



# LEGISLATIVE ANALYSIS RELATED TO SOGI AND HIV IN GEORGIA

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## ACRONYMS AND ABBREVIATIONS

**EECA** Eastern Europe and Central Asia

**HC** Hate crimes

**HIV** Human immunodeficiency virus

**LGBT** Lesbian, gay, bisexual and trans people

**MSM** Men who have sex with men

**NGO** Non-governmental organization

**PLH** People living with HIV

**SOGI** Sexual orientation and gender identity

**Trans** Описывает человека, который идентифицирует себя как трансгендер, небинарный или иначе гендерно неконформный, включая транссексуала, гендерквир, гендерноизменчивого, агендера, третьего гендера, бигендера, но не ограничиваясь ими

**WHO** World Health Organization



The aim of this comparative country analysis is to identify legal barriers and issues in areas where the necessary legislation already exists, but does not fully ensure the implementation of rights and freedoms for gay men, other MSM and trans people. In order to carry out this analysis, ECOM developed a methodology and questionnaire, which our local partners helped us to fill out. The analysis of legal practice took into account both judicial practice and government statistics, as well as reports of activists, information and statistics of organizations involved in documenting cases of violations and protecting human rights, press reports, and reports of non-governmental organizations to international bodies.

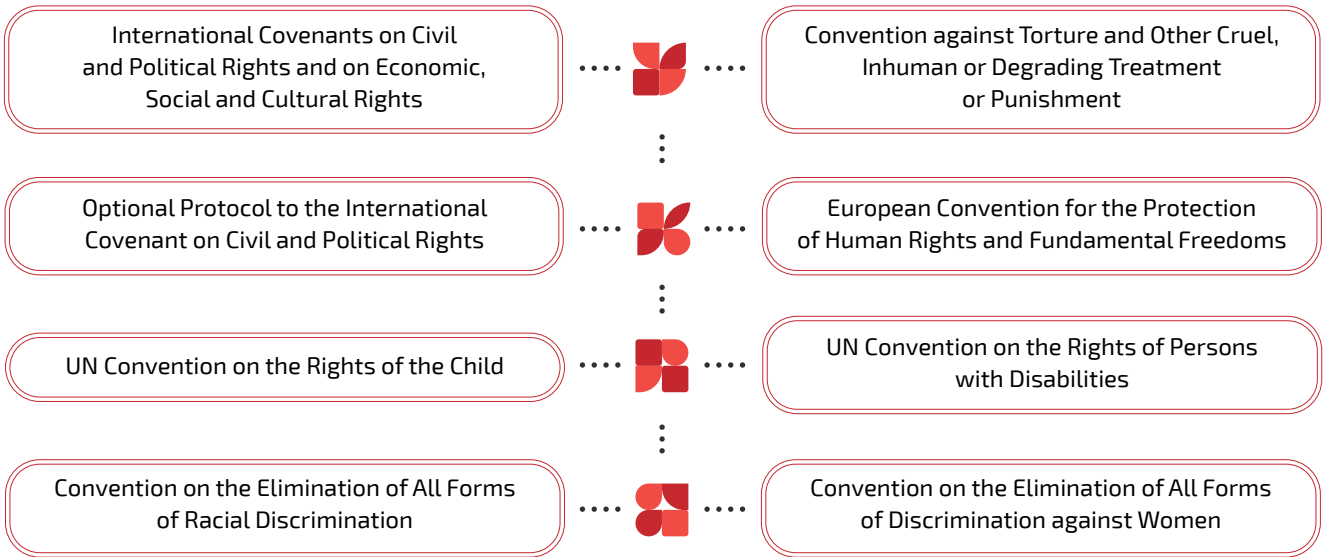
Two dimensions of legislation and law enforcement practice were reviewed. The first is their compliance with international standards of human rights and freedoms. The second is the actual ability of community members to receive protection and realize the rights and freedoms guaranteed under international obligations and national law. A situation where a law exists in a particular country, but a part of the population cannot avail themselves of its protection, indicates that barriers exist in the legal environment.

As part of this analysis, extracts from and references to regulatory legal acts were provided in order to provide information on current legislation. Unfortunately, these are not always correctly formulated and do not always comply with international standards of terminology. In this case, the original formulations are presented to objectively reflect the existing legal framework and the formal terminology adopted in the country regarding the issues under study. All citations from regulatory legal acts are in italics and have references provided.

The information presented in this document can be useful for non-governmental organizations, community activists, and government representatives when planning advocacy processes and promoting the rights of PLH, gay men and other MSM, and trans people, addressing and eliminating barriers that prevent their access to healthcare services, and for protecting their rights and freedoms.



## INTERNATIONAL HUMAN RIGHTS STANDARDS RATIFIED BY THE COUNTRY









## CIVIL SOCIETY IN GEORGIA USES ALTERNATIVE REPORTING MECHANISMS TO UN BODIES





**AT THE NATIONAL LEVEL, INTERNATIONAL HUMAN RIGHTS STANDARDS  
HAVE BEEN TRANSLATED INTO THE FOLLOWING LAWS**

LEGISLATION	YES	NO
 <b>PROTECTION FROM DISCRIMINATION</b>		
Provision on the prohibition of discrimination in the Constitution,	✓	
separate law defining and prohibiting discrimination, including based on SOGI	✓	
Law on the prohibition of domestic violence,	✓	
including based on SOGI	✓	
Provision on hate crimes in the Criminal Code (yes, SOGI is included in the list of grounds)	✓	
 <b>RIGHT TO HEALTH</b>		
Separate law on the rights of people living with HIV	✓	
Provision on the prohibition of discrimination (unequal treatment) in the field of health in relation to PLH	✓	
Provision on the prohibition of discrimination in the field of education based on HIV+ status		✗
Prohibitions on immigration or entry into the country for PLH	✓	
Criminal liability for intentional and/or unintentional transmission of HIV	✓	
Prohibition on blood donation by MSM		✗
special screening procedures for MSM donors	✓	
 <b>RIGHT TO HEALTH FOR TRANS* PEOPLE</b>		
Legislatively enshrined procedure for legal transgender transition (yes, but only full name)	✓	
Mandatory psychological and psychiatric examination		✗
Required surgical procedures for legal transgender transition	✓	
Adopted medical protocol for trans* people in accordance with ICD-10		✗
Permission to use international medical protocols for doctors treating trans* people	✓	
Normatively enshrined list of contraindications for legal transgender transition		✗

LEGISLATION	YES	NO
 <b>RIGHT TO PRIVATE AND FAMILY LIFE</b>		
Recognition of same-sex partnerships at the legislative level		✗
Recognition by courts of unregistered cohabitation of same-sex couples as a legal marriage		✗
Criminalization of voluntary homosexual relations		✗
Possibility for trans* people to enter into a heterosexual marriage following legal transgender transition	✓	
Adoption by same-sex couples		✗
Adoption by single LGBT people	✓	
Adoption by trans* people following legal transgender transition	✓	
Adoption by PLH		✗
Age of consent for voluntary heterosexual and homosexual relations (same)	✓	
 <b>RIGHT TO FREEDOM OF SPEECH AND PEACEFUL ASSEMBLY</b>		
Legislation governing peaceful assemblies	✓	
Mandatory authorization from local authorities for holding a peaceful assembly		✗
Prohibition on peaceful assemblies for LGBT people		✗
Penalties for holding a peaceful assembly without the consent of the authorities		✗
Law «on the prohibition of gay propaganda»		✗
Attempts to introduce bills limiting the freedom of speech of LGBT people, including bills «on the prohibition of gay propaganda»		✗
 <b>FREEDOM OF ASSOCIATION AND FUNDING OF NGOS</b>		
Opportunity for NGOs to receive funding from national and/or local budgets	✓	
Actual working mechanisms for the distribution of public funds to NGOs working in the social sector, excluding health, for example in the fields of education, culture, sport, youth, social protection	✓	
Actual working mechanisms for the distribution of public funds to NGOs working in the field of health	✓	
Mandatory authorization procedure for registration of a public organization	✓	
Registration of an LGBT public organization	✓	
Possibility of obtaining donor support from international organizations and foundations	✓	



## INTRODUCTION

***As a result of the evaluation of the case materials, evidence was found that the denial to hold the performance was not related to the theme of the event or to the organization's activities on LGBT issues. Accordingly, due to the lack of evidence, discrimination is not established***  
***Decision of the Ombudsman of Georgia on the cessation of proceedings***

Georgia is an independent, constitutional and democratic state, the only one in the region that has adopted anti-discrimination legislation that includes sexual orientation and gender identity in order to bring its legislation and practices in line with the minimum standards of the Council of Europe and the European Union. On the other hand, Georgia has a rather patriarchal and traditional society<sup>1</sup>, which does not embrace the values of diversity and respect for human dignity. The Georgian church, which has a very high level of support among the population, regularly speaks out against LGBT+ people<sup>2</sup>.

Georgia is a former Soviet republic with a parliamentary form of government and a small population (about 3.7 million people according to the 2014 census), and has two areas occupied by the Russian Federation on its territory — the unrecognized republics of Abkhazia and South Ossetia.

According to the annual rating «Freedom in the World 2021: Democracy under Siege» by Freedom House<sup>3</sup>, Georgia scored 60 out of a possible 100 points (1 point less than last year). Respect for the right to equal political participation for women, ethnic minorities, and LGBT+ organizations received a score of 2/4, noting that although a woman became President of Georgia in 2018 (the first female President of the country in the region) and the existing quota for female representation in Parliament is met (31%), these are all formal quantitative indicators that do not reflect the real participation of women, ethnic minorities, and LGBT+ people in decision-making processes. Freedom of speech and freedom of peaceful assembly, especially with regard to LGBT+ people, are also rated poorly.

The country ratified the Istanbul Convention back in 2017. However, according to local NGOs, the level of domestic violence in the country is quite high, and protection mechanisms do not work properly<sup>4</sup>.

<sup>1</sup> The rating of religiosity of the countries of the world puts Georgia in 115th place with a religious population of 93%. More at: <https://nonews.co/directory/lists/countries/religiousness>

<sup>2</sup> More at: <https://www.bbc.com/news/world-europe-22571216> and <https://www.theguardian.com/world/2019/jun/16/georgia-prepares-for-first-lgbt-pride-tbilisi-amid-threats-of-violence>

<sup>3</sup> Report for 2020 available at <https://freedomhouse.org/country/georgia/freedom-world/2021>

<sup>4</sup> More information at <https://sputnik-georgia.ru/reviews/20210111/250505389/Uzhestochenie-zakona-ne-daet-plodov-sluchai-semeynogo-nasiliya-v-Gruzii-ne-umenshayutsya.html>, the ECtHR decision indicating the systemic problems of preventive work in connection with allegations of domestic violence is available at [https://hudoc.echr.coe.int/eng#{%22documentcollectionid%22:\[%22GRANDCHAMBER%22,%22CHAMBER%22\],%22itemid%22:\[%22001-210854%22\]}](https://hudoc.echr.coe.int/eng#{%22documentcollectionid%22:[%22GRANDCHAMBER%22,%22CHAMBER%22],%22itemid%22:[%22001-210854%22]})



According to Rainbow Europe<sup>5</sup>, Georgia is in 32nd place among the 49 member countries of the Council of Europe. The lack of procedures for trans people and the inability of LGBT+ people to enjoy the freedoms of speech and peaceful assembly on an equal footing with other citizens are among the shortcomings that need to be addressed in this ranking.

***Georgia has ratified the required minimum of international human rights instruments and is party to the following international instruments:***

- International Covenants on Civil and Political Rights and on Economic, Social, and Cultural Rights;
- Optional Protocol to the International Covenant on Civil and Political Rights;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- UN Convention on the Rights of the Child;
- Convention on the Elimination of All Forms of Racial Discrimination;
- Convention on the Elimination of All Forms of Discrimination against Women;
- UN Convention on the Rights of Persons with Disabilities;
- European Convention for the Protection of Human Rights and Fundamental Freedoms.

However, the country has only recognized individual complaint mechanisms for five UN instruments<sup>6</sup>:

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Convention on the Elimination of All Forms of Racial Discrimination;
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
- Optional Protocol to the UN Convention on the Rights of Persons with Disabilities.

According to the statistics of the European Court of Human Rights (ECtHR), Georgian citizens are not very active in using the human rights protection mechanism under the Convention on Human Rights and Fundamental Freedoms. During the entire period of the country's membership in the Council of Europe, the Court issued only 119 judgments, 9 of which dealt with discrimination issues<sup>7</sup>, including the decision in *Identoba v. Georgia* concerning violations of the right to freedom of peaceful assembly<sup>8</sup>. This decision is still considered to be not fully implemented by Georgia. The last government report on the measures taken was filed in 2020<sup>9</sup>, while the events of the 2021 Tbilisi Pride show that problems with the right to freedom of peaceful assembly have remain unchanged.

<sup>5</sup> More at: <https://rainbow-europe.org/#8634/0/0>

<sup>6</sup> List available at: [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=8&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=8&Lang=EN)

<sup>7</sup> Statistics of the Court: [https://www.echr.coe.int/Documents/Stats\\_violation\\_1959\\_2020\\_ENG.pdf](https://www.echr.coe.int/Documents/Stats_violation_1959_2020_ENG.pdf)

<sup>8</sup> More in the Court decision: <https://hudoc.echr.coe.int/fre#%7B%22fulltext%22:%7B%22Identoba%20and%20others%20v.%20Georgia%22%7D%22itemid%22:%7B%22001-154400%22%7D%7D>

<sup>9</sup> More available on the website of the Court: <https://hudoc.exec.coe.int/eng#%7B%22EXEIdentifier%22:%7B%22004-5894%22%7D%7D>



## PARTICULAR PROBLEMATIC ASPECTS OF LEGISLATION AND LAW ENFORCEMENT PRACTICE

Georgia was the third country in the region to pass a separate law «On the Elimination of All Forms of Discrimination» in 2014<sup>10</sup> in order to implement the requirements of Directives 2000/43/EC of 29 June 2000 and 2000/78/EC of 27 November 2000 into national law<sup>11</sup> (conditions imposed on the country as part of the Visa Liberalization Plan with the EU). It is also the only country in the region where SOGI is included in the list of protected characteristics in the text of the said law, and LGBT+ persons must be protected from all forms of discrimination in all spheres of public life.

The law does not establish a special council or other separate body empowered to supervise complaints of discrimination and act as an expert institution, however, it expands the powers of the Public Defender of Georgia (Ombudsman), giving the latter the right to consider complaints of discrimination and to make decisions on them in the form of recommendations. The law does not provide for fines and/or other forms of administrative or criminal liability for discrimination. The Ombudsman prepares regular reports on the observance of the right to freedom from discrimination, which analyze in detail the problematic aspects of the implementation of the human rights of LGBT+ persons<sup>12</sup>. Local activists use the appeals mechanism to submit complaints about individual cases of discrimination to the Ombudsman, however, the Ombudsman's decisions are not always sufficiently reasoned and do not always contain a proper analysis of all the circumstances of the case that may indicate discrimination. For example, in the case of activist Nino Bolkvadze<sup>13</sup>, the Ombudsman did not pay adequate attention to the location of the banned peaceful action (a performance in a park) and made an erroneous decision that there was no discrimination in this case due to the local authorities in Tbilisi having an «entrenched practice of requiring permission to hold events in the park» in the absence of any legal requirement to obtain such permits.

<sup>7</sup> Statistics of the Court: [https://www.echr.coe.int/Documents/Stats\\_violation\\_1959\\_2020\\_ENG.pdf](https://www.echr.coe.int/Documents/Stats_violation_1959_2020_ENG.pdf)

<sup>8</sup> More in the Court decision: <https://hudoc.echr.coe.int/fre#%7B%22fulltext%22:%7B%22Identoba%20and%20others%20v.%20Georgia%22%7D%22itemid%22:%7B%22001-154400%22%7D%7D>

<sup>9</sup> More available on the website of the Court: <https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%7B%22004-5894%22%7D%7D>

<sup>10</sup> Full text of the law: <https://www.equalrightstrust.org/ertdocumentbank/Georgian%20Anti-D%20Law%20final%20version.pdf>

<sup>11</sup> The directives are designed to guarantee equality of opportunity for citizens, regardless of their race, color, nationality, ethnic origin, language, religion or belief, gender, age, disability, opinion, political affiliation, or any other similar characteristic.

<sup>12</sup> This special report for 2020 is available at: <https://www.ombudsman.ge/res/docs/2021051313265374968.pdf>

<sup>13</sup> Case N 9473/18 Decision of the Ombudsman of Georgia on the termination work dated 1/10/2019. Adopted in accordance with Article 9(2)(b) of the Law of Georgia «On the Prohibition of All Forms of Discrimination».



## LEGISLATIVE BARRIERS FOR LGBT+ PEOPLE AND/OR PLH IN GEORGIA

HIV-positive status can be grounds for a ban on entry into the country, as well as grounds for a refusal to grant a residence permit<sup>14</sup>. Immigrants are also unable to become beneficiaries of a government program to access antiretroviral therapy (ART), but they can purchase their own ARV drugs<sup>15</sup>.

The Criminal Code of Georgia provides for liability for both intentional and unintentional transmission of HIV. The algorithm for proving intent has not been developed; there is only one scientific publication on the subject<sup>16</sup>. The number of convictions under this article is not published.

Since 2000, an order from the Minister of Health had been in force that banned blood donation by gay men and MSM for 10 years from the date of unprotected sexual intercourse. That order was appealed in court, and in 2019, the Georgian Constitutional Court ruled<sup>17</sup> in the case of Levan Berianidze and Gocha Gabodze against the Ministry of Health of Georgia, which invalidated paragraph 65.1 of the Order N241/6 of the Minister of Health of Georgia of December 5, 2000 «On determining contraindications for donating blood and its components».

In the new Order of the Minister of Health of Georgia No. 01-34/6 65.1 of March 25, 2020, point «e» of the Order of the Minister of Health of Georgia No. 241/6 of December 5, 2000 «On determining contraindications to the donation of blood and blood components» is formulated as follows: «male-to-male sexual contact (a delay of 12 months from the last contact)»<sup>18</sup>.

The Constitution of Georgia defines marriage as the union of a man and a woman<sup>19</sup>. In 2018, the previously neutral norm that defined marriage «as a voluntary union based on the equal rights of the spouses» was replaced by «marriage is the union of a man and a woman». There is no separate registration procedure for same-sex partnerships. Same-sex couples cannot enjoy any rights and/or guarantees similar to those of opposite-sex spouses. There is no direct prohibition on adoption of a child by LGBT+ people, but adoption by two people other than spouses is prohibited<sup>20</sup>.

<sup>14</sup> The Law of Georgia «On the Legal Status of Foreigners and Stateless Persons», adopted by the Parliament of Georgia on March 5, 2014, and Order No. 300/6 Order of the Minister of Health of Georgia of November 14, 2006 «On Determining the List of Infectious and Other Diseases, the Nature, Severity and Duration of Which May become a reason for denying foreigners a residence permit», available at: <https://matsne.gov.ge/ka/document/view/67696?publication=0>

<sup>15</sup> Appendix No. 8 of the Decree of the Government of Georgia No. 592 dated December 28, 2017 «On approval of state health protection programs for 2018», «Program to combat AIDS» <https://www.matsne.gov.ge/ka/document/view/3972595?publication=00>

<sup>16</sup> «Criminal law. A crime against a person». Author of the commentary: Bachan Jishkariani, World of the Lawyer, 2016, p. 246. <https://www.dgstz.de/storage/documents/wd3gsjZizJNlqSQCNJFZbam3thTIK6dQFsTKb53j.pdf>

<sup>17</sup> Decision 2.16.1346 of 17 December 2019 <https://matsne.gov.ge/ka/document/view/4739439?publication=0>

<sup>18</sup> The order entered into force on March 31, 2020. Order of the Minister of Health of Georgia of March 25, 2020 No. 01-34/6 <https://matsne.gov.ge/ka/document/view/4829587?publication=0>

<sup>19</sup> Article 30. The right to marriage, the rights of mothers and children (23.03.2018 N2071). Available in Russian at: <https://matsne.gov.ge/ru/document/view/30346?publication=36>

<sup>20</sup> Civil Code of Georgia, Article 1246 <https://matsne.gov.ge/document/view/31702?publication=113>



## LEGAL BARRIERS FOR TRANS PEOPLE

Georgian legislation still does not take into account the needs of trans people, which leads to violations of their rights and creates legal conflicts when making changes to birth records.

Thus, changes to civil status records can be based on, among other things, «*registration of a change of name or (and) surname*»<sup>21</sup>. This allows for a change of name and/or surname for trans people, but does not provide them with the opportunity to change their gender marker.

Technically, such a possibility is provided by another basis for making changes to civil status records: «*sex change – if a person wishes to change their name or (and) surname in connection with a change of sex*»<sup>22</sup>. However, its practical application is neutralized by the absence of the definition of «sex change» in the law, and the lack of a clear list of documents that need to be submitted to make these changes.

This assertion is also confirmed by the fact that after the enactment of the Law “On civil acts”, the civil registration authorities only carried out a change of gender marker in March 2021 on the basis of a certificate from a medical institution confirming that a sex reassignment operation had been performed<sup>23</sup>.

This example can be considered rather an exception to the well-established rules, given Georgia's lack of developed procedures for providing medical care to trans people, and issuing medical documents confirming the provision of such care.

Moreover, this example may lead to the entrenchment of the practice of changing the gender marker in civil records only after surgical interventions, which is unacceptable, since some trans people do not want to undergo a surgical sex change and are content to only change their social role.

It is worth noting that on December 1, 2022, the ECHR ruled on two cases involving three trans men and found a violation of Article 8. The cases relate to changing the passport gender<sup>24</sup>.

<sup>21</sup> Law «On civil acts», Article 78(1)(d)

<https://matsne.gov.ge/ru/document/view/1541247?publication=25>

<sup>22</sup> Id., Article 78(1)(h)

<https://matsne.gov.ge/ru/document/view/1541247?publication=25>

<sup>23</sup> Information available at: <https://www.newsgeorgia.ge/%D0%B2-%D1%82%D0%B1%D0%B8%D0%BB%D0%B8%D1%81%D0%B8-%D0%B2%D0%BF%D0%B5%D1%80%D0%B2%D1%8B%D0%B5-%D1%81%D0%BC%D0%B5%D0%BD%D0%B8%D0%BB%D0%B8-%D0%B3%D0%B5%D0%BD%D0%B4%D0%B5%D1%80%D0%BD%D1%8B%D0%B9-%D0%BC/>

<sup>24</sup> <https://hudoc.echr.coe.int/eng#%7B%22documentcollectionid%22:%5B%22GRANDCHAMBER%22%22%5D%22%22itemid%22:%5B%22001-221237%22%5D%22%22%7D>



## INVESTIGATION OF HATE CRIMES

Despite having the region's most progressive legislation prohibiting discrimination and the explicit mention of intolerance based on SOGI in the criminal code as an aggravating circumstance, local activists and the Ombudsman regularly note the lack of an adequate and effective response to hate crimes by the state and law enforcement agencies. In preparing the Ombudsman's special report «On Affirmative Obligations with Respect to Individuals with Unprotected Equal Rights»<sup>25</sup>, 69 criminal cases of hate crime complaints for 2019-2020 were reviewed. The most common reason for such referrals after gender was SOGI — 25 cases, of which 5 cases involved verbal abuse by police officers. According to the police, some cases did not show evidence of a crime and the cases were closed. In some cases, the motive for the crime could not be identified, although it remains unclear what specific investigative actions were taken to do so.

Some of the complaints referred to physical and verbal insults, beatings and threats of deprivation of life, as well as attacks on an office of the organization representing the interests of LGBT+ people. The complainants also claimed that their abusers continued to do so even after the police arrived, to which the law enforcement officials did not respond in any way. In addition, despite the fact that sufficient time had passed, in some cases the complainants were still not recognized as victims, and therefore did not have access to the documents of the case. Analyzing the cases managed by the Ombudsman of Georgia, we can also conclude that minors also face violence and threats of deprivation of life, as well as frequent cases of domestic violence. In addition, the report refers to cases of re-victimization, when victims who have called the police report later insults by patrol officers, supervisors and police station staff. In light of the government's regular reports to international treaty bodies on the work it has carried out, the existence of a Department for Monitoring Human Rights Protection within the Ministry of Internal Affairs, the quality of investigations, as well as on the numerous educational activities for police and prosecutors in recent years, such data in 2021 is of concern and once again highlights the deep, unresolved problem of the high level of homophobia, which cannot be overcome only by having formal procedures and institutions.

It should be added that the Parliament of Georgia this year considered the bill no.07-2/181/10 «The National Human Rights Strategy 2022-2030»<sup>26</sup>, it was adopted by two hearings, and despite the process of advocacy by LGBT organizations, there is not a single word about the LGBTIQ community in the text of the bill, either separately or in the list, there is not even a mention at all. The third hearing concerns only technical changes, so the adoption of this document and entry into force is only a matter of time.

• <sup>25</sup> A special report of the Ombudsman of Georgia «On positive obligations towards persons whose equality is not protected» was published on May 17, 2021 on the website of the Office of the Ombudsman of Georgia: <https://ombudsman.ge/res/docs/2021051415512039554.pdf>

• <sup>26</sup> The bill is posted on the website of the Parliament of Georgia <https://parliament.ge/legislation/24597>



## FREEDOM OF SPEECH AND FREEDOM OF PEACEFUL ASSEMBLY

In Georgia, the Law «On Assemblies and Manifestations»<sup>27</sup> is in force, which does not stipulate the authorization procedure for peaceful assemblies, while municipal authorities that receive a notification from the organizers of a peaceful assembly are required to respond within three days. However, under Article 14, the municipal authorities have the power «not to allow an assembly or demonstration if there is reliable information verified by the police, according to which the assembly or demonstration may pose a direct threat to the constitutional order, life and health of citizens». This provision is used as a barrier to the holding of assemblies of LGBT+ people.

Over the past 10 years, in practice, there has been a systematic violation of the right to freedom of peaceful assembly against LGBT+ people in the country, accompanied by police inaction, as evidenced by both complaints to the ECtHR (the decision in *Identoba v. Georgia*<sup>28</sup>) and statements of the Ombudsman<sup>29</sup>, as well as by the events of Tbilisi Pride-2021<sup>30</sup>, when more than 50 people were attacked by counter-demonstrators in the absence of police action, one of whom died of his injuries.

On October 16, 2021, the ECHR ruled on two cases of discrimination during an attempt to hold peaceful assemblies on May 17, 2013, where it recognized violations by the state. The court harshly condemns the unwillingness of the state to respond lawfully to offenses against the LGBT community<sup>31</sup>.

There is no legislation restricting freedom of speech for LGBT+ people, or aimed at preventing «propaganda» and protecting children from it. Despite the extremely traditional views of parts of society, so far there have been no attempts to introduce such bills in Parliament.

<sup>27</sup> Available in Georgian at: <https://matsne.gov.ge/document/view/31678?publication=16>

Russian version on the official website: <https://matsne.gov.ge/ru/document/view/31678?publication=16>

<sup>28</sup> Full text of the Court decision: <https://hudoc.echr.coe.int/fre#%7B%22fulltext%22:%7B%22Identoba%20and%20others%20v.%20Georgia%22%7D%22%22itemid%22:%7B%22001-154400%22%7D%7D>

<sup>29</sup> Statement on Tbilisi Pride 2021: <https://www.ombudsman.ge/eng/akhali-ambebi/sakartvelos-sakhalkho-damtsvelis-gantskhadeba-ghirsebis-marshtan-dakavshirebit>

<sup>30</sup> More details at: <https://www.bbc.com/russian/features-57786453>

<sup>31</sup> <https://hudoc.echr.coe.int/eng#%7B%22fulltext%22:%7B%22women%20initiatives%22%7D%22%22documentcollectionid%22:%7B%22GRANDCHAMBER%22%22%22CHAMBER%22%7D%22%22itemid%22:%7B%22001-214040%22%7D%7D>



## STATISTICAL DATA

As in other countries of the region, there are no estimates of the number of LGBT+ people, but official statistics on PLH also include data on gay men and other MSM<sup>32</sup>. There are official statistics on the number of hate crimes (HC) and/or complaints of discrimination collected by the Ombudsman and the Ministry of Internal Affairs<sup>33</sup>. In addition, according to NGOs, victims are not always willing to report violations to the authorities, as they fear re-victimization and have a low opinion of the effectiveness of government agencies. Georgia complies with deadlines for mandatory reporting to international bodies on progress made in observing human rights and freedoms, and submits reports to UN committees, including information on the number of reported hate crimes to the OSCE ODIHR<sup>34</sup>.

In 2018, the UN Independent Expert on Sexual Orientation and Gender Identity visited the country. After the visit, he published a report<sup>35</sup>, containing a number of recommendations to improve the observance of the rights of LGBT+ people, among which he indicated the need to include issues related to the enjoyment of human rights by LGBT+ persons on an equal basis with other citizens. As a result of this visit, two years later, on February 7, 2020, Government Resolution No. 116 amended the document «Plan for the Protection of Human Rights for 2018-2020», which resulted in a separate chapter «Implementing Equality Policies and Combating Discrimination»<sup>36</sup>.

In his report, the UN independent expert drew attention to two other important problems for Georgia — the inability of LGBT+ activists to hold peaceful assemblies, and the problem of domestic violence. With respect to the first issue, the government and the executive branch have not made any progress, while with regard to the second, the Ministry of Internal Affairs now maintains statistics on domestic violence, taking into account that victims may belong to the LGBT+ community. However, there is another problem that has not yet been adequately addressed: the low level of trust in the police and fear of re-victimization, which explains the low rates of LGBT+ people seeking protection from the police for domestic violence.

<sup>32</sup> Official data in Georgian: [https://aidscenter.ge/epidsituation\\_geo.html](https://aidscenter.ge/epidsituation_geo.html)

<sup>33</sup> Unified report for 2020 (October - December) of the Ministry of Internal Affairs, the Prosecutor's Office and the Supreme Court of Georgia on statistics of crimes motivated by discrimination: [https://www.geostat.ge/media/36779/diskriminacis-nishnit\\_2020\\_IV.pdf](https://www.geostat.ge/media/36779/diskriminacis-nishnit_2020_IV.pdf)

<sup>34</sup> More at: <https://hatecrime.osce.org/georgia>

<sup>35</sup> Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/139/35/PDF/G1913935.pdf?OpenElement>

<sup>36</sup> The objectives in this section are formulated as follows: 1. Preventing hate speech and SOGI-motivated crimes, as well as increasing knowledge about HC; 2. Implementation of institutional and follow-up actions to combat HC; 3. Maintaining disaggregated statistics on HC; 4. Research on SOGI-specific services; 4. Improving medical services for transgender people; 5. Research on the situation of intersex people; 6. Combating discrimination based on SOGI in the penitentiary system; 7 Development of a shelter for victims based on their SOGI and other oppressed groups of the population.



## RECOMMENDATIONS



### FOR THE GOVERNMENT

- 1 Develop and implement protocols for the provision of medical care to trans people, conduct trainings for doctors.
- 2 Develop and implement a transparent and effective procedure for legal gender recognition.
- 3 Collect and publish statistics on the number of complaints about human rights violations, separately highlighting groups such as LGBT+ people, and including statistics on the number of complaints about domestic violence and discrimination.
- 4 Conduct a proper and effective investigation of all complaints of hate crimes against LGBT+ people.
- 5 Provide the LGBT+ community the opportunity and security to realize the right to freedom of speech and peaceful assembly.



### FOR CIVIL SOCIETY ORGANIZATIONS

- 1 Collect disaggregated data on the number of complaints of discrimination, including HC, based on various grounds, including SOGI, and publish such data together with information on what actions the government is taking to punish such human rights violations and to prevent such violations in the future.



