

Special Report of the Public Defender of Georgia on Combating and Preventing Discrimination and the State of Equality

2019

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I. Introduction

The Law of Georgia on the Elimination of All Forms of Discrimination was adopted by the Parliament of Georgia on 2 May 2014. Pursuant to the law, the Public Defender of Georgia, along with common courts, represents a legal mechanism for the protection of equality. In November of the same year, the Department of Equality was set up at the Public Defender's Office to study the cases of alleged discrimination.

For six years after the adoption of the law, the persons, who believe that they were subjected to discrimination on any protected ground¹ in any area of public life, have had the opportunity to apply to the court or the Public Defender of Georgia against public agencies and physical or legal entities of private law.

2019 was an important year in terms of improving the anti-discrimination law. Since 2015, the Public Defender had been repeatedly emphasizing the need of strengthening the Public Defender's mandate on the one hand and carrying out a number of substantive material-legal changes on the other hand. In response, in May 2019, under the Organic Law on the Public Defender of Georgia, the entities of private law became subject to the same legal regulation as public entities. In particular, the law obligated the legal entities of natural and private law to provide the Public Defender with information necessary for the examination of alleged discrimination. At the same time, the Public Defender has been empowered to apply to courts against the private legal entity or the association of entities, like public agencies, with the request to comply with the Public Defender's recommendation. In addition, the deadline for applying to the court concerning alleged discrimination increased from three months to a year.

Another significant step forward was the definition of *harassment and sexual harassment* as forms of discrimination in the Law on the Elimination of All Forms of Discrimination in February of the same year. However, it should also be noted that the *refusal of reasonable accommodation* as a form of discrimination on the ground of disability is not yet part of Georgian legislation.

Unfortunately, despite the legislative safeguards and efforts of various stakeholders, the situation of realization of the right to equality has not substantially improved in Georgia. Such a critical situation, on the one hand, is caused by the unawareness and unacceptability of the needs and interests of vulnerable groups by the significant part of the community; on the other hand, progress in achieving equality is hampered by the lack of unified vision of the State. Specific state agencies do not have a policy on the principle of equality relating to matters within their competence. Because of this, instead of systemically combating discriminatory practices, efforts are directed at eliminating individual violations. Unfortunately, the issues of equality cannot be seen on the agenda of senior officials either. Decision-makers still do not make statements in support of equality, neither during critical times for certain groups.

The rate of implementation of Public Defender's recommendations by public agencies is low. Even when agencies express readiness to comply with the Public Defender's recommendation, they do not always implement them in practice. It should be noted that only 43% of the equality-related recommendations set forth in the Public Defender's 2018 Report on the Situation of Human Rights and

¹ Race, skin colour, language, gender, age, citizenship, origin, place of birth, place of residence, property or title, religion or belief, nationality, ethnicity, social status, profession, marital status, health condition, disability, sexual orientation, gender identity, expression, political or other opinion, or any other ground.

Freedoms in Georgia was endorsed by the Georgian Parliament in its Resolution on the Public Defender's 2018 Report on the Situation of Human Rights and Freedoms in Georgia. As a result, some important calls have been left beyond the Resolution.

The process of systemically analyzing the equality challenges is also hampered by the lack of maintenance of statistics by competent authorities - courts, the Prosecutor's Office of Georgia or the Ministry of Internal Affairs of Georgia.

Women, persons with disabilities, religious minorities and the LGBT+ community remain the most vulnerable groups. Along with legislative amendments, the cases of harassment and sexual harassment also drew attention in the reporting period. Effective investigation of alleged hate crimes is still problematic. Another obstacle is the discriminatory statements made by public officials, which encourage violation of the rights of vulnerable groups. Similar to the previous reporting period, cases of alleged discrimination were particularly common in labour relations and during realization of the right to social security.

The present report, **covering the period from 1 January to 31 December 2019**, describes the state of equality of various vulnerable groups and provides information on the efforts of the Public Defender of Georgia in the direction of protection of equality, as well as on the implementation of the Public Defender's decisions.

II. State of equality in Georgia

The state of equality of vulnerable groups remains critical. Despite improving material and procedural-legal aspects of prohibition of discrimination, various groups still cannot achieve substantial equality, which negatively impacts their daily life.

Apart from legislative safeguards, it is vital for the community and the State to understand and accept the values of democracy and human rights in the process of fighting for equality. The lack of the above significantly delays the achievement of practical equality.

Achieving transformative equality is related to substantial difficulties in Georgia, since inequality is largely based on the stereotypes still existing towards specific groups, especially the LGBT+ community and religious and ethnic groups. In view of this, the strengthening of far-right groups and the indifferent position of the State in response to this problem greatly encourage rights violations based on discrimination, including the cases of violence. Such situation often has a retrograde effect and even makes certain achievements pointless. In this respect, 2019 was distinguished by the violation of freedom of expression and freedom of assembly of the LGBT+ community by private groups, during which, the State failed to fulfill its positive obligation to protect the community's fundamental rights.

Muslims faced obstacles when crossing the border of Georgia in this reporting period too, both in terms of delays and confiscation of religious literature.

With regard to women's equality, we should underline the problem of sexual harassment, the scale and severity of which became particularly conspicuous due to the actualization of the issue and its legislative regulation. At the same time, achieving substantial and practical equality by women is hampered by gender stereotypes aimed at controlling female sexuality, including in the field of health care.

With regard to the rights situation of persons with disabilities, nothing was improved in the reporting period. Providing the standard of independent living for people with physical or sensory disabilities is still an unsolved problem and these persons face the same obstacles as in previous years.

Establishing and maintaining prejudices against vulnerable groups are significantly facilitated by the sexist, homo/transphobic or xenophobic statements made by politicians and other public figures. Hate crimes are motivated by these very stereotypes. Most of the victims of hate crimes are still Jehovah's Witnesses and members of the LGBT+ community.

It can be said that the right to equality is guaranteed only on the formal level in Georgia. significant efforts of the State are required for achieving substantial and transformative equality in the country.

1. Equality of women

Despite many international and national statutory safeguards, the environment in Georgia is still not focused on the specific needs of women, which is a hindrance to achieving substantial gender equality.

As a result of recent years' active public discussions and the following legislative regulation, seriousness of the problem of sexual harassment has become more noticeable in practice too, but unfortunately, part of the community remains aggressive or ironic towards the issue. Specific problems of women also include issues related to sexual and reproductive health. In terms of gender equality, the practice of taking a maternity leave by women employed in the private sector is also problematic. In addition, enjoyment of a maternity leave by surrogate mothers or parents of children born through surrogacy is still beyond the scope of regulation.

1.1. Sexual harassment

Significant legislative amendments made in terms of foreseeability of the behavior of sexual harassment and provision of legal safeguards in February and May 2019 created a more secure space for the alleged victims.

According to the amendment made to the Law of Georgia on the Elimination of All Forms of Discrimination in February 2019, sexual harassment was defined as one of the forms of discrimination and was described as *an unwanted physical, verbal, or non-verbal action of sexual nature, the aim or result of which is degradation of a person, or creation of a hostile environment for that person.*

Common courts and the Public Defender shall be entitled to deal with the cases of sexual harassment, like other cases of discrimination.

Later, in May of the same year, a norm prohibiting sexual harassment emerged in the Labour Code as well. Although the Law on the Elimination of All Forms of Discrimination applies to all areas of public life, including labour relations, it was important to put the prohibiting norm in the special law as well, to underline that labour relations are one of the most frequent sources of sexual harassment.

It is also important that the employer has been obligated under the Labour Code to reflect the norms prohibiting discrimination and relevant response mechanisms in internal regulations. This will contribute, on the one hand, to the effective response to and prevention of sexual harassment in the workplace and, on the other hand, this will help to hold the employer responsible for its inaction in response to sexual harassment.

Active discussions about the phenomenon of sexual harassment has, to some extent, raised awareness of the behavior that may be classified as sexual harassment. It also increased the number of applications filed with the Public Defender, which enabled the latter to develop legal standards and indicators of sexual harassment.

During the reporting period, the Public Defender had been still actively examining the cases of alleged sexual harassment, taking into account both the applied legal framework and internationally established practices and approaches.² It is important to note that in one of the cases, the Public Defender assessed not only the behavior of the harasser, but also the response of the private company to sexual harassment in the workplace.³

The cases examined by the Public Defender during the reporting period show that sexual harassment is particularly severe when it occurs in the workplace and when the harassers use their position. The harasser's behavior includes verbal, non-verbal and physical actions of sexual nature - in particular, the harasser touches certain parts of the victim's body and makes intimate comments; talks about sexual experiences and preferences; offers sexual intercourse, etc. It should be noted that harassers or third parties often refer to victim's intoxication, sexual orientation or other personal characteristics to justify harassers' sexual behavior. Accordingly, the Public Defender is particularly sensitive when examining the cases of sexual harassment in order to avoid repeated victimization.

In addition, it was a step forward that sexual harassment committed in public space was defined by the legislator as an administrative offence under Article 166¹ of the Administrative Offences Code of Georgia, after which, the Ministry of Internal Affairs of Georgia has been serving as a new remedy for

² Recommendation of the Public Defender to Z. D., November 1, 2018, available at: shorturl.at/qruyV; Recommendation of the Public Defender to M.Ch/Ltd L.P.J., October 19, 2019, available at: shorturl.at/ac135; Public Defender's amicus curiae brief to Tbilisi City, October 18, 2019, available at: shorturl.at/npMQ6.

³ Recommendation of the Public Defender to M.Ch/Ltd L.P.J., October 19, 2019, available at: shorturl.at/dBRY3.

alleged victims of sexual harassment committed in public space. In this regard, it is a priority to provide the employees of the Ministry of Internal Affairs with proper information and to effectively implement Article 166¹ of the Administrative Offences Code in practice.

According to the Ministry of Internal Affairs of Georgia, they established 14 administrative offences of sexual harassment committed in public space from May to the end of September 2019 and found 13 people guilty. However, the Patrol Police Department does not maintain statistics on the responses to the notifications they receive or the termination of proceedings due to absence of sexual harassment, which is problematic in terms of determining the scale of the issue, because the statistical data maintained by the Ministry does not provide information on how often people report sexual harassment or how the above is responded.

In relation to sexual harassment in public space, it is worth noting that the jurisdictions of protection mechanisms may overlap each other - since according to the Law on the Elimination of All Forms of Discrimination, the Public Defender's mandate covers alleged cases in any sphere, it may be difficult in practice to separate the competences of the Public Defender and the Ministry of Internal Affairs in terms of responding to the cases of sexual harassment committed in public space, especially when defining the *public space*.

The Public Defender reiterates that the actualization of sexual harassment and the following legislative regulation is the achievement of female victims, who decided to use legal remedies even during the absence of information or legislation.

1.2. Gender equality in the context of sexual and reproductive health

The issue of gender equality is directly linked to women's sexual and reproductive health and rights.⁴ Women's rights include their right to control their sexuality without discrimination, including sexual and reproductive health.⁵ In the reporting period, the Public Defender highlighted several important issues in this regard - the necessity of a state programme tailored to the physiological and psychological needs of female victims of sexual abuse; tubal occlusion (sterilization) and the practice of the "virginity tests".

Enjoying the right to abortion by victims of sexual abuse remains a problem. It is noteworthy that non-medical reason for artificially terminating the pregnancy that is longer than 12 weeks shall be the *pregnancy resulting from rape that has been established by court*.⁶ When considering the issue of funding for abortion, it might be unreasonable to consider the court ruling as a precondition for the abortion, since identification of a victim and an alleged perpetrator in the criminal case and the

⁴ Dr. Carmel Shalev, Rights to Sexual and Reproductive Health – the ICPD and the Convention on the Elimination of All Forms of Discrimination Against Women, 1998, available at: shorturl.at/huHIV

⁵ The Beijing Platform for Action, C. Women and Health, §96 available at: shorturl.at/gnHK8

⁶ Annex 5 to Order #01-74/n of the Minister of Labour, Health and Social Affairs of Georgia on Approval of the Rules for Artificial Termination of Pregnancy

decision-making by the court take so long in many cases that it may exceed the pregnancy term. It is important that this issue be addressed not within a formal legal framework, but by taking into account the psycho-emotional state of a woman, who was sexually abused, as well as the stigma relating to this issue and the need for an approach tailored to the victim's needs.

It is important that the Parliament of Georgia endorsed in its Resolution the Public Defender's recommendation, according to which, the criminal investigation launched into alleged sexual abuse should be a sufficient precondition for financing abortion if the pregnancy is a result of sexual abuse. However, as reported by the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs, no changes are planned to be carried out at this stage.

It should be noted that certain issues regulated at the legislative level are implemented in practice in a discriminatory manner. For example, the deep-rooted standard of conduct for men and women and their socio-cultural roles put women in substantially disadvantageous situation and create barriers to the realization of sexual and reproductive health rights by them.

The consent of a spouse/partner as a precondition for woman's tubal occlusion (sterilization) is one of the above obstacles.⁷ Although there is no statutory obligation regarding the consent of a spouse or partner, it has been identified that the medical institutions of Georgia voluntarily seek spouse/partner's consent, which can be described as a mechanism of controlling women's reproductive health and interfering with her free choice. It should be noted that on the basis of the Public Defender's general proposal,⁸ the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs informed perinatal service providers that husband/partner's consent shall not be a prerequisite for tubal occlusion (sterilization), although the practice in this direction is negative. The Public Defender hopes that good practice will be established in this direction in the facilities providing perinatal services.

The so-called "virginity test", which is not provided for by law, also serves as a mechanism for controlling woman's sexuality. The "forensic examination conducted in the cases involving sexual actions" by LEPL Levan Samkharauli National Forensics Bureau is often abused by individuals. Importantly, the National Forensics Bureau should consider women's rights and when conducting an examination ordered by a natural person, should pay particular attention to the authenticity of the customer's will, and in case of doubts, should refuse to conduct the produce and immediately apply to the law enforcement authorities.

1.3. Maternity leave

Taking a maternity leave by persons employed in the private sector remains a problem. The information provided to the Public Defender by the member organizations of the Coalition for Equality shows that women continuously apply for the above. There are instances when private companies do not always let their employees take a maternity leave on reorganization or other motives.

⁷ General proposal of the Public Defender of September 28, 2018, available at: shorturl.at/FPW58

⁸ Available at: shorturl.at/abkD1

The Public Defender requested information about the practices of the paid maternity leave from 13 large private companies of different profiles.⁹ According to the information provided by the companies, most of them regulate the issue by internal regulations. The companies' approaches are more or less similar and they generally provide for a paid leave for 6 months, 4 months, or 3 months or an unpaid maternity leave. In addition, in case of a 6-month paid leave, the companies mostly calculate the difference between the receivable amount and the GEL 1000 to be paid by the State and give the amount of that very difference to the employee. Certain companies pay 50% (3 months) or 25% (3 months) of the employee's salary.

It is noteworthy that certain private companies use the length of employee's service in their company as a prerequisite for determining the amount of maternity pay. And in some cases, the type of employment contract matters. Namely, if the contract is of a definite term or is a service contract, the company will not pay anything at all.

Aversi Pharma and PSP Pharma reported that their employees do not get maternity pay at all. However, employees of PSP Pharma get one-time fixed assistance.

The above shows that private companies determine the length of paid maternity leave and the amount of maternity pay differently. The issue is regulated by internal regulations and therefore depends on the goodwill of each specific private company.

1.4. Maternity leave for surrogate mothers and mothers of children born through surrogacy

The Labour Code of Georgia and the Law of Georgia on Public Service provide for a maternity leave, an adoption leave and an additional parental leave. Although surrogacy is permitted in Georgia,¹⁰ the legislation currently applied in the country does not regulate the issue of the use of a maternity leave by surrogate mothers or mothers of children born through surrogacy. Nor does the court practice provide any explanation that would have resolved the matter in the absence of legislative regulation.

⁹ List of companies: JSC Georgian Railway; Georgian Post Ltd; Tbilisi Energy Ltd; JSC Telasi; JSC TBC Bank; JSC DNB Georgia (Wendy's and Dunkin' Donuts); JSC Wissol Petroleum; Aversi-Pharma Ltd; PSP Pharma Ltd; JSC Silknet; JSC MagtiCom; TAV Georgia Ltd; LLC Caucasus University.

¹⁰ Law of Georgia on Health Care (Art. 143), Law of Georgia on Civil Acts (Art. 30), Law of Georgia on Approval of the Procedure for Registration of Civil Acts (Art. 19).

According to the Ministry of Health, the legal acts¹¹ regulating the use of a maternity leave do not regulate the issues of a maternity leave and maternity pay for surrogate mothers or mothers of children born through surrogacy.

According to the European Court of Justice, no comparison is necessary to establish discrimination against a pregnant woman.¹² Such an approach focuses on pregnancy as the unique condition of a woman and the need for an environment tailored to her needs. Georgian legislation excludes, in a discriminatory manner, the use of one of the most important labour rights by surrogate mothers and mothers of children born through surrogacy.

The State should properly realize that the mentioned group of women, with their specific needs and the objective of their maternity leave are substantially equal to those women whose pregnancy, childbirth or childcare are not related to surrogacy and it is discriminatory that they are not allowed to take a leave when they need it.

Specifically, surrogates undergo the biological processes of pregnancy and childbirth similar to that of other pregnant women, have similar medical or psychosocial characteristics and need time off from work like others.

At the same time, mothers of children born through surrogacy have the same need of taking a parental leave as biological mothers, especially considering the fact that legislation provides for an adoption leave, which, of course, involves only the child care process.

Accordingly, in order to eliminate discriminatory practices, Georgian legislation should regulate the use of a leave by surrogate mothers and mothers of children born through surrogacy. It is also worth noting that, according to some employers' practices, the above women are allowed to enjoy other types of leave that cannot be considered as elimination of discrimination.

2. Disability

The state of equality of persons with disabilities did not improve in this reporting period either. Both the blind people and persons with physical disabilities have problems in terms of access to various services.

Although the State ratified the UN Convention on the Rights of Persons with Disabilities in 2013, a number of provisions have not been reflected in Georgian legislation. For example, the national

¹¹ Article 6 of Order №231/n of the Minister of Labour, Health and Social Affairs of Georgia on the Rule of Meternity and Adoption Pay, dated August 26, 2006; Paragraph 6 of Article 64 of the Law of Georgia on Public Service; Paragraph 1 of Article 3 of Order №281/n of the Minister of Labour, Health and Social Affairs of Georgia on the Rules of Conducting Examination on Temporary Work Disability and Sick Leave, dated September 25, 2007.

¹² CJEU, Elisabeth Johanna Pacifica Dekker v Stichting Vormingscentrum voor Jong Volwassenen (VJV Centrum) Plus, C-177/88, 1990; Webb v EMO Air Cargo, C-32/93, 1994

legislative framework does not yet recognize reasonable accommodation¹³ as one of the forms of discrimination on the ground of disability.

In addition, the stigma and stereotypes that continue to be widespread in the community prevent persons with disabilities from being fully integrated into society. This attitude significantly impedes them from exercising their fundamental rights in various areas of public life. For example, the Public Defender examined two cases, when children with autistic spectrum disorders were denied access to air travel due to their medical diagnosis.

Persons with disabilities employed in public sector are still under unequal conditions, since they (with the exception of those with severe disabilities or visual impairments), unlike those employed in the private sector, cannot enjoy a social package.¹⁴ According to the information provided by the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs,¹⁵ the state budget of 2020 is now being formed and the possibility of implementing a number of important measures is being considered, including in terms of increasing the age pension and the social package intended for persons with disabilities. Respectively, legal and financial-economic aspects of enjoyment of a social package by person with disabilities employed in public service is being analyzed in this process. Although the government's position on this issue was similar in previous year, discrimination has not yet been eliminated.¹⁶ It is noteworthy that the Public Defender's recommendation was endorsed by the Parliament and was reflected in the 2019 Resolution¹⁷ of the Parliament of Georgia on the Public Defender's Report as an obligation of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia.

2.1. Accessibility

Nothing has improved in terms of accessibility of physical environment, which naturally impedes the full participation of persons with physical disabilities in public life. It is noteworthy that the Notary Chamber of Georgia implemented, to some extent, the Public Defender's recommendation made in 2018 to *consider the accessibility of notary bureaus* and arranged bureaus in Tbilisi, Batumi, Mtskheta, Rustavi, Kutaisi, Gori, Zugdidi and Telavi in accordance with the relevant standard. Information on 19

¹³ Recommendation of the Public Defender of Georgia to the Prime Minister of Georgia, May 31, 2017, available at: shorturl.at/efIR5

¹⁴ Letter - GOV 2 19 00031723 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, August 9, 2019.

¹⁵ Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2018, p. 123, available at: shorturl.at/fwHSU

¹⁶ Resolution of the Parliament of Georgia of 20 September 2019 on the 2018 Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia.

¹⁷ Recommendation of the Public Defender of Georgia to the Notary Chamber of Georgia, April 4, 2018, available at: shorturl.at/kzW09

accessible bureaus was posted online. However, the overwhelming majority of private and public buildings are still inaccessible for persons with disabilities.

During the reporting period of the previous year, the Public Defender described the new special parking rule for persons with disabilities in the territory of Tbilisi municipality as discriminatory, as it applied only to persons with severe disabilities. The Tbilisi City Assembly has not changed its position on the matter, saying that such an approach is justified as legislation generally distinguishes between severe and significant disabilities and that the new regulation gives advantage to persons who actually require higher quality support. The Public Defender considers that according to the social model of disability, it is necessary for the State to apply regulations aimed at equalizing persons with special needs according to their individual needs.¹⁸ The Public Defender recommended the Tbilisi City Assembly in its 2018 Parliamentary Report to develop the parking rules within the administrative boundaries of Tbilisi so that to grant special parking permits to persons with disabilities according to their individual needs for a special parking lot.¹⁹

The key findings and recommendations in the Council of Europe study on Evaluation on Accessibility to Court Buildings for Persons with Disabilities ²⁰ are worth noting. According to the study, most court buildings are not accessed by municipal transport and most of them do not have an organized yard or parking place, which would allow persons with disabilities to smoothly access the buildings. The lack of ramps remains a challenge in every court building. Neither internal nor external stairs meet the approved standard of accessibility.

2.2. Problems of the blind

The situation of persons with visual impairments is particularly difficult. In most cases, they do not have access to information or communication, which would guarantee their independent life and full participation in all social spheres. For example, blind people face obstacles when they need to sign papers in the public registry, banks and notary bureaus. It is problematic that blind people are not able to read/sign documents independently and usually they are asked to confirm their consent by another person's signature. It is noteworthy that Members of Parliament of Georgia have submitted a legislative amendment²¹ that provides for the possibility of the blind to enter into an agreement in writing independently. It is important that this change become part of legislation as soon as possible.

In addition, difficulties in providing services and information to blind persons with the use of the Braille format, gesture language, augmentative and alternative communication and/or other available

¹⁸ Recommendation of the Public Defender of Georgia to the Tbilisi City Assembly, August 6, 2018, available at: shorturl.at/gowBO

¹⁹ Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2018, p. 124, available at: shorturl.at/hxCJL

²⁰ Available at: shorturl.at/eEHR4

²¹ Available at: shorturl.at/bgETY

means have been identified in two ways. In one of the cases,²² it has been identified that the declaration on family socioeconomic status is not available in the Braille format or by the use of other technical alternatives, leaving the blind forced to refuse to be an authorized representative of the family.²³ It is noteworthy that the Ministry of Health is considering the possibility of using a telecommunication device so that an authorized representative of the agency be able to record the process of filling in a "family declaration" by phone with the consent of the seeker/registered person, in accordance with the requirements of the Law of Georgia on Personal Data Protection.

In addition to the above, the Public Defender considered the right of blind and partially sighted people to apply to an administrative body - they do not have an opportunity to file an application in Braille or by the use of other alternative formats with the Administration of the Government of Georgia.²⁴

Importantly, both recommendations were endorsed in the Parliament's Resolution on the Public Defender's Report.²⁵ Specifically, the resolution indicates that the Government of Georgia should provide blind and partially sighted people with the opportunity to file an application in Braille or by the use of other alternative formats with the Administration of the Government of Georgia. The resolution also recommends that the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia to make the declaration on family socioeconomic status available in Braille or other alternative formats for registering it in the database on socially vulnerable families.

Problems encountered by the blind and partially sighted people are underlined in the Council of Europe study on Evaluation on Accessibility to Court Buildings for Persons with Disabilities as well, according to which, services are available for persons with physical disabilities in a number of courts, although none of the court building is adapted for the needs of persons with sensory impairments. The study addresses the problems of persons with sensory impairments, such as the lack of road signs and tactile maps on information boards. Persons with disabilities do not have access to information services, means of communication with employees, complaint boxes or information boards inside the buildings either.

3. Inequality on the ground of religion in the context of problems encountered by Muslims when crossing the border

²² Recommendation of the Public Defender to the Ministry of Labour, Health and Social Affairs of Georgia, May 4, 2018, available at: shorturl.at/cmxyF

²³ Recommendation of the Public Defender to the Ministry of Labour, Health and Social Affairs of Georgia, May 4, 2018.

²⁴ Recommendation of the Public Defender to the Ministry of Labour, Health and Social Affairs of Georgia, August 6, 2018, available at: shorturl.at/ijuxR

²⁵ Resolution of the Parliament of Georgia of 20 September 2019 on the Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia in 2018.

Muslim citizens continue to apply to the Public Defender with regard to the incidents on the state border of Georgia. As indicated in the Public Defender's 2017²⁶ and 2018²⁷ Special Reports on Combating and Preventing Discrimination and the State of Equality, the Public Defender periodically examines the cases of Muslims, who face problems when crossing the state border of Georgia. In particular, they are delayed at the border and are asked questions about the purpose of travel, ties with the Republic of Turkey or other Muslims.

With regard to the above issues, on April 24, 2017, the Public Defender made a recommendation to the Ministry of Internal Affairs and the Revenue Service Ltd regarding discrimination on the ground of religion and called on them to conduct passport-visa control and customs procedures at the checkpoints of Georgia on an individual basis and by observing religious neutrality; as well as to gradually retrain the staff, who directly carry out passport-visa control and customs procedures at the checkpoints, in order to raise their awareness of the principle of religious neutrality and equality."²⁸

The Public Defender's recommendation issued in 2017 on the same issue indicated that visa-passport control officers created obstacles for Muslims crossing the Sarpi checkpoint. They were delayed and asked questions about their looks, religious belief and lifestyle. In addition, the visa-passport control officers did their best to make Muslims voluntarily give up their religious literature. Accordingly, the Public Defender concluded that there had been interference with the applicants' freedom of religion by restricting their freedom of movement and property rights.

In response to the above recommendation, the Public Defender was informed by the Revenue Service that *relevant measures were being planned to be taken*. And, in a letter dated July 10, 2017, the Ministry of Internal Affairs of Georgia clarified that *a specialized training programme was being provided for border guards, within which, 24 future employees of the Ministry of Internal Affairs would be trained. In addition, training course on secularism and religious neutrality has been provided within the framework of cooperation with the State Agency for Religious Affairs since July, which is being attended by employees of the Border Police, Patrol Police and Criminal Police. 139 employees will be retrained at the first stage. This activity will continue until the end of 2017.*

In October 2019, after requesting updated information by the Public Defender, the Revenue Service explained that 1 755 employees were employed at the Customs Department of the Revenue Service of the Ministry of Finance, most of whom had to deal with customs procedures. With the funding enjoyed by a budget organization, it is difficult to retrain this number of staff beyond the training courses under the syllabus of the training provider (Academy of the Ministry of Finance). Therefore, it is not possible to organize a training course on religious neutrality in the near future. At the same time, it is planned

²⁶ Special Report of the Public Defender of Georgia on Combating and Preventing Discrimination and the State of Equality 2017. pages 25-26.

²⁷ Special Report of the Public Defender of Georgia on Combating and Preventing Discrimination and the State of Equality 2018. pages 5-6.

²⁸ See the website: <http://www.ombudsman.ge/geo/190308042216rekomendatsiebi/saqartvelos-saxalxo-damcvelma-muslimebis-mier-saqartvelos-sazgvris-kvetisas-religiis-nishnit-pirdapiri-diskriminacia-daadgina>

to retrain the service providing staff of the Customs Department in the direction of effective service delivery from November 2019. This training course includes provision of information to the staff about religious neutrality as well.

In addition, the Public Defender was informed by the Ministry of Internal Affairs of Georgia that 23 people had been enrolled in a special training programme intended for border controllers from July to December 2017 to raise awareness of the principle of religious neutrality and equality. Within the framework of cooperation with the State Agency for Religious Affairs, training course on secularism and religious neutrality was held for 189 officers of the Border Police, Patrol Police and Criminal Police of the Ministry of Internal Affairs of Georgia. This activity continued until the end of 2017. In addition, 112 people have been trained on the above-mentioned topic within the framework of a special training programme for border controllers at the Academy since 2017. The Academy continuously raises awareness of the principle of religious neutrality and equality among the staff of the Ministry within the framework of various special programmes, including trainings and programmes intended for border controllers.

It is noteworthy that, unlike previous years, the number of instances, when Muslims were offered to voluntarily give up their religious literature found in their luggage, reduced this year. This issue was particularly intense in 2016, when there were seven instances of the transfer of printed material, a total of 143 books, to the State. As for the following period, according to the information received from the Revenue Service of Georgia, there were 3 cases of voluntary transfer of printed literature to the State at the checkpoints of Georgia (only at Sarpi checkpoint) from January 1, 2018 to July 12, 2019, which is a relatively low number compared to 2016.

However, delays on the border are still common. Unfortunately, as the practice of the Public Defender shows, insufficient evidence significantly complicates investigation of this category of cases.

According to the data of 2019, two individuals applied to the Public Defender. In one of the cases, the applicant alleges that he/she was delayed on the state border of Georgia for an unreasonable time on the motive of his/her brother's ties with Muslim religious organizations and religious activities in general.

In another case, the applicant indicates that he/she is an ethnic Iranian citizen of Georgia, who was born and raised in Iran; he/she later converted to Christianity and has been living in Georgia since 2011 due to religious persecution in Iran. He/she founded a Christian organization in 2013 and is engaged in religious practices in Georgia. The applicant also referred to the additional questions asked to him/her when crossing the border and the lengthy inspection procedures in comparison with others.

In the above cases, the Public Defender found it difficult to obtain evidence, mainly due to the fact that the materials requested from the Ministry of Internal Affairs and LEPL Revenue Service did not make it possible to substantially assess the specific facts indicated by the applicants when crossing the border.

4. Nationality

The blanket discriminatory approach towards citizens of specific states is still evident in the banking sector of Georgia. This serious problem is also proved by the fact that the situation has not changed²⁹ even after the Public Defender issued a general proposal.³⁰ In previous years, Nigerian, Iranian and Syrian citizens faced obstacles in opening bank accounts, obtaining student cards or bank statements.

Unfortunately, the Public Defender's recommendation to the National Bank - *to develop easily enforceable regulations that would ensure that foreign citizens receive services in commercial banks without discrimination on any ground*, has not been endorsed in the Parliament's Resolution on the Public Defender's Report.

During the reporting period, the increased bank account fee was a problematic issue. In one of the cases, JSC Bank of Georgia increased the annual fees for bank account services for Iranian citizens. According to the Bank,³¹ the fees were increased in November 2018 for residents/citizens of high risk countries due to larger human/financial resources needed during the processes of identification/verification and/or delivery of bank services. In addition, information provided by the organizations of the Coalition for Equality shows that citizens of Ukraine and Tajikistan also faced similar problems in the banks of Georgia.

5. Equality of the LGBT+ community

Discrimination on grounds of sexual orientation and gender identity remains a serious challenge in Georgia. Equality of members of the LGBT+ community is unprotected in almost all areas of public life. The existing phobias and stigmas significantly nourish the discriminatory treatment of this community. For example, it was found out in the reporting period that the content of medical literature used at a higher education institution encouraged discrimination and was based on stereotypes against the LGBT+ community. This issue is particularly problematic, as inciting homophobic attitudes in the professional circles may become a prerequisite for the unequal treatment of LGBT persons in the workplace too.

As in previous years, the influence of homophobic and transphobic groups is still strong, due to which, LGBT+ people are often subjected to oppression and discrimination and become victims of violence.

²⁹ General Proposal of the Public Defender of Georgia to the National Bank of Georgia, see the full version: shorturl.at/hvwBY

³⁰ According to letter No. 2-14/1389 of 27 April 2018 of the National Bank of Georgia, *the legislation applied in the field of banking services was adopted by the Parliament of Georgia and the relevant standards were adopted by the Financial Monitoring Service, which is in line with the best international practice*. The National Bank also noted that *there might be a number of restrictions to identify and reduce the risks of money laundering and terrorist financing*.

³¹ Letter No. 07/8154 of JSC Bank of Georgia, December 10, 2018

Unfortunately, the State has not yet taken effective steps in this regard, which has a serious impact on the rights situation of the LGBT+ community in Georgia.

5.1. Equality of the LGBT+ community in the context of freedom of expression and freedom of assembly

The situation of the realization of freedom of expression by members of the LGBT+ community was particularly critical in the reporting period. The rights situation of the LGBT+ community has not improved. While the rights are restricted by private persons, the State, in most cases, is inactive and fails to fulfil its positive obligations.

In 2019, the Public Defender called on the Ministry of Internal Affairs of Georgia to analyze individual cases of recent years' violations of the LGBT+ community's freedom of expression and freedom of assembly at the state policy level and to plan preventive and reactive measures in this regard.

It is noteworthy that on September 9, 2018, members of the LGBT+ community and their supporters were prevented from carrying items containing symbols of the LGBT+ community at the Dinamo Arena stadium in support of Georgian football team captain Guram Kashia. This event was, in fact, the starting point for a chain of restrictions on the community's freedom of expression in 2019. The incident raised questions about effectiveness of preventive measures and the legality of the decision - the problem is particularly serious given that the Ministry of Internal Affairs does not document the interference with freedom of expression of LGBT persons, which is one of the necessary tools for assessing the legality of measures taken. In addition, despite requesting information on the measures taken by the Ministry, no timely or complete information was provided by the Ministry, indicating another systemic barrier.

Interference with the realization of freedom of expression of LGBT+ people was especially evident during the planning of Tbilisi Pride Week on June 18-23, 2019. The Ministry of Internal Affairs refused to provide security because of security risks to those involved in the process and advised the organizers to hold the pride parade indoors. According to the Public Defender, the offer contradicted the purpose of LGBT+ people to gather in public in a safe manner. In addition, violations of the LGBT+ persons' right to assembly and demonstration have been violated in Georgia for many years, which should have been taken into account, including by the Ministry.

The events developed on June 14, 2019, are also worth noting, when Tbilisi Pride organizers scheduled a rally in front of the Administration of the Government of Georgia, which was preceded by a statement of the Patriarchate, urging the authorities not to allow the organization of the pride parade in Tbilisi. Organizers of Tbilisi Pride were not allowed to hold their event at the planned venue, as the area was occupied by homophobic groups. Several incidents and clashes took place between homophobic groups and LGBT+ supporters, as well as journalists, during the two simultaneous rallies.

According to the Public Defender, the threats coming from specific groups targeting LGBT+ people and their supporters and restricting their freedom of expression were considered by the Ministry of Internal

Affairs in the same legal framework as the freedom of expression of persons supporting the idea of equality and defending their own rights. In addition, the measures taken by the Ministry of Internal Affairs are vague - they do not prove the existence of a systemic view of protection of human rights or analysis of potential consequences of incidents.

It was alarming to see how far-right groups strengthened in Georgia in the reporting period, one of the targets of which was the LGBT+ community. According to the Public Defender, the statements of leaders of these groups should have been followed by a proper and prompt legal response. The statements of one of the leaders, Levan Vasadze, are particularly worth noting.³² The Public Defender notes that neither the reasons of strengthening of anti-democratic political movements nor political or social effects of homophobia are properly analyzed in the country.

The events developed during the premiere of a gay movie at the Amirani cinema on November 8, 2019 are also worth noting. Homophobic groups gathered to disrupt the premiere, during which, the activists wishing to attend the premiere were injured. The police failed to prevent the illegal actions of aggressive groups around the cinema, nor did they respond appropriately to their aggressive actions. The aggressive groups were able to reach the cinema entrance, limiting the safe space.

According to the information provided by the Ministry of Internal Affairs on December 19, 2019 in response to the Public Defender's request of November 4, 2019,³³ the Ministry launched an investigation into: *creation and management of an alleged illegal group by L.V.*³⁴, *alleged threats made against G.T. and other persons*,³⁵ *alleged illegal interference with professional activity of journalist S.B. during a protest rally near the State Chancellery in Tbilisi on June 14, 2019*³⁶ and *alleged illegal interference with professional activity of journalist G.D. at a rally on the same day*,³⁷ *alleged threat made against Deputy Public Defender Giorgi Burjanadze in a video posted on Palitravideo.ge on June 15, 2019*,³⁸ *alleged verbal and physical abuse of citizen N.P. in front of the Chancellery on Ingorokva Street*

³² On June 14, 2019, when holding a rally in front of the Administration of the Government of Georgia, Levan Vasadze stated that he and his supporters would not allow the LGBT+ community to hold a rally anywhere, including in closed space. According to Vasadze, "If the police do not prevent the LGBT+ community from holding a rally and resist us instead, they will get a symmetrical response: <https://netgazeti.ge/news/372339/>

At a rally held in Tbilisi on June 16, 2019, Levan Vasadze said that he was forming "self-organized groups" - "public squads" against Tbilisi Pride and its supporters, and that they would "patrol" in Tbilisi for a week, available at: <https://netgazeti.ge/news/372545/>

Levan Vasadze addressed not only the LGBT+ community and their supporters, but also the police. He said that they were working on a strategy of breaking through the cordon and that "they would have sticks in case of police resistance," available at: <https://bit.ly/2o9s36p>

³³ Available at: <http://www.ombudsman.ge/geo/seksualuri-orientatsia-genderuli-identoba/sakhalkho-damtsvelma-khelisuflebas-lgbt-temis-tsarmomadgenlebis-gamokhatvis-tavisuflebis-datsvisken-moutsoda>

³⁴ An offence under Article 223 (1) of the Criminal Code of Georgia.

³⁵ An offence under Article 151 (1) of the Criminal Code of Georgia.

³⁶ An offence under Article 154 (1) of the Criminal Code of Georgia.

³⁷ An offence under Article 154 (1) of the Criminal Code of Georgia.

³⁸ An offence under Article 151 (1) of the Criminal Code of Georgia.

on June 15, 2019³⁹ and alleged threat made against Public Defender Nino Lomjaria on Facebook.⁴⁰ According to the Ministry of Internal Affairs, a number of investigative and procedural actions were carried out in connection with the aforementioned criminal cases. Currently, investigations are ongoing in the criminal cases.

In addition, a criminal action of intolerance was carried out allegedly on the ground of sexual orientation against S.S. and O.O. on the territory of Rustaveli Metro in Tbilisi on June 20, 2019, during Tbilisi Pride Week. The above was responded by the Ministry of Internal Affairs and a criminal investigation was launched.⁴¹ In addition, on June 20, 2019, citizen N.Ch. was charged⁴² and arrested, and a discriminatory motive of the crime was identified by the investigation. N.Ch. was found guilty and was sentenced to one year in prison.⁴³

5.2. Problems encountered by LGBT+ organizations in finding space for holding events

It is symptomatic that according to the applications filed by members of the LGBT+ community with the Public Defender, in addition to hindrances to the exercise of freedom of expression and freedom of assembly by them and the inaction of the State, several organizations refused the community members to hold public and/or closed events in their premises. According to the applicants, the owners of the organizations used formal arguments, but their refusal was actually based on discrimination, which may indicate a systematic nature of the problem.

Specifically, all the organizations named the necessity of urgent repairs as a motive of their refusal, which might be true, although it is noteworthy that the examination of factual circumstances did not show the applicants' willingness to assist. None of the organizations offered the applicants an alternative time or space/room for the event. Consequently, given the legal context of the LGBT+ community, the organizations' formal arguments are less credible.

6. Age discrimination

The problems of older persons in an area of social security were obvious in the reporting period. For example, the travel insurance policy of one of the insurance companies' was discriminatory, which, in addition to vaguely referring to older people's insurance, explicitly excluded the travel insurance for people over 70 years of age in practice.⁴⁴

³⁹ An offence under Article 126 (1) of the Criminal Code of Georgia.

⁴⁰ An offence under Article 151 (1) of the Criminal Code of Georgia.

⁴¹ An offence under Article 239 (1) and Article 126 (2, g) of the Criminal Code of Georgia.

⁴² On June 20, 2009, he was charged under Article 239 (1) of the Criminal Code of Georgia.

⁴³ Note: The defendant was sentenced to one-year probation under Articles 63-64 of the Criminal Procedure Code of Georgia.

⁴⁴ The Public Defender's decision is available at: shorturl.at/agE01; shorturl.at/agE01

One of the interesting examples of age discrimination was the dismissal of an employee of the Ministry of Corrections because of achieving the age limit under Article 35 (1) of the Law of Georgia on Special Penitentiary Service, according to which, *a special low rank officer can serve until turning 61*.

In this respect, it is noteworthy that the Constitutional Court ruled that the dismissal of the court security officer after the latter turned 50 was discriminatory. According to the Court, 50 years should not have been regarded as an age at which the physical condition of a person becomes inevitably worse.⁴⁵ In another case, the Court declared the prohibition of election of persons aged over 70 to administrative positions in the Academy of Sciences discriminatory. According to the Court, *it is important to protect vulnerable groups, including older persons, against discrimination and stigmatization. The fact that ageing results in the weakening of one's physical endurance and certain abilities in general cannot serve as a self-sufficient ground for imposing blanket age-related limits.*⁴⁶

7. Discrimination in labour relations

The Public Defender received applications relating to alleged discriminatory treatment in labour relations in this reporting period too. The applications referred to restrictions on various labour rights as well as harassment and victimization in the workplace. As in the previous reporting period, alleged discrimination in labour relations on the ground of different opinion was most common.

It was important that the legislative amendments of 19 February 2019 defined harassment as a form of discrimination, which implies *persecution and coercion of a person on any ground, or undesirable behavior against a person, the aim or result of which is degradation of a person, and creation of threatening, hostile, humiliating, degrading or abusive environment for that person*. According to the applicants, the main forms of harassment were the use of unethical and abusive forms of communication,⁴⁷ the lack of communication between the supervisor and the employee for a long period, as well as placement in a separated, uncomfortable room. In other cases,⁴⁸ applicants argued that they had asked the supervisor to establish transparent criteria in order to exclude the use of a biased incentive mechanism, after which, one of the applicants was dismissed on the motive of reorganization, while another applicant was dismissed on the ground of expiry of the contract.

It is noteworthy that the Public Defender identified *victimization*⁴⁹ in labour relations for the first time. Namely, in one of the cases, the employer explained the dismissal of the employee by the fact that the latter had applied to the Public Defender.⁵⁰ Dismissal of a person on the above ground creates a

⁴⁵ Ruling No. 3/2/767/1272 of the Constitutional Court of 14 December 2018.

⁴⁶ Ruling No. 2/2/863 of the Constitutional Court of 22 February 2018.

⁴⁷ Public Defender's recommendation of 4 October 2019 to the Black Sea Group Company, available at: shorturl.at/bxLRV

⁴⁸ Amicus curiae brief to Tbilisi City Court on alleged discrimination on the ground of different opinion, available at: shorturl.at/cmCL9; Amicus curiae brief to Tbilisi City Court on alleged discrimination on the ground of different opinion: shorturl.at/AFNR4

⁴⁹ According to Article 12 of the Law of Georgia on the Elimination of All Forms of Discrimination, "Any kind of ill-treatment of or influence on any person because the latter had filed an application or a complaint with any agency, or cooperated with that agency to protect himself/herself against discrimination, is prohibited."

⁵⁰ Public Defender's recommendation of 5 March 2018 to the Mayor of Tianeti Municipality, available at: shorturl.at/gqxy5

dangerous precedent, which may have a chilling effect on other persons in the future and become a terrifying circumstance for the use of legal remedies.

As for other cases of violations of labour rights on discriminatory grounds, an attempt to cover discrimination on a formal legal ground was identified in the media.⁵¹ One of the TV companies assessed the expression of opinion by its employee on the social network as a breach of corporate interests and used it as grounds for terminating the employment contract. The Public Defender took into account the media context and the TV stations' sensitivity towards criticism, which is closely related to maintaining viewers' trust in the TV company. However, the Public Defender held that the Facebook post of the applicant, even considering the above context, was not beyond permissible criticism and did not contain a form of expression that would justify the use of a particularly strict disciplinary measure - dismissal. In addition, the Public Defender found that the TV station had not fully examined the type or magnitude of financial or reputational damage suffered by the TV station, nor did it assess the scale of the coverage of the post, and therefore, only superficial assessment of the expected results could not justify intensive interference with the applicant's rights. In the reporting period, journalists also claimed that had been dismissed on the ground of different opinion, following the changes in the Rustavi 2 management.

At this stage, the Public Defender is processing applications relating to alleged discrimination on the ground of different opinion in higher educational institutions. In particular, applicants allege they were refused to be employed as professors in the fall term of 2019 due to their public and open criticism of the situation at the university.

8. Discrimination in the field of social security

Protection of the principle of equality in social and health care programmes was a challenge in this reporting period too. On the one hand, it is problematic that most of the programmes at the central level exclude persons with permanent residence permit in Georgia and on the other hand, discriminatory criteria are used when selecting the target groups of social and health care programmes by local self-governments.

8.1. Problems in the use of social and health programmes by persons with permanent residence permit

The use of social and health care programmes by persons with permanent residence permit in Georgia remains a challenge. Unfortunately, the Public Defender's recommendation in this regard has not been endorsed by the Parliament of Georgia in its resolution.

The health care and social programmes offered by the State, in most cases, are available only for the citizens of Georgia and they unjustifiably exclude individuals with permanent residence permits, which

⁵¹ Public Defender's recommendation of 8 October 2019 to Imedi TV, available at: shorturl.at/qvRW1

contribute to the state budget for the objectives of social and health care programmes just like the citizens of Georgia.

8.2. Municipal health care and social programmes

Health and social programmes offered by a number of municipalities also contain discriminatory criteria. Despite the broad discretionary power in defining the rule of appointing social assistance, the legislator is obliged to observe the constitutional principle of non-discrimination when regulating social matters.⁵² This implies that when determining the circle of beneficiaries, no social or health care programme should disadvantage any person due to the protected ground compared to other people in similar situation.

Some municipalities' legal acts on social programmes contain discriminatory phrases in terms of legal status. For example, one of the necessary documents required for appointing financial assistance to the families with four and more children in Shuakhevi municipality is a marriage certificate.⁵³ Similar formal criteria can be found in the social programme of the Khulo Municipal Council as well – a marriage certificate is required for the enjoyment of a one-time financial assistance programme intended for couples when having their third and subsequent babies.⁵⁴ The couples, who have families, but are not formally married, are not able to submit a copy of a marriage certificate, which has negative impact on them and puts them in an unequal position compared with married couples.

Programmes tailored to persons with disabilities remain problematic. For example, the social programme available in the Lentekhi municipality provides for monthly financial assistance for persons who were born with disabilities. Monthly financial assistance is intended for persons with disabilities from childhood, *who are unable to move independently and suffer from cerebral palsy, Down syndrome, leukemia or deafness*.⁵⁵ It is problematic that social assistance is appointed not according to needs, but the time of comensment of the needs. The mentioed social programme cannot be enjoyed by persons with other diagnoses, who may be in substantially equal situation. The programme also excludes those who acquired the status of a person with disabilities at a later age, which puts them in an unequal situation compared to persons who were born with disabilities. It is also important to avoid the use of terms encouraging discrimination when drawing up social programmes. For example, in the aforementioned legal act, Down syndrome is described as a disease, which is misinterpretation and contributes to the stigma attached to these individuals. In addition, the use of a term containing stigma – deaf and dumb – is also problematic.

⁵² Ruling of the Constitutional Court of Georgia of 11 June 2013, case No. 1/3/534 - "Citizen of Georgia Tristan Mamagulashvili v. Parliament of Georgia".

⁵³ Annex to Order No. 45 of Shuakhevi Municipal Council (28 December 2018) on 2019 programme on one-time financial assistance for families with 4 and more children (under 18 years of age) living in Shuakhevi municipality.

⁵⁴ Decree No. 79 of the Khulo municipality on the approval of a one-time financial assistance programme for every third and subsequent newborns, December 12, 2018.

⁵⁵ Resolution No. 4 of the Lentekhi Municipal Council on the approval of the rule of granting social assistance from the Lentekhi local budget, March 5, 2019.

In addition, Marneuli municipality has developed the rules of financing the rehabilitation, examination, treatment and/or purchase of medicines for children with mental retardation under the age of 13.⁵⁶ Establishing the age limit on access to such services - termination of funding for the rehabilitation and treatment of children over the age of 13 may impede the continuity of treatment and jeopardize the sustainability of the result attained by the programme.

In many cases, municipal health care programmes explicitly exclude specific groups. For example, the Abasha municipality health service programme does not finance treatment of alcoholism, drug-related and sexually transmitted diseases.⁵⁷ Social programmes should be focused not on the source of the disease, but on the health condition and needs of people. Funding for treatment of drug-related or sexually transmitted diseases may be vital for people who are at the same time in substantially equal situation compared to other beneficiaries of the programme. In addition, this rule encourages discrimination and promotes negative stereotypical attitudes towards drug addicts in the community.

Analysis of municipal social programmes shows the detailed nature of the programmes, which may, in some cases, leave other people with similar needs beyond social or health care programmes. For example, the Shuakhevi municipality programme provides for financial assistance for the beneficiaries of the state dialysis programme and if necessary, their accompanying persons, if they need to travel to Batumi in order to undergo a dialysis treatment course in the Batumi clinics.⁵⁸ Financial assistance for the dialysis sessions in Batumi clinics is important, but not only the beneficiaries of the dialysis state programme, but people with other health problems may also need assistance in covering their travel expenses while carrying out daily medical procedures. Therefore, it is important to ensure the flexibility of social programmes so that to protect the interests of all substantially equal groups.

Discrimination on the ground of citizenship can also be found in the process of implementation of social programmes, as certain rights can be enjoyed only by citizens of Georgia, unlike those with permanent residence permit, who pay taxes like citizens of Georgia and are in equal situation for the objectives of social and health care programmes. For example, the Lentekhi municipality has a health and social care programme that determines the amount and the rule of appointment of social assistance from the municipal budget for the population registered within the administrative boundaries of the Lentekhi municipality, as well as for the registered IDPs who live within the administrative boundaries of the municipality.⁵⁹ The social assistance sub-programmes require beneficiaries to submit a copy of a Georgian ID, which excludes persons with permanent residence permit from the programme.

In addition, socially vulnerable persons registered in the municipality of Ambrolauri, or the families that do not have a male member capable of working and cannot afford to buy firewood for the winter season, are given firewood.⁶⁰ However, this assistance cannot be enjoyed by persons with residence

⁵⁶ Resolution No. 9 of the Marneuli Municipal Council, March 11, 2019.

⁵⁷ Decree No. 60 of the Abasha municipality, Medical Services Programme, December 28, 2018.

⁵⁸ 2019 target programme No. 49, 28/12/2018 on covering the travel costs of residents of Shuakhevi municipality involved in the dialysis programme.

⁵⁹ Decree No. 4 of the Lentekhi Municipal Council on the approval of the rule of allocation of social assistance from the 2019 budget of the Lentekhi municipality, March 5, 2019.

⁶⁰ Decree No. 60 of the Ambrolauri Municipal Council, December 26, 2018.

permit. At the same time, linking the appointment of assistance with existence of a man capable of working is discriminatory on the ground of sex, since a family with a male member capable of working may have the same needs as other families that are beneficiaries of the programme.

The principle of non-discrimination requires the State to ensure that any regulation complies with the basic principle of equality and that freedom of public administration is restricted by the requirement of protection of equality.⁶¹ Guaranteeing the right to social security, inter alia, implies adherence to the principle of equality so that no interests of any substantially equal group/person are violated.

9. Insitment to discrimination

Unfortunately, this reporting period has not been an exception in terms of the use of terms encouraging discrimination. Comments with negative effects on the equality of various groups were made mainly to gain political advantage. There have also been cases of disseminating discriminatory views via the social network. The environment encouraging discrimination against ethnic and religious minorities, the LGBT+ community⁶² and women was easy to notice.

Sexist attitude towards women involved in public and political life was particularly evident in the reporting period, which was used as a tool of political struggle against female politicians representing local or central government. For example, Parliament Speaker Archil Talakvadze noted that "*There have been difficulties, since Georgia has a female president for the first time in its history.*"⁶³ In another case, Mamuka Khazaradze, founder of the Lelo political union, made a sexist comment on Maia Tskitishvili, Georgia's Minister of Regional Development and Infrastructure, saying that "*[she] may be good at baking khachapuri, but when it comes to trusting her with these billions, I wonder what experience she had in her previous life.*"⁶⁴ Another sexist statement was posted by Tamaz Patsatsia, Deputy Chairman of Zugdidi City Assembly, on MP Tina Bokuchava:⁶⁵ „*Tina Bokuchava says she is so educated that Misha made her consummate.. sorry, graduate from university directly in the*

⁶¹ Ruling No. 2/1/536 of the Constitutional Court of Georgia, February 4, 2014, "Citizens of Georgia - Levan Asatiani, Irakli Vacharadze, Levan Berianidze, Beka Buchashvili and Gocha Gabodze v. the Minister of Labour, Health and Social Affairs of Georgia" II.21.

⁶² MP Aleksandre Erkvania's homophobic statement - "*It should be prohibited to promote homosexuality and similar filth*", available at: <https://bit.ly/33k8WVC>; Homophobic statement by Kutaisi City Assembly Member, Aleksandre Akhaladze, available at: <https://bit.ly/33lFuTS>; Homophobic, discriminatory terms used by Nino Khutsishvili, Kvareli City Assembly Member, available at: <https://bit.ly/2XQjW7L>; Homophobic comment by Sophiko Kikacheishvili, Attorney of the village of Melauri of Samtredia City Assembly „[...] *there are gays, lesbians, poofters and nationals [...]*“, available at: <https://bit.ly/2QUVtRp>;

⁶³ Archil Talakvadze's sexist comment while speaking of difficulties - "*There have been difficulties, since Georgia has a female president for the first time in its history*", available at: <https://bit.ly/36FiXiP>

⁶⁴ Mamuka Khazaradze's sexist comment on Maia Tskitishvili - "*[...] may be good at baking khachapuri, but when it comes to trusting her with these billions, I wonder what experience she had in her previous life [...]*", available at: <https://bit.ly/2qB2HQ5>. The Public Defender's statement is available at: shorturl.at/fkmwY

⁶⁵ Sexist comment of Tamaz Patsatsia, Deputy Chairman of Zugdidi City Assembly, on Tina Bokuchava: "*Tina Bokuchava says she is so educated that Misha made her consummate.. sorry, graduate from university directly in the Parliament*", available at: <https://bit.ly/2R3O68Y>

Parliament“. Thus, women were often opposed not within the framework of professional criticism, but by humiliating and abusing them on the basis of their personal characteristics or prejudiced stereotypes. In most cases, sexist terms are of sexual connotation or reinforce the established gender roles of men and women.⁶⁶ It is noteworthy that gender-related perceptions are also common in the workplace and in some cases create an unhealthy, hostile working environment.⁶⁷

The xenophobic statements⁶⁸ of some Members of Parliament also drew the Public Defender's attention. For example, at the session of the Committee on Human Rights and Civil Integration, MP Emzar Kvitsiani addressed a representative of the Azeri community with anger and told him that he should have been speaking Georgian, if he was a citizen of Georgia. Given that the full integration of ethnic minorities into the country's political and social life remains a challenge, the use of parliamentary space by senior officials for disseminating discriminatory views is particularly damaging. The use of terms encouraging discrimination against religious and ethnic minorities have a negative impact on the development of a tolerant and inclusive environment in the country. The Public Defender hopes that adequate measures will be taken in response to the MPs' discriminatory actions or hate speech in accordance with the Code of Ethics for Member of Parliament.

Unfortunately, publicly expressed sexist, xenophobic, homo/transphobic or otherwise discriminatory terms nourish wrong, degrading stereotypes and discriminatory attitudes in the society. In addition, the strengthening of far-right radical groups and their supporters that target vulnerable groups, especially members and activists of the LGBT+ community, has been observed in the country. Discrimination against the LGBT+ community is further encouraged by publicly expressed aggression by politicians, such as the statement of MP Alexandre Erkhvania, according to which, "*The propaganda of homosexuality and similar filth should be banned.*"⁶⁹ Such cases naturally have a negative impact on the rights situation of the LGBT+ community.

The fact is that many politicians or other public figures are unaware of their responsibilities in protecting equality and combating discrimination. It is vitally important for the state officials or other influential persons to acknowledge and realize their responsibilities, as well as the negative effects of the spread of terms encouraging discrimination on individual groups and the community in general.

⁶⁶ Sexist comment of Rustavi City Assembly Chairperson, Levan Oniani, - Inga is suing for contactless rape, available at: <https://bit.ly/34lxJK9>; MP Nukri Kantaria's abusive words towards Tina Bokuchava - "*Don't cry, you are a little girl and you should take care of your voice*", available at: <https://bit.ly/35DKbVM>; Khashuri City Assembly Member Aleksandre Simonishvili's abusive words towards Inga Grigolia - "*Inga Grigolia is a b*tch and an enemy of the country [...]*", available at: <https://bit.ly/34ozrKO>; Former MP Vano Zardiashvili's comment on Eka Beselia, available at: <https://bit.ly/35zT42F>; MP Sophio Kiladze's comment on Eka Beselia, available at: <https://bit.ly/2O0O838>; Comments of Zaza Partsvania, Deputy Director of Zugdidi Library Management Center, on an alleged female victim of violence - "If he has not penetrated you, the action is not subject to detention", available at: <https://bit.ly/2XOuPv3>; Supreme Court judicial candidate Paata Shabidze on the alleged victim of sexual assault, available at: <https://bit.ly/33myyBp>.

⁶⁷ Public Defender's amicus curiae brief to the Signaghi District Court, August 16, 2019.

⁶⁸ MP Alexandre Erkhvania's xenophobic attitude towards Georgia's neighboring countries, available at: <https://bit.ly/33k8WVC>; MP Emzar Kvitsiani told Mirtag Asadov that if he was a Georgian citizen, he should have been speaking Georgian, the Public Defender's recommendation of August 16, 2019, available at: <https://bit.ly/2R4Omo0>;

⁶⁹ Available at: <https://bit.ly/33k8WVC>

10. Gaps in the investigation of alleged hate crimes and discriminatory attitudes of police officers

In the context of alleged hate crimes, the murder of Vitali Saparov remained a symbolic event in 2019 too, which despite the prosecution's efforts, has not been declared a crime motivated by discrimination on the ground of ethnicity. Obviously, the Public Defender did not assess the correctness of the use of factual circumstances or law by the court, but submitted standards and indicators set by international institutions to identify a discriminatory motive by filing an amicus curiae brief⁷⁰ with the Court of Appeal.

Investigation and prevention of hate-motivated crimes remains one of the main challenges. On the one hand, this is due to the low acceptance of certain vulnerable groups by society and negative stereotypes towards them, and on the other hand, due to the inadequate readiness of law enforcement agencies to assess such cases in the context of alleged violation of equality in order to identify the bias motivation during investigation. The Public Defender considers that identification of alleged bias motivation in the investigation of a crime is essential not only for the administration of justice in a particular criminal case, but also for the prevention of such crimes in the future. Victims of such crimes for the most part were Jehovah's Witnesses and the LGBT+ community in this reporting period.

The cases currently being processed by the Public Defender include, on the one hand, offences allegedly motivated by discrimination, in which no bias motivation was identified during the investigation and then the investigation either continued or was terminated, as well as the cases, in which no investigation was launched due to the lack of signs of the crime. On the other hand, the Public Defender is examining cases of alleged physical and verbal abuse by law enforcement officers.

The Public Defender requested information on 71 cases of discrimination on various grounds. Most of them were alleged bias motivated cases against the LGBT+ community (25 cases, including 5 cases of verbal abuse by police officers). It is noteworthy that according to the information received from the Prosecutor's Office of Georgia, investigative actions were carried out in most of the cases, though no specific persons were identified as victims and/or defendants. In one of the cases, as a result of consultations with victims and at the request of the defendant, diversion proceedings were instituted.

There were also cases, when investigations into alleged hate crime against LGBT+ persons could not identify discriminatory motives despite efforts, or no investigation was launched due to the lack of evidence, according to the investigative agency. Although it remains unclear exactly what investigative actions were carried out to identify the discriminatory motives.

The rate of applications filed with the Public Defender by Jehovah's Witnesses concerning alleged hate crimes continued to be high (19 applications), some of them referring to the cases occurring as early as

⁷⁰Available at: shorturl.at/hjqwG

the first few months of 2018, with no defendant being identified or criminal prosecution being launched. The applicants also complained about delayed investigations.

Most of the alleged crimes against Jehovah's Witnesses, which the investigators did not find discriminatory motive, and in which the investigation later continued, or was terminated or was not launched at all due to no signs of the crime, involved both violence and other acts. According to similar cases examined by the Public Defender's Office, victims of physical violence, as a rule, are Jehovah's Witnesses preaching on the street or going door to door. Jehovah's Witnesses also say that there were cases when fire was set to their stands and their religious literature was destroyed.

It is also noteworthy that several applications referred to damages to the working space and vehicles of Jehovah's Witnesses. One of these applications referred to two cases of property damage on one and the same day - April 29, 2019. In particular, the property belonging to Jehovah's Witnesses were damaged in Khoni and Khashuri municipalities. In one of the cases, the Christian Organization of Jehovah's Witnesses in Georgia (a non-commercial legal entity) was identified as a victim, but no prosecution was initiated against any person, while in another case, nobody was identified as a victim or an alleged perpetrator. In addition, the applicants mentioned five separate cases of infliction of damages to the administrative buildings and vehicles belonging to Jehovah's Witnesses on May 11-26, 2019, in which, no victim or alleged perpetrator has been identified.

According to the Prosecutor's Office of Georgia, investigative actions are being conducted in all five of the aforementioned cases in order to identify alleged bias motivation.

The Public Defender was also applied regarding an offence committed against the Muslim community. Although the fact did not occur during the reporting period, the results of the investigation are still unknown. The case concerned the launch of criminal proceedings and conduct of quick and effective investigation into actions/inaction of police officers around the boarding house/towards the personnel of the boarding house on 13 Lermontov Street, Kobuleti, on September 15, 2014 and in the following period.

The Public Defender has repeatedly requested information on the progress of investigation into the case, but was not given access to case materials, although at the initial stage, the Prosecutor's Office of Georgia declared that the alleged misconduct by law enforcers was examined by the Prosecutor's Office of the Autonomous Republic of Adjara. Examination of the case did not reveal any sign of the crime, so no investigation was launched. It is noteworthy that the position of the Prosecutor's Office of Georgia on this case is unclear, as by the letter of 14 February 2019 the Public Defender was informed that the analysis of case materials did not reveal any offence committed by police officers and no investigation was launched, while after the Public Defender requested case materials, they said that the investigation was ongoing and the case materials and testimonies of witnesses could not be accessed. The Public Defender welcomes the fact that, unlike previous years' practices, when examining alleged hate crimes, especially against Jehovah's Witnesses, investigations are launched under the Article of the Criminal Code, which pertains to hate motive, although the above loses legal effectiveness due to

delayed examination process. Due to delayed examination of cases, victims of alleged crime have a sense of injustice and insecurity, which significantly undermines trust in the law enforcement agencies. In most of the cases, the received information shows that investigative actions are conducted to identify alleged hate motive and the investigation continues, but the rate of identification of a victim and an alleged perpetrator is significantly low.

In addition, sometimes cases are classified as administrative offences after termination of investigation, but even if a person is identified as an offender, the relevant decision does not indicate that the victim suffered harm on the discriminatory ground, since the currently applied administrative legislation does not identify the discriminatory motive as an aggravating circumstance of administrative responsibility. This greatly complicates the maintenance of statistics on alleged hate actions and increases the likelihood that illegal hate acts will be left beyond attention.

The systemic change in the approach of the Prosecutor's Office towards the cases of property damage should be welcomed. In the previous period, if the total damage did not exceed GEL 150, the cases were classified under Article 187 of the Criminal Code of Georgia (damaging or destroying an item), which resulted in the termination of investigation due to lack of signs of the crime. Recently, it has been observed that in most cases, investigations are conducted under the Articles of the Criminal Code that do not see the small scale of damage as an obstacle to classification of a case.

According to the information provided by the Prosecutor's Office of Georgia, in the period from January 1 to December 31, 2019, criminal prosecution was launched under Article 142 (violation of equality of persons) against 1 person, under Article 142¹ (racial discrimination) - against 2 persons, under Article 142² (restrictions on the rights of persons with disabilities) - against 0, under Article 155 (unlawful interference with the performance of a religious rite) - against 3 persons, under Article 156 (persecution) – against 3 persons, under Article 239¹ (public incitement to acts of violence) – against 0. Of these, criminal prosecution was launched into intolerance on religious grounds against six persons under the following Articles of the Criminal Code of Georgia: Article 155 (unlawful interference with the performance of a religious rite) - against 3 persons, Article 156 (persecution) - against 3 persons.

Criminal prosecution was launched into racial intolerance against 2 persons under Article 142¹ of the Criminal Code of Georgia.

As to criminal prosecution into intolerance on the ground of sexual orientation, it was launched against one person under Article 142 of the Criminal Code of Georgia (in conjunction with other articles).

At the same time, criminal prosecution was launched into gender-based intolerance (as an aggravating circumstance provided for in the part/subparagraph of the Article of the Criminal Code) against 2 persons; namely, criminal prosecution against these persons was launched under the following articles of the Criminal Code of Georgia: Article 19.109 (attempted premeditated murder under aggravating circumstances) – against 1 person, Article 115 (incitement to suicide) - against 1 person.⁷¹

⁷¹ Prosecutor's Office of Georgia provided statistics relating to this motive, covering the period from January 1, 2019 to October 1, 2019.

In addition, the Public Defender was informed by the Prosecutor's Office of Georgia that investigations have not been terminated in any of the above criminal cases.

III. Activities of the Public Defender of Georgia

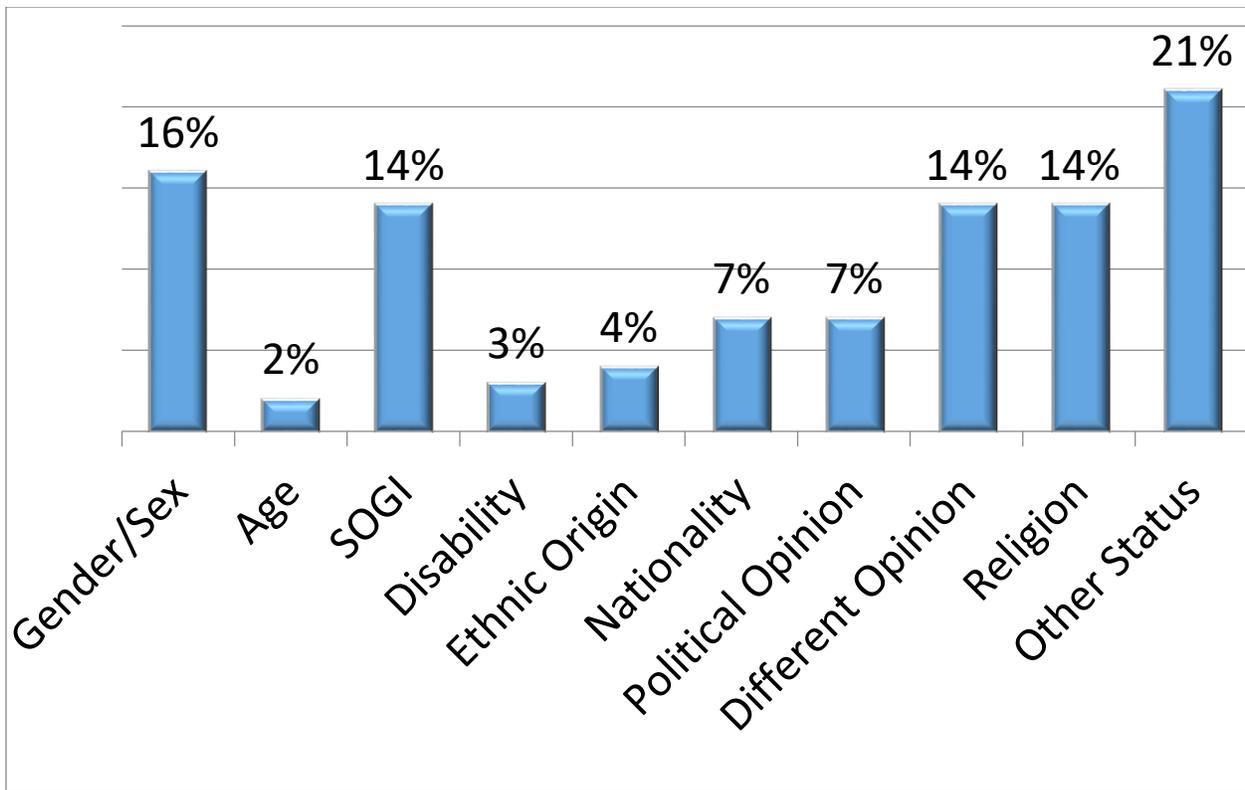
Since 2014, the Public Defender of Georgia has been granted a mandate to combat discrimination, within which, the Public Defender shall examine alleged cases of violation of equality and insinuation to discrimination and, through educational activities, shall disseminate information on the principle of equality.

In the event of identification of discrimination or insinuation to discrimination, the Public Defender shall make a recommendation or general proposal to the relevant public authority, natural person or private legal entity.

1. Case proceedings

In the previous reporting period,⁷² the Public Defender examined 159 alleged cases of discrimination, while in 2019, 155 new cases were examined. In 13 of them, proceedings were launched by the Public Defender on her own initiative. In 2018, the Department of Equality developed admissibility criteria that set the minimum standard for applicants. In particular, the Equality Department examines applications that indicate the alleged perpetrator, the comparator and the ground protected against discrimination.

⁷² Period from September 1, 2017 to August 31, 2018.



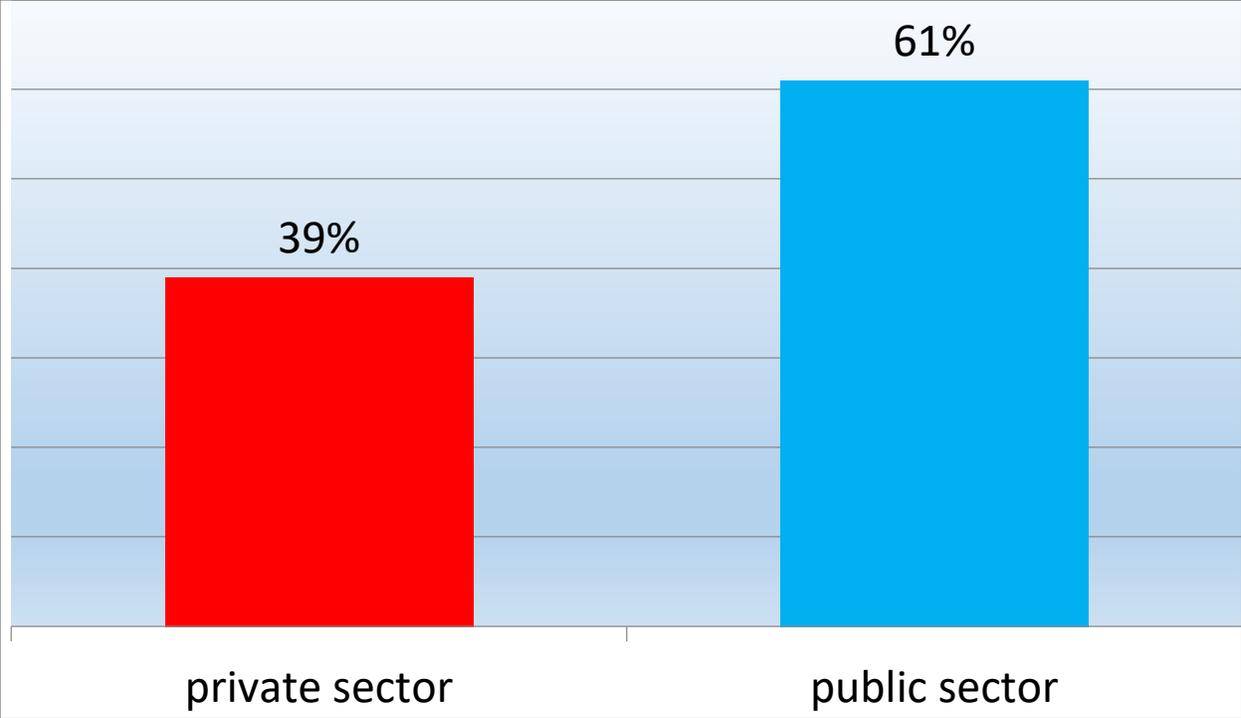
The largest number of applications still concern sex/gender discrimination, which represents 16%, like the previous period. This, inter alia, includes cases of alleged sexual harassment.

The numbers of applications relating to alleged discrimination on grounds of different opinion and political opinion are not significantly different from the previous period. The number of applications relating to discrimination on the ground of different opinion was 14% and the number of applications concerning discrimination on the ground of political opinion was 7%, while the figures were 12% and 9% respectively in the previous reporting period.

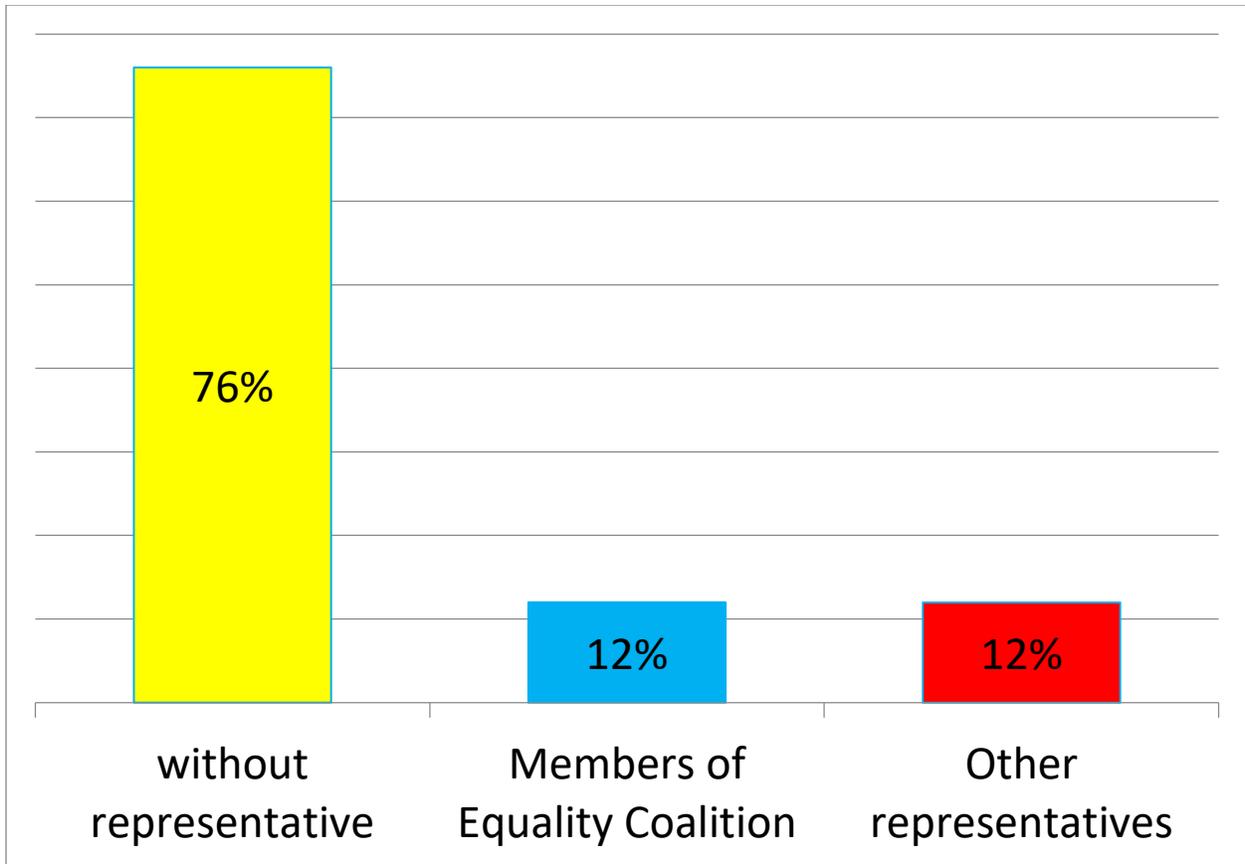
In 2019, 14% of applicants argued about discrimination on the ground of religion, 4% - on the ground of ethnicity and 14% - on the ground of sexual orientation or gender identity. The above also includes applications relating to alleged hate crimes. In the previous reporting period, alleged discrimination on the ground of religion amounted to 11%, ethnicity - 8%, sexual orientation or gender identity - 8%.

The number of applications relating to alleged discrimination on the ground of disability reduced to 3% in 2019, compared to 6% in the previous period. 2% and 7% of applicants argued about discrimination on grounds of age and citizenship respectively, while the figures were 3% and 2% respectively in the previous year.

It is noteworthy that most of the cases examined by the Public Defender's Office, namely 21% of cases refer to alleged discrimination on other grounds. The respective figure was 14% in the previous period.



During the reporting period, 61% of cases of alleged discrimination were related to the public sector and 39% - to the private sector, while in the previous reporting period, the respective figures were 69% and 31%.



Like previous years, majority of applicants applied to the Public Defender without representatives. Only 24 % of applicants had representatives. 12% of them were represented by members of the Coalition for Equality⁷³.

2. Decisions

In 2019, the Public Defender of Georgia established discrimination in 6 cases and made recommendations to the relevant bodies. In addition, 2 general proposals were prepared in relation to incitement to discrimination. 3 of the respondents were public persons⁷⁴ and 5 were private companies. The Public Defender also filed amicus curiae briefs with common courts. It is noteworthy that the rate of implementation of recommendations by private persons significantly increased in this reporting period.

⁷³ Members of the Coalition for Equality are: Georgian Young Lawyer's Association, Human Rights Education and Monitoring Center, Safari, Article 42 of the Constitution, Identity, Partnership for Human Rights, Women's Initiatives Supportive Group, Equality Movement, Democratic Initiative of Georgia, Tolerance and Diversity Institute.

⁷⁴ Mayor of Tianeti municipality - Tamaz Mechiauri, Member of Parliament - Emzar Kvitsiani, Ministry of Internal Affairs of Georgia.

For example, the Ardi Insurance Company informed the Public Defender about the implementation of the Public Defender's recommendation after the latter found discrimination on the ground of age.⁷⁵ Namely, the company *abolished the age limit for travel insurance and updated a special insurance questionnaire for 65+ individuals in order to objectively identify increased risks according to the content of the risk and not the age.*

In addition, in response to the recommendation relating to the harassment on the ground of different opinion⁷⁶ against the Black Sea Group Ltd, the company's director provided information about the measures taken, according to which, the company admitted to harassment, however, had the same position with regard to certain issues. Despite this, the director explained that the company had set up a supervisory and monitoring service to provide timely and effective response to both the misconduct and complaints of its employees.

It should be noted that following the recommendation relating to sexual harassment against the head of the private company, the harasser informed the Public Defender that establishment of sexual harassment was unfair. The respondent also indicated that he had *read and considered the recommendation, and that, like in the past, he was not going to create an abusive, degrading and humiliating working environment in the future.* The Director of the company also informed the Public Defender that *the issues described in the recommendation were based on assumptions and that the company did not have the opportunity to take any legal measures.* However, according to the director, *the internal regulations of the company contained provisions prohibiting discrimination, implementation of which was ensured.* The director also stated that *he had convened a general meeting of the company's employees, where he once again clarified and introduced the non-discriminatory provisions of legislation.*

However, on the other hand, Imedi TV did not provide information about the outcome of examination of the recommendation relating to discrimination on the ground of different opinion.⁷⁷ Neither the University of Georgia LLC implemented the Public Defender's recommendation⁷⁸ to change the rule of segregation of students according to GPA. According to the practice of the University of Georgia, students with less than 2 GPA, when choosing subjects, are not allowed to select all of the offered lecture groups or hours, while no similar restrictions are imposed on students with higher GPA. First semester students are segregated according to the results of the Unified National Exams. The respondent informed the Public Defender that *it is the university's competence to determine how and in what way a student can achieve positive result. Improving the quality of education by grouping students according to certain criteria is based on the previous practice of the university.*

As for the recommendations to public agencies, the implementation rate is lower. For example, Tamaz Mechiauri, Mayor of Tianeti municipality, disagreed with the Public Defender, who established that a

⁷⁵ Available at: shorturl.at/atBIS

⁷⁶ Available at: shorturl.at/chuLQ

⁷⁷ Available at: shorturl.at/gpMRS

⁷⁸ Available at: shorturl.at/nsvA6

person had been dismissed after applying a protection mechanism to defend his right (namely, he applied to the Public Defender)⁷⁹ and had never been reinstated.

In addition, Member of Parliament Emzar Kvitsiani did not respond to the general proposal, in which the Public Defender assessed Kvitsiani's remark towards an Azeri-speaking applicant, according to which, the latter *should have been speaking in Georgian, if he was a citizen of Georgia* as insinuation to discrimination on the ground of nationality.

It is also worth noting that the Ministry of Internal Affairs provided information about the investigation into the restrictions on freedom of expression and freedom of assembly of the LGBT+ community and other cases of violence, as well as training of staff in this direction and other planned or implemented measures, only after receiving the general proposal⁸⁰ of the Public Defender.

3. Dissemination of information on the right to equality

In 2019, the Public Defender continued to disseminate information on equality and non-discrimination. Representatives of the Department of Equality held up to 50 informational meetings and trainings throughout Georgia. In this reporting period, the focus of educational meetings was, inter alia, sexual harassment, while the main target groups were employees of the Ministry of Internal Affairs and local self-governments. Overall, in 2019, representatives of the Department of Equality met with approximately 110 employees of the Ministry of Internal Affairs and 150 employees of local self-governments, 25 public school teachers, as well as labour inspectors and about 80 representatives of the Employers Association, trade unions and various public agencies.

Representatives of the Public Defender's Office held a total of 16 meetings and spoke about sexual harassment, insinuation to discrimination and equality with the employees of local self-governments and the Ministry of Internal Affairs in Mestia, Lentekhi, Tsageri, Ambrolauri, Oni, Tkibuli, Sachkhere and Chiatura. The Department held two trainings on sexual harassment in public space for various departments of the Ministry of Internal Affairs, as well as trainings on equality for Marneuli municipal bodies and public school teachers. Informational meetings were also held with public servants in Lagodekhi, Akhaltsikhe, Akhalkalaki and Borjomi municipalities.

IV. Conclusion

Adoption of the Law of Georgia on the Elimination of All Forms of Discrimination in 2014 was an important achievement for the human rights system in Georgia. The legislative regulation of prohibition of discrimination sparked active discussions and provided information to the significant part of the community about equality issues. On the one hand, many victims were enabled to identify discrimination against them and to use relevant remedies, and on the other hand, both public and

⁷⁹ Available at: shorturl.at/kCINT

⁸⁰ Available at: shorturl.at/pruF4

private persons realized their obligation and importance of protecting the principle of equality. Other significant occasions of 2019 were the adoption of legislative amendments, which expanded the Public Defender's mandate as a mechanism to combat discrimination and defined *harassment and sexual harassment as forms of discrimination*.

However, the state of equality has not been substantially improving in Georgia from year to year and vulnerable groups still face more or less continuous problems. This is conditioned by the lack of a systemic vision about equality at the state level and by the absence of the will of decision makers to facilitate the elimination of discrimination in the country.

Despite formal safeguards against inequality, certain vulnerable groups still cannot enjoy an environment tailored to their needs, without which, it is virtually impossible for them to achieve equality. The process of achieving transformative equality is also slow amidst the widespread stereotypes and prejudices, which is further hampered by the discriminatory statements made by politicians and other public figures.

The Public Defender once again emphasizes the crucial role of the community, civil society, private sector and especially the State in the process of achieving equality and hopes that substantial changes will be carried out in 2020 to improve the state of equality in Georgia.

Recommendations:

To the Government of Georgia

- Ensure that persons with significant and moderate disabilities employed in public service can receive a social package under Government's Decree No. 279 of 23 July 2012.

To the Administration of the Government of Georgia

- Ensure that blind and partially sighted people are given an opportunity to file an application in Braille or other alternative formats with the Administration of the Government of Georgia.

To the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia

- Make health and social care programmes available for persons with residence permit in Georgia, on an equal basis with the citizens of Georgia
- Ensure that the launch of a criminal investigation into sexual abuse is sufficient to finance and terminate the pregnancy that is a result of sexual abuse
- Make the declaration on family's social status available in Braille or other alternative formats for its registration in the database on socially vulnerable families and make relevant

amendments to Order No. 141/N of 20 May 2010 of the Minister of Labour, Health and Social Affairs

- Draft and make amendments to the Organic Law of Georgia Labour Code and the Law of Georgia on Public Service so that surrogate mothers and parents of children born through surrogacy can enjoy a maternity leave
- Ensure effective oversight of medical facilities to eliminate the practice of requiring the consent of a spouse/partner for woman's tubal occlusion (sterilization).

To the Ministry of Internal Affairs of Georgia

- Carry out the passport-visa control of persons crossing the Georgian border on an individual basis and by observing religious neutrality
- Take effective, preventive and proactive measures to protect the freedom of expression and freedom of assembly of LGBT+ persons
- Ensure effective enforcement of the law on sexual harassment in public space.

To the Revenue Service (LEPL)

- Carry out the control and other related procedures at the checkpoints of Georgia on an individual basis and by observing religious neutrality.

To the Prosecutor's Office of Georgia

- Provide information on the investigation of hate crimes in the report submitted to the Parliament of Georgia under Article 172 (2) of the Rules of Procedure of the Parliament of Georgia.

To the National Bank of Georgia

- Develop easily foreseeable regulations to ensure that foreign citizens can receive commercial banking services without discrimination, regardless of their nationality.

To the Municipal Councils

- Identify the circle of beneficiaries of social and health care programmes so that to exclude discrimination on any ground.