

Report of the Public Defender of Georgia

10 Years of Activity of the Equality Mechanism



Prepared under Article 7 of the Law of Georgia “On the Elimination of All Forms of Discrimination” and represents a special report on combatting and prevention of discrimination, and the state of equality.

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Foreword

As a result of the Association Agreement concluded with the European Union in 2014, Georgia undertook to gradually harmonize its legislation with that of the European Union, which resulted in the adoption of the Law on the Elimination of All Forms of Discrimination by the Parliament of Georgia on 2 May 2014. The aforementioned law assigned the function of elimination and supervision of discrimination to the Public Defender of Georgia.

The adoption of the Law on the Elimination of All Forms of Discrimination in 2014 and the subsequent amendments are undoubtedly a significant step forward in ensuring equality in Georgia. Any person who has been subjected to discrimination in any area of public life may request the establishment of the fact of discrimination and the elimination of its harmful consequences.

As a result of the creation and development of anti-discrimination legislation, as well as the establishment of an equality mechanism, it has become possible to protect the rights of hundreds of people and specific groups. In addition, knowledge about anti-discrimination law and mechanism is being systematically spread. Moreover, the number of successful cases of public institutions and legal entities under private law implementing the recommendations and general proposals of the Public Defender is increasing, which, in turn, encourages other institutions and companies.

It should be emphasized that the Public Defender of Georgia is a member of the European Network of Equality Bodies (Equinet),¹ which brings together 46 organizations from 34 European countries that are authorized to combat discrimination on the grounds of age, sex, disability, sexual orientation, racial or ethnic origin, religion or belief. The European Network of Equality Bodies promotes equality in Europe by supporting the work of national equality bodies. On 7 November 2018, at the Annual General Assembly of the European Network of Equality Bodies (Equinet) in Brussels, the issue of the membership of the Public Defender's Office of Georgia was discussed and the decision to grant full membership to the Georgian equality body was unanimously supported by the members of the Network.

It is worth noting that the members of the Network were only EU Member States and candidate countries. Georgia is the first country among the Eastern Partnership countries to be granted the opportunity to join the Network on the basis of the amendments made to the Statute at the General Assembly in 2017.

The present 10-year activity report of the equality mechanism reviews the activities of the anti-discrimination mechanism, the challenges encountered and the progress achieved.

The Public Defender's Office is grateful to all those who have applied the Public Defender's Office over the past 10 years relating to the alleged cases of discrimination. In addition, the support of all international and

¹ See website: <https://equineteurope.org/>

local organizations that have assisted the Public Defender's Equality Department in protecting the rights of victims of discrimination, disseminating information on equality, and implementing various educational activities is worth highlighting.

With regard to future prospects, it is noteworthy that in 2022, the European Union developed two new directives regarding equality bodies,² which aim to strengthen the existing equality bodies in the EU Member States to contribute to the creation of equal societies and the more effective elimination of discrimination. The Directives aim to increase institutional independence of equality bodies, ensure their separation from other institutions, legal nature of decisions, increase in powers and strengthening of competences, provision of sufficient resources, provision of support services to victims, strengthening of awareness-raising activities, obligation to make efforts to share best practices, assistance in the development of indicators to assess the effectiveness of the measures provided for by the Directives and the analysis of the data collected at the national level. Given the current political and legal context, the aforementioned changes are also noteworthy for the purposes of the future activities of the Public Defender of Georgia as an equality mechanism.

10-year statistical information

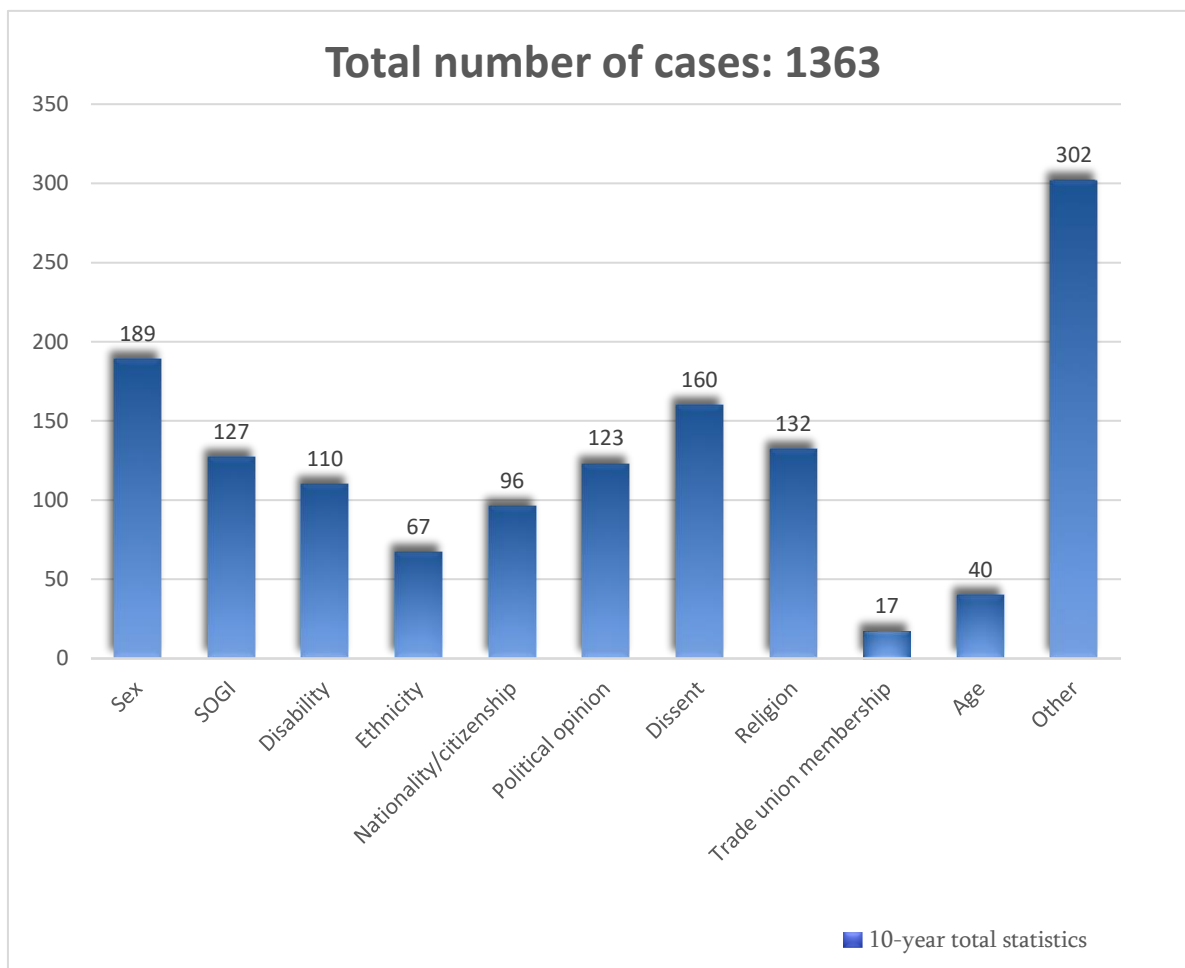
Over the past 10 years, the Public Defender has examined a total of **1,363 cases** of alleged discrimination,³ of which, **in 97 cases**, proceedings were launched on the Public Defender's own initiative. The quantitative indicator of the grounds protected from discrimination has been actively changing from year to year, which in many cases was due to social, economic issues and political situation prevailing in a particular year.

The largest number of cases examined - 189 - concerned alleged discrimination on the ground of **sex/gender**. It is noteworthy that in 49 of the aforementioned 189 cases, applicants disputed cases of **sexual harassment**. In numerical terms, the cases of **dissent** were second most frequent – 160, followed by cases of discrimination on the ground of **religion** - 132 cases. The Public Defender examined 127 cases on the grounds of **sexual orientation** and/or **gender identity**, and 123 cases of discrimination on the ground of **political opinion/affiliation**. 110 cases concerned discrimination on the ground of **disability**, 96 - **nationality/citizenship**, and 67 - **ethnic affiliation**. There were relatively few cases related to **age**, totaling 40. In addition, the Public Defender examined discriminatory treatment on the ground of **trade union membership** in 17 cases, and **other grounds** were identified in 302 cases.

² See: 1) 2022/0400 (COD): Proposal for a Directive of the European Parliament and of the Council on standards for equality bodies in the field of equal treatment and equal opportunities between women and men in matters of employment and occupation, and deleting Article 20 of Directive 2006/54/EC and Article 11 of Directive 2010/41/EU. This proposal is based on Article 157(3) of the Treaty on the Functioning of the European Union; 2) 2022/0401 (APP): Proposal for a Council Directive on standards for equality bodies in the field of equal treatment between persons irrespective of their racial or ethnic origin, equal treatment in the field of employment and occupation between persons irrespective of their religion or belief, disability, age or sexual orientation, equal treatment between women and men in matters of social security and in the access to and supply of goods and services, and deleting Article 13 of Directive 2000/43/EC and Article 12 of Directive 2004/113/EC. This proposal is based on Article 19(1) of the Treaty on the Functioning of the European Union

³ **Note:** Statistical information covers the period from May 2014 to April 30, 2024.

Table No. 1 – The total number of cases examined by the Public Defender over the past 10 years



Detailed information on the grounds by year, including which ground was most relevant in each year, is presented in the tables below.

Table No. 2: Grounds of the cases examined by the Public Defender in July - December 2014

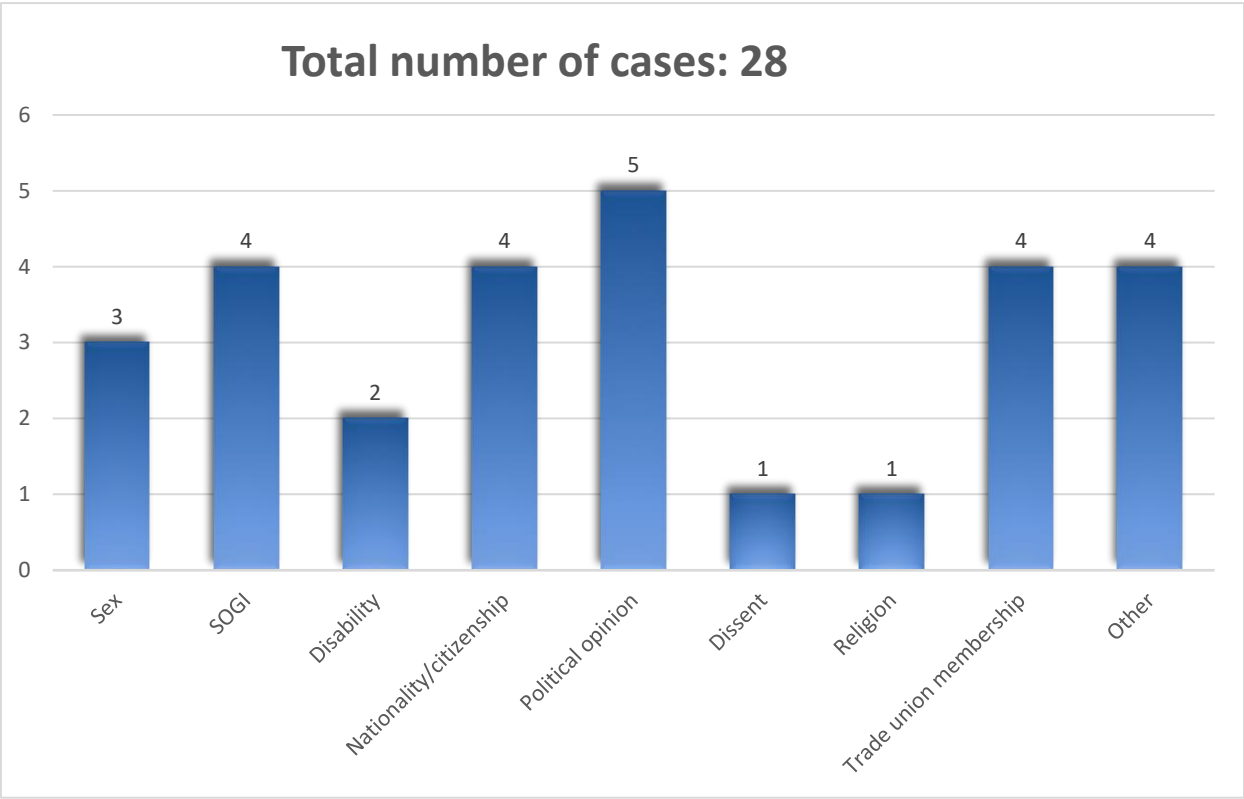


Table No. 3: Grounds of the cases examined by the Public Defender in 2015

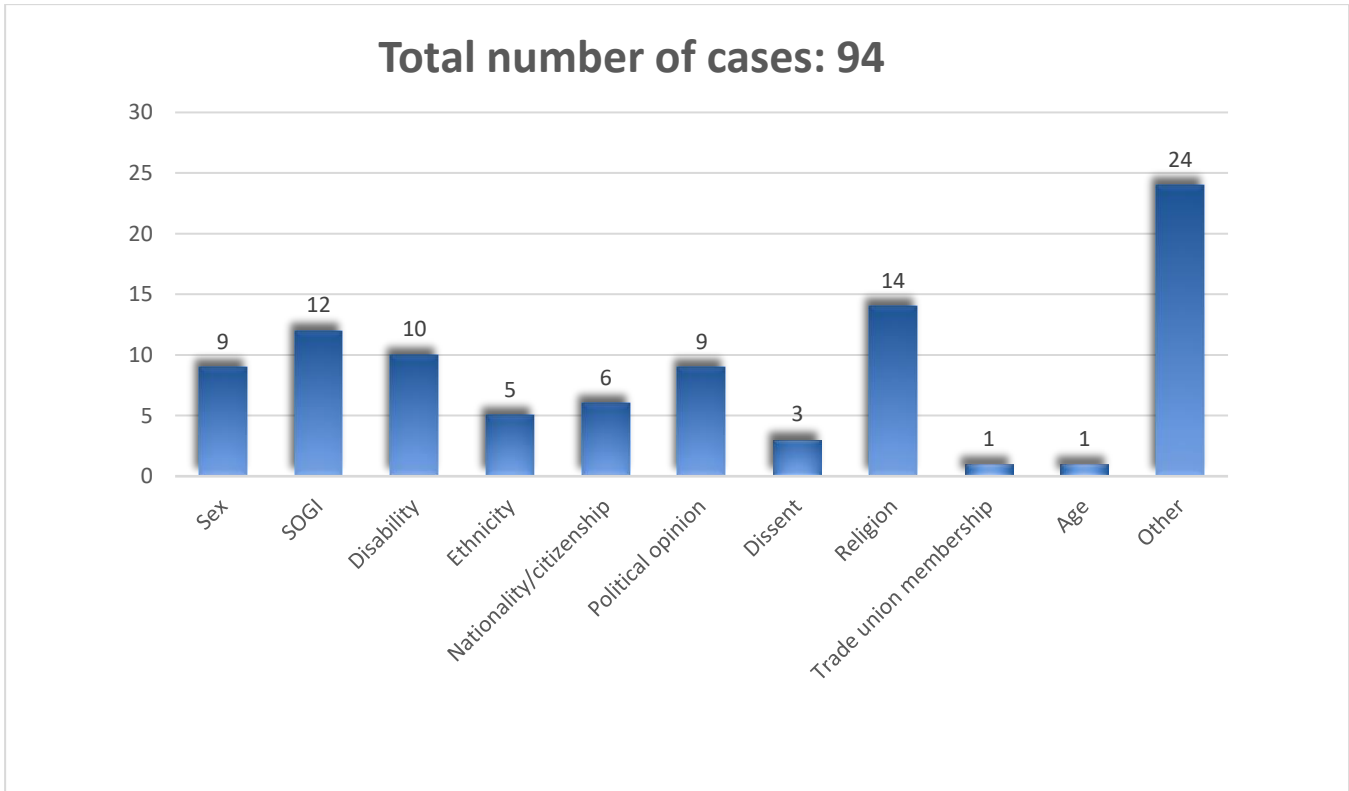


Table No.4: Grounds of the cases examined by the Public Defender in 2016

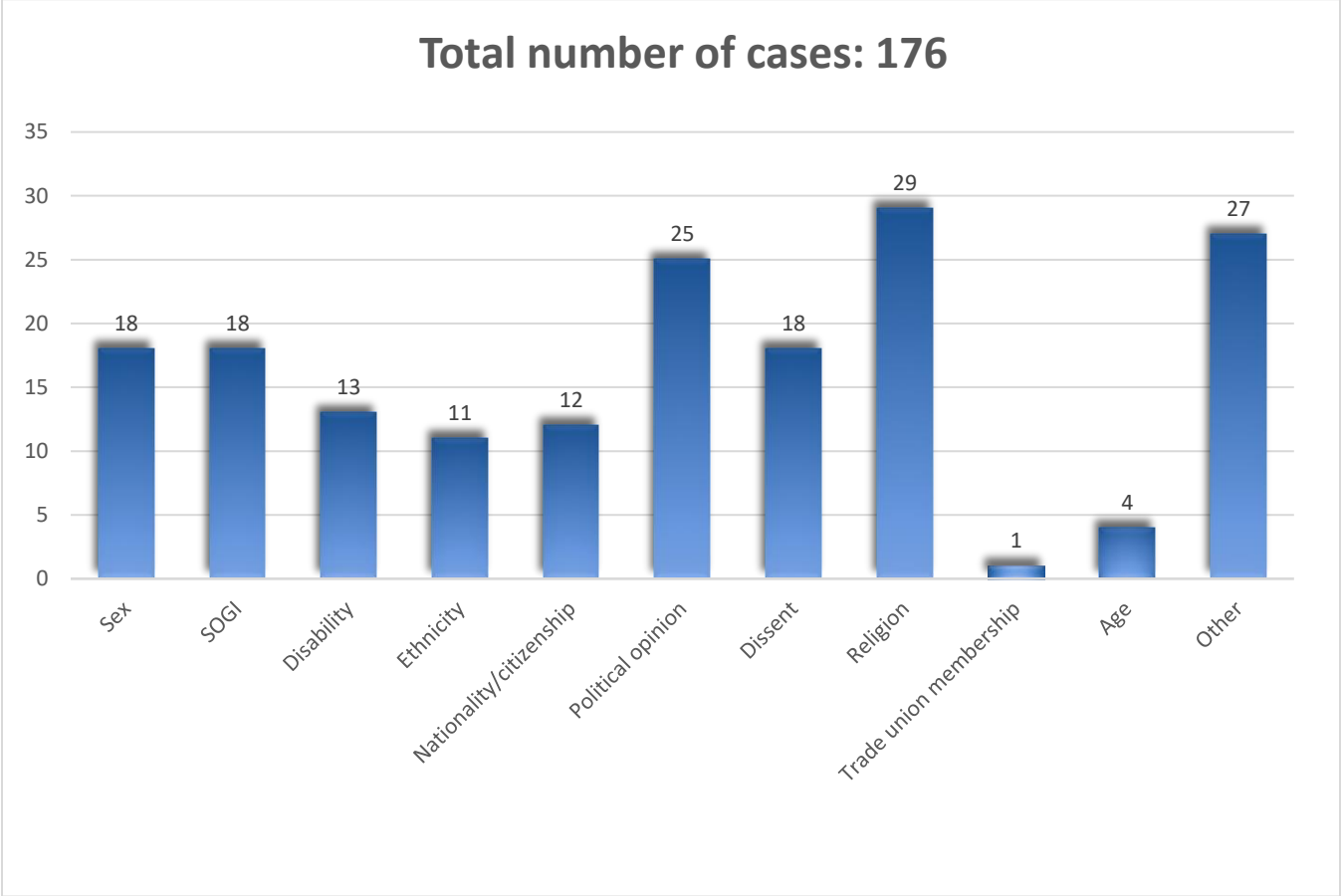


Table No.5: Grounds of the cases examined by the Public Defender in 2017

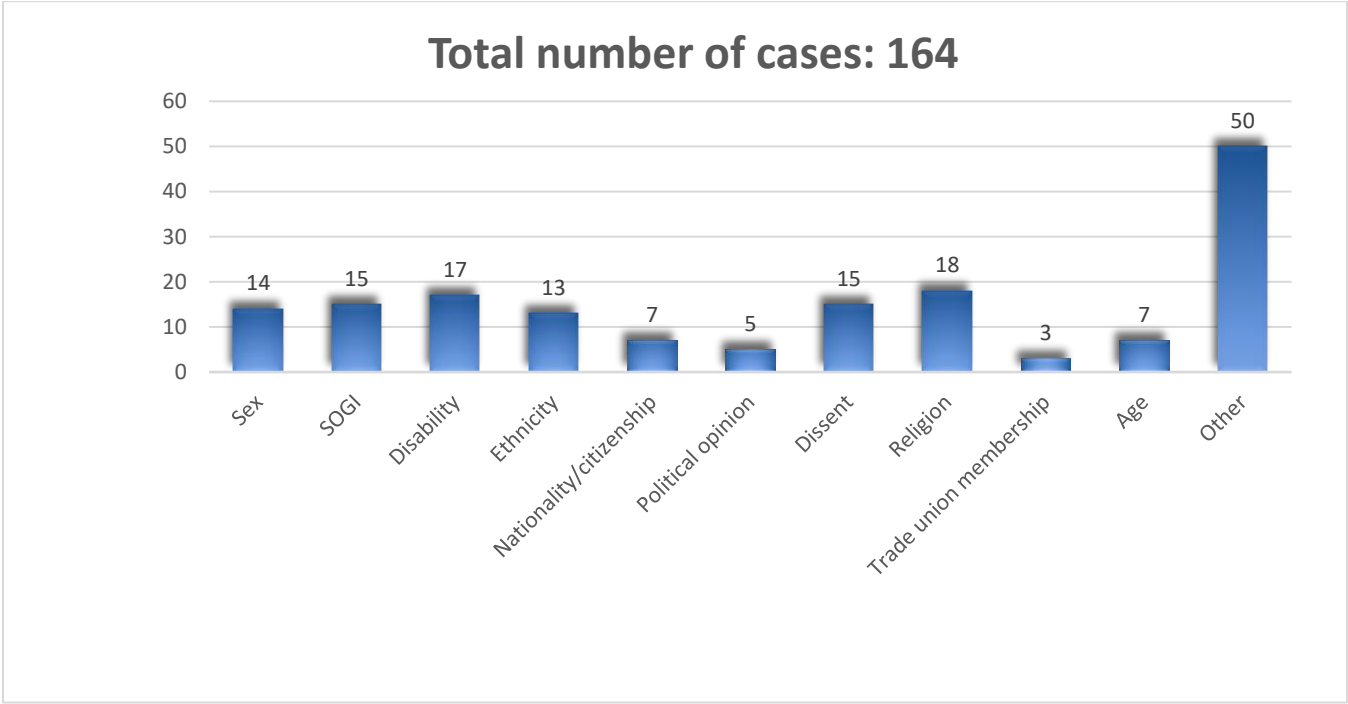


Table No.6: Grounds of the cases examined by the Public Defender in 2018

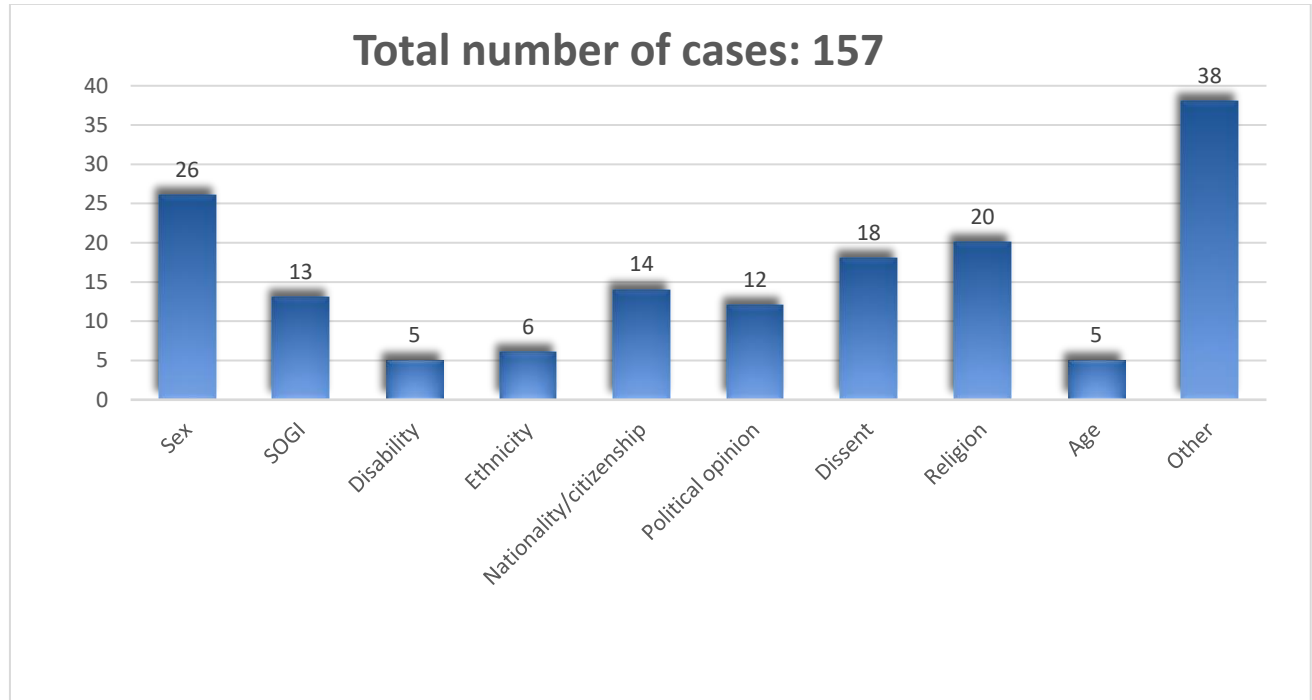


Table No.7: Grounds of the cases examined by the Public Defender in 2019

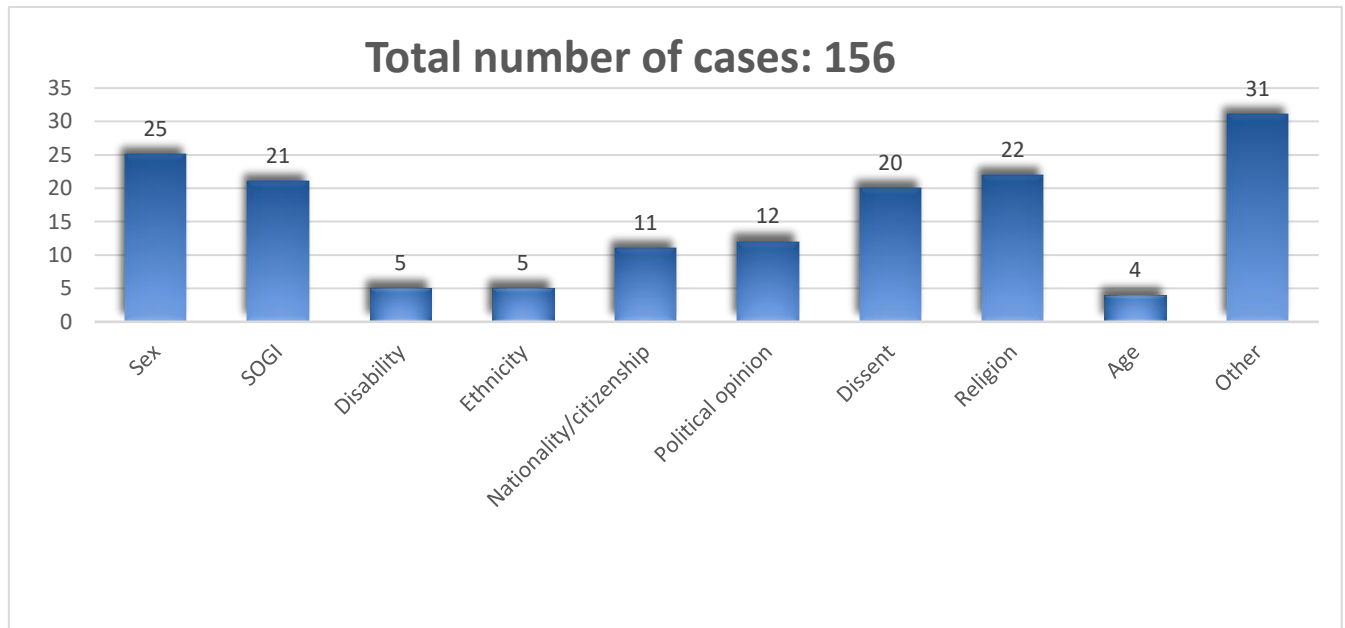


Table No.8: Grounds of the cases examined by the Public Defender in 2020

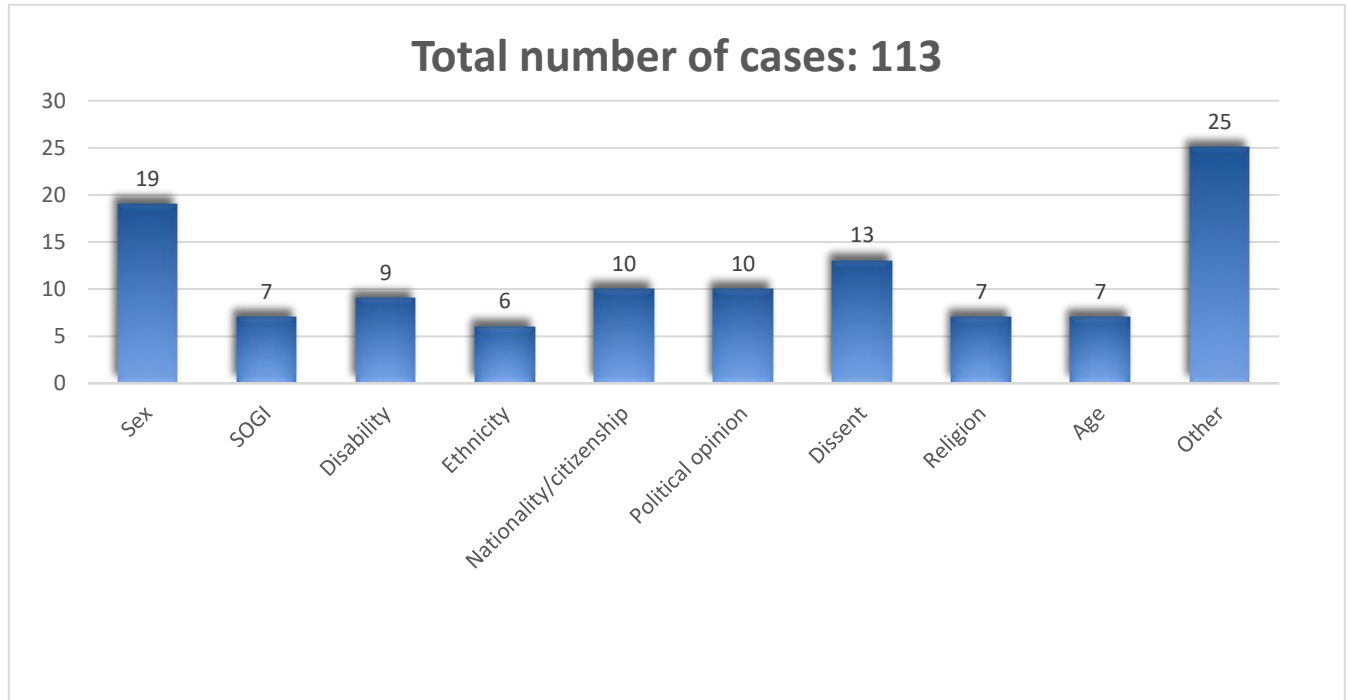


Table No. 9: Grounds of the cases examined by the Public Defender in 2021

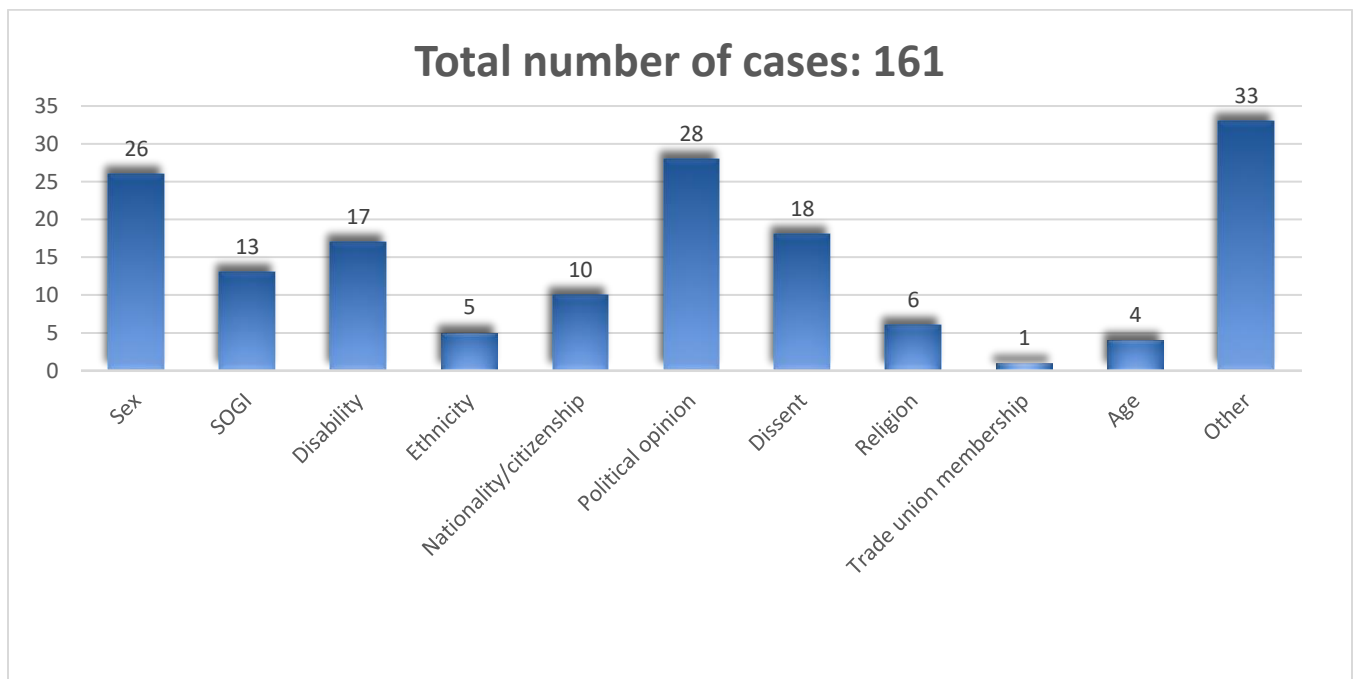


Table No.10: Grounds of the cases examined by the Public Defender in 2022

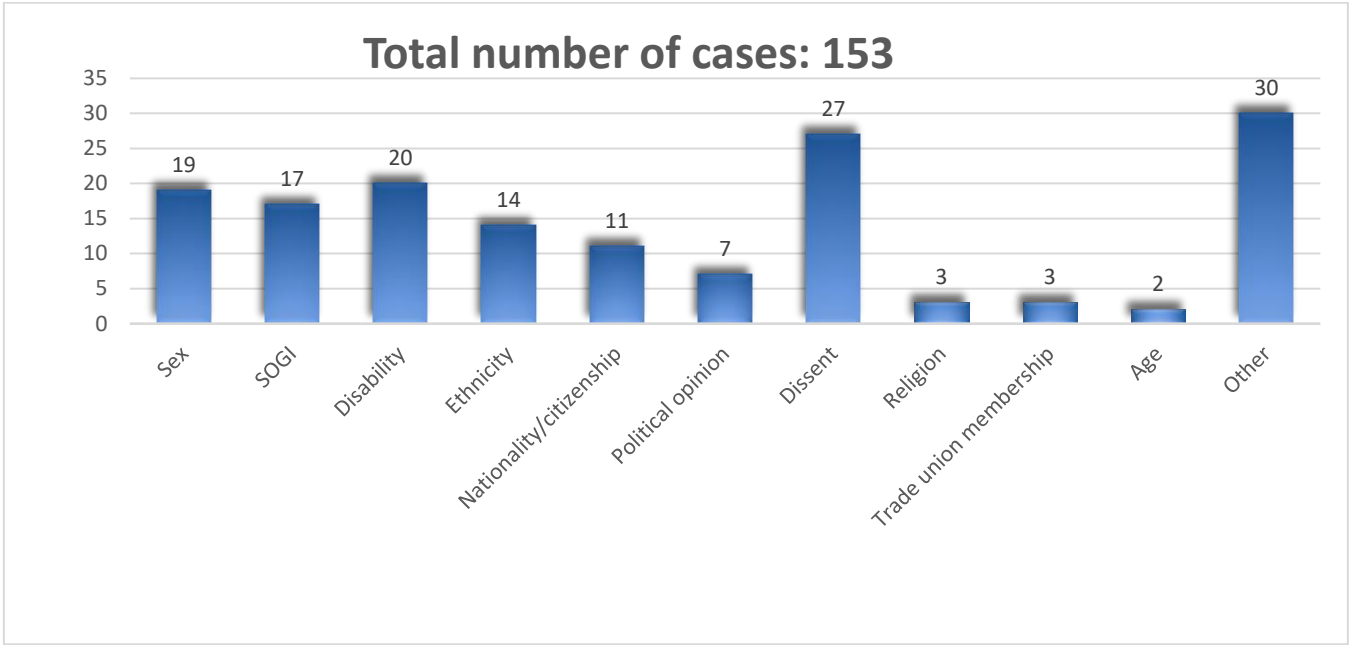


Table No.11: Grounds of the cases examined by the Public Defender in 2023

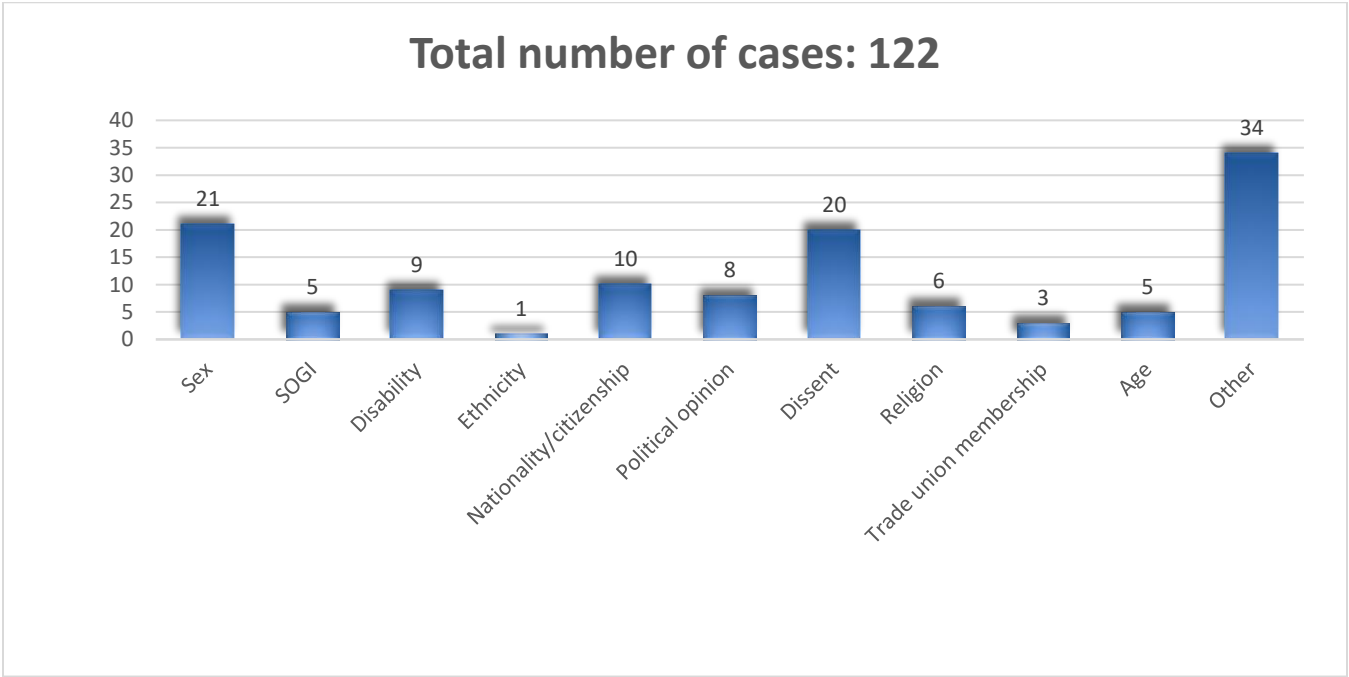
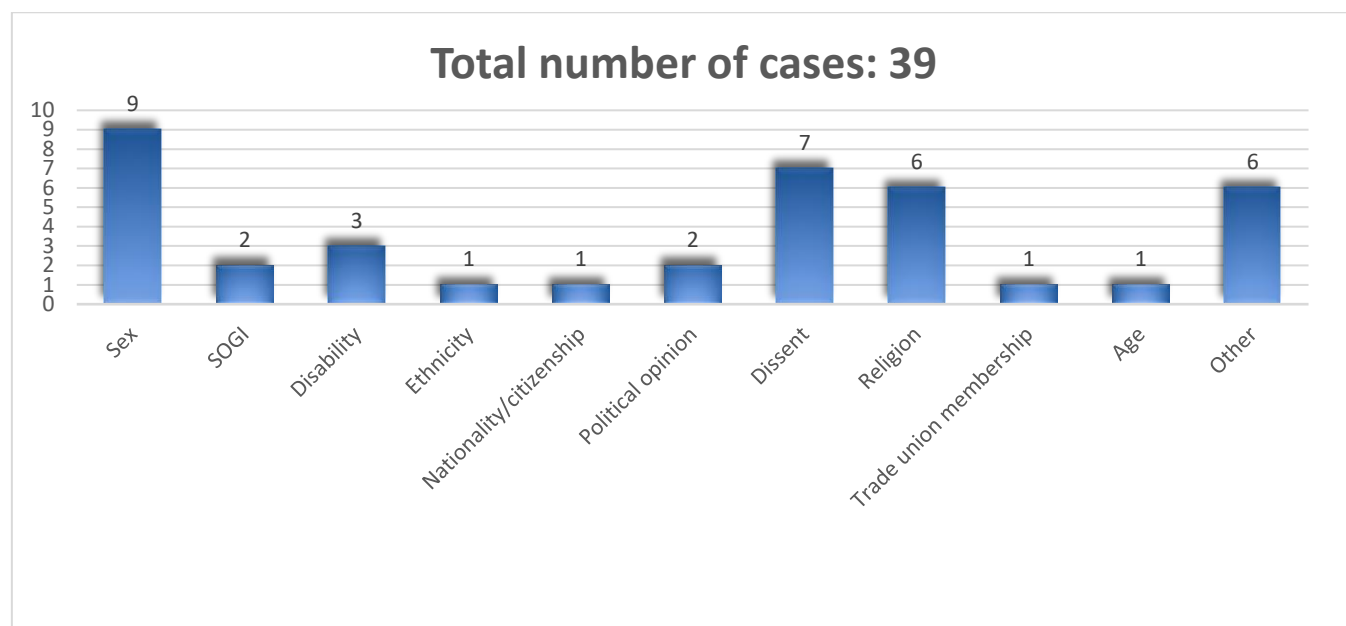


Table No.12: Grounds of the cases examined by the Public Defender in January - April 2024



The mandate of the Public Defender applies equally to discrimination committed by public institutions as well as individuals and legal entities under private law. It is noteworthy that the largest proportion of cases examined by the Public Defender concerned alleged discriminatory acts originating from public sector (see Table No.14).

Table No.14: Total number of cases examined by the Public Defender in public/private sector

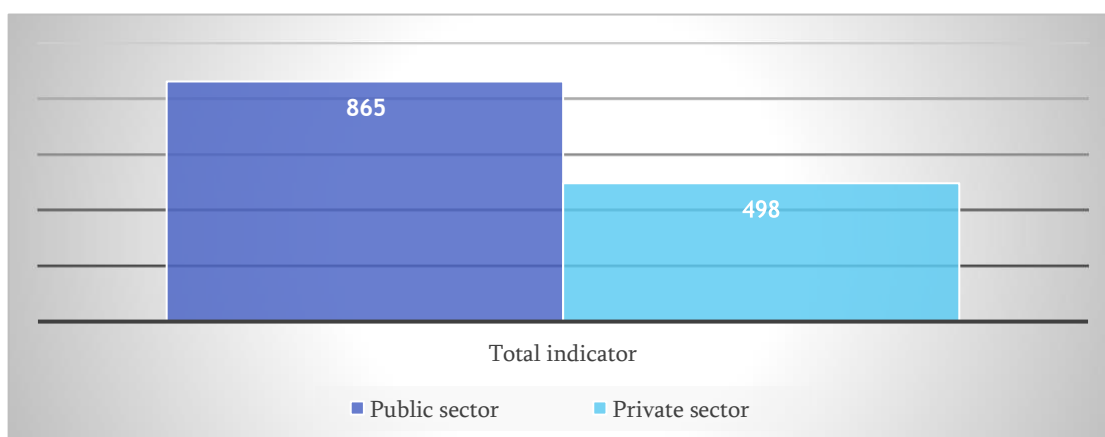
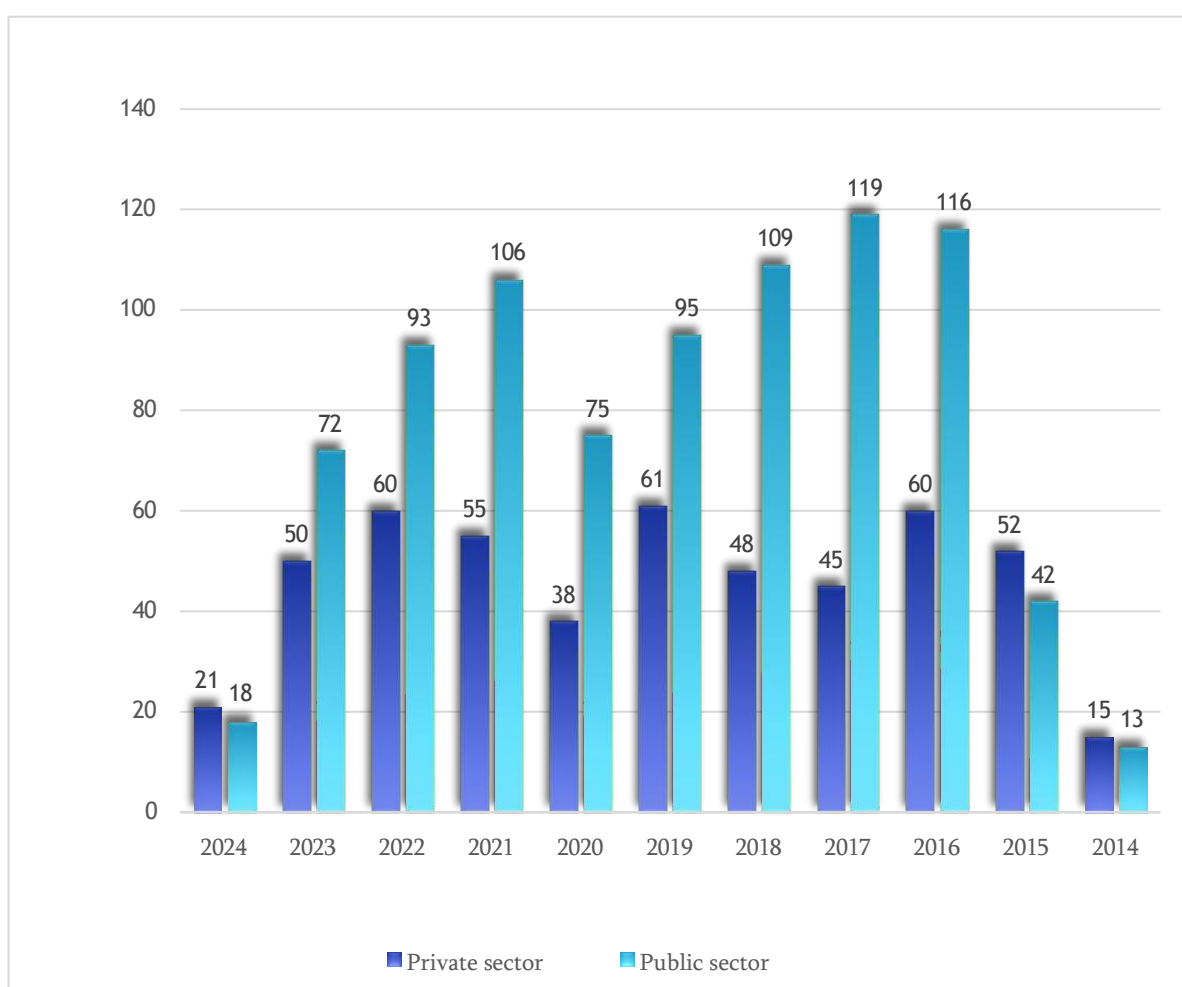
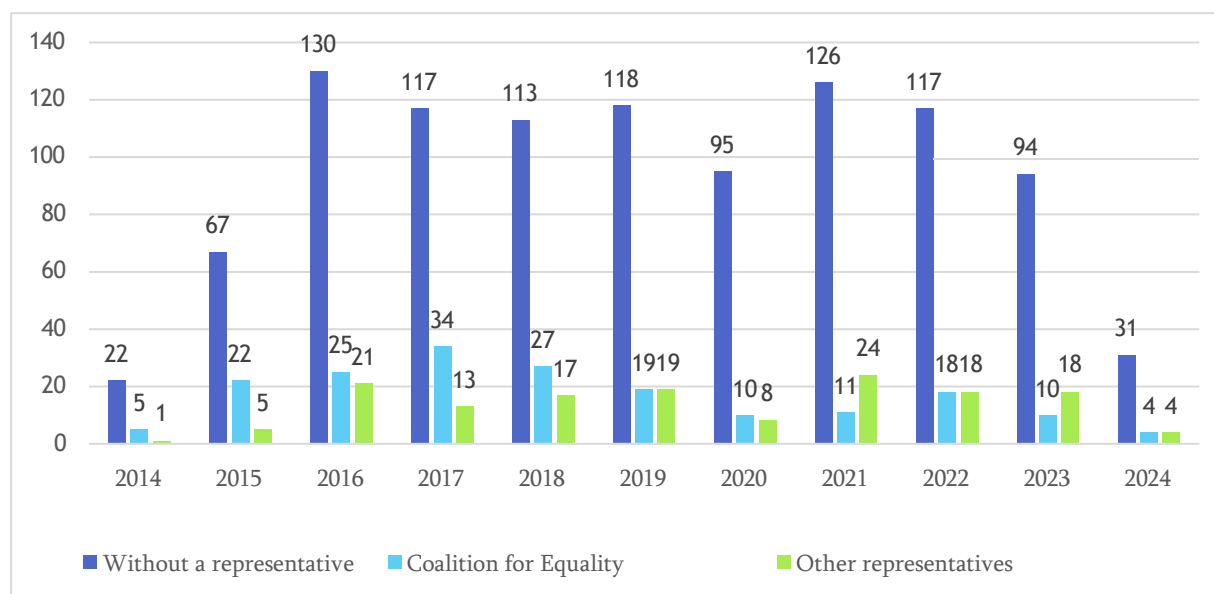


Table No.15: Cases examined by the Public Defender in public/private sector by year



The majority of applicants applied to the Public Defender without a representative. Out of **1,363** cases examined by the Public Defender, representatives were involved in **320** cases. Of these, member organizations of the Coalition for Equality⁴ represented applicants in **168** cases (see **Table No.16**).

Table No.16: Representation rate by year



As for the decisions issued by the Public Defender over the past 10 years, the Public Defender has prepared **110 recommendations, 51 general proposals, and 28 amicus curiae briefs on equality issues**. Detailed information, by year, is provided in Tables Nos.17 and 18.

⁴ Members of the Coalition for Equality are: Open Society Georgia Foundation (OSGF); Social Justice Center; Rights Georgia; Sapari Union; Georgian Young Lawyers Association (GYLA); Women's Initiatives Supporting Group (WISG); Partnership for Human Rights (PHR); Georgian Democracy Initiative (GDI); Tolerance and Diversity Institute (TDI); Human Rights Center (HRC); Equality Movement.

Table No.16: The total number of decisions issued and responses implemented by the Public Defender

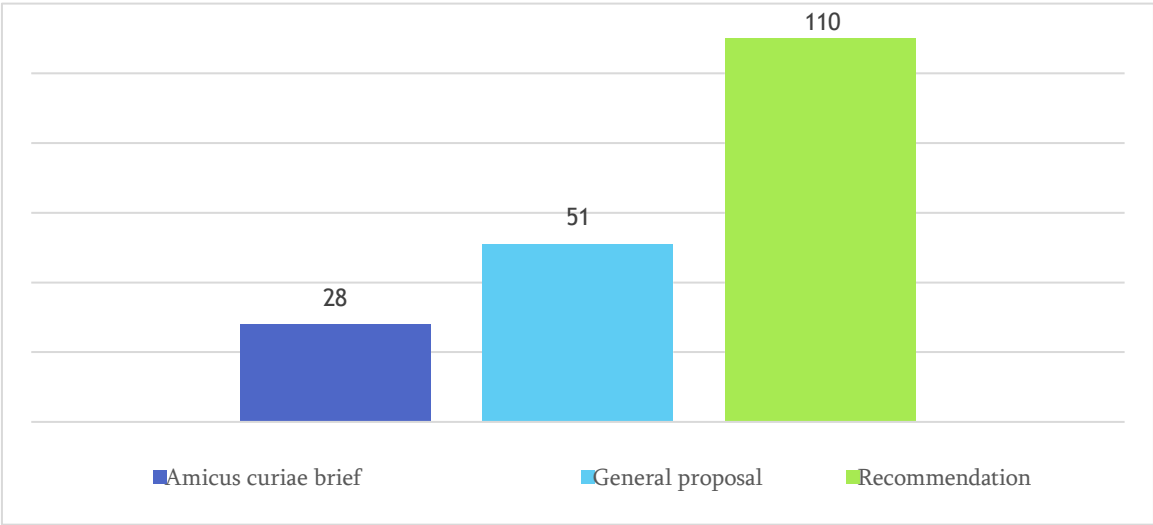
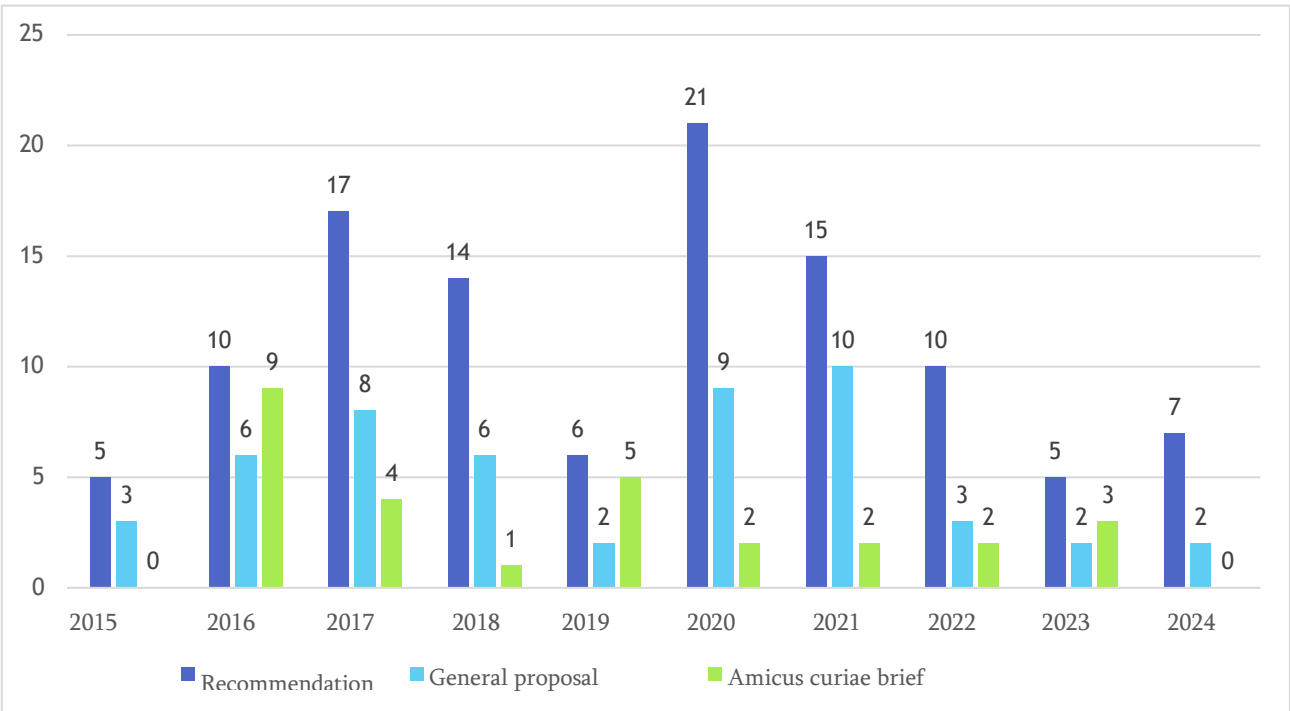


Table No.17: Decisions made and responses implemented by the Public Defender, by year

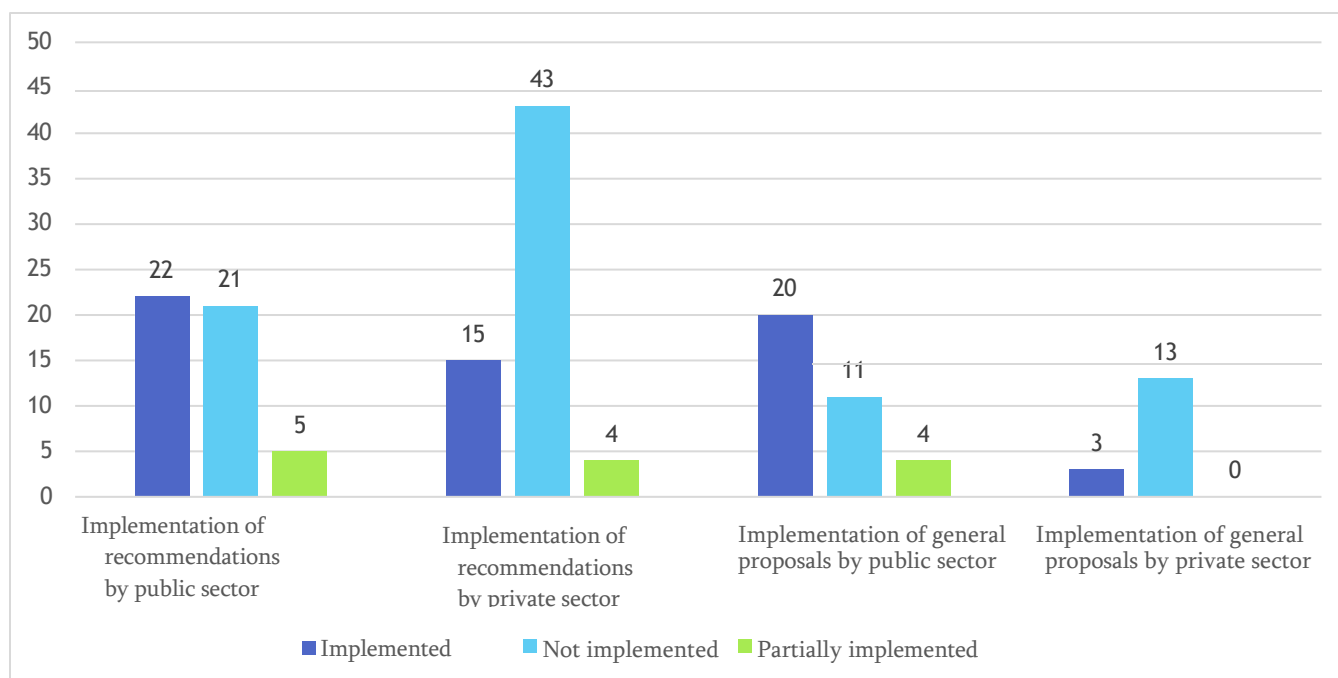


A comparison of compliance statistics on private and public law entities reveals that **entities of public law better comply with the Public Defender's decisions.**

48 recommendations were issued to the entities of public law, of which 22 were implemented, 21 were not implemented, and 5 were partially implemented. Out of 62 recommendations issued to private law entities, 15 were implemented, 43 were not implemented, and 4 were partially implemented (see Table No.18).

As for general proposals, public law entities implemented 20 out of 35 general proposals, 11 were not implemented, and 4 were partially implemented. Out of 16 general proposals, private law entities implemented 3 and did not implement 13 (see Table No.18).

Table No.18: Implementation rates of Public Defender's decisions in public/private sector



Significant changes in anti-discrimination legislation

On May 2, 2014, with the adoption of the Law of Georgia on the Elimination of All Forms of Discrimination, the State recognized the fight against discrimination as one of its priorities. The law prohibited not only direct and indirect discrimination, but also discrimination by association, coercion, incitement to and facilitation of discrimination in both public and private spheres. However, despite the creation of significant levers for protection against discrimination, the law contained a number of substantive and procedural shortcomings, which significantly hindered the Public Defender from fully examining cases related to discrimination.

On February 11, 2015, in order to improve anti-discrimination legislation, the Public Defender addressed the Parliament of Georgia with a legislative proposal.⁵ The package of legislative amendments submitted by the Public Defender included issues of strengthening the mandate of the Public Defender in relation to private individuals, including the obligation to submit measures taken to implement recommendations, increasing the deadline for applying to court, strengthening the standard of the burden of proof, and granting the Public Defender the opportunity to examine cases in administrative proceedings. In addition, in special reports,⁶ the Public Defender constantly emphasized the problematic nature of anti-discrimination law in that it did not cover certain forms of discrimination, such as harassment, sexual harassment, denial of reasonable accommodation, and segregation.

Improvement in anti-discrimination legislation

In 2019, significant changes were made to anti-discrimination legislation:

- The mandate of the Public Defender has been extended to private individuals, with similar legal regulation that applied to public institutions - physical and private law legal entities have been required to submit information to the Public Defender;⁷
- In case of non-compliance with the recommendation, the Public Defender has been given the opportunity to litigate against the legal entity under private law;⁸
- The deadline for filing a complaint in discrimination cases has increased from 3 months to 1 year;⁹
- Harassment and sexual harassment have been defined as forms of discrimination.¹⁰

⁵ The legislative proposal requested amendments to the following laws: Law of Georgia on the Elimination of All Forms of Discrimination, Law of Georgia on the Public Defender, Civil Procedure Code and Law of Georgia on Public Service

⁶ Special Report on the Situation of Equality and Combating and Preventing Discrimination, 2015, p. 42; Special Report on the Situation of Equality and Combating and Preventing Discrimination 2015, p. 35

⁷ Paragraph “b” of Article 18 and Article 24 of Organic Law on the Public Defender of Georgia

⁸ Article 14¹, paragraph “t1”, Organic Law on the Public Defender of Georgia

⁹ Article 363², part 2, Civil Procedure Code of Georgia

¹⁰ Paragraphs 3¹ and 3² of Article 2 of the Law on the Elimination of All Forms of Discrimination

In terms of improving legislation, the legislative amendments carried out in 2020 were also important, as a result of which the list of forms of discrimination was further expanded and the denial of reasonable accommodation was defined as a form of discrimination on the ground of disability.

Amendments to the Administrative Offences Code

- Along with the legislative regulation of the concept of sexual harassment, on May 3, 2019,¹¹ sexual harassment committed in public places was defined as an administrative offence (Article 166¹ of the Administrative Offences Code) and a new legal protection mechanism emerged for alleged victim of sexual harassment in public places, in the form of the Ministry of Internal Affairs of Georgia.

Amendments to labour legislation

As a result of the amendments made to the Labour Code of Georgia in 2020, the issues of prohibiting labour discrimination were separated in a special chapter and were regulated in detail.¹²

- With the new edition of the law, the employer has been ordered to pay equal wages to women and men for equal work;
- An incomplete list of issues related to labour and pre-contractual relations (selection criteria, employment conditions, access to qualification improvement, etc.), to which the principle of equal treatment applies, has been determined;
- The principles of the burden of proof and reasonable accommodation have been clearly defined and the employer has been obliged to respond to sexual harassment;
- The mandate of the Labour Inspectorate has been expanded and it has been authorized to investigate cases of discrimination in labour (subordinate) relations from January 1, 2021.

Changes in the direction of combating crimes motivated by intolerance

It is necessary to emphasize the legislative and institutional changes in terms of the fight against crimes motivated by intolerance:

- In 2017, Article 53¹ was added to the Criminal Code of Georgia, which allows for increased liability for crimes committed on the discriminatory motive, regardless of the grounds;
- In 2018, the Human Rights Department was established within the framework of the Ministry of Internal Affairs of Georgia, one of the functions of which is monitoring the investigation of hate crimes and domestic crimes. In 2022, the Human Rights Department was established in the Prosecutor General's Office as well;
- In 2020, a Memorandum of Cooperation was signed between the Ministry of Internal Affairs of Georgia, the Prosecutor General's Office, the Supreme Court and the National Statistics Office,

¹¹ Law No. 4552-II of May 3, 2019 on Amendments to the Administrative Offences Code of Georgia.

¹² Organic Law No. 7177-I of September 29, 2020 on Amendments to the Organic Law of Georgia - Labour Code of Georgia.

within the framework of which annual statistical data on crimes committed on the motive of intolerance shall be posted on the website of the National Statistics Office of Georgia **on March 1 of each year**. Until 2020, Georgia did not have a unified methodology for compiling statistics on discrimination cases committed with the motive of intolerance, and the Public Defender actively called on investigative agencies to create it every year.

Important decisions and successful practices of the Public Defender

Over the past 10 years, the cases of alleged discrimination examined by the Public Defender have been characterized by a diversity of areas of human rights violations and grounds protected from discrimination. During this period, the Public Defender's practice in the field of discrimination included submitting recommendations, general proposals, and amicus curiae briefs on various issues, which, ultimately, was aimed at establishing progressive legal standards focused on human rights.

Litigation in discrimination cases

- On December 2, 2015, the Public Defender of Georgia submitted an important amicus curiae brief¹³ on adjudication. Given that the explanations made by the court can play an important role in establishing uniform practice and combating discrimination, the Public Defender decided to submit an amicus curiae brief and contribute to the establishment of sound judicial practice.

The judge hearing a case questioned whether the Panel of Administrative Cases was authorized to review a case in the part of discriminatory treatment, given that Section 7³ added to the Civil Procedure Code - "Procedures in Cases Related to Discrimination" - represents a special regulation, applies to cases considered under civil procedure, and its use in administrative proceedings is incorrect. The Public Defender noted that the presence of a provision in the Civil Procedure Code that is not included in the administrative proceedings was not a determinant of adjudication and the judge of the Panel of Administrative Cases had the freedom to apply the articles of the Civil Procedure Code.

- It is noteworthy that the European Court of Human Rights, in its ruling of December 1, 2022, called on the Georgian Government to introduce rapid, transparent and accessible procedures for changing the gender marker in identity documents, which transgender people will be able to use without hindrance. The Public Defender has been indicating the need for such a regulation for years, about which, within the framework of the above-mentioned case, he also applied to the European Court through third-party intervention.

Implementation of the Public Defender's recommendation through judicial proceedings

- On September 19, 2016, the Public Defender of Georgia established discrimination on the ground of religion and addressed the Kobuleti municipality administration and Kobuleti Water LLC with a recommendation.¹⁴ The Muslim community was deprived of the opportunity to use a building in its

¹³ See website: <https://www.ombudsman.ge/res/docs/2019032916354655962.pdf>

¹⁴ See website: <https://bit.ly/4kpdFOn>

possession, in which it was planned to open a children's boarding school. In particular, due to the protests of the local population regarding the above issue, it was not possible to connect the building to the water supply system.

The Public Defender appealed to the respondents to immediately carry out the work of connecting the building to the water supply system, as well as to the Kobuleti municipality administration to raise local population's awareness of the local religious groups' right to equality, by holding meetings with them.

The respondents failed to comply with the Public Defender's recommendation, which is why the Public Defender used his authority to apply to the court **for the first time** in the mentioned case¹⁵ and requested implementation of the recommendation through the judicial proceedings. By Batumi City Court's decision of October 12, 2018, the Public Defender's lawsuit was fully granted.¹⁶

Cases of sexual harassment and sexism

- On March 17, 2017, the Public Defender of Georgia filed an amicus curiae brief¹⁷ with Tbilisi City Court regarding a case of sexual harassment of a female employee by an employer. The main difficulty in the case under consideration was the lack of legislative framework and a proper definition of sexual harassment in national legislation, which was reflected in legislation through legislative amendments in 2019. In addition, one of the main challenges was the lack of judicial practice. This case can be considered an important case for the development of judicial practice of sexual harassment in Georgia.
- On June 29, 2020, the Public Defender of Georgia established **sexual harassment by a doctor in all three forms** against a woman in quarantine.¹⁸ According to the factual circumstances of the case, the doctor, with whom the LEPL Social Service Agency had concluded a contract, committed unwanted sexual acts towards the applicant, which was carried out in various forms - verbal, non-verbal and physical, which created a humiliating and offensive environment for the applicant.

It should be positively assessed that after the Public Defender established the fact of sexual harassment, the Social Service Agency began working on a sexual harassment prevention policy document and defining and planning measures to inform employees and service providers about the inadmissibility of sexual harassment.

- On July 5, 2022, the Public Defender identified¹⁹ a specific form of sexual harassment - Quid Pro Quo – for the first time in his practice. The case study revealed that the company director actively wrote to the female employee about non-work-related issues, evaluated her appearance, and indirectly indicated that her career advancement depended on her behavior. The Public Defender considered

¹⁵ In accordance with subparagraph "g" of paragraph 2 of Article 6 of the Law of Georgia on the Elimination of All Forms of Discrimination, in order to exercise the powers granted by legislation of Georgia, the Public Defender of Georgia is authorized, as an interested person, to apply to the court in accordance with the Administrative Procedure Code of Georgia and request the issuance of an administrative-legal act or implementation of an action, if the administrative body has not responded to his recommendation or has not implemented his recommendation and there is sufficient evidence proving discrimination.

¹⁶ Special Report on the Situation of Equality and Combating and Preventing Discrimination, 2018. p. 35.

¹⁷ See website: <https://bit.ly/3FdXB1S>

¹⁸ See website: <https://bit.ly/43l0lEU>

¹⁹ See website: <https://bit.ly/41Jn3p3>

that the reference to behavior appropriate for career advancement constituted the composition of Quid Pro Quo. It is noteworthy that this form of sexual harassment is most often encountered when the perpetrator is in a superior position at work and can offer the victim a promotion or other benefits, such as bonuses.

- On January 22, 2024, the Public Defender established the case of sexual harassment expressed in physical behavior²⁰ and considered the respondent's assessments of the applicant's appearance, body and personal energy in the context of sexism. In addition, repeatedly indicating to the applicant that she has a male origin and criticizing her for the fact that her appearance does not correspond to the respondent's ideas about sexuality is gender-shaming and a manifestation of clear sexism.

Additionally, the Public Defender's work in combating sexism is worth highlighting. Sexism has been sharply assessed in various contexts in many cases. **In the context of sexism, the Public Defender reviewed a number of advertisements on social networks or television**, where gender stereotypes based on sex were reinforced.

- The Bank of Georgia advertisement²¹ – “**Husband-ATM**”, where a man is identified with an ATM, and a woman is presented as financially dependent on a man, was considered by the Public Defender as sexist in nature, which establishes a gender stereotype. The establishment of such stereotypes contributes to the deepening of a discriminatory approach towards one of the sexes, popularizing gender stereotypes that have been formed to the detriment of one of the sexes for centuries, facilitating their spread. Such advertising constitutes a means of promoting discrimination and justifies discriminatory practices.
- In another case, in a promo for a **Tabula** TV company²² programme, a naked woman's body was used as an object intended to display food – as a thing devoid of value, which devalues a woman's personality. The Public Defender explained that evaluating a woman based on her external, biological characteristics, objectifying her and "presenting her as a thing" constituted sexism, which could have devastating consequences for the rights of women in Georgia. Sexist advertising assigns a decorative role to a woman and, at the same time, sexualizes her by presenting her naked body.
- The packaging of the energy drink Bugha bears an illustration and inscription “**Not for Girls**”. In order to promote the drink, the aim of the campaign conducted on social media was to emphasize that **Bugha** is “**for real men**”. An advertisement was also available on social media, according to which the drink “**Cow**” was intended “**for call girls only**”.²³ The Public Defender considered that the packaging of Bugha was offensive to women and contributed to placing women in an unequal position, since the packaging of the drink and the campaign conducted by the company on social media emphasized the dominant role of men, while the sexist expressions and/or photos/illustrations contributed to the deepening of a discriminatory approach towards one of the sexes, constituted a means of facilitating discrimination and justified such a practice. It is noteworthy that after the submission of the Public

²⁰ See website: <https://bit.ly/4h7VFW7>

²¹ See website: <https://bit.ly/4ato8mJ>

²² See website: <https://www.ombudsman.ge/geo/akhali-ambebi/saqartvelos-saxalxo-damcveli-telekompania-tabulas-seqsisturi-shinaarsis-mqone-video-rgolis-internet-sivrcidan-moxsnisken-mouwodebs>

²³ See website: <https://www.ombudsman.ge/res/docs/2019040915292943098.pdf>

Defender's general proposal, the design of the Bugha product was changed.

Intersectional discrimination in the context of women's equality

- On May 18, 2016, the Public Defender established discrimination²⁴ in employment on the ground of pregnancy against the Credo company. The applicant's employment contract was terminated due to the expiration of the term, after which 8 people were appointed to the position of installment officer in the company, and only the applicant, who was pregnant, had her contract not extended. The Public Defender explained that the employee had the right to request an extension of the term if it was proven that the non-extension of the contract was due to discriminatory motives.

It is noteworthy that the respondent reinstated the applicant²⁵ in her job and signed a permanent employment contract with her for the position of installment officer, which she began to perform after the end of her maternity leave. In addition, the applicant was fully reimbursed for the expenses incurred for treatment and for the severance pay, and based on the order of the Credo director, the written warning issued to the applicant was canceled.

- On January 30, 2024, the Public Defender addressed Impexpharma LLC with a recommendation relating to the establishment of discrimination on multiple grounds (gender and marital status).²⁶ The applicant was the manager of one of the pharmacies in Poti, who took a leave for pregnancy, childbirth and childcare twice in a row with a short interval. After the end of the leave, the employer refused to allow her to return to her workplace, since, due to the long leave, another person had already been employed on her position.

The Public Defender explained that an employee had the right to return to the same job and the same working conditions after the end of the leave due to pregnancy and childbirth, childcare, and adoption of a newborn child, and also to benefit from any improved working conditions within the limits of what she would have been entitled to if she had not taken a leave. In addition, the transfer of a resident of Poti to Kutaisi for work significantly worsened the employee's situation, since she needed more than statutory 3 hours to get to the workplace.

It is noteworthy that Impexpharma LLC endorsed the recommendation of the Public Defender²⁷ and restored the employment relationship with the applicant from February 20, 2024, compensated the employee for the period from March 5, 2022 to February 20, 2024, and paid the applicant an additional 0.07 percent of the salary for each day of delay in payment till February 20, 2024.

- On December 21, 2020, the Public Defender issued a recommendation relating to the establishment of indirect discrimination on the ground of gender²⁸ and called for the employment of female experts in the Levan Samkharauli National Forensic Bureau and the Western Georgia Regional Forensic Department. The Public Defender's recommendation considered it problematic that, in a number

²⁴ See website: <https://www.ombudsman.ge/res/docs/2019040913572684708.pdf>

²⁵ See website: <https://www.ombudsman.ge/geo/akhali-ambebi/shps-kredom-orsulobis-nishnit-diskriminaciis-agmofxvriss-sheasaxeb-saxalxo-damcvelis-rekomendacia-sheasrula>

²⁶ See website: <https://www.ombudsman.ge/res/docs/2024020811200083901.pdf>

²⁷ See website: <https://www.ombudsman.ge/geo/190308042016siakhleebebi/shps-impeksfarmam-sakhalkho-damtsvelis-rekomendatsia-gaiziara>

²⁸ See website: <https://www.ombudsman.ge/res/docs/2020122312175323189.pdf>

of cases, women victims of sexual violence, despite the right granted by law, were examined by men due to the absence of female experts, which caused additional stress for the victims.

The Forensic Bureau informed the Public Defender's Office that a female expert had been working in the Western Georgia Regional Forensic Department since March 9, 2022 and in the Adjara Department - since January 3, 2022.²⁹

When talking about women's equality, the challenges facing female athletes are also worth noting.

- On March 15, 2023, the Public Defender of Georgia addressed the Presidents of the Georgian Football Federation and the Georgian National Volleyball Federation with a general proposal.³⁰ The case study revealed that due to the lack of funding for women's clubs, the income of women involved in sports is much lower than that of men. In addition, the issue of financing the treatment of injuries sustained during exercises/matches for female professionals is poorly regulated, which further aggravates the unequal situation of women involved in sports.

The Public Defender emphasized the general challenges related to women's sports, the importance of considering issues related to the health and labour rights of women involved in sports from the perspective of equality, and the relevant obligations of sports federations.

It is welcome that in 2023 the Georgian Football Federation endorsed the Public Defender's recommendation³¹ and as a result, it became possible to provide female football players with medical insurance, which is an important positive step in the process of achieving equality.

Rights situation of persons with disabilities

- On December 28, 2020, the Public Defender of Georgia termed the entry in Decree No. 279 of the Government of Georgia “On Determining the Social Package”, which prohibits, on the one hand, the possibility of simultaneously receiving a disability social package and, on the other hand, an old-age pension, and allows for the use of only one of them, as discriminatory.³²

The recommendation focuses on the goals of these two types of pensions. According to the Public Defender, the goal of the disability social package is to mobilize financial resources to respond to the barriers encountered in the environment and society, while one of the goals of the old-age pension is to provide older people with greater social guarantees due to increased health care costs.

Accordingly, the Public Defender addressed the Prime Minister of Georgia with a recommendation, saying that reaching the retirement age should not in all cases exclude the possibility of persons with disabilities to simultaneously receive a disability social package and an old-age pension; the existing social security rules should be amended in such a way that the issue of simultaneously receiving these two financial benefits from the State is resolved so that the individual needs of the

²⁹ See website: <https://www.ombudsman.ge/geo/220609023029tanastorobis-departamenti/skesis-nishnit-diskriminatsia>

³⁰ See website: <https://www.ombudsman.ge/res/docs/2023032214273694052.pdf>

³¹ See websites: <https://rb.gy/8xa2mo>

³² See website: <https://rb.gy/mrpib4>

relevant person is considered.

- On May 31, 2017, the Public Defender of Georgia addressed the Government of Georgia with a recommendation³³ relating to direct discrimination against persons with significant and moderate disabilities on the ground of the area of employment.

The case concerned the enjoyment of a social package that is not available to persons with significant (except for significant visual impairment) and moderate disabilities who perform public activities, while persons with the same disabilities employed in the private sector retain the opportunity to enjoy the social package.

In the recommendation, the Public Defender explained that persons with the same disabilities employed in the public and private sectors, have equal needs, therefore, their interest in receiving the social package is equal. Persons with significant (except for significant visual impairment) and moderate disabilities, who are in essentially equal conditions, are treated differently, on the basis of their field of employment.

- On August 1, 2020, the Public Defender of Georgia established indirect discrimination on the ground of disability,³⁴ since one of the school students was refused to participate in an educational, social summer school. Due to his disability, the minor would have difficulty being alone in a strange place, and according to the school administration, the summer school had not considered his need to be accompanied by his grandmother. The Public Defender examined the written positions presented by the parties and the circumstances expressed orally and determined that the arguments presented by the respondent did not prove that if the minor's needs had been met, the school would have been burdened with an excessive financial burden.

It is noteworthy that the denial of reasonable accommodation as a form of discrimination on the ground of disability had not yet been provided for in the Law of Georgia on the Elimination of All Forms of Discrimination, however, the Public Defender reviewed its elements based on international approaches.

- On November 17, 2020, the Public Defender of Georgia addressed the company Khareba Winery³⁵ with a recommendation relating to the establishment of direct discrimination on the ground of disability in pre-contractual relations, as the applicant was denied employment due to the fact that she had obstetric palsy in his left hand. The applicant provided the employer with information that due to her disability status, she was entitled to an income benefit. Upon receiving this information, the applicant was asked to leave the company.

The Public Defender concluded that the refusal of employment was based on the respondent's assumption that the applicant would not be able to perform the duties assigned to her. It is concerning that the respondent did not even assess whether the applicant's disability status would actually prevent her from performing the duties assigned to her. According to the Public Defender, the stigma and stereotypical attitude towards persons with disabilities in society unfortunately remain a problem. Accordingly, it is necessary to ensure respect for their rights and dignity, and to

³³ See website: <https://rb.gy/tlv04y>

³⁴ See website: <https://rb.gy/dxuej5>

³⁵ See website: <https://rb.gy/o1wtig>

combat existing stereotypes and prejudices.

It is welcome that Khareba Winery informed the Public Defender that it endorsed the recommendation and instructed the company's structural units to bring the company's internal documents into line with the principles of combating discrimination and equality, to better inform employees of them, and to monitor their implementation.

- The problem with accessibility to the physical environment and consideration of individual needs was identified in the penitentiary institution as well. In particular, a person using a wheelchair was unable to visit his son in prison, since the environment in the penitentiary institution was not provided for wheelchair users, and he was offered a humiliating and dangerous transportation in exchange for the opportunity to be accompanied by a personal assistant. The Public Defender filed an amicus curiae brief with Tbilisi City Court, focusing on national and international standards in terms of accessibility to prison institutions, the right to visitation and other related rights, and the obligation to provide reasonable accommodation.³⁶

Services as a right provided for by law

- On May 31, 2017, the Public Defender of Georgia addressed a taxi driver and the taxi company Maxim (LTD Technocom) with a recommendation³⁷ relating to the establishment of direct discrimination on the ground of gender identity, since a transgender woman was refused a taxi service. When deciding on the case under consideration, the Public Defender relied not only on the case materials and the results of the interview with the taxi driver, but also considered the fact that the LGBT+ community was one of the most vulnerable groups in Georgia and they very often faced obstacles in the process of receiving services.

The Public Defender also emphasized the issue of responsibility of Technocom LLC and noted that the taxi company must ensure that all people can equally benefit from the services offered by the company to the public.

- On February 1, 2018, the Public Defender of Georgia submitted an amicus curiae brief³⁸ to Tbilisi City Court in a case related to alleged discrimination on the ground of sexual orientation. The applicant was denied access to karaoke bars due to his sexual orientation.

In his amicus curiae brief, the Public Defender, based on a review of the EU directives on equality, focused on access to services as a right provided for in Georgian legislation. In addition, based on the standards established by the Constitutional Court of Georgia and international institutions, the Public Defender presented a test for detecting discrimination in the provision of goods and services, and also discussed the issue of the distribution of the burden of proof between the parties in cases related to discrimination.

³⁶ See website: <https://rb.gy/0d1ahg>

³⁷ See website: <https://ombudsman.ge/res/docs/2019040914155416007.pdf>

³⁸ See website: <https://ombudsman.ge/res/docs/2019032916142842251.pdf>

The Public Defender noted that when exercising the right to access to goods and services, it is important that a person's sexual orientation does not lead to bias, that service providers do not have a pre-existing homophobic attitude and do not base decisions relating to the use of services on discrimination on the ground of a person's sexual orientation.

Discriminatory vacancies

- On May 5, 2017, the Public Defender addressed the Ministry of IDPs, Labour, Health and Social Affairs of Georgia with a general proposal³⁹ to develop a manual along with recommendations on how to formulate job advertisements, what terms lead to discrimination, and how to tailor the advertisement to the job specifics without using discriminatory restrictions.

A high number of applications received by the Public Defender's Office regarding the existence of discriminatory restrictions in public job advertisements and a high number of cases identified on the initiative of the Public Defender have revealed that a significant number of job advertisements containing discriminatory content are posted on employment websites. Given the scale and importance of the issue, the Public Defender considered that the participation of state institutions in the process of eliminating the problem was important.

The Public Defender noted that, considering the essence of the job, the text and requirements of the vacancy were to be formulated in such a way as to be oriented towards the specific element of the job and not lead to the automatic exclusion of a group of persons on any grounds.

- It is noteworthy that, regarding the existence of discriminatory restrictions in publicly advertised vacancies, the Public Defender's Office had issued a general proposal⁴⁰ to the vacancy website (www.jobs.ge) and a recommendation to LLC Elit-Service.⁴¹
- Despite numerous responses by the Public Defender of Georgia to the vacancies containing discriminatory criteria, the posting of job advertisements containing discriminatory content on individual websites remains a problem, in response to which, on November 19, 2020, the Public Defender addressed 5 different private companies with a general proposal⁴² to refrain from specifying discriminatory criteria in the vacancy when publishing advertisements.

It should be noted positively that the Labour Inspection Service developed a guideline for private and public institutions on the prevention of discrimination when advertising vacancies⁴³, which

³⁹ See website: <https://ombudsman.ge/res/docs/2019040915415432143.pdf>

⁴⁰ See website: <https://ombudsman.ge/res/docs/2019040915393861407.pdf>

⁴¹ See website: <https://bit.ly/3xFDp5s>

⁴² See website: <https://bit.ly/4aBrjcd>

⁴³ See website: <https://bit.ly/3Q5nGTy>

⁴⁴ See website: <https://bit.ly/4azuVv6>

⁴⁵ See website: <https://bit.ly/3UIPfdW>

⁴⁶ See website: <https://bit.ly/3U0MWeM>

⁴⁷ See website: <https://bit.ly/3U3vZQN>

explains the main principles that the employer must consider at the pre-contractual stage in order to avoid any kind of discrimination.

Discrimination against individuals working through platforms

- The Public Defender has reviewed several applications of couriers working through various platforms (Bolt,⁴⁴ Glovo,⁴⁵ Wolt⁴⁶), where the main subject of assessment was whether there was an employment relationship between the company and the couriers or whether their legal relationship was regulated by a partnership agreement, as the respondent companies claimed.

It is noteworthy that on April 5, 2023, the Public Defender of Georgia met personally with the striking couriers of Wolt and discussed their labour rights and discrimination-related problems.⁴⁷

Based on the latest standards set by international institutions and various jurisdictions, the Public Defender established that individuals working through the platform were in an employment relationship with the company and, accordingly, had the right to benefit from the legal protection and guarantees provided for by labour legislation.

It is welcome that Glovo considered the Public Defender's recommendation and restored one of its couriers' access to the application.⁴⁸

Trade union membership

Several cases were simultaneously examined in the Public Defender's Office, which concerned violations of the rights of trade unions and their members by employers and alleged discrimination on the ground of trade union membership. The Public Defender reviewed the mentioned cases together, considering common characteristics and problematic trends in collective labour disputes.

The Public Defender had been proactively monitoring problematic trends in trade union activities and constantly noting that failure to address such issues created risks of creating/strengthening an environment in the workplace that might incite discriminatory treatment on the ground of trade union membership.

- On September 4, 2023, the Public Defender of Georgia addressed the Advisory Council under the Chief Labour Inspector of the LEPL Labour Inspection Service with a general proposal⁴⁹ to develop recommendations aimed at the proper protection of collective labour rights and the prevention of discrimination on the ground of trade union membership.

According to the minutes of the meeting of the Advisory Council under the Chief Labour Inspector of

⁴⁸ See website: <https://bit.ly/44a11ve>

⁴⁹ See website: <https://bit.ly/443Zcjl>

the LEPL Labour Inspection Service - on September 26, 2023, it became known that the members of the Council unanimously approved the initiative to create a joint recommendation document/guideline relating to discrimination on the ground of trade union membership and expressed their readiness to actively engage in the creation of the said document.

- On 10 November 2015⁵⁰ and 11 January 2016⁵¹, the Public Defender of Georgia submitted amicus curiae briefs to the Civil Cases Chamber of Tbilisi City Court on claims concerning alleged discrimination based on trade union membership.

In the amicus curiae briefs, the Public Defender reviewed the test for establishing alleged discrimination based on trade union membership, the rule for the distribution of the burden of proof in discrimination cases, as well as the case law of the European Court of Human Rights regarding the differential treatment based on the establishment and membership of a trade union.

Discrimination on the ground of political views

The Public Defender's practice has also shown an unfortunate trend in cases of discrimination based on political affiliation, which mostly occurs during the pre-election or post-election period. This was largely due to the 2021 local government elections, which once again highlighted the alarming trend of dismissals and other alleged violations of labour rights due to political affiliation during the pre-election period. It is noteworthy that the Public Defender has launched investigations into dozens of cases of alleged violations of labour rights on political grounds.⁵²

As a rule, such cases concerned violations of labour rights such as refusal to extend a contract on discriminatory grounds, early termination of a contract, requesting a person to submit an application for voluntary resignation, and dismissal. It is also noteworthy that most applicants point to discrimination by association, since the restriction of their rights is likely to have resulted from the political views or activities of a family member or a person associated with them.

Unfortunately, in a number of cases, the establishment of discrimination on political grounds is hampered by difficulties in obtaining evidence. Discriminatory motives are often revealed in oral communication, and respondents, of course, deny the request to quit, however, voluntary resignation is questionable in the case of a person employed for an indefinite period and/or in cases where only one employee was refused to get his contract extended, while the respondent confirms the continuation of the employment relationship with other persons.

Discrimination against older persons

- On July 9, 2021, the Public Defender of Georgia addressed the President of the National Bank of Georgia with a general proposal⁵³ regarding alleged discrimination on the ground of age. The case study made it clear that commercial banks operating in Georgia define age as a criterion for issuing a number of loan products (consumer loans, installment loans, mortgages), beyond which a person

⁵⁰ See website: <https://bit.ly/3Q5yOQ9>

⁵¹ See website: <https://tinyurl.com/3f2779da>

⁵² Public Defender's Special Report on the Situation of Equality and Combating and Preventing Discrimination 2021, p. 49. See website: <https://tinyurl.com/2a2jk6tc>

⁵³ See website: <https://tinyurl.com/2s3ev7jm>

is refused to enjoy the mentioned products. In addition, in some cases, age also becomes the basis for limiting the loan term.

The Public Defender, referring to the relevant standards, emphasized that the refusal to issue various types of loans due to risk insurance, as well as the application of more onerous additional conditions to them, puts older consumers at a different disadvantageous situation. To exclude this, the consumer's situation should be assessed individually and the decision made should not be based solely on age.

Accordingly, the Public Defender called on the President of the National Bank to issue guidelines to ensure that age does not constitute a basis for unequivocal refusal to provide services or limit the term of loan products in the process of providing banking services, and to call on commercial banks operating in Georgia to determine the terms of risk insurance, if necessary, in such a way as not to affect the amount of state pension actually received by older persons, which is equal to the subsistence minimum.

It is noteworthy that, according to the response of the National Bank of Georgia to the general proposal, the issue has been studied and processed, within the framework of which relevant correspondence has already been sent to the commercial banks operating in Georgia.

- Within the framework of improving the rights of older persons, the Public Defender examined the issue of social (so-called “pension”) loans and on December 27, 2021, addressed the Chairman of the Interagency Commission for Determining the Terms of Banking Services, the Minister of IDPs from the Occupied Territories of Georgia, Labour, Health and Social Affairs, the Acting Director of the LEPL Social Service Agency, and the President of the National Bank of Georgia with a general proposal.⁵⁴

As a result of studying the issue, it was revealed that JSC Liberty Bank does not properly consider the different socio-economic status of social loan users when determining the interest rate, which puts these individuals in an unjustified disadvantageous situation.

The Public Defender drew attention to the fact that the users of social loans are people in difficult economic situations, poor families, veterans, people with IDP status, persons with disabilities, pensioners and other recipients of state benefits, the main purpose of which is to create the necessary conditions for a decent life for a certain part of the population, to provide them with basic means for living. In addition, this part of the population has to repay the loan with state benefits. And, as a result of the established interest rate (30.69%), the amount to be repaid to the bank ultimately exceeds the original amount received as a loan by approximately 75%.

Discrimination on the grounds of sexual orientation and gender identity in a penitentiary institution

⁵⁴ See website: <https://tinyurl.com/mrym388y>

- On February 12, 2016, the Public Defender established⁵⁵ inhuman and degrading treatment against three prisoners held in Penitentiary Department No. 19, who were suffering from tuberculosis and were perceived by the institution as persons of a different sexual orientation and were housed in a separate building of the utility section, which posed a threat to their health. In particular, none of their cells had proper windows or daylight, the cells were unhygienic and dangerous to live in due to technical malfunctions. All three cells were unsanitary, cockroaches and other insects were observed during the on-site inspection, heating was not provided, and the bathroom was extremely untidy.

It is noteworthy that shortly after the Public Defender issued a recommendation, the prison administration carried out renovation works and improved the living conditions of the prisoners.

- On December 7, 2020, the Public Defender of Georgia found discrimination against a transgender prisoner by the Special Penitentiary Service.⁵⁶ The penitentiary refused to provide hormonal medication to a transgender person placed in a penitentiary institution, who needed the medication in the transition process. He was also denied the services of an endocrinologist. The Public Defender considered that the specific characteristics of the applicant were ignored by refusing medication and the services of an endocrinologist. In view of the above, the Public Defender called on the Director General of the Special Penitentiary Service to take appropriate measures to ensure the smooth and uninterrupted supply of hormonal medications to the applicant, both through the services of a specialized endocrinologist and through the provision of hormonal medications. It is noteworthy that since the Public Defender issued the recommendation, the applicant has been able to consult an endocrinologist and receive hormonal medications.

Crimes committed on the motive of intolerance

- In 2015-2017, the Public Defender, either after being applied to or on his own initiative, examined more than 50 facts regarding shortcomings in the investigation process of alleged hate crimes committed on the basis of religion, ethnic origin, sexual orientation or gender identity, and cases of alleged physical and verbal abuse by law enforcement officers motivated by hatred.

On August 15, 2018, in order to effectively combat hate crimes, the Public Defender addressed the Chief Prosecutor of Georgia and the Minister of Internal Affairs of Georgia with a general proposal⁵⁷ on retraining employees and producing unified statistics on hate crimes.

In the general proposal, the Public Defender reviewed the standard for investigation of alleged hate crimes. In addition, the Public Defender noted that the identification of alleged hate motives during the investigation of a crime was of essential importance not only for the administration of justice in a specific criminal case, but also for the prevention of similar crimes in the future.

⁵⁵ See website: <https://tinyurl.com/4ccmmhz9>

⁵⁶ See website: <https://tinyurl.com/44dw5rs3>

⁵⁷ See website: <https://tinyurl.com/n75nzun9>

- On October 4, 2019, the Public Defender of Georgia filed an amicus curiae brief⁵⁸ with the Tbilisi Court of Appeal in the criminal case of the murder of Vitaly Safarov. Since the case concerned an alleged hate motive, the Public Defender, as a mechanism for combating discrimination, submitted an amicus curiae brief, where he discussed the indicators of hate motive and the importance of identifying hate motives based on standards established by international institutions.

In order to establish a uniform practice, the Public Defender called on the Court of Appeal to assess whether there were indicators of hate motive established by international law. In particular, whether the significance of the ideology of the defendants and the symbolism used by them was correctly assessed, as well as whether the importance of the words spoken at the time of the crime was properly considered when determining the hate motive.

Activities related to the right to equality

One of the important directions of the Public Defender's activities is raising public awareness of equality issues, for which the Department has carried out a number of important activities over the years.

Educational activities

- During the reporting period, the Department conducted about **400 information meetings and trainings**, and **in total, 6,500 people** were informed of equality issues. The target audience included both public officials and representatives of private companies, trade unions and various vulnerable groups, students, teachers, schoolchildren, journalists, non-governmental organizations, and others.⁵⁹ Information meetings were especially actively held in the regions, for which the Department's representatives frequently visited municipalities and villages throughout the country every year;
- In recent years, **cooperation with the private sector has been particularly active**. Several private companies expressed a desire to invite representatives of the Public Defender's Equality Department to conduct training for their employees;
- For the past five years, the Public Defender's Office has been actively participating in the **Equality Week** organized by the Council of Europe, within the framework of which **12 information meetings** were held with representatives of local self-government bodies of Tbilisi and 9 regions of Georgia, as well as students, schoolchildren, teachers, and young people living in the regions.

Reports

- Since 2014, the Public Defender has been annually preparing **Special Reports on the Situation of Equality and Combating and Preventing Discrimination**. As of 2024, the Public Defender has

⁵⁸ See website: <https://www.ombudsman.ge/res/docs/2019100717365940559.pdf>

⁵⁹ Detailed information on the meetings, by year, is reflected in the Public Defender's Special Reports on the Situation of Equality and Combating and Preventing Discrimination. See website: <https://tinyurl.com/2zfdaezd>

prepared 9 special reports and provided the public with information on discriminatory practices identified annually;⁶⁰

- In 2021, the Public Defender prepared a special report - “**Compliance of Social and Health Care Programmes of Self-Governing Bodies with the Principle of Equality**”, which analyzes the compliance of municipal programmes with anti-discrimination legislation;⁶¹
- In 2021, the Public Defender developed another special report - “**Positive Obligations of Law Enforcement Officials to Protect the Equality of Vulnerable Groups**”.⁶² The report assesses the effectiveness of investigations into alleged intolerance-motivated crimes committed in 2015-2020, including against Jehovah’s Witnesses and members of the LGBT+ community. The report also reviews violations committed against the freedom of assembly and expression of the LGBT+ community in recent years;
- At the end of 2023, a special report - “**Sexual Harassment in Public Spaces**” was prepared. The report examines and analyzes the decisions made by common courts regarding sexual harassment in public spaces.⁶³
- On the issue of sexual harassment, the Public Defender also prepared a “**Practical Guide on Sexual Harassment**”, which brings together complex issues related to sexual harassment and aims to help representatives of various fields understand the specifics of sexual harassment.⁶⁴

E-courses and videos

Analysis of the applications processed by the Department revealed cases that required not only legal response from the Public Defender, but also closer communication with the public. For this purpose, several videos were prepared and distributed via television and the Internet:

- **Two videos** were prepared on the nature of discrimination and the mandate of the Public Defender. The videos explain on what grounds discrimination is prohibited and how alleged victims of discrimination can contact the Public Defender;⁶⁵
- In order to better understand the importance of equality, the Public Defender prepared **another video** on discrimination, which explains the essence of discrimination, using practical examples;⁶⁶
- **The fourth video** was dedicated to dissemination of information about sexual harassment, what legal mechanisms a victim of sexual harassment can use and what evidence needs to be presented;⁶⁷
- **The fifth video** was prepared by the Public Defender regarding gender stereotypes. The video

⁶⁰ See website: <https://tinyurl.com/2zfdae2d>

⁶¹ The document was prepared within the framework of the UN Women project “Good Governance for Gender Equality”, which is being implemented with the support of the Ministry of Foreign Affairs of Norway. See website: <https://tinyurl.com/nh8u9m44>

⁶² See website: <https://tinyurl.com/bdzcsk2f>

⁶³ See website: <https://ombudsman.ge/geo/190308041856angarishebi/kyleva-seksualuri-shevitsroeba-sajaro-sivrtsheshi>

⁶⁴ The practical guide was prepared within the framework of the UN Women project “A Joint Action for Women’s Economic Empowerment in Georgia”, with the support of the Ministry of Foreign Affairs of Norway. See website: <https://tinyurl.com/dnv64t9r>

⁶⁵ See website: <https://tinyurl.com/ykkjd7d3>; <https://tinyurl.com/7fju7xet>

⁶⁶ See website: <https://tinyurl.com/mpkeru2k>

⁶⁷ See <https://tinyurl.com/mtd7c5fx>

explains that dividing things by gender is discriminatory;⁶⁸

- **Another video** was prepared to raise public awareness of the peculiarities of the behavior of people with autism spectrum disorders. The video depicts a child with autism and his parent traveling by municipal transport.

In addition to the informational videos, the Public Defender also **prepared 2 educational courses**:

- In 2021, an electronic course was prepared on **“Prevention of Sexual Harassment”**. The course was created to raise awareness of sexual harassment in public spaces and in the workplace, and it brings together human rights legal standards that are used to prevent sexual harassment worldwide. This course is available on the official website of the Public Defender to any interested person.⁶⁹ As of April 30, 2024, 20,083 people have registered for it.
- The second e-course - **“Basic Issues of the Right to Equality”** - was developed in 2022. The course aims to provide information to persons elected to or employed in local self-government bodies about the basic issues of the right to equality and the prohibition of discrimination and the role of local authorities in ensuring equality, including assistance in identifying and preventing various forms of discrimination. This e-course is also available on the website of the Public Defender.⁷⁰ As of April 30, 2024, 1,025 people have registered for it.

Information campaigns

- In order to raise awareness on equality issues and combat discrimination, the Public Defender launched an information campaign - “Equality Around Us” in 2017. As part of the campaign, information banners were placed on the streets and subways, and a photo contest was also held.⁷¹ 23 people participated in the contest. The 19 best photos from the contest were printed for the event and exhibited at the awards ceremony. The themes of the photos corresponded to the idea of equality between women and men, including the challenges of women’s political participation, the problem of gender-based stereotypes, gender clichés and discrimination in society, the rights of representatives of minorities (ethnic, religious, sexual), and other ideas reflecting equality and inequality;
- In November 2023, the Public Defender launched **a three-month campaign to prevent and respond to sexual harassment in the workplace**,⁷² within the framework of which informational posters were placed in all carriages and on six platforms of the Tbilisi Metro. The main goal of the campaign is to raise public awareness of sexual harassment and protection of rights in the event of sexual harassment in the workplace.

⁶⁸ See website: <https://tinyurl.com/mwmazxan>

⁶⁹ The e-course was prepared with the joint efforts of the Public Defender of Georgia and UN Women. See website: <https://tinyurl.com/dca7au37>

⁷⁰ The e-course was prepared with the support of the Open Society Georgia Foundation. See website: <http://tanastoroba.ombudsman.ge/signin>

⁷¹ The campaign was carried out with the support of the EU project “Combating All Forms of Discrimination in Georgia”

⁷² The information campaign was prepared with the support of the USAID Rule of Law Program

The right to equality and related challenges

The inadequate realization of the right to equality is particularly relevant in Georgia, as for years the legal framework for ensuring equality contained many shortcomings and the existing norms were not applied in practice. That is why, in 2013, the EU Special Adviser on Human Rights in Georgia, Thomas Hammarberg, identified the realization of the right to equality as one of the main challenges for Georgia during the transition period.⁷³ In addition, the fundamental rights chapter of the Action Plan on Visa Liberalisation explicitly referred only to the adoption of a proper anti-discrimination law.⁷⁴

The urgency of the issue is emphasized by the fact that on May 2, 2014, the Parliament of Georgia adopted the Law of Georgia on the Elimination of All Forms of Discrimination,⁷⁵ officially citing the ineffectiveness of the existing anti-discrimination legislation, the impossibility to restore the violated right to equality for victims of discrimination and to receive appropriate reparations.

10 years have passed since the adoption of the Anti-Discrimination Law and the national human rights strategies, and it is noteworthy that complex and systemic analyses of the above-mentioned strategies, government human rights action plans, specific circumstances, interpretations and practices established by national courts and the Public Defender within the framework of the implementation of the law have been carried out on several occasions, which makes it possible to make an effective assessment of the anti-discrimination legal and institutional framework.

Despite the creation of legislative guarantees and the efforts of various stakeholders, Georgia faces many challenges in terms of realizing the right to equality. The existence of a unified vision of the State is crucial for making progress towards achieving equality. Therefore, instead of combating systemic practices of inequality, the agenda is mainly focused on eliminating individual cases of discrimination.

As in previous years, the human rights situation of LGBT+ people remains a challenge. Members of the LGBT+ community are still victims of violence, discrimination and harassment, and this is caused by homophobic attitudes, hate-motivated violent acts and other types of discriminatory attitudes existing in society. The exercise of freedom of assembly and expression by LGBT+ people and their supporters is becoming significantly more difficult from year to year. This is related to the violent interference of far-right groups in the realization of these rights, both in public spaces and within the framework of closed events, on private property,⁷⁶ and the passive response of the State, as evidenced, in particular, by the events surrounding the Tbilisi Pride festivals on July 5, 2021 and July 8, 2023.⁷⁷

⁷³ Assessment and recommendations by Thomas Hammarberg in his capacity as EU Special Adviser on Constitutional and Legal Reform and Human Rights in Georgia, Georgia in Transition, Report on the human rights dimension: background, steps taken and remaining challenges, 2013, 23

⁷⁴ EU-Georgia Visa Dialogue, Action Plan on Visa Liberalisation, § 2.4.3

⁷⁵ Law of Georgia on the Elimination of All Forms of Discrimination, Parliament of Georgia, 2014, May 2

⁷⁶ Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms in Georgia, 2023, pp. 184-185

⁷⁷ Ibid., p. 185

A significant challenge is the failure of investigative bodies to consider the hate motive when investigating crimes. There is no doubt that this would be the most effective deterrent against hate crimes committed on the grounds of religion, ethnicity, or sexual orientation.

Georgia ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) in December 2013, and it entered into force in April 2014. At the same time, in October 2014, the Public Defender's Office was designated by the State as the monitoring mechanism of the Convention in accordance with Article 33.2 of the Convention. In order to implement the function of an independent monitoring mechanism, in 2015, the Department of the Rights of Persons with Disabilities was established in the Office, and the Monitoring Group and Consultative Council for Monitoring the Promotion, Protection and Implementation of the Convention on the Rights of Persons with Disabilities were formed; and in 2020, the Parliament of Georgia adopted the Law on the Rights of Persons with Disabilities.⁷⁸

Despite a number of positive steps taken in recent years to harmonize domestic legislation with the Convention, the rights situation of persons with disabilities has not improved significantly in practice. Much work remains to be done to protect the rights of persons with disabilities. Of particular note is the quality and continuity of inclusive education for persons with disabilities. In addition, **no national accessibility plan has been approved to date, or standards for ensuring access to information, means of communication, websites, or mobile applications for persons with disabilities.** In addition, the substantive participation of persons with disabilities and their representative organizations in decision-making processes at various levels is problematic. Among the challenges remains the detection of cases of violence against persons with disabilities and effective response to them, as well as the implementation of the capacity reform in practice.

The proper protection of the rights of national minorities remains a significant challenge in Georgia. The reforms implemented in the education system fail to adequately address the problems faced by ethnic minorities, as a result of which non-Georgian-speaking schools/sectors continue to face a number of problems and challenges. The difficulty of practicing teachers to obtain the status of senior, leading and mentoring teachers within the framework of the Teacher Professional Development and Career Advancement Scheme is particularly acute. This issue is complex and is caused by a number of reasons.⁷⁹

Issues related to freedom of belief and religion remain a significant challenge to this day, such as: alleged hate crimes committed on religious grounds, issues related to issuing permits for the construction of buildings and structures for religious purposes, etc.

In the direction of women's equality, significant steps have been taken in recent years, both in terms of creating legislative guarantees and raising awareness, however, eliminating discrimination against women and achieving equality remains a serious challenge. Women continue to contact the Public Defender's Office about cases of sexual harassment. Sexism and use of explicitly derogatory language based on gender towards women involved in political and public life remain problematic. The abolition of gender quotas by the Parliament of Georgia on April 4, 2024, which was negatively assessed by the Public Defender, is clearly

⁷⁸ Law of Georgia on the Rights of Persons with Disabilities, Parliament of Georgia, July 14, 2020

⁷⁹ Report of the Public Defender on the Situation of Human Rights and Freedoms in Georgia, 2023, pp. 533-534

a step backwards.⁸⁰

Discrimination in labour relations remains a challenge. Cases of alleged discrimination belong to the category about which citizens most often contact the Public Defender's Office. The applicants mainly indicate a dissent, political views and trade union membership as grounds for discrimination.

Despite the efforts made by the Public Defender in many directions, homo/transphobic statements in various spheres of public life, the use of hate speech and the incitement to discrimination in the media remain problematic. Stigma and stereotyped attitudes towards women, persons with disabilities and members of the LGBT+ community are firmly entrenched in society. Accordingly, public expressions inciting discrimination on sexist, homo/transphobic or other grounds further reinforce negative attitudes towards vulnerable groups, which is the responsibility of every member of society to combat.

Challenges relating to the equality mechanism

As noted, during the ten-year cycle of the existence of the equality mechanism, significant legislative amendments have been made to anti-discrimination legislation. The legislative amendments concerned both procedural and substantive legal issues.

It is worth noting that the recommendation issued by the Public Defender is not legally binding, which means that its implementation depends on the will of the respondent. However, to counterbalance this, the Public Defender has a certain leverage to ensure implementation, by using the common courts, namely, he is authorized to apply to the court to request the implementation of his recommendation by a legal entity under private law or association of persons, like public agencies. However, it is not an effective procedural lever, since the court may disagree with the Public Defender's recommendation and it has the right not to order the respondent/the one who commits discrimination to implement the recommendation. The lack of willingness of public agencies and legal entities under private law to implement the recommendations and general proposals issued by the equality mechanism, as well as to take the necessary countermeasures to achieve equality, is also noteworthy.

Summary

It is noteworthy that the implemented legislative amendments clearly improve the legal guarantees for combating discrimination in Georgia. However, the systemic political, social and institutional challenges in the country make it difficult to achieve substantial or transformative equality in society.

Among them, the most important is the absence of a systemic policy that would be based on fundamental research into the needs and exclusion of social groups, as well as the shortcomings of existing policies. It is important for the Government to have a unified vision, within the framework of which the political will of

⁸⁰ Statement of the Public Defender regarding the proposed legislative amendments on the abolition of gender quotas, April 2, 2024

the State to contribute to the construction of an equal society will be clearly manifested.

Finally, it is no less important that the anti-discrimination law instructs the Public Defender to raise awareness of equality issues, which he has been systematically carrying out since the establishment of the equality mechanism; However, as the challenges facing society towards equality demonstrate, there is still significant work to be done by a wide range of responsible persons.