



HUMAN RIGHTS IN GEORGIA

2023



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Introduction

The following report by the Georgian Democracy Initiative (GDI) examines the state of human rights protection in Georgia for the year 2023. The document thematically reviews the main events of the year, providing an analysis that assesses the extent to which the Georgian government fulfills its obligations in the realms of human rights protection and the rule of law.

In 2023, the Parliament of Georgia introduced the 'Russian Law,' marking an unprecedented institutional attack on international and local civil organizations. Initially supported as an idea by the ruling political force, Georgian Dream, the draft law later gained parliamentary approval in the first reading. Given the repressive consequences of a similar law in force in Russia, the draft law posed a significant threat to Georgian democracy and civil society. Following intense criticism and extensive protests against the proposed legislation, the ruling party was pressured to hold a formal consideration of the draft law during the second reading and reject it. However, despite this development, GDI's observations indicate that an antagonistic atmosphere toward civil society persisted within the country. This was evident in smear campaigns, aggressive rhetoric, and attacks targeting members of civil society, while the Government continued to curtail the space for civil engagement. A notable example of such attacks is the statements issued by the State Security Service during the training conducted for the arts sector. Moreover, an investigation was launched under the pretext of a "revolutionary scenario" leading to interrogations of art and civil society representatives.

Regarding freedom of expression and media, a positive evaluation should be given to the fact that the President of Georgia pardoned Nika Gvaramia, the founder of the TV company "Mtavari Arkhi." However, it is essential to note that harassment and pressure on critical media and journalists persisted throughout the reporting period. Moreover, adopting new media accreditation and security rules, along with amendments to the Law "On Broadcasting" in the Parliament introduced new risks associated with arbitrary decision-making. Concerning the abuse of legislation and legal mechanisms, the trend of filing lawsuits against civil society representatives, including the media, under the pretext of defamation (known as SLAPPs) persisted. Disturbingly, dangerous precedents were identified involving fines for expressions made in the online space. Furthermore, the prevalence of aggressive and defamatory rhetoric directed at journalists and media representatives remains alarming.

Regarding artistic freedom, amid allegations of personnel purges in the cultural sector, it is significant to highlight that in 2023, multiple court decisions declared the dismissal of employees from various cultural institutions as illegal. Furthermore, it is significant to highlight the protest staged by art representatives against the appointments of heads at the Cinema Center and the House of Writers, intending to preserve the independence of the field.

In 2023, the realization of freedom of assembly remained a significant challenge. Notably, in March, protests against the adoption of the "Russian law" were forcibly dispersed by law enforcement officers in violation of the law, employing disproportionate force. Furthermore,

the troubling practice of administratively arresting protestors by law enforcement, followed by prosecution and court-imposed penalties, continued. This approach disregards human rights protection standards and utilizes the 1984 Code of Administrative Offenses as a tool, which is incompatible with contemporary human rights standards. Aside from unwarranted interference with the freedom of assembly, the government continues to neglect its positive obligation to guarantee the freedom of assembly for members and supporters of the LGBTQ+ community. Notably, on July 8, 2023, hate groups disrupted the "Pride Festival." The authorities failed to take appropriate preventive measures, resulting in a substantial violation of the freedoms of expression and assembly for LGBTQI+ individuals. Moreover, the alarming threat of legislative deterioration is evident regarding the freedom of assembly. The Parliament approved amendments to the law "On Assembly and Demonstrations", and the Code of Administrative Offenses in three readings, introducing new grounds for prohibiting the establishment of temporary structures during assemblies/demonstrations. Despite parliamentary approval, the President of Georgia vetoed these legislative amendments. Notably, both the Public Defender and the Office for Democratic Institutions and Human Rights (OSCE/ODIHR) criticized the draft laws for the risks they pose in unjustifiably restricting freedom of assembly.

Regarding the protection of equality, we saw an unfortunate legislative deterioration in 2023. Notably, under the regulations introduced in the defense sector, the clergy, excluding those of the Orthodox Church exempted from military obligation by constitutional agreement, were obligated to undertake alternative labor service. This resulted in an unequal position for clergy of other non-dominant religious organizations and religious minorities. In the context of minority group equality, the challenge of anti-LGBT rhetoric persisted, and there were issues with inadequate cooperation with civil society in formulating the draft action plan for the State strategy on civil equality and integration for 2023-2024. Additionally, it's noteworthy that in 2023, courts ruled on the illegality of dismissals from various public institutions or LEPLs in labor disputes where plaintiffs alleged a political motive behind their dismissals.

In 2023, significant challenges persisted within the judicial system. Despite aspirations for EU accession, the European Commission's recommendation to reform the judicial system saw limited progress and remained unimplemented. Informal influences on the judicial system also endured, evident in actions such as the imposition of sanctions by the US State Department on current and former judges, the election process of non-judicial members of the High Council of Justice, and personnel changes within the judicial system. Furthermore, the holding and progress of sessions of the High Council of Justice faced difficulties in 2023.

In the broader context of human rights protection, a significant development occurred on November 8, 2023, when the European Commission issued a positive recommendation for granting candidate status to Georgia. Alongside this recommendation, the European Commission outlined nine essential steps for Georgia to undertake. These steps encompass institutional reforms, enhancements in human rights protection, efforts against anti-European

disinformation, alignment of Georgia's foreign and security policy with EU policies, and addressing other fundamental issues.

The establishment of a democratic society requires the presence of political will, demonstrated through the government's commitment to safeguarding human rights and freedoms within the country while upholding the rule of law. This foundation is indispensable for national development and the attainment of prosperity. Addressing the challenges outlined in the report is an integral aspect of reaching the progress, with far-reaching impact on the European integration of the country, enhancing the state of human rights protection in Georgia and fostering conditions conducive to achieving prosperity.

1. Civil Society and the State of Human Rights Defenders

1.1. Russian Law

In February 2023, a group of parliamentarians initiated the so-called "Russian Law."¹ This proposed legislation included a definition of an "agent of foreign influence," stipulating that entities receiving over 20% of their income from a "foreign power"² would fall under this designation. Consequently, numerous civil society and non-governmental institutions, along with online media operating in Georgia met this criterion due to substantial financial support from foreign donor organizations. Hence, the proposed legislation compelled them to register as "agents of foreign influence" and submit financial declarations. Violation of these requirements could result in substantial fines.³ Simultaneously, the Ministry of Justice was authorized to monitor and access all pertinent information, including personal data,⁴ to identify these "agents." In case of non-compliance with the law, the National Agency of Public Registry would be empowered to impose fines on the organization and register it in the roster of foreign influence agents.⁵

¹ The draft law is available at: <https://parliament.ge/legislation/25787> [last accessed 27.11.2023]; A letter/appeal from the parliamentarians of Georgia to the head of the Organizational Department of the Parliament of Georgia regarding the submission of the draft law, available at: <https://info.parliament.ge/file/1/BillPackageContent/38009> [last accessed 27.11.2023].

² The draft law defined "foreign power" by encompassing the following categories: "a) a constituent entity of the government system of a foreign state; b) an individual not holding Georgian citizenship; c) a legal entity not established under Georgian legislation; d) any organizational structure (including foundations, associations, corporations, unions, or other forms of organization) or any other association of individuals formed based on the laws of a foreign state and/or international law," available at: <https://info.parliament.ge/file/1/BillReviewContent/322468> [last accessed 27.11.2023].

³ Ibid.

⁴ Ibid.

⁵ Ibid.

The aforementioned legislation closely mirrored a law enacted in Russia, echoing its essence. Drawing parallels with Russian law, critical local non-governmental/civil organizations faced either suspension or significant restrictions on their activities, coupled with instances of repression.⁶ The European Court of Human Rights deemed the Russian law a violation of the European Convention on Human Rights.⁷ Consequently, akin to the Russian scenario, the draft law introduced in the Parliament of Georgia and endorsed in the initial reading posed a significant threat to the country's democracy and human rights. The proposed legislation faced widespread condemnation both domestically and internationally, drawing criticism from approximately 400 civil organizations, public advocates, representatives of the European Union and European Council, embassies, the United Nations, and others.⁸ Despite the extensive disapproval, the majority in the Parliament approved the draft law during its first reading. This decision triggered a substantial public protest held in front of the parliament from March 7 to 9, 2023.⁹ In response to the protests, the ruling party was compelled to backtrack and opted not to proceed with the law, ultimately rejecting it during the second reading at the plenary session of the Parliament.¹⁰

1.2. Hostile Environment toward Civil Society Organizations and Their Representatives

Despite the rejection of the "Russian law," the country has witnessed an escalation in the adversarial atmosphere towards civil organizations and their representatives. This manifested itself through discrediting campaigns, the misuse of legal proceedings, and statements made by government officials.

Examining the unfriendly environment cultivated for civil society, particular attention is drawn

⁶ Russia: New Restrictions for 'Foreign Agents', available at: <https://tinyurl.com/4sp374js> [last accessed 28.11.2023]; RUSSIA 'FOREIGN AGENTS' CASE, available at: <https://tinyurl.com/vrn8f2c> [last accessed 28.11.2023].

⁷ The decision of the European Court of Human Rights of June 14, 2022, in the CASE OF ECODEFENCE AND OTHERS v. RUSSIA.

⁸ The Human Rights Commissioner calls on the Parliament of Georgia to reject the bill on "Transparency of Foreign Influence" available at: <https://tinyurl.com/8ukhhubc> [last accessed 27.11.2023]; Statement of the High Representative of the European Union regarding the adoption of the Law "On Transparency of Foreign Influence", available at: <https://tinyurl.com/mrxsfbns> [last accessed 27.11.2023]; Russian law is not Georgia's choice, available at: <https://tinyurl.com/3canp8rj> [last accessed 27.11.2023]; Statement of the Office of the Public Defender of Georgia on the Draft Law of Georgia "On Transparency of Foreign Influence", available at: <https://tinyurl.com/5n8m7esk> [last accessed 27.11.2023]; Black day for Georgia's democracy - Evaluations of Foreign Partners [subject to periodic updates], available at: <https://tinyurl.com/5n79rme8> [last accessed 27.11.2023]

⁹ Photo story: The 2nd day of the protest against the draft laws on "Foreign Agents" in Tbilisi. available at: <https://civil.ge/ka/archives/530530> [last accessed 27.11.2023].

¹⁰ Resolution of the Parliament of Georgia of March 10, 2023, on the Draft Law of Georgia "On Transparency of Foreign Influence", available at: <https://info.parliament.ge/file/1/BillReviewContent/322649> [last accessed 27.11.2023].

to statements from the State Security Service¹¹ and the initiated investigation concerning a training session organized for the representatives of the artistic sphere. This training took place as part of the USAID Civil Society Engagement Program, executed by the East-West Management Institute, with Serbian representatives from the "Canvas" organization serving as trainers. As per the provided description, the training program aimed to "familiarize members of cultural and art movements and advocacy groups with diverse strategies for non-violent activism, self-organization for change, and mobilizing supporters." The course sought to facilitate connections among like-minded individuals from various regions of Georgia. Participants were given the opportunity to formulate collaborative and/or individual plans for future activities over the course duration.¹² According to the statement by the State Security Service, the training involving art representatives appeared to be directed towards provoking disorder in Georgia. The service's assessment characterized it as part of a so-called "scenario of changing the government by violence."¹³ According to the State Security Service, the investigation was conducted under the charges of preparing a terrorist act and conspiring or attempting a rebellion to forcibly change the constitutional order in Georgia (Articles 18-323 and 315 of the Criminal Code). The Serbian trainers involved in the training have been interrogated by the State Security Service as part of the investigative process.¹⁴

Furthermore, preceding the magistrate judge's involvement, the State Security Service had already interrogated individuals associated with the training, including artists and civil society representatives. Notably, the interests of some of these individuals (numbering 17 at this stage) are being safeguarded by the GDI.¹⁵ According to GDI's assessment, the State Security Service's statements, investigations, and inquiry processes constitute an unprecedented attack on international organizations in Georgia. The GDI contends that these actions are intended to diminish trust in civil society and instill a "chilling effect," creating an atmosphere of intimidation.

¹¹ State Security Services: Members of the organization "CANVAS" held master classes on overthrowing the government in Tbilisi, available at: <https://tabula.ge/ge/news/707629-sus-organizatsia-canvas-cevrebi-tbilisshi> [last accessed 08.12.2023]; State Security Services: Certain groups are planning to overthrow the government through violence In October-December, available at: <https://tabula.ge/ge/news/706829-sus-oktomber-dekembershi-garkveuli-jgupebi> [last accessed 08.12.2023].

¹² State Security Services accuses USAID of funding training on "revolutionary scenario," available at: <https://tinyurl.com/2m9jj8yt> [last accessed 27.11.2023];

¹³ State Security Services: Members of the organization CANVAS held master classes on overthrowing the government in Tbilisi, available at: <https://tabula.ge/ge/news/707629-sus-organizatsia-canvas-cevrebi-tbilisshi> [last accessed 08.12.2023]; State Security Services: Certain groups are planning to overthrow the government through violence In October-December, available at: <https://tabula.ge/ge/news/706829-sus-oktomber-dekembershi-garkveuli-jgupebi> [last accessed 08.12.2023].

¹⁴ "Pressure is being applied" - "Canvas Georgia" responds to the statement of State Security Services, available at: <https://tinyurl.com/mrymuwkwz> [last accessed 08.12.2023].

¹⁵ Interrogation of Vakho Kareli related to the "Training Case" has been completed, available at: <https://tinyurl.com/chrzkz4p> [last accessed 27.11.2023]; "How come you don't care about this useless tries" - another artist was summoned for interrogation due to the "Trainings Case, available at: <https://netgazeti.ge/news/693323/> [last accessed 08.12.2023].

It's worth noting that in October-November 2023, both GDI and its donor organizations were subjected to targeting by pro-government media and representatives of the ruling party. Notably, the pro-government television channel, TV Imedi, produced a report characterizing GDI as a "sponsor of unrest" and discussing its alleged involvement in supporting victims of human rights violations within the so-called "revolutionary scenario."¹⁶ As per GDI's perspective, this attack is designed to impede the organization from persisting in its efforts to safeguard human rights and provide assistance to repressed individuals in Georgia.¹⁷

Another instance of authorities attempting to discredit and launch attacks against civil engagement is the extensive campaign against the civil organization "Franklin Club." Primarily focusing on non-formal education for young people, the organization has faced repeated attacks and discrediting statements from government officials as part of the concerted effort to undermine its credibility.¹⁸ As an illustration, following the involvement of specific members of the "Franklin Club" in the March protest activities, the Prime Minister of the country publicly asserted that there are individuals with affiliations to Satanism within the "Franklin Club" and accused them of "indoctrinating young people."¹⁹

Regrettably, members of the civil society are also confronted with the threat of physical harm. A notable incident in this regard is the disruption of the "Pride Festival" on July 8, 2023, where representatives of the festival organizer "Tbilisi Pride" faced safety threats from violent counter-demonstration participants, leading to their evacuation.²⁰ Additionally, the incident involving civil activist Samira Bayramova is of significance, wherein her apartment door was vandalized with a cross and a Russian flag.²¹ The investigation was initiated under Article 151 (threat) of the Criminal Code.²² Samira Bayramova has been a recurrent target of threats from

¹⁶ <https://www.imeri.ge/ge/video/140318/areulobis-sponsorsobi> [last accessed 08.12.2023].

¹⁷ Shalva Papuashvili: EED - European Democratic Foundation that emerged just recently, operates secretly in Georgia, available at: <https://tinyurl.com/4txe5xxs> [last accessed 08.12.2023]; "Apparently, they have lots to hide - how does the so-called law "On Foreign Agents" work despite it being rejected, available at: <https://tinyurl.com/5y67cjex> [last accessed 08.12.2023]; "Imedis Kvira" - October 22, 2023, available at: <https://www.youtube.com/watch?v=aBqidrp5qBc> [last accessed 08.12.2023].

¹⁸ Who are the "Franklin Club" members and why does the Government attack them, available at: <https://jam-news.net/ge/franklinis-klubi/> [last accessed 27.11.2023]; Tea Tsulukiani - Actually, the so-called "Franklin Club" is a special extremist forging mechanism affiliated with the National Movement and other extremist politicians, available at: <https://tinyurl.com/ms28dt56> [last accessed 27.11.2023]; We tell you briefly, what did the Party Chairman say about the anti-Russian protests, key messages, available at: <https://rb.gy/cxej2y> [last accessed 27.11.2023]; Gharibashvili: Actually, the "Franklin Club" is Levan Ramishvili's club, affiliated with "Kmara" (enough), available at: <https://tinyurl.com/mvz4z634> [last accessed 27.11.2023];

¹⁹ Who are the "Franklin Club" members and why does the Government attack them, available at: <https://jam-news.net/ge/franklinis-klubi/> [last accessed 27.11.2023].

²⁰ See the sub-chapter 4.3 of the given report.

²¹ Chasing Samira - "They Know Very Tell That Their Behavior Does Not Scare Me," available at: <https://tinyurl.com/5n74ubxd> [last accessed 27.11.2023].

²² Ibid.

pro-Russian groups in the past, prompting her relocation from Marneuli to Tbilisi due to security concerns.²³

The current situation of human rights defenders and the perceived failure to fulfill state obligations have faced severe criticism from the UN Special Rapporteur on the state of human rights defenders, Mary Lowlor. ‘Coming away from my visit, I find it hard to fight the impression that a veneer of openness presented by the Georgian Government masks systematic efforts to undermine human rights defenders and their vital, necessary work ’ - Lowlor remarked.²⁴

2. Freedom of Expression and Media

2.1. Limiting Freedom of Expression Online on the Grounds of Petty Hooliganism

Over the past several years, the misuse of the Code of Administrative Offenses to unjustly curtail freedom of expression has been an ongoing concern in Georgia. However, a new trend has emerged during the reporting period, involving the regulation of freedom of expression in the online space.

Specifically, on June 23, 2023, the Georgian Young Lawyers’ Association publicly disclosed the resolution of the Tbilisi City Court, wherein an individual was identified as an administrative offender for charges of hooliganism and insulting police officers due to critical comments made on "Tik-Tok."²⁵ An individual, recognized as a lawbreaker, voiced criticism of the traffic policy in Tbilisi and the perceived inaction of relevant authorities in a "Tik-Tok" video. Furthermore, on June 27, 2023, media outlets reported that Beka Grigoriadis was fined 800 GEL by the Court for minor hooliganism based on profanity expressed on Facebook.²⁶

As per GDI's stance, the imposition of administrative responsibility for statements made in the online space is deemed a dangerous trend that poses a threat to freedom of speech and is considered to lack any legal basis.

2.2. Restrictions on Freedom of Expression and Media Based on New Orders

On February 6, 2023, the Chairman of the Parliament of Georgia issued a directive outlining the revised procedure for accrediting media representatives in the Parliament of Georgia. As

²³ Ibid.

²⁴ Mary Lowlor, United Nations Special Rapporteur on the situation of human rights defenders, preliminary findings and recommendations, November 2023, available at: https://georgia.un.org/sites/default/files/2023-11/Statement_Eng.pdf [last accessed 27.11.2023].

²⁵ Nino Enukidze, the judge of the Panel of Administrative Affairs of the Tbilisi City Court, pronounced the individual as an offender for violating section “1” of Article 166 and section “1” of Article 173 of the Code of Administrative Offenses, imposing a fine of 2000 GEL. The resolution is available at: <https://tinyurl.com/2e4b7fuz> [last accessed 27.11.2023].

²⁶ Beka Grigoriadis was fined 800 GEL by the Court for online insults and swearing, available at: <https://netgazeti.ge/law/673819/> [last accessed 27.11.2023].

per the directive, journalists are obligated to cease interviews if a member of the Parliament of Georgia, an office employee, or a visitor to the Parliament declines to have the interview recorded. Failure to comply with this directive may result in the suspension of accreditation for the journalist.

For instance, on April 6, 2023, the Parliament of Georgia invoked the above-mentioned order to suspend the accreditation of three journalists and three cameramen from critical media outlets. This action followed inquiries by the media representatives who posed questions to Members of Parliament regarding US sanctions imposed on Georgian Judges, and Shalva Ramishvili, a journalist from the pro-government TV company “POSTV”, who had been exposed in instances of sexual harassment towards women.²⁷ By the aforementioned regulation, on May 11, 2023, the Parliament similarly suspended the accreditation of the TV “Formula” camera crew, including journalist Giorgi Kikabidze and cameraman Tedo Kvachakhia. The suspension followed their inquiries to Irakli Zarqua, a member of the ruling party, regarding Russia's cancellation of the visa regime with Georgia.²⁸

GDI appealed with the Constitutional Court, urging the court to declare the aforementioned order unconstitutional.²⁹ As per GDI's perspective, the order issued by the Speaker of the Parliament runs counter to the right to freely receive and disseminate information. Specifically, the order creates a potential for the misuse of parliamentary authority by limiting the accreditation of journalists whose inquiries might discomfort the ruling party. The fear of accreditation suspension could deter journalists from asking critical questions to the ruling party, thereby hindering the public from being fully informed about current issues in the country.

In addition to the aforementioned accreditation rule, on September 4, 2023, the Speaker of the Parliament of Georgia enacted an order titled "On Security Protection in the Palace of the Parliament of Georgia," which became effective on September 18, 2023. As per the order, visitors are prohibited from displaying banners, distributing informational materials, or affixing materials intended for demonstration (such as posters, banners, inscriptions, etc.) within the Parliament Palace.³⁰ Furthermore, it is prohibited to bring items intended for demonstration (such as banners, posters, etc.), as well as sound amplifiers and sound signal devices into the Palace of the Parliament of Georgia without the parliament's permission.³¹ The rationale behind

²⁷ Parliament suspended the accreditation of journalists from 3 critical media, available at: <https://rb.gy/a1m7pt> [last accessed 27.11.2023].

²⁸ The parliament suspended the accreditation of Formula journalists; the media coalition advocates for its reinstatement, available at: <https://tinyurl.com/2vk54dh3> [last accessed 27.11.2023].

²⁹ GDI is challenging the constitutionality of the security protection regulation implemented in the Parliament of Georgia through an appeal to the Constitutional Court, available at: <https://tinyurl.com/4v9ayf2d> [last accessed 27.11.2023].

³⁰ Ibid.

³¹ Ibid.

these prohibitions is rooted in the adherence to security regulations within the Parliament of Georgia. However, according to GDI, these adopted rules do not aim to ensure security but rather restrict freedom of expression and impede citizens' participation in parliamentary activities. Consequently, GDI has petitioned the Constitutional Court of Georgia, seeking the recognition of these norms as unconstitutional.

2.3. So-called SLAPP Disputes Initiated on the Grounds of Defamation

In 2023, legal conflicts stemming from defamation claims initiated by individuals displaying power or influence, including those holding political positions and their associates, were extensively deliberated in courts. The GDI began scrutinizing defamation disputes in 2021 due to a noticeable rise in such cases. This trend continued to escalate in 2022-23, leading to a total of 39 lawsuits filed in court against critical media outlets and human rights defenders by December 2023, based on our available data.³² It's worth noting that certain defamation lawsuits have already been adjudicated and ruled in favour of applicants in the City Court. However, the first instance is yet to render decisions on the remaining lawsuits. Additionally, the fact that both the Court of Appeals and the Supreme Courts have affirmed the decisions made in cases adjudicated by the lower instances is also noteworthy.

For example, during the reporting period, “Cartu Bank”, affiliated with Bidzina Ivanishvili, initiated legal proceedings against the TV company “Pirveli” and its journalists, Nodar Meladze and Maka Andronikashvili.³³ One of the contentious narratives³⁴ put forth by “Cartu Bank”, focused on individuals who had taken loans from the bank. Some borrowers faced the loss of their property or were on the verge of bankruptcy due to their inability to fulfill the obligations outlined in the loan agreement. The second controversial story³⁵ delved into the decision of the National Bank of Georgia to impose a fine on "Cartu Bank" and the circumstances underpinning the regulator's decision.

Notably, instances involving individuals or institutions affiliated with the oligarch filing lawsuits to curtail freedom of speech and expression are not unprecedented. Defamation lawsuits against critical media have become a systematic trend in recent years, often rooted in critical statements directed toward the government and other influential figures associated with it. Remarkably, the primary targets of such legal actions are often representatives of critical media outlets such as "Mtavari Arkhi," "TV Pirveli"," and "Formula."

³² Georgian Democracy Initiative: SLAPP Cases in Georgia, A New Threat to the Media, p. 15, Available at: <https://shorturl.at/pBHZ4> [last accessed 27.11.2023].

³³ Bank Kartu's Groundless (SLAPP) lawsuit against “TV Pirveli” and Its Journalists, available at: <https://shorturl.at/elpN8> [last accessed 27.11.2023].

³⁴ Saturday with Nodar Meladze, December 3, 2022, available at: <https://shorturl.at/gsuT2> [last accessed 27.11.2023].

³⁵ A Scandal in “Cartu Bank” (A Video By “TV Pirveli” on Youtube), available at: <https://shorturl.at/kDJU2> [last accessed 27.11.2023].

The described circumstances underscore the misuse of the legal system and the emergence of what are known as SLAPP (Strategic Lawsuits Against Public Participation) lawsuits. SLAPPs involve politically or financially influential individuals, often taking the form of defamation lawsuits, to silence the media and active citizens while imposing financial burdens on them. These lawsuits are to be regarded as punitive measures against critical media, essentially leading to media censorship through the recourse to litigation.

The prevalent judicial approach to SLAPP lawsuits causes concern, as judges frequently disregard the inherent risks these disputes pose to civic engagement and public scrutiny. An illustrative instance is the Tbilisi City Court's failure to consider statements made by the Minister of Internally Displaced Persons of the Autonomous Republic of Abkhazia, who is also Irakli Kobakhidze's broker-in-law, Davit Patsatsia. During the trial, Patsatsia expressed his intention to use an increased monetary claim as a means to penalize the media and journalists for their statements.³⁶ Consequently, on May 10, 2023, Judge Archil Kochlamazashvili of the Panel of Civil Affairs of the Tbilisi City Court partially upheld Davit Patsatsia's claim against the TV company "Pirveli" and ruled the defendant to pay moral damages totaling 15,000 GEL.³⁷ On October 11, 2023, the judges of the Tbilisi Court of Appeals, namely Gia Beraia, Merab Lomidze, and the presiding judge Gela Kiria, upheld the decision of the first instance, leaving it in force.³⁸

The growing trend of government officials initiating groundless lawsuits and numerous facts of Courts securing the decisions in their favor establishes concerning precedents. This trend not only places freedom of speech and expression at the mercy of legal processes but also significantly impedes the work of media representatives, fostering a "chilling effect" on freedom of expression.

It's worth noting that in its recommendation issued on November 8, 2023, the European Commission highlighted lawsuits and judgments in defamation cases as a challenge impacting the operations of critical media, particularly in terms of media freedom in Georgia.³⁹

GDI remains actively engaged in protecting civil society and media representatives facing SLAPP cases.

³⁶ The court imposed a disproportionately high fine in response to the complaint filed by Irakli Kobakhidze's brother-in-law against "TV Pirveli". available at: <https://shorturl.at/aiKMP> [last accessed 27.11.2023].

³⁷ Ibid.

³⁸ The Tbilisi Court of Appeals upheld the decision of the City Court on Davit Patsatsia's claim regarding defamation, available at: <https://shorturl.at/jsuN7> [last accessed 27.11.2023].

³⁹ European Commission, Georgia 2023 Report accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2023 Communication on EU Enlargement policy, p. 35, available at: <https://tinyurl.com/3rdpyfpm> [last accessed 29.11.2023].

2.4. Attacks on Journalists and Media Representatives

The release of Nika Gvaramia, the founder of the TV company "Mtavari Arkhi," during the reporting period was deemed a significant development in the protection of media and freedom of expression.⁴⁰ On May 16, 2022, the Tbilisi City Court sentenced Nika Gvaramia to 3 years and 6 months in prison in a case involving the abuse of power during his leadership of the "Rustavi 2" TV station.⁴¹ On November 2, 2022, the Court of Appeals upheld his detention,⁴² and on June 19, 2023, the Supreme Court of Georgia deemed Nika Gvaramia's lawsuit inadmissible.⁴³ On June 22, 2023, the President of Georgia, Salome Zurbashvili, granted a pardon to Nika Gvaramia.⁴⁴

In 2023, assaults on journalists and media representatives persisted actively. GDI notes that the hostility directed at journalists is exacerbated by discrediting remarks made by state officials against the media. In this context, a discrediting campaign was initiated against Gela Mtvlishvili, the editor of "Mtis Ambebi," (Mountain News),⁴⁵ and a comment from one of the ruling party leaders, Irakli Kobakhidze, on August 5, 2023, further fueled the aggression: "Exactly two minutes before this photo was taken, Shalva Papuashvili had been talking to this man for 15 minutes. He (Gela Mtvlishvili) saw it, yet he did it anyway, it means that he is simply not a man."⁴⁶ GDI asserts that such statements from high-ranking political figures contribute to a negative public attitude and heightened aggression towards journalists in society.

During the reporting period, the observation of representatives from state agencies potentially engaged in criminal actions against media personnel has raised alarm. The attack on Mikheil Mshvildadze, one of the founders of the TV company "Formula," on June 27, 2023, is noteworthy in this context.⁴⁷ According to reports, Mikheil Mshvildadze was assaulted and physically attacked by an unknown individual. Mshvildadze stated that he was punched in the

⁴⁰ The coalition responds to the pardon of Nika Gvaramia by the President, available at: <https://shorturl.at/dsH01> [last accessed 27.11.2023]

⁴¹ The court found Nika Gvaramia guilty and sentenced him to 3 years and 6 months in prison, available at: <https://shorturl.at/cfqDP> [last accessed 27.11.2023]

⁴² Nika Gvaramia was remanded in custody by the Court of Appeals, available at: <https://shorturl.at/eimy9> [last accessed 27.11.2023]

⁴³ The Supreme Court deemed Nika Gvaramia's lawsuit inadmissible, available at: <https://shorturl.at/jDKM7> [last accessed 27.11.2023]

⁴⁴ The President pardoned Nika Gvaramia, available at: <https://shorturl.at/aqtOZ> [last accessed 27.11.2023]

⁴⁵ A Facebook Post by the page "In Reality" of August 5, 2023, available at: <https://shorturl.at/iqxM9> [last accessed 27.11.2023].

⁴⁶ Irakli Kobakhidze's comment regarding Gela Mtvlishvili - "Exactly two minutes before this photo was taken, Shalva Papuashvili was talking to this man for 15 minutes. (Gela Mtvlishvili) saw it, he did it anyway, it means that he is simply not a man, available at: <https://shorturl.at/apyH> [last accessed 27.11.2023].

⁴⁷ Misha Mshvildadze was attacked, available at: <https://shorturl.at/cimS7> [last accessed 27.11.2023].

face, subsequently falling. Before he could get up, the assailant continued to inflict physical harm.⁴⁸ The investigation into the incident was initiated under Article 126 (violence) of the Criminal Code of Georgia.

It is worth noting that according to the journalistic investigation conducted by the TV company "Formula", the State Security Service and its employees were most likely involved in the planning and execution of the violence against Mikheil Mshvildadze.⁴⁹ However, on September 12, 2023, the Special Investigation Service declared the closure of the investigation. The case was forwarded to the Court against only one defendant, and the aspect related to the presumed involvement of State Security officials in the crime was not submitted to the Court.⁵⁰ Consequently, on October 4, 2023, the Tbilisi City Court issued a sentence of 6 months of imprisonment for Nikoloz Gugeshashvili, who was accused of the assault on Mikheil Mshvildadze.⁵¹ GDI provides legal assistance to Mikheil Msvildadze. GDI has consistently filed complaints with investigative authorities and the Court regarding the inefficiency of the investigation, the problematic aspects of the crime, the necessity for additional investigative measures, and the requirement for State Security Service (SSS) employees to provide information for the investigation. Despite repeated requests to separate the investigation into a distinct proceeding to uncover potential crimes involving State Secret Service employees, the relevant authorities have consistently denied our requests on all essential matters.⁵²

Another noteworthy incident occurred on September 20, 2023, when the security personnel of Otar Partskhaladze, the former prosecutor currently sanctioned by the US, assaulted the camera crew of "Pirveli" and "Formula" TV stations and confiscated their equipment.⁵³ As per the journalist from "Shabatis Formula," the inquiry about Partskhaladze's whereabouts agitated the guards.⁵⁴ The Special Investigation Service initiated an investigation under Section 2), Article 154 of the Criminal Code of Georgia,⁵⁵ addressing the illegal obstruction of a journalist in their professional activities.

⁴⁸ Ibid.

⁴⁹ The suspect in the organized attack on Mshvildadze is an investigator of the State Security Service, Giorgi Mumladze, available at: <https://shorturl.at/dhFIN> [last accessed 27.11.2023].

⁵⁰ A Facebook Post by the Special Investigative Service of August 5, 2023, available at: <https://shorturl.at/hzDJZ> [last accessed 27.11.2023].

⁵¹ The court sentenced the accused in the attack on Misha Mshvildadze to 6 months of imprisonment, available at: <https://shorturl.at/oKVX3> [last accessed 27.11.2023].

⁵² There is a risk of an inefficient investigation into the case of violence and inhumane treatment against Mikheil Msvildadze, available at: <https://shorturl.at/rzBOY> [last accessed 27.11.2023].

⁵³ The security personnel of Otar Fartskhaladze assaulted the journalist and cameraman of the "Shabatis Formula", available at: <https://shorturl.at/jluE8> [last accessed 27.11.2023].

⁵⁴ Ibid.

⁵⁵ The Special Investigation Service has started an investigation into the fact of illegally obstructing the professional activities of TV "First" and "Formula" journalists, available at: <https://shorturl.at/dwJOS> [last accessed 27.11.2023].

It is also noteworthy to mention the attack on "Mtavari Arkhi" journalist Emma Gogokhia and her cameraman on August 26, 2023. According to information from "Mtavari Arkhi," the journalist and cameraman were assaulted in the village of Khaish in the municipality of Mestia. During the attack, their camera, microphone, transmitter, and personal phone were confiscated. They were also subjected to verbal abuse.⁵⁶ According to Emma Gogokhia, the cameraman and the journalist were assaulted by a group of 12 individuals while they were conducting their journalistic activities.⁵⁷ The Special Investigation Service pressed charges against the two individuals implicated in the crime. The charges, based on the resolution issued by the Prosecutor's Office, include the commission of the offense outlined in section 2) of Article 154 (illegally obstructing a journalist in their professional activity) and section "1" of Article 126 (violence) of the Criminal Code of Georgia.⁵⁸

Additionally, during the reporting period, an incident involving an attack on Nato Gogelia, a journalist from the TV company "Pirveli," was documented. On March 15, 2023, a participant in the pro-Russian and violent rally organized by "Alt-Info", assaulted the journalist, broke his mobile phone, and subjected him to physical violence in the village of Bakhvi.⁵⁹ It is also notable that following the aforementioned incident, threats were issued against the journalist and his family members.⁶⁰ On March 17, 2023, the State Investigative Service apprehended an individual on charges related to violence against Nato Gogelia, including allegations of illegally obstructing a journalist in their professional activities, committing violence, and causing damage to another's property.⁶¹ Mamuka Andghuladze, arrested on March 21, 2023, was released by the Kutaisi Court of Appeals on a bail of 3000 GEL.⁶²

The incidents involving threats against Irakli Tabliashvili, the TV presenter of the "Formula" TV company, are also distressing. On July 25, 2023, media outlets reported that Irakli Tabliashvili, a journalist and the host of the "Context" program on "Formula," received threatening communications from individuals speaking Russian, using different phone numbers.⁶³ According to the presenter, the Russian-speaking individual threatened him,

⁵⁶ "Mtavari Arkhi" journalist Emma Gogokhia and cameraman were attacked in Mestia, available at: <https://shorturl.at/orwy0> [last accessed 27.11.2023].

⁵⁷ Ibid.

⁵⁸ A Facebook Post by the Special Investigative Service of August of October 24, 2023, available at: <https://shorturl.at/tCQ02> [last accessed 27.11.2023].

⁵⁹ According to "TV Pirveli", the person who took down the European flag attacked the journalist, available at: <https://shorturl.at/iKO12> [last accessed 27.11.2023].

⁶⁰ Media ombudsman: the threat to the "TV Pirveli" journalist and his family members should cease immediately, available at: <https://shorturl.at/tRWX1> [last accessed 27.11.2023].

⁶¹ The investigative services arrested one individual on the fact of violence against the TV "Pirveli" journalist, available at: <https://shorturl.at/xALW5> [last accessed 27.11.2023].

⁶² The Court of Appeals released on bail the individual arrested in connection with the assault on the "TV Pirveli", available at: <https://shorturl.at/bsGRS> [last accessed 27.11.2023].

⁶³ TV host Irakli Tabliashvili is being threatened by Russian-speaking people over the phone, available at: <https://shorturl.at/fDHJQ> [last accessed 27.11.2023].

demanded his address, and stated an intention to dispatch an operative brigade to take punitive action against him.⁶⁴ Following the threats, Irakli Tabliashvili was summoned to the police station for questioning.⁶⁵

It is worth noting that on July 13, 2023, Nodar Meladze, the host of the TV company "Pirveli" reported the theft of items related to his professional activities. According to the host, the official hard drive was taken from his car, while his items, including watches and glasses, were left untouched.⁶⁶ The Ministry of Internal Affairs initiated an investigation under Article 177 (theft) of the Criminal Code and arrested one person.⁶⁷

The cases mentioned above highlight the lack of an environment conducive to the free and safe work of media representatives. The negative public sentiment towards journalists and the attempted attacks seem to be exacerbated by the actions or inaction of the state. It is especially concerning when the State is purportedly implicated in criminal acts against journalists and media representatives.

2.5. Amendments to the Law of Georgia “On Broadcasting”

The process of amending the Law "On Broadcasting" began in September 2022 with the registration of the draft law.⁶⁸ The proposed bill encompassed several modifications, such as the instant implementation of the decisions by the National Communications Commission (GNCC), the regulation of hate speech, and the right of reply by GNCC.⁶⁹ These changes posed significant concerns for media and civil organizations due to the potential misuse of these new powers by GNCC, especially considering its previous decisions against critical media.⁷⁰ The Council of Europe experts provided critical opinions on the draft law.⁷¹ Subsequently, on June

⁶⁴ Ibid.

⁶⁵ Irakli Tabliashvili, the leader of Formula, was summoned to the interview. available at: <https://shorturl.at/amDGW> [last accessed 27.11.2023].

⁶⁶ A Facebook Post by Nodar Meladze of July 12, 2023, available at: <https://shorturl.at/hkCIW> [last accessed 27.11.2023].

⁶⁷ An Individual has been arrested by the Ministry of Internal Affairs in connection with the theft of Nodar Meladze's car, available at: <https://shorturl.at/iFJP6> [last accessed 27.11.2023].

⁶⁸ The draft law and related documents are available at: <https://parliament.ge/legislation/24615> [last accessed 28.11.2023]; The letter/appeal of the members of the Parliament of Georgia to the head of the organizational department of the Parliament of Georgia regarding the submission of the draft law, available at: <https://tinyurl.com/49abzs4e> [last accessed 28.11.2023].

⁶⁹ The draft amendments to the law “On Broadcasting” is available at: <https://info.parliament.ge/file/1/BillReviewContent/305436> [last accessed 28.11.2023].

⁷⁰ Media Advocacy Coalition's Statement on Amendments to the Law of Georgia "On Broadcasting", available at: <http://mediacoalition.ge/ge/a/7bfc46e7> [last accessed 28.11.2023].

⁷¹ Initial Expert Opinion prepared on the basis of the expertise by Council of Europe experts Eve Salomon and Sally Broughton Micova on Three Key Aspects of the amendments package to the Law of Georgia “On Broadcasting”, ISD/2022/1, Strasbourg, 25 November 2022, available at: <https://tinyurl.com/5n879wvb> [last accessed 28.11.2023]; Opinion of the Directorate General Human Rights and Rule of Law, Information Society and Action against Crime Directorate, Information Society Department, prepared on the basis of the expertise by

30 and October 19, 2023, further amendments to the Law "On Broadcasting" were introduced.⁷² Unfortunately, the final version of the law did not fully incorporate the recommendations put forth by the Council of Europe experts. This section of the report examines specific legislative changes that deviate from expert recommendations and/or pose challenges to media freedom.

2.5.1. Regulation of Hate Speech

On October 19, 2023, the Parliament of Georgia introduced amendments to the Law of Georgia "On Broadcasting,"⁷³ conferring the National Communications Commission of Georgia with the authority to oversee the use of hate speech and programs containing profanity.

In line with the amendments, concerned parties will have the opportunity to lodge appeals with the National Communications Commission concerning decisions made by the broadcaster's self-regulatory body regarding the broadcast of programs containing hate speech or incitement to terrorism.⁷⁴

The rationale behind these changes is stated to be the alignment of the national legislation with the requirements of the European Union, encompassing the fulfillment of the 12 priorities outlined by the European Commission for Georgia.⁷⁵

As per the EU Directive on Audiovisual Media Services, EU Member States are required to guarantee that audiovisual media does not include incitement to hatred or violence. Nevertheless, the Directive itself does not mandate the regulatory body to regulate the use of hate speech. This matter can be addressed either by the regulatory body or through the co-regulation mechanism.⁷⁶

It is important to highlight that, considering the prevailing context in Georgia and the potential for political pressure on GNCC, along with the substantial risks associated with limiting freedom of expression, the experts from the Council of Europe put forth a clear

Council of Europe experts:

Eve Salomon and Sally Broughton Micova, on the Law of Georgia "on Broadcasting", DGI (2023)1, Strasbourg, 21 February 2023, available at: <https://tinyurl.com/y7eu68jh> [last accessed 28.11.2023].

⁷² Law of June 30, 2023, "On Amendments to the Law of Georgia "On Broadcasting"", available at: <https://tinyurl.com/3cffav8e> [last accessed 28.11.2023]; Law of October 19, 2023 "on Amendments to the Law of Georgia "On Broadcasting"", available at: <https://tinyurl.com/239c4e56> [last accessed 28.11.2023].

⁷³ Law of Georgia "On Amendments to the Law of Georgia "On Broadcasting", available at: <https://shorturl.at/akqKU> [last accessed 27.11.2023].

⁷⁴ Ibid.

⁷⁵ Explanatory card for the Law of Georgia "on Amendments to the Law of Georgia "On Broadcasting"", available at: <https://shorturl.at/cqMZ5> [last accessed 27.11.2023].

⁷⁶ GDI's statement regarding the broadening of the Communication Commission mandate, available at: <https://shorturl.at/aT189> [last accessed 27.11.2023].

recommendation to implement a co-regulation mechanism.⁷⁷ Regrettably, the Parliament of Georgia did not heed this recommendation. Furthermore, it overlooked the appeal of media companies themselves and local organizations dedicated to human rights to engage in discussions and implement changes with their participation.⁷⁸ Nevertheless, it is noteworthy that the Parliament of Georgia refined and provided a more detailed definition of hate speech with the amendments made in June 2023.

Regarding the legislative changes, the Media Advocacy Coalition expressed concerns about the concentration of additional power in the hands of the regulator, highlighting an increased risk of potential abuse. The coalition emphasized that, based on past practices, both the coalition and media organizations have entirely legitimate reasons to be concerned.⁷⁹

Regarding the stance of the European Union, while the European Commission acknowledged that the directive's requirements were met with the above-mentioned changes, it urged the Georgian authorities to enhance the independence of the Communications Commission.⁸⁰ This suggests that EU structures also recognize the potential risks associated with a biased implementation of the changes.

2.5.2. Regulation of Profanity

Concerning the regulation of profanity, the Communications Commission previously lacked legislative authority to evaluate whether a broadcaster's programs contained profanity. With the amendments introduced on October 19, 2023, the regulatory commission is now empowered to undertake this assessment.

Concerning the aforementioned norms, it is important to highlight an illustrative instance in practice, wherein the Communications Commission, in contravention of the law, had previously assessed a segment aired on the TV station "Mtavari Arkhi" in 2021.⁸¹ The

⁷⁷ The recommendation of the experts of the Council of Europe, the conclusion of the General Directorate of Human Rights and the Rule of Law on the law of Georgia "On Broadcasting", pp. 36-37, available at: <https://shorturl.at/dmCO6> [last accessed 27.11.2023].

⁷⁸ GDI's statement regarding the broadening of the Communication Commission mandate, available at: <https://shorturl.at/aT189> [last accessed 27.11.2023].

⁷⁹ The Media Advocacy Coalition echoes the forthcoming changes initiated by the ruling party in the Law "On Broadcasting", available at: <https://shorturl.at/qxGKP> [last accessed 27.11.2023].

⁸⁰ European Commission, Georgia 2023 Report accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2023 Communication on EU Enlargement policy, 11, available at: <https://tinyurl.com/3rdpyfpm> [last accessed 29.11.2023].

⁸¹ Decision G-21-18/22 of the National Communications Commission of Georgia of January 28, 2021, regarding recognition of "Mgtavari Arkhi" LLC as a violator and exemption from administrative responsibility, available at: <https://shorturl.at/bluvC> [last accessed 27.11.2023].

segment⁸² featured political satire and centered on the dysfunctionality of the Georgian Parliament. However, on one hand, the commission acted unlawfully⁸³ by engaging in any discussion on this matter, and on the other hand, it overlooked the political significance of the contested footage and statements. Consequently, “Mtavari Arkhi” was deemed to have violated the law.⁸⁴

Given such past experiences, there is an anticipation that similar cases may recur, leading to broadcasters being penalized for broadcasting content deemed undesirable. It is also noteworthy that these changes take place one year before the elections, and based on previous patterns, the Communications Commission tends to become active just before elections.⁸⁵

Therefore, with the newly acquired authority to regulate profanity, the Communications Commission can more actively oversee the content of programs broadcast by media outlets. This gives them the capability to penalize broadcasters for objectionable content, irrespective of its political, literary, or other value.

2.5.3. Appealing the Denial of the Right to Reply to the Communications Commission

With the legislative amendments of December 12, 2022, Article 52¹ was introduced into the Law "On Broadcasting". The fourth paragraph of this article established the option to appeal a broadcaster's refusal to correct or deny a false fact contained in the initial statement, both in court and to the National Communications Commission.⁸⁶ Notably, this provision was not classified as an exceptional norm, immune from appeals to the commission.⁸⁷ This arrangement faced scrutiny from Council of Europe experts, who disapproved of the Commission handling disputes on the right of reply due to heightened risks against freedom of expression.⁸⁸ After the release of the expert opinion, the Law “On Broadcasting” underwent further changes, and Article 52 was introduced to regulate the right of reply in its current form. Although Article 52 is listed among the norms exempt from commission appeals and subject only to the

⁸² An article by "Mtavari" article "One [individual] fits in a condom, many in the parliament - Chuck Palahniuk's definition adapted to the Georgian reality", available at: <https://shorturl.at/aiA45> [last accessed 27.11.2023].

⁸³ The Communications Commission violates the law by reviewing the content of the program, available at: <https://shorturl.at/rCLS3> [last accessed 27.11.2023].

⁸⁴ Legal evaluation of the decision taken by the Communications Commission against "Mtavari Arkhi", available at: <https://shorturl.at/dlqDQ> [last accessed 27.11.2023].

⁸⁵ GDI's statement regarding the broadening of the Communication Commission mandate, available at: <https://shorturl.at/aT189> [last accessed 27.11.2023].

⁸⁶ The consolidated version of the Law “On Broadcasting” (22/12/2022 - 09/02/2023).

⁸⁷ Article 14 of the consolidated version of the Law “On Broadcasting”.

⁸⁸ Opinion of the Directorate General Human Rights and Rule of Law, Information Society and Action against Crime Directorate, Information Society Department, prepared based on the expertise of Council of Europe experts: Eve Salomon and Sally Broughton Micova, on the Law of Georgia “On Broadcasting”, DGI (2023)1, Strasbourg, 21 February 2023, p. 25, available at: <https://tinyurl.com/y7eu68jh> [last accessed 28.11.2023].

broadcaster's self-regulation mechanism,⁸⁹ paragraph 6) of Article 52 still stipulates that a broadcaster's refusal of the right to reply may be appealed to the Commission. Consequently, the present version of the Law “On Broadcasting” contains conflicting norms that are inconsistent, confusing, and in need of alteration.

3. Artistic Freedom and the Field of Culture

3.1. Changes in Personnel within the sector

After the change of the Minister of Culture, Sports and Youth of Georgia and the appointment of Tea Tsulukiani as the Minister, significant personnel changes were made in various institutions of the Ministry.⁹⁰ National courts have already established the illegality of the decisions made against (former) employees in several cases.⁹¹ Fired employees consider their dismissal groundless and associate it with a political motive.⁹² Such personnel changes reinforce the assumption that there is a purge of individuals with differing opinions in the field of culture.⁹³

3.2. Developments at the Cinema Center and the House of Writers

Under the directive of the Minister of Culture, Sports, and Youth of Georgia, Ketevan Dumbadze, a former member of the ruling party, assumed the role of the head of the House of Writers on September 4, 2023. Following the appointment of the new head, writers, translators, publishers, and certain individuals employed in the literary field boycotted the House of Writers.⁹⁴ As per their statement, "the boycott will commence on September 4, 2023, the day when the candidate appointed by the ruling party assumes control of the House of Writers, and will persist until its leader is selected by a commission comprising specialists in the field. Art is vibrant, independent, and political."⁹⁵ Subsequently, a statement was released on the Facebook page of the House of Writers, asserting that “the appointment of a new director through direct appointment poses a threat to the uncensored and independent management of

⁸⁹ Sup-paragraphs 5) and 6) of Article 14 and sub-paragraphs 1) and 2) of Article 59¹ of the Law “On Broadcasting”

⁹⁰ Another employee fired from the National Museum won the court case, available at: <https://rb.gy/o2qv4h> [last accessed 27.11.2023].

⁹¹ Ibid; The court recognized the demotion of the former director of the art museum as illegal, available at: <https://rb.gy/e9g6i3> [last accessed 27.11.2023]; The dismissed employee during the personnel purge conducted by Tsulukiani won the court case – SJC, available at: <https://tinyurl.com/y442wv38> [last accessed 27.11.2023]; Another dismissed employee won the labor dispute against Tsulukiani, available at: <https://netgazeti.ge/news/627710/> [last accessed 27.11.2023].

⁹² Another employee fired from the National Museum won the court case, available at: <https://rb.gy/o2qv4h> [last accessed 27.11.2023].

⁹³ Why does Tsulukiani's agency fail in court and how much does it cost the Country's budget?, available at: <https://tinyurl.com/526y7ez3> [last accessed 27.11.2023].

⁹⁴ Certain writers and publishers have declared a boycott to the House of Writers, available at: <https://tinyurl.com/5ec4mreh> [last accessed 27.11.2023].

⁹⁵ Ibid.

these projects. We collaborate with writers and advocate for their interests. Therefore, we align with the demand of over 100 writers, translators, and publishers, emphasizing that the new director of the organization should be selected by a commission comprised of professionals in the field."⁹⁶

Much like the situation at the House of Writers, the restructuring of the National Cinematography Center of Georgia and the appointment of Koba Khubunaia as acting head prompted a protest from employees and cinematographers.⁹⁷ According to the stance of the employees, the director should have been selected through a competitive process rather than unilaterally, and the reorganization should have been halted.⁹⁸ A segment of Georgian cinematographers declared a boycott against the Ministry of Culture of Georgia's policies. They assert that "only under the conditions of a democratically elected leader will the Cinema Center be able to guarantee the freedom of speech, expression, and creativity for Georgian cinematographers."⁹⁹

Non-governmental organizations also weighed in on the cultural developments. According to their statements, "The recent years have seen a growing trend of comprehensive attacks on freedom of expression by the Ministry of Culture. These include intimidation through the investigation of 'Georgian film', the appointment of politically affiliated individuals to various positions, consistent termination of employees based on political intolerance, and denial of entry to journalists at the art gallery. Furthermore, this incident is not the first instance of censorship of Salome Jashi's documentary; the screening of the film was prohibited by the Georgian Film Academy back in 2021."¹⁰⁰ GDI concurs that the aforementioned developments in the field of culture pose a threat to the independence of the sector and impinge upon its freedom of expression and creativity.

4. Freedom of Assembly

4.1. Dispersal of March Protests

During March 7-8, 2023, extensive demonstrations were organized to protest the "Russian law." The dispersal of these demonstrations witnessed law enforcement officers grossly violating both national and international standards of freedom of assembly. It's important to note that violations by the protesters occurred only in isolated instances, and the overall nature

⁹⁶ The House of Writers on the appointment of Dumbadze: This poses a threat to uncensored management, available at: <https://tinyurl.com/nyjns49m> [last accessed 27.11.2023].

⁹⁷ "We oppose the repressive policy" – filmmakers announce a boycott against the Cinema Center", available at: <https://tinyurl.com/383dvr64> [last accessed 27.11.2023].

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Discrediting efforts by the Government representatives are alarming - NGOs, available at: <https://tinyurl.com/2d2uuhx3> [last accessed 27.11.2023].

of the actions was predominantly non-violent.¹⁰¹ According to the definition provided by the European Court of Human Rights, an individual's freedom of assembly is protected even when his actions during the demonstration are peaceful, and the actions of others violate the law or are violent.¹⁰² Contrary to this standard, law enforcement officers have unlawfully used force and special means against peaceful participants of demonstrations instead of limiting their response to specific incidents.¹⁰³ In addition, in some cases, special means were used simultaneously and without prior warning, which violates the legal requirements.¹⁰⁴ The use of physical force and special means, including causing physical harm, spraying pepper spray in the face, and deploying water jets and tear gas capsules, was observed to be both illegal and disproportionate.¹⁰⁵ Unfortunately, the dispersal of the March 7-8 demonstrations is part of a broader pattern in recent years, revealing instances wherein law enforcement officers have violated the law while dispersing demonstrations.¹⁰⁶

In the context of the March actions, the case of Lazare Grigoriadis is also worth noting. After the demonstrations, Lazare Grigoriadis was arrested on March 29, and on March 31 he was imprisoned as a preventive measure.¹⁰⁷ The Prosecutor's Office accuses him of throwing a so-called "Molotov cocktail" at law enforcement officers during the rally and setting fire to the car of the Ministry of Internal Affairs.¹⁰⁸ It is noteworthy that government representatives made discrediting statements against Grigoriadis. Specifically, Irakli Kobakhidze referred to Grigoriadis as "confused in orientation,"¹⁰⁹ a statement with homophobic connotations. At the same time, Prime Minister Irakli Gharibashvili made affirmative remarks about the potential crime Grigoriadis is charged with.¹¹⁰ Gharibashvili stated: "A few days ago, the police arrested an assailant who attacked the police - you remember, everyone saw the footage of how one of

¹⁰¹ The police used illegal and disproportionate force against a peaceful civil protest, available at: <https://tinyurl.com/yc2e9n8u> [last accessed 27.11.2023]; Georgian Young Lawyers' Association: People Against the "Russian Law", p. 8, available at: <https://tinyurl.com/mrywe24e> [last accessed 28.11.2023].

¹⁰² Decisions of the European Court of Human Rights in the cases: *Ezelin v. France*, 1991, § 53; *Frumkin v. Russia*, 2016, § 99; *Laguna Guzman v. Spain*, 2020, § 35.

¹⁰³ The police used illegal and disproportionate force against a peaceful civil protest, available at: <https://tinyurl.com/yc2e9n8u> [last accessed 27.11.2023]; Georgian Young Lawyers' Association: People Against the "Russian Law" p. 8, available at: <https://tinyurl.com/mrywe24e> [last accessed 28.11.2023].

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

¹⁰⁶ Georgian Democracy Initiative: Human Rights in Georgia, 2020, pp. 3-4, available at: <https://tinyurl.com/bdh77hw6> [last accessed 27.11.2023]; Special Report by the Public Defender: "What happened on the night of June 20-21?" See the 10 most frequently asked questions, available at: <https://tinyurl.com/42dfrsuj> [last accessed 27.11.2023].

¹⁰⁷ The case of Lazare Grigoriadis - The Government Revenge, available at: <https://formulanews.ge/News/88084> [last accessed 08.12.2023].

¹⁰⁸ *Ibid.*

¹⁰⁹ *Ibid.*

¹¹⁰ The Prime Minister about Grigoriadis: You do remember the footage of him throwing "Molotov cocktails", available at: <https://www.radiotavisupleba.ge/a/32347201.html> [last accessed 08.12.2023].

the anarchists threw a “Molotov cocktail” at the police. This individual intended to set the policeman on fire. I expressed my position publicly, emphasizing that we will not pardon anyone for such actions - this is the red line wherein we will remain uncompromising.”¹¹¹ The Georgian Young Lawyers’ Association assessed this statement as a violation of the presumption of innocence, highlighting the infringement of Grigoriadis' procedural rights.¹¹² GDI also addressed the case of Grigoriadis and the statements made by government representatives. In GDI's evaluation, the criminal prosecution of Lazare Grigoriadis is considered a component of the Georgian Dream's propaganda campaign, serving as a tool to achieve political objectives, and potentially seeking reprisal against the youth involved in the rally.¹¹³

4.2. The Practice of Administrative Detentions and Judicial Proceedings

In 2023, the government continued the practice of administratively detaining protestors and conducting administrative proceedings in violation of procedural rights, aiming to suppress criticism. Regrettably, this ongoing practice relies on the outdated Code of Administrative Offenses from the Soviet era, failing to align with contemporary human rights standards.¹¹⁴ Notably, Articles 166 (petty hooliganism) and Article 173 (disobeying a lawful request of the police)¹¹⁵ of the Code are predominantly employed to arrest individuals and label them as offenders. This subsection discusses several noteworthy cases to exemplify the persisting issue.

4.2.1. Detentions during March Protests

In March 2023, law enforcement officers arrested 169 individuals administratively during protests against the "Russian law."¹¹⁶ The arrests on March 7-8 were conducted unlawfully, as not only specific offenders were apprehended, but also those who were merely in proximity with the law enforcement officers (anyone they could grab).¹¹⁷ In many instances, the detained

¹¹¹ Ibid.

¹¹² Georgian Young Lawyers’ Association responds to the case of Lazare Grigoriadis, available at: <https://t.ly/gkC78> [last accessed 08.12.2023].

¹¹³ GDI echoes the case of Lazare Grigoriadis, available at: <https://gdi.ge/ge/news/gdi-lazare-grigoriadis-saqmes-ekhmianeba> [last accessed 08.12.2023].

¹¹⁴ European Commission, Georgia 2023 Report accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2023 Communication on EU Enlargement policy, p. 37, available at: <https://tinyurl.com/3rdpyfpm> [last accessed 29.11.2023].

¹¹⁵ Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2022, p. 162, available at: <https://tinyurl.com/3p2hbvuf> [last accessed 29.11.2023].

¹¹⁶ The police used illegal and disproportionate force against a peaceful civil protest, available at: <https://tinyurl.com/yc2e9n8u> [last accessed 27.11.2023]; Abolish the fines of those arrested, stop the proceedings - appeal to the authorities, available at: <https://netgazeti.ge/news/659807/> [last accessed 08.12.2023].

¹¹⁷ Georgian Young Lawyers’ Association: People Against the “Russian Law”, p. 9, available at: <https://tinyurl.com/mrywe24e> [last accessed 28.11.2023].

individuals were not informed of their rights, and at times, they were denied the opportunity to contact their relatives and legal representatives.¹¹⁸ Consequently, the families and lawyers were unaware of the exact whereabouts and conditions of some detainees.¹¹⁹ Furthermore, there were inaccuracies in recording the time of detention and the details of the arresting officers in several arrest records.¹²⁰ Regarding the legal proceedings, organizations advocating for the detainees reported that the Ministry of Internal Affairs' submission of cases to the Court and the Court's consideration of cases were procedurally disorganized.¹²¹ According to these organizations, Ministry representatives contacted citizens late at night, informing them that they had to appear in court the next morning or providing this information only 1-2 hours in advance.¹²² Moreover, inadequate time for the defense to gather evidence emerged as a significant issue.¹²³ Court rulings frequently lacked a basis in neutral evidence and did not specify the action in which the alleged offense occurred.¹²⁴

The Court imposed fines totaling more than 50,000 GEL on participants in the March actions, branding them as lawbreakers.¹²⁵ According to GDI's assessment, imposing significant fines on protestors violates their freedom of expression and assembly, aiming to create a "chilling effect" on the exercise of these rights.

4.2.2. Detention and Guilty Verdict for “ირაკლი” (Irahli)* and a Blank White Poster

On June 2, 2023, law enforcement officers apprehended numerous human rights defenders and activists in front of the Parliament of Georgia. Among those detained were Eduard Marikashvili, the chairman of the "Georgian Democracy Initiative" (GDI), Saba Brachveli, an employee of the "Open Society Foundation", Lasha Janjghava, an activist, Nika Romanadze, and lawyer Shota Tutberidze, among others.¹²⁶ During his arrest Eduard Marikashvili was holding a blank white sheet of paper, peacefully expressing support for previously detained activists.¹²⁷ The others detained during the demonstration were also exercising their freedom

¹¹⁸ Ibid.

¹¹⁹ Statement of non-governmental organizations about the cases of those arrested on March 2-3 and 7-9, 2023, available at: <https://tinyurl.com/pyvuhxws> [last accessed 27.11.2023].

¹²⁰ Georgian Young Lawyers' Association: People Against the "Russian Law", p. 9, available at: <https://tinyurl.com/mrywe24e> [last accessed 28.11.2023].

¹²¹ Statement of non-governmental organizations about the cases of those arrested on March 2-3 and 7-9, 2023, available at: <https://tinyurl.com/pyvuhxws> [last accessed 27.11.2023].

¹²² Ibid.

¹²³ Georgian Young Lawyers' Association: People Against the "Russian Law", p.9, available at: <https://tinyurl.com/mrywe24e> [last accessed 28.11.2023].

¹²⁴ Ibid.

¹²⁵ A Facebook post by Human Rights House Tbilisi of May 30, 2023, available at: <https://www.facebook.com/photo/?fbid=646158997540181&set=a.487815280041221> [last accessed 08.12.2023].

¹²⁶ We, the civil society organizations echo the facts of the detention of human rights defenders, available at: <https://tinyurl.com/3kxvhr29> [last accessed 27.11.2023].

¹²⁷ The Chairperson of GDI, Eduard Marikashvili, arrested at the protest in front of the Parliament, available at:

of peaceful assembly. Considering the peaceful nature of the protest, their apprehension was deemed arbitrary and illegal. Non-governmental organizations collectively condemned the arrest of human rights defenders and activists, stating that "Georgian society is witnessing such a negative trend that undermines the fundamental principles of democracy and effectively denies the basic right to freedom of expression."¹²⁸

After the arrests, the detainees were taken by police car to the building of the Ministry of Internal Affairs, where they spent several hours. Alarming, the police did not allow them to meet with the lawyers. Afterward, the detainees were transferred to the regions, including the temporary detention center in Telavi. The detention time of most detainees was extended from 24 hours to 48 hours under the pretext of obtaining the records of the police's body cameras. However, at the meeting held on June 6, 2023, the representative of the Ministry stated that they did not request to obtain the camera records. This indicates that the extension of the detention period of the detainees was arbitrary and groundless.

In the case of the five individuals arrested on June 2, the court proceedings extended over several months, experiencing multiple postponements. Finally, on September 27, 2023, the Tbilisi City Court rendered its decision. Eduard Marikashvili was acquitted of the charge of disobeying and insulting the policeman, but the Court convicted him of petty hooliganism, imposing a 500 GEL fine.¹²⁹ Similar decisions were made for the other detainees, including Saba Brachveli, Nika Romanadze, and Grigol Prangishvili, with one detainee receiving a 2000 GEL fine.¹³⁰ The Court affirmed the police's accusations and also fined the activist and member of the "Stubborn" movement, Lasha Janjghava,¹³¹ and lawyer Shota Tutberidze.¹³²

According to GDI's assessment, the decisions made represent a form of pressure on human rights defenders, restricting their ability to exercise freedom of assembly and expression.

4.2.3. Administrative Detentions in Batumi

On July 31, 2023, an event took place in Batumi wherein participants protested the arrival of a Russian cruise ship at the Batumi port. Reports indicated that there were Russian citizens on

<https://tinyurl.com/mxuw36ym> [last accessed 27.11.2023]; The police arrested the chairman of GDI for holding a blank paper in front of the Parliament, available at: <https://tinyurl.com/jnn6nz4t> [last accessed 27.11.2023].

¹²⁸ We, the civil society organizations echo the facts of the detention of human rights defenders, available at: <https://tinyurl.com/3kxvhr29> [last accessed 27.11.2023]

¹²⁹ The case of white posters - detainees were fined, available at: <https://tinyurl.com/msuvf6fd> [last accessed 27.11.2023].

¹³⁰ The case of white posters - detainees were fined, available at: <https://tinyurl.com/msuvf6fd> [last accessed 27.11.2023].

¹³¹ Lasha Janjghava, a member of the "Stubborn" movement, was fined 2,000 GEL for standing at the rally, available at: <https://tinyurl.com/yz6a5a9a> [last accessed 27.11.2023]

¹³² Lawyer Shota Tutberidze was fined 500 GEL for a poster with "ირაკლი" written on it, available at: <https://tinyurl.com/4x5vwvwr> [last accessed 27.11.2023]

the ship, some of whom were supporters of the war in Ukraine and Putin himself.¹³³ Demonstrators had gathered near the port late on the night of July 30 to express their opposition. However, the police blocked the streets and cordoned off the port area for security reasons.¹³⁴

A significant number of police officers were deployed in the area during the protest¹³⁵ and over 20 participants were arrested on charges outlined in Article 166 and Article 173 of the Code of Administrative Offenses.¹³⁶ Civil organizations, including GDI, published a statement in response to the incident. According to their report, the police hindered the detainees from exercising their right to consult with a lawyer.¹³⁷ Although lawyers from the organizations that issued the statement eventually provided legal assistance to some of the detainees, for several hours their whereabouts were unknown.¹³⁸ Detainees were only allowed visits at the end of the day, held in temporary detention centers across different cities (Zugdidi, Ozurgeti, Senaki, Samtredia).¹³⁹ Additionally, some of the detainees reported instances of excessive force used by the police.¹⁴⁰ The incidents during the Batumi rally underscore the recurring practice of misusing the Code of Administrative Offenses to suppress freedom of assembly.

4.2.4 Detentions in Kvareli

On May 19, 2023, reports surfaced that the family members of Sergei Lavrov (namely his daughter), the sanctioned Minister of Foreign Affairs of the Russian Federation, were staying at a hotel near Kvareli Lake for the wedding ceremony of Lavrova's brother-in-law.¹⁴¹ In response, on May 20, a protest took place near the lake, leading to the arrest of over 20 participants by law enforcement officers. Non-governmental organizations, including GDI, condemned the arrests. They pointed to the viral footage that revealed "instances of degrading treatment of individuals administratively detained by the police." Additionally, the police unlawfully denied lawyers from non-governmental organizations access to detainees.¹⁴²

¹³³ According to "Mtavari Arkhi", about 10 people were arrested at the rally in Batumi - the protest continues, the situation on the ground, available at: <https://tinyurl.com/yh7c5cyn> [last accessed 27.11.2023].

¹³⁴ The police do not allow the participants of the rally to gather in Batumi harbor, available at: <https://tinyurl.com/5yfkan6a> [last accessed 27.11.2023].

¹³⁵ According to "Mtavari Arkhi", about 10 people were arrested at the rally in Batumi - the protest continues, the situation on the ground, available at: <https://tinyurl.com/yh7c5cyn> [last accessed 27.11.2023].

¹³⁶ 23 individuals were arrested at the Batumi rally, available at: <https://tinyurl.com/4y6nxykw> [last accessed 27.11.2023].

¹³⁷ The practice of administrative detention violates the rights guaranteed by the constitution, available at: <https://tinyurl.com/2tj59ehc> [last accessed 27.11.2023].

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ The judge acquitted 11 people arrested at the rally against Lavrov's daughter, available at: <https://www.radiotavisupleba.ge/a/32590713.html> [last accessed 08.12.2023].

¹⁴² Advocates not allowed access to the detained activists, available at: <https://www.gdi.ge/ge/news/yvarelshi->

Eventually, the Court gave a verbal warning to three of the 14 detainees, acquitting the remaining 11.¹⁴³

4.3. Disruption of Pride Festival

On July 8, 2023, a festival scheduled as a part of the Pride Week organized by "Tbilisi Pride" at a private outdoor venue near Lisi Lake faced disruption from violent hate groups, including supporters of "Alt-info", preventing the event from taking place as planned.¹⁴⁴ Specifically, on the morning of July 8, they convened around the Vazha-Pshavela monument in Tbilisi, openly expressing violent calls and outlining the hate groups' plan to obstruct the festival.¹⁴⁵ From the gathering destination, the counter-demonstration participants proceeded through the Nutsbidze plateau toward the festival area.¹⁴⁶ Despite the clear potential for an escalation of the situation and aggression toward the festival organizers, as indicated by hate groups' previous statements¹⁴⁷ and past violent incidents (including July 5, 2021), the police did not present any substantial resistance during the march.¹⁴⁸ Indeed, the hate groups that arrived at the festival area engaged in vandalism, damaging existing structures and equipment. In response to this threat, the festival organizers had to be evacuated to ensure their safety.¹⁴⁹ The disruption of the Pride festival garnered condemnation from embassies, the EU representation in Georgia, the Secretary-General of the Council of Europe, and the UN representation.¹⁵⁰ GDI also expressed its reaction to the festival raid, stating that "the unfolding events demonstrate once again that the Georgian authorities had no real will to fulfill their constitutional

[ganvitarebul-movlenebs-ekhmianeba-2](#) [last accessed 08.12.2023].

¹⁴³ The judge acquitted 11 people arrested at the rally against Lavrov's daughter, available at: <https://www.radiotavisupleba.ge/a/32590713.html> [last accessed 08.12.2023].

¹⁴⁴ Violent groups disrupted the "Tbilisi Pride" festival, available at: <https://tinyurl.com/4xbacru9> [last accessed 27.11.2023]; The Pride festival forcefully canceled - the organizers are leaving the area, available at: <https://tinyurl.com/43uaamun> [last accessed 27.11.2023]; Yoga mats and Coca-cola, How did the violent groups obstruct the "Pride Festival", available at: <https://tinyurl.com/469afx7j> [last accessed 27.11.2023].

¹⁴⁵ Violent groups disrupted the "Tbilisi Pride" festival, available at: <https://tinyurl.com/4xbacru9> [last accessed 27.11.2023]; Opponents of the "Pride Festival" began their march, available at: <https://tinyurl.com/2a3j9w7t> [last accessed 27.11.2023].

¹⁴⁶ Violent groups disrupted the "Tbilisi Pride" festival, available at: <https://tinyurl.com/4xbacru9> [last accessed 27.11.2023]; Opponents of the "Pride Festival" began their march, available at: <https://tinyurl.com/2a3j9w7t> [last accessed 27.11.2023]; Yoga mats and Coca-cola - How did the violent groups obstruct the "Pride Festival", available at: <https://tinyurl.com/469afx7j> [last accessed 27.11.2023].

¹⁴⁷ An illustrative example: Morgoshia: "July 8 will be the last nail on the coffin erected on July 5", available at: <https://tinyurl.com/2s49mkn6> [last accessed 27.11.2023].

¹⁴⁸ Violent groups disrupted the "Tbilisi Pride" festival, available at: <https://tinyurl.com/4xbacru9> [last accessed 27.11.2023]; Yoga mats and Coca-cola - How did the violent groups obstruct the "Pride Festival", available at: <https://tinyurl.com/469afx7j> [last accessed 27.11.2023].

¹⁴⁹ Violent groups disrupted the "Tbilisi Pride" festival, available at: <https://tinyurl.com/4xbacru9> [last accessed 27.11.2023]; Yoga mats and Coca-cola - How did the violent groups obstruct the "Pride Festival", available at: <https://tinyurl.com/469afx7j> [last accessed 27.11.2023].

¹⁵⁰ Reactions to the violence against the "Pride Festival," available at: <https://civil.ge/ka/archives/551393> [last accessed 27.11.2023].

obligations and do everything to allow the festival organizers to hold the event."¹⁵¹ Several other non-governmental organizations released a joint statement regarding the occurrences at the festival area. According to their stance, the events of July 8 "are a continuation of July 5, 2021, in the investigation of which the question of the responsibility of the organizers of violence and the state, which was tasked to protect people from hate groups, was left completely unanswered."¹⁵² Unfortunately, the State has systematically failed to fulfill its obligation to ensure the realization of the freedom of assembly to members and supporters of the LGBTQ+ community in a safe environment for years. The violent disruption of the "Pride Festival " on July 8 indicates that the impunity syndrome and the recurrence of violence are facilitated by the ineffective investigation of similar violent cases in the past, including the impunity of the hate crime organizers.¹⁵³ GDI advocates for the interests of the festival organizers regarding the events of July 8.

4.4. Legislative Amendments Limiting Freedom of Expression

On October 5, 2023, the Parliament, following an expedited procedure, passed legislative amendments to the Law of Georgia "On Assembly and Demonstrations", and the Code of Administrative Offenses in the third reading.¹⁵⁴ As per the amendments, "participants of an assembly or demonstration are prohibited from setting up a temporary structure if its arrangement poses a threat to the participants of the assembly or demonstration or other persons, interferes with the protection of public order and security by the police, interferes with the normal functioning of the enterprise, institution, or organization, without the arrangement of this construction, the holding of the assembly or manifestation is not substantially hindered, and/or its arrangement is not related to the holding of the assembly or manifestation."¹⁵⁵ Failure to comply with this prohibition will lead to the confiscation of the object associated with the offense and a fine of 500 GEL or the confiscation of the said object, coupled with administrative imprisonment for a maximum duration of 15 days. In cases where the offender is an organizer, the penalties include the confiscation of the object linked to the offense and a fine amounting to 5,000 GEL or the confiscation of the said object, along with administrative imprisonment for up to 15 days.¹⁵⁶ The President of Georgia vetoed the legislative package,¹⁵⁷

¹⁵¹ GDI responds to the disruption of the "Prive Festival", available at: <https://tinyurl.com/srk7x92b> [last accessed 27.11.2023].

¹⁵² The Ministry of Internal Affairs still maintains the policy tolerance towards hate groups, available at: <https://tinyurl.com/493hn3vj> [last accessed 27.11.2023].

¹⁵³ The decision of the European Court of Human Rights in the CASE OF WOMEN'S INITIATIVES SUPPORTING GROUP AND OTHERS v. GEORGIA, para. 76.

¹⁵⁴ Documents related to the draft law "On Amendments to the Law of Georgia "On Assemblies and Demonstrations", available at: <https://parliament.ge/legislation/27152> [last accessed 27.11.2023].

¹⁵⁵ The draft law "On Amendments to the Law of Georgia "On Assemblies and Demonstrations"", available at: <https://info.parliament.ge/file/1/BillReviewContent/341196> [last accessed 27.11.2023].

¹⁵⁶ The draft law "On amendments to the Code of Administrative Offences of Georgia", available at: <https://info.parliament.ge/file/1/BillReviewContent/341198> [last accessed 27.11.2023].

¹⁵⁷ The President signed the decree terminating Georgian citizenship for Otar Partskhaladzi and vetoed the Law

and as of now, the Parliament has not decided whether to override it. GDI has expressed its assessment of the proposed bills,¹⁵⁸ asserting that the enactment of the envisaged draft law would heighten the risk of unwarranted intervention by authorities in the freedom of assembly and demonstrators. It is noteworthy that in the past, law enforcement officials have frequently denied rally participants the right to set up tents without “proper legal justification.”¹⁵⁹ Furthermore, it is crucial to consider that the existing legislation already permits restrictions on the freedom of assembly for reasons of public safety, protection of the rights of others, and to guarantee the unhindered operation of administrative bodies.¹⁶⁰ Given these provisions, GDI contends that the proposed tightening of the law does not genuinely serve any public interest. Instead, it appears to establish an additional mechanism for penalizing protestors, which is likely to have a “chilling effect” on freedom of assembly.

The Public Defender also released a statement on the legislative changes. In the Public Defender's evaluation, the bills “constitute a significant interference in the freedom of expression/assembly, restricting the expression of opinions through the use of temporary constructions (such as a tent). Such substantial restrictions on freedom of expression in a democratic society can only be justified by the necessity to protect a crucial, weighty interest, which is not addressed by the proposed draft law.”¹⁶¹

Following the Public Defender's appeal, the OSCE/ODIHR (Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights) prepared an urgent opinion on the draft laws.¹⁶² The opinion states that the legislative changes fail to meet the standards set by international law regarding the restriction of freedom of assembly and should not be adopted.¹⁶³

on Manifestations, available at: <https://tinyurl.com/4p8zc8hm> [last accessed 27.11.2023].

¹⁵⁸ GDI's statement on the impending ban on pitching tents, available at: <https://tinyurl.com/3yk39xyr> [last accessed 27.11.2023].

¹⁵⁹ The Public Defender responds to the events taking place near the Georgian Parliament palace, available at: <https://tinyurl.com/2p9ued78> [last accessed 27.11.2023]; The Public Defender of Georgia statement regarding the violation of the freedom of assembly in front of the Parliament, available at: <https://tinyurl.com/nprmc6r7> [last accessed 27.11.2023]; The Public Defender of Georgia echoes the fact of illegal restriction of freedom of assembly of railway employees, available at: <https://tinyurl.com/mwvw4ann> [last accessed 27.11.2023]; The Ministry of Internal Affairs grossly violates the right of expression and assembly of Beqa Grigoriadis, available at: <https://tinyurl.com/57vvc2yk> [last accessed 27.11.2023].

¹⁶⁰ Paragraph 3), Article 2) and Paragraph 4), Article 9) of the Law of Georgia on “Assemblies and Demonstrations”.

¹⁶¹ A statement by the Public Defender Georgia regarding the proposed amendments to the law on “Assemblies and Demonstrations”, available at: <https://tinyurl.com/mrdhw34b>

¹⁶² OSCE/ODIHR prepared a report based on the appeal of the Public Defender, available at: <https://tinyurl.com/mr3d2565> [last accessed 27.11.2023].

¹⁶³ OSCE ODIHR, URGENT OPINION ON PROPOSED AMENDMENTS TO THE LAW OF GEORGIA “ON ASSEMBLIES AND DEMONSTRATIONS” AND TO THE “ADMINISTRATIVE OFFENCES CODE”, Warsaw, 6 November 2023 Opinion-Nr.: FOPA-GEO/487/2023 [AIC/NR], p. 4, available at: <https://tinyurl.com/mr3jbw58> [last accessed 27.11.2023].

5. Equality

5.1. Defense Code and Subsequent Legislative Amendments

On September 21, 2023, the Parliament of Georgia approved a new Defense Code and related draft laws in the third reading.¹⁶⁴ The amendments removed priestly service and studies in theological institutes as grounds for deferring military service.¹⁶⁵ Consequently, members of the clergy are now liable for non-military, alternative labor service.¹⁶⁶ The described provision does not extend to the clergy of the Orthodox Church of Georgia, who are granted exemption from both military service and alternative service per the Constitutional agreement of Georgia.¹⁶⁷ This exemption is stipulated by a legal enactment possessing superior legal authority. Hence, the enacted legislative revisions establish disparate treatment, discriminating between the clergy of the Orthodox Church — granted complete exemption from military duties — and the clergy of all other religious organizations or unions, who are mandated to fulfill non-military alternative labor service. As per the assessment of the civil platform "No to phobia!",¹⁶⁸ the aforementioned disparate treatment is deemed unjustified and runs afoul of the constitutional right to equality. This divergence, in contradiction to constitutional norms, lacks a legitimate purpose.¹⁶⁹

Beyond a discriminatory nature, the recent legislative alterations pose concerns regarding the safeguarding of religious freedom, personal data, and the right to privacy. According to the Defense Code, the registration of the mobilization reserve entails the provision of information concerning an individual's religious affiliation and priestly service¹⁷⁰ (constituting a distinctive category of personal data) within the reserve's electronic system. Any compelled and obligatory disclosure of this information would violate the principles of freedom of belief and religion, as well as intrude upon personal privacy.¹⁷¹

¹⁶⁴ The Parliament adopted the "Defense Code" in the third reading, available at: <https://tinyurl.com/yzbbuz2a> [last accessed 27.11.2023].

¹⁶⁵ Section 1), Article 65 of the Law of Georgia - "Defense Code".

¹⁶⁶ Section "b", of Article 4 of the Law of Georgia "On Non-Military, Alternative Labor Service."

¹⁶⁷ Clause 1) of Article 4 of the Constitutional Agreement between the State of Georgia and the Apostolic Autocephalous Orthodox Church of Georgia.

¹⁶⁸ Civil platform "No To Phobia!" considers the arrangement based on the new Defense Code discriminatory and unconstitutional, available at: <https://tinyurl.com/28artvp7> [last accessed 27.11.2023].

¹⁶⁹ Detailed analysis regarding the constitutionality of the legislative changes is available at: Analysis of the discriminatory record of the Defense Code on the website: <https://tinyurl.com/nhkucp4u> [last accessed 27.11.2023].

¹⁷⁰ Sub-paragraph "j", Section 5), Article 97, of the "Defense Code".

¹⁷¹ Detailed analysis regarding the constitutionality of the legislative changes is available at: Analysis of the discriminatory record of the Defense Code on the website: <https://tinyurl.com/nhkucp4u> [last accessed 27.11.2023].

5.2. Rhetorics of Government Representatives against the LGBTQI+ Community

In 2023, homophobic rhetoric witnessed an unfortunate increase. For instance, Prime Minister Irakli Gharibashvili expressed the view that the truth and freedom are under threat from the perceived erosion of traditional family values and what he characterized as the promotion of false freedom, citing concerns about “LGBT propaganda” and attempts to legislate sex changes for minor children without parental involvement.¹⁷² As per the Prime Minister's statement, there is a troubling trend in France, with “22% of young individuals identifying themselves as LGBT.”¹⁷³ Similarly, Mamuka Mdinardze, one of the leaders of the ruling party, asserts that there should be a clear distinction between the promotion of specific themes, including LGBT-related messaging, and the safeguarding of the rights of individuals belonging to particular groups.¹⁷⁴ Mamuka Mdinardze contends that “based on research conducted by a highly reputable organization, the impact of propaganda can yield results that contribute to an increase in numbers.”¹⁷⁵ It is noteworthy that government representatives have explicitly employed the term “LGBT propaganda” in their statements with a negative connotation, raising concerns about the potential exploitation of homophobia for political-populist purposes.¹⁷⁶ In this context, the report on Georgia within the framework of EU enlargement highlights the political exploitation of homophobic sentiments as a notable concern.¹⁷⁷ Furthermore, the statements mentioned earlier do not align with the calls of the Committee of Ministers of the Council of Europe for authorities to unequivocally demonstrate zero tolerance towards hate crimes and all forms of discrimination at the highest level.¹⁷⁸ Additionally, it is noteworthy to mention the report from the Commissioner for Human Rights of the Council of Europe, who expressed concern over the intolerance voiced by high-ranking authorities.¹⁷⁹ The situation is further exacerbated by the manifestation of the aforementioned rhetoric in government policy. Notably, the complete disregard for the needs of the LGBTQI+ community in the National

¹⁷² Irakli Gharibashvili's speech at the annual conference of conservative political action, available at: <https://tinyurl.com/2c82sby6> [last accessed 27.11.2023].

¹⁷³ Gharibashvili regarding the legal regulation of “LGBT propaganda”, available at: <https://netgazeti.ge/life/677861/> [last accessed 27.11.2023].

¹⁷⁴ „We have to think about it seriously” - homophobic statement by Mdinardze regarding “LGBT propaganda”, available at: <https://tinyurl.com/44zn2fjz> [last accessed 27.11.2023].

¹⁷⁵ Another “Russian law” planned for adoption in Georgia - this time it is about banning “LGBTQ propaganda”, available at: <https://tinyurl.com/2jzu724v> [last accessed 27.11.2023].

¹⁷⁶ Institute for the Study of Democracy, Prime Minister's homophobic messages are in line with the rhetoric of far-right forces, available at: <https://www.democracyresearch.org/geo/1188/> [last accessed 27.11.2023].

¹⁷⁷ Georgia 2023 Report accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2023 Communication on EU Enlargement policy, page. 40, available at: <https://tinyurl.com/3rdpyfpm> [last accessed 27.11.2023].

¹⁷⁸ Decision of the Committee of Ministers of the Council of Union on Identoba and Others Group v. Georgia, adopted at 1451st meeting, 6-8 December 2022, paragraph 4.

¹⁷⁹ Commissioner for Human Rights of the Council of Europe Dunja Mijatovic Report following her visit to Georgia from 21 to 24 February 2022, paragraph 22, available at: <https://tinyurl.com/44pzcepa> [last accessed 27.11.2023].

Human Rights Strategy echoed in the draft of the Governmental Action Plan shared by the Georgian Government Administration, has drawn significant condemnation.¹⁸⁰

5.3. Draft Action Plan on the State Strategy for Civil Equality and Integration 2023-2024

On February 16, 2023, the draft action plan for the State Strategy on Civil Equality and Integration for the years 2023-2024 was released on the website and Facebook page of the Office of the Minister of State for Reconciliation and Civil Equality.¹⁸¹ As stated in the published post, the collaborative effort between the Office of the State Minister and the member agencies of the Government Commission on Civil Equality and Integration resulted in the preparation of the draft action plan. The deadline for submitting opinions on the draft was set for February 24, 2023.¹⁸² In response to the publication of the draft action plan, member organizations of the civil platform "No To Phobia!" voiced their concerns. According to their information, civil society organizations reported not receiving invitations to participate in the preparation of the document.¹⁸³ Hence, the process of developing the draft action plan should have been more inclusive from the outset, as indicated by the organizations. Additionally, the organizations believe that a substantial volume of the draft action plan necessitated a more extended timeframe than the one stipulated by the Office of the Minister of State for Reconciliation and Civil Equality for the thorough preparation and submission of comprehensive feedback.¹⁸⁴ Consequently, as per the assessment of the organizations, the collaboration model proposed by the Office of the Minister was formal and superficial.¹⁸⁵

5.4. Labor Disputes with Alleged Political Motives

In 2023, numerous court decisions were associated with unlawful dismissals from diverse LEPLs or other public institutions. Through these rulings, defendant employers were mandated to reinstate the plaintiffs and provide compensation for the hardships they endured.¹⁸⁶

¹⁸⁰ Civil Platform "No-phobia!" Responds to Government Ignoring the Needs of LGBTQI+ Community in the Action Plan, available at: <https://gdi.ge/ge/news/samoqalaqo-platforma-ara-fobias-ekhmianebe-samtavrobosamoqm> [last accessed 27.11.2023].

¹⁸¹ Facebook post of the Office of the Minister of State for Reconciliation and Civil Equality of February 16, 2023, available at: <https://tinyurl.com/382pfuev> [last accessed 27.11.2023].

¹⁸² Ibid.

¹⁸³ Statement of the civil platform "No To Phobia!" member organizations, available at: <https://tinyurl.com/yfrx5v8d> [last accessed 27.11.2023].

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ The Supreme Court upheld the cassation appeal of the person under the protection of "Fair Elections" and ordered the defendant to pay compensation, available at: <https://tinyurl.com/bd7z6jev> [last accessed 27.11.2023]; Tkibuli Magistrate's Court promptly reinstated Neli Kareli-Kakhidze, who is under the protection of "Fair Elections," to her position and granted her a provisional salary, available at: <https://tinyurl.com/2tj8eh2p> [last accessed 27.11.2023]; The City Court of Poti promptly reinstated the individual under the protection of "Fair Elections" and awarded a provisional salary, available at: <https://tinyurl.com/j6mn6zyv> [last accessed 27.11.2023]; The City Court of Poti promptly reinstated the individual under the protection of "Fair Elections"

Individuals dismissed in these cases asserted a political motive behind their termination, specifically citing their own or their acquaintances' affiliation with the party of the former Prime Minister, Giorgi Gakharia.¹⁸⁷ It's noteworthy that the Public Defender highlighted a trend of dismissals based on political opinions and other purported violations of labor rights during the pre-election period of local self-government elections back in 2021.¹⁸⁸ Following the Public Defender's report, "the applicants cited their or their family members' relative, friendly, or benevolent relations with former Prime Minister Giorgi Gakharia's party members as the reason for the unequal treatment."¹⁸⁹ Likewise, as per ISFED's interim report on the monitoring of the pre-election period of the 2021 local self-government elections, a discernible trend emerged involving "potential political dismissals, pressures, and the establishment of a hostile work environment throughout Georgia, primarily targeting individuals who are supporters of or sympathetic to the political party "For Georgia".¹⁹⁰

An alleged political motive appears to be present in the selection process for public school principals. Specifically, according to ISFED's evaluation, the interview stage of the certification process for public school principals in 2023 was conducted with numerous significant procedural violations that could potentially impact the final decisions.¹⁹¹ It is noteworthy to mention the ISFED study, which indicates that in 2020, the ruling party and the State Security Service compiled profiles or political dossiers of public school principals, subsequently influencing their selection and appointment processes.¹⁹² Given this context, there is a likelihood that the decisions made in the certification process for public school principals in 2023 are influenced by political motives.

and awarded a provisional salary, available at: <https://tinyurl.com/2psw2u8a> [last accessed 27.11.2023].

¹⁸⁷ Tkibuli Magistrate's Court promptly reinstated Neli Kareli-Kakhidze, who is under the protection of "Fair Elections," to her position and granted her a provisional salary, available at: <https://tinyurl.com/2tj8eh2p> [last accessed 27.11.2023]; The City Court of Poti promptly reinstated the individual under the protection of "Fair Elections" and awarded a provisional salary, available at: <https://tinyurl.com/j6mn6zyv> [last accessed 27.11.2023]; The City Court of Poti promptly reinstated the individual under the protection of "Fair Elections" and awarded a provisional salary, available at: <https://tinyurl.com/2psw2u8a> [last accessed 27.11.2023].

¹⁸⁸ The Public Defender of Georgia: Human Rights and Freedoms in Georgia, 2021, p. 140, available at: <https://tinyurl.com/ytj6ka32> [last accessed 27.11.2023].

¹⁸⁹ Ibid.

¹⁹⁰ ISFED, Monitoring of the Official Pre-Election Period of the 2021 Local Self-Government Elections, Interim Report I, September 1, 2021, p. 4, available at: <https://tinyurl.com/tddak6w6> [last accessed 27.11.2023].

¹⁹¹ "Fair Elections" defends the interests of 27 contestants participating in the certification process of public school principals in court, available at: <https://tinyurl.com/3cpsdeyh> [last accessed 27.11.2023].

¹⁹² Ibid; ISFED Report: "State Resources at the Service of the Ruling Party: Proven Methods of Voter Bribery and Illegal Mobilization in Georgia," p. 39-45, available at: <https://tinyurl.com/4z5392vn> [last accessed 27.11.2023].

6. Right to Fair Trial and Justice

6.1 Recommendations by the European Commission

In 2023, the Georgian justice system continued to grapple with numerous challenges. Despite aspirations to join the European Union, a portion of the recommendations from the European Commission on judicial system reform remains unimplemented. Both the Venice Commission and the European Commission persist in emphasizing the necessity for a holistic reform of the judiciary, including the High Council of Justice and the imperative to reduce personal interests within the judicial system.¹⁹³

On November 8, 2023, the European Commission recommended granting Georgia the status of a candidate for EU membership, with one of the 9 conditions tied to the completion of judicial reform.¹⁹⁴ However, the overall progress in this direction for Georgia has been limited, as indicated in the report.¹⁹⁵ According to the European Commission, the developed strategy and action plan do not adequately address the primary challenges within the justice system. Furthermore, the main recommendations of the Venice Commission regarding the reform of the High Council of Justice and the Supreme Court have gone unanswered.¹⁹⁶

The European Commission has identified three priority issues that Georgia must address by 2024:¹⁹⁷

1. adopt amendments to the Law on Common Courts to bring it fully in line with Venice Commission recommendations as regards the powers of the High Council of Justice (HCJ) concerning transfers and disciplinary proceedings of judges, and an effective right of appeal for appointments of Supreme Court judges.
2. adopt a broader reform of the judiciary, in particular, reform the HCJ in line with Venice Commission recommendations. In particular, establish a system of extraordinary integrity checks, with the involvement of international experts with a decisive role in the process, for candidates and persons currently appointed to all leading positions in the judiciary, in particular the HCJ, the Supreme Court and court presidents.

¹⁹³ Venice Commission, Georgia - Follow-up Opinion to four previous opinions concerning the Organic Law on Common Courts, Strasbourg, 14 March 2023, CDL-AD(2023)006, available at: <https://bit.ly/4665kHa> [last accessed 17.11.2023]; EUROPEAN COMMISSION, Commission Opinion on Georgia's application for membership of the European Union, Brussels, 17 June 2022, COM(2022) 405 final, available at: <https://bit.ly/479R9C1> [last accessed 17.11.2023].

¹⁹⁴ EUROPEAN COMMISSION, Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee and The Committee Of The Regions, Brussels, 8 November 2023, COM(2023) 690 final, p. 25, available at: <https://bit.ly/3ur4G9U> [last accessed 17.11.2023].

¹⁹⁵ EUROPEAN COMMISSION, Georgia, 2023 Report, Brussels, 8 November 2023, SWD(2023) 697 final, 83-20, available at: <https://bit.ly/3sArUtR> [last accessed 17.11.2023].

¹⁹⁶ Ibid.

¹⁹⁷ Ibid.

Furthermore, establish a system of effective permanent and periodic asset declarations with the involvement of international experts in an oversight and advisory function.

3. adopt the draft constitutional amendments which include changing the appointment procedure of the Prosecutor General from simple to qualified majority in Parliament; align the law on the Prosecutor's Office with European standards, following the recommendations of the Venice Commission, OECD and the TAIEX peer review on the functioning of the justice sector and the fight against organised crime.

6.2 Influence Exerted on the Justice System

6.2.1. Sanctioning Judges

Amidst the backdrop of corruption, nepotism, and cronyism within the judicial system, the U.S. State Department has imposed individual sanctions on three sitting judges—Mikheil Chinchaladze, Levan Murusidze, Irakli Shengelia—and one former judge, Valerian Tsertsvadze. These sanctions restrict their entry into the United States, citing their significant involvement in corruption.¹⁹⁸

Mikheil Chinchaladze presently serves as the Chairman of the Tbilisi Court of Appeals, a position he has held since 2017, and as the head of the Investigative Panel within the same court since 2020. Previously, he occupied the role of Chairman of the Chamber of Administrative Affairs of the same court from 2019 to 2020. Additionally, he has a history as a judge of the Supreme Court of Georgia from 2007 to 2017 and as a member of the High Council of Justice from 2007 to 2015. Mikheil Chinchaladze is recognized as one of the most influential figures in the judicial system, having played significant roles during both the “United National Movement” and “Georgian Dream” administrations.¹⁹⁹

Levan Murusidze presently serves as a member of the High Council of Justice. Additionally, from 2013 to 2017, he served as the secretary of the High Council of Justice. Levan Murusidze's judicial career includes serving as a judge of the Supreme Court of Georgia from 2006 to 2015.

¹⁹⁸ U.S. EMBASSY TBILISI, STATEMENT BY SECRETARY ANTONY J. BLINKEN: Public Designations of Mikheil Chinchaladze, Levan Murusidze, Irakli Shengelia, and Valerian Tsertsvadze, Due to Involvement in Significant Corruption, 5 April 2023, available at: <https://bit.ly/46euCCU> [last accessed 17.11.2023].

¹⁹⁹ “Clan members or their affiliates - Who will be appointed as a Supreme Court Judge” available at: <https://bit.ly/47gUy2l> [last accessed 17.11.2023]; “Sanctioned members of the clan - what do we know about the judges, their connections and influence,” available at: <https://rb.gy/ftf5ds> [last accessed 27.11.2023].

His name is notably linked to several high-profile cases, including those of Sandro Girgvliani, Giorgi Mikiashvili, and Anania Gachechiladze ("Aiisa").²⁰⁰

Irakli Shengelia presently serves as the Deputy Chairman of the Tbilisi Court of Appeals and is a member of the Prosecutor's Council. His previous positions include serving as a member of the High Council of Justice from 2017 to 2021, Chairman of the Chamber of Civil Affairs of the Tbilisi Court of Appeals in 2019, Deputy Chairman of the same court in 2017, and Chairman of the Chamber of Administrative Affairs in 2007, 2012, 2016, and 2017. Accusations of nepotism have been leveled against Irakli Shengelia.²⁰¹

Since 2017, Valerian Tsertsvadze no longer holds the position of a judge. Throughout his career, he has served in various significant roles, including the Chairman of the Court of Appeals, the Chairman of the Chamber of Criminal Affairs, the Chairman of the Tbilisi City Court, the Chairman of the Council of the High School of Justice, and the Secretary of the High Council of Justice.

Nine members of the High Council of Justice,²⁰² acting judges of the Supreme Court Vladimir Kakabadze²⁰³ and Levan Tevzadze,²⁰⁴ and a Judge of the Chamber of Criminal Affairs of the Tbilisi Court of Appeals Davit Mamiseishvili²⁰⁵ expressed their support to the sanctioned individuals in different periods.

On April 10, 2023, Prime Minister Irakli Gharibashvili held a meeting with members of the High Council of Justice,²⁰⁶ which included the sanctioned judge Levan Murusidze. During the meeting, Gharibashvili conveyed his complete support to all the judges and emphasized that the Court had achieved independence under the governance of the Georgian Dream. He asserted that any interference or influence on the judges is deemed unacceptable.²⁰⁷

On April 6, 2023, the parliamentary opposition called for the establishment of a temporary investigative commission to examine the "involvement in significant corruption" - the ground the US sanctions were based on. Subsequently, on October 18, the matter was brought to a vote

²⁰⁰ Levan Murusidze still serves as a judge, available at: <https://bit.ly/47gUEqI>, [last accessed 17.11.2023]; "Aiisa" won a case in Strasbourg, available at: <https://formulaneews.ge/News/53987> [last accessed 27.11.2023].

²⁰¹ Nepotism in the judicial system, available at: <https://bit.ly/3SMBSD4>, [last accessed 17.11.2023].

²⁰² Nino Kadagidze, Nikoloz Marsagishvili, Tamar Ghvamichava, Ketevan Tsintsadze, Dimitri Gvritishvili, Levan Mikaberidze, Temur Gogokhia, Badri Shonia, Paata Silagadze.

²⁰³ Comment of Vladimer Kakabadze on Levan Tevsadze's Facebook post, available at: <https://bit.ly/40G4TCu> [last accessed 17.11.2023].

²⁰⁴ Levan Tevzadze's Facebook post, available at: <https://bit.ly/40G4TCu> [last accessed 17.11.2023].

²⁰⁵ Davit Marsagishvili: It appears that when making a decision, we should consider whether the embassy of a foreign country will approve of this decision, available at: <https://bit.ly/3QDYq6h> [last accessed 17.11.2023].

²⁰⁶ Interference with a sovereign court is unacceptable - Gharibashvili regarding sanctioned judges, available at: <https://bit.ly/49xhYSz> [last accessed 17.11.2023].

²⁰⁷ Ibid.

during a plenary session in the Parliament. However, in a display of solidarity with the judges, the ruling party abstained from registering, and as a result of the lack of a quorum, the vote on this issue could not move forward.²⁰⁸

The Coalition for "Independent and Transparent Justice" interpreted the ruling party's action as a demonstration of support for the influential group within the Court, commonly referred to as the Clan.²⁰⁹

In a gesture of solidarity towards the appointed judges, three judges, namely Nana Jokhadze, Tamar Bezhanishvili, and Konstantine Kopaliani, declined to participate in an academic journey to the USA.²¹⁰ Subsequently, Judge Badri Kochlamazashvili also joined them.²¹¹ According to information obtained by the TV company "Formula" under conditions of confidentiality, it was revealed that several judges were compelled to reject the project as a form of expressing solidarity towards the sanctioned judges.²¹²

6.2.2. Election of Non-Judge Members of the High Council of Justice

On May 17, the Georgian Parliament appointed three non-judge members to the High Council of Justice.²¹³ The coalition for an "Independent and Transparent Judiciary" expressed dissatisfaction with the choice of candidates.²¹⁴ The coalition argued that the parliamentary selection demonstrated explicit backing of the Clan by the ruling party and aided in sustaining their influence, as the chosen candidates were perceived to overlook the primary challenges within the system. Regrettably, the coalition noted that some opposition MPs also supported this process.

On October 17, 2023, the Parliament of Georgia appointed the remaining two non-judge members to the Council, selecting Goga Kikilashvili and Levan Nemsadze for these positions.²¹⁵ Notably, Goga Kikilashvili, nominated by the International University of the Black Sea, is the son of Khvicha Kikilashvili, a judge of the Constitutional Court who, on

²⁰⁸ The vote on the creation of the investigation commission in the Parliament failed, the Georgian Dream did not register, available at: <https://bit.ly/3G6BYxY> [last accessed 17.11.2023].

²⁰⁹ Georgian Dream continues defending the interest of the clan, available at: <https://bit.ly/3QXtMpS> [last accessed 17.11.2023].

²¹⁰ Three judges declined to participate in a study visit to the US - Gvritishvili, available at: <https://bit.ly/46cKeaa> [last accessed 17.11.2023].

²¹¹ "It became politically motivated" - A judge refuses to go on a study visit in the US, available at: <https://bit.ly/3G2VACM> [last accessed 17.11.2023].

²¹² Ibid.

²¹³ The Georgian Parliament appointed three new non-judge members to the High Council of Justice, available at: <https://bit.ly/471F95L> [last accessed 17.11.2023].

²¹⁴ The coalition responds to the appointment of the non-judge members of the High Council of Justice, available at: <https://bit.ly/3QD8NHI> [last accessed 17.11.2023].

²¹⁵ Electronic version is available at: <https://bit.ly/49tZLFv> [last accessed 17.11.2023].

October 16, ruled that President Salome Zurbashvili had violated the Constitution. Goga Kikilashvili has denied any connection between his appointment to the council position and his family ties.²¹⁶

6.2.3. Personnel Changes

In GDIs opinion, an influential group of judges solidified their control by appointing loyalists to crucial positions in the judiciary. On May 24, Badri Shonia, a member of the High Council of Justice and the chairman of the Board of Administrative Affairs of the Tbilisi City Court, stepped down from the Independent Council of the Higher School of Justice, at his discretion.²¹⁷ During the same session, following the formal requirements of the law (2 out of 7 members of the Independent Council, 1 judge member, and 1 non-judge member, are elected by the High Council of Justice of Georgia from its composition),²¹⁸ Dimitri Gvritishvili was appointed to the position.²¹⁹

On June 16, 2023, following the submission of his resignation letter, independent inspector Zurab Aznaurashvili was relieved of his position.²²⁰ During the same session, the Council designated him as the Deputy Chairman of the Department of Common Courts. Although 32 candidates were initially registered for the independent inspector position, only 9 individuals submitted statements with the required documents. Out of these 9, only 5 candidates completed the interview process. Ultimately, Shota Kadagidze, the former non-judge member of the High Council of Justice (2017-2021), was appointed to the role of independent inspector.²²¹

The Coalition for "Independent and Transparent Judiciary" highlighted the lack of transparency in the independent inspector's selection process. In their assessment, the appointment of a person loyal to the clan as an independent inspector threatens the credibility of the disciplinary process and creates significant risks of undermining the independence of individual judges.²²²

In 2023, Kristine Kopaliani was appointed as a new judge for a 3-year probationary period,²²³ while 33 individuals secured lifelong appointments until reaching the stipulated retirement

²¹⁶ The electronic version is available at: <https://bit.ly/49D6i0s> [last accessed 17.11.2023].

²¹⁷ Resolution of the High Council of Justice N1/56, available at: <https://bit.ly/47x6Ras> [last accessed 17.11.2023].

²¹⁸ Section 4), Article 66³ of the Organic Law of Georgia "On Common Courts", მუხლი, ნაწილი 4.

²¹⁹ Resolution of the High Council of Justice N1/57, available at: <https://bit.ly/3QXtnTl> [last accessed 17.11.2023].

²²⁰ The course of the Council sessions - June, available at: <https://bit.ly/3QWiv4f> [last accessed 17.11.2023].

²²¹ The course of the Council sessions - July, available at: <https://bit.ly/47DUtFz> [last accessed 17.11.2023].

²²² Electronic version of the statement is available at: <https://bit.ly/3MHvIRO> [last accessed 17.11.2023]

²²³ Resolution of the High Council of Justice N1/17, available at: <https://bit.ly/47DO9hq>, [last accessed 17.11.2023].

age.²²⁴ A unique situation emerged in the case of Nino Giorgadze,²²⁵ a judge at the Bolnisi District Court, who is the sole appointee for a probationary period that the evaluators from the council deemed to have accumulated insufficient points, and her candidacy was not considered by the High Council of Justice for a lifelong appointment. The Coalition for "Independent and Transparent Judiciary" expresses reasonable doubts about the decision concerning Nino Giorgadze, citing her public positioning and highlighting significant issues within the judicial system. The coalition suggests that the decision may not have been made based on legal considerations.²²⁶

6.3. The High Council of Justice Proceedings

The sessions of the High Council of Justice in 2023, similar to the previous year, were marked by chaos. Three non-governmental organizations, including GDI, independently monitored the Council's meetings throughout the year.²²⁷ Despite the dedicated efforts of these organizations, monitoring sessions proved challenging due to the apparent lack of responsibility exhibited by the State structure. This sub-chapter provides data and information based on GDI's monitoring activities from January 1, 2023, to November 18, 2023.

In 2023, information on the appointment of sessions was **published 65 times**. Out of these 65 publications, **only one fulfilled a 3-day deadline**. Information about the meeting was typically published on the official website of the Council, usually 1 day before the meeting, during non-working hours.

Of the 65 planned sessions, **only 30 were conducted**, accounting for 46%. The details regarding the rescheduling of these sessions were not promptly made available on the Council's official website. In numerous instances, information about session postponements was

²²⁴ 26 Judges Appointed for a Life Tenure, available at: <https://bit.ly/3MPZ9A6> [last accessed 17.11.2023].

Resolution of the High Council of Justice 1/11, available at: <http://hcoj.gov.ge/Uploads/2023/3/11-2023.pdf> [last accessed 17.11.2023].

Resolution of the High Council of Justice 1/12, available at: <http://hcoj.gov.ge/Uploads/2023/3/12-2023.pdf> [last accessed 17.11.2023].

Resolution of the High Council of Justice 1/13, available at: <http://hcoj.gov.ge/Uploads/2023/3/13-2023.pdf> [last accessed 17.11.2023].

Resolution of the High Council of Justice 1/14, available at: <http://hcoj.gov.ge/Uploads/2023/3/14-2023.pdf> [last accessed 17.11.2023].

Resolution of the High Council of Justice 1/15, available at: <http://hcoj.gov.ge/Uploads/2023/3/15-2023.pdf> [last accessed 17.11.2023].

Resolution of the High Council of Justice 1/16, available at: <http://hcoj.gov.ge/Uploads/2023/3/16-2023.pdf> [last accessed 17.11.2023].

Resolution of the High Council of Justice 1/19, available at: <http://hcoj.gov.ge/Uploads/2023/3/19-2023.pdf> [last accessed 17.11.2023].

²²⁵ The persecution of judges from the judicial system continues, available at: http://www.coalition.ge/index.php?article_id=302&clang=0 [last accessed 18.11.2023].

²²⁶ Ibid.

²²⁷ Georgian Democracy Initiative (GDI), Georgian Court Watch, and Georgian Young Lawyers Association (GYLA).

removed from the website after non-governmental organizations notice. When contacting the Council's hotline and the provided phone number, the operator (in case they picked up), in the majority of cases, could not provide information about meeting postponements, sometimes even up to 30 minutes before the scheduled start. Sessions are frequently canceled either one hour before, 30 minutes prior, or a few hours after their scheduled start time (Typically, when a session fails to commence at the scheduled time, information about its postponement is passed along to monitoring non-governmental organizations and numerous Council employees, with a delay ranging from 40 minutes to 2 hours). In various situations, the individuals in question remained unaware of the information about the sessions even after 9 p.m.

Typically, sessions have a duration of 10-15 minutes. In exceptional cases where sessions extend to 40 minutes, they tend to be disorganized or involve interviews with specific individuals. The majority of council members remain inactive during these sessions. Dissenting opinions are not voiced, even following the appointment of new non-judge members. All decisions are reached unanimously, and dissenting votes are very rare during the voting process.

The lack of transparency in the Council's activities is further underscored by the institute's negligent approach to publishing its own decisions. Since 2023, there has been a noticeable delay in the Council's decision publication process. For instance, the decision regarding the appointment of judges on February 7 was published six weeks later. Moreover, since June, the Council has not released any decisions to the public. The most recent decision, about the dismissal of Shota Getsadze as a judge of the Tbilisi Court of Appeals on June 2, represents the last decision made at a session that was made publicly available. After 14 meetings following June 2, the Council has made numerous decisions, none of which have been published.

7. Political Processes and Human Rights

7.1. Human Rights and a Candidate Status for the Membership of the European Union

On March 3, 2022, Georgia officially submitted its application for EU membership to the European Union. In April of the same year, the country received a self-assessment questionnaire, and based on the responses provided, the European Commission was tasked with formulating an opinion on Georgia's application. The initial segment of the questionnaire was submitted to the European Union by the Government on May 2, with the second part following on May 10. Subsequently, on June 17, 2022, the European Commission released its opinion on Georgia's application. In this document, the Commission outlined 12 priorities that Georgia needed to address to qualify for the status of a candidate for EU membership. On June 23, 2022, the European Council officially approved and acknowledged Georgia's European perspective by endorsing the 12 priorities outlined by the European Commission. These priorities are intricately linked to the prevailing conditions in the country, focusing on areas

such as human rights, the rule of law, and their enhancement. Key aspects encompass justice reform, the independence and accountability of state institutions, de-oligarchization, anti-corruption measures, enhancements in the media environment, and the safeguarding of the rights of vulnerable groups, among others.²²⁸

On November 8, 2023, the European Commission issued a recommendation endorsing the granting of candidate status to Georgia.²²⁹ Speaking at a conference, the President of the European Commission, Ursula von der Leyen, conveyed that the Commission recommends to the European Council to grant the candidate country status upon Georgia. However, she highlighted that this recommendation is contingent upon the country's commitment to implementing specific reforms.²³⁰

Based on the aforementioned report from the European Commission, Georgia has successfully implemented three recommendations. These achievements pertain to gender equality and the enhancement of efforts against crimes targeting women, the appointment of a new public defender along with ensuring the independence of the Office of the Public Defender, and the proactive consideration of decisions from the European Court of Human Rights by the national courts.²³¹

As for the recommendations that are yet to be fully implemented or remain incomplete, several measures and reforms still require attention. These include enhancing the legislation overseeing elections and reinforcing the complete and independent functioning, along with accountability, of all state institutions. Additionally, there is a need for the comprehensive and effective reform of the judicial system, including the High Council of Justice, to guarantee the independence, accountability, and impartiality of the Courts and the Prosecutor's Office. Furthermore, there is a call for a review of the legislation governing the Anti-Corruption Bureau, the Special Investigation Service, and the Personal Data Protection Service, with due consideration given to the relevant recommendations. The improvement of the de-oligarchization action plan and the establishment of a flexible, inclusive coordination-monitoring mechanism are also essential components. Other pending actions include implementing the Moneyval recommendations from the Council of Europe in the fight against organized crime, strengthening the independence of the National Communications Commission, fostering trust within the media sector, and investigating and prosecuting cases related to the safety of journalists and media

²²⁸ Georgian Democracy Initiative, Human Rights in Georgia, 2022, pp. 34-35, available at: <https://tinyurl.com/yw9jks3k> [last accessed 29.11.2023].

²²⁹ Georgia's Progress towards EU Candidate Status: European Commission assessment, available at: <https://civil.ge/ka/archives/569156> [last accessed 29.11.2023].

²³⁰ The European Commission Recommended Granting Candidate Status to Georgia. available at: <https://civil.ge/ka/archives/568370> [last accessed 29.11.2023].

²³¹ European Commission, Georgia 2023 Report accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2023 Communication on EU Enlargement policy, p. 12, available at: <https://tinyurl.com/3rdpyfpm> [last accessed 29.11.2023].

representatives. Additionally, the ongoing investigation against the organizers of the violence during the 2021 Pride event needs to continue while ensuring the inclusiveness of the new action plan for the protection of human rights, and facilitating the adoption and implementation of the said document. Lastly, there is a need to reinforce structural dialogue and engagement with civil society at all levels while refraining from adopting measures that hinder or limit genuine participation from the relevant organizations.²³²

Regarding civil society, the European Commission criticized the initiation of the so-called “Russian law”.²³³ Moreover, as outlined in the European Commission's report, the environment essential for the operation of civil society has faced growing attacks from both political leaders and radical groups.²³⁴

Concerning the reform of the judicial system, the European Commission noted limited progress. Despite certain improvements, the main recommendations were not deemed implemented. Substantial reform is essential to guarantee the independence, impartiality, and accountability of the entire prosecution and judicial systems, particularly focusing on the Supreme Court, the Office of the Prosecutor General, and the High Council of Justice.²³⁵

The European Commission has highlighted persisting challenges in the realm of equality. These issues encompass the inadequate enforcement of anti-discrimination legislation, the propagation of hate speech, insufficient investigations into hate crimes (including incidents on July 5, 2021, and July 8, 2023), disparities in the treatment of religious minorities vis-à-vis the privileges accorded to the Orthodox Church (underscored by the Defense Code's discriminatory regulation of military obligations), oversight of the needs of the LGBTQI+ communities in the national human rights protection strategy, systemic homophobia directed at the community, and the exacerbation of hostility through the utilization of hate speech by politicians and prominent public figures.²³⁶

The European Commission's report offers a critical evaluation of matters concerning freedom of expression. It contends that the disparaging rhetoric from high-ranking officials, politicians, and far-right groups directed at media representatives has cultivated a hostile environment detrimental to media freedom.²³⁷ Furthermore, the pressing need to fortify the independence and impartiality of the National Communications Commission is emphasized. Challenges

²³² Ibid, p. 9-12.

²³³ Ibid, p. 16.

²³⁴ Ibid, p. 16.

²³⁵ Ibid, p. 20.

²³⁶ Ibid, pp. 28, 29, 33, 37, 40-41.

²³⁷ Ibid, p. 34.

persist in ensuring the safety of journalists, and the repercussions of defamation lawsuits and decisions on critical media are noted as problematic issues.²³⁸

Concerning freedom of assembly, the European Commission's report censures the deployment of disproportionate force during the March 2023 demonstrations. Additionally, it condemns the amendments made by the Parliament on October 5, 2023, to the Law on "Assembly and Demonstrations," characterizing them as arbitrary and unnecessary restrictions on the freedom of assembly.²³⁹ Furthermore, the evaluation negatively addresses the Code of Administrative Offenses inherited from the Soviet period. This code lacks essential procedural guarantees and allows for the arbitrary curtailment of freedom of assembly.²⁴⁰

As per the assessments provided in the European Commission report, it can be affirmed that the perspectives of the GDI and the European Commission align significantly on the challenges within the realms of human rights and the judiciary, as elucidated in this report.

²³⁸ Ibid, p. 34-35.

²³⁹ Ibid, p. 36.

²⁴⁰ Ibid, p. 37.