

# ANNUAL REPORT 2018



## STATE OF HUMAN RIGHTS IN GEORGIA



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## **The Report was prepared by Human Rights Center**

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Non-governmental organization the Human Rights Center, formerly Human Rights Information and Documentation Center (HRIDC) was founded on December 10, 1996 in Tbilisi, Georgia. The HRIDC aims to increase respect for human rights, fundamental freedoms and facilitate peace building process in Georgia. To achieve this goal it is essential to ensure that authorities respect the rule of law and principles of transparency and separation of powers, to eliminate discrimination at all levels, increase awareness and respect for human rights among the people in Georgia. Human Rights Center is member of following international networks:

- International Federation of Human Rights (FIDH); [www.fidh.org](http://www.fidh.org)
- World Organization against Torture (SOS-Torture – OMCT Network); [www.omct.org](http://www.omct.org)
- Human Rights House Network; [www.humanrightshouse.org](http://www.humanrightshouse.org)
- Coalition for International Criminal Court; [www.coalitionfortheicc.org](http://www.coalitionfortheicc.org)

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## INTRODUCTION

This report demonstrates the state of human rights in Georgia for 2017. The report is based on the data and evaluations of Human Rights Center, other NGOs working in Georgia, Office of Public Defender of Georgia (PDO) and international organizations.

The report evaluates the state of human rights in the main areas, such as penitentiary system, facts of ill-treatment in penitentiary and police facilities, activities of the new department of the prosecutor's office, cases which raised high public interest (hereinafter referred as high-profile cases), facts of planting drugs on citizens, freedom of media and expression, state of persons with disabilities, rights of LGBT individuals, violence against women, including the facts of domestic violence, municipal elections and more.

Throughout 2017, the facts of ill-treatment of citizens from the side of police officers and investigation of those facts were main challenges, also the rights of vulnerable groups were abused and those facts were not effectively investigated. Regardless of the significant amendments in the legislation, important challenges still remain in terms of identification and prevention of the violence against women and domestic violence.

The law enforcement bodies of Georgia continued to inadequately address the human right violations of religious minorities and LGBTQ individuals in 2017. The different facts of violence committed against these groups are left unpunished that goes contrary to the positive obligation of state of Georgia to ensure adequate protection and security of minorities.

Ensuring rights of persons with disabilities still remains to be one of the most challenging issues for the government. Different obstacles hinder the integration of Persons with Disabilities (PwDs) in society, including the inadequate and ineffective legislative framework, environmental barriers, stereotypes and prejudices and lack of access to education and rehabilitation.

The several instances of pressure against the media outlets allegedly exercised by the representatives of government continued during 2017.

Independent investigative mechanism for the investigation of crimes committed by the law-enforcement officials was not created in 2017 either.

## CONSTITUTIONAL AMENDMENTS

The Parliament of Georgia approved the draft constitution on its third and final reading at its special sitting on September 26, which put an end to ten-month long working process on the constitutional amendments.<sup>1</sup>

The changes in the Constitution of Georgia prescribe the fundamental right of human beings to human dignity, guarantee the fundamental right to physical integrity, put forward stricter conditions for restricting the right to private space and inviolability of communication; prescribe the fundamental right to access the Internet, increase the standard for accessing public information<sup>2</sup>. In the new text, a new provision on gender equality has been added, which determines state obligation to ensure substantive equality and eliminate gender inequality. In accordance to the constitutional changes the State takes up the duty to create special conditions for the realization of the rights and interests of PwDs. The new constitutional amendments ensure higher standards for accessing public information.

The Constitution of Georgia grants the land the status of a resource of particular importance. Some opposition political parties criticized the restriction of rights of foreigners to purchase land in Georgia. They underlined negative economic effect of this restriction.<sup>3</sup> Regardless the discussions, the Parliament adopted the changes in the Constitution regarding the land status.

According to the new constitutional amendments, the scope of the persons entitled with right to vote has been widened. Special provision will be dedicated to the environmental rights.

The Constitution of Georgia defines marriage as a monogamous union between a man and a woman for the purpose of creating a family. Nongovernmental organizations stated that the proposed formulation carries homophobic connotation and can potentially foster negative sentiments towards LGBTQ people.<sup>4</sup>

The right to fair and expeditious hearing has been specified according to the new constitutional amendments. The right to defense is also specified.

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<sup>1</sup> See information at <http://civil.ge/eng/article.php?id=30472>

<sup>2</sup> See the Constitutional changes at <http://constitution.parliament.ge/proeecti>

<sup>3</sup> See the statement about the issue at <http://rustavi2.ge/ka/news/78160> (available only in Georgian)

<sup>4</sup> See the statement at <http://humanrights.ge/index.php?a=main&pid=19439&lang=eng>

The constitutional amendments introduce the new proportional electoral system of the parliament that will go in force from 2024.

The new changes in the Constitution introduced indirect election system for the President. Not less than 30 voters shall have the right to nominate a candidate to become the President of Georgia.

In accordance to the new constitutional amendments, the High Council of Justice will nominate the chairs and justices of the Supreme Court of Georgia instead of the President of Georgia. The three-year probation period will be applied when a justice is appointed to the position for the first time. The prosecutor's office leaves the system of executive authority and will become an independent constitutional body.<sup>5</sup>

On May 18, 2017, the Coalition for Independent and Transparent Judiciary reached out to the Venice Commission with an opinion on the provisions concerning judiciary in the new draft of the Constitution. The Coalition criticized several changes, including provisions concerning the rule of appointment of the High Council of Justice members, probation period for judges, substantiation of decisions on judicial appointments, and the rule of appointment of the Supreme Court Judges.<sup>6</sup>

Unfortunately, it turns out that reaching the consensus is impossible within the frames of constitutional discussions on the issues that are important for institutional democracy, among which are the competencies of the leader of the state and election to the office.<sup>7</sup>

On August 2, 2017, the nongovernmental organizations criticized the restriction of freedom of religion in the draft amendments to the Constitution of Georgia. According to their assessment, the new wording creates a broad range of grounds allowing disproportionate interference with and restriction of the freedom of religion that may build a basis for political legitimization of discrimination against religious associations.<sup>8</sup>

The Venice Commission was engaged in the process of evaluating the constitutional changes and reaching the consensus between the political parties. The Venice Commission positively evaluated the constitutional reform. Besides that, the Commission presented its recommendations, which mostly referred to fundamental

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<sup>5</sup> See the constitutional changes at <http://constitution.parliament.ge/proeqti>

<sup>6</sup> See the opinion of the Coalition at [http://www.coalition.ge/index.php?article\\_id=153&clang=1](http://www.coalition.ge/index.php?article_id=153&clang=1)

<sup>7</sup> See the evaluations of the NGOs at <http://humanrights.ge/index.php?a=main&pid=19264&lang=eng>;  
<http://humanrights.ge/index.php?a=main&pid=19234&lang=eng>

<sup>8</sup> See the statement at <http://humanrights.ge/index.php?a=main&pid=19320&lang=eng>

rights and justice.<sup>9</sup> During the second hearing, the Parliament of Georgia, for the purpose of fulfilling the recommendations of the Venice Commission, formulated the presented provision as follows: “These rights may be subject only to such restrictions that are prescribed by law and are necessary in a democratic society to ensure national security and public safety, prevent crime, protect public health, administer justice or protect rights of others<sup>10</sup>”.

As nongovernmental organizations evaluated, the broadening of restriction grounds raises serious concerns because illegal restriction of religious freedom and inadequate and ineffective response to such facts from the State are, unfortunately, common practice in Georgia.<sup>11</sup>

The draft constitutional changes were discussed during the autumn session of the Parliament of Georgia.<sup>12</sup> The ruling party initially stated that they were ready to continue dialogue with the opposition to adopt the Constitution through the consensus between the political parties. The Venice Commission welcomed the readiness of the political parties to cooperate and offered the government and the opposition to meet in Strasbourg on September 6 to reach the consensus.<sup>13</sup> The norms related to the electoral process were particularly problematic in the draft constitutional amendments that caused discontent among political parties, as well as the issue of freedom of religion which was criticized by the NGOs. By September, when the scheduled meeting in Strasbourg was approaching, the ruling party declared that they no longer intend to consult the constitutional amendments with the opposition parties and at the autumn session of the Parliament they adopted the amendments without the support of the opposition parties through its third and final reading.<sup>14</sup> The Parliament of Georgia adopted the new constitutional amendments on September 26, at the special session with 117 votes vs. 2.

## JUDICIARY SYSTEM

On March 24, 2017 the Coalition for Independent and Transparent Judiciary called on the government to start substantial reform in the court system. According to the

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<sup>9</sup> See the information here <http://epn.ge/?id=53163> (available only in Georgian)

<sup>10</sup> See the information: <http://humanrights.ge/index.php?a=main&pid=19320&lang=eng>

<sup>11</sup> See the address of NGOs at <http://humanrights.ge/index.php?a=main&pid=19320&lang=eng>

<sup>12</sup> See information here <http://www.interpressnews.ge/ge/politika/450465-irakli-kobakhidze-konstituciis-proeqti-aucibleblad-iqneba-mighebuli-sashemodgomo-sesiaze-im-sakhith-rogori-sakhithac-aris-damtkicebuli-meore-mosmenith.html?ar=A> (available only in Georgian)

<sup>13</sup> See the information at <http://civil.ge/eng/article.php?id=30332&search>

<sup>14</sup> See the information at <http://civil.ge/eng/article.php?id=30407&search>

Coalition’s statement, the Government should acknowledge that systemic problems exist in the court system and become determined to ensure judicial independence by commencing substantial reforms.<sup>15</sup>

On February 17, 2017 the High Council of Justice (HCoJ) announced competition for 84 vacant positions. Several days later, the HCoJ shortlisted the applications and decided to invite 105 candidates to interviews. On April 4, the Coalition for Independent and Transparent Judiciary addressed the HCoJ to stop the selection process of the justices. According to the assessment of the Civil Society Organizations (CSO), the HCoJ is conducting the competition using legislation that the Constitutional Court of Georgia has declared unconstitutional.<sup>16</sup>

On May 11, 2017, the High Council of Justice appointed 64 judges. Five judges (former judges of the Supreme and Constitutional Courts) were appointed for life, without a probation period. Some of the candidates participating in the selection closed their interviews to public. Among them was Mikheil Chinchaladze, towards whom public interest was especially high. Hence, it is unknown to the society how the interview process went.

According to the evaluation of the Coalition, “Because of the deficient rules of judicial appointment, the public does not know what factors the Council considered during discussions and on what it based its decision on. However, it is clear that the May 11 appointments reinforced questions regarding the reputation of the judiciary and the public trust in it. The Council’s decision also demonstrated that the Council is not willing to consider the criticism regarding the existence of groups of influence within the judiciary and actually reinforces the informal influences of these groups with its decision.”<sup>17</sup>

In October of 2017, the CSOs declared mistrust to the next stage of the lifetime appointment of the judges. They said, during the interviews, the judges were asked questions of varying complexity. Some of them were treated in a particularly favorable way.<sup>18</sup>

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<sup>15</sup> See the statement of the Coalition at [http://www.coalition.ge/index.php?article\\_id=146&clang=1](http://www.coalition.ge/index.php?article_id=146&clang=1)

<sup>16</sup> See the statement of the Coalition at [http://www.coalition.ge/index.php?article\\_id=147&clang=1](http://www.coalition.ge/index.php?article_id=147&clang=1)

<sup>17</sup> See the statement of the Coalition at [http://www.coalition.ge/index.php?article\\_id=151&clang=1](http://www.coalition.ge/index.php?article_id=151&clang=1)

<sup>18</sup> See the statement of the Coalition at [http://www.coalition.ge/index.php?article\\_id=170&clang=1](http://www.coalition.ge/index.php?article_id=170&clang=1)

On November 20, 2017, the Coalition criticized the independent inspector's selection competition for the lack of transparency and called on the HCoJ to publish the applicants' names and biographies who participated in the competition.<sup>19</sup>

## **SELECTION OF CANDIDATES FOR THE EUROPEAN COURT OF HUMAN RIGHTS**

On August 29, 2017 the Government selected two new candidates for the European Court of Human Rights – Lali Papiashvili and Otar Sichinava to replace the candidates rejected by the Council of Europe. The former chairman of the Supreme Court of Georgia, Lado Chanturia also participated in the competition.<sup>20</sup>

The Coalition of NGOs stated that as expected, a Governmental Commission composed of nearly the same members and following the same procedures failed to carry out an objective competition and select candidates that would clear the doubts that the entire process was politicized. During interviews candidates were asked questions which did not correspond to the objectives of the competition and/or implied some sort of political revenge.<sup>21</sup>

On October 10, 2017, the Council of Europe Parliamentary Assembly (PACE) elected Lado Chanturia as the Georgia-nominated judge to the European Court of Human Rights.<sup>22</sup>

## **HIGH PROFILE CASES**

Several cases attracted particular attention of the society in 2017.

### **● CASE OF THE FORMER CHIEF AUDITOR LASHA TORDIA**

Ex-Chief Prosecutor Otar Partskhaladze and his allies assaulted the Chief Auditor Lasha Tordia on May 13, 2017. The incident was directly connected with the activities of the Chief Auditor. Nevertheless, the investigation was launched under the Article 126 of the

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<sup>19</sup> See the statement of the Coalition at

[http://www.coalition.ge/index.php?article\\_id=171&clang=1](http://www.coalition.ge/index.php?article_id=171&clang=1)

<sup>20</sup> See the information of the Government of Georgia at

<http://www.justice.gov.ge/News/Detail?newsId=6491> (available only in Georgian)

<sup>21</sup> See the statement of the Coalition at

[http://www.coalition.ge/index.php?article\\_id=166&clang=1](http://www.coalition.ge/index.php?article_id=166&clang=1)

<sup>22</sup> See information at <http://www.civil.ge/eng/article.php?id=30508>

Criminal Code of Georgia (CCG) that is absolutely inadmissible for Human Rights Center, as this particular article of the CCG does not refer to the crimes committed in connection to the victim's professional duties. The investigation should have been opened under the Article 353<sup>1</sup> of the Criminal Code of Georgia, which refers to the assault on the representatives of the authorities in connection with their official duties.<sup>23</sup>

As a result of the assault, Lasha Tordia received severe physical injuries, including closed head trauma. Regardless of that fact, he does not have victim status.

NGOs responded to the developments related to the incident between the Chief Auditor and Ex-Chief Prosecutor and ongoing investigation. According to their assessment, impartial investigation into Lasha Tordia's case was essential.<sup>24</sup>

On May 23, 2017 a video of the incident in the café "Pam Club" in Paliashvili Street, Tbilisi was leaked in Facebook and later in other websites. The anonymous author of the video claimed that the chief auditor Lasha Tordia was threatening the bar employee with a firearm.<sup>25</sup>

Based on the media reports and the petition of Human Rights Center, the Personal Data Protection Inspector studied the legality of the processing the personal data by the video-surveillance system of the Ltd P.A.M.<sup>26</sup> As a result, the Inspector's office found out that the company handed the video-recordings to the third party only once – on December 27, 2016. The video recordings were handed to the Ministry of Internal Affairs (MIA) in violation of the Law of Georgia on Personal Data Protection. Consequently, the Ltd P.A.M was found to be an offender of Article 43 of the law (Data processing without the grounds under the law). The violation shall result in a warning or a fine of 500 GEL.<sup>27</sup>

According to the conclusion of the Human Rights Center, the person who posted the video in social networks had illegally obtained it from the MIA as the P.A.M had handed this video only to the Ministry. At the same time, the investigation could not use the illegally obtained video as evidence and most probably they decided to publish the

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<sup>23</sup> See detailed information here

<http://humanrights.ge/index.php?a=main&pid=19223&lang=eng>

<sup>24</sup> See the detailed information here

<http://humanrights.ge/index.php?a=main&pid=19222&lang=eng>

<sup>25</sup> See the detailed information here <http://www.tabula.ge/ge/story/123850-qaldanis-utskebam-lasha-tordias-saqmeze-klubi-samartaldamrghvevad-cno> (available only in Georgian)

<sup>26</sup> See the detailed information here

<http://humanrights.ge/index.php?a=main&pid=19322&lang=eng>

<sup>27</sup> Ibid

video-proof on social network so that they could then enclose it to the case as an additional proof.<sup>28</sup>

### ● **CASE OF ARCHPRIEST GIORGI MAMALADZE**

On February 13, 2017 the Chief Prosecutor of Georgia notified the society that on February 10, 2017, officers of the Prosecution Service of Georgia arrested Archpriest Giorgi Mamaladze under the charges of the preparation of murder. The Chief Prosecutor said “Father Giorgi was to murder a high-ranking clergyman”.<sup>29</sup>

Investigative bodies stated that during the search they removed sodium cyanide from the suitcase of the archpriest and firearms from his house. According to the statement of the prosecutor’s office, the defendant was allegedly planning the murder of a high-ranking clergyman. However, later the February 11 accusation resolution was amended and secretary of the Patriarch of Georgia, Shorena Tetrushvili was indicated as alleged target of the murder. Due to the obscurity of the initial statement of the chief prosecutor, society perceived that the murder was planned against the Patriarch of Georgia.

Several public officials and politicians made statements after the briefing of the Chief Prosecutor of Georgia. According to the evaluations of the Prime Minister,<sup>30</sup> MPs,<sup>31</sup> Ministers<sup>32</sup> and other persons, the country escaped a huge tragedy. The statements of the PM and other government officials contained direct indications that the alleged target of the planned murder was the Patriarch of Georgia.

The Public Defender of Georgia reacted to the criminal case against Archpriest Giorgi Mamaladze with a public statement and called upon the Prosecutor's Office and state officials to respect the presumption of innocence.<sup>33</sup>

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<sup>28</sup> Ibid

<sup>29</sup> See the statement of the Chief Prosecutor at [http://pog.gov.ge/eng/news?info\\_id=1137](http://pog.gov.ge/eng/news?info_id=1137)

<sup>30</sup> See the statement of the PM <http://netgazeti.ge/news/173262/> (available only in Georgian)

<sup>31</sup> See the statements of MPs at <http://www.interpressnews.ge/ge/politika/418685-mamuka-mdinaradze-sasuliero-piris-motsamvlis-mcdelobaze-sagamodziebo-jgufis-?ar=A> (available only in Georgian)

<sup>32</sup> See the statement of the Minister at <http://www.interpressnews.ge/ge/politika/418679-kakha-kaladze-dekanozis-dakavebaze-es-iyo-kargad-gathvlili-gegma-romlis-?ar=A> (available only in Georgian)

<sup>33</sup> See the statement of the Public Defender of Georgia at <http://www.ombudsman.ge/en/news/public-defenders-statement-on-archpriest-giorgi-mamaladzes-case.page>

Nongovernmental organizations expressed concern in regards with the violation of presumption of innocence in relation to the archpriest Giorgi Mamaladze and called upon the senior officials to respect the requirements of the Constitution of Georgia.<sup>34</sup>

According to the Human Rights Center, the statements of the senior government officials violate the presumption of innocence, which, at the same time, may influence the preliminary opinion of the society and undermine fair and impartial investigation into the fact.<sup>35</sup>

The Prosecutor's Office requested defendant Giorgi Mamaladze and his lawyers to sign the non-disclosure agreement that restricted the defense side's possibility to obtain evidence and provide the society with the information about the case, while the prosecutor's office itself publicized the main evidence in the case.

Human Rights Center called upon the Chief Prosecutor's Office of Georgia to free the defendant and his lawyers from the obligations undertaken by the non-disclosure agreement and allow them to effectively use the defense mechanism.<sup>36</sup>

Public Defender of Georgia stated that imposing the non-disclosure obligation over the defense lawyers violated the principle of equality of arms.<sup>37</sup>

The trials into the so-called "Cyanide Case" were closed during all three stages at the Tbilisi City Court. According to the NGOs, full closure of the court hearings into defendant Giorgi Mamaladze's case did not serve the legitimate goal of closing the court hearings stipulated in the criminal procedure code and there was no need to apply such radical measures.<sup>38</sup>

On May 30, 2017, the Public Defender of Georgia arrived at the Tbilisi City Court in order to attend the hearing of the so-called "Cyanide Case". The judge did not allow the Public Defender to attend the trial. According to the judge, the procedural legislation does not explicitly include a norm allowing the Public Defender to attend closed trials. Later,

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<sup>34</sup> See the statement of the NGOs at <http://humanrights.ge/index.php?a=main&pid=19119&lang=eng> ; <http://humanrights.ge/index.php?a=main&pid=19122&lang=eng>

<sup>35</sup> See the statement of Human Rights Center at <http://humanrights.ge/index.php?a=main&pid=19119&lang=eng>

<sup>36</sup> See the statement of HRC at <http://humanrights.ge/index.php?a=main&pid=19123&lang=eng>

<sup>37</sup> See the statement of the PD at <http://www.ombudsman.ge/en/news/public-defender-publishes-monitoring-report-on-so-called-cyanide-case.page>

<sup>38</sup> See the statements here <http://humanrights.ge/index.php?a=main&pid=19271&lang=eng> ; <http://humanrights.ge/index.php?a=main&pid=19201&lang=eng>

during the next hearings, the court allowed the Public Defender to attend the closed hearings.<sup>39</sup>

On September 5, 2017, Archpriest Giorgi Mamaladze was sentenced to 9 year imprisonment. The judge changed the qualification of the prosecutor's accusation to the crime envisaged by the Article 18/108 of the Criminal Code of Georgia that refers to the plotting of the premeditated murder. The judge revoked the accusation of self-interest. The hearings into the "Cyanide Case" took up about 8 months in Tbilisi City Court.<sup>40</sup>

In October of 2017 Giorgi Mamaladze appealed the guilty verdict to the Appeal Court.<sup>41</sup>

### ● **CASE OF AFGAN MUKHTARLI**

Azerbaijani journalist Afgan Mukhtarli who lived in Tbilisi, disappeared from the city center in the evening of May 29, 2017.<sup>42</sup> Next day he was found in the territory of Azerbaijan, where the Azerbaijani law enforcement officers arrested him under the charge of illegal crossing of the border, smuggling of particularly large amount of foreign currency and disobedience to the police. The journalist stated that Georgian speaking individuals dressed in the uniform of criminal police of the Georgian Ministry of Internal Affairs kidnapped him and then handed him to the Azerbaijani people, who hand-cuffed and ruthlessly beat him. Georgian MIA commenced an investigation under Article 143 Part I of the Criminal Code of Georgia that refers to the illegal restriction of freedom.<sup>43</sup>

On July 3, 2017, the Public Defender of Georgia addressed the Prosecutor General of Georgia with a proposal to ensure an effective investigation into the alleged offense committed by the officers of the Ministry of Internal Affairs of Georgia and to recognize Azerbaijani journalist Afgan Mukhtarli as a victim.<sup>44</sup> The Public Defender of Georgia

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<sup>39</sup> See information here <http://humanrights.ge/index.php?a=main&pid=19229&lang=eng>

<sup>40</sup> See the information here <http://rustavi2.ge/en/news/84159>

<sup>41</sup> See the information about the so-called Cyanide Case at <https://1tv.ge/news/tbilisis-saapelacio-sasamartloshi-e-w-cianidis-saqmis-gankhilva-iwyeba/>

<sup>42</sup> See the information about the case of Azerbaijani journalist at <http://liberali.ge/news/view/29575/adamianis-uflebata-sakhli-azerbajaneli-zhurnalisti-afgan-mukhtarli-saqartveloshi-gauchinarda> (available only in Georgian); and documentary film about the Azerbaijani activists in Georgia at <http://www.hridc.tv/index.php?a=view&id=1251&lang=eng> (available in Georgian)

<sup>43</sup> See information about the case of Azerbaijani journalist at <http://rustavi2.ge/ka/news/77286> (available only in Georgian)

<sup>44</sup> See the statement of the Public Defender at <http://humanrights.ge/index.php?a=main&pid=19268&lang=eng>

stated that the law enforcement agencies should urgently and effectively respond to the mentioned case. “First of all, the State must take all measures to prevent a crime in a timely manner, and then bring offenders to justice and adequately punish them. The Georgian state shall ensure full protection of the rights of all persons living on its territory.<sup>45</sup> The Public Defender considers that the investigation of the alleged offense committed by the Ministry of Internal Affairs of Georgia by the same Ministry cannot provide the degree of independence required for the effective investigation.”<sup>46</sup>

On June 6 and 9, 2017 international and local organizations sent an open letter to the Prime Minister and the Parliament of Georgia in regards to Afgan Mukhtarli’s case.<sup>47</sup> The organizations hoped that the investigation would fully shed light on the abductors’ identities and clarify the potential role of the Georgian authorities in what happened.<sup>48</sup> Prosecutor’s office is currently investigating the case of Afgan Mukhtarli. Lawyer of the Article 42 of the Constitution, Archil Chopikashvili is defending his interests within framework of the project implemented by the Human Rights House Tbilisi.

## **RULING OF THE EUROPEAN COURT OF HUMAN RIGHTS INTO IVANE MERABISHVILI’S CASE**

On November 28, 2017, the Grand Chamber of the European Court of Human Rights passed verdict into the case of the former Prime Minister of Georgia, Vano Merabishvili. The complaint was filed in relation to Vano Merabishvili’s arrest and pretrial imprisonment.

In accordance to the ECHR ruling, pretrial detention of Georgia’s former Prime Minister Vano Merabishvili was justified in the beginning, but later on the predominant purpose became to obtain information on unrelated cases.<sup>49</sup>

As a result, the Grand Chamber of the Strasbourg-based court found<sup>50</sup> that there has been a violation of Article 18 (limitation on use of restrictions on rights) of the European

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<sup>45</sup> See the statement of the Public Defender at <http://humanrights.ge/index.php?a=main&pid=19227&lang=eng>

<sup>46</sup> See the statement of the Public Defender at <http://humanrights.ge/index.php?a=main&pid=19268&lang=eng>

<sup>47</sup> See the open letter of the international organizations at <http://humanrights.ge/index.php?a=main&pid=19242&lang=eng>

<sup>48</sup> Ibid and see also at <http://humanrights.ge/index.php?a=main&pid=19240&lang=eng>;  
<http://www.hridc.tv/index.php?a=view&id=1251&lang=eng>

<sup>49</sup> See information at <http://www.civil.ge/eng/article.php?id=30676&search>

<sup>50</sup> See the judgment at <http://civil.ge/files/files/2017/Merabishvili v.-Georgia Judgement.pdf>

Convention on Human Rights taken in conjunction with Article 5 § 1 (right to liberty and security).

In its judgment, the European Court of Human Rights (ECtHR) declared that although Merabishvili's pre-trial detention had taken place "against the backdrop of bitter political antagonism between UNM and Georgian Dream," his submissions "are not sufficient to show that the predominant purpose of that detention was to hinder his participation in Georgian politics rather than to ensure the proper conduct of the criminal proceedings against him." However, the judgment notes that the violations against Ivane Merabishvili were committed due to his political status.

The ECtHR awarded Merabishvili with EUR 4,000 for non-pecuniary damages.

### **NOVEMBER 22, 2017 COUNTER-TERRORIST OPERATION**

On November 22, 2017, the counter-terrorist operation at Beri Gabriel Salosi Street in Tbilisi, which lasted 20 hours, ended with the liquidation of alleged terrorists. Among them was a participant of the so-called Lapankuri Special Operation in 2012 and one of the members of ISIS, Akhmet Chataev, who is on the US list of international terrorists. One special unit officer was killed and four law enforcement officers were wounded during 22-hour-long special operation. A total of four members of the terrorist organization fought against the special unit. Three of them were killed and one was arrested.<sup>51</sup> The special operation raised questions in many aspects, namely, how the terrorists entered the Georgian territory, why the border officers allowed them into the country, and more. In order to respond to these questions, the parliamentary opposition requested to set up temporary investigative commission in the Parliament but the ruling party refused to do so.

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<sup>51</sup> See the information at <https://jam-news.net/?p=71471&lang=ka> (available in Georgian) and at <https://jam-news.net/?p=73408>

## RIGHTS OF FOREIGNERS

The problem of granting refugee and humanitarian status to foreigners continued to be a challenge during 2017.

### • *CASE OF MUSTAFA EMRE ÇABUK*

Çabuk, one of the managers of the Private Demirel College in Tbilisi, was detained on May 24 at the request of Turkish authorities allegedly for having links to Fethullah Gülen-associated FETÖ - an organization designated as terrorist by Turkey. Çabuk, who denies the accusations, was put in three-month pre-extradition detention by the Tbilisi City Court on May 25<sup>52</sup>. Mustafa Emre Çabuk is at imminent danger of extradition to Turkey, where he is at risk of torture and other grave human rights violations.

Nongovernmental organizations sent legal opinion about Mustafa Emre Çabuk to the President of Georgia, Chairman of the Parliament, Prime Minister, Minister of Justice, the Minister of IDPs, Accommodation and Refugees and Chief Prosecutor of Georgia.<sup>53</sup> According to the document, extradition of Mustafa Emre Çabuk to Turkey substantially violates fundamental human rights and rule of law standards and is damaging to the process of democratic development of the country.<sup>54</sup>

On July 7, 2017 the Ministry of Refugees refused to grant Mustafa Çabuk a refugee status<sup>55</sup> that, in August, was appealed by Çabuk at the Tbilisi City Court.

On September 26, 2017 Human Rights Center submitted the amicus curiae to the Administrative Panel of the Tbilisi City Court concerning the Mustafa Emre Çabuk's case.<sup>56</sup> In its amicus curiae Human Rights Center notes that Mustafa Emre Çabuk shall receive the refugee status in Georgia. His extradition to Turkey threatens his life and health. HRC monitored the hearing of Mustafa Çabuk's case in the Tbilisi City Court.

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<sup>52</sup> See the information: <http://civil.ge/eng/article.php?id=30129>

<sup>53</sup> See the legal opinion at <https://emcrights.files.wordpress.com/2017/06/eng-legal-opinion.pdf>

<sup>54</sup> Ibid

<sup>55</sup> See the statement of the Ministry about Çabuk's application at <https://www.youtube.com/watch?v=DhfvkT7Sg-E> (available only in Georgian)

<sup>56</sup> See the information at <http://humanrights.ge/index.php?a=main&pid=19352&lang=eng>

On November 21, 2017 the Tbilisi City Court upheld the decision of the Ministry of Refugees of Georgia which denied refugee status to Çabuk and his family members.<sup>57</sup>

● **CASE OF MICHAEL KADIEV**

In October 2017, the Appeal Court satisfied the lawsuit of the Ministry of Refugees of Georgia according to which refugee from Chechnya Michael Kadiev was refused to receive refugee status in Georgia. Michael Kadiev is accused of murder in Russia which has requested his extradition. Michael Kadiev is currently facing the threat of being extradited to Russia where there is real danger that he might be tortured and even killed. The Ministry of Refugees of Georgia states that there is no political motive in this case and the defense side tries to create grounds for Kadiev's legal stay in Georgia to free him from criminal liability.<sup>58</sup> Human Rights Center addressed the UN Refugee Agency with regard to Michael Kadiev and the Agency started working on his case.

● **CASE OF DASHGIN AGHALARLI**

In June, 2016, with legal aid of Human Rights Center, the Administrative Panel of the Tbilisi City Court granted refugee status to the citizens of Azerbaijan, Dashgin Aghalarli and Orkhan Aghalarli. The Tbilisi City Court fully shared the position of the applicants, which claimed that the Aghalarlis faced real threat of being killed, tortured and politically persecuted in Azerbaijan.<sup>59</sup>

After the court ruling, the persecution and physical oppression of Dashgin Aghalarli intensified. One of the incidents happened on September 6, 2016 when two different unidentified people called him on his phone and asked for a meeting in a square in Tbilisi. One of the persons introduced himself as representative of the Georgian Ministry of Internal Affairs and the second said he represented the State Security Service. Both institutions later denied that their representatives had contacted Dashgin Aghalarli but none of them got interested to find out who contacted the Azerbaijani political activist. It is noteworthy that after these incidents, the Tbilisi Appeal Court annulled the decision of the Tbilisi City Court based on the conclusion of the Counter-Intelligence Department and refused Dashgin Aghalarli to receive refugee status in Georgia.<sup>60</sup>

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<sup>57</sup> See information about Mustafa Emre Çabuk's case at <http://www.civil.ge/eng/article.php?id=30659>

<sup>58</sup> See the information about Michael Kadeiv at <http://liberali.ge/news/view/32235/mosalodnelia-tu-ara-mikail-kadiev-is-eqstraditsia-da-ra-saftrkhe-daemuqreba-mas-rusetshi> (available only in Georgian)

<sup>59</sup> See information at <http://www.humanrights.ge/index.php?a=main&pid=18791&lang=eng>

<sup>60</sup> See the statement about the case at <http://humanrights.ge/index.php?a=main&pid=19239&lang=eng>

In June 2017, with the legal advocacy of Human Rights Center, Dashgin and Orkhan Agalarlis received one-year temporary residence permit in Georgia based on which he will not be expelled from Georgia.

## RIGHTS OF CONVICTS IN PENITENTIARY FACILITIES

In 2017, institutional reform was carried out in the penitentiary system, in the frame of which significant amendments were made in the Prison Code. Human Rights Center positively evaluates the changes which enables the inmates of low risk penitentiary facilities to get high education, as well as reduction of the administrative imprisonment terms. Some other positive changes should also be highlighted, such as allowing the inmates of high-risk facilities to have two conjugal visits per year and giving right to female convicts, who had children under the age of 3 in the facilities, to leave the facility during holidays during the year following the departure of children, and more.<sup>61</sup> The legislative amendments which prohibited the accused/convicted inmates of the penitentiary facilities to have correspondence between each other should be evaluated negatively. The restriction of the participation in the educational process, video-meetings and conjugal visits while serving the disciplinary punishment should also be assessed negatively.

Public Defender believes that the criminal sub-culture that exists in the prison facilities is a significant challenge, which creates serious threat of prisoners' ill-treatment and often becomes reason for violence and intimidation among prisoners.<sup>62</sup>

Different facts of ill-treatment of prisoners were observed in the penitentiary system. According to the statement of Human Rights Center, convicted S.S with disabilities, who cannot move independently and uses wheelchair, stated that his life was in danger in the prison facility. The convicted said the influential prisoners tried to murder him and the prison personnel supported them in it.<sup>63</sup>

At the same time, there were cases when convicts complained about inadequate, ineffective and delayed surgical or outpatient medical treatment.<sup>64</sup>

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<sup>61</sup> See the Prison Code of Georgia at <https://matsne.gov.ge/ka/document/view/91612> (available only in Georgian)

<sup>62</sup> See the speech of the Public Defender about 2017 report at <https://www.youtube.com/watch?v=DJRLj0EVNcY> (available only in Georgian)

<sup>63</sup> See the address of Human Rights Center at <http://humanrights.ge/index.php?a=main&pid=19301&lang=eng>

<sup>64</sup> Watch the documentary film by Human Rights Center at <http://www.hridc.tv/index.php?a=view&id=1244&lang=eng> (available only in Georgian)

According to Human Rights Center's assessment, early release of the convicts who have severe health problems is still a problem in the Georgian penitentiary system. Joint permanent commission of the Ministries of Healthcare and Corrections makes decisions based on the information provided by law enforcement bodies. The commission abuses its power and violates the resolution and normative act, which states that if the disease of the convicted person is one of those on the list of grave and incurable diseases, the convicted person must be released early from the prison.<sup>65</sup>

## ILL-TREATMENT IN POLICE CUSTODY

Public Defender of Georgia stated that in 2017, like in previous years, the Public Defender's Office studied several complaints about the alleged ill-treatment of citizens from the side of the law enforcement officers.<sup>66</sup> According to the ten months' data in 2017, the number of applications regarding the alleged facts of ill-treatment committed by the police officers during and after the detention has increased. The Public Defender raises concerns about the delayed and ineffective investigation into the alleged facts of ill-treatment.

Nongovernmental organizations also speak about the ineffective investigation of alleged facts of ill-treatment committed by police officers<sup>67</sup>.

### ● *CASE OF S.M*

On September 22, police officers detained S.M, beneficiary of Human Rights Center, and took him to the Vake-Saburtalo district police unit # 6 in the Digomi village.<sup>68</sup> The citizen reported that as soon as he was brought to the police office, the officers started to intimidate him in order to force him to admit a crime which he had not committed. Specifically, the police officers, through verbal and physical forms of intimidation demanded him to sign the preliminarily drafted confession statement. The detainee refused to admit the crime and requested a lawyer, but police officers did not satisfy his request. He was not allowed to make a phone call either. Monitors from the Office of Public Defender visited him in the detention setting and reported about the violations.

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<sup>65</sup> See the statement of Human Rights Center at <http://humanrights.ge/index.php?a=main&pid=19162&lang=eng>

<sup>66</sup> See the speech of the Public Defender about 2017 Report at <https://www.youtube.com/watch?v=DJRLj0EVNcY> (available only in Georgian)

<sup>67</sup> See the information: <http://humanrights.ge/index.php?a=main&pid=19336&lang=eng>

<sup>68</sup> Watch the documentary film by Human Rights Center at <http://www.hridc.tv/index.php?a=view&id=1245&lang=eng> (available only in Georgian)

Human Rights Center addressed the Chief Prosecutor's Office of Georgia, to immediately commence investigation into the alleged fact of battery, torture and inhuman treatment of the accused S.M; to immediately conduct forensic medical expertise and all other necessary investigative activities to ensure effective investigation of the fact.<sup>69</sup>

● **CASE OF P.P**

On October 25, 2017, in the Nutsbidze Plateau, Tbilisi, detention of a citizen by police officers caused grave health problems and death of the person.

Nongovernmental organizations state that the absence of video-recording of the concrete episode of the detention raises concerns in the society, particularly considering that the internal instructions and Ethic Code of MIA oblige the patrol police officer to video-record their activities non-stop. Recordings from the surveillance camera are significant and often the only evidence to estimate whether the police officers abused their power or other incidents took place.<sup>70</sup> The organizations called on the MIA to develop holistic strategy for the prevention of abuse of power from the side of the police officers and equip each of their officers with surveillance cameras, who have direct contact with citizens, as well as clearly regulate the use of technical equipment.

● **CASE OF LAWYER GIORGI MDINARADZE**

On October 23, 2017 the Tbilisi City Court passed verdict into the case of physical assault of the lawyer Giorgi Mdinardze and imposed only GEL 10 000 as a fine on the accused Lasha Kvirkvaia.<sup>71</sup>

The Court found the former head of the Vake-Saburtalo district police unit guilty only in the abuse of power and acquitted him of charge in relation to the exercise of violence.

Human Rights Center is alarmed with the decision of the Tbilisi City Court, who in fact justified the violence committed against the lawyer in police custody and encouraged

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<sup>69</sup> See the address of Human Rights Center at

<http://humanrights.ge/index.php?a=main&pid=19336&lang=eng>

<sup>70</sup> See the evaluation by NGOs at

<http://humanrights.ge/index.php?a=main&pid=19379&lang=eng> (available only in Georgian)

<sup>71</sup> See the information at <http://reginfo.ge/people/item/3313-advokatis-zemashi-braldebul-poliziis-upross-10-000-lariani-jarima-daekisra> (available in Georgian)

the police officers to continue similar actions.<sup>72</sup> Human Rights Center defends interests of the lawyer Giorgi Mdinardze.

In a joint letter addressed to the Georgian authorities, FIDH and its member organization in Georgia, Human Rights Centre (HRIDC), express their concern over a growing number of allegations of cruel and humiliating treatment inflicted in places of detention in Georgia.<sup>73</sup> FIDH and Human Rights Center address the Prime Minister, Minister of Interior and Chief Prosecutor of Georgia and remind them that the State is not only obliged to prevent torture, inhuman and degrading treatment but also to impartially and effectively investigate allegations thereof.

### ● **CASE OF ZVIAD RATIANI**

On December 23, 2017, poet Zviad Ratiani was detained under the charges of minor hooliganism and resistance to the police. The poet states that the law enforcement officials physically and verbally assaulted him. According to Ratiani, he was detained due to the color of his coat and was physically assaulted. Zviad Ratiani had visible bodily injuries as a result of the incident<sup>74</sup>.

Different writers and publishers expressed solidarity to Zviad Ratiani and requested punishment of the law enforcers who participated in his beating.

The investigative department of Chief Prosecutor's Office is currently looking into the alleged fact of exceeding authority by violence from the side of the employees of MIA. The General Inspection of MIA suspended the authority of one of the policemen up until the investigation is over.

Human Rights Education and Monitoring Center (EMC) defends the interests of Zviad Ratiani. The organization addressed the relevant bodies and requested the granting of victim status to Ratiani for the involvement in the process of investigation. EMC also called for the systemic reforms in the MIA and creation of the independent investigative mechanism which will have the competence for the investigation and criminal prosecution of such cases<sup>75</sup>.

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<sup>72</sup> See the statement of HRC at

<http://humanrights.ge/index.php?a=main&pid=19366&lang=eng>

<sup>73</sup> See the joint letter of FIDH and HRC at <https://www.fidh.org/en/region/europe-central-asia/georgia/joint-letter-to-the-georgian-authorities-concerning-cruel-and>

<sup>74</sup> See the information:

<http://www.tabula.ge/en/story/128067-georgian-poet-claims-he-was-physically-assaulted-by-police>

<sup>75</sup> See the information regarding this topic:

Tbilisi City Court found poet Zviad Ratiani guilty of two administrative offenses and fined him 2,000 GEL. Ratiani was accused under two articles of the Code of Administrative Offenses – 166 (hooliganism) and 173 (resistance to police)<sup>76</sup>. The lawyer plans to appeal the court’s decision.

## CASE OF TEMIRLAN MACHALIKASHVILI

On December 26, 2017, at approximately 04:00 am, the employees of the Counterterrorism Center of the State Security Service of Georgia conducted a special operation in several villages in Pankisi Gorge. Four individuals were detained as a result of the special operation. The resident of the village Duisi, Temirlan Machalikashvili was gravely wounded by the members of the special force unit. According to the statement disseminated by the State Security Service - “in the moment of detention, Temirlan Machalikashvili tried to offer resistance to law enforcers. Machalikashvili tried to activate a hand grenade, when proportional force was employed due to extreme need in order to suppress criminal activity, and law enforcers opened fire in his direction, as a result of which Machalikashvili received firearm injuries to the head. Machalikashvili was brought to the hospital”<sup>77</sup>. The family members of Temirlan Machalikashvili who were present at the place of incident, state that the law enforcers fired immediately when they entered Temirlan’s room where he was lying in his bed<sup>78</sup>.

As a result of the sustained injuries, Temirlan Machalikashvili died in the hospital in Tbilisi.

According to the NGOs, it is essential that the state authorities ensure complete, comprehensive and thorough investigation into this case<sup>79</sup>. The NGOs have stressed that the investigation should not be merely formal.

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<https://www.youtube.com/watch?v=jnHCOZuroxo>

<sup>76</sup> See the information:

<https://1tv.ge/en/news/zviad-ratiani-fined-2000-gel/>

<sup>77</sup> See the information:

<http://dfwatch.net/detained-georgia-isis-terror-plot-49673>

<sup>78</sup> See the statement: [https://emc.org.ge/2018/01/05/emc-377/#\\_ftn2](https://emc.org.ge/2018/01/05/emc-377/#_ftn2) (the link is available only in Georgian)

<sup>79</sup> *ibid*

## **INEFFECTIVE WORK OF GENERAL INSPECTION OF MINISTRY OF INTERNAL AFFAIRS**

The citizens who voiced concerns about the violations committed by the General Inspection of MIA have addressed the Human Rights Center during the year of 2017. Human Rights Center processed cases during 2017 which touched upon the ineffective and biased investigation of the misconduct of the employees of MIA.

According to the assessment of Human Rights Education and Monitoring Center (EMC), the indefinite power of the law-enforcement officials is not balanced with the effective mechanisms of internal and external control. The norms which should regulate the work of the General Inspection are not sufficiently clear and foreseeable<sup>80</sup>.

According to the assessment of Public Defender of Georgia, incomplete, nontransparent and protracted process of the individual complaint review and refusal of informing an applicant hinders establishment of public trust towards the justice and legality<sup>81</sup>.

### **NECESSITY OF CREATING INDEPENDENT INVESTIGATIVE MECHANISM**

The necessity of creating independent investigative mechanism remains to be an important issue during 2017. The NGOs and Office of Public Defender of Georgia talked about the necessity of creating institutionally independent investigative mechanism that would investigate the crimes committed by the representatives of law enforcement bodies.

On November 13, 2017, the Minister of Justice of Georgia, Tea Tsulukiani stated that the government has the political will for establishing such an independent investigative mechanism<sup>82</sup>.

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<sup>80</sup> See the assessment of Human Rights Education and Monitoring Center:

<https://emc.org.ge/2017/04/25/emc-255/>

<sup>81</sup> See the report at <http://ombudsman.ge/uploads/other/4/4922.pdf>

<sup>82</sup> See the statement of the Justice Minister: <https://1tv.ge/news/tea-wulukiani-premieris-doneze-gvaqvs-maghali-politikuri-neba-sheiqmnas-damoukidebeli-sagamodziebo-meqnizmi/>  
(link available only in Georgian)

On November 24, 2017, the Coalition for Independent and Transparent Judiciary called on the government to manage this process with the involvement of civil society in a timely and transparent manner<sup>83</sup>.

## REPRESSIVE DRUG POLICY

According to various NGOs, isolation of undesired persons under the charges of drug-related crimes which was systemic problem in the past was widespread practice during 2017 as well. Unfortunately, allegations of the drug-planting became of current interest during the recent months. Repressive drug policy developed under the conditions of the so-called “zero tolerance” policy creates a comfortable space for the police and prosecutor to exercise different kinds of pressure and other unlawful actions against the citizens.

Unfortunately, until now adequate measures have not been taken to eradicate the syndrome of impunity within the law enforcement body and to adequately react to the violations committed by the policemen<sup>84</sup>.

According to the July 13, 2017 decision of the Constitutional Court of Georgia, the normative content of Part 3, Article 260 of Criminal Code of Georgia which envisages the possibility of applying imprisonment as a penalty for preparing, purchasing and possessing up to 0.00009 grams of desomorphine for personal use was found unconstitutional<sup>85</sup>.

According to the July 14, 2017 decision, the Constitutional Court of Georgia found unconstitutional the normative content of part I of Article 265 of Criminal Code of Georgia which envisages imprisonment for the illegal sowing or growing of the narcotic – cannabis (plant) for personal use, as well as the normative part of Part II of the same Article which envisages imprisonment for the illegal sowing, growing or cultivating cannabis up to 151 grams for the personal use<sup>86</sup>.

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<sup>83</sup> See the statement of the Coalition:

[http://www.coalition.ge/index.php?article\\_id=172&clang=1](http://www.coalition.ge/index.php?article_id=172&clang=1)

<sup>84</sup> See detailed information: [http://www.coalition.ge/index.php?article\\_id=159&clang=1](http://www.coalition.ge/index.php?article_id=159&clang=1)

<sup>85</sup> See the information:

[https://idfi.ge/public/upload/IDFI\\_Photos\\_2017/rule\\_of\\_law/opinion\\_of\\_giorgi\\_mshvenieradze\\_and\\_marine\\_kapanadze.pdf](https://idfi.ge/public/upload/IDFI_Photos_2017/rule_of_law/opinion_of_giorgi_mshvenieradze_and_marine_kapanadze.pdf) (link available only in Georgian)

<sup>86</sup> See the information:

[https://idfi.ge/public/upload/IDFI\\_Photos\\_2017/rule\\_of\\_law/opinion\\_of\\_giorgi\\_mshvenieradze\\_and\\_marine\\_kapanadze.pdf](https://idfi.ge/public/upload/IDFI_Photos_2017/rule_of_law/opinion_of_giorgi_mshvenieradze_and_marine_kapanadze.pdf) (link available only in Georgian)

On November 30, 2017, the Constitutional Court of Georgia satisfied the complaint of the political party Girchi in which the citizen Givi Shanidze requested the full repeal of criminal responsibility for the repeated use of marijuana. The decision of the Constitutional Court of Georgia means that the use of marijuana in Georgia has been decriminalized to some extent<sup>87</sup>.

## **NEW DEPARTMENT OF CHIEF PROSECUTOR'S OFFICE AND REVIEW OF CASES**

The new department of Chief Prosecutor's Office of Georgia achieved significant success in terms of investigation of the cases of former political prisoners during 2017.

### **• CASE OF BAKUR KIGHURADZE**

The Department to Investigate Offenses Committed in the Course of Legal Proceedings renewed investigation into the case of Bakur Kighuradze – who has been recognized to be a political prisoner by the Parliament of Georgia. The Chief Prosecutor's Office states that as a result of a new investigation it was persuaded in the innocence of Bakur Kighuradze and adopted resolution regarding the review of judgment in his case.

The resolution which confirms the innocence of Bakur Kighuradze was forwarded to the Tbilisi Court of Appeals due to the newly revealed circumstances. According to the resolution, the Chief Prosecutor's Office requested the judgment of acquittal from the Tbilisi Court of Appeals. Human Rights Center defends the interests of Bakur Kighuradze<sup>88</sup>.

### **• CASE OF VAKHTANG MAISAIA**

The new department of the Chief Prosecutor's Office renewed investigation into the case of the former political prisoner, Vakhtang Maisaia as well as the case of his torture. Vakhtang Maisaia was interviewed as a witness. There is investigation currently ongoing in the new department of Chief Prosecutor's Office. Human Rights Center represents the interests of Vakhtang Maisaia.

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<sup>87</sup> See the information:

<https://1tv.ge/en/news/constitutional-court-lifted-criminal-responsibility-marijuana-consumption/>

<sup>88</sup> See the information regarding the case Bakur Kighuradze:

<http://humanrights.ge/index.php?a=main&pid=19147&lang=eng>

## SECRET EAVESDROPPING AND SURVEILLANCE

On March 1, 2017, the Parliament of Georgia adopted package of legislative amendments through the final hearing which envisages creation of the new agency subordinated to the State Security Service which will carry out covert investigative activities<sup>89</sup>.

The members of the campaign – This Affects You – assessed the adoption of the new package of the legislative amendments as an unfortunate precedent of disregard of the Constitutional Court decision. According to the members of the campaign, not only does this reform fail to resolve existing problems related to the protection of the right to privacy, but it also increases the risks of abuse of inviolability of personal data<sup>90</sup>.

The Public Defender of Georgia negatively assessed the draft law initiated in the Parliament regarding the covert investigative activities. According to the Public Defender, the fact that the so-called "key" will still belong to the State Security Service, on the one hand, will not ensure execution of the Constitutional Court's decision of April 14, 2016, and on the other hand, will not eliminate public distrust existing in the society in regards with the illegal secret surveillance<sup>91</sup>.

In April, 2017, the campaign – This Affects You – submitted constitutional complaint on behalf of 227 citizens regarding the new legislation about the covert eavesdropping and surveillance to the Constitutional Court of Georgia and requested to find the new law unconstitutional<sup>92</sup>.

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<sup>89</sup> See the information about the new legislation:

<http://www.tabula.ge/ge/story/117784-parlamentma-ets-mosmenebis-shehexeb-kanoni-mesame-mosmenit-miigho> (link available only in Georgian)

<sup>90</sup> See the statement of the campaign This Affects You:

[https://idfi.ge/en/law\\_on\\_secret\\_surveillance\\_regulation\\_will\\_not\\_ensure\\_privacy\\_and\\_georgian\\_constitution\\_is\\_still\\_violated](https://idfi.ge/en/law_on_secret_surveillance_regulation_will_not_ensure_privacy_and_georgian_constitution_is_still_violated)

<sup>91</sup> See the statement of the Public Defender:

<http://humanrights.ge/index.php?a=main&pid=19118&lang=eng>

<sup>92</sup> See the information regarding the constitutional complaint:

<https://www.eshengexeba.ge/?menuid=9&id=1153&lang=1>

## RIGHTS OF WOMEN

During 2017, by ratifying the 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence, government of Georgia made significant steps in terms of improving the state of rights of women.

The Law of Georgia on Elimination of Violence against Women and/or Domestic Violence, Protection and Support of Victims of Violence expanded the mechanisms for protection and support of victims<sup>93</sup>.

According to the 2017 amendments, the current version of Law on Elimination of Violence against Women and Domestic Violence, Protection and Support of Victims of Violence covers not only the scope of the domestic violence, but, broadly, violence against women as well; usage of restraining and protective orders is possible in case the violence against women is revealed. A new article was added to the Criminal Code of Georgia<sup>94</sup> which envisages criminalization of female genital mutilation. It is especially important to establish criminal punishment for these kinds of actions considering the instances of female genital mutilation which took place in Georgia in recent period.

The cases of femicide were also observed during 2017<sup>95</sup>. According to the 2017 report of Public Defender of Georgia, since January 1 till September 20, 2017, the investigation started regarding 22 facts of murder of women and 11 facts of attempted murder. During recent years, in the light of increased murders, the Public Defender of Georgia made decision to annually prepare and present the monitoring report regarding the femicide<sup>96</sup>.

Investigation of violence against women and domestic violence still remains to be problematic. During 2017, the lawyers of Human Rights Center addressed the Ministry of Internal Affairs and Chief Prosecutor's Office and requested the investigation of cases of domestic violence in accordance with the special criminal provisions addressing the domestic violence. These are: Articles 126<sup>1</sup> (domestic violence) and 11<sup>1</sup> (liability for domestic crime). The goal of the lawyers was to promote the adequate protection of victims. The organization observed cases when investigation was commenced under general provisions, like, Article 125 (beating), Article 118 (premeditated minor damage

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<sup>93</sup> See the law: <https://matsne.gov.ge/ka/document/view/26422>

<sup>94</sup> See the article 133<sup>2</sup> of Criminal Code of Georgia:

<https://matsne.gov.ge/ka/document/view/16426>

<sup>95</sup> See the information regarding the case of femicide:

<http://humanrights.ge/index.php?a=main&pid=19243&lang=eng>

<sup>96</sup> See the 2017 report of Public Defender:

<https://www.youtube.com/watch?v=DJRLj0EVNcY>

of body) and Article 120 (minor damage of health) of the CCG. However, based on the petitions of the Human Rights Center, the investigative bodies changed the qualifications of the criminal charges into the article on domestic violence (Article 1261 of the CCG). The analysis of these cases shows that commencing investigation under the special provisions of CCG still remains to be problematic<sup>97</sup>.

Granting victim status to the victims of domestic violence still remains to be a challenge. The lawyers of Human Rights Center addressed the offices of prosecutor multiple times with the request to grant status to the victims of domestic violence. The status is more or less timely granted to the victims of physical violence but victims of psychological, economic violence and intimidation still cannot get the status timely<sup>98</sup>.

On August 16, 2017, the Public Defender of Georgia addressed the Ministry of Internal Affairs with a recommendation regarding the ineffective reacting to the two cases of domestic violence. According to the recommendation, the Public Defender of Georgia requested from the MIA to thoroughly study the cases and take effective measures for the protection of the family members<sup>99</sup>.

## RIGHTS OF RELIGIOUS MINORITIES

The facts of violation of freedom of religion were observed during 2017 as well.

During 2017, Human Rights Center processed cases which involved protection of rights of religious minorities. The cases touch upon the issues in terms of obtaining permissions for the construction of mosques. Religious minorities still face problems in Georgia when it comes to getting permissions for the construction of the religious or other buildings of worship. Religious minorities often get unsubstantiated refusals from the authorities responsible to issue such permissions and come across the difficulties<sup>100</sup>.

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<sup>97</sup> See Human Rights Center Report – Rights of Women, Religious and Ethnic Minorities, 2017: <http://humanrights.ge/admin/editor/uploads/pdf/angarishebi/hrdc/HRC%20Report%20-ENG-with%20cover.pdf>

<sup>98</sup> See Human Rights Center Report – Rights of Women, Religious and Ethnic Minorities, 2017: <http://humanrights.ge/admin/editor/uploads/pdf/angarishebi/hrdc/HRC%20Report%20-ENG-with%20cover.pdf>

<sup>99</sup> See the statement of the Public Defender of Georgia: <http://humanrights.ge/index.php?a=main&pid=19315&lang=eng>

<sup>100</sup> See Human Rights Center Report – Rights of Women, Religious and Ethnic Minorities, 2017: <http://humanrights.ge/admin/editor/uploads/pdf/angarishebi/hrdc/HRC%20Report%20-ENG-with%20cover.pdf>

According to the assessment of Human Rights Education and Monitoring Center (EMC), construction of places of worship remains an important challenge for the non-dominant religious groups. Due to the open loyalty to the dominant religious groups, local government often denies the construction permits to the religious organizations under discriminatory grounds. In certain cases, refusals of construction permits have deeper political causes related to the general discriminatory policy of the state<sup>101</sup>.

According to the 2017 Report of the Public Defender of Georgia, three instances of the violence under the grounds of religious intolerance were referred to the PDO during 2017 which demonstrates the tendency in terms of the decrease of such crimes<sup>102</sup>. However, according to the Public Defender, the investigation of the facts of violence from previous years remains to be challenging.

## **RIGHTS OF INTERNALLY DISPLACED PERSONS AND OCCUPIED TERRITORIES**

According to the assessment of Public Defender of Georgia, the IDPs are not sufficiently involved in the decision-making process regarding the issues concerning them. They do not have complete information regarding the flat owners' partnership in IDP settlements. There is still a problem with the so-called semi-owned premises where measurements have been done numerous times but still have not been fully privatized to date. The problem of IDPs living in the dilapidated buildings is still acute<sup>103</sup>.

The NGOs disseminated statement regarding the holding of the de facto Parliamentary Elections in the occupied Abkhazia. According to the NGOs, the holding of the so-called Parliamentary Elections in the occupied Abkhazia on March 12 is illegal and its results cannot make substantial changes in the legitimate political space at the local and international levels<sup>104</sup>.

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<sup>101</sup> See the assessment of Human Rights Education and Monitoring Center:

<https://emc.org.ge/2017/09/20/emcreport/>

<sup>102</sup> See the 2017 Report on the Situation of the Protection of Human Rights and Freedoms in Georgia:

<http://ombudsman.ge/en/reports/specialuri-angarishebi/10-december-report-on-the-situation-of-the-protection-of-human-rights-and-freedoms-in-georgia.page>

<sup>103</sup> See the 2017 Report on the Situation of the Protection of Human Rights and Freedoms in Georgia:

<http://ombudsman.ge/en/reports/specialuri-angarishebi/10-december-report-on-the-situation-of-the-protection-of-human-rights-and-freedoms-in-georgia.page>

<sup>104</sup> See the statement of NGOs:

<https://advocacy.ge/eng/2017/03/11/arasamtavrobo-organizaciebis-gancxadeba-okupirebul-afxazetshi/>

## 2017 MUNICIPAL ELECTIONS

On October 21, 2017, the municipal elections were held in Georgia. The elections were observed by the local and international organizations, such as Georgian Young Lawyers Association, International Society for Fair Elections and Democracy, Transparency International Georgia, Human Rights Center and etc. Human Rights Center observed the villages inhabited by the ethnic minorities as well as conflict affected villages.

According to the evaluation of Human Rights Center, in the conflict-affected villages of Gori municipality and the villages inhabited with ethnic minorities in Akhmeta municipality, the elections were conducted mainly in peaceful and fair environment. In the polling stations of the abovementioned municipalities, where the organization monitored the polling process, the elections were carried out in peaceful environment and without substantial violations. The PEC chairpersons accepted and envisaged oral remarks of the HRC observers in regards with the procedural violations<sup>105</sup>.

The problems were mostly observed in the villages inhabited by ethnic minorities in Sagarejo and Telavi municipalities. On the one hand incompetence of the commission members and on the other hand low public awareness and lack of knowledge of the election legislation by the voters caused conflicts, tensions and in some precincts the - violations<sup>106</sup>.

Excessive activity and attempt to control the voters by the coordinators and campaigners of political parties have become an alarming tendency. This problem was observed in all municipalities where Human Rights Center conducted monitoring, including Telavi, Sagarejo, Gori and Akhmeta<sup>107</sup>.

According to the Public Defender of Georgia, the 2017 Municipal Elections were mostly conducted in a peaceful environment. Isolated violations were mainly caused by the inefficiency of election commission members. The Public Defender's representatives

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<sup>105</sup> See the report of Human Rights Center:

<http://humanrights.ge/admin/editor/uploads/pdf/angarishebi/hrdc/report-election%202017.pdf>

<sup>106</sup> See the information at the link:

<http://humanrights.ge/index.php?a=main&pid=19365&lang=eng> ;  
<http://www.hridc.tv/index.php?a=view&id=1248&lang=eng>

<sup>107</sup> See the report of Human Rights Center:

<http://humanrights.ge/admin/editor/uploads/pdf/angarishebi/hrdc/report-election%202017.pdf>

identified incidents where election precincts were opened with delay; commissions refused to register complaints; control ballot sheets were inaccurately filled in; etc<sup>108</sup>.

According to the International Election Observation Mission of OSCE/ODIHR, “the opening and voting were assessed as good or very good in almost all polling stations, despite some attempts to influence voters or keep track of who voted”<sup>109</sup>.

## RIGHTS OF LGBTQ INDIVIDUALS

The violations of rights of LGBTQ individuals, widespread homophobia and ineffective investigation of the hate motivated crimes persisted during the year of 2017.

On August 25, 2017, according to the members of Equality Movement, L.B. and T.K., they and their companion transgender women were attacked by strangers in the Batumi Boulevard. L.B. and T.K. asked police officers to help who were just observing the attack and did not take any action. Later, they arrested L.B. and T.K. with the use of force and verbally abused them, using homophobic insults. According to the detainees, police officers did not explain them their rights or the motive of the detention. They were not allowed to make a phone call either. According to the detainees, they were subjected to physical and verbal abuse in the police station as well<sup>110</sup>.

On August 26, 2017, the NGOs issued statement and called on the Chief Prosecutor’s Office to conduct timely, independent and effective investigation into the acts of beating and assault of L.B. and T.K. by the police officers and (other civilians) private persons<sup>111</sup>.

According to the Public Defender of Georgia, the negative attitudes that arise from the deeply-rooted stereotypes in the society encourage intolerance and violence against LGBTQ community<sup>112</sup>.

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<sup>108</sup> See the 2017 Report on the Situation of the Protection of Human Rights and Freedoms in Georgia:

<http://ombudsman.ge/en/reports/specialuri-angarishebi/10-december-report-on-the-situation-of-the-protection-of-human-rights-and-freedoms-in-georgia.page>

<sup>109</sup> See the report of International Election Observation Mission of OSCE/ODIHR:

<http://droa.ge/?p=13134>

<sup>110</sup> See the information:

<http://www.ombudsman.ge/en/news/public-defenders-statement-on-alleged-ill-treatment-of-members-of-equality-movement.page>

<sup>111</sup> See the statement of NGOs:

<http://www.isfed.ge/main/1272/eng/>

<sup>112</sup> See the report of Ombudsman:

<http://ombudsman.ge/uploads/other/4/4957.pdf>

## FREEDOM OF ASSEMBLY AND MANIFESTATION AND EVENTS IN BATUMI

On March 11, 2017, the protest of the citizens which started as a result of the verbal confrontation between the citizens and the patrol police officers because of the illegal parking surpassed the scope of freedom of peaceful assembly and manifestation. The protest turned into the confrontation which resulted in the violence, damage to the health and the destruction of property<sup>113</sup>.

According to the assessment of the Public Defender of Georgia and NGO sector, the reaction of the law enforcement in this process was late<sup>114</sup>.

## FREEDOM OF MEDIA

The hearing on Rustavi 2 case in Supreme Court of Georgia ended in 2017. According to the March 2, 2017 decision of Supreme Court of Georgia, the Supreme Court of Georgia made a decision to grant the Rustavi 2 TV Company to former owner Kibar Khalvashi. It was a closed hearing<sup>115</sup>.

On March 3, 2017, the European Court of Human Rights (ECtHR) has called upon Georgia's Supreme Court to temporarily suspend enforcement of the ruling<sup>116</sup>. ECtHR decided on March 7 to prolong the temporary suspension of March 2 decision of Supreme Court of Georgia "until further notice". The ECtHR also called upon the Georgian authorities to abstain from interfering with the applicant company's editorial policy<sup>117</sup>. The NGOs in Georgia had called on the ECtHR on March 5 "to use the right of temporary suspension until a final decision is made"<sup>118</sup>.

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<sup>113</sup> See the information regarding the Batumi events:

[https://www.youtube.com/watch?v=kbJiOdZ\\_NX4](https://www.youtube.com/watch?v=kbJiOdZ_NX4)

<sup>114</sup> See the statement of Georgian Young Lawyers Association:

<https://gyla.ge/en/post/arasamtavrobo-organizaciebis-ganckhadeba-batumshi-ganvitarebuli-movlenebis-shesakheb#sthash.RCx3S1PN.dpbs>;

2017 Report of Public Defender of Georgia:

<http://ombudsman.ge/uploads/other/4/4957.pdf>

<sup>115</sup> See the information:

<http://www.tabula.ge/en/story/117866-supreme-court-grants-rustavi-2-company-to-former-owner>

<sup>116</sup> See the information:

<https://www.rferl.org/a/georgia-tv-station-rustavi-2-court-ruling-protests/28345305.html>

<sup>117</sup> See the information about Rustavi 2:

<http://humanrights.ge/index.php?a=main&pid=19179&lang=eng>

<sup>118</sup> See the statement of NGOs:

The case is currently pending before the ECtHR.

## FREEDOM OF EXPRESSION

On June 9, 2017, the members of the rap project “Birzha Mafia” were detained<sup>119</sup>. The police stated that the rappers are arrested under the charges of drug related crime. The case was studied by the Office of Public Defender of Georgia. There were doubts that the detention was connected to the content of the music video where the rappers made fun of the police. According to the assessment of Public Defender of Georgia, the content of the video and the used imagery was protected fully by the freedom of expression<sup>120</sup>. The members of “Birzha Mafia” were released on bail<sup>121</sup>. The case is pending in the court.

## RIGHTS OF PERSONS WITH DISABILITIES

During 2017, the problems observed in previous years still persisted, including a proper exercise of PWD rights to education, health care, rehabilitation and re-socialization, labor and employment, accessibility, social protection. The introduction of social model for the award of the status of disabled person has been impeded. The access to physical environment, infrastructure, transport and information for PWDs remain a problem too<sup>122</sup>.

## VISA-FREE TRAVEL WITHIN THE EU

On March 8, 2017, according to the 539/2001 regulation amendment, Georgia has been put on the list of countries able to enjoy visa-free travel within the EU. Thus, since 28

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<http://www.transparency.ge/en/post/general-announcement/ngos-address-european-court>

<sup>119</sup> See the information:

<http://www.transparency.ge/en/blog/information-investigation-high-profile-cases-remains-closed>

<sup>120</sup> See the assessment in the report:

<http://ombudsman.ge/uploads/other/4/4957.pdf>

<sup>121</sup> See the information: <http://www.tabula.ge/en/story/121029-birja-mafia-members-released-from-pre-trial-detention-on-bail>

<sup>122</sup> See the 2017 Report of Public Defender of Georgia:

[https://www.youtube.com/watch?v=DJRLj0EVNcY;](https://www.youtube.com/watch?v=DJRLj0EVNcY)

March, 2017, Georgian citizens holding biometric passports can travel to the Schengen Zone without a visa<sup>123</sup>.

The visa-free regime envisages free travel on the Schengen zone territory that includes 22 EU member countries, 4 non-member states and 4 Schengen candidate countries<sup>124</sup>.

## **INTERNATIONAL CRIMINAL COURT INVESTIGATION INTO SITUATION OF GEORGIA**

Georgian Coalition for International Criminal Court (GCICC) resumed work in 2017<sup>125</sup>. Human Rights Center was elected as the Chair of the Coalition.

One of the significant topics raised at the different forums by the GCICC has been the opening of the local office in Georgia in order to increase public awareness about the investigation and the work of the International Criminal Court (ICC). According to the assessment of GCICC, the opening of ICC local office is related to the effective investigation. In order for the investigation to be comprehensive and effective, it is essential to open the local office which will work on various important issues including increasing awareness of both, the public as well as the victims.

Throughout June 13-16, 2017, the annual strategic round table meetings took place between ICC and NGOs in Hague, Netherlands. The judges and chief prosecutor, representatives of Registry and Office of Prosecutor and other sections of ICC attended the meetings. The representatives of Open Society Georgia Foundation, Human Rights Center, Georgian Young Lawyers Association and Georgian Center for Psychosocial and Medical Rehabilitation of Torture Victims participated in the meetings from Georgia<sup>126</sup>.

Within frameworks of the 16th Assembly of State Parties to the Rome Statute of the International Criminal Court, held in the United Nations Headquarters in New York, USA,

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<sup>123</sup> See the information: <http://georgiatoday.ge/news/6034/EU-Official-Journal-Publishes-Regulation-on-Georgia%E2%80%99s-Visa-free-Travel>

<sup>124</sup> <http://www.interpressnews.ge/en/politicss/84660-georgian-citizens-to-enjoy-visa-free-travel-in-22-eu-member-4-non-member-and-4-schengen-candidate-countries.html?ar=A>

<sup>125</sup> Following NGOs are members of GCICC: Human Rights Center, Article 42 of Constitution, Georgian Young Lawyers Association (GYLA), Open Society Georgia Foundation, 21<sup>st</sup> Century, Georgian Center for Psychosocial and Medical Rehabilitation of Torture Victims (GCRT), International Center on Conflict and Negotiation (ICCN), Center for Protection of Constitutional Rights, Human Rights Priority, Justice International.

<sup>126</sup> See the information:

<http://humanrights.ge/index.php?a=main&pid=19380&lang=eng>

the co-director of Human Rights Center and Chair of Georgian Coalition for International Criminal Court, Nino Tsagareishvili spoke about the problems and challenges related to the investigation of the war crimes and crimes against humanity allegedly committed in Georgia during the August 2008 War and called on the member states for the effective cooperation in support of the investigation<sup>127</sup>.

According to the NGO sector, it is important to provide information regarding the progress of investigation in order to ensure better transparency<sup>128</sup>.

## **PUBLIC DEFENDER OF GEORGIA ON STATE OF HUMAN RIGHTS**

Public Defender of Georgia actively reacted to the facts of human rights violations in different spheres during 2017 and called for the timely and unbiased investigation by the investigative bodies. The Public Defender assessed the issues of the reform of the judiciary, institutional reforms, system of penitentiary, the policy regarding the issuing status of refugee and humanitarian status, rights of children and women, issues of accessibility for persons with disabilities, labor rights, instances of ill-treatment by the law enforcement bodies, ineffectiveness of investigation, facts of religious intolerance, instances of violence against women, media freedom and etc<sup>129</sup>.

## **VERBAL ATTACKS AGAINST THE INSTITUTE OF PUBLIC DEFENDER OF GEORGIA**

The NGOs expressed concern regarding the discrediting statements made against the Public Defender Ucha Nanuashvili which also discredited the institution of the Ombudsman. The statements were disseminated by the representatives of the legislative, executive and judicial branches of government, including the high government officials after the decision was announced in the so-called "Cyanide Case"<sup>130</sup>.

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<sup>127</sup> See the information:

<http://humanrights.ge/index.php?a=main&pid=19426&lang=eng>

<sup>128</sup> See the information: <http://humanrights.ge/index.php?a=main&pid=19173&lang=eng>

<sup>129</sup> See the report of Public Defender of Georgia:

<http://ombudsman.ge/en/reports/specialuri-angarishebi/10-december-report-on-the-situation-of-the-protection-of-human-rights-and-freedoms-in-georgia.page>  
<https://www.youtube.com/watch?v=DJRLj0EVNcY>

<sup>130</sup> See the statement of NGOs:

<http://www.humanrights.ge/index.php?a=main&pid=19389&lang=eng>

The statements were mainly connected to the results of the monitoring conducted by the Public Defender of Georgia in the so-called “Cyanide Case” which were published on November 15, 2017<sup>131</sup>. The document which was prepared by the PDO after studying the case material and monitoring the trial hearings includes assessment regarding serious procedural violations. The report was met with the offensive comments by the Justice Minister<sup>132</sup> and prosecutor Jarji Tsiklauri<sup>133</sup>.

According to the assessment of NGOs, the statement of Tbilisi City Court<sup>134</sup> is particularly alarming in the chain of statements, because it demonstrates that the Court is either unaware of the Public Defender’s mandate, or their understanding about the institute fully relies on political affiliations that makes the situation worse<sup>135</sup>.

Nongovernmental organizations call upon the senior government officials to refrain from similar statements which weaken and discredit the institute of the public defender particularly in front of the international society.

On October 4, 2017, the Coalition for Independent and Transparent Judiciary also reacted to the statement made by the Minister of Internal Affairs<sup>136</sup> regarding the possible mistreatment of the person detained by the police on September 22. The Minister made a comment regarding the special statement<sup>137</sup> made by the Public Defender of Georgia regarding the alleged mistreatment of S.M. where the Public Defender called on the Office of Prosecutor to open the investigation in this case. As a

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<sup>131</sup> See the results of the monitoring of Public Defender of Georgia in the so-called cyanide case: <http://www.ombudsman.ge/en/news/public-defender-publishes-monitoring-report-on-so-called-cyanide-case.page>

<sup>132</sup> See the information regarding the statement of Justice Minister: <https://1tv.ge/en/news/tea-tsulukiani-ucha-nanuashvili-first-unfair-ombudsman-history-georgia/>

<sup>133</sup> See the statement of the Prosecutor: <http://georgiatoday.ge/news/8211/Cyanide-Case-Prosecutor-Says-Georgian-Ombudsman-Is-Biased>

<sup>134</sup> See the information regarding the statement of Tbilisi City Court: <http://www.interpressnews.ge/ge/samartali/463306-saqalaqo-sasamarthlo-cianidis-saqmeze-ombudsmenis-angarishze-ucha-nanuashvili-populisturi-ganckhadebith-sazogadoebis-dezinformirebas-cdilobs.html?ar=A> (link available only in Georgian)

<sup>135</sup> See the information: <http://www.humanrights.ge/index.php?a=main&pid=19389&lang=eng>

<sup>136</sup> See the statement: <https://imedinews.ge/ge/dzalovnebi/29183/shs-ministri-ombudsmenis-samsakhurs-akritikebs> (link available only in Georgian)

<sup>137</sup> See the proposal of Public Defender of Georgia regarding case of S.M.: <http://ombudsman.ge/en/recommendations-Proposal/winadadebebi/public-defenders-proposal-to-chief-prosecutor-regarding-launch-of-probe-into-alleged-ill-treatment-of-defendant.page>

response to this statement, Minister of Internal Affairs called on the Public Defender to double-check similar issues in the MIA.

“I am always surprised by such attitude of Ombudsman. He could double-check this information with us. We would have given him fully comprehensive response. There should be more attentiveness and carefulness when making statements regarding the policemen. I do not want the authoritative institution of Ombudsman to turn into the station redeeming criminals” – Minister Giorgi Mghebrishvili stated<sup>138</sup>.

According to the assessment of the Coalition for Independent and Transparent Judiciary, “such public positioning of Minister undermines efforts to have a meaningful discussion of the root problems and helps to push the problems away from the foreground. At the same time, such statements help create an attitude that talking about the violation of rights of “criminals” is not important. In this situation it is particularly discouraging that the Minister’s statement has so far not brought adequate reaction and evaluation from the legislative and executive branches”.

The Coalition called on the legislative and executive branches of government to respect the Institute of Ombudsman of Georgia and not to endanger their effective work with their actions.

## **INTERNATIONAL ORGANIZATIONS AND EMBASSIES ON STATE OF HUMAN RIGHTS**

Nils Muižnieks, the Council of Europe’s (CoE) Commissioner for Human Rights, reacted to the abduction of Azerbaijani journalist, Afgan Mukhtarli and called on the government of Georgia for effective and rapid investigation<sup>139</sup>. Furthermore, Nils Muižnieks expressed concern regarding the verbal attacks made against Public Defender of Georgia from the side of high government officials and called on them to refrain from such criticism<sup>140</sup>.

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<sup>138</sup> See the statement: <https://imedinews.ge/ge/dzalovnebi/29183/shs-ministri-ombudsmenis-samsakhurs-akritikebs> (link available only in Georgian)

<sup>139</sup> See statement of Nils Muižnieks, Council of Europe’s (CoE) Commissioner for Human Rights: <http://www.civil.ge/eng/article.php/article.php?id=30147>

<sup>140</sup> See the statement of the Commissioner: <http://georgiatoday.ge/news/8247/NGOs-Denounce-Criticism-towards-Public-Defender-of-Georgia>

Dubravka Šimonović, United Nations Special Rapporteur on violence against women, its causes and consequences, noted on the importance of instituting a femicide watch for femicide prevention<sup>141</sup>.

On November 27, 2017, Ian C. Kelly, US Ambassador to Georgia, stated “we really want Georgia to succeed as a fully transparent and accountable democracy and this position of the public defender is absolutely critical to that”<sup>142</sup>.

During ending visit to Georgia in November 2017, the monitoring co-rapporteurs for Georgia of the Parliamentary Assembly of the Council of Europe (PACE), Kerstin Lundgren and Titus Corlatean underlined the need of proper parliamentary oversight and control over the national security services. According to them, this is especially important given the reportedly increasing prominence of the security services in the governance of the country. The co-rapporteurs also made a comment regarding the issue of granting refugee status to Mustafa Emre Çabuk and stressed that any decisions with regard to asylum requests or possible extradition should be based only on humanitarian and human rights law<sup>143</sup>.

On December 5, 2017, Janos Herman, EU Ambassador in Georgia stated that Georgia made significant progress in terms of protection of human rights in Georgia, however, challenges, such as the creation of the independent investigative mechanism and labor inspection remain<sup>144</sup>.

On December 12, 2017, US ambassador to Georgia, Ian C. Kelly made a comment regarding the rights of women and stated that strong and stable democracy means inclusive democracy and increased participation of women both in the economy as well as in political life<sup>145</sup>.

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<sup>141</sup> See the statement of UN Special Rapporteur:

<http://georgia.unwomen.org/en/news/stories/2017/11/un-women-hosts-international-conference>

<sup>142</sup> See the statement regarding this issue: <https://ge.usembassy.gov/ambassador-kellys-remarks-media-meeting-speaker-parliament-november-27/>

<sup>143</sup> See the statement:

<http://assembly.coe.int/nw/xml/News/News-View-EN.asp?newsid=6882&lang=2&cat=3>

<sup>144</sup> See the statement:

<https://imedinews.ge/ge/saqartvelo/38737/ianosh-hermani-adamianis-uplebebis-speroshi-progresia-magram-gamotsvebi-rcheba> (link available only in Georgian)

<sup>145</sup> See the statement: <https://ge.usembassy.gov/ambassador-kellys-remarks-media-womens-political-participation-conference-december-12/>