



LEGISLATIVE ANALYSIS RELATED TO SOGI AND HIV IN GEORGIA

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ABBREVIATIONS

EU European Union

UPR Universal Periodic Review

LGBT Lesbian, gay, bisexual and trans people

PLH People living with HIV

EECA Eastern Europe and Central Asia

HC Hate crimes

HIV Human immunodeficiency virus

MSM Men who have sex with men

NGO Non-governmental organization

SOGI Sexual orientation and gender identity

WHO World Health Organization

UN United Nations

ECRI European Commission against Racism and Intolerance



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

LEGISLATION	YES	NO
PROTECTION FROM DISCRIMINATION		
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	✓	
RIGHT TO HEALTH		
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	✓	
RIGHT TO HEALTH FOR TRANS PEOPLE		
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
RIGHT TO PRIVATE AND FAMILY LIFE		
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)	✓	
RIGHT TO FREEDOM OF SPEECH AND PEACEFUL ASSEMBLY		
Legislation governing peaceful assemblies	✓	
Mandatory authorization from local authorities for holding a peaceful assembly		✗
Prohibition on peaceful assemblies for LGBT people		✗
Law «on the prohibition of gay propaganda»		✗
Penalties for holding a peaceful assembly without the consent of the authorities		✗
Attempts to introduce bills limiting the freedom of speech of LGBT people, including bills «on the prohibition of gay propaganda»	✓	
FREEDOM OF ASSOCIATION AND FUNDING OF NGOS		
The country has a law on foreign agents	✓	
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

«Georgia has a healthy youth, with a healthy future, a national government, and we protect the healthy, talented, educated generation from LGBT propagandists and all harmful propaganda»

Mamuka Mdinaradze, the leader of Georgian Dream's parliamentary faction

Georgia is a former Soviet republic with a parliamentary form of government, it holds regular competitive elections and has lively media and civil society sectors. In 2023, the European Council decided to grant EU candidate status to Georgia. The European Union stated that it was conditioning Georgia's candidacy for membership on progress on 12 issues, many connected to human rights.

Georgia is one of the two countries 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. At the same time, no changes were made to legislation. Previous recommendations received by the country, for instance, during the 3rd cycle of the Universal Periodic Review (UPR) in 2020 related to the rights of LGBT people and protection against discrimination are still not implemented¹.

Backsliding at the level of national policy development was documented in 2023: local activists protested after issues related to the protection of the rights of LGBT people were not included in the new version of the National Action Plan for the Protection of Human Rights².

2023 and the first part of 2024 brought a significant drop in democracy for Georgia. Georgia's ruling party attempted to pass a controversial bill on «foreign agents» in March 2023. The Georgian government was forced to withdraw its bill after mass protests broke out. However, a little over a year later, the bill was advanced again and, despite weeks of mass street protests, the bill was passed in May 2024³.

As the Council of Europe and the United Nations representatives pointed out, this draft law is incompatible with Georgia's obligations as a member of these international organizations, since its provisions would violate the rights to freedom of expression and freedom of association. It would align Georgia with undemocratic regimes that have systematically worked to suppress independent civil society using similar measures, such as the one in Russia. Representatives of the European Union warned Georgia that the adoption of this bill would hinder the country's EU accession efforts⁴.

¹ Regional Report on Violations of the Right to Health of LGBT People in the Region of Eastern Europe and Central Asia in 2023 <https://ecom.ngo/library/regionaljnyi-otchet-narusheniyah-prava-na-zdorovje>

² «Selective National Human Rights Action Plan» — Tbilisi Pride Statement <https://civil.ge/ru/archives/569142>

³ Georgia: Statement by the High Representative on the adoption of the «foreign influence» law https://www.eeas.europa.eu/eeas/georgia-statement-high-representative-adoption-%E2%80%9Cforeign-influence%E2%80%9D-law_en

⁴ EU High Representative warns door for Georgia to become bloc's member «will be closed» due to transparency law <https://agenda.ge/en/news/2024/39651#gsc.tab=0>

Moreover, Georgia's parliament voted to repeal gender quotas: the mandatory gender quota in the Parliament and local self-government bodies. It approved amendments to the Election Code, reversing changes made in 2020 according to which every fourth candidate in a party's election list needed to be of a different gender to the previous three. Transparency International Georgia stated that «abolishing gender quotas is a step back from increasing women's participation in political life and bringing the country closer to the European Union»⁵.

According to the latest developments, the ruling party has tabled a package bill of anti-queer legislation and amendments, coming in the wake of years of rhetoric condemning «LGBT propaganda». On 10 June, 2024, a group of ruling party lawmakers tabled a bill centered on the law «On Family Values and Protection of Minors» and associated amendments to 18 existing laws. The bill is far-ranging, affecting education, healthcare, media, business, and public gatherings, and demonstratively prohibiting a number of rights that are unavailable to queer people in Georgia⁶. The Georgian Parliament supported the draft law during its first reading with 78 votes and none against⁷. It is expected to be adopted in September 2024.

Georgia has ratified the required minimum of international human rights instruments and ***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 six UN instruments***⁸:

- 📄 Individual complaints procedure under the Convention against Torture;
- 📄 Optional Protocol to the International Covenant on Civil and Political Rights;
- 📄 Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women;
- 📄 Individual complaints procedure under the International Convention on the Elimination of All Forms of Racial Discrimination;
- 📄 Optional Protocol to the Convention on the Rights of the Child;
- 📄 Optional Protocol to the Convention on the Rights of Persons with Disabilities.

⁵ Gender quotas should not be abolished <https://transparency.ge/ge/post/genderuli-kvotireba-ar-unda-gaukmdes>

⁶ What's in Georgia's new anti-queer bill? <https://oc-media.org/features/explainer-whats-in-georgias-new-anti-queer-bill/>

⁷ Parliament endorses Protecting Family Values and Minors draft in first reading <https://1tv.ge/lang/en/news/parliament-endorses-protecting-family-values-and-minors-draft-in-first-reading/>

⁸ List available at: https://tbinternet.ohchr.org/_Layouts/15/TreatyBodyExternal/Countries.aspx



PARTICULAR PROBLEMATIC ASPECTS OF LEGISLATION AND LAW ENFORCEMENT PRACTICE

In 2014, Georgia became the third country in the region to enact a distinct law titled «On the Elimination of All Forms of Discrimination»⁹ to fulfill the requirements of Directives 2000/43/EC of 29 June 2000 and 2000/78/EC of 27 November 2000, as part of the Visa Liberalization Plan with the EU¹⁰. Notably, Georgia is the only country in the region that explicitly includes sexual orientation and gender identity (SOGI) as protected characteristics under this law, ensuring that LGBT individuals are safeguarded against all forms of discrimination in every sphere 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 persons¹¹. 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 instance, on 8 July 2023, a group of at least 2000 anti-LGBT individuals attacked the NGO Tbilisi Pride's Pride Festival in Tbilisi, Georgia. They attacked the event location and attendees, setting multiple fires and destroying rainbow flags and other Pride-related objects. Tbilisi Pride had to cancel all the Pride-related events following the attack¹². The organizers of Tbilisi Pride accused the Ministry of Internal Affairs and the far-right group Alt-Info of collaborating to orchestrate an attack on their Pride Fest event. In his report Ombudsman accepted the Ministry of Internal Affairs' explanation that the maximum number of police forces was mobilized to ensure the freedom of assembly and expression of Tbilisi Pride participants, and at the same time, to protect their safety¹³. However, due to the large area and increase in the number of protesters, «it was not possible to stop them». The Public Defender concluded that the events of July 8 demonstrate that police forces alone are insufficient to protect the LGBT community and prevent large-scale violence and discrimination, calling for broader and more timely measures involving various agencies and the public, but without specifying measures or agencies.

It is worth noting that domestic violence remains a problem in Georgia. The response from police is often inadequate, though changing attitudes contribute to more frequent reporting and better enforcement in recent years¹⁴. Domestic violence is a risk factor for the LGBT community in Georgia as well.

⁹ Full text of the law: <https://www.equalrightstrust.org/ertdocumentbank/Georgian%20Anti-D%20Law%20final%20version.pdf>

¹⁰ 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.

¹¹ This special report for 2023 is available at: <https://ombudsman.ge/res/docs/2024042216453494204.pdf>

¹² NGO Tbilisi Pride cancels Pride Festival following a violent attack by anti-LGBTIQ+ groups <https://www.frontlinedefenders.org/en/case/ngo-tbilisi-pride-cancels-pride-festival-following-violent-attack-anti-lgbtqi-groups>

¹³ Public Defender's 9th Special Report on Equality <https://ombudsman.ge/eng/spetsialuri-angarishebi/sakartvelos-sakhalkho-damtsvelis-spetsialuri-angarishi-tanastsorobis-mdgomareobis-shesakheb-n9>

¹⁴ Ibid.

According to studies, «institutional heterosexism toward members of the LGBT community, a high level of homophobia, and social exclusion they face outside the family make them more vulnerable to domestic violence and perpetuates the cycle of violence»¹⁵. The detection of such crimes by the Georgian law enforcement system is critical to combating them. As a result, policymakers and law enforcement agencies must have a sufficient understanding of and prioritization for this type of violence in order to plan and implement effective preventive policies against it¹⁶.



LEGISLATIVE BARRIERS FOR LGBT PEOPLE AND/OR PLH IN GEORGIA

HIV-positive status cannot be grounds for a ban on entry into the country, and no HIV certificates are required for stays of less than a year. When considering a residence permit in exceptional circumstances, the authorities may request a health certificate, but asymptomatic HIV-positive status cannot affect entry into the country¹⁷. Immigrants are also unable to become beneficiaries of a government program to access antiretroviral therapy (ART), but they can purchase their own ARV drugs¹⁸.

According to Director of the Center for Infectious Pathology Tengiz Tsertsvadze, 214 foreign citizens, including 91 citizens of the Russian Federation and 74 citizens of Ukraine, have received HIV treatment services in the last 18 months. This is 2.1% of the total number of HIV infected people in the whole of Georgia.

Tsertsvadze said that all HIV-positive foreigners are provided with antiretroviral drugs absolutely free of charge under an agreement with the Global Fund to Fight AIDS, Tuberculosis and Malaria. However, Russian migrants have to pay at least for appointments and tests, as it is impossible to receive therapy without a positive test. The therapy itself is indeed free of charge¹⁹. The Criminal Code of Georgia provides for liability for HIV non-disclosure, intentional transmission of HIV. The algorithm for proving intent has not been developed; there is only one scientific publication on the subject²⁰. The number of convictions under this article is not published.

In 2000, an order from the Georgian Minister of Health banned blood donation by gay men and MSM for 10 years after unprotected sexual intercourse. This order was challenged in court, and in 2019, the Georgian Constitutional Court ruled²¹ in favor of Levan Berianidze and Gocha Gabodze, invalidating the specific paragraph of the Order of the Minister of Health. In a new order issued on March 25, 2020, the ban was revised to a 12-month deferral period from the last male-to-male sexual contact²².

¹⁵ Jalagania L. and Chutlashvili K., «Domestic Violence based on SOGI, legislative gaps and policy challenges», Social Justice Center, 2018.

¹⁶ Ibid.

¹⁷ Minister's Order No. 300/N <https://matsne.gov.ge/ka/document/view/67696?publication=0>

¹⁸ 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>

¹⁹ The number of HIV cases has increased in Georgia – doctors hint that migrants are the reason behind this. What is really happening with the infection. <https://paperpaper.io/v-gruzii-vyroslo-chislo-sluchaev-vich-m/>

²⁰ «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/wd3gsjZizJNiQSQCNJFZbam3thTIK6dQFsTKbS3j.pdf>

²¹ Decision 2.16.1346 of 17 December 2019 <https://matsne.gov.ge/ka/document/view/4739439?publication=0>

²² 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>

The Constitution of Georgia defines marriage as the union of a man and a woman²³. 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 prohibited²⁴.

However, all these practices might change drastically if the Constitutional Law «On Family Values and Protection of Minors» is passed in September 2024. It includes eight clauses, according to which²⁵ «it will be possible to arrange only such a relationship similar to marriage, which provides for the union of one genetic man and one genetic woman at least 18 years old» and «adoption or foster care of a minor will be allowed only by married spouses or heterosexual persons».



LEGAL BARRIERS FOR TRANS PEOPLE

According to the study of the Georgian Harm Reduction Network, transgender people are one of the most marginalized groups in Georgia²⁶. There are strong transphobic attitudes in the society, as well as in various institutions and the legislation. This adversely affects the lives of trans people and poses physical, psychological, and economic threats to them. In addition, nongovernmental organizations (mainly community-based organizations) remain the only providers of various vital services to the trans community. The health of trans persons, including the distribution of HIV infection in this group, in contrast to the general population data, is less researched in Georgia²⁷.

Georgian legislation fails to address the needs of trans individuals, leading to rights violations and legal conflicts when amending birth records. While trans people can change their names and surnames, they cannot change their gender marker due to the lack of a clear definition of «gender marker change» and absence of required documentation guidelines. The Agency for the Development of Public Services requires a certificate of surgical gender reassignment for gender marker changes, first updating the birth certificate, then other identity documents. However, this process lacks clear regulation, complicating legal gender recognition for trans individuals.

In December 2022, the European Court of Human Rights (ECtHR) ruled on two cases involving three trans men and found a violation of Article 8. The cases relate to the lack of quick, transparent and accessible procedures for legal gender recognition²⁸. According to the Court, «the lack of a clear legal framework leaves the gatekeepers — the competent domestic authorities — with excessive discretionary powers, which can lead to arbitrary decisions in the examination of applications for legal gender recognition».

²³ 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>

²⁴ Civil Code of Georgia, Article 1246 <https://matsne.gov.ge/document/view/31702?publication=113>

²⁵ Draft of the Constitutional Law of Georgia «On Family Values and Protection of Minors», <https://shorturl.at/9Kgmq>

²⁶ Report IBBS 2021: https://ghrn.ge/img/file/TG%20Operational%20Research%20Report_Final_v.5.pdf

²⁷ ECOM 2022. Assessment Report on Access to HIV and Social Protection for Gay and Bisexual Men, other MSM and Trans* People in Georgia.

²⁸ <https://hudoc.echr.coe.int/?i=001-221237>

Status of Execution states that an action plan was submitted on 30 August 2023 and is under assessment. To this day no changes have been made to legislation. Previous recommendations on improving the situation of trans people were not implemented²⁹.

The European Commission against Racism and Intolerance (ECRI) highlighted that Georgia needs to put in place a clear legal gender recognition framework. In 2022, the Council of Europe called on Georgia to remedy this gap and introduce quick, accessible, and transparent legal gender recognition on the basis of self-determination³⁰.

According to the last report of Freedom House, LGBT people face societal discrimination and have been targets of serious violence, especially transgender people who experience severe social stigma and are at risk of violent attacks. It adds that «transgender people receive little protection, and prosecutors rarely designate crimes against transgender people or other minorities as hate crimes, despite evidence supporting such designations»³¹.

If the new «LGBT propaganda» legislation amendments are passed in September 2024, the situation for transgender people might drastically change. The draft law³² includes three separate articles specifically targeting transgender rights. If passed, the bill will make it illegal to perform «surgery with the intent to assign sex different from one's biological one» in Georgia, and to amend legal documents if they do not match the person's gender assigned at birth. Currently, gender-affirming surgery is legal but extremely expensive. The new law would impose penalties on medical professionals performing such surgeries, including fines, professional bans for up to three years, or imprisonment for one to four years. It also bans any medical procedures, such as prescribing gender-affirming hormones, to alter a person's sex. Additionally, the law would prevent employers from recognizing their transgender employees' identities, likely affecting employment contracts and labor relations.



INVESTIGATION OF HATE CRIMES AND HATE SPEECH

In 2023, there was a significant increase in openly homophobic rhetoric, anti-LGBT disinformation, propaganda, and discrediting campaigns by the ruling party Georgian Dream, their proxy groups, and pro-government media. In addition, the Georgian Orthodox Patriarchate issued a statement in response to Tbilisi Pride Week, scheduled for July 1–8, 2023, calling for legislative action against «the attempts to promote a perverse lifestyle»³³. Hate speech, especially against LGBT persons, is prevalent in Georgia, often intensifying around LGBT Pride events.

²⁹ Regional Report on Violations of the Right to Health of LGBT People in the Region of Eastern Europe and Central Asia in 2023 <https://ecom.ngo/library/regionaljniy-otchet-narusheniyah-prava-na-zdorovje>

³⁰ Alleged violations of the rights of LGBTI people in the Southern Caucasus https://pace.coe.int/en/files/29711/html?fbclid=IwAR1zeDvESUzVAwKN0HKXKgbuNO6_3ZpuYFxsU8rveerx5SE1OFh8KDUaS3Q

³¹ Freedom House: Country report

<https://freedomhouse.org/country/georgia/freedom-world/2024#CL>

³² The initiated draft of the constitutional law opposes the freedom of expression and imposes censorship <https://shorturl.at/R7daE>

³³ The Situation Of LGBT+ Human Rights Defenders And Activists In Georgia

<https://tbilisipride.ge/en/2023/09/27/saqarthveloshi-lgbt-uphlebadamtsvelebisa-da-aqtivistebis-mdgomareoba/>

Political movements and parties continue to instrumentalize anti-LGBT hate, particularly as the 2024 elections are approaching³⁴. The Prime Minister and other high officials justified the adoption of the foreign agents law using LGBTphobic arguments³⁵. The lack of detailed data on hate speech due to the absence of an effective monitoring system is a concern. Hate speech against LGBT individuals has become a part of everyday public discourse, exacerbated by comments from media, politicians, and public officials. While some high-ranking officials, like the President of Georgia, have shown support for LGBT rights, counter-speech from public figures remains limited.

In its report the European Commission against Racism and Intolerance (ECRI) urges the Georgian authorities to amend the Criminal Code to establish an effective monitoring system for hate speech, particularly against LGBT individuals. Although the Human Rights Protection and Investigation Quality Monitoring Department was established in 2018, it primarily focuses on monitoring hate crimes, to which only some criminalized forms of hate speech belong, such as threats, but not hate speech in general. According to the authorities, the department's work has started changing the attitudes of police officers towards vulnerable groups and hate crimes. It can also propose disciplinary sanctions and co-operates with relevant government agencies as well as NGOs. However, ECRI also met representatives of various civil society organizations that — although acknowledging the useful work of this new department — expressed their dissatisfaction with the rather limited scope of the department's mandate, which is not tasked to carry out investigations into hate crime incidents itself³⁶.

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.

The Public Defender of Georgia published an annual report on equality and combating discrimination and the efforts of the Public Defender's Office in this regard, and the implementation of their recommendations³⁷. Regarding the protection of the rights of LGBT people in Georgia, the 2023 report says that they «still face violence, discrimination, and harassment», which the report adds is caused by «homophobic attitudes, hate crimes and other discriminatory attitudes in society». It stresses that «persons with far-right ideology, by 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».

Additionally, after the attack of far-right groups on Tbilisi Pride Festival on July 8, 2023, the LGBT community was forced to cancel the event, but the state did not take effective measures or issue supportive statements for equality; moreover, public figures and media outlets continued to make discriminatory remarks³⁸. In January, the Tbilisi Appeals Court overturned a 2022 verdict and acquitted six individuals implicated in the 2021 anti-LGBT assaults, dismissing the charges of group violence related to sexual orientation and gender identity. The court also lessened their prison sentences from five years to four

³⁴ «Dream» has started to incite hatred towards the LGBTQI community, our existence has become unbearable and life-threatening — Nino Bolkvadze issues a special appeal https://metronome-ge.translate.google/story/448154?_x_tr_sl=auto&_x_tr_tl=en&_x_tr_hl=fr

³⁵ «The draft law has done its important work — everyone admitted that the agency is dangerous» — Kobakhidze <https://www.radiotavisupleba.ge/a/32311678.html>

³⁶ ECRI report on Georgia <https://rm.coe.int/sixth-report-on-georgia/1680ab9e64>

³⁷ Public Defender's 9th Special Report on Equality <https://ombudsman.ge/res/docs/2024042216453494204.pdf>

³⁸ GD and «People's Power» simultaneously condemn violence and «LGBT propaganda» <https://grass.org.ge/en/publikaciebi/politikis-dokumenti/2404-gd-and-peoples-power-simultaneously-condemn-violence-and-lgbt-propaganda>

Human rights organizations expressed serious concern over this ruling, and the Prosecutor's Office intends to file an appeal³⁹. It is important to note that the majority of perpetrators of organized group violence, as well as the organizers, continue to go unpunished, and the question of the responsibility of State officials continues to be ignored by the investigative authorities⁴⁰.

FREEDOM OF SPEECH AND FREEDOM OF PEACEFUL ASSEMBLY

In Georgia, the Law «On Assemblies and Manifestations»⁴¹, 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.

LGBT groups' right to assembly is rarely protected. 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*⁴²), and statements of the organizers⁴³, as well as by the events of Tbilisi Pride-2021⁴⁴, when anti-LGBT rioters broke into Tbilisi Pride's offices, destroyed property, and attacked journalists.

In 2023, Tbilisi Pride Week was held between July 1–8 and was targeted by hate and violence again. Prior to Pride week, far-right groups carried out mass mobilization, called for violence, and spread misinformation⁴⁵. Previously, civil society groups called for police protection, and the organizers held months-long negotiations with the Ministry of Internal Affairs, which vowed to protect the events⁴⁶. On July 8, 2023, the ultra-conservative groups gathered in the morning and made public threats to block the planned festival site, which was kilometers away from their original meeting place. After several hours, they reached a place of event by Lisi Lake, where police had been mobilized to ensure the peaceful conduct of the Pride celebration. However, instead of expelling the mob, the police evacuated the Pride organizers, who had to cancel the event⁴⁷. According to Tbilisi Pride, the police failed to uphold their promise of security, allowing members of the far-right group to infiltrate the festival area without resistance.

³⁹ Prosecution Service Will Appeal against Appellate Court Decision <https://pog.gov.ge/en/news/prokuratura-TV-pirvelis-operatoris-da-Jurnalists-aseve-pirveli-arxis-operatoris-mimarT-Jurnalistur>

⁴⁰ European Parliament resolution of 9 June 2022 on violations of media freedom and the safety of journalists in Georgia https://www.europarl.europa.eu/doceo/document/TA-9-2022-06-09_EN.html

⁴¹ 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>

⁴² Full text of the Court decision: <https://hudoc.echr.coe.int/fre#%7B%22fulltext%22%3A%5B%22Identoba%20and%20others%20v.%20Georgia%22%5D%2C%22itemid%22%3A%5B%22001-154400%22%5D%7D>

⁴³ The Situation Of LGBT+ Human Rights Defenders And Activists In Georgia <https://tbilispide.ge/2023/09/27/saqarthve-loshi-lgbt-uphlebadamtsvelebisa-da-aqtivistebis-mdgomareoba/>

⁴⁴ More details at: <https://www.bbc.com/russian/features-57786453>

⁴⁵ «Tbilisi Pride» Urges Citizens to Condemn Disinformation by Radical Groups <https://civil.ge/ru/archives/551329>

⁴⁶ Coalition Urges Safety Measures for Tbilisi Pride, Cites Government's Homophobic Campaign <https://civil.ge/ru/archives/551549>

⁴⁷ Public Defender's 9th Special Report on Equality <https://ombudsman.ge/res/docs/2024042216453494204.pdf>

They claim that the police forced festival attendees to leave while the violent group was permitted to carry out their attack⁴⁸. The Ministry of Internal Affairs and the speaker of the Parliament both condemned the violence but welcomed that the police were able to prevent physical injuries. Nevertheless, human rights groups have emphasized that the police failed in its duties to protect the participants, «although the information about the planned counter-rally organized through the online platforms and about the expected violent actions was available in open sources»⁴⁹.

In 2024, Georgia adopted the foreign agents law that labels any civil society or media organization that receives at least 20% of their funding from outside Georgia as «organizations carrying out the interests of a foreign power.» Such organizations are subject to «monitoring» by the Ministry of Justice every six months, which could include forcing them to hand over internal communications and documents and confidential sources. Organizations and individuals who do not comply would be subject to large fines (up to 9,300 USD in equivalent).

The law will stigmatize civil society and independent media, giving authorities more power to suppress dissent. It threatens the work of NGOs that support democracy and human rights, particularly those serving vulnerable groups, such as survivors of gender-based violence, people with disabilities, those living with HIV, drug users, sex workers, and LGBT individuals. The law could cause a reduction in the number of health programs and HIV care and support services, which will significantly worsen the situation of communities. The bill could create significant barriers to international funding, severely impacting health services and support programs and worsening conditions for thousands of Georgians⁵⁰.

Besides, the initiated «LGBT propaganda law» has strict restrictions on public discussion of LGBT topics⁵¹. It outlaws sharing information that «aims to popularize belonging to a gender different from one's biological sex, a relationship based on sexual orientation between those belonging to the same biological sex, or incest» in educational contexts, at public gatherings, in media, and more generally. Fines for doing so range from \$280 to \$1,400, and would apply to educators, advertisers, and broadcasters, amongst others. In case of adoption of the law, a violation of any of these prohibitions will result in a sentence of up to two years in prison.



STATISTICAL DATA

As in other countries of the region, there are no estimates of the number of LGBT people; official statistics of distribution of HIV cases by routes of transmission show percentage of homo/bi-sexual contacts⁵². To comprehend the scale and systemic nature of hate crimes and address the issue, recording accurate statistics is crucial. Several legislative and institutional reforms have been enacted to address crimes motivated by intolerance related to sexual orientation and gender identity/expression.

⁴⁸ July 8th Statement <https://tbilisipride.ge/en/2023/07/08/8-ivlisis-gantskhadeba/>

⁴⁹ HRC Report Highlights Disproportionate Use of Police at Protests <https://civil.ge/ru/archives/561379>

⁵⁰ ECOM Statement. On Adoption of Oppressive Legislation in Georgia <https://shorturl.at/Wynh7>

⁵¹ The initiated draft of the constitutional law opposes the freedom of expression and imposes censorship <https://shorturl.at/R7daE>

⁵² Official data in Georgian: https://aidscenter.ge/epidsituation_en.php

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 Affairs⁵³, which not only encompass the crime and its motive as defined by the Criminal Code, but also include details such as the perpetrator's age and gender, and geographic location of the crime⁵⁴. Furthermore, in 2021, the joint report from the Office of the Prosecutor General, the Ministry of Internal Affairs, and the Supreme Court of Georgia introduced the category of «intimate partner» in the list of social connections between the victim and the perpetrator. This formal inclusion allows for the recording of cases of violence occurring within same-sex couples.

Nevertheless, the current methodology of the report from the Office of the Prosecutor General of Georgia, the Ministry of Internal Affairs, and the Supreme Court does not offer an avenue to further analyze crimes committed based on specific characteristics. The statistics do not specify whether an intimate partner has committed a crime based on sexual orientation and gender identity (SOGI) intolerance. Instead, they document the total number of crimes committed by intimate partners each year in general.

The data collection and analysis system has yet to include and assess important data, such as data on the number of incidents reported, the overall length of criminal proceedings, investigations by the Special Investigation Service (SIS), and certain information regarding alleged perpetrators (e. g. whether they are law-enforcement officials). Moreover, according to the Public Defender of Georgia⁵⁵, the statistical methodology does not incorporate the analysis of possible causes of hate-motivated crimes and the reasons behind the difficulties in detecting the hate motive. Furthermore, the statistical reports mentioned in the government's Action Report do not contain a comprehensive narrative analyzing the statistics/figures depicted in them⁵⁶. The reports merely contain a few slides on which trends and challenges are presented as bullet points instead of providing a fully-fledged evaluation.

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 submitted to the OSCE ODIHR⁵⁷.

⁵³ Joint report for 2023 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/60698/Hate_2023.pdf

⁵⁴ Joint report for 2023 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/60698/Hate_2023.pdf

⁵⁵ The Public Defender of Georgia, Special Report on the Positive Obligations of Law Enforcement Officials to Protect the Equality of Vulnerable Groups, 2021, pages 3-4, available at: <https://shorturl.at/XeHBp>

⁵⁶ Action Report (27/10/2022) Communication from Georgia concerning the group of cases of IDENTOBA AND OTHERS v. Georgia (Application No. 73235/12), paragraph 38.

⁵⁷ More at: <https://hatecrime.osce.org/georgia>



RECOMMENDATIONS



RECOMMENDATIONS FOR THE GOVERNMENT

- ★ Stop introducing repressive legislation violating the rights of Georgian people and curb the escalating campaign of repressions.
- ★ Facilitate legal gender recognition without invasive medical requirements and in a quick, transparent, and accessible manner.
- ★ Develop and implement protocols for the provision of medical care to trans people, conduct training for doctors.
- ★ Establish an effective monitoring system for racist and anti-LGBT hate speech, building on the expertise of the Public Defender and relevant NGOs, including from the LGBT communities.
- ★ 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.
- ★ Conduct a proper and effective investigation of all complaints of hate crimes against LGBT people.
- ★ Provide the LGBT community with the opportunity and security to realize the right to freedom of speech and peaceful assembly.



FOR CIVIL SOCIETY ORGANIZATIONS

- ★ 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.
- ★ Collect separately and create statistics on domestic crimes committed on the basis of SOGI.
- ★ Create safe spaces for interaction and dialogue.

