

STATE OF HUMAN RIGHTS IN GEORGIA, 2020





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THE REPORT WAS PREPARED BY HUMAN RIGHTS CENTER



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Non-governmental organization the **HUMAN RIGHTS CENTER**, formerly the Human Rights Information and Documentation Center (HRC) was founded on December 10, 1996 in Tbilisi, Georgia. The HRIDC aims to increase respect for human rights, fundamental freedoms and facilitate the 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, and increase awareness and respect for human rights among the people in Georgia.

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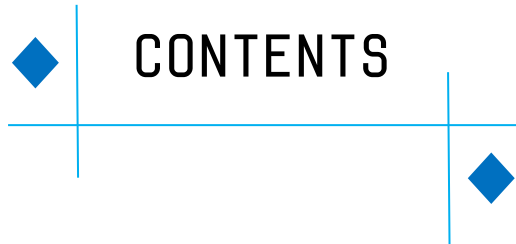
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ABOUT THE REPORT

This Report reviews the state of human rights in Georgia in 2020. Traditionally, it covers all significant legal and political developments, which influenced the state of human rights in the country. The report relies on the data collected and evaluations made by Human Rights Center, other Georgian civil society organizations, the Public Defender of Georgia and international organizations.

The goal of the report is to assess the activities of various state bodies in terms of human rights protection, also the level of response of different state organs towards human rights violations, the efficiency of the judiciary and the legal and systemic changes which should aim to implement international human rights standards on the national level.

The unprecedented crisis caused by the spread of the novel coronavirus in Georgia and across the globe and various measures taken for the fight against the COVID-19, which influenced almost all aspects of public life, largely influenced the content of this report of Human Rights Center. The pandemic had a huge impact on the state of human rights. Therefore, majority of the events and human rights issues presented in the Report is reviewed in the context of the pandemic and its grave outcomes.

The report evaluates the state of human rights in the main areas, such as: equality before the law, freedom of expression and speech, judiciary system, state of human rights in the penitentiary system, occupation and its impact on the state of human rights, labor rights, cases which caused high public interest, issues related with media freedom, the state of people with disabilities, rights of LGBTQ+ individuals, violence against women, including the facts of domestic violence, election system, rights of ethnic and religious minorities, hate-motivated crimes and more.

INTRODUCTION

The biggest challenge of 2020 in Georgia, like in the entire world, was the novel coronavirus pandemic, which disclosed legal, political and socio-economic problems in the country that harm the human rights standards. The crisis caused by the pandemic revealed the miscarriages in the Georgian healthcare system, the scopes of social vulnerability and economic hardship of the population, the weakness of the state to distribute the wellness of the country among the population and to create social guarantees for them, also non-inclusiveness of the equality before the law and the government's policy, systemic negligence of the rights of minorities, miscarriages in the judiciary system, and more.

The results of the Parliamentary Elections of October 31, 2020, which was held during pandemic, and the political crisis in the country significantly worsened the situation. The miscarriages in the Georgian election system, polarized political environment and media, poor social and economic conditions significantly harmed the Georgian democracy and contributed to the creation of deep crisis in the political processes.

In 2020, recruiting new judges in the courts became even more problematic because of pandemic; the selection process of the judges lacked transparency as well as the public trust towards the process.

In terms of the protection of freedom of assembly and expression, many systemic problems were revealed in 2020. Dispersal of the assemblies and demonstrations by police forces became the usual manner "to resolve the problem." Years later, the Georgian Government is still criticized for political persecution and political imprisonment. The threats of information manipulation and radicalization in the polarized media environment increased. The use of hate speech, indecent language and ignoring journalistic ethics norms became part of daily work for the both pro-governmental and clearly opposition media sources.

Regardless the pandemic-related crisis, the influence of the Russian Federation and its occupation forces on Georgia is increasing likewise other countries of the region, which permanently weakens the feeling of stability considering the active

and frozen conflicts in the region. The facts of systemic and blatant violation of human rights in the occupied regions of Georgia, continued illegal borderization during the pandemic, arbitrary kidnapping of the citizens of Georgia from the Administrative Border Line of the occupied regions and other related problems are still very urgent.

The protection of the rights of various minority groups, introduction of the idea of equality and its implementation in real life is still a biggest challenge in the country. The LGBT+ individuals are still the most vulnerable group, whose rights were not improved in 2020 either. Regardless the positive legislative amendments of the past years and increased response to the committed crimes, the violence against women and domestic violence is still a huge challenge in the Georgian society. The state of human rights of the people with disabilities is still severe. The state of human rights of ethnic and religious minorities has not improved either, and they are still subjects of systemic discrimination and stigmatization. Considering the systemic problems and pandemic related crisis, when the government left non-dominant and already marginalized groups beyond the anti-crisis action plan, presumably the negative outcomes of the crisis will have heavy and long-term influence on the enforcement of the equality policy in the country.



POSITIVE LEGISLATIVE AMENDMENTS

AMENDMENTS IN THE CONSTITUTION OF GEORGIA

After the independence of Georgia, the enforcement of the fair election system has been permanent problem in Georgia. Before taking office, the political parties constantly spoke about the miscarriages in the election system but after coming in power none of them wished to lose the existed leverages of governance which further deepened the problem of political elitism and social division. Consequently, demonstration of the real will of the voters during the elections in Georgia was always questioned.

The main essence of the criticism of the mixed election system in Georgia was the rule of distribution of parliamentary mandates, as a result of what the ruling power usually gained more mandates in the parliament than its real support from the voters and vice versa in terms of other opposition parties.

During the June 20-21, 2019 developments and large-scaled protest rallies in Tbilisi¹, the issue of proportional election system became again urgent topic and subject of political demands. This time, with the support of wider society and unified position of the entire opposition spectrum, as a result of public pressure, the ruling political power promised to hold the 2020 Parliamentary Elections with fully proportional system and zero barrier². However, the Georgian Dream did not support the draft law during parliamentary examinations³. Neither the opposition-backed so-called German model of the election system gained the support of the ruling power⁴, and the process ended up with a new wave of street actions.

The election system reform, with the large public support, based on the request of the civil society and various opposition political parties and with the active engagement of the international partners, was finally implemented. **On June 29, 2020, the Parliament of Georgia, through third hearing, passed the Draft Law**

¹ See the Analytic Document of HRC about June 20-21, 2019 Events at <https://bit.ly/2L8fZxP>

² See the address of B. Ivanishvili on TV <https://bit.ly/31qOsgb>

³ See full information at <https://bit.ly/3glCAjS>.

⁴ The opposition political parties started working on the so-called German model in November 2019 after on November 14 the MPs from the Georgian Dream failed the draft law on the constitutional amendments, which aimed to replace the mixed election system into proportional one.

on the Amendments to the Constitution of Georgia and Amendments to the Constitutional Law of Georgia⁵.

In accordance with the amendments, the rule of 2020 Parliamentary Elections was determined. Consequently, on October 31, 2020 the Parliamentary Elections were held with the mixed election system (120 proportional and 30 majoritarian) and 1% barrier. 40% closing mechanism was also introduced. Namely, in accordance with the amendments, a political party, who would gain less than 40.54% of votes with the proportional system, was losing a chance to independently form a government.

The issue of the election blocks was also determined with the new constitutional amendments, according to which, the mandates will be distributed among those political parties who will receive at least 1 percent of the actual votes cast in the election, and among election blocs of those political parties whose percentage represents multiplication of 1 percent of actual votes by the number of political parties in the electoral bloc. With the amendments, the distribution of undistributed mandates between the political parties and election blocs with the most remnant was also determined.

Consequently, the adopted constitutional amendments created the necessity to introduce respective amendments to several laws for what the Election Code of Georgia, the Law of Georgia on Citizens' Political Unions, the Administrative Offences Code of Georgia, the Criminal Code of Georgia and the Law of Georgia on Broadcasting were also amended.

AMENDMENTS IN THE ELECTION LEGISLATION

For years, the miscarriages in the Georgian election law jeopardized the fair and transparent election process in Georgia. Thus, during many years, the political parties and civil society requested to amend it. The amendments became necessary in the election law after the respective amendments were made in the Constitution of Georgia in 2020.

⁵ See full information at <https://bit.ly/3glCAjS>.

On July 2, 2020, the Parliament of Georgia with the third hearing passed the Georgian Dream initiated bill of the organic law on “The Amendments to the Organic Law of Georgia “Election Code of Georgia⁶.” Big part of the amendments relied on the recommendations of the OSCE/ODIHR⁷.

Although the introduced amendments in the election legislation do not fully respond to all challenges in the field and still require additional changes, big part of it shall be positively evaluated and is considered as a step towards the democratic development of the country.

As a result of the amendments, the notion of recognition of the votes of those participating in the elections was clarified, the starting point of the election procedures was determined, the right of lodging complaints by the nongovernmental organizations in the non-election period about election lists and creation of election districts was determined, the registration procedures for nongovernmental and media organizations became easier, the circle of people to be designated as a representative of the election subjects was clarified, the regulations about the membership of the voters’ initiative groups and other issues were determined.

Adoption of the 25 percent gender quota mechanism shall be evaluated as particularly positive amendment, according to which the political parties in proportional party lists will be required to have at least one member in four with a different gender. Although the political parties – European Georgia and Girchi were against these amendments, the Constitutional Court of Georgia, absolutely fairly, did not satisfy the constitutional lawsuit of the Girchi⁸ against the proposed amendment⁹.

⁶ See the organic law on “The Amendments to the Organic Law of Georgia “Election Code of Georgia” at <https://bit.ly/2D55Duk>.

⁷ See Office for Democratic Institutions and Human Rights. GEORGIA PRESIDENTIAL ELECTION 28 October and 28 November 2018. ODIHR Election Observation Mission Final Report: <https://bit.ly/3b2CQTG>.

⁸ See the statement of Girchi <https://bit.ly/2XjaQWk>.

⁹ See the ruling of the Constitutional Court at <https://bit.ly/3n606Gf>.

CODE ON THE RIGHTS OF THE CHILD

Since September 1, 2020, the Code on the Rights of the Child went in force. It is such an extraordinary legal document, which can really improve the life of the children in Georgia. Consequently, it was one of the most positive legislative amendments of 2020.

The Parliament of Georgia adopted the Code of the Rights of the Child¹⁰ with accompanying laws on September 20, 2019. The adoption of the Code on the Rights of the Child was based on Georgia's obligations under the UN Convention on the Rights of the Child and necessity to improve its legislation. The Code is an obligatory type document for the bodies of the Government of Georgia, local self-governments and other administrative bodies, common courts, public and private legal entities and physical persons when dealing with the children and the issues related with the children.

In accordance with the Code, the oversight role of the Public Defender in the assessment of the legal status of children has increased. A child-friendly justice system was established, which includes free legal aid, training of specialized persons to work with children. Educational institutions have been defined the duty to provide children with information about their rights and mechanisms for their protection. The sale of a real estate owned by a child, or of a movable property worth more than 500 GEL, by a parent or other legal representative is allowed when carried out in the best interests of the child and with the approval of the court. A Permanent Parliamentary Council for the Protection of Children's Rights has been established in the legislature to ensure coordinated work between the agencies. In accordance with the law, only judge can decide the issue of separation of a child from his/her family only in case of extreme necessity. Based on the new law, the state is responsible to ensure socially indigent family with the needs tailored financial assistance, also a social worker and a psychologist will study the psychic and social conditions of the parents and assist them in the educational programs which will enable the parents in future to get employed and keep their families; the amendments covered the issues related with the internet and

¹⁰ See the Law of Georgia "The Code on the Rights of the Child"
<https://matsne.gov.ge/ka/document/view/4613854?publication=1>.

broadcasters, which ensured the control of the child-friendly information network of broadcasters and effectiveness of the enforcement mechanism by the Regulation Commission. From June 1, 2020, the initiator of a draft law will be obliged to provide information on the assessment of the impact of the draft law on the legal status of the child. The same requirement will apply to normative acts¹¹.

Human Rights Center welcomes the creation and enforcement of the unified legislative act on the rights of the child by the Parliament of Georgia which aims to prioritize the best interests of the child and meets the requirements of the UN Convention on the Rights of the Child. HRC hopes the Parliament of Georgia will effectively control the implementation of the Code in practice.

AMENDMENTS TO THE LABOR LAW

Another significant amendment was introduced in the Georgian legislation in 2020 – after years-long expectation, on September 29, the Parliament of Georgia approved the amendments in the Organic Law of Georgia – Labor Code of Georgia¹².

Although the introduced changes do not fully respond to many challenges in this field, it was positively evaluated by both local¹³ and international human rights organizations¹⁴ as well as by the international partners of the country¹⁵.

With the amendments in the Labor Code, the previous numeration was almost fully changed. Instead of the 55 articles the new edition of the Code has 86 articles¹⁶. The definition of the discrimination in labor relations was amended in the Code and its new formulation became coherent with the definition of the discrimination

¹¹ See the Assessment of the Performance of the Parliament of Georgia in 2019, 2020

https://transparency.ge/sites/default/files/parliament-2019-web-en_1.pdf

¹² See more <https://info.parliament.ge/file/1/BillReviewContent/264269>.

¹³ See the Statement of the EMC <https://emc.org.ge/ka/products/emc-pozitiuri-tsvlilebebis-miukhedavad-shromis-kanonmdeblobashi-problemebi-rcheba>

¹⁴ See the statement of Human Rights Watch at https://twitter.com/Giorgi_Gogia/status/1310953813344387072

¹⁵ See the statements of the US and EU Ambassadors: <https://ge.usembassy.gov/u-s-embassy-tbilisi-statement-on-parliaments-adoption-of-legislation-to-amend-the-labor-code/> and <https://twitter.com/CarlHartzellEU/status/1311183917668536325>

¹⁶ See the Organic Law of Georgia “Labor Code of Georgia”

<https://matsne.gov.ge/document/view/1155567?publication=10>

in the Law of Georgia on the Elimination of All Forms of Discrimination. With the new edition, written labor agreements became obligatory if the labor relations last more than 1 month. At the same time, new legislative regulations went in force with regard to the labor contracts signed for the period of less than one year and according to it, if the fixed-term labor contract is signed without including any concrete grounds envisaged for the labor contracts signed for the period of less than one year, it will be viewed as a permanent labor contract.

The new edition, unlike the old one, includes: notion of working hours; substance of internship and terms for the unpaid and paid internship; minimum period of time of breaks for the employees; essential rules to organize works in shifts; the conditions for over-time work, its threshold and minimum amount of remuneration (125% remuneration of hours). The amendments also applied to the restrictions to work during night time. Overtime work without the consent of a pregnant woman, of a woman with an infant or a woman who is breastfeeding a child, of the person with disabilities, of a minor or of the legal representative of the person with disabilities was prohibited. The new code allows a man to take a maternity leave; the new regulations are introduced with regard to strikes and the ground to restrict this right; they are separately regulated for the employees of the "special services."



PANDEMIC AND HUMAN RIGHTS

STATE OF EMERGENCY

The pandemic caused by the spread of the novel coronavirus in 2020 became the huge challenge for the entire world. While there was no vaccine available, social distancing became the most effective and well-acknowledged weapon to fight against the pandemic. Declaration of the state of emergency, introduction of the quarantine measures and restriction of various human rights followed the fight against the virus in many countries across the globe¹⁷.

Officially, Georgia joined the list of these states on March 21, 2020, when the President of Georgia, based on the preliminary petition of the Prime Minister, released the Decree N1 "On Measures to be implemented in connection with the Declaration of a State of Emergency throughout the whole territory of Georgia"¹⁸, which was approved by the Parliament of Georgia on the same day¹⁹. Initially, the State of Emergency was declared until April 21, and then it was extended through May 22, 2020. Initially, considering the grave results of the spread of the virus and the situation in the country, the decision was made based on the large public consensus, among them based on the support of the opposition political parties²⁰ and the civil society²¹.

It is noteworthy that the Government of Georgia started to fight against the spread of the novel coronavirus and took special measures before the state of emergency. Human Rights Center believes that those restrictions did not violate the principle of proportionality, aimed to achieve the legitimate goals and were proportionate²².

¹⁷ See more at <https://transparency.ge/en/blog/what-we-should-know-about-declaration-state-emergency>

¹⁸ See the Decree N 1 of the President of Georgia, March 21, 2020

<https://www.president.gov.ge/en/News/Article/%E2%80%8Bsaqartvelos-prezidentma-2020-clis-21-marts-gamosc>

¹⁹ See more at http://www.parliament.ge/en/saparlamnto-saqmianoba/plenaruli-sxdomebi/plenaruli-sxdomebi_news/parlamentma-sagangebo-mdgomareobis-gamocxadebis-shesaxeb-saqartvelos-prezidentis-brdzaneba-daamtka.page

²⁰ See more at <https://civil.ge/archives/343627>

²¹ See more at <http://hrdc.org/admin/editor/uploads/files/pdf/report2020/pandemia%20-eng.pdf>

²² See more in the report of Human Rights Center "Human Rights During the State of Emergency," 2020

<http://hrdc.org/admin/editor/uploads/files/pdf/report2020/Human%20Rights%20in%20the%20State%20of%20Emergency.pdf>

With the March 21, 2020 Decree # 1 of the President of Georgia, the right to freedom, right to movement, right to personal and family life, right to fair administrative proceedings, right of property, right to assembly and labor were restricted; the list included all rights, which may be restricted in accordance with the Constitution of Georgia during the state of emergency except the right to freedom of expression guaranteed under the Article 17 of the Constitution. At the same time, the President's Decree did not use the mechanism to suspend the right. The legitimacy of the abovementioned measures was not questioned in Georgia. However, the risks of the human rights violation during the state of emergency place the states in front of particular challenges. The need of emergency measures does not free the State from responsibilities, just the opposite, imposes additional responsibilities on it in order to verify the substantiality of each restriction.

At the same time, the state bears obligation to take care of the people who suffered as a result of the existing situation and in parallel with necessary restrictions, it must be aware of its particularly high social responsibility.

It was positive that the state did not interfere in the freedom of expression though the Constitution of Georgia allows similar restriction in the state of emergency. As a result, during the crisis, media did not suspend its activities, freedom of media and awareness raising of the society about the virus-related issues significantly promoted the effectiveness of the implemented measures. Regardless that, in the first stage of the spread of the COVID-19, the communication of the central authority in the regions of ethnic minorities was particularly problematic due to language barrier. It significantly complicated the fight against the virus in Marneuli and Bolnisi municipalities, where majority of the local population are Azerbaijani and Armenian citizens.

During the fight against the crisis, the GoG had nonhomogeneous approach towards religious organizations²³. While it did not hinder the Georgian Orthodox Church to conduct religious services and gather parish, other religious organizations were deprived of the possibility to enjoy the same right²⁴. Although the Constitution of Georgia prohibits to restrict the freedom of religion during the

²³ See more at <https://tabula.ge/ge/news/658028-religiuri-gaertianebebi-tskitishvilze-ar>

²⁴ See more at <https://tabula.ge/ge/news/658159-meupe-juzepe-tskitishvils-tkveni-gadacqvetelemani>

state of emergency, the state is authorized to restrict the freedom of religion (forum externum) though the government of Georgia applied this right only with regard to the Orthodox Church consider its particular influence over the population of Georgia. It placed other religious organizations in unequal conditions²⁵.

Considering the economic conditions of Georgia, everybody expected grave social impact of the state of emergency on it. The crisis once again demonstrated the acute problems in the labor legislation, which enabled the employers to dismiss the employees easily or send them to compulsory vacations. During two months, the Government did not take actual steps to assist the people, who lost jobs. It led many people to extreme poverty.

The social aid programs in the frame of the anti-crisis plan, under which payment of the allowances dragged out several months (allegedly in relation with the parliamentary elections scheduled in October 2020), could not adequately respond to the real needs of the people left without jobs during pandemic.

It is noteworthy that timely measures taken against the crisis, in the beginning of the pandemic – spring of 2020, saved the healthcare system of Georgia from the collapse and considering the number of the COVID positive people, no threats were created for the protection of the health rights of the population during the initial months of the crisis.

As a result, after the state of emergency was lifted, in summer of 2020, the number and scope of restrictions significantly reduced. However, after the restrictions were eventually lifted, among them because of the ineffective control of social distancing rules during the pre-election period before the October Parliamentary Elections and on the Election Day by one part of the society, the number of COVID-19 cases significantly raised in autumn of 2020.

²⁵ See the Report "Human Rights in the State of Emergency," Human Rights Center, 2020
<http://hrdc.org/admin/editor/uploads/files/pdf/report2020/Human%20Rights%20in%20the%20State%20of%20Emergency.pdf>

Consequently, after the elections were over, the Government of Georgia restored strict regulations. Regardless grave epidemiologic situation, which was initially caused by the unprepared healthcare system, inconsistent actions of the GoG and processes related with the elections, the Government's policy with regard to restrictions were inconsistent and in some cases discriminative.

HUMAN RIGHTS DURING PANDEMIC

As a rule, vulnerable groups become even more vulnerable during similar crisis and Georgian case was not an exception either. The crisis created particular socio-economic problems for the people with low income. The regulations during the state of emergency and curfew significantly restricted economic activities that left thousands people without salaries and jobs.

Unfortunately, during the two months, while the state of emergency was in force in the entire territory of Georgia, the Government of Georgia did not take effective measures to assist unemployed people or the people left without income. Later, they envisaged the financial support for these people in the anti-crisis plan. By the end of the state of emergency, the State was unable to identify all individuals who faced financial problems during the crisis that left one part of the population without any support. Because of the pandemic, the places for free food were closed in the municipalities and it significantly affected the conditions of the impoverished people, who were beneficiaries of this service. Although this service was modified in accordance with the state of emergency and the beneficiaries could take food home, the coverage area of the service was limited during the state of emergency, differed across the municipalities and could not meet the real challenges of the people.

In the course of the state of emergency, considering the vulnerability of the elderly people, they were restricted to leave homes and it significantly restricted their rights. During the quarantine, the State took responsibility to supply them with food and medicines, but it was not successfully implemented in all cases.

At the same time, restrictions on transport movement in spring of 2020 had negative impact on the residents of villages, who could not reach shops and other

necessary places, which are mostly located several kilometers away from the villages. It created particular problems for the old people.

With the new regulations established for the fight against the crisis, for the purpose of healthcare, the rights of prisoners were also significantly restricted (conjugal meetings were prohibited). Although these restrictions are not questioned, additional restriction of rights of prisoners should have affected the length of their imprisonment term. Unfortunately, regardless many respective recommendations, the GoG did not take similar measures.

The issues related with the right to adequate housing in Georgia became particularly urgent during the pandemic, as it was a systemic problem for years. There is no government strategy and action plan for the protection of the homeless in the country. On the legislative level, we still do not have a comprehensive definition of a homeless person and the framework legislation necessary for the realization of the right to housing, further, there is no unified database on homelessness.

Demolishment of up to 12 buildings in the so-called Africa settlement of Tbilisi by special equipment on December 15, 2020 clearly illustrated the problems of homeless people in the country. The buildings were constructed at various times without permissions on the land owned by the capital city. According to local residents, the demolished buildings were built by socially vulnerable citizens at the expense of bank loans as the only dwellings for these families²⁶.

RIGHT TO HEALTH DURING PANDEMIC

Regardless the important and positive reforms in the healthcare system in the past decade, which is related with the establishment of the universal health insurance system, there are many challenges in the system, which negatively affects the health rights of the citizens of Georgia.

²⁶ See the statement of Human Rights Center
<http://www.humanrights.ge/index.php?a=main&pid=20301&lang=eng>

It was impossible to fight against the COVID-19 related pandemic not only in poor and developing countries, but also in developed and strong countries. Although timely strict measures taken by the Government of Georgia at the first stage successfully managed to avoid the wide spread of the virus, by the end of 2020, the situation drastically changed and the country faced acute crisis. The number of COVID-19 positive cases and mortality increased both in the population and among the core part of the healthcare sector – medical personnel²⁷.

The government failed to ensure preliminary preparation for the second wave of the crisis that particularly complicated the crisis management.

There is no political will to develop primary healthcare system that had a big impact on the management of the crisis. The main focus of the healthcare system is on stationary hospital sector which is completely privatized and profit-oriented. Due to the commercialization of the healthcare system, access to public health services is undermined. It is necessary to clearly define the public healthcare services – the list of doctor-specialists who provide primary medical service (family doctor, pediatrician, therapist or narrow specialist), their competences and forms of services; the crisis also revealed the necessity to increase engagement of the municipal and regional public healthcare services, to empower their role in the solution of the problems pending in front of the primary healthcare²⁸.

²⁷ See the official website of the GoG

https://stopcov.ge/ka/News/Article/sakaryveloshi_chamomsvlel_pirebs_yviyizolatsiis_tsinastsari_moykhovnis_shesa_dzlebloba_akvy

²⁸ See more at <http://hridc.org/admin/editor/uploads/files/pdf/report2020/pandemia%20-eng.pdf>



JUDICIARY

In 2020, like previous years, alongside with the common courts, the influence of the governmental powers over the Constitutional Court of Georgia increased that was mostly revealed in the ineffectiveness of the examination of the lawsuits related to COVID-19. At the same time, the fall in the efficiency of the constitutional control and other challenges in the field of the right to fair trial is observed in Georgia²⁹. Namely, the index of the response of the Constitutional Court to the lawsuits pertaining to Covid-19 from April 15 until June 15, 2020 was 90%³⁰; the Constitutional Court has not responded to 6 constitutional lawsuits filed after June 15, 2020³¹, but has not made any decisions on any of the lawsuits, which the Constitutional Court accepted before June 15, 2020³².

Based on the decision of the plenum of the Supreme Court of Georgia, on April 3, 2020, Khvicha Kikilashvili was nominated for the judge in the Constitutional Court³³. It is noteworthy that the position of a judge in the Constitutional Court of Georgia became vacant on December 5, 2019 but the Supreme Court did not appoint the new judge within the term established under the law. The Plenum of the Supreme Court of Georgia did not consider the appeals of the CSOs not to select the judge for the Constitutional Court during the state of emergency, when society does not have possibility to observe and control the process³⁴.

On May 29, 2020, the Plenum of the Supreme Court of Georgia appointed another judge in the Constitutional Court – Vasil Roinishvili³⁵. Again the selection process of the judge was nontransparent – the society was not informed about the candidate before he was elected³⁶.

²⁹ SEE THE PUBLICATION OF IDFI, COVID-19 AND CONSTITUTIONAL REVIEW: ASSESSMENT OF THE EFFECTIVENESS OF THE CONSTITUTIONAL COURT OF GEORGIA, P. 11 AT [HTTPS://BIT.LY/38SDZY2](https://bit.ly/38SDZY2)

³⁰ Ibid p.8

³¹ Ibid, p.8,9,17

³² Ibid: p. 8, 9, 17

³³ See the statement of the Supreme Court of Georgia <https://bit.ly/3nBArop>

³⁴ See the statement of the CSOs to the Plenum of the Supreme Court of Georgia <https://bit.ly/3h2LaG6>.

³⁵ See full information at <https://bit.ly/3reKVwj>.

³⁶ See full information at <https://bit.ly/3nBjURJ>.

On March 8, 2020, the Government of Georgia and opposition political parties signed two agreements³⁷. The document underlined upholding of the “highest standards” in the judiciary system. It also mentions that with the agreement, inappropriate politicization of electoral processes shall be necessarily addressed. This issue became particularly urgent when criminal prosecutions/arrests/detentions of the opposition politicians, civil activists and media representatives started in the pre-election period of October 31, 2020 Parliamentary Elections³⁸.

Rapid and qualified justice, as one of the indicators of the fair trial, has huge practical importance together with the legal. Right to fair trial is fiction unless it is realized within the adequate timeframe necessary for the restoration of the breached right. If the court fails to ensure the protection of the rights and existence of timely mechanisms for remedy, not only right to fair trial but even the idea is lost for unidentified time³⁹. It creates risks and intensifies doubts about the influence of the government on the judicial bodies, which is abused by the state for the implementation of its political interests.

JUDICIARY SYSTEM DURING PANDEMIC

Based on the March 21, 2020 Decree of the President of Georgia,⁴⁰ court hearings, among them court hearings under the Criminal Procedure Code, shall be held remotely. The respective amendments were made to the Criminal Procedure Code of Georgia⁴¹. Also, the High Council of Justice released a package of recommendations⁴², which aimed to ensure safe enforcement of justice during the pandemic.

After the expiration of the temporary rules under the Presidential Decree, as there was no legislative basis in the criminal procedural law for holding the proceedings

³⁷ See 1) Memorandum of Understanding: <https://bit.ly/2JZ2lfA>; 2) Joint Statement <https://bit.ly/39lYxO2>

³⁸ See: Monitoring Court Proceedings of the Cases with Alleged Political Motives – Interim Report, Human Rights Center; available at <https://bit.ly/35ru0NQ>

³⁹ See: “Problem of the access to justice, causes and ways of solution, Tbilisi, 2017. P. 3 available in Georgian at <https://bit.ly/3mQ9DQ6>

⁴⁰ See the Decree N1 of the President of Georgia, March 21, 2020, Article 7 <https://bit.ly/39mZ0BA>.

⁴¹ See the Criminal Procedure Code of Georgia <https://bit.ly/3l9QnfG>.

⁴² See the Recommendation N1 of the HCoJ, March 13, 2020 <https://bit.ly/2E0tlI9>.

remotely, on May 22, 2020, the legislative amendments were made, and the common courts of Georgia were granted the right to hold the proceedings remotely via electronic means of communications before July 15, 2020⁴³. After the abovementioned, the court proceedings were held remotely and also in the administrative premises of the court, in the court rooms.

On September 15, 2020⁴⁴, then on December 1, 2020⁴⁵, the High Council of Justice additionally approved the recommendations for the common courts to prevent the spread of the COVID-19.

The remote court sessions became a challenge in terms of the right to a fair trial. At the court hearings, for the absolute majority of the accused, there was no possibility for the confidential communication with the defense counsel. When questioning the witnesses the court could not verify their truthfulness in some cases. Because of the technical defects, the problems remain with the visual clarity of the witnesses and with understanding what they were saying. In most cases, the proceedings started with a delay or/and were postponed. The biggest problem was the closure of the court proceedings for the interested persons, among them for the court monitors⁴⁶.

⁴³ See the Criminal Procedural Law, N5973, May 22, 2020 at <https://bit.ly/33kK9Ua>.

⁴⁴ See the September 15, 2020 recommendations of the HCoJ <https://bit.ly/3mgsfJH>.

⁴⁵ See the December 1, 2020 recommendations of the HCoJ at <https://bit.ly/3qDpK6O>.

⁴⁶ See Monitoring Court Proceedings of the Cases with Alleged Political Motives – Interim Report, Human Rights Center; available at <https://bit.ly/35ru0NQ>

◆ SIGNS OF POLITICAL PERSECUTION

On March 11, 2020, the US State Department published the Report on Human Rights Practices in 2019, which also reviews the state of human rights in Georgia. Together with many other problems, the US Department's Report underlines the problem of alleged political motivation in legal proceedings and investigations in Georgia⁴⁷. Human Rights Center reported about several politically motivated cases in its 2019 Report on the State of Human Rights. Throughout 2020, international society criticized the Government of Georgia for those alleged politically motivated cases and finally the President of Georgia pardoned two convicted political leaders – former Tbilisi Mayor Gigi Ugulava and leader of the political party Victorious Georgia Irakli Okruashvili⁴⁸.

In 2020, the criminal prosecution started or continued against high ranking officials of the previous government as well as the people arrested during the protest rallies against the government. International and local observation organizations demonstrated deep interests towards those cases due to alleged political motives in them⁴⁹. The monitoring and analysis of the cases revealed the violation of the right to fair trial.

Human Rights Center monitored the court proceedings of 25 cases with alleged political motives⁵⁰, prepared one interim⁵¹ and one final reports⁵², and analytic documents: about the criminal cases launched against Giorgi Ugulava⁵³, Irakli Okruashvili⁵⁴, Giorgi Rurua⁵⁵, Nika Gvaramia⁵⁶, Legal Analysis of the Criminal Cases

⁴⁷ See "June 20-21 Events – Legal Analysis," Human Rights Center available at <https://bit.ly/2XtVwGe>

⁴⁸ See more at <https://bit.ly/3nOOqbn>

⁴⁹ It is important to mention the project "Public Events Monitoring" implemented by the HRC with the financial support of the NED, which started on February 1, 2020 and finished on December 31, 2020.

⁵⁰ See full information at <http://humanrights.ge/index.php?a=main&pid=20305&lang=eng>

⁵¹ See Monitoring Court Proceedings of the Cases with Alleged Political Motives – Interim Report, Human Rights Center; available at <https://bit.ly/35ru0NQ>

⁵² See Monitoring Court Proceedings of the Cases with Alleged Political Motives – summary report, Human Rights Center, 2020 <https://bit.ly/38uOCqe>

⁵³ See Legal Assessment of the Criminal Cases Launched Against Gigi Ugulava, Human Rights Center, 2020 at <https://bit.ly/39mcz2r>

⁵⁴ See Legal Assessment of the Criminal Cases Launched Against Irakli Okruashvili, Human Rights Center, 2020; <https://bit.ly/2XykQup>

⁵⁵ See: Criminal Case of Giorgi Rurua, Legal Analysis, Human Rights Center, 2020: <https://bit.ly/3oy1u4z>

Commenced in Connection with the June 20-21, 2019 Events⁵⁷ and against Nika Melia⁵⁸; the documents analyze the criminal and administrative cases launched against other individuals too⁵⁹.



PARLIAMENTARY ELECTIONS OF 2020

ASSESSMENT OF THE PRE-ELECTION ENVIRONMENT

On March 8, 2020, as a result of joint efforts of the international partners, the ruling and opposition political parties signed the Memorandum of Understanding⁶⁰ that was followed by the constitutional amendments. On June 29, 2020, the Parliament of Georgia with the third hearing passed the draft laws on the Amendments to the Constitution of Georgia and Amendments to the Constitutional Law of Georgia⁶¹.

The purpose of the introduced amendments was to increase the proportional component in the election system and to reduce the barrier of the election system. The reduced barrier contributed to the entry of new political parties on the political scene and increased competitiveness during the pre-election period.

Regardless positive legislative changes, the healthy election environment was still a problem as well as the composition of the election administrations, clear division between the state and ruling party's resources, issues of bribery of the voters. Like previous years, significant challenges remain in regards with the electoral disputes and special election precincts.

The facts of physical confrontation and violence mostly committed against the representatives of the opposition political parties caused serious concern during

⁵⁶ See: Legal Assessment of the Current Criminal Case against Nika Gvaramia, Human Rights Center, 2020: <https://bit.ly/39fKVEh>

⁵⁷ See: Legal Analysis of the Criminal Cases Commenced in Connection with the June 20-21, 2019 Events, Human Rights Center, 2020: <https://bit.ly/2LF78Dj>

⁵⁸ Ibid

⁵⁹ See Monitoring Court Proceedings of the Cases with Alleged Political Motives – summary report, Human Rights Center, 2020 <https://bit.ly/38uOCqe>

⁶⁰ See the Memorandum of Understanding <https://bit.ly/2JZ2lfa>;

⁶¹ See the draft laws on the Amendments to the Constitution of Georgia and Amendments to the Constitutional Law of Georgia <https://bit.ly/3gIHY0F>.

the pre-election period. The facts of threats and hindrance to the election campaigns against the members of the political parties and activists, as well as media representatives. The interference in the professional activities of the journalists and their intimidation, violence against journalists and political activists became particularly alarming in September-October 2020 during the physical controversies in Bolnisi and Marneuli municipalities⁶².

Although the measures taken for the prevention of the spread of COVID-19 did not hinder the campaigning of the election subjects, the decisions of the Central Election Commission on the management of the election procedures for the COVID-19 positive voters was particularly controversial topic.

On October 19, 2019, the CEC issued an ordinance⁶³, according to which the voters, who were in isolation or received medical treatment at home, could vote with the support of the mobile ballot boxes and had to get registered within unreasonably short period of time (October 24-27) that restricted the constitutional right of the voters to participate in the elections. Besides that, the CEC, in order to ensure the public health protection, based on the consultations with the election parties, adopted the epidemiological protocol of the Election Day⁶⁴.

THE ELECTIONS DURING PANDEMIC

According to the general assessment of Human Rights Center, the October 31, 2020 Parliamentary Elections, considering the pre-election period, was conducted through violations and miscarriages that raised doubts about fraud and consequently - protest in the society. In parallel to the state of emergency and strict isolation state policy in relation with the COVID pandemic, that was accompanied by hard economic crisis, the protest wave of discontent voters created acute political crisis that of course harms the state interests and democratic development.

⁶² SEE THE MONITORING THE PRE-ELECTION ENVIRONMENT OF 2020 PARLIAMENTARY ELECTIONS SECONDINTERIM REPORT, 2020 AT [HTTPS://BIT.LY/2XP3WIO](https://bit.ly/2XP3WIO)

⁶³ See CEC Ordinance №45/2020, October 19, 2020: <https://bit.ly/38k0cU1>.

⁶⁴ See the CEC Ordinance N38/2020, September 18, 2020; <https://bit.ly/2Wswl69>.

The main part of the violations observed by the HRC monitors on the Election Day of October 31, 2020 Parliamentary Elections was related with procedural miscarriages like: marking procedures, measures to be taken based on the epidemiologic protocol, identification of voters, distribution of responsibilities among the PEC members, violation of the privacy of ballot, violation of the voting procedure via mobile box. However, the cases of interference in the professional activities of the journalists and monitors and campaigning nearby polling stations were also observed on the ballot day.

The most notable problem which was observed during the 2020 Parliamentary Elections was related with the imbalance of votes in summary protocols. In order to correct them, the precinct commissions drew a lot of amendment protocols. In accordance with the CEC⁶⁵, amendment protocols were drawn up in 507 polling stations (proportional) that made up 13.81% of the polling stations across the country. During the October 31, 2016 Parliamentary Elections, the amendment protocols were drawn up in 353 polling stations (9.57%). As for the summary protocols from the majotarian polls, the amendment protocols were drawn up in 584 polling stations that made up 15.38% of the precincts across the country. In 2016, the amendment protocols were drawn up in 271 precincts (7.46%).

So many amendment protocols throughout the country raised just questions and mistrust towards the election process in the society; the political parties boycotted the election results and started organization of large-scaled protest demonstrations with the request of snap elections and changes in the election administration.

⁶⁵ See the statistical information about amendment protocols and explanations <https://bit.ly/2K4g2Ko>

ASSESSMENTS OF THE INTERNATIONAL ORGANIZATIONS OBSERVING ELECTIONS

OSCE/ODIHR report⁶⁶ reviewed the pre-election period, the violations observed during the pre-election campaigning as well as the developments on the Election Day.

In accordance with the report, the 31 October parliamentary elections were competitive and, overall, fundamental freedoms were respected. Nevertheless, pervasive allegations of pressure on voters and blurring of the line between the ruling party and the state reduced public confidence in some aspects of the process⁶⁷. According to the OSCE/ODIHR, the election administration met legal deadlines and managed technical aspects of the elections efficiently, amid adjustments in response to the COVID-19 pandemic⁶⁸. Fundamental freedoms were mostly respected in a campaign that was largely competitive but intimidation of party supporters and public sector employees was widely reported, with many opposition parties alleging that their supporters and staff were subject to political pressure, and several isolated violent incidents were reported. The line between the ruling party and the state was often blurred, contrary to OSCE commitments and international standards⁶⁹.

According to the assessment of the NDI⁷⁰, Election Day voting proceeded mostly in compliance with the rules prescribed by law. However, credible international as well as domestic observer groups highlighted irregularities related to results protocols and vote secrecy, among other issues. They reported instances of physical confrontations outside of polling stations, obstruction of the work of journalists and observers, allegations of vote buying and vote rigging, and the intimidating presence of party coordinators and activists outside most polling stations. In the same report, NDI wrote that the administration of pre-election

⁶⁶ See INTERNATIONAL ELECTION OBSERVATION MISSION Georgia – Parliamentary Elections, 31 October 2020; STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS; OSCE/ODIHR: <https://cesko.ge/res/docs/469005.pdf>

⁶⁷ Ibid p 1

⁶⁸ Ibid

⁶⁹ Ibid p 2

⁷⁰ See the Report on October 31, 2020 Parliamentary Elections, NDI <https://bit.ly/3ntqxEB>

procedures was generally assessed as competent, legally compliant and transparent. However, opposition parties and CSOs consistently raised complaints about excessive partisanship, particularly on lower-level commissions.

FREEDOM OF ASSEMBLY AND DEMONSTRATIONS

2020 was distinguished with the high number of protest demonstrations. However, unlike 2019, the majority of the protest demonstrations held in 2020 before November were mostly peaceful⁷¹. This was most likely due to the small number of activists/demonstrators participating in the protests. And this, in turn, was caused by a number of restrictions imposed by the state itself due to the threats exposed by the coronavirus pandemic. Among them, gatherings and demonstrations were limited/restricted⁷².

In the big part of demonstrations, the law enforcement officers on the site did not create barriers for the protesters to express their protest and requests. They ensured peaceful environment for the demonstrations, protected their safety and in case of small incidents, ensured not to spread the incident among other protesters that could create threats for other demonstrators. However in parallel to the positive tendency, there were cases when the police against the right to assembly and demonstrations dispersed the protest demonstrations with the support of mechanisms under the Administrative Offences Code⁷³.

On November 3, 2020 the Ordinance N660 of the Government of Georgia entered into force, based on which wearing a facemask in public places became obligatory⁷⁴. Violation of the rule is punishable in accordance with the Code of Administrative Offences of Georgia. In some cases, the law enforcement officers

⁷¹ See: Monitoring of the Protest Demonstrations, Interim Report; Human Rights Center, 2020: <https://bit.ly/39fXyPH>

⁷² See: Decree N1 of the President of Georgia of March 21, 2020. <https://bit.ly/36ZQVkw>.

⁷³ See the rally of the political party Girchi on the Hippodrome "Demanding the abolition of the state of emergency and fines imposed during this period" - (April 23, 2020, Tbilisi); the patrol police officers were calling on the protesters to disperse otherwise they warned them being fined or arrested

⁷⁴ See the Ordinance N660 of the Government of Georgia, November 3, 2020 <https://bit.ly/3qKITVs>.

called on the protesters to keep distance and wear facemasks, yet in most cases the protesters did not do so.

From November 9, 2020, the Government of Georgia again established restrictions for the prevention of the spread of the COVID-19⁷⁵, which had negative impact on the freedom of assembly and manifestation.

Like in the past years, the practice of administrative detentions during the protest demonstrations is still problematic. For example, on November 9, 2020, an activist of the civil movement “Shame” was arrested for the attempt to take firewood to the demonstration area⁷⁶. The Tbilisi City Court found him guilty under the Articles 166 and 173 of the Administrative Offences Code of Georgia.

PROTEST DEMONSTRATION OF NOVEMBER 8, 2020

On November 8, 2020, a protest rally “Defend Your Vote” was organized in front of the Parliament of Georgia. The demonstrators protested the election results and together with other requests they demanded snap parliamentary elections⁷⁷. After the rally was over, one part of the demonstrators walked to the building of the Central Election Commission.

Arrival of a small part of the demonstrators at the CEC premises was followed by a rapid response of the law enforcement officers. Regardless the small number of the protesters and the ability of the deployed police forces on the ground to control the situation without additional forces, few minutes later, without any warning, the police officers used a special mean of dispersal – released the water cannon and so-called pepper spray against the demonstrators⁷⁸. Before using the special means, some protesters tried to break the iron fence around the CEC building; however, the core part of the demonstrators were peacefully protesting⁷⁹. As the media footage and the monitors’ reports showed, the water cannon was opened

⁷⁵ See: Ordinance N670 of the Government of Georgia on the introduction Amendments to the Ordinance # 322 of May 23 2020 of the GoG “About the Isolation and Quarantine Rules <https://bit.ly/3m6DtIV>

⁷⁶ See more information at <https://bit.ly/3nCixlF>

⁷⁷ See more information at <https://formulanews.ge/News/39293>

⁷⁸ See the report of the HRC monitor 08.11.2020. Also watch <https://formulanews.ge/News/39378>.

⁷⁹ See the report of the HRC monitor 08.11.2020

against the peaceful protesters and media representatives too⁸⁰. At about 00:10 am, the police started using the water cannon again. At that moment, 5-6 water cannon vehicles were on the site, which released the water cannon against the protesters⁸¹. The use of special means without warning and with the excessive force caused aggression of the protesters. The video-footage released by the police showed that the protesters were throwing stones and burning woods in the direction of the water cannon. The windows of the special vehicles were smashed with stones⁸².

The use of the water cannon and so-called pepper spray against the demonstrations gathered in front of the CEC without any warning in the first episode of the dispersal was the disproportionate power that blatantly violated the requirements of the national legislation and the international human rights standards. The special means used by the police against the protesters was neither in accordance with the law, nor proportionately restrictive and necessary⁸³.

Violence and resistance of the protesters was provoked by the violent behavior of the law enforcement officers when they used special means against the protesters without warning and when assessing the proportionality of the interference in the freedom of assembly, it is necessary element to be taken into account. However, as one part of the demonstrators started acting violently, it required adequate response from the state. Therefore, the use of the special means in the second episode of dispersal can be evaluated as legitimate as it was done after multiple preliminary warnings.

SO-CALLED CURFEW AND FREEDOM OF EXPRESSION

Since November 9, 2020, the Government of Georgia, in fact, imposed a curfew from 10:00 pm until 5:00 am⁸⁴ though the ordinance did not mention the term at all. In accordance with the assessment of several nongovernmental organizations

⁸⁰ See the report of the HRC monitor 08.11.2020, also information at <https://bit.ly/3kfG2OV>

⁸¹ See the livestreaming of the TV Formula <https://bit.ly/3nfSyA8>.

⁸² See the video footage of the MIA <https://bit.ly/3oiEOyj>

⁸³ See the HRC report: "Findings in the Monitoring of Protest Demonstrations," 2020, p. 17-18 at <https://bit.ly/3nvBdTo>

⁸⁴ See the Ordinance of the GoG N670 <https://bit.ly/3m6DtIV>.

(GDI, ISFED, HRC and TI), in the light of current national events, the restrictions established by the GoG, may be perceived as an attempt of the government to disrupt democratic processes and to fight the wave of protests that have been unfolding, rather than the spread of COVID-19. The organizations stated that this is especially noteworthy due to the fact that curfew has been extended to pre-election campaign (political agitation), when activities carried out within the pre-election campaign were an exception to other restrictions imposed by the Government of Georgia⁸⁵.

On November 24, 2020, the Norwegian Helsinki Committee and the Human Rights Center released a statement⁸⁶, which reads that the new restrictions are disproportionate interference into the freedom of movement. They undermine the realization of right to peaceful assembly and manifestation and indirectly restrict it as well. The Georgian government is not authorized to restrict right to peaceful assembly and manifestation under such conditions, according to Georgian legislation. The timing and nature of these restrictions give impression that they were enacted in order to suppress the increased protest movement⁸⁷.

Human Rights Center believes that the decision of the GoG contradicts the Organic Law of Georgia on Normative Acts. Furthermore, the assumption that the GoG can differently arrange the rules of the adoption of the normative acts and their publishing, significantly contradicts the constitutional principle of legal security. Besides, the introduction of the curfew by the Government of Georgia, without the engagement of the legislative body in the decision-making process, comes in conflict with the Constitution of Georgia.

The GoG established the new restrictions based on the Article 45³ of the Law of Georgia on Public Health⁸⁸, which was adopted by the Parliament of Georgia on May 22, 2020 in haste in order to enable the GoG to restrict a set of human rights and basic freedoms even after the state of emergency is lifted that contradicts the

⁸⁵ See Ordinance N670 of the Government of Georgia on the introduction Amendments to the Ordinance # 322 of May 23 2020 of the GoG "About the Isolation and Quarantine Rules <https://bit.ly/3m6Dtiv>; and also the Statement of the GDI, ISFED, HRC and TI Regarding an Introduction of the Curfew Order <https://bit.ly/37YrCPC>

⁸⁶ See the joint statement of the NHC and HRC <https://bit.ly/3oLvRUy>

⁸⁷ See the joint statement of the NHC and HRC with regard to the parliamentary elections <https://bit.ly/38w0FDL>

⁸⁸ See the Law of Georgia on Public Health, Article 453 <https://bit.ly/3npnzBX>

Constitution of Georgia and the standards established by the Constitutional Court of Georgia. Also, it enables the executive government to abuse its authority.

It can be said that in the contrary to the constitutional requirement and international standards, the Government of Georgia, in fact, replaced the legislative body – the Parliament and without any public discussions and disputes, through the violation of the principle of separation of powers imposed a new, highly intensive restriction. It further complicated tense political situation in Georgia.

◆ RIGHT TO EQUALITY

The problem of the protection of the equality rights, like previous years, is still one of the key challenges in the country. 2020 was particularly important year in this regard, on the one hand because of the pandemic-related complicated situation and on the other hand in terms of the parliamentary elections and created political crisis. Insufficient execution of the positive obligations by the state reinforces the stigmas and discrimination originated from wrong stereotypes in the society.

2020 was particularly difficult for the various vulnerable groups and minorities. Nevertheless, the needs of these groups and their protection were not mentioned in the election programs and campaigning agenda of the political parties either.

VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE

Violence against the women and domestic violence is still a huge challenge in the world. Various surveys confirm that these types of violence increase during the crisis, among them during the pandemic⁸⁹. The increase of the domestic violence cases at 1/3 during the COVID-19 pandemic across the world proves the same⁹⁰.

The problem of the violence against women and domestic violence has been acute problem in Georgia for years. In 2018-2019, the domestic violence was one of the

⁸⁹ Covid 19 and Violence against Women, World Health Organization, March 26, 2020: <https://bit.ly/3bMzJli> and Covid 19 and Ending Violence against Women and Girls. UN Women, 2020: <https://bit.ly/3swpY0x>

⁹⁰ See the April 6, 2020 Statement of Antonio Guterres, the UN Secretary General available at <https://news.un.org/en/story/2020/04/1061052>; last seen on 26/12/2020; also see [COVID-19: Stopping the rise in domestic violence during lockdown | News](#), European Parliament, April 7, 2020

most frequent crimes committed in the country⁹¹. Whereas, considering various objective and subjective factors, the reports from the victims do not fully reflect the real scopes of the problem⁹².

According to the local human rights organizations, during the pandemic, the cases of domestic violence and violence against women significantly increased⁹³. Despite that, according to the information disseminated by the MIA in April of 2020, the number of cases of domestic violence and violence against women had not increased in Georgia⁹⁴.

During the crisis, in relation with the violence against women and domestic violence, the MIA carried out some activities. Namely – awareness raising campaign both by informing the society about the alternative methods to respond to the violence, also by sending short text messages to the population (among them in the languages of ethnic minorities), by placing the information booklets in pharmacies and groceries, etc. However, regardless separate fragmented attempts, the problem was not comprehensively addressed, that should have been reflected in the increase of relevant services, including the temporary shelters and their infrastructural development, as well as by allocation of the funds for the eradication of the crimes and by other proactive activities.

The fight against the domestic violence and violence against women is still one of the priorities of the Government of Georgia⁹⁵ and the Prosecutor's Office of Georgia⁹⁶. However, regardless the measures taken for the prevention of this crime in the recent years⁹⁷, effective and comprehensive criminal prosecution and

⁹¹ See the statistics of the crimes registered by the MIA: <https://info.police.ge/page?id=115>.

⁹² See: State Audit Service, Audit Report on Efficiency, Mechanisms for the Protection and Prevention of Domestic Violence, February 8, 2019. https://sao.ge/files/auditi/auditis-angarishebi/2019/ojaxshi_dzaladobis_dacvis_efeqtianobis_auditis_angarishi.pdf.

⁹³ See the statement of the organizations working on the violence against women and domestic violence, <https://phr.ge/publication/statement/100?lang=geo>

⁹⁴ See the statement of the MIA, April 3, 2020 <https://police.ge/ge/shinagan-saqmeta-saministro-agrdzelebs-odjakhshi-dzaladobis-tsinaaghmddeg-efeqtian-brdzolas/13440>

⁹⁵ See the Ordinance N175 of the GoG <https://matsne.gov.ge/ka/document/view/4144947?publication=0>

⁹⁶ See the 2017-2020 strategy of the Prosecutor's Office of Georgia <http://old.pog.gov.ge/res/docs/saqartvelosprokuratuirsstrategia.pdf>

⁹⁷ See the Annual Report of the 2018-2020 Action Plan Monitoring on the measures to be taken for the fight against the violence against women and domestic violence and for the protection of the victims: <http://myrights.gov.ge/uploads/files/docs/9980evaw.pdf>.

investigation of these crimes is still a challenge for the prosecutor's office. It is still difficult for the prosecutors to identify the gender-based discrimination in the crimes committed against women and domestic violence cases. The reason, often is the lack of qualification of the prosecutors. In this regard, the insufficient number of the prosecutors specialized on the violence against women and domestic violence cases is still a problem for the system⁹⁸.

PEOPLE WITH DISABILITIES

On July 14, 2020, the Parliament of Georgia passed the Law of Georgia on the Rights of the People with Disabilities⁹⁹. This law should have ensured adoption of the UN Convention on the Rights of the Persons with Disabilities in the Georgian legislation and creation of such institutional mechanisms, which could reinforce the necessary guarantees for the protection of the rights of the people with disabilities.

The current edition of the Law adopted by the Parliament¹⁰⁰ includes several positive changes, like the requirement of the physical and psychic inviolability of the people with disabilities, their access to legal proceedings, definition of special plaintiff, also the notions of the reasonable accommodation and universal design. However, declarative nature of these innovations, their miscarriages and at some extent, their irrelevance with the standards established by the UN Convention, do not meet the challenges of this group and somehow worsens the standard of protection of their rights.

The people with disabilities and the organizations working on their rights were not effectively engaged in the process of the elaboration of the draft law by the Ministry of Justice. Due to this problem, it was not possible to plan the ways for resolving the real problems that this community is facing on legislative level¹⁰¹. The

⁹⁸ See the interim monitoring report of the IDFI, "Implementation of the Strategy and the Action Plan by the Prosecution Service of Georgia, (2017-2018); p. 55-56, 2019 available at https://idfi.ge/en/2017_2018_interim_monitoring_implementation_report_of_the_strategy_and_action_plan_of_prosecution_service_of_georgia

⁹⁹ See the Law of Georgia on the Rights of the People with Disabilities, <https://matsne.gov.ge/en/document/view/4923984?publication=0>

¹⁰⁰ Ibid

¹⁰¹ See the statements of the organizations and activists working on the rights of the people with disabilities with regard to the draft law on the Rights of the People with Disabilities, <https://bit.ly/38xLcTE>

current edition of the law does not provide real guarantees for the protection of the rights of the people with disabilities as it does not envisage the effective ways of the implementation of the UN Convention. The law has not yet defined a concrete state body, which shall ensure coordination of the implementation of the UN Convention on the Rights of the Persons with Disabilities¹⁰². Also, Georgia ratified the United Nations Convention on the Rights of Persons with Disabilities without its Optional Protocol, which excludes the possibility for the persons with disabilities to address the UN committee on the rights of persons with disabilities and to use the individual complaint mechanism. The law excludes the issues concerning mental health sphere and deinstitutionalization. The Law fails to include rights, such as legal capacity, freedom of movement, freedom of thought and expression.

The special measures taken for the prevention of the spread of the coronavirus had negative impact on the lives of the persons with disabilities. During the quarantine and isolation, suspended state programs on social rehabilitation and children's care disabled the families to take care of the people with the disabilities at homes. The rehabilitation process was also delayed.

The anti-crisis plan of the Government of Georgia left the big part of the people with disabilities beyond attention as only the people with clearly expressed disabilities and children with disabilities became the recipients of the social benefits in the frame of the anti-crisis plan.

THE RIGHTS OF THE LGBT+ COMMUNITY MEMBERS

LGBT+ people, like previous years, constantly become the victims of violence in different aspects of public life in Georgia. Yet limited mechanisms for the protection and assistance of the victims of violence do not envisage the specific challenges of the LGBT+ community.

The quarantine and restrictions established for the prevention of the spread of pandemic once again revealed the problems and needs of this community. Inability to get employed because of the crisis (while employment for the members of the

¹⁰² Ibid

LGBT+ community was difficult before the crisis too), homelessness, increased risks of violence and other social and economic needs were left beyond the anti-crisis plan of the GoG.

The crisis particularly affected the transgender women. The negative feelings and stigmas in the society leave them without jobs, isolated, without different services, make them victims of violence and marginalized on daily basis. The state policy, among them the anti-crisis plan, did not envisage any assistance for the transgender people during the isolation. In 2020, the transgender people several times organized protest rallies with social demands. During one of those protests, a transgender woman tried to burn herself to make the government hear her voice¹⁰³.

Although in the past years, the response of the state institutions on the hate-motivated crimes has increased, it is not enough and cannot respond to the challenges of the LGBT+ community in Georgia. The members of the community find it more and more difficult to realize their freedom of assembly and expression. In May 2020, the office of the Tbilisi Pride was several times attacked that requires effective reaction of the law enforcement bodies¹⁰⁴.

Unfortunately, there are no homogenous preventive and legislative approaches to the problem in Georgia; it was problem for the government representatives to make statements on equality and on inevitable respect of human rights that was particularly important in the context of the 2020 Parliamentary Elections. Nevertheless, the problems of the LGTB+ community, because of unpopularity, again were not on the political agenda of the political parties.

¹⁰³ See more at <https://jam-news.net/ge/saqartvelo-transgenderi-koronavirusi-dakhmareba/>

¹⁰⁴ See more at <https://bit.ly/38aNIOM>

FREEDOM OF RELIGION

In 2020, pandemic and parliamentary elections disclosed the discriminatory approach of the Government of Georgia towards various religious organizations¹⁰⁵ and particular loyalty towards the Georgian Orthodox Church.

During the operation of the special measures taken for the prevention of the spread of pandemic and the pre-election period, on May 22, 2020, the Parliament of Georgia amended several normative acts based on the initiative of the Government of Georgia. The Law of Georgia on State Property was amended; the Parliament also passed the Code on Forest Code of Georgia, big part of which went in force from January 1, 2020. In accordance with the amendments, the Apostolic Autocephalous Orthodox Church of Georgia was granted exclusive right, based on its application and solicitation of the Ministry of Agriculture, to receive the forests located around the Orthodox Churches-Monasteries (no more than 20 hectares in space in each case) also adjusted territories (part of the forests owned by the State, but are managed by the Georgian Orthodox Patriarchate together with the State¹⁰⁶). The statements of the high hierarchy clergymen of the Orthodox Church and their particular activities in the regions in favor of the ruling political power in the pre-election period directly indicated at the active involvement of the Patriarchate in the Georgian political life in exchange of what every government pays so-called political tributes to them. The privileges granted under the new law applies only to the Georgian Orthodox Church and with it the Government of Georgia once again violated the principle of equality and secularism guaranteed under the Constitution of Georgia¹⁰⁷.

NATIONAL MINORITIES

In 2020, the difficult situation created by the spread of the novel coronavirus and the special measures taken for its prevention further complicated the state of the rights of national minorities in Georgia.

¹⁰⁵ See the joint statement of religious organizations <https://tabula.ge/ge/news/658028-religiuri-gaertianebebi-tskitishvilze-ar>

¹⁰⁶ See the Article 17 Part 1 of the Code on the Georgian Forest (22/06/1999)

¹⁰⁷ See <http://tdi.ge/ge/page/tolerantobis-da-mravalperovnebis-institutis-tdi-da-tbilisis-tavisupali-universitetis> [last seen 12.16.2020].

During the pandemic, when Marneuli and Bolnisi municipalities were locked down for the prevention of the spread of the novel coronavirus, the local population started to protest against the social crisis in the region¹⁰⁸. In parallel to that, hate speech was used against Azerbaijani population that was provoked by the incorrect media-coverage and especially – social networks¹⁰⁹, that was not followed by adequate reaction from the government, neither through resolving the social crisis, nor making statements in support of equality. The xenophobic statements of some public figures were particularly alarming in this process, the part of which were left without any reaction¹¹⁰. The crisis again disclosed the ineffective policy of the state towards the protection of the minority rights and elimination of their marginalization.

The participation of the national minorities in any level decision making process is still very low in Georgia¹¹¹. The crisis caused by the pandemic further complicated the effective realization of the right to education for the national minorities and the available services or programs became more ineffective which additionally weakened the process of the integration.

In 2020, the Government of Georgia continued to solve the problems in the national minority communities with the help of the State Security Service and repressive politics. For example, the developments around the decision of the local self-government to restore the statute of the Bolshevik revolutionary and writer Nariman Narimanov in Marneuli, and the initiative was opposed by the members of the ultranationalist groups and Marneuli and Hujabi Episcopo¹¹². To resolve the conflict, based on the Government's decision the State Security Service launched the investigation under the racial discrimination article, in the frame of which, together with other people, local activists were also interrogated.

The pre-election environment of the October 31, 2020 Parliamentary Elections was particularly tense in the regions inhabited with national minorities. The

¹⁰⁸ See more at <https://1tv.ge/news/marneulshi-mosakhleobis-nawili-sagangebo-mdgomareobas-aprotestebis/>

¹⁰⁹ See <http://notophobia.ge/geo/view-resources/statements/68>

¹¹⁰ See <http://notophobia.ge/geo/view-resources/statements/67>

¹¹¹ See the results of the survey of OSGF, 2019 <https://osgf.ge/kvlevis-shedegebi-etnikuri-umciresobebis-warmomadgenlebis-politikur-ckhovrebashi-monawileobis-shesakheb/>

¹¹² See full information at <https://netgazeti.ge/news/468188/>

confrontations between clans in various municipalities and violent actions during pre-election period became subject of particular attention of the society and human rights organizations. The controversies between the representatives of various political parties and clans of informal governors of the region several times ended up with physical conflicts. The video-footage¹¹³ of the March 26, 2020 confrontation between that time MP of the Georgian Dream Enzel Mkoyan and the relatives of the former MP Savel Petrosyan showed that MP Enzel Mkoyan was using firearm. Despite that, the key figurant of the March 26 and other incidents¹¹⁴, former MP Enzel Mkoyan was never interrogated by the police. The Coalition for Equality called on the law enforcement bodies to adequately respond to those incidents but in vain¹¹⁵.

THE RIGHTS OF THE PEOPLE VICTIMIZED BY THE CONFLICT

The particular problem of the internally displaced people (IDPs) is still poverty and lack of normal living conditions. During the pandemic, the number of unemployment has increased that additionally worsened the unemployment and social isolation of this community.

Like previous years, the state still does not have consistent policy to move the IDPs out from the so-called demolished buildings. The long-term accommodation issue of the IDPs is still dragged out in Tbilisi too.

In 2020, during the pandemic, the representatives of the de-facto regime of the occupied South Ossetia and Russian occupation forces continued arbitrary kidnapping of the Georgian citizens from adjacent area of the Administrative Boundary Line.

In 2020, the de-facto government of South Ossetia launched so-called family unification program that aims to resettle the local population to their families living in the territories controlled by the central authority of Georgia and consequently, abandon their houses in Akhalkgori district. During years, the policy

¹¹³ See more at <https://www.facebook.com/watch/?v=1720066588133618> [last seen: 16/12/2020]

¹¹⁴ See more at <https://mtavari.tv/news/4322-siskhliani-garcheva-akhalkalakshi-isev-enzel>

¹¹⁵ See more at <https://osgf.ge/koalicia-tanasworobistvis-deputati-enzel-mkoianis-mimart-gamodziebis-dawyebas-itkhovs/>

of the Russian occupation forces and the de-facto government aimed to artificially create unwilling environment and difficult conditions for the ethnic Georgian population in the district that contains signs of ethnic cleansing.



PENITENTIARY FACILITIES

The state of the rights of the inmates of penitentiary facilities worsened by the crisis caused by the pandemic in 2020. With the new regulations established for the purpose of healthcare, the rights of prisoners to have communication with the external world was also significantly restricted: personal visits and conjugal meetings were prohibited. Similar restrictions are significant challenge in their rehabilitation and resocialization process.

Rapid and effective response and adequate measures taken by the state to prevent the spread of the virus in the penitentiary facilities shall be evaluated positively; however, in parallel to that, the Government shall necessarily take additional measures to promote resocialization and rehabilitation of the prisoners.

In 2020, the unlawful practice of criminal subculture and informal governance is still problem in the penitentiary establishments that significantly increase the risks of the vulnerability of prisoners and violation of their rights, particularly during the pandemic when the public control over the penitentiary establishments are seriously limited because of objective factors. The facts of insulting the representatives of the Public Defender and attempted interference in their professional activities by the so-called privileged prisoners demonstrate the grave results of this faulty practice in the system¹¹⁶.

High-ranking government officials still continue discrediting of and interference in the activities of the Public Defender of Georgia. In 2020, the Minister of Justice and Special Penitentiary Service unlawfully published the video-recording and information about the visits of the Public Defender and her representatives to the prisoners several times and released discrediting statements.

¹¹⁶ See more at <https://www.facebook.com/OmbudsmanofGeorgia/posts/3354056561298516/>



MEDIA ENVIRONMENT

The media environment in Georgia was again pluralist but extremely polarized in 2020 before the parliamentary elections and afterwards too. The facts of violence against journalists, attempted interference in and oppression of the editorial policy of critical media organizations were observed in 2020 as well as the miscarriages in the access to media, spread of disinformation and violation of the ethical standards by media.

During the pandemic, role of critical media is crucial because it is very important to provide the society with the accurate, impartial, timely and balanced information about the spread of the virus and public healthcare. It is evident that rapid developments of facts complicated the work of journalists in 2020. Despite that, journalists at the risk of their health and life, 24 hours a day, worked and played huge role in the prevention of the spread of the virus particularly on the frontline of the pandemic. All leading media sources promoted professional and accurate coverage of the situation in relation with the spread of the virus. Considering the risks of disinformation about the virus in the world the effective work of the Georgian Journalistic Ethic Charter and effort to minimize the threats¹¹⁷ deserve particular appreciation.

Parliamentary Elections also significantly influenced the media environment in 2020. Before the elections, the attempts to harass and intimidate journalists, interfere in the editorial policy of media and attempts of public figures to discredit the media organizations traditionally raise in Georgia. Unfortunately, many similar problems were observed in 2020 too.

Among the problematic issues was restriction of the access to the public information for journalists by the government. During the pandemic, access to public information worsened.

Unfortunately, respect of ethic media standards and manipulation with information is still a challenge in the Georgian media. Lack of self-regulation and respect of

¹¹⁷ "Covid-19 Guideline for Journalists," Journalistic Ethic Charter, <https://www.qartia.ge/ka/covid>

journalist ethics in media sources raises the risks of control of media activities and encourages the government to establish additional regulations for media.

THE WORK OF THE COMMUNICATIONS COMMISSION

Since the Communications Commission commenced its activities¹¹⁸ as an independent state body, which is formally free from political and state influence, its decisions almost always have been subject of the criticism of civil society organizations and the real independence of the Commission is constantly questioned¹¹⁹.

Before the 2020 Parliamentary Elections, namely in July, the Communications Commission announced an initiative¹²⁰ to amend the Law of Georgia on Broadcasting¹²¹ and Law of Georgia on Electronic Communications¹²².

The proposed amendments aimed to authorize the Communications Commission to appoint so-called “special manager” in the telecommunications operating companies. Big part of the Georgia based broadcasters are simultaneously the authorized entities in the field of electronic communications and the amendments were planned to apply to all broadcasters, which are telecommunications operators. At the same time, the proposed draft law did not envisage the clear mechanisms of the appeal.

In this light, the proposed amendments created a special leverage for the Communications Commission to enable it to influence the editorial policy of the independent media, internet, advertising service and other issues like employment and labor rights in telecommunication and broadcasting companies.

¹¹⁸ See information about the Communications Commission <https://comcom.ge/en/the-commission/about-commission>

¹¹⁹ See Media Influence Matrix: Georgia, CEU's Center for Media, Data and Society (CMDS, Budapest, 2020. Available at <https://bit.ly/38nu4QD>; see also the conclusion of the temporary investigative commission of the Parliament of Georgia about the work of the Georgian National Communications Commission, March 7, 2014 <https://bit.ly/3s5Zxi4> last seen 10/12/2020

¹²⁰ See the parliamentary initiative of the Communications Commission <https://info.parliament.ge/#law-drafting/20679>

¹²¹ See the Law of Georgia on Broadcasting <https://matsne.gov.ge/en/document/view/32866?publication=52>

¹²² See the Law of Georgia on Electronic Communications <https://matsne.gov.ge/ka/document/view/25480?publication=0>

Therefore both the broadcasters and representatives of the field of telecommunications¹²³ and civil society organizations¹²⁴ criticized the initiative of the Commission.

In the end, with the active work of the civil society, the amendments introduced to the initial version of the draft-law provided safeguards against the mentioned risks¹²⁵.

During the pre-election period, the number of the disputable decisions of the Communications Commissions significantly reduced but the questions around the activities of the Commission are still pending that make the issue of further modification of the institution and improvement of the regulatory acts necessary.

DISINFORMATION AND FAKE NEWS

In the past years, besides Russian disinformation, in the Georgian media, particularly in social networks, with the support of the so-called bots and trolls, the instances of forming public opinion, polarizing and discrediting opponents, have become more and more frequent.

In May 2020, Facebook removed 511 pages, 101 facebook accounts, 12 groups and 54 Instagram accounts linked to the Georgian Dream affiliated online platform Espersona¹²⁶. Besides the accounts linked to the ruling political power, Facebook discovered and removed 23 accounts, 80 pages, 41 groups and 9 Instagram accounts linked to the political party United National Movement¹²⁷. Facebook also removed fake accounts linked to the political party Alliance of Patriots¹²⁸.

As for the accounts linked to the Russian Federation, which disseminated fake information in Georgia too, according to the official statement of the Facebook¹²⁹,

¹²³ See the July 7, 2020 statement of the Coalition for the Media Advocacy <https://bit.ly/2Ws8CTI> (last seen 19/12/2020)

¹²⁴ See the July 8, 2020 statement of the Georgian Young Lawyers' Association, <https://bit.ly/3mBaeoI> [last seen: 19/12/2020]

¹²⁵ See the conclusion of the GYLA, 07/07/2020 <https://bit.ly/3p9FUu2>

¹²⁶ See more at <https://civil.ge/archives/350217>

¹²⁷ Ibid

¹²⁸ See information at <https://civil.ge/ka/archives/380877>

¹²⁹ See the statement of Facebook <https://about.fb.com/wp-content/uploads/2020/05/April-2020-CIB-Report.pdf>

46 pages, 91 accounts, 2 groups and 1 Instagram account were removed. The Facebook investigation concluded that people from Russia, as well as Ukraine's Donbas Region and Crimea stood behind those activities. According to the social network, the accounts of the media organizations News-Front¹³⁰ and SouthFront were also linked to the Crimea.

Georgia is still vulnerable in relation with the hybrid threats coming from foreign countries. The efforts of Facebook to fight against the disinformation is appreciated. It is also important to intensify the cooperation with the international partners and increase the support from the international organizations and donors in this direction.

TBILISI MAYOR AGAINST MEDIA

The Tbilisi Mayor, who is also secretary general of the ruling political party, announced the campaign against the disinformation and fake news spread by opposition political parties¹³¹. The announcement was enclosed with the poster¹³², on which the names of the three opposition TV-broadcasters (Main Channel, TV-Company Pirveli and Formula) were changed into "Main Lie", "First Lie" and "Formula of Lie".

Unfortunately, it was not first case, when public figures and politicians tried to marginalize the media organizations. In the democratic society, it is inadmissible when high ranking government official attack opposition TV-Channels. For the promotion of media pluralism, the representatives of the government shall restrain from making similar statements.

HAMPERING THE JOURNALISTIC ACTIVITIES

Although the Georgian legislation on media fully meets the international standards, also the Article 154 of the Criminal Code of Georgia imposes criminal responsibility for the action which hampers a journalist to carry out his/her

¹³⁰ It is noteworthy that News-Front was blamed in the dissemination of disinformation about the COVID-19 in Georgia. See the statement of the ISFED on the issue at <https://bit.ly/3qbT43h>

¹³¹ See the facebook address of the Tbilisi Mayor – Kakha Kaladze: <https://bit.ly/3nEant8> [last seen: 12/12/2020]

¹³² See the poster of the Tbilisi Mayor's campaign <https://bit.ly/3paUHxU> [last seen: 12/12/2020]

professional activities, for years the enforcement of the law in practice is still problematic. Law enforcement officers rarely use the mentioned article of the criminal law. At the same time, often, this norm is misinterpreted. The investigation launched under the mentioned article is usually dragged out. All these creates the feeling of impunity and increases vulnerability of the media representatives that is proved by frequent assaults on journalists in the past years.

PHYSICAL ASSAULT OF JOURNALISTS

The facts of physical abuse of media representatives were observed when they were covering the Parliamentary Elections of 2020. On the Election Day, a man attacked the journalist of the online edition Publika.ge in Gldani district polling station, Tbilisi¹³³. The journalist was injured and his camera was broken. The journalist of the TV-Company Pirveli was also injured during the incident, who reported that during the controversy in the Gldani polling station, video-camera hit him in the face¹³⁴.

Member of the political party European Georgia, who was in one of the polling stations of Marneuli municipality with gun, hit the video camera of the journalist of the online edition On.ge and hampered his professional activities¹³⁵.

When journalists were covering the protest demonstration of November 8, 2020, a stranger attacked the journalist of the TV-Company Imedi, who as the TV-Company stated, tried to suffocate their representative. In accordance with the statement, the protesters were insulting another journalist of the TV-Company while he was performing his professional duties¹³⁶.

In the evening of September 29, 2020, in Marneuli, when journalists were covering the pre-election campaign, people attacked and physically assaulted the journalists

¹³³ See more information at : <https://publika.ge/video-publikis-djurnalists-fizikurad-gauswordnen-daumtvries-telefoni/>

¹³⁴ See more information: <https://bit.ly/3rczHbz>

¹³⁵ See more information: <https://bit.ly/2LK9b9i>

¹³⁶ See the statement of the TV-Company Imedi, November 9, 2020 <https://bit.ly/3h1eYmF>

and cameramen of the TV-Companies Main Channel and the Georgian Public Broadcaster¹³⁷.

On January 30, 2020, in the yard of the Tbilisi City Court, several people attacked and injured the director of the Main Channel Nika Gvaramia¹³⁸.

In April 2020, the clergyman of the Kutaisi based Holy Trinity Church published a video-appeal¹³⁹, in which he called on the parish to catch and tie up the journalist of the TV-Company Main Channel after the latter critically reported about the celebration of the Palm Sunday during the COVID-19 related pandemic¹⁴⁰.

On November 7, 2020, the correspondent of the TV-Company Pirveli was attacked in the vicinities of the Central Election Commission during live-broadcasting¹⁴¹.

Unfortunately, in some cases, the actions against journalists were not correctly qualified. The rapid and effective response of the law enforcement bodies to all these cases is necessary, as well as accurate legal qualification of the action and punishment of perpetrators in order to prevent future facts of violence against journalists and to end impunity. It is necessary to create safe media environment in the country.

THREAT FROM FOREIGN COUNTRY

In the context of the events developed on June 20-21 of 2019¹⁴², journalist Giorgi Gabunia, who was host in the TV-Program "PostScriptum" of the TV-Company Rustavi 2, spoke about the President of the Russian Federation – Vladimir Putin in an obscene rant¹⁴³.

¹³⁷ See more at <https://civil.ge/archives/371686> and <https://formulanews.ge/News/37406>

¹³⁸ See the statement of the Coalition for Media Advocacy <https://osgf.ge/nika-gvaramiaze-tavdashkma-droulad-da-miukerdzoeblad-unda-ignes-gamodziebuli/>

¹³⁹ See more at <https://bit.ly/3at5klg>

¹⁴⁰ See more at <https://bit.ly/2KcfbaI>

¹⁴¹ See more at <https://bit.ly/37wuRyf>

¹⁴² See the report of Human Rights Center: "June 20-21 Events – Legal Analysis", 2019 <http://hrdc.org/admin/editor/uploads/files/pdf/hrc2019/20-21%20ivnisi-eng.pdf>

¹⁴³ See more at <https://www.radiotavisupleba.ge/a/30041838.html>

A year later, in June 2020, the murder plan of the TV-host Giorgi Gabunia was reported that was allegedly ordered by the leader of Chechnya Ramzan Kadirov¹⁴⁴. The Georgian police arrested the potential murderer soon¹⁴⁵. Due to reality of the threat, the Georgian journalist is still accompanied by the state security guards.

Georgian human rights nongovernmental organizations assessed the alleged attempt to murder the journalist Giorgi Gabunia as the Russian plan of the destabilization in Georgia¹⁴⁶.

SECRET SURVEILLANCE OF JOURNALISTS

On October 29, 2020, at the briefing in the office of the Georgian Dream, executive secretary of the ruling party Irakli Kobakhidze stated that on the Election Day the opposition political parties planned to riot and to prove his allegation, he published the phone conversation between a journalist and a member of the opposition¹⁴⁷. Later, journalist Nato Gogelia, who was mentioned in Kobakhidze's announcement, confirmed the content of the phone conversation¹⁴⁸.

This fact once again demonstrated that the practice of non-sanctioned secret surveillance in Georgia still exists, among them it is used against media representatives and leaders of the opposition political parties. Regardless the request of the civil society organizations¹⁴⁹, the government members did not make additional clarifications about the secret surveillance fact of Nato Gogelia. Neither investigative bodies got interested into the fact.

CENSORSHIP

The self-regulating body of media operating in Georgia – Journalistic Ethics Charter concluded the violation of the Principle 2 of the Journalistic Ethics Charter

¹⁴⁴ See the statement of Ramzan Kadirov in the social network https://t.me/RKadyrov_95/642

¹⁴⁵ See more at <https://civil.ge/archives/384754>

¹⁴⁶ See the statements of the Coalition for Media Advocacy and Georgian Euro-Atlantic Coalition <https://osgf.ge/djournalist-giorgi-gabunias-likvidaciis-gegmis-shesakheb/>

¹⁴⁷ See the briefing of Irakli Kobakhidze: <https://www.mediachecker.ge/ka/mediagaremo/article/85015-tv-pirvelis-zhurnalisti-kobakhidzem-am-brifingith-daadastura-rom-mismenen>

¹⁴⁸ See the facebook post of the journalist Nato Gogelia <https://www.facebook.com/nato.gogelia/posts/10214884607267638> [last seen 12/12/2020]

¹⁴⁹ See the statement of the Coalition for Media Advocacy <https://bit.ly/3nEVB5e>

by the TV-Company Imedi, which means interference in the editorial independence of the journalists, coercion of a journalist to express an opinion against his/her conscience. As the applicants clarified, in the end of 2019 and in the beginning of 2020, Nikoloz Laliashvili, that time deputy director general of the TV-Company Imedi, several times told the journalists that he did not like the critical stories prepared by the Business News of the TV Company Maestro, which was part of the Imedi Holding at that time. The five former journalists of the Business News filed a complaint against Nikoloz Laliashvili. They stated that Laliashvili in fact gave instructions how to prepare the program and in whose favor the entire editorial team should work. After the parties could not agree over the issue, on February 28, 2020 the TV-Program Business News was aired last time and the team left the TV-Company Maestro.



HIGH PROFILE CASES

CASE OF CARTOGRAPHERS

On October 7, 2020, the Office of the Prosecutor General of Georgia arrested Iveri Melashvili and Natalia Ilichova, former members of the Delimitation and Demarcation Government Commission. They were accused of the action aiming at the violation of the territorial integrity of Georgia (Article 308 Part I of the Criminal Code of Georgia)¹⁵⁰.

Factual circumstances of the case, the timing of the investigation, the pre-election context, the signs of a selective approach to the investigation, the populist statements made by the ruling party leaders, and the violation of the presumption of innocence, raised doubts that the investigation is politically motivated, and aimed to influence the election results¹⁵¹.

In this criminal case, Human Rights Center, together with partner organizations, continues the defense of the legal interests of Natalia Ilichova and in case of

¹⁵⁰ See the statement of the Prosecutor's Office of Georgia <http://pog.gov.ge/en/news/saqarTvelo-1>

¹⁵¹ See the statement of Human Rights Center:

<http://www.humanrights.ge/index.php?a=main&pid=20240&lang=eng>

necessity, is ready to represent her interests in front of the European Court of Human Rights¹⁵².

CASE OF GIORGI SHAKARASHVILI

The case of a young footballer Giorgi Shakarashvili, killed on June 18, 2020¹⁵³, again demonstrated the ineffectiveness of the work of investigative bodies to prevent crimes in the country. At the same time, the developments around the investigation of this case clearly showed the problems of the Georgian investigative bodies in terms of effective and comprehensive investigation.

The questions around the case raised doubts about the bias and independence of the investigation in the society. One of the reasons of the lack of public trust towards the investigation was grave violations in the case of the adolescents killed in Khorava Street, Tbilisi in 2017¹⁵⁴, which significantly harmed the public trust towards the system.

Considering the resonance of the case, the Public Defender's Office as an exception, studied the case materials in the course of ongoing investigation process¹⁵⁵. According to the PDO, the examination revealed that the investigative activities carried out by the Mtskheta-Mtianeti Police Department at the initial stage of the investigation were not thorough. Also, the PDO identified alleged violations that require an official examination by the General Inspectorate¹⁵⁶.

In this light, the Public Defender of Georgia addressed the Minister of Internal Affairs of Georgia and the Prosecutor General of Georgia with a proposal and called on the investigative agencies to conduct a specific investigative activity and official inquiry into the case¹⁵⁷.

¹⁵² See the statement of Human Rights Center:

<http://www.humanrights.ge/index.php?a=main&pid=20246&lang=eng>

¹⁵³ See more information: <https://www.radiotavisupleba.ge/z/22142>

¹⁵⁴ See the analytic document of Human Rights Center

<http://hrdc.org/admin/editor/uploads/files/pdf/report2020/Khorava%20case-eng-f-c.pdf>

¹⁵⁵ See the statement of the Public Defender <https://bit.ly/35xS29P>

¹⁵⁶ See more information: <https://bit.ly/3nAT2ki>

¹⁵⁷ Ibid

CASE OF TAMAR BACHALIASHVILI

The investigation of the case of death of young programmer Tamar Bachaliashvili under obscure circumstances again demonstrated the low public trust to the investigative bodies and lack of their qualification. Because of many suspicious circumstances around the case and the questions raised by the society, in September 2020 Human Rights Center got involved in the case¹⁵⁸. Having studied the case materials, HRC lawyers identified many miscarriages and unanswered questions in the case files¹⁵⁹ though the investigation has not answered them so far. Consequently, the suicide version of the prosecutor's office, which was supported by the investigation too, is still ungrounded and requires additional, qualified investigation. Despite these problems, on December 17, 2020, the prosecutor's office published official statement¹⁶⁰ and notified the society that the criminal proceedings were terminated.

Human Rights Center believes the decision of the prosecutor's office was ungrounded and the criminal investigation of the case was not complete and comprehensive. The investigation could not answer the questions of the society.

CASE OF TEMIRLAN MACHALIKASHVILI

On January 25, 2020, the Prosecutor's Office terminated the criminal investigation of the murder of Temirlan Machalikashvili¹⁶¹. The investigation continued during 2 years since December 26, 2017, when Temirlan Machalikashvili was gravely wounded during the special operation organized by the State Security Service in the family of the Machalikashvilis in Duisi village; he died later due to the wound received in the head.

Human Rights Center believes the state failed to execute its obligation – to ensure comprehensive, impartial investigation and to punish perpetrators. The

¹⁵⁸ See the statement of Human Rights Center:

<http://www.humanrights.ge/index.php?a=main&pid=20217&lang=eng>

¹⁵⁹ See the problematic issues identified by HRC:

<http://www.humanrights.ge/index.php?a=main&pid=20252&lang=eng>

¹⁶⁰ See the statement of the Prosecutor's Office of Georgia: <http://pog.gov.ge/news/saqa-1>

¹⁶¹ See the statement of the Prosecutor's Office of Georgia <http://pog.gov.ge/en/news/brifingi-Tbilisis-prokuraturashi>

investigation did not result into criminal responsibility of those officers of the State Security Service, who made mistakes in planning and performing the special operation. Criminal prosecution did not start against any individual and the parents of Temirlan Machalikashvili did not receive a status of victim's assignee. Also, the investigation was not commenced into alleged inhuman treatment of the family members of Machalikashvilis and into falsification and destruction of the evidence by the State Security Office. Furthermore, the family members of the Machalikashvilis became the subjects of the persecution from the state many times.

HRC shares the position of the Public Defender of Georgia¹⁶², who believes that the terminated investigation should definitely be resumed, as a number of issues remain unestablished, perpetrators should be identified and punished adequately¹⁶³.

¹⁶² See the statement of the Public Defender of Georgia on the International Day of Human Rights <https://bit.ly/2LG911F>

¹⁶³ With the legal aid of the nongovernmental organization EMC, European Court of Human Rights will examine the case of murder of Temirlan Machalikashvili, where the violation of the Article 2 (right to life), Article 3 (prohibition of torture and inhuman treatment) and Article 13 (right to effective remedy) of the Convention by the State of Georgia is claimed.



INTERNATIONAL ORGANIZATIONS ABOUT THE STATE OF HUMAN RIGHTS IN GEORGIA

The EU and Georgia held the 13th round of their annual Human Rights Dialogue by video-conference on 2 July 2020¹⁶⁴. EU welcomed progress on human rights protection in Georgia, and acknowledged the particular challenges posed by the coronavirus pandemic to international human rights protection.

In the joint statement released after the meeting¹⁶⁵, the sides stressed their commitment to the universality of human rights for all, regardless of religion or belief, ethnic origin, race, sex, language, sexual orientation, gender identity, ability or other.

On April 8, 2020, the international human rights organization Amnesty International echoed the grave facts of human rights violations in the territory of de-facto South Ossetia. The organization is alarmed with the criminal proceedings against the civil activists Tamar Mearakishvili and Irina Kelekhsaeva and other media representatives from the side of the de-facto government of South Ossetia. The Amnesty International states that the Russian Federation, as the state effectively in control of the region, and the de facto authorities, should fully cooperate with all international human rights monitoring mechanisms, including by allowing and facilitating full and unimpeded access for international monitors to the territory under their control¹⁶⁶.

One more international human rights organization – Freedom House wrote in its 2020 publication (Global Freedom) that South Ossetia is still the most not-free place in the world together with China and Azerbaijan¹⁶⁷. In accordance with the

¹⁶⁴ See statement of Ministry of Foreign Affairs: <https://mfa.gov.ge/News/adamianis-uflebebis-dacvis-sakitkhebze-sagartvelo.aspx?CatID=5>

¹⁶⁵ See the joint statement of EU and Georgia https://eeas.europa.eu/delegations/georgia/82000/georgia-13th-annual-human-rights-dialogue_en

¹⁶⁶ See the statement of the Amnesty International https://www.amnesty.org/download/Documents/EUR5621122020ENGLISH.pdf?fbclid=IwAR2_jkDPxY2AcHqIs_V2p_91OWFVksKEI6WEDuIRCdFfqD5NhrFnJ29wYIk

¹⁶⁷ See more at <https://freedomhouse.org/country/south-ossetia/freedom-world/2020>

report Globe Freedom 2020 by the Freedom House, Georgia is still among semi-free states but its rating in comparison with last year has worsened at 2 points and received 61 out of 100 points¹⁶⁸.

In October 2020, the Freedom House released a new report, which surveyed the impact of the COVID-19 pandemic on the global fight for freedom. The survey is titled as "Democracy under Lockdown¹⁶⁹", which studied the situation from the beginning of 2020 before September in 192 states across the globe. In accordance with the report, since the coronavirus outbreak began, the condition of democracy and human rights has grown worse in 80 countries. Governments have responded by engaging in abuses of power, silencing their critics, and weakening or shuttering important institutions, often undermining the very systems of accountability needed to protect public health. In the report, Georgia was among those 111 countries, where the state of democracy and human rights did not change after the pandemic¹⁷⁰. On September 10, 2020 the US State Department published the report about the 2020 Investment Climate in Georgia¹⁷¹. The State Department stated that Georgia is "small but open market" country. In the context of the disputes between the investors and the State, the document reads that regardless the improvement of the situation, "The independence of Georgia's judiciary and political interference in the judicial system remain concerns." Another significant issue, which is mentioned in the report refers to the Anaklia Deep Sea Port project and terminated contract with the Anaklia Development Consortium in 2020.

The US State Department states that there remain indications of interference in judicial independence and impartiality. Judges are vulnerable to political pressure from within and outside of the judiciary. In accordance with the report, disputes over property rights at times have undermined confidence in the impartiality of the Georgian judicial system. According to the document, while the government

¹⁶⁸ See more at <https://www.amerikiskhma.com/a/freedom-house-georgia-s-score-declines-by-two-points/5325037.html>

¹⁶⁹ See the report of the Freedom House – Democracy under Lockdown <https://freedomhouse.org/report/special-report/2020/democracy-under-lockdown>

¹⁷⁰ See more at <https://bit.ly/2J4d1sU>

¹⁷¹ See the 2020 report of the US State Department about the Investment Climate in Georgia: https://www.state.gov/reports/2020-investment-climate-statements/georgia/?fbclid=IwAR36t4r-vBYVwj-D-nyMAJIY6ZpoFytWeWDcNJJifGJagBW5OE2B_-bnSfE

identified judicial reform as one of its top priorities, politically sensitive cases are still vulnerable to political pressure. Based on the assertion of the civil society, the State Department states that the High Council of Justice is currently dominated by a group of anti-reform judges, who oppress the judges in relation with politically sensitive cases.

In accordance with the World Press Freedom Index 2020 published by the international organization *Reporters without Borders*, in 2012, Georgia ranked the 104th position in the world. In comparison with 2012, Georgia's position improved at 44 positions and in 2020, like in the past year, Georgia ranked 60th place among 180 countries across the world¹⁷².

In its 2020 report¹⁷³, the international organization Human Rights Watch paid attention to several issues in relation with Georgia. One of the issues underlined by the HRW was inadequate investigation of the facts of abuse of power by law enforcement officers and their impunity and inadequate punishment. According to the HRW, impunity for abuse by law enforcement officials remained a persistent problem. The report also reviewed the drug-policy in the country and stated that the drug-related felonies often result in long sentences, prohibitive fines, and deprivation of other rights.

¹⁷² See the 2020 Survey Report of the international organization Reporters without Borders: <https://rsf.org/en/ranking>

¹⁷³ See the 2020 report of Human Rights Watch: <https://www.hrw.org/world-report/2020/country-chapters/georgia>