



Discrimination on the Basis of Sexual Orientation and Gender Identity in Georgia

SUMMARY OF KEY ISSUES FROM PREVIOUS CYCLES

Georgia received nine recommendations¹ in regards to LGBTQI rights, the majority of which were directed to eliminate social stigma and discrimination towards LGBTQI individuals. Even though eight recommendations out of these nine have been accepted, Georgia has not implemented them or implemented partially.

Corresponding recommendations, on special mechanisms to combat SOGIE based discrimination, has been issued by [Independent Expert](#) on protection against violence and discrimination based on sexual orientation and gender identity (IE), [ECRI](#), [Committee of Ministers](#), [Public Defender of Georgia](#), etc.

NATIONAL FRAMEWORK

In 2019, anti-discrimination law has been amended to strengthen the effectiveness of the Anti Discrimination Mechanism of Ombudsperson's. However, institutional and social stigma against LGBTQI people remains as a major problem, including institutional homophobia, as well as recurrent homo/transphobic hate crimes and widespread discrimination. Instrument enhanced to combat hate crimes (establishment of the Department within MIA to monitors investigation on hate crimes) lacks the preventive approach and is not in line with the recommendations proposed by ECRI, Independent Expert and the UPR recommendations.

The rights of trans people are not recognised in Georgia. Legal gender recognition (LGR), one of the most fundamental issues for to trans persons still remains unregulated. Additionally, the right to access qualified medical services, which is guaranteed by the Georgian legislature as well as by the ethical and medical standards, is also infringed in case of trans people: in spite availability of trans-specific services, there are no clinical guidelines or protocols that underwrites procedural rules in regard to trans persons.

CHALLENGES

Institutional homophobia, which results in homo/bi/transphobic hate crimes:

Intimate Partner Violence and Domestic Violence:

The right to freedom of peaceful assembly and expression:

IMPACTS

The victims of homo/bi/transphobic hate crimes usually refrain from reporting to law enforcement agencies because of the fear of forcible outing and re-victimisation that results in a gap between the official and NGO statistics (the latter exceeds multiple times to the former). Considering the non-existence of the unified statistical data on hate crimes, it is impossible to determine the exact number of the SOGI-based hate crimes.

The law doesn't consider an intimate partner as family member, hence, it does not prohibit intimate partner violence, especially among same-sex partners. This situation significantly impedes an access of same-sex couples and trans persons to the mechanisms of protection on VaW and DV. Additionally, official statistics in regards to domestic violence based on SOGIE has not been collected by the State.

Enjoyment to these rights of freedom of expression and peaceful assembly remains a challenge for LGBTQI group, always opposed through threats coming from third party, far-right forces. Despite the fact that those far right groups publicly incite the violence, there is no single case were criminal liability was imposed against the perpetrators or any attempt of the state to reduce the polarization.

CHALLENGES

IMPACTS

Rights of Trans Persons**a. Legal Gender Recognition:**

LGR remains unregulated in Georgia. As of existing practice, trans people have been forced to undergo unwanted, medically unjustified, expensive and life-threatening procedures in order to change gender marker in their official documents, while those preconditions are not underwritten by the law.

b. Trans access to healthcare:

The right to access qualified medical services is infringed in case of trans people: in spite availability of trans-specific services in Georgia, there are no clinical guidelines or protocols that underwrites procedural rules in regards to trans persons; hence, the State doesn't take responsibility for the quality control of those services that makes the patient impossible to dispute on the quality of undergone procedure and also questions the validity of informed consent. Herewith, while the trans-specific services are not covered under any state healthcare programs, services remain inaccessible for trans persons due to the price that the members of the community cannot often afford. Lack of awareness and the stigma attached to SOGI by health professionals is also alarming, noted by the IE in his report.

RECOMMENDATIONS

1. Organize permanent educational campaigns in order to ensure awareness rising on SOGIE issues. For that, integrate SOGIE issues to all programs working on policing, the criminal justice system and/or civil society.
2. Establish without delay hate crime investigation unit within the law enforcement system in order to strengthen the investigation/prosecution/prevention of hate crimes based on SOGIE, in line with the UPR, ECRI and IE's recommendations, before the next UPR review.
3. Redouble efforts to guarantee the adequate identification and processing of DV and IPV cases based on sexual orientation and gender identity, and the collection of the relevant statistics. Hence, revise legislation in a way to criminalize Intimate Partner violence between same-sex couples and advance accessibility of LGBTI persons to the mechanisms preventing domestic violence.
3. Together with civil society actors establish measures necessary to enable the safe and peaceful gatherings of LGBTQI activists and take preventive measures to deter violence, hatred and discriminatory attitudes and behaviour.
4. Amend the law to regulate the process of legal gender recognition in a way that it is based on self-determination of the trans person according to Yogyakarta principles, IE recommendation and SDG 10. Simplify the administrative process by exempting it from the abusive/invasive requirements and recognise non-binary identities, accessible for minors as well.
5. Adopt clinical guidelines and protocols on trans-specific medical procedures in line with international standards. Respectively, under the SDG goal #3, held the training for the healthcare providers in order to understand the needs of LGBTQI persons and respond effectively.

QUESTIONS

What measures has been taken by the government to fight homo/bi/transphobic hate speech (including, incitement of violence) and actual violence directed from hate groups in Georgia?

SOURCES

¹ Poland (rec. 117.12), Netherlands (rec. 117.33), France (rec. 117.44), Belgium (rec. 117.46), Argentina (rec. 117.47), Canada (rec. 117.48), Brazil (rec. 117.49), Uruguay (rec. 118.9), Sweden (rec. 118.10) (noted).

² Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity on Georgia, A/HRC/41/45/Add.1.

³ [WISG and ILGA-Europe submission for the 37th session of the UPR.](#)

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