

Brief Summary of the Public Defender's Annual Report of Human Rights and Freedoms in Georgia 2023

The Public Defender of Georgia has published an annual parliamentary report on the situation of human rights and freedoms in Georgia in 2023. The report reviews the challenges and progress in the direction of the protection of human rights guaranteed by the Constitution, as well as the state of implementation of recommendations. In 2023, positive steps were taken in various areas, but efforts are still needed to improve the protection of human rights.

The tragedy in Shovi, that claimed the lives of 32 individuals, was a particularly unfortunate incident during the reporting period. The Public Defender stresses the importance of conducting the investigation on this matter effectively and promptly, involving family members of the victims, the fulfillment or failure to fulfill the positive obligation of the protection of the right to life, regulation of risky or hazardous situations, implementation of preventive and reactive measures. Moreover, recent geological events in Shovi and Guria highlight the vulnerability of communities to natural disasters. The lack of systematic analysis and inadequate funding for resettling eco migrants exacerbate these challenges. Additionally, the process of transferring residential homes into ownership to eco-migrants resettled during 2004-2012 is still pending.

In 2023, the murder of Tamaz Ginturi by the Occupational Regime once again highlights that the persons directly involved in the murder of four Georgian citizens – David Basharuli, Giga Otkhзорia, Archil Tatumashvili and Irakli Kvaratskhelia - have yet to face consequence. This remains the liability of the Russian Federation. Alleged encroachment on the life of Georgian citizen Temur Karbaia by Occupational Forces further underscore ongoing human rights violations, including illegal detention and ill-treatment. Ethnic Georgian populations in occupied territories face barriers to education in their native language and ongoing borderization efforts. Property rights violations persist along the occupation line.

More effort is needed from the government to safeguard the rights of internally displaced persons due to occupation. Legislative changes enacted on January 1, 2023, relieved the government of the responsibility to provide long-term housing for IDPs born before 2023. It's crucial to assess the remaining families awaiting resettlement, plan for their long-term resettlement, and set deadlines for completion. Unfortunately, the number of families relocated from “demolishing” buildings hasn't increased.

Poverty, and especially child poverty, remains one of the major challenges. The number of recipients of social benefits has reached to its highest point throughout the life of the program and reached 676,641. The number of children registered in the Unified Database of Socially Vulnerable Families has also increased by 5.2% compared to the previous year.

Poverty affects the rights of older persons as well, whose population in Georgia is growing annually. A significant portion of the elderly population are socially vulnerable and living below the poverty line, which makes them especially at risk. The recognition of the rights of the elderly as a priority direction in the 2024-2026 Action Plan on Human Rights is a positive development, aiming to provide social

welfare, promote social engagement, and prevent abuse. It is important to note that, for the first time since 2017, a national action plan for 2024-2025 will be developed to address ageing-related matters, reflecting the Public Defender's advocacy efforts.

A proper legal definition of the homeless person and the necessary framework legislation for the realization of the right to adequate housing have not yet been developed. There is no unified database on homeless people. In addition, the causes and extent of homelessness in Georgia have not been thoroughly examined, and, therefore, there is a lack of government strategy and action plan or any unified policy addressing homelessness.

The quality and continuity of inclusive education, meaningful participation in decision-making at various levels, identifying and effectively responding to abuse and violence remain among the issues related to protection of the rights of persons with disabilities. Furthermore, a national plan for accessibility and standards to ensure that PWDs have access to information, communication methods, websites, mobile applications have not yet been approved.

The obstacles faced by national minorities include language and information barriers. It is important to strengthen the teaching of the state language at both pre-school and general education levels. It is crucial to raise awareness of national minorities in employment support programs and other public services, as well as in available media products. To achieve complete civic integration of national minorities, it is also important to protect and promote their culture. Unfortunately, the number of activities promoting the culture of national minorities remains low.

Challenges related to exercising the right to peaceful assembly persisted in the reporting period, involving legislative initiatives related to restricting format and substance of assemblies, disproportional and in some instances, unlawful actions taken to disperse assemblies. The practice of administrative detention of the participants of assemblies was used again, based on the Administrative Violations Code enacted in 1984, which fails to meet even minimum standards of compatibility with human rights and basic freedoms. The PDO submitted amicus curiae opinions to court on five cases involving these incidents. Unfortunately, these cases serve as confirmation that the interference in the exercise of the right to freedom of assembly is often related solely to the content and/or format of expression. A significant issue in 2023 was Parliament's proposal of a draft law imposing major restrictions on temporary structures (such as tents) at assemblies, which was criticized by the OSCE/ODIHR for potentially suppressing differing political opinions. It was subsequently vetoed by the President of Georgia and currently the process of enacting the Law has been suspended. The Public Defender notes that it is extremely important for the Parliament of Georgia to reject the adoption of the draft law in consideration of relevant international standards.

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

The rules for covert investigative activities lack clarity imposing threats on the right to privacy. Legislation does not specify if citizens must receive written notice or if reviewing documents at the

Prosecutor's Office suffices. Additionally, it's unclear if citizens should be informed about irrelevant information obtained through covert activities and when such information should be destroyed.

In 2024, Georgia will have its first fully proportional Parliamentary elections, utilizing electronic voting technology. Ensuring that the environment for elections is free, fair, and peaceful is vital for democratic progress and European integration. The Public Defender of Georgia will continue to oversee matters related to the realization of the electoral right within the powers granted under the legislation in 2024.

Issues in penitentiary facilities persist, with overcrowding and informal management methods remaining significant challenges. A 2021 visit by the CPT to assess the situation at semi-open institutions highlighted that conflicts between the management of penitentiary facilities and inmates representing the hierarchy were originally addressed informally, without being formally reported to the administration.

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

Parole release mechanisms remain unresolved, lacking unified, foreseeable, and clear eligibility criteria. The normative framework for parole release or substituting of the unserved portion of a sentence with a lighter punishment should be refined. Effective mechanism for reviewing a sentence is particularly crucial, especially for individuals sentenced to life.

In 2023, as in previous years, some individuals detained within the MIA system reported instances of excessive force and cases of physical and psychological abuse by law enforcement officers, along with the issues related to providing timely access to a lawyer and notifying their families. Concerns persist regarding the lack of use of body cameras and CCTV coverage in police premises, posing challenges to accountability and transparency.

There have been no significant improvements in mental health institutions, with patients still facing abuse and neglected legal safeguards. Although the right to leave voluntarily is clearly outlined in legislation, patients often cannot leave on their own. Lack of proper infrastructure remains a challenge.

Psychiatric institutions and institutions for persons with disabilities struggle with deinstitutionalization efforts, long-term hospitalization of patients in psychiatric institutions remains unresolved and patients who do not require active treatment are unable to leave institutions due to the lack of community services and because they have nowhere to go. On a positive note, it should be noted that certain positive steps were taken for the implementation of the 2023-2030 Strategy of Independent Living and Deinstitutionalization of PWDs and 2023-2025 action plan during the reporting period. The process of moving persons with disabilities from large institutions to small group homes designed to resemble a

family environment should be viewed favorably, however, the deinstitutionalization efforts included in the provision of alternative housing to individuals with mental health disorders aged 18 and older have deficiencies, hindering independent living.

In 2023, the state failed to enhance equality policies or improve conditions for disadvantaged groups, with no updates to policy or legislative regulations or any efforts to promote equality in this reporting period. The events surrounding Tbilisi Pride festival highlighted the inadequacy of relying solely on police forces to prevent violence and discrimination against the LGBT+ community, emphasizing the need for comprehensive, coordinated efforts involving multiple agencies and society at large.

State programs for children fell short once again, failing to provide sufficient and lasting assistance for independent living. Enhancing prevention efforts against violence, raising awareness among children and the public about child rights, and improving timely responses to violence are critical needs. The absence of a comprehensive response can result in tragic outcomes.

Gender-based violence, exemplified by the murder of 14-year-old Aitaj Shakmirova, persists due to insufficient prevention and support measures. Femicide remains a significant issue, with 24 murders and 27 attempted murders of women in 2023.

Child marriage, inadequate protection of girls, and barriers to reproductive health and services persist. Despite recommendations, no amendments have been made to improve compensation for victims of violence against women and domestic violence. Public awareness about compensation options should be raised to increase support for victims.

Regarding freedom of faith and religion, the Public Defender supports amendments in the Law on the Rights of Patients requiring informed written consent for blood transfusions. Despite this positive change, challenges persist. Discriminatory provisions in legislation remain unchanged and the issue of return of religious structures seized during the Soviet era remains unresolved. Additionally, no action has been taken to assess damages and property seized from religious associations in Georgia by Soviet regime.

The protection of human rights in Georgia depends on effective functioning of oversight institutions. The Public Defender has long advocated for an independent investigative mechanism with investigative and prosecution powers. Strengthening the Special Investigation Service is crucial, including broadening its authority to investigate offences committed by the General Prosecutor, the Minister of Internal Affairs, and the head of the Security Service. A notable improvement took place in 2023, allowing the Investigation Department of the Special Investigation Service to visit individuals in isolated cells, as proposed by the Public Defender in 2022.

Despite efforts to reform the justice system, deficiencies persist in Georgia's judiciary system at legislative and institutional levels. The highest number of prerequisites provided to Georgia on June 17, 2022 for obtaining candidate status towards EU integration concerned the judiciary system. Similarly, one of 9 conditional recommendations issued to Georgia on November 8, 2023, for granting candidate status concerned the reform of the justice system. The Commission relied on Venice

Commission's assessment, highlighting the need for comprehensive reforms to ensure the judiciary's independence, accountability, and integrity.

The 2023 Parliamentary Report also highlights challenges in healthcare and labor rights. Monitoring of infection control measures in medical institutions was conducted for the first time, showing progress in health oversight. In terms of labor rights, it should be noted that due to the lack of a culture of constructive dialogue several labor disputes led to strikes and even extreme forms of protest. While a minimum hourly wage for medical workers was introduced, it's insufficient to ensure decent salaries countrywide. The issue of ensuring labor rights for individuals employed on a digital platform remains a problem. Furthermore, according to current labor legislation private employers are still not mandated to provide paid leave for pregnancy, childbirth, and childcare.

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

Fragmented integration of human rights in policy documents is a significant challenge in the field of human rights education. Plans for enhancing human rights education focus only on the general education system.

Modifications were made to asylum seeker admission rules, prioritizing vulnerable groups. The situation regarding informing beneficiaries about integration programs has not improved. Specifically, information about integration programs and activities is not updated on social networks, while information on the websites of the relevant agencies is only available in Georgian.

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

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