of collective punishments as a measure of liability for disciplinary misconduct committed by fixed-term military servicemembers and, whenever such occurrences are identified, eliminate them

To the Legal Entity of Public Law "Agency for State Care and Assistance to Statutory and non-Statutory Victims of Trafficking"

Title of the relevant chapter in parliamentary report	PD's recommendations	Task issued by the Parliament
Protection of children's rights	Open a shelter with 24-hour service in the Adjara region, within the "Sub-program on the provision of homeless children with shelter"	Open a 24-hour shelter in the Autonomous Republic of Adjara within the "Sub-program on the provision of homeless children with shelter" of the State Program for Social Rehabilitation and Child Care

Annex – Visits carried out by the Public Defender and representatives of the Public Defender's Office

During the reporting period, the Public Defender of Georgia took part in numerous events, visits and meetings. In particular, 64 visits were made in the regions; 13 visits to local populations of 13 villages near the Occupation Line; 10 visits to remand and sentenced prisoners in penitentiary institutions, including with life prisoners and the convicted Mikheil Saakashvili; 12 visits to social homes, boarding houses for disabled people, the so-called "Dream City" in Batumi, a shelter for the homeless in Lilo, the so-called military settlement in Telavi, a boarding house of trafficking victims in Batumi, a shelter for mothers and children, and the Psycho-Social Services Center for Child Victims of Violence; 3 visits to mental health centers/units; 2 visits to a boarding house and a shelter for the elderly. The Public Defender held 23 meetings with representatives of international organizations / international community; 24 meetings with diplomats from various countries; 10 international visits, which include 25 meetings held during the visits; 16 governmental meetings; 7 meetings with participants of various rallies and strikes; meetings with citizens, various groups of people, etc.

In the area of criminal justice, in 2023, both in response to citizen petitions and on a proactive basis to follow-up information published in open sources, the Public Defender's representatives carried out 581 visits to 1,703 arrested/imprisoned persons.¹²⁴⁴ Of this figure, 541 visits were made to penitentiary institutions and 1,587 prisoners were visited; 16 visits were made to Interior Ministry's temporary detention isolators and 58 prisoners were visited; 20 visits took place in National Mental Health Center named after Academician B. Naneishvili to see 43 patients. 4 visits were made to prisoners receiving treatment at Vivamedi Medical Center where the Public Defender's representatives met 15 patients.

The National Preventive Mechanism paid 20 preventive visits to 8 penitentiary institutions, 80 preventive visits to 70 entities belonging to the Ministry of Internal Affairs (such as departments, sub-departments, temporary detention isolators), 7 preventive visits to 3 mental health institutions, 4 visits to 2 shelters/social houses for persons with mental disorders, 6 visits to 6 military units, 1 visit to the Special Tasks Department of the Ministry of Internal Affairs, 5 visits to the Premises Guard Department of the Ministry of Internal Affairs, 3 preventive visits to Temporary Accommodation Center of the Migration Department of the Ministry of Internal Affairs. Also, the National Preventive Mechanism monitored 2 repatriation flights with returnees on board.

For the purposes of informing the public of their rights, two training cycles entitled "The child and the police" were conducted. Employees of the Public Defender's Office visited public schools in Guria, Imereti, Achara, Samegrelo, Racha, Lechkumi, Samtkhe-Javakheti, Shida Kartli, Kakheti and Tbilisi. In total, in 2023, training sessions on "The child and the police" were held in 100 schools with the attendance of 2,975 children. A training was also conducted at one college where 10 students attended. With a view to raising

¹²⁴⁴ These numbers show total number of visits, including several meetings with one and the same prisoners at different times.

public awareness of the mandate of National Preventive Mechanism, information meetings were held with the students of 3 universities (Telavi State University named after Iakob Gogebashvili, Tbilisi State University, and Zugdidi State Teaching University named after Shota Meskhia).

In regard to protection of civil, political, economic, social and cultural rights, monitoring visits were carried out in 9 inpatient healthcare institutions in 8 municipalities of Georgia; visits were made also to 4 round-the-clock institutions for the elderly¹²⁴⁵ where 56 elderly people were visited. For the purpose of monitoring the protection of the rights of migrants and asylum seekers, 2 monitoring visits were paid to the asylum seeker reception center of the Migration Department of the Ministry of Internal Affairs; The Public Defender's Office also carried out monitoring at the State border and of international flights, in particular 8 visits to the Immigration Control Unit and 4 visits to international airports.

With the aim of informing the public of the right to labor and right to environment, 8 information meetings were held with students and school pupils in various regions. 3 information meetings were held with representatives of the municipalities of Mestia and Ambrolauri; one meeting was held in Batumi, which was attended by representatives of all of Acharan municipalities and from mayor's offices of Lanchkhuti and Chokhatauri.

On gender issues, 1 visit was made to a women's penitentiary institutions, 10 visits to 5 shelters for violence victims, 12 visits to 6 anti-violence crisis centers.

To raise awareness, 94 information meetings were carried out in the regions with school pupils, teachers, mayors' representatives, governors, women residing in rural areas, conflict-affected women, and non-governmental organizations. 5 information meetings were held with delegations from Moldova, Uzbekistan, Albania, Tajikistan and Turkmenistan on femicide issues (to share the experience of the Public Defender's Office). 6 training sessions were conducted for school pupils on early marriages and gender equality and 1 training session was dedicated to trafficking in human beings. 9 seminars on violence were conducted for members of gender councils in 9 municipalities. 1 training session on gender equality and women's rights was held with authors of school textbooks and 1 training session on "women, peace and security" with representatives of the Defense Ministry.

In respect of the rights of the child, the Public Defender's representatives visited the following institutions: 30 small family-type children's homes; not-for-profit entity "Boarding House of Children in Need of Care named after St. Nino" in Ninotsminda, Javakheti; two large-size residential institutions operating by a Muslim community, four day centers and three shelters for homeless children, two shelters for mothers and children, penitentiary institutions nos. 2 and 8, two visits to Institution no. 5 and one visit to Institution no. 11 for Juvenile Rehabilitation.

20 information meetings were held to promote children's rights with school pupils in 18 schools. Additional meetings were held separately with parents and teachers. One meeting was held at the premises of the Public Defender's Office with students of a vocational education institution. An online

¹²⁴⁵ Not-for-profit entity "Municipality of Bolnisi Mercy Home"; Not for profit entity "Community Organization Salbuni" in Kareli; private not for profit entity "Your warm family" in Gori; private not for profit entity "Warm family" in Tbilisi.

information meeting was conducted with the management of kindergartens' association and kindergarten educators.

In terms of protection of the rights of persons with disabilities, 27 planned monitoring visits were carried out in 2023. In particular, 9 visits to 7 resource schools in Tbilisi and in the regions, 11 visits to 11 universities to monitor inclusive education, 7 planned visits to Kutiri mental health institution and the Senaki Community Service. In addition to these planned visits, 14 unscheduled visits were made in the reporting period. In particular, 2 visits to public school no. 48 and 1 visit to public school no. 87, both in Tbilisi. As part of oversight of the de-institutionalization process, the Public Defender's Office conducted 2 visits to the newly-opened family-type home for persons with disabilities in Dusheti, 2 visits to the boarding house for persons with disabilities in Martkopi and 1 visit to the boarding house for persons with disabilities in Dusheti. Also, 2 visits took place in the community organization "Barbare 21". Also, the representatives of the Public Defender's Office visited the Penitentiary Service's institution no. 8 twice to inspect/examine the human rights situation of an individual prisoner with disability. An unscheduled visit was made to "Mental Health Center of Tbilisi" Ltd and another unscheduled visit to where Ukrainian children (under the care of the State of Ukraine) are accommodated now.

In 2023, for the purpose of promoting the Convention on the Rights of Persons with Disabilities, the Department on the Rights of People with Disabilities of the Public Defender's Office conducted 16 information meetings in these 12 municipalities: Gurjaani, Lagodekhi, Borjomi (2 visits), Khashuri, Gori, Kareli, Kvareli, Akhmeta, Pankisi Gorge, Ozurgeti (2 visits), Batumi (3 visits) and Kobuleti. Meetings were held with the following target groups: representatives of pre-school education institutions and resource centers, persons with disabilities and parents of children with disabilities.

In regard to protection of the rights of national minorities, members of the Public Defender's Office held meetings in 11 municipalities of 3 regions (Kvemo Kartli, Samtskhe-Javakheti, Kakheti) with school administrations and teachers of 16 public schools and the staff of 7 preschool education institutions.

In regard to human rights education, 39 information/educational meetings were held on the topics of integration of human rights in education programs for teachers of preschool upbringing and educational institutions, school textbook certification issues, teaching of human rights within various programs in universities and the Public Defender's experience with respect to these matters. The information meetings and educational seminars were attended by school pupils, school teachers, personnel of preschool upbringing and educational institutions, vocational students and teachers of vocational colleges, representatives of university administrations, university professors and students from various university programs. These meetings were held in Tbilisi, Samtskhe-Javakheti, Kvemo Kartli, Shida Kartli, Achara and Kakheti.

Within its mandate under the Law on Elimination of All Forms of Discrimination, the Public Defender's Office conducted 72 information meetings and trainings nationwide in 2023. As a result, 1,633 individuals' knowledge of equality issues was raised. In particular, the employees of the Public Defender's Office met 699 employees of local self-governments, 581 representatives from the field of education, 32 members of the LGBT+ community, 106 young people, 61 members of the civil society and 154 representatives of private companies.

The Public Defender's Regional Office conducted a total of 1,197 meetings in 2023. In particular, 986 meetings were held by the Regional Office alone, 64 meetings were held jointly with the Public Defender, and 147 meetings were held by the Regional Office and other departments of the Public Defender's Office together.