



„NO TO PHOBIA!“



SPECIAL REPORT

„EQUALITY POLICY AMIDST HATE CRIMES IN GEORGIA“



USAID
FROM THE AMERICAN PEOPLE



unag
UN Association of Georgia



Equality Policy Amidst Hate Crimes In Georgia

Civic Platform "No to Phobia!"

Special report



This report is made possible by the generous support of the American people through the United States Agency for International Development (USAID) within the USAID “Unity Through Diversity” Program, implemented by the UN Association of Georgia. The contents are the responsibility of the authors and do not necessarily reflect the views of USAID or the United States Government and UNAG.

Following organizations participated in developing the report:

- Georgian Democracy Initiative
- Georgian Young Lawyers Association
- Tolerance and Diversity Institute
- Equality Movement

December, 2023

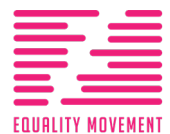


TABLE OF CONTENT

INTRODUCTION	5
RECOMMENDATIONS.....	6
CRIMES COMMITTED AGAINST THE MEDIA/JOURNALISTS DUE TO JOURNALISTIC ACTIVITIES	7
CRIMES BASED ON POLITICAL OR OTHER OPINIONS.....	12
HATE CRIMES COMMITTED AGAINST THE LGBTQI COMMUNITY.....	14
FREEDOM OF RELIGION AND BELIEF AND CRIMES MOTIVATED BY RELIGIOUS INTOLERANCE	18
CONCLUSION	25

INTRODUCTION

Hate crimes and the persecution of diverse minority groups continue to pose considerable challenges in Georgia. The seriousness of this issue became particularly evident during and after the events of July 5, 2021 and was reflected in the 12 priorities outlined by the European Union. Notably, three of these 12 priorities focus on safeguarding specific groups, namely media/journalists, women, and other vulnerable groups. The priorities specifically highlight the necessity for a thorough and effective investigation into crimes perpetrated against these groups.¹ As per the evaluation by the European Commission, the priorities concerning the media and vulnerable groups have not been completely realized.² Consequently, these issues remain pertinent, and concerted efforts are required to address them further. Continuing the work on these aspects is crucial for the success of the European integration process and for advancing to the next stage of this process.

For these exact reasons, the civil platform "No to Phobia!" has decided to create a dedicated report aiming to delineate the government's stance in combating hate-motivated crimes. This report specifically delves into the human rights situation of the groups on which member organizations of the platform work or focus their work and which prominently feature in hate crime statistics. The identified groups encompass media representatives/journalists, individuals with different political or other perspectives, LGBTQI+ individuals, and religious minorities. Simultaneously, certain sections of the report explore the overall human rights situation of each of these groups to provide a comprehensive understanding of the context and magnitude of the issues at hand.

The report was collaboratively prepared by the following organizations: Georgian Democracy Initiative (GDI), Georgian Young Lawyers' Association (GYLA), Tolerance and Diversity Institute (TDI), and Equality Movement.

1 Opinion on the EU membership application by Georgia, available at: <https://tinyurl.com/drw7fe3a> [last accessed 10.11.2023].

2 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 11, available at: <https://tinyurl.com/3rdpyfpm> [last accessed 10.11.2023].

RECOMMENDATIONS TO THE FOLLOWING INSTITUTIONS:

The investigative bodies

- *thoroughly investigate alleged hate crimes by, inter alia, improving the process of filing charges and identifying victims and employing a specialized article that explicitly identifies the motive of discrimination or intolerance when qualifying the crime;*
- *ensure a comprehensive investigation and prosecution process to identify all individuals accountable for suspected hate crimes, including organizers of such incidents;*
- *conduct a thorough investigation into the alleged large-scale illegal surveillance ensuring the proper examination of facts, and hold all individuals involved in alleged surveillance accountable for their actions.*

The Supreme Court, the Prosecutor's Office, and the Ministry of Internal Affairs

- *enhance the generation of hate crime statistics by improving data production, specifically by incorporating more comprehensive and disaggregated information.*

The Government of Georgia

- *incorporate the challenges encountered by the LGBTQI+ community into the Human Rights Action Plan, outlining specific tasks, activities, and relevant indicators aimed at addressing and tackling these issues;*
- *give appropriate consideration in the Human Rights Action Plan to the situational analysis of the media ecosystem, and implement necessary measures to proactively prevent violence against media representatives effectively;*
- *ensure the adequate involvement of all relevant/interested parties and take into account their opinions in the process of developing the human rights action plan.*
- *develop a unified strategy/policy for preventing and responding to hate crimes, ensuring the adequate involvement of all relevant stakeholders and considering their views.*

The Government of Georgia and the Ministry of Internal Affairs

- *start working on the establishment of an investigative agency with a specialized mandate for the effective investigation of hate crimes;*
- *establish and develop support services tailored to the individual needs of hate crime victims.*

The Government of Georgia/Government representatives

- *publicly condemn hate crimes and hate speech vehemently, express strong public support for the equality of all individuals, and refrain from participating in discriminatory rhetoric.*

CRIMES COMMITTED AGAINST THE MEDIA/JOURNALISTS DUE TO JOURNALISTIC ACTIVITIES

1.1. Introduction

In recent years, the situation concerning the physical security of critical media representatives has worsened. The investigative process of crimes committed against them is often marked by various shortcomings, a fact supported by both local and international sources. Specifically, in its concluding observations released on September 13, 2022, the *UN Human Rights Committee* expresses profound concern about the escalating interference with freedom of expression. This includes a *significant rise in threats, intimidation, harassment, and attacks on journalists in recent years*. The Committee notes that the *authorities exhibit no substantial will to punish these acts*.³ In contrast, government officials are often identified as catalysts for violence, a notion substantiated by international sources. As an instance, the 2023 report from *Freedom House* reveals a worsening situation within the independent media sector, precipitating a concerning rise in violence and harassment directed at critical journalists in Georgia.⁴

The lack of a zero-tolerance policy towards violence and, conversely, the presence of practices that endorse violence, such as impunity or inappropriate punishment of perpetrators, have an adverse impact on the integrity of media freedom. From a pragmatic standpoint, it's noteworthy that Georgia lacks a policy document specifically designed to prevent and address violence against journalists that would recognize them as one of the vulnerable groups. The absence of such a document results in a lack of structure and effectiveness in preventive and deterrent measures, hindering the ability to address hate crimes committed against media representatives based on their activities. The following subchapters provide an overview of the media environment in the country, the human rights situation of media representatives, and the primary challenges in terms of media freedom that contribute to the fostering of the aforementioned crimes.

1.2. Aggressive Rhetoric Against Media Representatives

Governments bear a positive obligation to advocate for conciliatory and tolerant policies to prevent hate crimes. Statements made by state representatives should refrain from endorsing violence against any group, including media representatives.⁵ Conversely, government officials and religious leaders frequently engage in aggressive rhetoric toward critical media.⁶ Verbal assaults and attempts to exert pressure on media owners, journalists, or independent online media outlets obstruct the functioning of journalistic activities. These actions often aim to restrict informing the public, thereby posing a threat to the democratic development of the country.

3 HRC, Concluding observations on the fifth periodic report of Georgia, CCPR/C/GEO/CO/5, 13.09.2022, para 43 (b).

4 Assessment of Georgia according to the FREEDOM HOUSE report - the situation has worsened, website of the Association of Young Lawyers of Georgia, 24.05.23, available at: <https://bit.ly/48Et5sx>, [last accessed 02.10.2023].

5 Positive obligations of member states To protect journalists and freedom of expression. COE, 01.06.2018, available at: <https://bit.ly/3RHHJZQ>, [last accessed 19.10.2023].

6 GYLA, [Facebook profile], 09.05.2021, "Media Advocacy Coalition Strongly Condemns Assaults on Journalists by Clerics", visit.: <https://bit.ly/3rIkX76> [last accessed 02.10.2023].

To illustrate instances of attempted harassment against members of the media, refer to the following:

- *Attacks of the Parliamentary speaker, Shalva Papuashvili, against "Mountain News" ⁷ and OC Media,⁸*
- *The aggressive demeanor of the Parliamentary deputy, Mamuka Mdinardze, against "TV Pirveli" journalist,⁹*
- *Aggressive attitude and rhetoric of Georgian Dream chairman, Irakli Kobakhidze, towards journalists at the Georgian Dream briefing,¹⁰*
- *Insult uttered by Tbilisi Mayor, Kakha Kaladze, in response to the questions asked by a journalist of "Mtavari Arkhi."¹¹*

The targeting of critical media representatives extends to various campaigns. Specifically:

- **Example 1:** *On January 16, 2023, a disinformation campaign targeted Tea Giligashvili, the chief producer of TV company "Mtavari Arkhi's" news service. This was in response to her request for public information from the parliament. Giligashvili requested information about expenses in accordance with the form/rules established by law and inquired about the funding source for the ruling party members' trip to Italy to attend the football match of Khvicha Kvaratskhelia. Subsequently, a Facebook page affiliated with the ruling party 'Georgian Dream' named 'In Reality' published the letter sent to the Parliament of Georgia, accusing Giligashvili of attempting to discredit the government through her public information request¹²*

7 The Media Advocacy Coalition responds to alarming cases of deterioration of the media environment, 14.09.23, available at: <https://bit.ly/3PErrhF>, [last accessed 02.10.2023];

Shalva Papuashvili refers to the editor of "Mountain News" as a self-proclaimed journalist, available at: <https://tinyurl.com/mr2aetxk> [last accessed 19.10.2023].

8 The Media Advocacy Coalition responds to alarming cases of deterioration of the media environment, 14.09.23, available at: <https://bit.ly/3ZLtjJQ>, [last accessed 02.10.2023]; Speaker of Georgian parliament pressured OC Media's donors after failure to place op-ed, available at <https://tinyurl.com/2s4hkhfd> [last accessed 06.11.2023].

9 The Charter of Journalistic Ethics in Georgia calls for the government to discontinue aggressive rhetoric towards media representatives, 24.06.22, available at: <https://bit.ly/3PEPpJR>, [last accessed 02.10.2023]; „You have gone mad... You have lost the Human face“ – Mdinardze Confronts a Journalist, available at: <https://netgazeti.ge/news/617586/> [last accessed 19.10.2023].

10 The Charter urges politicians to refrain from targeting journalists and to prevent the renewal of violence and aggression, The Charter of Journalistic Ethics in Georgia, 08.07.22, available at: <https://bit.ly/45mVGQ7>, [last accessed 02.10.2023]; "Your TV channel is an FSB agent... Tengo Gogotishvili posted and directly called us to join the war" | Kobakhidze to "Mtavari Arkhi", available at: <https://tinyurl.com/3ae4whsa> [last accessed 19.10.2023].

11 Kakha Kaladze faced criticism for characterizing a journalist as a "dirtiest" person., 29.02.21, available at: <https://bit.ly/3LS51bE>, [last accessed 02.10.2023].

12 Media Advocacy Coalition [Facebook page], 31.01.23, The Media Advocacy Coalition responds to the discrediting campaign against the media, available at: <https://bit.ly/3ZAI6r7>, [last accessed 02.10.2023].

- **Example 2:** Representatives of the ruling party and pro-government media launched a deliberate discrediting campaign against "Palitra Media." Prior to the statement from the chairman of "Georgian Dream," Irakli Kobakhidze,¹³ unfounded accusations against "Palitra Media" were disseminated on a news page¹⁴ followed by statements from leaders of the ruling party.¹⁵ This orchestrated sequence of events suggests a purposeful and organized campaign specifically aimed at discrediting "Palitra Media."¹⁶

1.3. Physical Assaults on Journalists and the Efficacy of Investigative Efforts

Ensuring the physical safety of media representatives is crucial for establishing and sustaining an independent and pluralistic media landscape. However, there are recurrent instances of verbal and physical assaults on critical media representatives and journalists, coupled with illicit interference in their professional endeavors.¹⁷ Public sources frequently document instances of attacks on representatives of critical media, occurring both in Tbilisi and other regions

- **Example 1:** On August 26, 2023, "Mtavari Arkhi" journalist Emma Gogokhia and her cameraman were attacked in Khaishi village, Mestia Municipality. In particular, the attackers took the camera, microphone, transmitter, and personal phone from the media representatives. They were assaulted/insulted verbally as well.¹⁸
- **Example 2:** There are instances where journalists fall victim to the destruction or theft of their personal and professional belongings, as observed in the cases of Vasil Dabrundashvili¹⁹ and Nodar Meladze.²⁰

13 Irakli Kobakhidze: Palitra Media turned to Kezerashvili's second television, 28.03.2023, available at: <https://rb.gy/odaz> [last accessed 06.11.2023].

14 Kezerashvili funds "Palitra Media", www.ongo.ge, 27.03.2023, available at: <https://rb.gy/jxev> [last accessed 06.11.2023].

15 Mamuka Mdinardze: Maybe I can't blame everyone, but some representatives of "Palitra Media" strongly deviated towards the trend and narrative that the National Movement voiced in the form of messages, TV company Imedi., 28.03.2023, available at: <https://rb.gy/ce8z> [last accessed 06.11.2023].

16 Media Advocacy Coalition [Facebook page], 29.03.23, Media Advocacy Coalition condemns the government's discrediting campaign against "Palitra Media", available at: <https://bit.ly/46uHOEm>, [last accessed 02.10.2023].

17 Media Advocacy Coalition [Facebook page], 12.04.2022, "Media Advocacy Coalition Responds to Attacks on TV Formula Employees", available at: <https://bit.ly/3ovTFyl>, [last accessed 02.10.2023]. Media Advocacy Coalition [Facebook page], 19.11.2021, "The Media Advocacy Coalition "considers the restriction of the rights of another Ukrainian journalist in Georgia as disturbing", available at: <https://bit.ly/31FBiyG>, [last accessed 02.10.2023].

18 The coalition echoes the fact of the attack on the journalist and cameraman of the "Mtavari Arkhi", 26.07.23. available at: <https://bit.ly/3PYO2Xx>, [last accessed 02.10.2023].

19 The coalition calls on the Ministry of Internal Affairs to protect the personal safety of the journalist Vasil Dabashvili, 13.07.23, available at: <https://bit.ly/48DrDqg>, [last accessed 02.10.2023].

20 Media Advocacy Coalition condemns the robbery of Nodar Meladze, 13.07.23, available at: <https://bit.ly/3PwZjNu>, [last accessed 02.10.2023].

- **Example 3:** *It is noteworthy to highlight the a physical attack on Misha Mshvildadze, the co-founder and host of the TV company "Formula".²¹ The special investigative service concluded the case without producing any results, failed to furnish the victim with the video footage about the incident, and disregarded the evidence uncovered by "Formula" during their journalistic investigation.²² Additionally, despite indications of the involvement of representatives from the State Security Service in the attack,²³ no legal actions were taken to address this.*

Article 154 of the Criminal Code of Georgia prohibits illegal interference in journalistic activities. The Georgian Young Lawyers' Association has submitted requests for public information regarding Article 154 to the Ministry of Internal Affairs, the Prosecutor's Office, and the courts. In 2020, the police initiated investigations in seven cases and pursued criminal prosecution in two cases. The following year, in 2021, the police launched investigations in 13 cases and initiated criminal prosecution in 63 cases. From January to July 2022, the police initiated investigations in 8 cases and pursued prosecution in four cases. Notably, courts do not maintain statistics on Article 154 and ²⁴ therefore it is impossible to get a full picture of how the State responds to cases post-incident.

An illustration of an ineffective investigation is evident in the investigation and court rulings related to the events of July 5-6, 2021.²⁵ In this instance, the perpetrators of crimes against journalists were either incompletely identified or could not be determined at all.²⁶ Furthermore, none of the individuals responsible for organizing the acts of violence have faced charges, even though there is evidence readily available from public sources.²⁷ The question of the state's accountability remains unresolved as well. To date, it is unclear whether an investigation has been initiated based on the report aired on TV "Pirveli" on June 12, 2022, which suggested potential criminal actions by state security personnel during the events of July 5, 2021.²⁸

It is alarming that the same hate groups, whose organizers were supposed to be held accountable for the violence on July 5, 2021, interfered with the Tbilisi Pride festival on July 8, 2023, and once again targeted media representatives. The special investigation service has initiated an inquiry into this incident.²⁹

21 Media Advocacy Coalition echoes the fact of the attack on Misha Mshvildadze, the co-founder and presenter of TV Formula, available at: <http://mediacoalition.ge/ge/a/f14d4533> [last accessed 06.11.2023].

22 Civil.ge, the special investigative service closed the case of Misha Mshvildadze, 12.09.23, available at: <https://bit.ly/46e08ll>, [last accessed 02.10.2023].

23 "An employee of Security Services participated in the attack on Mshvildadze" - how did "Formula" respond, Radio Tavisufleba, 07.05.23, available at: <https://bit.ly/46FU70z> [last accessed 06.11.2023].

24 A letter by the Office of the General Prosecutor of Georgia N13/47155.

25 GYLA appeals to the European Court on behalf of media representatives affected by the events of July 5-6, website of the Georgian Young Lawyers' Association. 07.11.2022, available at: <https://bit.ly/3Urfvkr>, [last accessed 02.10.2023].

26 Ibid.

27 Ibid. Also see: Media Advocacy Coalition [Facebook page], Media Advocacy Coalition considers the decision made by the Tbilisi Court of Appeal on the July 5 case as alarming, available at: <https://bit.ly/3mNHr6k>, [last accessed 02.10.2023].

28 The events that took place on July 5-6, 2021 have not been properly investigated until now, the official website of the Georgian Young Lawyers' Association 05.08.23, available at: <https://bit.ly/44Z4hZM>, [last accessed 02.10.2023].

29 Media Advocacy Coalition Condemns Violation of Rights of Media Representatives, 08.06.23, available at: <https://bit.ly/3ZTLQEp>, [last accessed 02.10.2023].

1.4. Legal Status of Media Representatives at Demonstrations

Amid a legitimate protest against the 'transparency of foreign influence' draft law, media representatives faced deliberate constraints, impeding them from fulfilling their professional activities and exercising the constitutionally guaranteed freedom of expression. This manifested in both verbal and physical abuse directed at journalists of critical media outlets, alongside the deployment of active special measures and the administrative detention of journalists.³⁰ It's noteworthy that law enforcement representatives predominantly engaged in violent actions against critical media figures,³¹ with instances revealing clear signs of criminal behavior against 21 representatives of the media.³²

1.5. Policy on Preventing Violence Against Journalists

According to the Council of Europe Recommendation CM/Rec(2016)4, every country should develop and put into effect national action plans concerning the safety of journalists and other media representatives.³³ The National Human Rights Protection Strategy for 2022-2030 became effective in March 2023. However, the current version of the adopted document lacks specific measures addressing challenges encountered by media representatives. Despite civil society organizations receiving a preliminary working version of the action plan from the Georgian government administration on October 31, 2023, it's crucial to highlight that this initial draft doesn't comprehensively address all essential topics. The final version, along with the adoption format and timeframes, terms, and the issues it encompasses, remains unknown at the time of preparing this report.

30 Media Advocacy Coalition [Facebook page], 13.03.2023, Media Advocacy Coalition appeals to the special investigative bodies regarding illegal interference in journalistic activities and other violations, available at: <https://bit.ly/3JxaRNW>, [last accessed 02.10.2023].

31 GYLA, People Against Russian Law - An Assessment of the March 7-9 Demonstration Dispersal and Related Human Rights Violations, 2023, 41, available at: <https://shorturl.at/efnyQ>, [last accessed 02.11.2023].

32 Ibid., quote: the second report of the LEPL "Media Ombudsman" - No to the Russian Law authored by Natia Kapanadze, 11,202.

33 Recommendation CM/Rec(2016)4 of the Committee of Ministers to member States on the protection of journalism and safety of journalists and other media actors, available at: <https://bit.ly/3ZCiLNi>, [last accessed 02.10.2023].

CRIMES BASED ON POLITICAL OR OTHER OPINIONS

2.1. Introduction

Against the backdrop of heightened authoritarian tendencies and the decline in the quality of democracy in Georgia,³⁴ the alleged crimes based on political or other views emerge as a pressing issue. Notably, cases emphasizing the suspected involvement of state officials are particularly noteworthy. Regrettably, due to the inadequate degree of independence of investigative agencies, crimes are not scrutinized effectively, leading to the failure to identify and punish all responsible individuals. Noteworthy deficiencies in the investigation include the failure to employ a specialized article for case classification and to identify the motive for intolerance. Considering the ineffective investigative processes, the comprehensive assessment of the extent of the entire problem and the gathering thorough statistical data constitute significant challenges. The following sub-chapter explores the challenges in addressing alleged crimes committed based on political or other opinions, along with illustrative cases.

2.2. Statistics

The Department of Human Rights Protection within the Office of the Prosecutor General of Georgia compiles statistics on crimes motivated by intolerance. Cases of crimes committed based on political or other views are specifically delineated in the provided document.

According to statistics from the Office of the Prosecutor General of Georgia, in 2021, criminal prosecution was initiated against 834 individuals for crimes committed on the grounds of intolerance based on discrimination. Criminal prosecution based on political or other opinions was pursued against 10 individuals. It's noteworthy that the rate of prosecution for crimes committed based on political or other opinions accounts for only 1.199% of the total rate.³⁵ As for the statistics of 2022, criminal prosecution was initiated against 1172 individuals on the grounds of intolerance based on discrimination. In 2022, criminal prosecution was initiated against 3 persons for crimes committed on the grounds of intolerance based on political or other views. It should be noted that the rate of prosecution for crimes committed on the grounds of intolerance based on political or other views represents only 0.256% of the total rate.³⁶

According to the provided statistics, the proportion of initiation of criminal prosecution for crimes committed on the grounds of political or other opinions, within the broader category of intolerance-based discriminatory crimes, is generally very limited. This may be attributed to the inefficiency of the investigation and the failure to identify a discriminatory motive, as demonstrated in several cases discussed in the next subsection.

2.3. Investigating Alleged Crimes of Intolerance Based on Political or Other Views

As mentioned above, conducting a thorough investigation into alleged crimes driven by political or other grounds for intolerance poses a significant challenge. A case illustrating this problem is that of Zurab Girchi Japaridze and Nika Mosiashvili.³⁷ In particular, the case pertains to the illegal detainment

34 Freedom House, Nations in Transit — Georgia Country Report 2023, available at: <https://tinyurl.com/26hraeey> [last accessed 14.11.2023].

35 The Prosecutor's Office of Georgia, analysis of crimes committed on the grounds of intolerance, 2021, available at: <https://tinyurl.com/sxrb6spu> [last accessed 01.11.2023].

36 The Department of Human Rights Protection of the Office of the Prosecutor General of Georgia, analysis of crimes committed on the grounds of intolerance, 2022, available at: <https://tinyurl.com/4539pv3t> [last accessed 01.11.2023].

37 The mentioned case is managed and handled by the Georgian Democracy Initiative, as outlined in the information presented in this subsection of the report.

and inhumane treatment of Zurab Girchi Japaridze and Nika Mosiashvili by special forces on March 7, 2023.³⁸ Consequently, they were both incapable of further engaging in the ongoing protest and sustained health injuries, as attested by medical records. Additionally, video evidence depicting inhumane treatment has been recovered by the Special Investigation Service as well. The Special Investigation Service is investigating this case as alleged abuse of official authority involving violence, as per sub-paragraph “B”, section 3 of the Article 333 of the Criminal Code of Georgia. It should be mentioned that the lawyer has requested the recognition of Nika Mosiashvili and Zurab Girchi Japaridze as victims, a reclassification of the case, and identification of a discriminatory motive. Specifically, the lawyer has requested the continuation of the investigation under sub-paragraphs d), e), and f) of section 2, Article 144³, of the Criminal Code of Georgia, based on findings from the analysis of video material and witness testimonies, which indicate the inhumane treatment of two or more individuals by MIA employees in a group setting. Additionally, the violence against the applicants was allegedly carried out with a discriminatory motive on political grounds. Despite multiple requests, Zurab Girchi Japaridze and Nika Mosiashvili were not recognized as victims, and the discriminatory motive behind the actions against them was not determined. Furthermore, the lawyer discovered that no investigative actions were taken after the official visit on May 15, 2023, upon reviewing the criminal law materials. Consequently, the case involving Zurab Girchi Japaridze and Nika Mosiashvili represents a clear instance of an inadequate investigation into an alleged crime with a motive rooted in political intolerance.

The inefficacy of the investigation is also apparent in the case of Mikheil Mshvildadze.³⁹ Specifically, on June 27, 2023, an unidentified individual launched an unexpected assault on Mikheil Mshvildadze, resulting in facial injuries. Subsequently, the perpetrator of the violence, Nikoloz Gugeshashvili, publicly confessed to the crime through a Facebook post, citing Mshvildadze's public stance that was unacceptable to him as the motive for the assault.⁴⁰ This illustrates that the assault was conducted on discriminatory grounds. On June 28, 2023, Nikoloz Gugeshashvili was arrested by the Ministry of Internal Affairs, and the Prosecutor's Office pressed charges against him under Article 126 of the Criminal Code (violence). Furthermore, on July 5, 2023, the TV company “Formula” identified an individual from the State Security Service as a purported participant in orchestrating the violence and disseminated evidence of other alleged participants.⁴¹ Due to the supposed involvement of State Security Service personnel in the assault, the case was transferred to the Special Investigation Service at the request of the victim and their legal representatives. From the beginning of the investigation, Mikheil Mshvildadze and his legal team consistently urged the Special Investigation Service to carry out specific investigative measures, recover video evidence, and requalify the charges. Despite their effort, the Special Investigation Service forwarded the case materials to the Court, effectively concluding the investigation. The victim's lawyer urged the continuation of the investigation, but no response was forthcoming from the relevant investigative bodies, including the Prosecutor's Office. Furthermore, despite numerous pleas from the legal representatives, no alterations in the charges followed, a discriminatory motive was not identified.

38 Video link: <https://www.facebook.com/japaridzez/videos/914067559742622> [last accessed 01.11.2023].

39 The mentioned case is managed and handled by the Georgian Democracy Initiative, as outlined in the information presented in this subsection of the report.

40 One person has been taken into custody in connection with the attack on a TV presenter, Misha Mshvildadze, available at: <https://tinyurl.com/mn358rvb> [last accessed 01.11.2023].

41 Coordinated, systemic illegality, TV Formula has reconstructed a video depicting the attack on Misha Mshvildade, available at: <https://tinyurl.com/52xw6uev> [last accessed 01.11.2023].

HATE CRIMES COMMITTED AGAINST THE LGBTQI COMMUNITY

3.1. Introduction

Individuals within the LGBTQ community have frequently faced hate crimes and hostility from hate groups in Georgia. Acts of homo/bi/transphobic violence stem from prejudiced attitudes, stigma, hatred, and discriminatory beliefs against the LGBTQI community. In the Georgian context, these overarching challenges are exacerbated by the presence of institutional homophobia and the political instrumentalization of such issues.

Typically, in nations characterized by strong anti-LGBTQ sentiments, individuals within the LGBTQI community frequently experience violence and discrimination across various aspects of their lives.⁴² Moreover, in numerous instances, LGBTQI individuals, unlike victims of crimes rooted in racial, religious, or other forms of intolerance, find themselves without social connections and lacking support from family and relatives.⁴³

Several international mechanisms obligate the State to ensure the prevention of crimes driven by homo/bi/transphobic hatred, along with a prompt, efficient, and thorough response to such crimes, including the identification and punishment of perpetrators. Despite legislative and institutional changes in recent years, the efforts to combat homo/bi/transphobic hate crimes have not seen significant/substantial improvement. Furthermore, the trend observed over the last two years illustrates an inadequate response from the State to individual instances of hate crimes, disregard for the human rights situation and needs of LGBTQI individuals, and a policy of leniency towards hate groups.

3.2. Statistics on Hate Crimes

Based on a 2020 study, 52% of individuals within the LGBTQI community reported being victims of violence at least once due to their sexual orientation and/or gender identity. Additionally, 91% faced verbal abuse, 81% encountered psychological violence, and 75% received threats of physical violence.⁴⁴ Experiences of violence within the community manifest in diverse ways, with transgender individuals, masculine women, and feminine men being the most common victims. This victimization is often linked not only to their gender identity or sexual orientation but also to the infringement of/incompliance with widely established gender norms in society.⁴⁵

Several legislative and institutional reforms have been enacted to address crimes motivated by intolerance related to sexual orientation and gender identity/expression. A notable progressive step in this regard is the production of unified statistics, which not only encompass the crime and its motive as defined by the Criminal Code but also include details such as the perpetrator's age and gender, and geographic location of the crime.⁴⁶ Furthermore, in 2021, the joint report from the Office of the Prosecutor General, the Ministry of Internal Affairs, and the Supreme Court of Georgia

42 Women's Initiative Supporting Group (WISG): From Prejudice To Equality, Study on Public Knowledge, Awareness and Attitudes Towards LGBT(Q)I Community and Legal Equality, 2023, pp. 14, available at: <https://tinyurl.com/3j5py5wm> [last accessed 01.11.2023].

43 OSCE/ODIHR, Hate Crimes in the OSCE Region: Incidents and Responses, 2006, p. 56; available at: <https://www.osce.org/files/f/documents/6/7/26759.pdf> [last accessed 01.11.2023].

44 Social Justice Center: Social Exclusion of LGBTQ Group in Georgia, 2020, pp. 87, available at: <https://tinyurl.com/5n8h5ew2> [last accessed 01.11.2023].

45 Women's Initiative Supporting Group (WISG), From Prejudice To Equality, Study on Public Knowledge, Awareness and Attitudes Towards LGBT(Q)I Community and Legal Equality, 2023, pp. 95.

46 Special Report of the Public Defender of Georgia, Assessment of the Legal Status of the LGBT+ Group in Georgia, 2021, pp. 23, available at: <https://tinyurl.com/y3yyzr7r> [last accessed 01.11.2023].

introduced the category of "intimate partner" in the list of social connections between the victim and the perpetrator. This formal inclusion allows for the recording of cases of violence occurring within same-sex couples.

Nevertheless, the current methodology of the report from the Office of the Prosecutor General of Georgia, the Ministry of Internal Affairs, and the Supreme Court does not offer an avenue to further analyze crimes committed based on specific characteristics.⁴⁷ The statistics do not specify whether an intimate partner has committed a crime based on sexual orientation and gender identity (SOGI) intolerance. Instead, they document the total number of crimes committed by intimate partners each year in general.

3.3. Addressing and Preventing Hate Crimes

Addressing hate crimes and identifying the intolerance motive continue to pose significant challenges. The 2015 ruling of the European Court of Human Rights in the case 'Identity and Others v. Georgia' holds particular significance in the context of motive categorization. In this case, on May 17, 2012, the court evaluated the state's handling of hate crimes and emphasized that "the necessity of conducting a meaningful inquiry into the discrimination behind the attack on the march of May 17, 2012, was indispensable given, on the one hand, the hostility against the LGBT community and, on the other, in the light of the explicitly homophobic hate speech uttered by the assailants during the incident."⁴⁸

The enforcement of the decision is overseen by the Committee of Ministers of the Council of Europe, which has issued pertinent recommendations to the State for carrying out a thorough and effective investigation of hate crimes. In practice, however, the State not only falls short of ensuring the prevention and appropriate response to crimes but also appears to adopt a form of tolerance policy. This is particularly conspicuous in the government's approach towards hate groups and the events of July 5-6, 2021.

Prior to the violent disruption of the "March of Dignity" on July 5, those orchestrating the violence disseminated calls for violence through the media, including threats to cause loss of lives.⁴⁹ Under international standards, the fight against hate-motivated crimes places special emphasis on crime prevention and a redefined understanding of police functions within the context of prevention.⁵⁰ Based on publicly available information, it should have been apparent to the State that hate groups were not only planning a so-called "counter-demonstration" but also a violent assembly. The police forces mobilized in front of the parliament proved inadequate to forestall the violence. Beyond the state's failure to prevent instances of physical violence and attacks on NGO offices, the investigation was incomplete. The question of the organizers' responsibility is particularly problematic. Despite holding several individuals directly involved in the violence accountable, the State has not initiated investigations or criminal prosecutions regarding the organization of group violence and the public incitement of violent actions.⁵¹

47 Ibid.

48 ECHR, *Identoba and others v. Georgia*, No. 73235/12, judgment of 12th of May, 2015, paragraph 77.

49 "There may be a victim, I announce once again" - another threatening statement by Guram Falavandishvili, available at: <https://rustavi2.ge/ka/news/203650> [last accessed 01.11.2023].

50 The Special Report of the Public Defender of Georgia, an Overview of International Standards for the Protection of the Rights of LGBT+ Persons and the Obligations Assumed by Georgia, 2021, pp. 15, available at: <https://tinyurl.com/y42bmj4n> [last accessed 01.11.2023].

51 Women's Initiatives Supporting Group, Georgian Young Lawyers Association, European Human Rights Advocacy Center, submission to the Committee of Ministers of the Council of Europe concerning the implementation of *Identoba and Others v. Georgia* group of cases, 2022, p. 8; Report of the Public Defender on the State of Protection of Human Rights and Freedoms in Georgia, 2022, pp. 192-193, available at: <https://tinyurl.com/4xs9e2xz> [last accessed 01.11.2023].

Despite the sustained efforts of civil organizations and human rights defenders over several years, the State lacks a cohesive strategy to combat hate crimes. The situation is further exacerbated by the omission of the LGBTQI group from the 2022-2030 National Human Rights Strategy and the absence of a clear vision to address homo/bi/transphobic violence and mitigate the ongoing threats posed by hate groups. The State's approach reflects a neglect of the fight against hate crimes directed specifically at the LGBTQ+ community at the policy level. The State's inaction not only underscores a lack of commitment to addressing these issues but also appears to encourage cases of organized violence against LGBTQ individuals.

Despite a high rate of hate crimes, hate crimes committed on the grounds of sexual orientation and gender identity/expression are often unreported. This recurrent underreporting contributes to a concerning trend where perpetrators of such crimes often escape legal consequences and remain unpunished.⁵² Various reasons contribute to individuals refraining from seeking assistance from the police. Nevertheless, institutional homophobia entrenched within the police system significantly erodes the level of trust in this agency and results in the delegitimization of the police in the eyes of the victim.⁵³ The most commonly mentioned reasons for reluctance to approach law enforcement officers are homophobic/transphobic apprehension among the police, the fear of recurring violence, and negative past experiences with the police.⁵⁴ The negative experiences themselves are varied and may involve coerced "coming out," mistreatment, discrimination, revictimization, or an inappropriate response to the crime.

Establishing an early prevention mechanism is crucial for addressing hate crimes and mitigating their adverse consequences. The objectives of crime prevention are aimed at influencing situations of anticipated danger, potential offenses, and criminogenic circumstances.⁵⁵ Prevention mechanisms and measures vary, and currently, there is no comprehensive hate crime prevention policy in Georgia. Prevention efforts are often implemented on an ad-hoc basis, targeting specific individual cases. This situational prevention approach concentrates on particular groups, individuals, and circumstances where the risk of either becoming an offender or a victim is elevated.⁵⁶ For instance, the mobilization of hate groups is frequently linked to events such as the Queer Pride. Additionally, LGBTQ gathering sites and community organizations often become targets for hate crimes.⁵⁷ The outcomes of situational prevention efforts are transient and fall short of averting the risk of recurrent criminal incidents.⁵⁸

The presence of victim support services is crucial in responding to hate crimes. The State is obligated to establish confidential and cost-free victim support services that cater to the needs of victims before, during, and after criminal proceedings.⁵⁹ These services can be available in both public agencies and non-governmental organizations. In order to adequately support those affected, the State is required to conduct an individual assessment of the needs of each hate crime victim, ensuring their protection and support. When necessary, timely referrals to relevant services should also be conducted.⁶⁰ The State has yet to establish such services. In practice, LGBTQI victims of hate crimes typically obtain legal, psychosocial, and medical services through community organizations.

52 OSCE/ODIHR, *Hate Crimes in the OSCE Region: Incidents and Responses*, 2006, p. 52; available at: <https://www.osce.org/files/f/documents/6/7/26759.pdf>, [last accessed 01.10.2023]

53 Social Justice Center: *Social Exclusion of LGBTQ Group in Georgia*, 2020, pp. 30.

54 Ibid.

55 The Special Report of the Public Defender of Georgia, *an Overview of International Standards for the Protection of the Rights of LGBT+ Persons and the Obligations Assumed by Georgia*, 2021, pp. 16.

56 Ibid.

57 OSCE/ODIHR, *Hate Crimes in the OSCE Region: Incidents and Responses*, 2006, p. 55-56; see: <https://www.osce.org/files/f/documents/6/7/26759.pdf> [last accessed 11.01.2023].

58 The Special Report of the Public Defender of Georgia, *an Overview of International Standards for the Protection of the Rights of LGBT+ Persons and the Obligations Assumed by Georgia*, 2021, pp. 16.

59 Ibid.

60 Ibid.

3.4. Hate Crimes Committed Against Family Members or Partners

In the context of domestic violence, individuals in the LGBTQI community constitute a high-risk group in Georgia.⁶¹ LGBTQI individuals who reveal their sexual orientation and/or gender identity to family members frequently face the risk of eviction or threats of eviction, coupled with experiences of psychological and physical violence.⁶² Due to the apprehension of becoming homeless, community members hesitate to approach the police. Incidents reported to the police often conclude without identifying the motive of intolerance, thereby compromising the effectiveness of the response to cases of violence.

Domestic violence poses a particularly challenging ordeal for underage members of the LGBTQI community, directly linked to the loss of social connections and housing. The absence of family strengthening and reintegration programs diminishes the likelihood of minor victims of homo/bi/transphobic violence within their families returning home. Consequently, they often find themselves placed in care facilities, resulting in lost ties with their families.⁶³ Moreover, once removed from their homes, minor victims encounter various forms of violence within care institutions.⁶⁴

A significant challenge is posed by violence by an intimate partner. According to a 2020 study, LGBTQI individuals frequently find themselves as victims of physical violence at the hands of an intimate partner, ranking just after acquaintances or strangers.⁶⁵ The existing legislation in Georgia lacks a definition for the term "intimate partner." Consequently, the legal framework does not categorize an intimate partner as a family member, and as a result, does not apply certain restraining mechanisms such as restraining and protective orders to violence committed by intimate partner.

Beyond the absence of legal safeguards, cases of violence often go unaddressed due to the lack of trust in the law enforcement system and other contributing factors. For instance, as revealed by a study conducted by the "Women's Initiatives Supporting Group," 61.9% of LBT women who experienced sexual violence from an intimate partner opted not to report the incidents to the police. Their decision was influenced by concerns related to forced "coming out" and apprehensions about encountering homophobic reactions from law enforcement.⁶⁶ Transgender women face heightened vulnerability in cases of violence perpetrated by an intimate partner. The existing legislation defines "a victim" as "a woman or other family member." Within the constraints of a narrow and discriminatory interpretation of this definition and absence of legal gender recognition mechanism, transgender women find themselves excluded from restraining mechanisms designed to address violence against women⁶⁷

61 Special Report of the Public Defender of Georgia, Assessment of the Legal Status of the LGBT+ Group in Georgia, 2021, pp. 26.

62 Social Justice Center: Social Exclusion of LGBTQ Group in Georgia, 2022, pp. 8, available at: <https://tinyurl.com/ce6daj8x> [last accessed 01.11.2023].

63 Equality Coalition: The Main Challenges of the Social Protection System for Different Vulnerable Groups in Georgia, 2022, pp. 85, available at: <https://tinyurl.com/3h53umpd> [last accessed 01.11.2023].

64 Ibid.

65 Social Justice Center: Social Exclusion of LGBTQ Group in Georgia, 2020, pp. 95.

66 NGO Shadow Report on the implementation of The Council of Europe Convention on preventing and combating violence against women and domestic violence in Georgia, Sexual Violence, GREVIO Committee, 2021, available at: <https://tinyurl.com/yzrubvjm> [last accessed 01.11.2023].

67 Women's Initiatives Supporting Group (WISG), Discrimination and Violence Against Lesbian, Bisexual, Trans and Intersex Women in Georgia, CEDAW, 2023, available at: <https://tinyurl.com/2cpcp333> [last accessed 01.11.2023].

FREEDOM OF RELIGION AND BELIEF AND CRIMES MOTIVATED BY RELIGIOUS INTOLERANCE

4.1. Introduction

During the reporting period (the first half of 2021-2023), against the backdrop of the ongoing acute political processes in Georgia and challenges in the areas of justice, rule of law, and respect for democratic principles, the issue of safeguarding the principles of freedom of religion and belief, as well as secularism, emerged as even more critical.

This chapter of the report delves into crimes committed on the grounds of religious intolerance, including violations of rights of Muslims and assesses the State's response. In this context, the rate of the initiation of investigations by the Ministry of Internal Affairs into crimes committed on the ground of religious intolerance and the proper classification of cases under the relevant articles of the Criminal Code should be considered a positive trend. Nonetheless, the inefficiency in investigating such cases and the delayed issuance of summary decisions continue to pose challenges.

Religious associations and their members encounter discrimination, exclusion, hate-motivated violence, and systemic oppression. The state's unsystematic and solely reactionary intervention policy establishes a context where the rights of non-dominant religious groups are susceptible to future encroachment. Simultaneously, these policies diminish the trust of non-dominant religious groups in the State. The trends unveiled through legal proceedings/litigation, coupled with the inconsistent practices in Georgia concerning hate crimes, adversely affect the willingness of victims to report such crimes to law enforcement agencies.

Despite a decrease in the statistics of crimes committed due to religious intolerance compared to previous years, the delays in filing charges by the prosecutor's office and assigning victim status to the affected individuals remain problematic. A noteworthy emerging trend is the decline in appeals to law enforcement agencies in cases of alleged religious persecution. This decline is directly mirrored in the number of pending decisions in court regarding such criminal cases.

Moreover, persisting systemic issues from previous years, including discriminatory legislation, ownership challenges faced by religious associations, artificial barriers hindering the construction of new chapels, and ambiguity surrounding the mandate and policies of the State Agency for Religious Affairs, remain unresolved. An additional concern is illegal surveillance and monitoring, as well as instances of pressure and blackmail targeting religious individuals. There are allegations of interference in the autonomy of religious associations, Portraying or perceiving religion from the security prism instead of human rights perspective is also concerning.

This discriminatory and undemocratic policy is likely to manifest in issues within legal proceedings, often characterized by a "tolerant" stance towards alleged criminals and crimes, instances of impunity, occasional bias towards the majority, and ineffectiveness in the measures undertaken by law enforcement officers.

4.2. Crimes on the Grounds of Religious Intolerance

This chapter examines the statistics of crimes motivated by religious intolerance and the State's responsiveness during the reporting period. It also delves into the law enforcement agencies' and state's policy regarding crimes motivated by religious intolerance committed after 2012. Additionally, it explores alleged crimes directly involving authorities, particularly those manifested in the control and pressure on individual religious associations.

4.2.1. Statistics of Crimes Motivated by Religious Intolerance

The challenge of an inadequate state response to crimes motivated by religious intolerance persists. According to the unified reports of the Ministry of Internal Affairs of Georgia, the Prosecutor's Office, and the Supreme Court of Georgia on "Statistics of Crimes Committed on the Grounds of Discrimination and Intolerance" for the years 2021⁶⁸ and 2022,⁶⁹ the Ministry of Internal Affairs initiated criminal investigations into 27 cases⁷⁰ motivated by religious grounds during the reporting period. Regarding the Prosecutor's Office of Georgia, criminal prosecution was initiated in 7 cases,⁷¹ identifying 18 individuals⁷² as victims. Additionally, 3 individuals⁷³ were convicted of the crime of religious intolerance.

According to the Hate Crimes Statistics for 2021 from OSCE/ODIHR, law enforcement agencies in Georgia officially reported 21 incidents⁷⁴ classified as religious crimes. Additionally, other sources independently reported 9 cases.⁷⁵ These crimes include instances of physical violence, threats, and infringement of the right to property.⁷⁶

In January-June 2023, the Tolerance and Diversity Institute (TDI) formally requested public information regarding statistics on crimes and cases motivated by religious ground.⁷⁷ As per the response obtained from the Supreme Court of Georgia, within this timeframe, the general courts were hearing one case involving alleged religious intolerance under Article 333 of the Criminal Code (Exceeding official powers). Additionally, another case falling under Articles 1261 and 111-151 of the Civil Code (related to domestic violence - violence, and threats) was forwarded for consideration.⁷⁸ According to the statistics of registered crimes released by the Ministry of Internal Affairs, criminal investigations were launched by all investigative agencies of Georgia in connection with 2 cases motivated by religious

68 A joint report of the Ministry of Internal Affairs of Georgia, the Prosecutor's Office, and the Supreme Court of Georgia on "Statistics of Crimes Committed on the Grounds of Discrimination and Intolerance", 2021, available at: https://www.geostat.ge/media/43558/diskriminaciis-niSniT_2021.pdf [last accessed 01.11.2023].

69 A joint report of the Ministry of Internal Affairs of Georgia, the Prosecutor's Office, and the Supreme Court of Georgia on "Statistics of Crimes Committed on the Grounds of Discrimination and Intolerance", 2022, available at: https://www.geostat.ge/media/51737/diskriminacia_2022.pdf [last accessed 01.11.2023].

70 In 2021, there were 19 criminal cases, and in 2022, there were 8 cases. Among these, in 6 cases, only religion was utilized as a sign of discrimination, in 1 case, both religion and race were factors, and in 1 case, both religion and gender played a role.

71 In 2021, there were 5 criminal cases, with 3 cases involving only religion as a sign of discrimination and 2 cases involving both religion and gender. In 2022, there were 2 criminal cases.

72 In 2021, 5 individuals were identified as victims, with 3 individuals in criminal cases where only religion was used as a sign of discrimination and 2 individuals in cases where gender was used along with religion. In 2022, 13 individuals were identified as victims, with 12 individuals involved in criminal cases where only religion was identified as a sign of discrimination and 1 person in a case where race was identified as a sign of discrimination with religion.

73 In 2021, 2 individuals were convicted, with 1 person convicted in cases investigated during the reporting period. 1 person was convicted in 2022.

74 10 cases against Muslims, 11 against Christians (most against Jehovah's Witnesses)

75 2 cases against Muslims, 7 against Jehovah's Witnesses.

76 OSCE, ODIHR hate crime reporting/ Georgia, 2021, available at: <https://hatecrime.osce.org/georgia> [last accessed 01.11.2023].

77 TDI requested public information from judicial and investigative agencies.

78 Letter of the Supreme Court of Georgia dated September 28, 2023, No. P-779-23.

grounds (under Article 155 of the Criminal Code). Additionally, investigations were initiated in 2 cases under Article 156 of the Criminal Code (persecution), although in this instance, no concrete ground of discrimination is specified.⁷⁹ According to the response received from the Prosecutor's Office of Georgia, prosecution was initiated in 1 case⁸⁰, and 1 person was identified as a victim. However, even in this case, the concrete ground of the crime (persecution) was not specified.⁸¹ As per the response received from the Special Investigation Service, 2 cases were pending under Article 155 of the Criminal Code (unlawful interference with the performance of divine service) and 1 case under Article 156 of the Criminal Code (persecution). In all three cases, investigations were launched into potential criminal acts against Jehovah's Witnesses.

Public agencies' responses to TDI's requests have fallen short of providing adequate access to public information. Notably, the responses received from public agencies, despite the specificity of the public information sought, are frequently incomplete and generalized. The issue lies in incomplete data, with instances where the dates of proceedings, court instances, and the basis of the crime are not specified. The State Security Service did not furnish statistical information regarding secret hearings. However, it is worth noting that the Special Investigation Service stands out as an exception, as it provided TDI with the requested information in its entirety.⁸²

4.2.2. Violence and Persecution of Jehovah's Witnesses

The statistics illustrate that Jehovah's Witnesses are the most frequent victims of religious intolerance. This trend continued in the reporting years, with a slight downward trajectory observed from 2020. Nonetheless, instances of interference with the religious services of Jehovah's Witnesses persist. These include individual cases of damage to halls designated for religious gatherings, theft of property from the halls, attacks on religious premises, and threats of physical violence.⁸³ More specifically, there were 6 recorded cases of crimes motivated by alleged intolerance in 2021, and this number increased to 9 in 2022.⁸⁴ The low rate can be attributed, in part, to the fact that during the COVID-19 pandemic, Jehovah's Witnesses suspended physical meetings and active public engagements for more than two years.

4.2.3. Investigating Violations of the Rights of Muslims.

Cases of religious violence and rights violations against Muslims represent one of the most acute and systemic problems. The sense of insecurity is exacerbated by the impunity of individuals acting based on hatred, incorrect classification of their actions, and delays in the investigation (in some instances, investigations are ongoing without yielding results even to this day.) Since 2010, the public has become aware of nine significant cases of religious violence and violations of rights against Muslims residing in various geographical areas of Georgia. Among them, 8 instances (Nigvziani,⁸⁵

79 Ministry of Internal Affairs of Georgia, Statistics of Registered Crimes 2023 (January-June), available at: <https://info.police.ge/uploads/64c7c23ae3797.pdf> [last accessed 01.11.2023].

80 Article 156 of the Criminal Code of Georgia.

81 Letter No. 13/65230 of the Office of the Prosecutor General of Georgia dated September 27, 2023.

82 Letter of the Special Investigation Service dated November 1, 2023 SIS 2 23 00020123.

83 Tolerance and Diversity Institute, Freedom of Religion and Belief in Georgia, 2010-2019, available at: <https://bit.ly/468wyOi> [last accessed 01.11.2023].

84 The information is based on the 2022 report of Jehovah's Witnesses in Georgia.

85 Orthodox Christians posed a threat to Muslims, involving both interferences with the execution of divine services and death threats.

Tsintskaro,⁸⁶ Tsikhisdziri,⁸⁷ Samtatskaro,⁸⁸ Tchela,⁸⁹ Kobuleti,⁹⁰ Mokhe,⁹¹ Adigeni⁹²) took place between 2012 and 2016,⁹³ with an additional case in 2021 Buknari.⁹⁴

Allegedly, in the instances cited, crimes were carried out by representatives of state and law enforcement agencies⁹⁵ as well as local groups who acted in the name of Christianity.⁹⁶ At times, the State delegated the "resolution" of violent incidents stemming from religious intolerance to the Georgian Patriarchate, sidestepping its positive obligations.⁹⁷ Violations against the Muslim community's freedom of religion encompassed hindrance of religious practices, death threats, physical and verbal assaults, infringement of property rights and freedom of movement, and the use of hate speech.

Despite evident instances of violence against Muslims, the cases indicate that the State consistently prioritizes superficial conflict resolution. The government overlooks the severity and scope of the problem. This results in inadequate actions that lack a profound understanding and a systematic approach to prevention.

Of particular concern are the flawed investigative and procedural measures. The ongoing investigation into the incidents in Kobuleti and Samtatskaro has yet to identify⁹⁸ specific individuals as victims or accused, raising questions about the progress and effectiveness of the inquiry. The inquiry into the Kobuleti and Samtatskaro incident is still ongoing, and as of now, no specific individual has been identified as a victim or accused party.

As per the Ministry of Internal Affairs, the criminal investigations in the Tsintskaro and Nigvziani cases were halted in 2020, and in the Adigeni case in 2016, due to the absence of actions that qualify as crimes under criminal law.⁹⁹

In the Tsikhisdziri incident, the Batumi City Court pronounced the military policemen guilty of

86 Orthodox Christians posed a threat to Muslims, involving interference with the execution of divine services, and death and house arson threats.

87 Officials from the Defense Ministry would stop people and ask them to provide crosses as proof that they were Christians, not Muslims. Verbal and physical mistreatment also took place.

88 Orthodox Christians posed a threat to Muslims (Particularly directed towards the religious leader of the Muslim community), involving systemic interference with the execution of divine services, verbal assault, threats, and physical violence.

89 Members of the law enforcement agency dismantled the minaret of the mosque in Chela village. Ministry of Internal Affairs personnel employed force against Muslims who protested.

90 Local Orthodox Christians demonstrated their opposition to the opening of a boarding school for Muslim students by obstructing the entrance and affixing a pig's head to the building's door. Instances of persecution against the administration and students included restrictions on movement, infringement of property rights, and other fundamental freedoms.

91 The assembly of protesters, composed of local Muslims demonstrating against the deconstruction of the former mosque (a disputed building), was dispersed by Ministry of Internal Affairs personnel using forceful measures. During this intervention, law enforcement officers subjected Muslims to both physical and verbal abuse.

92 In the village center, while deliberating the request for land allocation for a Muslim cemetery, a faction of local Orthodox residents assaulted the assembled Muslims, resulting in injuries to two individuals. Additionally, one person was hospitalized in critical condition due to a heart attack.

93 Tolerance and Diversity Institute: Freedom of Religion and Belief in Georgia, 2010-2019, p.105.

94 The Muslim community in the village inaugurated a prayer house, triggering discontent among the Christian population. This dissatisfaction escalated into a verbal and physical confrontation in January 2021.

95 For information on the incidents in Tsikhisdziri and Mokhe villages, refer to the Tolerance and Diversity Institute's publication titled "Freedom of Religion and Belief in Georgia, 2010-2019, pp. 109-110, 114-115.

96 The cases of Nigvziani, Tsintskaro, Samtatskaro, Kobuleti, Adigeni and Buknar.

97 The obligation derived from the freedom of religion and belief mandates the prevention of any actions hindering the worship of the Muslim population and the implementation of all conceivable preventive measures.

98 Public Defender's Report on the Situation of Human Rights and Freedoms in Georgia, 2022, p. 183.

99 Ibid p. 116

hooliganism and violating the right to the inviolability of property. However, the court did not explicitly address or identify religious intolerance as a motive for the crime, as an aggravating circumstance.¹⁰⁰

In the incident of violence against Muslims in the village of Buknari, one person is identified as an accused under the criminal code for intentionally causing minor harm to health and theft,¹⁰¹ with two individuals acknowledged as victims.¹⁰²

In 2021, seven years later after the events unfolded in the village of Mokhi, the prosecutor's office filed charges against two individuals for acts of religious intolerance and one person was granted the status of a victim¹⁰³ in the case related to exceeding the official power¹⁰⁴ as stipulated by the Criminal Code of Georgia. As of September 2023, the case was still under consideration in the Akhaltsikhe District Court.

It's worth noting that the case of the village of Mokhe was promptly followed by the decision of the European Court of Human Rights in the case "Mikeladze and others against Georgia."¹⁰⁵ The case concerns the events of the arrest and degrading treatment of local Muslims by the police in the village of Mokhi. The European Court of Human Rights determined a breach of Article 3 of the Convention (concerning the prohibition of torture, inhuman, and degrading treatment). For the effective implementation of this decision, as evaluated by the Committee of Ministers of the Council of Europe, it is deemed imperative to undertake additional measures aimed at fostering a unified judicial approach concerning crimes driven by hate, encompassing considerations related to sanctions.¹⁰⁶

In annual reports, the Public Defender highlights that through the analysis of ongoing and concluded investigative activities, several issues emerge. These encompass concerns regarding the lack of compliance with standards of transparency and effectiveness of investigations, delays in the investigative process, and the failure to accord victim status to those affected.¹⁰⁷ In the report, the Commissioner for Human Rights of the Council of Europe also underscores the ineffectiveness of investigating crimes motivated by religious intolerance and the failure to identify hate motives, categorizing these concerns as systemic problems.¹⁰⁸

The decline in the trust of non-dominant religious associations is coupled with inappropriate responses and practices from the State and law enforcement agencies that aim at differentiation, interference with the autonomy of religious associations, and an elevation of the State's influence over them. Consequently, there has been a rise in instances where non-dominant religious associations are compelled to make concessions and refrain from publicizing cases when fundamental rights are violated. An illustrative instance of this issue is the events that transpired in July 2023 in the municipality of Adigeni. Specifically, local Orthodox Christians opposed the holding of a religious

100 Tolerance and Diversity Institute: Freedom of Religion and Belief in Georgia, 2010-2019, p. 109

101 Sub-paragraph A) and C), section 2, Article 120, sub-paragraph A), section 2 and subparagraph A), section 3 of Article 177 of the Criminal Code of Georgia.

102 Public Defender's Report on the Situation of Human Rights and Freedoms in Georgia, 2022, pp. 181-182.

103 After seven years, the participant involved in the Adigen confrontation was officially acknowledged as a victim, available at: <https://tinyurl.com/4nr6ksru> [last accessed 01.11.2023].

104 Sub-paragraph B), section 3, Article 333 of the Criminal Code of Georgia

105 The decision of the European Court of Human Rights on November 16, 2021, in the case of Mikeladze and others v. Georgia, (Application no. 54217/16).

106 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.

107 Public Defender's Report on the Situation of Human Rights and Freedoms in Georgia, 2022, pp. 183.

108 Commissioner for Human Rights of the Council of Europe Dunja Mijatovic Report following her visit to Georgia from 21 to 24 February 2022, page 16 available at: <https://tinyurl.com/44pzcepa> [last accessed 01.11.2023].

ritual and teaching by Muslims. As reported by "Samkhretis Karibche," Orthodox clergymen visited the school building and insisted on halting activities, leading to a verbal dispute. The police were present at the scene but did not take any legal action. Through the engagement of both local and central authorities, negotiations took place between the clergymen, as a result of which the Muslims had to make concessions. Consequently, they vacated the prayer hall and religious school located in their private residence.¹⁰⁹ In this instance too, the State did not publicize the conflict and deemed it resolved at the expense of the Muslim community's freedom of assembly, faith, and religion and the right to property .

4.2.4. Examination of the Incident Involving an Anglican Church Leader

The case involving the Anglican Church leader concerns a threatening phone call and comments made on August 5, 2022. According to Toma Lipartiani, the leader of the Episcopal-Anglican Church, the incident included calls for violence and threats to demolish the church and kill its followers. The investigation was significantly delayed, and the cleric was officially recognized as a victim only on March 14, 2023. Subsequently, one person was charged under section 1 of Article 151 of the Criminal Code (threat). The accused individual is a member of the violent group "Alt-Info."¹¹⁰

Another case of alleged pressure on Toma Lipartiani is also significant. As he notes, on July 17, 2022, a representative of the State Agency for Religious Affairs contacted him and informed him that the chairman of the agency, Zaza Vashakmadze, was requesting to meet him at the agency. According to Lipartiani, he was verbally insulted.¹¹¹ Summoning the church leader to an "introductory" meeting is an alleged example of interference in the activities of religious associations by the State Agency for Religious Affairs.

4.2.5. Case of Vitali Safarovi

The Tbilisi Court of Appeals' decision of February 16, 2023, failed to specify that the killing of the young human rights defender, Vitali Safarov, was perpetrated with the hate motive. In 2018, Vitali Safarov was killed on the grounds of ethnic intolerance and anti-Semitism. In June 2019, the Tbilisi City Court convicted two men for Safarov's murder. However, the crime was not categorized as murder motivated by racial, religious, national, or ethnic intolerance.¹¹² The Prosecutor's Office contested this ruling, but the Tbilisi Court of Appeals upheld the City Court's decision. The case continues in the Supreme Court.¹¹³ As of September 2023, the case was still under consideration.

109 In Adigen, Muslims are being deprived of a place of worship and a religious school, with locals attributing the cause to the dissatisfaction of the Orthodox clergy, available at: <https://sknews.ge/ka/news/39410> [last accessed 01.11.2023].

110 "The Prosecutor's Office pressed charges against the "Alt-Info" member responsible for carrying out the threat," available at: <https://bit.ly/46cm0xD> [last accessed 01.11.2023].

111 "I was summoned, sworn at - the leader of the Anglican Church accuses the representative of the religious agency", available at: <https://www.radiotavisupleba.ge/a/31963703.html> [last accessed 01.11.2023].

112 „The ruling - 15 years #forvito“, available at: <https://bit.ly/418r3wo> [last accessed 01.11.2023].

113 The Court of Appeal left the verdict unchanged in the case of Vitaly Safarov - the word of the supreme court is ahead, available at: <http://bit.ly/3Z2YheK> [last accessed 01.11.2023].

4.3. Total State Control Over Religious Associations

Particularly alarming are the files circulated regarding the purported extensive and illegal secret monitoring and surveillance carried out by the State Security Service, occurring in the reporting period. A separate section of the report is dedicated to the records about the clerics and their private communications, signaling the alleged direct involvement of a specialized unit within the State Security Service focused on religious matters.¹¹⁴ Apart from the evident systematic criminal activity, this constitutes a blatant violation of the fundamental right to religion and belief.

Documents, text files, video/audio recordings, and photographs featured on online platforms on September 13, 2021, contained personal data, private communications, and details about the private lives of specific individuals.¹¹⁵ Media organizations with access to these materials and involved in their processing reported that the majority of the published content pertained to the subject of religion and religious organizations.¹¹⁶ The authenticity of the disseminated information was verified by victims.¹¹⁷

From the disclosed materials, it is evident that authorities allegedly gather and process information on representatives of the Georgian Orthodox Church and other religious organizations through illicit eavesdropping and surveillance. The substantial volume of distributed files and the estimated duration of surveillance suggests a systemic nature to these activities.

According to the 2021 statement from the Prosecutor's Office of Georgia, the investigation was initiated under the provisions of sections 2) and 4) of Article 158 of the Criminal Code of Georgia, along with the elements of the crime outlined in section 2) sub-paragraph A) (violation of the secrecy of private communication).¹¹⁸ Nevertheless, no charges have been filed in this case, and the authorities have not assumed any responsibility for the extensive illegal surveillance and eavesdropping. Non-governmental organizations offering legal assistance to the victims report that the investigation is being carried out inadequately, with improper access to case materials posing a significant challenge. Furthermore, the prosecutor's office only granted the victim status to the clerics one year later, in October 2022. The investigative stage lacks transparency, and the procedural actions undertaken are marred by flaws and formality.¹¹⁹ Consequently, the precise number of affected clerics remains unknown. Nevertheless, as per information from the Tolerance and Diversity Institute, the group of clerics known to be affected is more extensive and not confined solely to those who have individually reported rights violations to law enforcement authorities.¹²⁰ Furthermore, the Prosecutor's Office declined the Public Defender's request pertaining to the exceptional disclosure of the investigation materials.¹²¹

114 According to the disseminated files, the service of the second division of the State Security Service conducted surveillance of clergy, available at: <https://formulanews.ge/News/56558> [last accessed 14.12.2023].

115 Surveillance of ambassadors, activists, NGOs, clergy and awaiting the election of patriarch – what is written in the files, part 2, available at: <https://shorturl.at/jBOS8> [last accessed 14.12.2023].

116 Ibid; Everything on the life of clergy – what is revealed from thousands of pirate recordings, available at: <https://www.radiotavisupleba.ge/a/31458420.html> [last accessed 14.12.2023].

117 For example: four representatives of the media recognized their conversations in the disseminated recordings, available at: <https://shorturl.at/bRTX9> [last accessed 14.12.2023].

118 Statement from the Prosecutor's Office of Georgia of September 18, 2021, available at: <https://tinyurl.com/3ykvfw8m> [last accessed 01.11.2023].

119 For example, the Social Justice Center advocates for the legal interests of Bishop Malkhaz Songhulashvili, Bishop Rusudan Gotsiridze, Mother Sidonia, and Dean Giorgi Mamaladze. This information is sourced from the "Evaluation of an Ongoing Investigation into SSS Meetings" by the Center for Social Justice, dated October 2022, available at: <https://bit.ly/3UgKfoY> [last accessed 01.11.2023].

120 Tolerance and Diversity Institute: Freedom of Religion and Belief in Georgia (2022), released in 2023, pp. 27, available at: https://www.tdi.ge/sites/default/files/tdi_forb_report_2022_geo.pdf [last accessed 01.11.2023].

121 Public Defender's Report on the Situation of Human Rights and Freedoms in Georgia, 2022, p. 139.

CONCLUSION

Against the backdrop of the particular instances of hate crimes outlined in this report, it is crucial to highlight broader systemic challenges to safeguarding the right to equality, namely discriminatory statements, the purported association of the State with hate crimes, a decline in legislative standards, inadequate policies, and the erosion of trust among minority groups in law enforcement agencies due to inadequate responses to hate crimes.

In addition to the already described aggressive rhetoric towards the critical media, it is alarming that in their statements the government representatives have already directly mentioned the discriminatory term "LGBT propaganda"¹²² with a negative connotation, which creates the danger of using homophobia as a political-populist tool.¹²³ These statements run counter to the recommendations provided to the Georgian authorities. Specifically, the Committee of Ministers of the Council of Europe urged Georgian authorities to unequivocally demonstrate zero tolerance for hate crimes and any type of discrimination at the highest level.¹²⁴ Furthermore, as per the report from the Commissioner for Human Rights of the Council of Europe, the Commissioner "was struck by the manifestations of intolerance displayed by high-level officials".¹²⁵ The commissioner underscored in the report that government officials ought to refrain from using hate speech and should publicly denounce instances of hate speech, even when articulated by religious leaders.¹²⁶ Furthermore, the European Commission report on Georgia prepared as part of the EU enlargement's framework mentioned the political exploitation of homophobic sentiments.¹²⁷

Beyond rhetoric detrimental to the right to equality, attention should be paid to cases where there are indications of the alleged involvement of representatives from state bodies in criminal acts committed with a discriminatory motive. Notable cases include the attack on one of the founders of the TV company "Formula", with the participant being identified by the TV company as an employee of the State Security Service.¹²⁸ It's also significant to highlight the violent events of July 5, 2021, which, according to the media reports, were planned and carried out with the potential, alleged involvement of the State Security Service.¹²⁹

Regrettably, there has been a regression at the legislative level as well. Notably, on September 21, 2023, the Parliament passed a new Defense Code and its associated bills.¹³⁰ These legislative changes now subject clerics to non-military, alternative service. However, the clergy of the Georgian

122 For example, see: Irakli Gharibashvili's speech at the annual conference of conservative political action, available at:

<https://tinyurl.com/2c82sby6> [last accessed 01.11.2023];

„We must think about it seriously” - Homophobic statement made by Mdinardze about “LGBT propaganda”, available at: <https://tinyurl.com/44zn2fjz> [last accessed 01.11.2023].

123 Democracy Research Institute, Political Homophobia of Far-Right Groups and "Georgian Dream", available at:

<https://www.democracyresearch.org/eng/1188/> [last accessed 01.11.2023].

124 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.

125 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 01.11.2023].

126 Ibid, paragraph 38.

127 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 14.11.2023].

128 Coordinated, Systematic crime - "Formula" Restored the Image of the Attack on Mshvildadze, available at:

<https://tinyurl.com/52xw6uev> [last accessed 01.11.2023].

129 The Unpunished Aggressors of the 5th of July - 2 Years Since the Harders Day, available at: <https://tinyurl.com/mrxdc6fh> [last accessed 01.11.2023].

130 For a detailed assessment of legislative changes, see - Analysis of the Discriminatory Provisions in the Defense Code, available at: <https://tinyurl.com/nhkucp4u> [last accessed 01.11.2023].

Orthodox Church is exempt from both military and alternative mandatory service according to the Constitutional Agreement between the State and the Orthodox Church.¹³¹ Consequently, the aforesaid legislative changes create a differential treatment between the clergy of the Orthodox Church and all other religious organizations/associations. According to the position of the Civil Platform "No to phobia!", this differential treatment lacks a legitimate purpose and constitutes a violation of the right to equality protected by the Constitution.¹³² Hence, the aforementioned legislative changes exacerbate the Georgian legislation that already includes discriminatory norms against religious minorities.¹³³

Ensuring the right to equality faces challenges at the policy level as well. As mentioned earlier, Georgia has not developed a dedicated policy document with the specific aim of preventing violence against journalists as one of the vulnerable groups. Furthermore, the National Strategy for the Protection of Human Rights 2022-2030 does not make any reference to members of the LGBT+ community.¹³⁴ Hence, the strategy overlooks the specific challenges confronting LGBT+ individuals. Notably, the working version of the Human Rights Action Plan doesn't even mention the LGBT+ community.¹³⁵ This underscores the uneven recognition and consideration of the needs of all minority groups at the state policy level.

The inadequate response of the State to hate crimes poses a significant challenge. The cases outlined in the preceding subchapters of the report illustrate the ineffectiveness of hate crime investigations, subsequently having a negative impact on trust in law enforcement agencies among minority groups. As per the evaluation of the Public Defender, "the response from law enforcement agencies still falls short of efficiency and timeliness standards. The level of trust among representatives of vulnerable groups towards law enforcement agencies is low."¹³⁶ The lack of trust in law enforcement represents an alarming challenge that can hinder reporting of hate crimes and, consequently, launch of investigations. When victims refrain from approaching law enforcement due to distrust, alleged hate crimes remain unaddressed, fostering a climate of impunity.

To comprehend the scale and systemic nature of hate crimes and address the issue, recording accurate statistics is crucial. It is commendable that the Supreme Court, the Prosecutor's Office, and the Ministry of Internal Affairs generate unified statistics. Nonetheless, as previously noted, there are deficiencies in the statistics produced and correction of these flaws is important in order to formulate effective measures based on accurate data.

To conclude, combating hate crimes and safeguarding the right to equality necessitates will and increasing actual efforts from the State. not only in practice but also through legislative measures, policies, and public positioning.

131 Ibid.

132 Ibid.

133 Tolerance and Diversity Institute, Freedom of Religion and Belief in Georgia, 2022 report, pp. 11-15, available at: https://tdi.ge/sites/default/files/tdi_forb_report_2022_geo.pdf [last accessed 01.11.2023].

134 Public Defender's Report on the Situation of Human Rights and Freedoms in Georgia, 2022, p. 187.

135 Civic Platform "No To Phobia!" addresses the disregard of needs of LGBT+ community in the governmental action plan, available at: <https://www.gdi.ge/ge/news/samoqalaqo-platforma-ara-fobias-ekhmianeba-samtavrobo-samoqm> [last accessed 14.12.2023].

136 Ibid, p. 181.

