

# **ECRI REPORT ON GEORGIA**

**(fifth monitoring cycle)**

Adopted on 8 December 2015

Published on 1 March 2016

COUNCIL OF EUROPE



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## FOREWORD

The European Commission against Racism and Intolerance (ECRI), established by the Council of Europe, is an independent human rights monitoring body specialised in questions relating to racism and intolerance. It is composed of independent and impartial members appointed on the basis of their moral authority and recognised expertise in dealing with racism, xenophobia, antisemitism and intolerance.

In the framework of its statutory activities, ECRI conducts country monitoring work, which analyses the situation in each of the member States regarding racism and intolerance and draws up suggestions and proposals for dealing with the problems identified.

ECRI's country-by-country monitoring deals with all member States of the Council of Europe on an equal footing. The work takes place in 5-year cycles, covering 9-10 countries per year. The reports of the first round were completed at the end of 1998, those of the second round at the end of 2002, those of the third round at the end of 2007, and those of the fourth round in the beginning of 2014. Work on the fifth round reports started in November 2012.

The working methods for the preparation of the reports involve documentary analyses, a visit to the country concerned, and then a confidential dialogue with the national authorities.

ECRI's reports are not the result of inquiries or testimonial evidence. They are analyses based on a great deal of information gathered from a wide variety of sources. Documentary studies are based on a large number of national and international written sources. The in situ visit provides the opportunity to meet with the parties directly concerned (both governmental and non-governmental) with a view to gathering detailed information. The process of confidential dialogue with the national authorities allows the latter to provide, if they consider it necessary, comments on the draft report, with a view to correcting any possible factual errors which the report might contain. At the end of the dialogue, the national authorities may request, if they so wish, that their viewpoints be appended to the final ECRI report.

The fifth round country-by-country reports focus on four topics common to all member States: (1) Legislative issues, (2) Hate speech, (3) Violence, (4) Integration policies and a number of topics specific to each one of them. The fourth-cycle interim recommendations not implemented or partially implemented during the fourth monitoring cycle will be followed up in this connection.

In the framework of the fifth cycle, priority implementation is requested again for two specific recommendations chosen from those made in the report. A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.

**The following report was drawn up by ECRI under its own responsibility. It covers the situation at 17 June 2015; developments since that date are neither covered in the following analysis nor taken into account in the conclusions and proposals therein.**



## SUMMARY

**Since the adoption of ECRI's third report on Georgia on 28 April 2010, progress has been made in a number of fields.**

In 2012, Article 53 (General Principles of Sentencing) of the Criminal Code of Georgia was amended to introduce racial, religious, national, ethnic, homophobic or transphobic intolerance as aggravating circumstances. This change implemented a recommendation made in ECRI's 2010 report.

In 2014, the Georgian Parliament enacted the Law on the Elimination of All Forms of Discrimination. The enumerated grounds of discrimination include race, colour, language, citizenship, origin, religion or belief, national, ethnic or social origin, sexual orientation and gender identity.

Also in 2014, the Parliament adopted the 2014-2020 National Human Rights Strategy. The strategic focus areas include freedom of religion and belief, as well as equal rights and protection of the rights of minorities. The accompanying Action Plan 2014-2015 contains, inter alia, provisions for the prevention and effective investigation of crimes motivated by religious hatred, including training of staff at the Ministry of Interior and the Main Prosecutor's Office to strengthen their ability to conduct hate crime investigations.

Furthermore, the Georgian authorities implemented the 2009-2014 National Concept for Tolerance and Civic Integration and its associated Action Plan. These inter-ministerial integration tools aimed at improving the situation of historical ethnic minorities in the country and focused on six strategic directions: rule of law, education and state language, media and access to information, political integration and civic participation, social and regional integration, and culture and preservation of identity.

**ECRI welcomes these positive developments in Georgia. However, despite the progress achieved, some issues give rise to concern.**

Hate speech against ethnic and religious minorities, as well as against LGBT persons, continues to be a widespread problem in Georgia. Physical attacks against these groups also occur with worrying frequency. The freedom of religion of Muslims and Jehovah's Witnesses was impeded as a result of violent local protests. There is also a general homo- and transphobic climate in Georgian society and LGBT groups were attacked repeatedly, in particular on the occasion of organising public events to mark the International Day against Homophobia and Transphobia.

The responses of the Georgian authorities to these incidents cannot be considered adequate. The authorities did not always sufficiently investigate and prosecute hate crime. The application of Article 53 of the Criminal Code of Georgia on aggravating circumstances is rare and there has not been a single case in which it was applied with regard to sexual orientation or gender identity.

In several cases of attacks motivated by religious intolerance, the authorities did not enforce the law to safeguard the rights of religious minorities. In some instances they promoted local mediation mechanisms instead, calling upon the dominant Georgian Orthodox Church to negotiate with the local Muslim community in the aftermath of islamophobic attacks. Similarly, the right of LGBT organisations to hold peaceful public events was not defended against violent protesters; instead the authorities focused merely on escorting LGBT persons and their supporters to safety.

In the area of integration, many of the activities carried out under the 2009-2014 National Concept for Tolerance and Civic Integration and its Action Plan were good first steps, but lacked sufficient scale to achieve the expected results. This was the case, for example, in the field of improving the quality of minority education, informing members of minorities about the availability of social services and reducing socio-economic exclusion.

Furthermore, the Inter-Agency Action Plan to implement the repatriation and integration strategy for Meshketians has still not been adopted.

There is also no integration strategy for refugees and persons who have been granted subsidiary protection.

The authorities have not taken adequate measures to deal with religious intolerance in the country. The newly created State Agency of Religious Issues has no clear mandate to safeguard the rights of religious minorities and its strategy for the development of a religious policy is ambiguous, at best, in this regard.

**In this report, ECRI requests that the Georgian authorities take action in a number of areas; in this context, it makes a series of recommendations including the following.**

Georgia should sign and ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

The Georgian authorities should closely monitor whether the police investigates potential racist and homo-/transphobic motivations. Such motivations should be considered from the outset of judicial proceedings.

The Georgian authorities should set up a specialised unit within the police to deal specifically with racist and homo-/transphobic hate crime. When establishing this unit, the authorities should seek expert advice from the Public Defender, relevant NGOs and international organisations.\*

The integration of historical ethnic minorities should be strengthened, inter alia by raising the levels of minority education and scaling up the outreach activities to convey information about social services. A comprehensive action plan for the implementation of the repatriation and integration strategy for Meshketians should be adopted and programmes to promote social inclusion and education, including for Roma children, should be expanded.

An integration support programme for refugees and persons who have been granted subsidiary protection should also be adopted and implemented.

The Georgian authorities should scale up their support for the Council of Religions, which operates under the auspices of the Public Defender's Tolerance Centre. They should in particular task the newly created State Agency for Religious Issues to cooperate with the Council of Religions and utilise the Council's expertise and recommendations in order to tackle the problem of religious intolerance.\*

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\* This recommendation will be subject to a process of interim follow-up by ECRI no later than two years after the publication of this report.

## FINDINGS AND RECOMMENDATIONS

### I. Common topics

#### 1. Legislation against racism and racial discrimination<sup>1</sup>

##### - Protocol No. 12 to the European Convention on Human Rights

1. Georgia ratified Protocol No. 12 to the European Convention on Human Rights (ECHR) on 15 June 2001 and it entered into force on 1 April 2005.

##### - Criminal law

2. The Criminal Code of Georgia (CCG) contains several provisions to protect human rights, including the right to equality. Article 142-1, which was added in 2003 to the already existing Article 142 which remained valid, criminalises Racial Discrimination "...Racial discrimination, i.e. an act committed with the purpose to stoke national or racial animosity or hatred or humiliation of national dignity, as well as direct or indirect restriction of human rights on the grounds of race, colour, national or ethnic belonging or giving advantage on the same grounds that substantially violates human rights, shall be punishable...".<sup>2</sup> However, no amendments were made since ECRI's last report which recommended introducing specific provisions prohibiting offences such as racist insults, the public dissemination or distribution with a racist aim of material containing racist statements, and the creation or the leadership of a group which promotes racism.
3. Language, religion and nationality are not listed as grounds in Article 142-1, but Article 142 prohibits "...violation of equality of human beings due to their language, sex, age, citizenship, origin, place of birth, place of residence, material or social status, religion or belief, social belonging, profession, marital status, health status, sexual orientation, gender identity expression, political or other opinion or any other ground that substantially violates human rights...". The prohibition in both articles, 142 and 142-1, is limited to acts that "substantially violate human rights". However, there is no case law to assess how this condition is interpreted.
4. Article 155 of the CCG criminalises obstructing the observation of religious rites. Article 407 criminalises acts of genocide, as recommended in ECRI's GPR No. 7, § 19. Article 408 criminalises crimes against humanity, including apartheid and persecution of an ethnic or religious group. The reference to apartheid can be interpreted as a general prohibition of racial segregation. However, the CCG does not contain a provision to criminalise the public denial, trivialisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes; as recommended in ECRI's GPR No. 7, § 18(e).
5. Articles 142-1 and 142 can be viewed as addressing the recommendations contained in ECRI's GPR No. 7, § 18 (d), (f) and (g) regarding the public expression, with a racist aim, of an ideology which claims racial superiority, the public dissemination of racist material and the creation and leadership of a racist group respectively; but this is not clearly specified. Concerning the recommendation in ECRI's GPR No. 7, § 18(h), it should be noted that Article 142-1 criminalises one form of racial discrimination: restricting human rights (i.e.

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<sup>1</sup> According to ECRI's General Policy Recommendation (GPR) No.7, "racism" shall mean the belief that a ground such as race, colour, language, religion, nationality or national or ethnic origin justifies contempt for a person or a group of persons, or the notion of superiority of a person or a group of persons. According to GPR No. 7 "racial discrimination" shall mean any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

<sup>2</sup> There is no case law on how to interpret the term "humiliation of national dignity".

a number of fundamental rights) on grounds of race, colour and national or ethnic origin. Article 142 which criminalises the “violation of equality” concerns a broader category of rights. However, it does not create a racism-specific offence. Both provisions concern the private and the public sector.

6. According to the CCG, not only the perpetrator shall be responsible, but also his/her accomplices. Articles 23, 24 and 25 include provisions for criminal liability for instigating, aiding and abetting the commission of offences. These articles also apply to Articles 142, 142-1 and 407. In 2012, Article 53 (General Principles of Sentencing) was amended to introduce racial, religious, national, or ethnic intolerance or any other discriminatory motivation, as aggravating circumstances. This change implemented a recommendation made in ECRI’s 2010 report. Criminal sanctions for the commission of offences defined by Articles 142 and 142-1 may be imposed on natural and legal persons.
7. ECRI recommends that the authorities bring Georgian criminal law, in general, into line with its General Policy Recommendation No. 7 as indicated in the preceding paragraphs; in particular they should explicitly criminalise (i) racist insults, (ii) public expression, with a racist aim, of an ideology which claims racial superiority, (iii) public denial, trivialisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes, (iv) public dissemination or distribution with a racist aim of material containing racist statements, (v) creation or the leadership of a group which promotes racism; and (vi) racial discrimination in the exercise of one’s public office or occupation.

- **Civil and administrative law provisions**

8. The Law on the Elimination of All Forms of Discrimination was adopted on 2 May 2014 and entered into force on 7 May 2014. The purpose of the Law is to eliminate discrimination on the grounds of race, colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics (Article 1). The law prohibits direct and indirect discrimination (Articles 2.2 and 2.3 respectively). Article 2.7 allows for special measures intended to promote increased levels of de facto equality, which shall not be considered as discrimination. This is in line with ECRI’s GPR No. 7, § 5. Furthermore, Article 2.5 prohibits “any action carried out for the purpose of forcing, encouraging, or supporting a person to discriminate against a third person”. However, acts of segregation, discrimination by association, and announced intention to discriminate are not mentioned, as recommended in ECRI’s GPR No. 7, § 6.
9. Article 3 stipulates that the Law shall apply to public organisations and to natural and legal persons in all spheres. This corresponds to ECRI’s GPR No. 7, § 7. According to Article 4, any institution, including public authorities, shall be obliged to: “(a) bring its activity, legal acts and internal regulations into conformity with the Law; (b) respond promptly and efficiently to any alleged act of discrimination; (c) if an act of discrimination is confirmed, impose liability on offenders under its control according to the legislation and internal regulations, and ensure that the consequences of discrimination are eliminated”. This addresses the recommendation in ECRI’s GPR No. 7, § 8. However, public institutions are not obliged to ensure that parties to whom they award contracts, loans, grants or other benefits respect and promote a policy of non-discrimination, as recommended in ECRI’s GPR No. 7, § 9.
10. The Law fulfils ECRI’s recommendation contained in GPR No. 7, § 11. Article 8(2) reverses the burden of proof.

11. Articles 8(3) and 10 of the Law provide for access to the Public Defender, who has the power to hear cases and can monitor the implementation of mutual agreements s/he has brokered between parties. In the absence of an agreement, a victim can claim compensation for moral and material damages for discrimination through the courts. The Public Defender can hear a case and reach a conclusion as to whether someone was the victim of discrimination or not.
12. The Public Defender can make a recommendation as to how to restore the violated equality, but the conclusions and recommendations of the Public Defender are not legally binding and cannot be enforced. In such cases, victims of discrimination still have to bring their case to the courts. These provisions address the recommendation in ECRI's GPR No. 7, §§ 10 and 12, except for the lack of a fast-track option.
13. The law does not mention the provision of free legal aid or an interpreter, if necessary, to plaintiffs wishing to bring their case to a court, as recommended in ECRI's GPR No. 7, § 26.
14. Article 6 of the Law mandates the Public Defender to propose legislative changes to ensure laws comply with the anti-discrimination law. Article 4 obliges public and private institutions to bring their activities, legal acts and internal regulations into conformity with the Law. This addresses the recommendation contained in ECRI's GPR No. 7, §§ 13 and 14. However, the recommendation in § 15, concerning a specific prohibition of harassment related to one of the enumerated grounds, is not included in the Law.
15. There is no specific legal provision in Georgian legislation to suppress the public financing of, or to ban or dissolve, racist parties or organisations, as recommended in ECRI's GPR No. 7, §§ 16 and 17.
16. Article 56.3 of the Law on Broadcasting prohibits the transmission of programmes that contain material that incites hatred, discrimination, or are offensive to a person or a group on the basis of, inter alia, ethnic background, religion, or sexual orientation. Programmes that are intended to illustrate and document problems of existing hatred or discrimination are exempt.
17. The Regulations on Service Provision and Customers' Rights Protection in the Sphere of Electronic Communications oblige Internet service providers (ISPs) to disconnect a user who disseminates hatred or incites particularly grave forms of violence. ISPs shall regularly check registered websites and, if necessary, inform website administrators to remove content, or otherwise block it. The national regulator, the Georgian National Communications Commission, can fine ISPs who do not shut down such sites.
18. ECRI recommends that the authorities bring their civil and administrative law, in general, into line with its General Policy Recommendation No. 7 as indicated in the preceding paragraphs; in particular they should amend the Law on the Elimination of All Forms of Discrimination to include: (i) a prohibition of acts of segregation, discrimination by association, and announced intention to discriminate; (ii) a duty for public institutions to ensure that parties to whom they award contracts, loans, grants or other benefits respect and promote a policy of non-discrimination; (iii) the right to free legal aid or a court lawyer and an interpreter, if necessary, for plaintiffs wishing to bring their case to a court; (iv) a fast-track option for bringing discrimination cases to the courts; and (v) a prohibition of harassment related to one of the enumerated grounds. ECRI also recommends enacting legislation to suppress the public financing of, or to ban or dissolve, racist parties or organisations.

## - **Independent authorities**

19. The Public Defender is an independent institution elected by Parliament and has all the powers recommended in ECRI's GPR No. 7, § 24.<sup>3</sup> S/he is authorised to examine complaints from natural and legal persons, as well as to investigate cases on his/her own initiative. The mandate covers the public and private spheres. The Public Defender has the right to receive all necessary evidence from public bodies, including the judiciary, but not from private persons or entities.
20. The Public Defender cannot impose sanctions, but can only make recommendations, following the examination of a case, to try to settle it by mutual agreement. The recommendation is not legally binding. If it is not accepted by the discriminating party, the Public Defender can bring a case to the relevant court and act as an interested third party. Other organisations, such as NGOs, can also apply to be a third party in a court case, with the consent of the claimant. The Public Defender cannot, however, initiate court cases without referring to a specific victim, contrary to ECRI's recommendation in GPR No. 7, § 25.
21. Following the adoption of the Law on the Elimination of All Forms of Discrimination, the Public Defender received additional funds. Whether this increase will be sufficient remains to be seen. ECRI notes, however, that the regional offices are understaffed. The Adjara office, for example, had only one permanent staff member at the time of ECRI's visit. Such staffing levels are not adequate, especially given the wide mandate of the Public Defender.
22. ECRI recommends (i) ensuring that private persons and organisations are under an obligation to provide necessary evidence to the Public Defender; (ii) granting the Public Defender the right to initiate court cases based on general interest without referring to a specific victim; and (iii) strengthening the capacity of the Public Defender's regional offices.

## 2. **Hate speech<sup>4</sup>**

### - **Data**

23. There is no official data concerning racist and homo-/transphobic hate speech. Several NGOs document examples of hate speech by journalists and politicians and while they are indicative, they are not exhaustive. In its last report, ECRI recommended that the authorities monitor manifestations of stereotypes, prejudices and misconceptions of minority groups. However, little has been done in this regard, except by the Public Defender.
24. ECRI recommends that the Georgian authorities establish an effective monitoring system for racist and homo-/transphobic hate speech. They should build on the expertise of the Public Defender and relevant NGOs.

### - **Political and other forms of public racist discourse**

25. Hate speech against ethnic and religious minorities continues to be a widespread problem in Georgia and these groups are still often viewed mainly through a security lens.<sup>5</sup> The results of a monitoring project of political discourse covering the period from February to May 2014 indicated that members from all main parties engaged in hate speech. There were nine incidents of hate speech

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<sup>3</sup> Law on the Public Defender of Georgia 1996, last modified by the 2014 Law on the Elimination of All Forms of Discrimination.

<sup>4</sup> This section covers racist and homo/transphobic speech. For a definition of "hate speech" see Recommendation No. R (97) 20 of the Committee of Ministers to the member States on "hate speech", adopted on 30.10.1997.

<sup>5</sup> Council of Europe, Commissioner for Human Rights 2014: 26-27; as well as Hammarberg 2013: 23; and Hammarberg 2014: 7.

against Turks, mainly referring to them as reasons for economic difficulties and an “occupying force”<sup>6</sup>, and six more cases of hate speech against ethnic minorities.<sup>7</sup>

26. Several high ranking politicians have made intolerant comments.<sup>8</sup> In a case of anti-Black racism and xenophobia, Tamaz Avdaliani (Georgian Dream), Deputy Chairman of the Parliament’s Legal Affairs Committee, stated in March 2014 that there should be different criteria for acquiring Georgian citizenship for Africans “given that we are developing, we don’t really need extra spongers.”<sup>9</sup> In October 2012, a video became public showing Davit Darakhvelidze (Georgian Dream), then nominated as Minister of IDPs from the Occupied Territories, Accommodation and Refugees, making racist remarks, saying “every negro you meet in Tbilisi is a citizen, Indian and Chinese as well”, and “Georgia must be for Georgians.”<sup>10</sup> He was subsequently appointed as minister, in spite of protests from civil society.
27. On 24 April 2012, during a discussion about commemorating the Armenian genocide, Azer Suleymanov, MP for the then-ruling United National Movement and whose constituency has a large Azeri population, made racist remarks about Armenians in a parliamentary debate.<sup>11</sup> In 2011, the former Minister for Conflict Resolution, Goga Khaindrava, in line with an article published in *Asaval-Dasavali*, a magazine well known for its inflammatory rhetoric, in which the government was portrayed as “Armenian lobbyists”, spoke with a negative attitude about the ethnic origin of leading MPs.<sup>12</sup>
28. In July 2010, the then President Mikheil Saakashvili, made a racist remark about Black people during a discussion with the Ministry of Finance: “Then are we Negroes or what? Explain to me why are we acting like savages?”<sup>13</sup> During a speech one year earlier, he had asked the rhetorical question: “Are we Papuans, why do we behave like this?”<sup>14</sup>
29. Xenophobic attitudes are also present in the media, the TV channel *Obiektivi* being an example. One of its presenters remarked in July 2014: “If anyone has one or two hectares, he will not sell it to a foreigner. He may sell it to the neighbour or a relative, but never to an African.”<sup>15</sup> The *Alia* newspaper, in an article on the same topic published one month earlier, wrote: “now tenfold of foreigners will swarm like locusts at Georgian lands and will start buying them...”<sup>16</sup>
30. Islamophobic hate speech is also growing. Fear of violent Islamists, related to real or perceived security threats emerging from the region (Syria, Iraq), is often voiced in the context of a local discourse on ethno-religious identity that sees

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<sup>6</sup> Media Development Foundation (MDF) 2014(a): 4.

<sup>7</sup> *Ibid.*: 4 and 17.

<sup>8</sup> There have been allegations that the Minister of Justice, Thea Tsulukiani, spoke with xenophobic connotations about citizens of China, Iran, Iraq, and Egypt. The Georgian authorities, however, state that her words have been incorrectly interpreted. The comments were made during an interview for the TV program *Qronika* (Imedi channel) on 18.02.2015. - For the allegations see: Member Organizations of the Civil Platform “No to Phobia!” 2015; and *Civil Georgia* 09.03.2015. – The view of the Georgian Ministry of Justice can be found at: <http://www.justice.gov.ge/News/Detail?newsId=4772>.

<sup>9</sup> *Alia* newspaper 12.03.2014, quoted in: MDF 2014(a): 17.

<sup>10</sup> *Civil Georgia* 19.10.2012.

<sup>11</sup> *Aravot* online 26.04.2012.

<sup>12</sup> *Internews Georgia* 2011: 15-16.

<sup>13</sup> *Civil Georgia* 28.07.2010.

<sup>14</sup> *Public Movement Multinational Georgia* 2009.

<sup>15</sup> *Bondo Mdzinarishvili*, in: *Obiektivi*, Night Studio 02.07.2014.

<sup>16</sup> *Zhana Asanidze*, in: *Alia* newspaper 26.06.2014, quoted in: MDF/GDI 2014(d): 3.

religious minorities as potentially disloyal to Georgia. Such mistrust is expressed, for example, when Adjara's Muslims are portrayed as Turkish agents. In January 2015, the weekly magazine *Kviris Chronika* wrote: "[the former President] gave Georgian passports to about 10,000 foreign Muslims, and turned Adjara, already facing the danger of Turkization, into a Turkish share. Today everyone knows that a certain part of these citizens fights under Islamic State in Syria ...".<sup>17</sup> *Obiektivi TV* has long pursued an anti-Turkish editorial policy, visible in its talk shows through comments made by presenters and the choice of guests.<sup>18</sup> It also led a campaign against a new mosque in Batumi. Irma Inashvili, founder of *Obiektivi* and leader of the Alliance of Patriots party, stated: "First and foremost, they realise that threat which the construction of a new mosque, or to be more precise, erecting a symbol of might of Turkey in the center of Batumi can cause."<sup>19</sup>

31. Hate speech also affects other religious minorities. After the government's decision to provide compensatory funding to Muslims, Armenian Apostolics, Catholics and Jews, an *Obiektivi* presenter commented: "Let us finance the Satanists too then".<sup>20</sup> On the occasion of an international festival organised by the Christian-Evangelical Church in Tbilisi in 2014, the *Alia* newspaper wrote: "This is a usual anti-Christian heretical gathering and no one should attend it!"<sup>21</sup>
32. During 2013-14, according to information obtained by MDF, *Obiektivi* received at least USD 25 000 and the newspapers *Alia* and *Kviris Chronika* together around USD 20 000, from government ministries and agencies as part of advertisement contracts and other agreements.<sup>22</sup>
33. ECRI recommends that the authorities review their contracts with media outlets and cancel or not renew them in cases where media are known to engage in racist or homo-/transphobic hate speech. The authorities should also ensure that future contracts contain a clause stipulating that racist or homo-/transphobic hate speech will result in contract termination.
34. Hate speech is also widespread on the Internet and goes largely unchecked and unpunished. In recent years, it has shifted increasingly away from content directly provided by site operators to the comments sections in which readers, assuming anonymity, leave hate messages.

#### - **Homo- / transphobic hate speech**

35. Hate speech against LGBT persons ranges from insults in daily life to hateful comments made by politicians, journalists or members of the Georgian Orthodox clergy. The situation worsened during the discussion about the inclusion of sexual orientation and gender identity into the anti-discrimination law.
36. MDF's monitoring project in 2014 registered the highest number of cases in the area of anti-LGBT hate speech, with 41 incidents during the three months' period. The most senior political figure engaging in such hate speech was then-minister Davit Darakhvelidze, who stated that "homosexuals are diseased people".<sup>23</sup> Shalva Natelashvili, Labour Party, portrayed homosexuality and transsexuality as a contagious disease.<sup>24</sup> Because of the inclusion of sexual

<sup>17</sup> Giorgi Jikiashvili, in: *Kviris Chronika* 19.-25.01.2015.

<sup>18</sup> MDF 2013: 27.

<sup>19</sup> Irma Inashvili, in: *Obiektivi, Night Studio* 15.04.2013, quoted in: MDF 2013: 30.

<sup>20</sup> Iliia Chachibaia, in: *Obiektivi, Night Studio* 24.02.2014.

<sup>21</sup> Zhana Asanidze, in: *Alia* newspaper 28.05.2014, quoted in: MDF/GDI 2014(c): 6.

<sup>22</sup> Information received from MDF.

<sup>23</sup> *Versia* newspaper 09.05.2014, quoted in: MDF 2014(a): 26.

<sup>24</sup> *Imedi Reaktsia* 30.05.2014, quoted in: MDF/GDI 2014(c): 11.

orientation, Asaval-Dasavali Magazine referred to the new anti-discrimination law as “the pederasts’ law”.<sup>25</sup>

37. Hate speech also occurred during protests against public LGBT events to mark the International Day against Homophobia and Transphobia (IDAHO), for example in May 2013 (see section I.3). The Patriarch of the Georgian Orthodox Church called the LGBT events “an insult to the Georgian nation” and homosexuality “a disease”.<sup>26</sup>
38. Online homo-/transphobic hate speech is increasing and does not only reproduce the above mentioned stereotypes, but often contains incitements to violence against LGBT persons (see section I.3).

- **Measures taken by the authorities**

39. Since ECRI’s last report no hate speech case has been prosecuted as no legal basis exists. Investigations, however, have been launched when a specific threat of violence was involved, thus not investigating hate speech per se. Recent discussions on new legislation focused on the fear voiced by civil society that limitations of the freedom of speech could be abused by governments to stifle legitimate criticism and democratic discourse.<sup>27</sup> On 12 June 2015, Article 239-1 was added to the Criminal Code of Georgia to establish criminal liability for incitement of violence against others with the aim of increasing tensions on religious, ethnic or other grounds. While ECRI welcomes the introduction of a law to criminalise certain aspects of hate speech, it notices that the new law only strengthens responses when hate speech clearly intends to cause an unlawful action, such as a specific threat of violence.

40. ECRI recommends enacting anti-hate speech legislation along the lines of its General Policy Recommendation No. 7 § 18 (a)-(f) and in conjunction with the recommendation contained in paragraph 7 above. At the same time, training should be provided to ensure the law is not used to stifle or suppress the expression of legitimate and non-violent views by vulnerable groups.

41. The media is regulated, in addition to the law on Broadcasting, by several self-regulatory mechanisms, which are foreseen by the Journalistic Code of Conduct. The 2006 Georgian Public Broadcasters’ Code of Conduct, for example, forbids hate speech. However, so far only three complaints were considered by the relevant board. Proactive monitoring was stopped in 2010 and replaced with a reactive approach. Private TV and radio operators also set up similar mechanisms, but these have largely been described by NGOs monitoring Georgian media as non-functional and/or ineffective. The Charter for Journalistic Ethics, part of the self-regulatory Media Council Ethics Commission, investigated 25 newspaper articles in 2014, six of them referring to racist or homo-/transphobic hate speech. While some newspapers reacted positively to their findings and recommendations, tabloid papers and magazines like Asaval-Dasavali were far less responsive or not responsive at all. The effectiveness of the self-regulatory mechanisms is also hampered by the fact that only affected persons can lodge a complaint, and not, for example, NGOs.

42. ECRI recommends that the Georgian authorities initiate an awareness-raising campaign jointly with media self-regulatory bodies, without encroaching on their independence, on preventing and combatting hate speech. The authorities should seek opportunities to support and strengthen positive approaches in the media industry to tackle this problem.

<sup>25</sup> Dito Chubinishvili, in: Asaval-Dasavali 26.05.–01.06.2014, quoted in: MDF/GDI 2014(c): 9.

<sup>26</sup> BBC News 17.05.2013; Der Spiegel 19.05.2013; and MDF/GDI 2014(b): 8.

<sup>27</sup> Joint statement of civil society and media organizations regarding bill on incitement of hatred 26.01.2015.

43. Online hate speech remains a serious challenge and internet service providers (ISPs) seem largely unwilling to fulfil their obligations under the relevant national regulation (see paragraph 17). Caucasus Online, the largest Georgian ISP with a near monopoly position, monitors websites periodically, but is not obliged under Georgian law to share its findings with the national regulator, the Georgian National Communications Commission. The regulator has so far shown little interest in combating online hate speech.<sup>28</sup> Georgia is not a signatory to the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
44. ECRI recommends that Georgia sign and ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
45. The mechanisms described in the preceding paragraphs have not made the necessary impact. The Public Defender has in many cases criticised those who engaged in hate speech, but without being able to elicit an apology or to prevent further occurrences. He also condemned the above mentioned remarks against Armenians made in Parliament and pointed to the special responsibility that MPs have.<sup>29</sup> The Parliament's Code of Ethics bans offensive language, but does not include effective measures to be taken in such cases.<sup>30</sup> ECRI was informed that the Parliament is currently considering revising its Rules of Procedure to introduce sanctions for hate speech.
46. ECRI recommends that a provision prohibiting racist and homo-/transphobic insults and providing for measures and/or sanctions to be taken in case of its breach be introduced in the Parliament's Rules of Procedure. ECRI further recommends that all political parties take a firm stand against racist and homo-/transphobic discourse.

### **3. Racist and homo- / transphobic violence**

#### **- Data**

47. Data on racist and homo-/transphobic violence is collected by the Ministry of the Interior and the Prosecutor's Office. The Supreme Court maintains a separate database for cases where Article 53 CCG on aggravating circumstances was applied. The Georgian authorities informed ECRI that they opened four hate crime investigations in 2011, nine in 2012, 16 in 2013 and 18 in 2014. The official data received by ODHIR indicated 19 cases of hate crime in 2011, with one prosecution, and 13 cases in 2012 with five prosecutions. There were no convictions during these years. However, this number is much lower than the number of actual incidents reported by NGOs.
48. ECRI recommends creating a joint database for all hate crime cases, including those in which aggravating circumstances were applied.

#### **- Attacks against religious minorities**

49. Since ECRI's last report, frequent attacks against religious minorities and violent interference with their freedom of religion continued to occur. Muslims and Jehovah's Witnesses were particularly affected. In October 2014, Muslims in Mokhe protested against the destruction of an old mosque, which the authorities wanted to turn into a library. In spite of assurances to resolve the dispute amicably, protesters were dispersed violently by the police, who

<sup>28</sup> According to the 2004 Law on the Freedom of Speech and Expression, content can only be regulated if it falls within specified categories, such as defamation, obscenity, incitement to commit an offence, or threat (Article 9.1).

<sup>29</sup> Aravot online 2012.

<sup>30</sup> Code of Ethics of the Members of the Georgian Parliament 2004, Article 4.

allegedly abused them physically and verbally during arrests.<sup>31</sup> In September 2014, the opening of a new boarding school facility for Muslim children in Kobuleti was prevented by violent protests from residents. They blocked the entrance and threatened employees and children. A pig's head was nailed to the school's door.<sup>32</sup> In April 2013, three military policemen threatened residents in a village near Kobuleti and stopped cars in the search for Muslims. They demanded to see if people wore a cross, as proof that they were Christians.<sup>33</sup>

50. In August 2013, the removal of a minaret in Chela resulted in violence between the police and local Muslims. The authorities alleged that it had been imported from Turkey in violation of customs rules. The village was sealed off by the police and the minaret removed.<sup>34</sup> Several local Muslims, protesting against the disproportionate action, were arrested. Three months later, the minaret was re-erected.<sup>35</sup> In Samtatskaro (2013), and in Nigvziani and Tsintskaro (2012), Orthodox residents attacked Muslim worshippers and clerics, and blocked places of worship. Some Georgian Orthodox clergy and municipal officials supported them.<sup>36</sup>
51. Jehovah's Witnesses recorded 25 cases of attacks against their members from January to August 2014. One person died of severe injuries. Fifty-three incidents of violence were reported in 2013.<sup>37</sup> The level ranged from slaps to beatings resulting in injuries. Incidents occurred in the streets or near the community's religious buildings. Sometimes crowds attacked Jehovah's Witnesses to stop their public outreach or hinder the construction of places of worship.<sup>38</sup> In June 2014, local residents and Georgian Orthodox clergy protested against the construction of a Kingdom Hall in Terjola. Jehovah's Witnesses were attacked, even after the building permit was withdrawn by the municipal council. Two persons attacked a house used by Jehovah's Witnesses for prayers and threw stones, assaulted the owner and threatened others.<sup>39</sup>
52. In July 2014, a group attacked an Armenian Apostolic priest in Tbilisi, beating him and tearing off his cross. The incident followed an argument over parking space near a church. Witnesses allegedly heard the attackers use anti-Armenian hate speech.<sup>40</sup> In December 2013, a public celebration of the Jewish Hanukkah holiday was violently disrupted by protesters, including Georgian Orthodox priests, who opposed the celebration of a non-Christian holiday in public.<sup>41</sup>

#### - **Homo-/transphobic violence**

53. The number of homo-/transphobic attacks in Georgia has grown in recent years. Incidents range from attacks against individuals in public places, or even in their

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<sup>31</sup> Human Rights Watch 2015; Amnesty International 2015: 160; Tolerance and Diversity Institute (TDI) 2014(c); and TDI 2014(b).

<sup>32</sup> The Public Defender of Georgia 19.10.2014; Civil Georgia 10.09.2014; and Popovaite 2014.

<sup>33</sup> Human Rights Watch 2014.

<sup>34</sup> Georgia and Turkey have a free-trade agreement and no import duty was due. The Revenue Service issued order 39828 of 20.08.2013 to dismantle and examine the minaret to establish the VAT value. However, the order did not explain, as required by law, why less intrusive methods were unavailable.

<sup>35</sup> Council of Europe, Commissioner for Human Rights 2014: 29-30; and Georgian Democracy Initiative (GDI) 2013: 20-23.

<sup>36</sup> Commissioner for Human Rights 2014: 29-30; Corley 2013; and Georgian Journal 02.11.2012.

<sup>37</sup> Jehovah's Witnesses 14.10.2014.

<sup>38</sup> Commissioner for Human Rights 2014: 29; and TDI 2014(a): 41.

<sup>39</sup> Human Rights Education and Monitoring Center (EMC) 26.06.2014.

<sup>40</sup> Radio Free Europe / Radio Liberty 21.07.2014.

<sup>41</sup> Commissioner for Human Rights 2014: 30. – The Georgian Orthodox Patriarchate distanced itself from such actions and emphasised its traditionally good relationship with the Jewish community.

homes, to violence in the context of LGBT events, and threats against NGOs. Victims often refrain from reporting cases due to a very homo-/transphobic climate in Georgian society, fear of one's sexual orientation or gender identity being revealed and resulting in reprisals, and lack of support, or even discriminatory attitudes, from the police.<sup>42</sup>

54. Threats have been made repeatedly against LGBT activists. In January 2015, Identoba and its staff were threatened via social media.<sup>43</sup> They had already received death threats in 2012 and 2013.<sup>44</sup> In February 2013, Women's Fund, the first NGO in Georgia openly to support LBT groups, was forced to move offices, due to neighbours threatening the employees.<sup>45</sup>
55. On 17 May 2013, a demonstration against IDAHO events turned violent and LGBT persons were attacked by a mob of protesters, including Georgian Orthodox priests, leaving several people wounded.<sup>46</sup> Already in 2012, IDAHO events were attacked by radical religious protesters, causing severe injuries to at least two people.<sup>47</sup>
56. In 2013, NGOs documented another seven attacks in 2013, as well as a murder with a possible homophobic motivation; and the Public Defender received more than 30 complaints about attacks against LGBT persons.<sup>48</sup> In 2012, NGOs reported another five cases of assault against LGBT persons, in addition to the IDAHO-related violence.<sup>49</sup>
57. There is a growing number of online blogs and fora inciting violence against LGBT persons. In June 2012, for example, members of an organisation dedicated to attacking LGBT persons posted a photo of a T-shirt with the slogan, "Kill Gays."<sup>50</sup>

#### - **Measures taken by the authorities**

58. In many cases of religiously motivated violence, the police and the prosecution service did not investigate the incidents fully or did not charge perpetrators. Most cases were not followed up, even if the assailants were known; or were treated as petty hooliganism and minor administrative offences.<sup>51</sup> If cases were investigated, the perpetrators were often merely obliged to sign a statement of non-repetition or pay a small fine. Victims were often not informed about the steps taken by the authorities or the results, if any.<sup>52</sup>
59. In so far as the Chela case (mentioned in § 50) is concerned, the focus of the investigation was on the behaviour of the protesters as opposed to allegations of police misconduct.<sup>53</sup> The violent events in Tsintskaro and Nigvziani included interference with religious rites, but the authorities did not intervene to guarantee the rights of the Muslim community and no investigations were launched. The authorities supported dialogue between religious groups, instead

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<sup>42</sup> Commissioner for Human Rights 2014: 21-22; Women's Initiatives Supporting Group (WISG) 2014: 2; and WISG / ILGA-Europe 2015(a): 2.

<sup>43</sup> Identoba 08.01.2015. See also: Public Defender 09.01.2015.

<sup>44</sup> Identoba 2013: 8.

<sup>45</sup> Mama Cash International Women's Fund 10.04.2013.

<sup>46</sup> ILGA 2014: 9.

<sup>47</sup> Interights (no date). See also: EMC et al. 2015: 4.

<sup>48</sup> Commissioner for Human Rights 2014: 22. See also: Identoba 2013: 7-11.

<sup>49</sup> OSCE, ODIHR 2012.

<sup>50</sup> Identoba, 2013: 12.

<sup>51</sup> See for example the attacks against Jehovah's Witnesses in Terjola (EMC 2014: 1 and 4).

<sup>52</sup> TDI 2014(a): 43-44.

<sup>53</sup> Based on information received by ECRI's Secretariat from the Georgian authorities. – Cf. GDI 2013: 20-23.

of applying the law.<sup>54</sup> Following the events in Mokhe, the Chief Prosecutor's office investigated accusations of abuse of force and unlawful arrests, but whether this amounted to an effective investigation of police conduct remains questionable.<sup>55</sup>

60. In Kobuleti, the police was present during the protests but remained passive. The authorities informed ECRI that the police was subsequently ordered to prevent any future conflict, but was not instructed to ensure that the boarding school could open. The prosecution service merely launched an investigation into threatening behaviour, not taking religious hatred into account.<sup>56</sup> The attack against an Armenian priest in Tbilisi was also investigated without considering the religious hate motivation.<sup>57</sup>
61. A very limited number of cases resulted in judicial proceedings. The case of the three military policemen, who had stopped cars near Kobuleti to search for Muslims, was an example of perpetrators being tried.<sup>58</sup> In December 2014, the Ministry of Internal Affairs issued a circular concerning more effective measures against hate crime. Police officers were tasked to record information on possible hate motivations when investigating alleged offences. ECRI welcomes this initiative, although it remains to be seen how it will be implemented.
62. ECRI recommends close monitoring of whether the police investigates potential racist and homo-/transphobic motivations. Furthermore, ECRI recommends that racist and homo-/transphobic motivations are considered from the outset of judicial proceedings.
63. Although lately some attacks and threats against LGBT persons were investigated by the police, for example the threats made against Identoba in January 2015, they had previously refused or shown reluctance to investigate in a number of cases. In a 2013 case of repeated assaults and death threats against a homosexual man, Identoba requested the Prosecution Office to investigate, but was told that "...the authorities cannot investigate all of the 'foolishness and buffoonery' that occurs on social networks."<sup>59</sup> Women's Fund immediately notified the police about the threats against it, but investigations only started in January 2014, after the Public Defender had repeatedly requested information from the police. The 2013 murder case with a potential homophobic background was investigated as a robbery, with no mention of any bias motivation.<sup>60</sup> There has not been a single case so far, in which Article 53 of the CCG on aggravating circumstances was applied with regard to homo-/transphobic motivations.
64. In April 2014, Parliament adopted the 2014-2020 National Human Rights Strategy. Among the strategic focus areas are freedom of expression, association and peaceful assembly (No. 10); freedom of religion and belief (No. 11); and equal rights and protection of the rights of minorities (No. 12).<sup>61</sup> The accompanying Action Plan 2014-2015 contains, for example, provisions for "prevention and effective investigation of crimes motivated by religious hatred / intolerance" (No. 12.2), including training of staff at the Ministry of Interior and

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<sup>54</sup> GDI 2013: 22-25.

<sup>55</sup> Human Rights Watch 2015: 255.

<sup>56</sup> Three persons were fined minor amounts for having nailed a pig's head onto the door of the Muslim school, which was considered an administrative offence.

<sup>57</sup> Radio Free Europe / Radio Liberty 21.07.2014.

<sup>58</sup> Two of the three perpetrators were apprehended, prosecuted for hooliganism and abuse of powers, and convicted. The third person escaped.

<sup>59</sup> Identoba 2013: 9.

<sup>60</sup> Identoba 2013: 8.

<sup>61</sup> Government of Georgia 2014(a): 16-17.

the Main Prosecutor's Office to strengthen their abilities to conduct hate crime investigations (No. 12.2.3), and the "defense of public religious worship, if necessary" (No. 12.2.4).<sup>62</sup> While no measures have been taken with regard to the last item<sup>63</sup>, a module on hate crime investigation was included in different Police Academy training courses, which were attended by 583 participants during the first eight months of 2014.<sup>64</sup> However, homo-/transphobic motivation is not listed among the course components and only features in a separate training on crowd control ("role of police during rallies conducted by sexual minorities"), which was attended by only 30 participants. It also remains unclear if this training focuses on the protection of the rights of LGBT groups to hold public rallies.

65. The authorities informed ECRI that 84 legal professionals, including judges and prosecutors, received training on non-discrimination legislation in 2014 and that every region of the country should have at least one prosecutor who has been trained on the application of Article 53 CCG on aggravating circumstances. However, the authorities acknowledged that this is not yet sufficient and are planning to organise a training-of-trainers programme for judiciary and law enforcement officials, in cooperation with the Council of Europe.
66. ECRI was also informed that plans to create special units within the police to deal with racist and homo-/transphobic violence were discussed in the past, but that no further steps were taken.
67. ECRI recommends that the training activities for the judiciary and law enforcement officials on investigating incidents of hate crime are scaled up. Furthermore, the trainings should cover homo-/transphobic hate crime. ECRI also recommends that the authorities conduct an impact assessment to evaluate the trainings and, if necessary, adjust them.
68. Moreover, ECRI recommends that the Georgian authorities set up a specialised unit within the police to deal specifically with racist and homo-/transphobic hate crime. When establishing this unit, the authorities should seek expert advice from the Public Defender, relevant NGOs and international organisations.
69. There was neither a campaign to raise awareness among the general public of the existence of criminal law provisions enabling hate crime to be punished, nor were any steps taken to encourage victims to lodge complaints concerning such acts, as recommended in ECRI's last report on Georgia. The Ministry of Education and Science informed ECRI that it had launched several anti-violence projects in schools. However, these were not specifically geared towards addressing hate crime and underlying prejudices, but focused on general crime prevention aspects.
70. ECRI recommends informing the general public of the existence of criminal law provisions enabling racially motivated acts or acts of religious intolerance or homo-/transphobic acts to be punished; and to encourage victims to lodge complaints concerning such acts. ECRI also recommends initiating awareness raising programmes in schools and universities to combat racist and homo-/transphobic hatred.
71. The failure of the authorities to react appropriately to violence against religious minorities and LGBT persons often led to the repetition of such acts. In spite of the state's positive obligation, repeatedly confirmed by the European Court of

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<sup>62</sup> Government of Georgia 2014(b): 38.

<sup>63</sup> This is also evident from the numerous statements made by the Public Defender on the various incidents. The Public Defender's assessments are listed as indicators to measure the implementation of this action point.

<sup>64</sup> Government of Georgia 2015: 51.

Human Rights<sup>65</sup>, the situation remains problematic in the absence of an effective deterrent. This leads to an atmosphere of intimidation and a growing number of attacks. Local authorities often played a negative role and in several cases sided with violent protesters.<sup>66</sup> Although the Prime Minister met with Muslim leaders after the Chela incident in order to calm tensions, the government informally delegated the issue to the Patriarchate<sup>67</sup> of the Georgian Orthodox Church. Negotiations to settle the dispute took place between the Patriarchate and the Muslim leadership.<sup>68</sup> The authorities neither attempted to establish whether Muslims' freedom of religion had been violated, nor did they investigate the officials who allegedly abused their powers and discriminated against Muslims in Chela.

72. Similarly, observers reported that during the events of 17 May 2013, the police strategy was focused on bringing the LGBT activists to safety, rather than defending their rally against attacks from counter-demonstrators.<sup>69</sup> Following the anti-LGBT violence in May 2013, the government announced its condemnation of such violent acts. However, the statements did not call for more tolerance and respect for LGBT persons. The Chairman of the Georgian Dream Parliamentary majority, Davit Saganelidze, even blamed the LGBT organisations themselves for the violence, portraying them as provocateurs.<sup>70</sup>
73. The response of the authorities to incidents of hate crime is inadequate. Hate motivations are too often not taken into consideration and mob attacks on religious minorities or LGBT persons are not triggering the necessary actions by law enforcement bodies to punish perpetrators and prevent future incidents. The state does not fulfil its obligation to protect the rights of religious minorities, but instead advocates for mediation procedures which on their own are insufficient to safeguard religious freedoms and prevent further occurrences of violence.
74. ECRI recommends that the islamophobic incidents, especially those in Chela, Kobuleti and Mokhe, as well as other hate crime cases are fully and independently investigated and that perpetrators are prosecuted. ECRI also recommends that in the future, the authorities protect the rights of religious and other minorities against violent protesters.

#### 4. Integration policies

75. The authorities had adopted the 2009-2014 National Concept for Tolerance and Civic Integration and an associated Action Plan. The inter-ministerial concept and plan were based on six strategic directions: rule of law, education and state language, media and access to information, political integration and civic participation, social and regional integration, and culture and preservation of identity. The Action Plan was largely implemented, in conjunction with positive legislative changes (see section I.1), as recommended by ECRI in 2010.<sup>71</sup>

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<sup>65</sup> See for example: *Begheluri and Others v. Georgia* (ECtHR no. 28490/02, judgment of 07.10.2014); and: *Gldani Congregation of Jehovah's Witnesses v. Georgia* (ECtHR no.71156/01, judgment of 03.05.2007).

<sup>66</sup> See for example EMC 2014: 2-4 on the Terjola case.

<sup>67</sup> The Catholicos-Patriarch of All Georgia ("the Patriarch") is the head of the Georgian Apostolic Autocephalous Orthodox Church ("Georgian Orthodox Church").

<sup>68</sup> TDI 2014(a): 47-49.

<sup>69</sup> *Transparency International Georgia et al.* 17.05.2013; also: *Roth* 17.05.2013. See also: European Court of Human Rights, judgment in the case of *Identoba and Others v. Georgia*, (application no. 73235/12), 12.05.2015.

<sup>70</sup> *Tabula Georgia* 17.05. 2013. - The Patriarch of the Georgian Orthodox Church also failed to condemn the violence by priests against LGBT persons, dismissing their actions as merely "impolite". (Antelava 23.05.2013.)

<sup>71</sup> § 102 of ECRI's 4<sup>th</sup> Report on Georgia.

76. Particular emphasis was placed on the teaching of Georgian as a second language, an area that ECRI had also identified as being in need of improvements in its last report.<sup>72</sup> The “Georgian Language for Future Success” programme started in 2011 with the aim of improving knowledge of the Georgian language among historical ethnic minorities. The authorities supported 300 teachers for one year to teach Georgian in minority regions.<sup>73</sup> ECRI was also informed that, as a follow up to one of its 2010 priority recommendations<sup>74</sup>, the Zurab Zhvania Public Administration School revised its policies in 2014 and reviewed the quality of training resources for teaching Georgian to minorities. As a result, a basic course of Georgian as a Second Language was delivered by the school in 2014 in eight regional training centres. However, neither activity was rolled out further, and while the programmes were positive steps, the scale remains insufficient.
77. Under the 2009-2014 Action Plan, several large scale infrastructural projects, such as road and railway construction, were implemented. They had the aim of reducing the geographical isolation of some of the regions densely populated by historical ethnic minorities, and creating jobs in order to stimulate the integration of these minorities into the labour market and thereby reduce their socio-economic marginalisation.
78. With regard to specific smaller minority groups, the authorities informed ECRI that 125 Meshketian returnee households benefitted from a social inclusion and educational support programme. A number of Roma children were also included in this activity, which involved parents and local communities in order to create a more tolerant environment.

- **Gap areas**

79. Two groups that have not been included in the National Concept for Tolerance and Civic Integration and its Action Plan are refugees and persons who have been granted subsidiary protection. ECRI was informed that the authorities are planning a Local Integration Programme for them. At the moment the social and economic support for these groups remains marginal. They receive a monthly allowance of approximately € 18 and have access to basic health care and education. They are also allowed to work, but exercising this right is difficult due to language barriers, except for persons with sufficient knowledge of Russian. Language courses are not offered, except for in some cases by the UNHCR. Refugee support programmes are mainly funded by international organisations, for example in the Pankisi valley. Such support is vital, but it is not a reliable solution for long term integration.
80. Similarly, the support for Meshketians was not part of a comprehensive repatriation and integration strategy for Meshketians, as recommended by ECRI in 2010.<sup>75</sup> The strategy was only finalised in 2014 and the adoption of the corresponding action plan for its implementation is still pending. Many Meshketians who returned to Georgia face integration problems. Awareness about the historical reasons for their repatriation rights remains low among local communities, sometimes leading to resentments and social exclusion. Large scale information campaigns about the Meshketian repatriation, as recommended in ECRI’s 2010 priority recommendations,<sup>76</sup> were not conducted

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<sup>72</sup> § 35 of ECRI’s 4<sup>th</sup> Report on Georgia.

<sup>73</sup> Website of the Ministry for Education and Science in Georgia.

<sup>74</sup> § 78 of ECRI’s 4<sup>th</sup> Report on Georgia. With regard to the second part of this recommendation (assisting graduates to find adequate employment), it should be noted that the school is now only teaching persons already employed in the civil service.

<sup>75</sup> § 67 of ECRI’s 4<sup>th</sup> Report on Georgia.

<sup>76</sup> Ibid.

by the authorities. Integration activities, including Georgian language training where necessary, remain scarce.

81. Having adequate information about the social and economic inclusion of different minority groups is important in order to identify problems, design solutions and monitor trends. This is especially vital when it comes to understanding the situation of smaller minority groups. In 2010, ECRI recommended establishing a system for collecting equality data in order to assess the level of integration of minority groups in various fields, including education and employment in the public sector.<sup>77</sup> The new anti-discrimination law (Article 2.7) explicitly allows for special measures to promote de facto equality. However, no such system has been established so far.

## - Results

82. Historical ethnic minorities in Georgia<sup>78</sup> continue to experience problems in the fields of education. The quality of textbooks translated from Georgian into minority languages is often poor. Around 70% of texts have been translated, while 30% are only available in Georgian and are mostly ignored by teachers in minority schools. The quality of teaching Georgian as a second language to minority children also remains problematic. These factors lead to a lower educational standard for minority children.<sup>79</sup> All this causes obstacles for them in higher education and employment. The importance of addressing these issues has already been pointed out by ECRI in its 2010 report.<sup>80</sup>
83. The infrastructure projects referred to in paragraph 77, which aimed at reducing socio-economic marginalisation of historical ethnic minorities and were implemented under the 2009-2014 Action Plan, did not include sufficient skill-building activities, such as vocational training programmes. The projects did not therefore manage substantially to reduce the levels of socio-economic exclusion.<sup>81</sup>
84. In spite of the existing integration policies contained in the 2009-2014 National Concept for Tolerance and Civic Integration and the Action Plan, marginalisation also persists with regard to social services in minority regions. While some improvements have been made, for example in the field of social security and in particular the health care sector, the availability of information in minority languages remains low and people are not always aware of services even when they exist.<sup>82</sup> The Ministry of Health, Labour and Social Affairs held a series of information meetings specifically targeting historical ethnic minorities, but the scale of this outreach work remained limited.<sup>83</sup>
85. In many geographically isolated minority areas, Georgian radio and television are unavailable and people rely on Azeri, Armenian or Russian language media. This results in insufficient awareness of current events in Georgia in such areas, which in turn contributes to low levels of political participation of minority

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<sup>77</sup> Such data collection should be i) carried out in accordance with the principles of confidentiality, informed consent and individuals' voluntary self-identification as members of a particular group; and ii) organised in close co-operation with all those concerned, including civil society organisations. See § 105 of ECRI's 4<sup>th</sup> Report on Georgia.

<sup>78</sup> With regard to the integration of historical ethnic minorities, ECRI would also like to draw the authorities' attention to the opinion of the Advisory Committee of the Framework Convention for the Protection of National Minorities, which conducted its last monitoring visit to Georgia at the same time as ECRI.

<sup>79</sup> State Ministry for Reconciliation and Civic Equality 2014: 181.

<sup>80</sup> §§ 35 and 37 of ECRI's 4<sup>th</sup> Report on Georgia.

<sup>81</sup> State Ministry for Reconciliation and Civic Equality 2014: 188.

<sup>82</sup> Ibid.

<sup>83</sup> State Ministry for Reconciliation and Civic Equality, 2014: 124.

members.<sup>84</sup> Although the authorities took some technical measures to increase the coverage of the Public Broadcaster, the problem was not fully resolved. This is likely to change only with the switch to digital broadcasting which is foreseen for the near future.<sup>85</sup> Making Georgian public broadcasting more widely available, however, would not be sufficient to address the problem, as minority language programmes are limited and not always of the expected quality.<sup>86</sup> The 2009-2014 Action Plan included an increase of minority language programmes, but their ratings and attractiveness remained low. The programme “Our Yard”, designed to cover minority issues, has been criticised by minority members for portraying historical ethnic minorities as isolated groups, rather than emphasising their integration, and at times even reproducing stereotypes.<sup>87</sup>

86. The Roma community is also still socially marginalised, especially in the areas of education and employment. Participation of Roma in social programmes and public affairs is minimal and only a minority of Roma children attends school regularly.<sup>88</sup> These problems persist in spite of ECRI’s previous recommendation to pay special attention to them.<sup>89</sup> The authorities informed ECRI that a number of Roma children were included in the social inclusion and educational support programme mentioned in paragraph 78 above. Out of 158 children who benefitted from the services of social centres involved, 18 were Roma children. This situation is symptomatic of a wider problem, namely that the implementation of the 2009-2014 Tolerance and Civic Integration Action Plan focused mainly on larger minorities, at the expense of smaller ones like Roma.<sup>90</sup>

#### - **New Policies**

87. Following the expiry of the National Concept on Tolerance and Civic Integration 2009-2014 and its Action Plan, the authorities are in the process of drafting and adopting a new Civic Equality and Integration Strategy 2015-2020. In April 2015, the First Deputy State Minister of Georgia for Reconciliation and Civic Equality, Ketevan Tsikhelashvili, stated that the strategy should aim at achieving integration based on civic equality, involve the representatives of ethnic minorities in all spheres of life, including political activities; and also ensure the appropriate development of state language awareness and information accessibility.<sup>91</sup> ECRI trusts that the authorities will take into consideration the evaluation of the last strategy, address the existing gaps, fully consult with all relevant stakeholders and monitor the implementation of the new strategy on a permanent basis.
88. ECRI would also like to encourage the Georgian authorities swiftly to adopt the outstanding action plan for the repatriation and integration of Meshketians and the integration strategy for refugees and persons who have been granted subsidiary protection.
89. ECRI recommends strengthening the integration of historical ethnic minorities by 1.) Raising the levels of minority education, in particular through i) improving textbooks; ii) scaling up the teaching of Georgian as a second language; and iii) expanding vocational training programmes; 2.) Scaling up outreach activities to convey information about social services to minorities; 3.) Increasing the quantity and improving the quality of Public Broadcasting

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<sup>84</sup> Ibid.: 186.

<sup>85</sup> Ibid.: 95.

<sup>86</sup> Ibid.: 183-184.

<sup>87</sup> Ibid.: 96.

<sup>88</sup> Ibid.: 115.

<sup>89</sup> §§ 60 and 61 of ECRI’s 4<sup>th</sup> Report on Georgia.

<sup>90</sup> State Ministry for Reconciliation and Civic Equality 2014: 180.

<sup>91</sup> Website of the Office of the State Ministry of Georgia for Reconciliation and Civic Equality 24.04.2015.

minority language programmes; 4.) Adopting a comprehensive action plan for the repatriation and integration strategy for Meshketians without delay and conducting large scale awareness-raising activities to create a supportive environment for Meshketian returnees; and 5.) Expanding the programmes for social inclusion and educational support, with a special emphasis on increasing the school attendance of Roma children.

90. ECRI also recommends setting up a comprehensive integration support programme for refugees and persons who have been granted subsidiary protection, and in particular introducing regular Georgian language classes for these groups.
91. Furthermore, ECRI recommends establishing an equality data collection system to monitor the integration of minorities, in line with the recommendation made in paragraph 105 of its 2010 report on Georgia.

## **II. Topics specific to Georgia**

### **1. Interim follow-up recommendations of the fourth round**

92. The follow-up to ECRI's fourth round priority recommendations is discussed in section I.4 above, in paragraphs 76, 80, and 82.

### **2. Other**

#### **2.1 Religious intolerance and discrimination**

93. Religious intolerance and rising tensions are a serious problem, as shown by the above examples of hate speech and violence. Although the Constitution provides for freedom of religion, the general situation is characterised by a close relationship between national and Georgian Orthodox identity. Such an ethno-religious identity nexus portrays adherence to the Georgian Orthodox faith, to which more than 80% of the population is affiliated, as essential for being Georgian. Minority religions are often viewed as alien and potentially dangerous to the cohesion and survival of Georgian society, especially when they are associated with ethnic groups that have ties to neighbouring countries. Sunni Muslims in the Adjara region are seen as affiliated with Turkey, Shiite Muslims with Azerbaijan, and Armenian Apostolic Christians with Armenia.<sup>92</sup> These assumed ties fuel the radical nationalistic idea that minorities are likely to be disloyal to the Georgian state. New Christian groups, such as Jehovah's Witnesses, are often seen as an outside influence capable of undermining the dominance of the Georgian Orthodox Church and its close ties with the nation.
94. The near monopoly of one Christian church has not facilitated the creation of a constructive pluralistic religious tradition in the past. This is also visible in the ongoing problem concerning the return of religious buildings, many of which are currently used by the Georgia Orthodox Church, to previous owners. The Armenian Apostolic Church demands the return of six churches. The Armenian Apostolic Church has the status of a legal entity under public law (LEPL) and it appears that this is deemed insufficient by the authorities to consider the Church as a legal successor in ownership of these buildings.<sup>93</sup> The Catholic Church informed ECRI that five of its churches have still not been returned and continue to be used by the Georgian Orthodox Church. In Batumi, a plaque

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<sup>92</sup> There does not seem to be a strong resentment against Russian Orthodox Christians, which is probably due to the religious proximity of the Russian and the Georgian Orthodox Churches.

<sup>93</sup> Since 2011, religious organisations (other than the Georgian Orthodox Church) have the option to register as a legal entity under public law (LEPL). LEPLs, however, are not allowed to purchase state property, while the Georgian Orthodox Church, by virtue of its concordat with the state, was granted ownership of its churches and monasteries. - See also: State Ministry for Reconciliation and Civic Equality 2014: 16.

explaining the history of a previously Catholic church, which is now used by the Georgian Orthodox Church, was recently removed.

95. Religious minorities also experience problems when it comes to building new places of worship. The construction permit for a new Catholic church in Rustavi has been pending for over two years, in spite of a court judgment instructing the municipal administration to issue the permit. For many years, the Muslim community in Batumi remained unable to secure permission for a second mosque. Several hundred Muslims are regularly unable to fit into the existing mosque for Friday prayers and have to pray in the open in adjacent streets. Eventually the municipality agreed to the construction of a new mosque, but under the condition that it will be built at a considerable distance from the city centre. Jehovah's Witnesses also often face problems when attempting to construct Kingdom Halls, as seen in the case of Terjola (see paragraph 51 above).
96. ECRI recommends solving the remaining disputes about religious property in a speedy, transparent and fair manner. ECRI also recommends that permits for the construction of places of worship are not withheld due to religious prejudices or local protests, but that applications are processed in accordance with applicable laws.
97. In 2014, the Georgian authorities set up a new State Agency for Religious Issues.<sup>94</sup> However, religious minorities or the Public Defender were not consulted during this process. The mandate of the Agency is not entirely clear yet and neither is its procedure for developing recommendations, which is one of its functions. It is also unknown how the agency will cooperate with the Council of Religions, which has been operating under the Public Defender since 2005, or how it will involve religious minorities in its work. Representatives of different religious communities expressed their disappointment that the agency has not attempted to meet with them. So far the agency worked mainly on three issues: financial allocations to religious groups; setting up of local conciliation mechanisms following islamophobic attacks; and developing a new strategy for a state policy on religion.
98. The agency decided on funding for four religious groups as partial compensation for injustices and damages suffered during the Soviet era.<sup>95</sup> The Muslim community received GEL 1 100 000, the Armenian Apostolic Church GEL 300 000, the Catholic Church GEL 200 000 and the Jewish community GEL 100 000.<sup>96</sup> However, these groups complained that there was insufficient dialogue with them prior to the decision and a lack of transparency about the criteria.
99. Doubts about the agency's work increased further with the publication of its Religious Policy Development Strategy in early 2015. It states that the Georgian State needs to "avoid interference of the neighbour states in the internal politics of Georgia by using Georgian population's ethnic-religious diversity. In Georgia ... [t]he scope of the problem was only limited on protection of religious minorities rights, while, at the same time, it should cover internal and foreign security discourses of the state."<sup>97</sup> Many observers note that viewing religious freedom and the rights of religious minorities through a security perspective is detrimental to the protection of rights and the prevention of discrimination and intolerance. It also carries a risk of becoming a self-fulfilling prophecy, as it can

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<sup>94</sup> Government of Georgia 2014(c), Resolution N 177, 19.02.2014.

<sup>95</sup> Georgia does not accept liability for damages caused by the Soviet Union. Payments are not intended to be reparations in a legal sense, but a political and symbolic gesture to compensate for historical injustices.

<sup>96</sup> The Georgian Orthodox Church is currently funded by the state budget annually with some GEL 25 000 000.

<sup>97</sup> The State Agency of Religious Issues 2015: 4.

result in the marginalisation of minorities, eroding their trust in, and identification with, the state.

100. The fourth guiding principle of the strategy states that “Protection of the rights of religious minorities is implemented by recognition of identity of the groups and ensuring their proper integration in the common public policy of the state.”<sup>98</sup> Integration into a state policy, however, is a rather vague notion and making this a prerequisite for ensuring the rights of religious minorities begs the question why this should be a condition and how it is to be implemented in practice. It also remains unclear whether the application of this principle would single out religious minorities for integration into a state policy, while granting the majority Georgian Orthodox religion a much larger autonomy.
101. ECRI recommends amending the strategy for the development of a religious policy to focus on the rights of religious minorities, the principle of non-discrimination and the promotion of religious tolerance from a perspective of inclusion and integration. Furthermore, the concept of integrating religious minorities into a state policy should be clarified in line with full protection of the rights of religious minorities.
102. ECRI was informed that the mediation mechanisms set up by the State Agency for Religious Issues in the aftermath of islamophobic incidents, such as the one in Chela (see section I.3), excluded experts from the Public Defender’s Tolerance Centre, which has gained vast experience on the subject of religious tensions through its Council of Religions. It seems incomprehensible that this valuable expertise is not utilised when dealing with inter-religious strife.
103. ECRI recommends that the Georgian authorities scale up their support for the Council of Religions, which operates under the auspices of the Public Defender’s Tolerance Centre. The authorities should in particular task the newly created State Agency for Religious Issues to cooperate with the Council of Religions and utilise the Council’s expertise and recommendations in order to tackle the problem of religious intolerance.

## **2.2 Policies to combat discrimination and intolerance against LGBT persons<sup>99</sup>**

104. Intolerance and discrimination against LGBT persons is widespread in Georgia. In 2013, a survey was conducted in Tbilisi on the violence that had occurred during the International Day against Homophobia in May (see paragraph 55 above). 50% of the respondents said that violence was acceptable towards people who endanger national values, such as LGBT persons. Nearly 60% of respondents felt that members of the Georgian Orthodox clergy who participated in acts of violence against LGBT should not face trial. About 50% said that the rights of sexual minorities should never be respected.<sup>100</sup>
105. The Georgian authorities have no specific strategy to combat discrimination and intolerance against LGBT persons. Although the National Human Rights Strategy and its Action Plan include sexual orientation and gender identity, no effective measures have been implemented so far.
106. The authorities informed ECRI that there are no specific programmes to promote LGBT tolerance in the education sector, neither in schools nor in universities. A discussion about the existence of homosexuality is not included in the school curricula. The absence of balanced and objective teaching about

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<sup>98</sup> Ibid.

<sup>99</sup> Concerning the definition of LGBT cf. Council of Europe, Discrimination based on sexual orientation and gender identity in Europe 2011: 21 and 139 et seq.

<sup>100</sup> CRRC Georgia 28.04.2015.

LGBT issues leaves pupils vulnerable to the homo-/transphobic discourse prevalent in Georgian society.

107. In spite of some legislative improvements for the protection of LGBT persons against discrimination (see section I.1), their enforcement mechanisms remain inadequate (see sections I.2 and I.3).<sup>101</sup>
108. ECRI recommends taking steps to combat intolerance and discrimination against LGBT persons. This should be done in close cooperation with the LGBT community and the Public Defender, who should receive support to establish a dedicated LGBT unit. Suitable elements for awareness-raising in schools should also be developed.
109. There is currently no recognised form of same sex partnerships in Georgia. This absence of recognition leads to various forms of discrimination in the field of social rights. In this regard, ECRI draws the attention of the authorities to the Recommendation CM/Rec(2010)5 of the Council of Europe's Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity.<sup>102</sup>
110. The criteria for gender reassignment surgery are unclear and not standardised. The requirements for official recognition of a new gender identity and associated changes of documents are also vague.<sup>103</sup> ECRI would in particular like to draw the authorities' attention to Resolution 2048 (2015) of the Council of Europe's Parliamentary Assembly.<sup>104</sup>
111. ECRI recommends that the authorities develop clear guidelines for gender reassignment procedures and their official recognition.

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<sup>101</sup> WISG / ILGA-Europe 2015(a): 4-5; and Identoba 2013: 11.

<sup>102</sup> Council of Europe, Committee of Ministers, Recommendation CM/Rec(2010)5, 31.03.2010: in particular §§ 24 and 25.

<sup>103</sup> WISG 2015(b): 47.

<sup>104</sup> Parliamentary Assembly of the Council of Europe, Resolution 2048(2015): in particular §§ 6.2.1 and 6.3.1.

## **INTERIM FOLLOW-UP RECOMMENDATIONS**

The two specific recommendations for which ECRI requests priority implementation from the authorities of Georgia are the following:

- ECRI recommends that the Georgian authorities set up a specialised unit within the police to deal specifically with racist and homo-/transphobic hate crime. When establishing this unit, the authorities should seek expert advice from the Public Defender, relevant NGOs and international organisations.
- ECRI recommends that the Georgian authorities scale up their support for the Council of Religions, which operates under the auspices of the Public Defender's Tolerance Centre. The authorities should in particular task the newly created State Agency for Religious Issues to cooperate with the Council of Religions and utilise the Council's expertise and recommendations in order to tackle the problem of religious intolerance.

A process of interim follow-up for these two recommendations will be conducted by ECRI no later than two years following the publication of this report.



## LIST OF RECOMMENDATIONS

The position of the recommendations in the text of the report is shown in parentheses.

1. (§ 7) ECRI recommends that the authorities bring Georgian criminal law, in general, into line with its General Policy Recommendation No. 7 as indicated in the preceding paragraphs; in particular they should explicitly criminalise (i) racist insults, (ii) public expression, with a racist aim, of an ideology which claims racial superiority, (iii) public denial, trivialisation, justification or condoning, with a racist aim, of crimes of genocide, crimes against humanity or war crimes, (iv) public dissemination or distribution with a racist aim of material containing racist statements, (v) creation or the leadership of a group which promotes racism; and (vi) racial discrimination in the exercise of one's public office or occupation.
2. (§ 18) ECRI recommends that the authorities bring their civil and administrative law, in general, into line with its General Policy Recommendation No. 7 as indicated in the preceding paragraphs; in particular they should amend the Law on the Elimination of All Forms of Discrimination to include: (i) a prohibition of acts of segregation, discrimination by association, and announced intention to discriminate; (ii) a duty for public institutions to ensure that parties to whom they award contracts, loans, grants or other benefits respect and promote a policy of non-discrimination; (iii) the right to free legal aid or a court lawyer and an interpreter, if necessary, for plaintiffs wishing to bring their case to a court; (iv) a fast-track option for bringing discrimination cases to the courts; and (v) a prohibition of harassment related to one of the enumerated grounds. ECRI also recommends enacting legislation to suppress the public financing of, or to ban or dissolve, racist parties or organisations.
3. (§ 22) ECRI recommends (i) ensuring that private persons and organisations are under an obligation to provide necessary evidence to the Public Defender; (ii) granting the Public Defender the right to initiate court cases based on general interest without referring to a specific victim; and (iii) strengthening the capacity of the Public Defender's regional offices.
4. (§ 24) ECRI recommends that the Georgian authorities establish an effective monitoring system for racist and homo-/transphobic hate speech. They should build on the expertise of the Public Defender and relevant NGOs.
5. (§ 33) ECRI recommends that the authorities review their contracts with media outlets and cancel or not renew them in cases where media are known to engage in racist or homo-/transphobic hate speech. The authorities should also ensure that future contracts contain a clause stipulating that racist or homo-/transphobic hate speech will result in contract termination.
6. (§ 40) ECRI recommends enacting anti-hate speech legislation along the lines of its General Policy Recommendation No. 7 § 18 (a)-(f) and in conjunction with the recommendation contained in paragraph 7 above. At the same time, training should be provided to ensure the law is not used to stifle or suppress the expression of legitimate and non-violent views by vulnerable groups.
7. (§ 42) ECRI recommends that the Georgian authorities initiate an awareness-raising campaign jointly with media self-regulatory bodies, without encroaching on their independence, on preventing and combatting hate speech. The authorities should seek opportunities to support and strengthen positive approaches in the media industry to tackle this problem.
8. (§ 44) ECRI recommends that Georgia sign and ratify the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

9. (§ 46) ECRI recommends that a provision prohibiting racist and homo-/transphobic insults and providing for measures and/or sanctions to be taken in case of its breach be introduced in the Parliament's Rules of Procedure. ECRI further recommends that all political parties take a firm stand against racist and homo-/transphobic discourse.
10. (§ 48) ECRI recommends creating a joint database for all hate crime cases, including those in which aggravating circumstances were applied.
11. (§ 62) ECRI recommends close monitoring of whether the police investigates potential racist and homo-/transphobic motivations. Furthermore, ECRI recommends that racist and homo-/transphobic motivations are considered from the outset of judicial proceedings.
12. (§ 67) ECRI recommends that the training activities for the judiciary and law enforcement officials on investigating incidents of hate crime are scaled up. Furthermore, the trainings should cover homo-/transphobic hate crime. ECRI also recommends that the authorities conduct an impact assessment to evaluate the trainings and, if necessary, adjust them.
13. (§ 68) Moreover, ECRI recommends that the Georgian authorities set up a specialised unit within the police to deal specifically with racist and homo-/transphobic hate crime. When establishing this unit, the authorities should seek expert advice from the Public Defender, relevant NGOs and international organisations.
14. (§ 70) ECRI recommends informing the general public of the existence of criminal law provisions enabling racially motivated acts or acts of religious intolerance or homo-/transphobic acts to be punished; and to encourage victims to lodge complaints concerning such acts. ECRI also recommends initiating awareness raising programmes in schools and universities to combat racist and homo-/transphobic hatred.
15. (§ 74) ECRI recommends that the islamophobic incidents, especially those in Chela, Kobuleti and Mokhe, as well as other hate crime cases are fully and independently investigated and that perpetrators are prosecuted. ECRI also recommends that in the future, the authorities protect the rights of religious and other minorities against violent protesters.
16. (§ 89) ECRI recommends strengthening the integration of historical ethnic minorities by 1.) Raising the levels of minority education, in particular through i) improving textbooks; ii) scaling up the teaching of Georgian as a second language; and iii) expanding vocational training programmes; 2.) Scaling up outreach activities to convey information about social services to minorities; 3.) Increasing the quantity and improving the quality of Public Broadcasting minority language programmes; 4.) Adopting a comprehensive action plan for the repatriation and integration strategy for Meshketians without delay and conducting large scale awareness-raising activities to create a supportive environment for Meshketian returnees; and 5.) Expanding the programmes for social inclusion and educational support, with a special emphasis on increasing the school attendance of Roma children.
17. (§ 90) ECRI also recommends setting up a comprehensive integration support programme for refugees and persons who have been granted subsidiary protection, and in particular introducing regular Georgian language classes for these groups.
18. (§ 91) Furthermore, ECRI recommends establishing an equality data collection system to monitor the integration of minorities, in line with the recommendation made in paragraph 105 of its 2010 report on Georgia.

19. (§ 96) ECRI recommends solving the remaining disputes about religious property in a speedy, transparent and fair manner. ECRI also recommends that permits for the construction of places of worship are not withheld due to religious prejudices or local protests, but that applications are processed in accordance with applicable laws.
20. (§ 101) ECRI recommends amending the strategy for the development of a religious policy to focus on the rights of religious minorities, the principle of non-discrimination and the promotion of religious tolerance from a perspective of inclusion and integration. Furthermore, the concept of integrating religious minorities into a state policy should be clarified in line with full protection of the rights of religious minorities.
21. (§ 103) ECRI recommends that the Georgian authorities scale up their support for the Council of Religions, which operates under the auspices of the Public Defender's Tolerance Centre. The authorities should in particular task the newly created State Agency for Religious Issues to cooperate with the Council of Religions and utilise the Council's expertise and recommendations in order to tackle the problem of religious intolerance.
22. (§ 108) ECRI recommends taking steps to combat intolerance and discrimination against LGBT persons. This should be done in close cooperation with the LGBT community and the Public Defender, who should receive support to establish a dedicated LGBT unit. Suitable elements for awareness-raising in schools should also be developed.
23. (§ 111) ECRI recommends that the authorities develop clear guidelines for gender reassignment procedures and their official recognition.



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## **APPENDIX: GOVERNMENT'S VIEWPOINT**

**The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Georgia**

ECRI, in accordance with its country monitoring procedure, engaged in confidential dialogue with the authorities of Georgia on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which only takes into account developments up until 17 June 2015, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.



**The Government of Georgia Comments  
on the ECRI report on Georgia  
(fifth monitoring cycle)  
2016**

**Introduction**

The present comments of the Government of Georgia (hereinafter - the GoG) are provided with respect to the ECRI report on Georgia (fifth monitoring cycle) (hereinafter - the Report). The ECRI experts paid a visit to Georgia on 23-27 March 2015 and had series of meetings. In the context of the decision of the Committee of Ministers Deputies' of the Council of Europe,<sup>105</sup> we regret that it was not possible for the experts to visit the occupied territories of Georgia where the human rights are frequently violated.

While the efforts and the work done by the experts are fully appreciated, the GoG would like to make its clarifications on some of the points of the Report to shed more clarity on the racism and intolerance related situation in Georgia. For this purpose, the relevant excerpts from the Report are accompanied by the GoG comments:

**1) P. 7, Summary:**

“Furthermore, the Georgian authorities implemented the 2009-2014 National Concept for Tolerance and Civic Integration and its associated Action Plan. These inter-ministerial integration tools aimed at improving the situation of historical ethnic minorities in the country and focused on six strategic directions: rule of law, education and state language, media and access to information, political integration and civic participation, social and regional integration, and culture and preservation of identity.”

**GoG Comment:**

The GoG kindly clarifies that the Concept and respective Action Plan aim at contributing to the protection of the rights of ethnic minorities, providing civic integration, and supporting the establishment and promotion of a tolerant environment.

**2) P.7, Summary:**

“Hate speech against ethnic and religious minorities, as well as against LGBT persons, continues to be a widespread problem in Georgia. Physical attacks against these groups also occur with worrying frequency. The freedom of religion of Muslims and Jehovah’s Witnesses was impeded as a result of violent local protests. There is also a general homo- and transphobic climate in Georgian society and LGBT groups were attacked repeatedly, in particular on the occasion of organising public events to mark the International Day against Homophobia and Transphobia.”

**GoG Comment:**

According to the official statistics of the Ministry of Internal Affairs (MIA) of the recent years, there are no grounds to conclude that those cases take place at worrying frequency. The relevant statistical data from the MIA is attached (Annex).

Since the Report covers the situations as of 17 June 2015, it would be fair to underline that no confrontation took place in 2014 and 2015 on 17 May on the International Day against Homophobia and Transphobia.

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<sup>105</sup> The decision taken at the 1227th meeting calls on the Russian Federation to facilitate and grant unrestricted access to the Council of Europe bodies to the areas affected by the conflict in Georgia and underlines the importance of the Council of Europe monitoring bodies to make further efforts to gain access to the Georgian regions of Abkhazia and South Ossetia.

### **3) P. 7, Summary:**

“Similarly, the right of LGBT organisations to hold peaceful public events was not defended against violent protesters; instead the authorities focused merely on escorting LGBT persons and their supporters to safety.”

#### **GoG Comment:**

The Government of Georgia kindly clarifies that the following measures were taken in response to events carried out during and following May 17 manifestations:

Taking into account the past experiences with regards to the demonstrations during the International Day against Homophobia and the possibility of escalation of the situation on May 17, 2013 the Ministry of Internal Affairs took preventive measures and started communication and negotiations in advance with the both Groups of demonstrators - those in support and against of International Day against Homophobia. It was agreed that the groups will hold the manifestation in the separate areas. The counter-demonstrators gathered in front of the Parliament building, and activists of “Identoba” and other NGOs nearby Freedom Square.

On May 17, Minister of Internal Affairs of Georgia - Mr. Garibashvili was himself present at the Freedom Square and in the adjacent area of Parliament together with his deputies in order to negotiate with the leaders of opposing manifestations and prevent any violence by the demonstrators.

Due to the active media coverage and call for action from social media sources, instead of expected 2,500 - 3,000 persons, the number of people joining counter manifestation has increased up to 35,000 - 40,000.

There were 3 separate police cordons mobilized to separate the demonstrators from the counter-demonstrators.

During the manifestation MIA made an announcement, and advised the citizens to avoid central streets of Tbilisi and act in full compliance with the law.

Taking into account the scale of the opposing manifestation and its aggressive character MIA had two options: 1) Use special measures (water cannons, rubber bullets, tear gas, etc.), which would have further escalated the situation and would have resulted in a high number of casualties, or 2) Evacuate the participants of the manifestation, those in support of International Day against Homophobia in specially allocated vehicles in accordance with the evacuation plan elaborated in advance.

In view of situation on the ground MIA operative services assessed the second option to achieve the best result, and participants of the manifestation in support of International Day against Homophobia were evacuated from the Freedom Square according to the previously elaborated plan. Each vehicle was accompanied by the law-enforcement high level officers.

Prime Minister, Speaker of Parliament and other high officials have issued the statements condemning the aggressive character of the counter-demonstration and assured that breach of the civil rights of one group of society by another group will not be tolerated and therefore thoroughly investigated.

On May 24, 2013, two opposing manifestations were held in the vicinity of Deda-Ena Park, from one side by the human rights activists with the theme “No to Theocracy” and the second manifestation was organized by the supporters of the church. Police were mobilized at the scene and the manifestations were carried out unhindered. By the assessment of the NGO’s present at the manifestations police ensured the freedom of manifestation.

#### **Independent Assessments:**

EU Special Adviser on Constitutional and Legal Reform and Human Rights in Georgia Mr. Thomas Hammarberg spoke about the event and assessed the police activities based on

the video recordings. He commented on the fact that several policemen were injured during the demonstration, where a massive influx of people was noticeable and created grounds for the situation to grow out of control. Overall, Mr. Hammarberg welcomed the police activities during the demonstration and positively assessed their readiness to avoid further complications. According to his evaluation, without their measures the results would have been worse and hence blaming the police for what happened would be unfair.

Further, the diligence and high professionalism of the employees of the MIA while dealing with public order were positively assessed by the representative of the UN Women.

With regards to the civil society evaluation, the measures taken by the MIA activities to defend the demonstrators were positively estimated by the “Center for Civic Engagement”.

#### **Racist and homo- / transphobic violence**

##### **Attacks against religious minorities**

###### **4) p. 17, para. 49:**

“In October 2014, Muslims in Mokhe protested against the destruction of an old mosque, which the authorities wanted to turn into a library. In spite of assurances to resolve the dispute amicably, protesters were dispersed violently by the police, who allegedly abused them physically and verbally during arrests.”

###### **GoG Comment:**

According to the data at hand, the disputed building in Mokhe never had a status of an active religious object. During the Soviet period the building acquired a status of a community center and in that status was assigned to the local municipality by the Ministry of Economy and Sustainable Development in 2007.

As to the confrontation, local population protested the construction works and hindered company’s activities. The employees of Samtskhe-Javakheti Police Regional Main Division of the Ministry of Internal Affairs were on the spot to ensure public order.

Law enforcers protected the perimeter in order to prevent any confrontation. Police tried to protect the workers from the crowd that threw stones at them, rather than disperse the protesters. They called on the gathered people to preserve order and remain calm; however citizens verbally assaulted police officers and damaged police vehicles.

In this case, 11 persons were detained under the article 166 (minor hooliganism) and article 173 (disobedience to the police demand) of the Code of Administrative Offences. Three persons were additionally detained under the article 353(2) (“resistance to the police, committed in group”) of the Criminal Code of Georgia.

The separate criminal case was opened against the police officers under the Article 333(1) of the Criminal Code of Georgia (“Excess of Official Authority”). The investigation is still ongoing to determine whether the policemen used physical and verbal violence against population during the arrests.

###### **5) p. 17, para. 49:**

“In September 2014, the opening of a new boarding school facility for Muslim children in Kobuleti was prevented by violent protests from residents. They blocked the entrance and threatened employees and children. A pig’s head was nailed to the school’s door.”

###### **GoG Comment:**

With regard to this case the investigation has been launched under Article 151 of the Criminal Code of Georgia (“Threat”). Up to now, several investigative actions were conducted, including the interrogation of witnesses, inspection of several objects,

the expert examination was appointed. For the time being, the investigation is still underway.

**6) p. 17, para. 49:**

“In April 2013, three military policemen threatened residents in a village near Kobuleti and stopped cars in search for Muslims. They demanded to see if people wore a cross, as proof that they were Christians.”

**GoG Comment:**

Competent authorities immediately launched a criminal investigation into the given fact that took place in Tsikhisdziri. As a result of several investigative actions three military policemen were convicted and found guilty by the Batumi City Court. This decision was upheld by the Kutaisi Court of Appeals.

**7) p. 17, para. 50:**

“In August 2013, the removal of a minaret in Chela resulted in violence between the police and local Muslims. The authorities alleged that it had been imported from Turkey in violation of customs rules. The village was sealed off by the police and the minaret removed.”

**GoG Comment:**

The criminal investigation was launched that revealed that in the process of the minaret removal, local Muslims mounted resistance to police, did not obey their legitimate directives and used violence against them. As a result, three citizens were charged under the Article 353(2) (Resistance, threat or violence against a law enforcer or other representative of the authorities) of the Criminal Code of Georgia. Finally, Community Service as a sanction was imposed on them.

**8) p. 17, para. 50:**

“Several local Muslims, protesting against the disproportionate action, were arrested.”

**GoG Comment:**

Some of the local Muslims used violence against the police and because of that three persons were arrested under the Article 353(2) (Resistance, threat or violence against a law enforcer or other representative of the authorities) of the Criminal Code of Georgia. However, Community Service as a sanction was imposed on them.

**9) p. 17, para. 50:**

“In Samtatskaro (2013), and in Nigvziani and Tsintskaro (2012), Orthodox residents attacked Muslim worshippers and clerics, and blocked places of worship. Some Georgian Orthodox clergy and municipal officials supported them.”

**GoG Comment:**

With regard to the cases of Samtatskaro, Nigvziani, Tsintskaro investigations were launched immediately and several investigative actions were conducted: the witnesses were interrogated, relevant expert examinations were conducted. The investigations are ongoing.

**Homo-/transphobic violence**

**10) p. 18, para. 54:**

“Threats have been made repeatedly against LGBT activists. In January 2015, Identoba and its staff were threatened via social media. They had already received death threats in 2012 and 2013. In February 2013, Women’s Fund, the first NGO in Georgia to openly support LBT groups, was forced to move offices, due to neighbours threatening the employees.”

**GoG Comment:**

On January 9, 2015, Unit 7 of Old Tbilisi Division (Tbilisi Main Division) received a complaint from the lawyer of organization “Identoba”, regarding the threats that she had received. Criminal case was opened, under Article 151 of Criminal Code of Georgia (“Threat”). Up to now, several investigative actions were conducted: the witnesses were interrogated, relevant expert examination was appointed. The investigation is still underway.

**11) p. 18, para. 55:**

“On 17 May 2013, a demonstration against IDAHO events turned violent and LGBT persons were attacked by a mob of protesters, including Georgian Orthodox priests, leaving several people wounded. Already in 2012, IDAHO events were attacked by radical religious protesters, causing severe injuries to at least two people.”

**GoG Comment:**

On May 17, 2013, the investigation was initiated on the criminal case concerning the events developed at Rustaveli Avenue, Tbilisi, on May 17, when health damage was inflicted to several individuals; crime prescribed by Article 118 §1 of the Criminal Code of Georgia. On the same day, relevant police departments launched investigation on 6 other criminal cases.

During the investigation charges were brought against 5 individuals, including 2 clergymen, under Article 161 (violation of the right to assembly and manifestation) of the Criminal Code of Georgia.

On August 1st, 2013, the prosecution against one of the clergymen was terminated at pretrial hearing, while the rest of the cases were passed on to the hearing on merits at the Court.

The Prosecution Service appealed the decision on termination of the prosecution against the clergymen at Tbilisi Court of Appeals; however, the Court dismissed the appeal and upheld the decision of the City Court.

On October 23, 2015, all the defendants in the given case were acquitted of all charges based on the judgment of Tbilisi City Court. The Prosecution Service of Georgia appealed the given decision before the Court of Appeals and currently the case is on trial.

**12) p. 19, para. 60:**

“In Kobuleti, the police was present during the protests but remained passive. The authorities informed ECRI that the police was subsequently ordered to prevent any future conflict, but was not instructed to ensure that the boarding school could open. The prosecution service merely launched an investigation into threatening behaviour, not taking religious hatred into account. The attack against an Armenian priest in Tbilisi was also investigated without considering the religious hate motivation.”

**GoG Comment:**

During the Kobuleti incident, the police was mobilized on the spot and protected the perimeter 24/7, in order to ensure order and free access inside and out of the school premises. As for the Armenian priest case, the investigation revealed, that there was no religious motivation. Despite the fact that the quarrel, which started initially over a parking space, took place in front of an Armenian Church, the complainant, Levon Iskhanian, did not wear any official attire and it was impossible to identify that he could be a priest. Furthermore, there were about dozen of people involved in the fight.

**13) p. 20, para. 63:**

”The 2013 murder case with a potential homophobic background was investigated as a robbery, with no mention of any bias motivation.”

**GoG Comment:**

After thoroughly studying the case, the police excluded the possibility of homophobic motivation. The details of investigation cannot be disclosed due to sensitivity of the case.

**14) p. 20, para. 65:**

“The authorities informed ECRI that 84 legal professionals, including judges and prosecutors, received training in non-discrimination legislation in 2014 and that every region of the country should have at least one prosecutor trained in the application of Article 53 CCG on aggravating circumstances. However, the authorities acknowledged that this is not yet sufficient and are planning to organise a training-of-trainers programme for judiciary and law enforcement officials, in cooperation with the Council of Europe.”

**GoG comment:**

In 2015, in cooperation with the Council of Europe, Prosecutor's Office of Georgia organized the first round of Training-of-Trainers (ToT) on European standards of non-discrimination (gender equality) attended by 21 prosecutors: prosecutors were offered trainings in discrimination-related international and national legal framework and special investigative tactics essential for the collection of evidence in such cases. Trainings were conducted with participation of international and national experts. The second round is to be held on February, 2016.

Herewith, the Human Rights Protection Unit of Chief Prosecutor's Office of Georgia has elaborated the recommendation regarding the application of Article 53 §3<sup>1</sup> of the Criminal Code of Georgia that prescribes commission of crime with hate motive as an aggravating circumstance of criminal liability. The given recommendation concerns such issues as qualification of hate crime, investigation process and collection of evidence and relevant statistical data. The mentioned recommendation has already been considered and evaluated by the expert of the EU and disseminated among the employees of Prosecutor's Office on 22 January 2016.

**15) pp. 21, 28 and 29, paras. 69, 70, 106, and 108:**

There are some activities through which teachers are informed on “Hate Speech”. The Teacher Professional Standard for Civic Education at the basic and secondary levels, the following topics are envisaged in the component of professional knowledge: Basic human rights and freedoms; Fundamental documents defining human rights and freedoms; International mechanisms for human rights protection, with focus on majorities, minorities and the vulnerable, equality and discrimination, stereotypes, tolerance, refugees, education and its availability. Training-modules for professional development for civic education teachers have been designed since 2010, taking into consideration the above-mentioned subjects. The teachers are retrained on the basis of the training modules. Training -modules for non-Georgian language school (Armenian, Azeri, Russian language schools) teachers were elaborated in 2015. The training-module combines the following topics:

- Tolerance, stigma and stereotype, violence - violence against children, bullying;
- Conflict;
- Intercultural relationships;

The Ministry of Education and Science (MoES) implements a program of “Summer Schools”, which involves organization of “English language Summer School” and

“Summer School for Future Leaders”. Around 700 schoolchildren take part in this program every year. One of the aims of the activities carried out in Summer Schools is eradication of Hate Speech among schoolchildren, as well as teaching peaceful resolution of conflicts. The following contests were held by the MoES in 2014 to raise civic awareness among schoolchildren on human rights and freedoms, equality and tolerance, violence: (1) The contest of video links “Step to Support”; (2) Essay contest “Step to Support”; and (3) Blog contest “We defend our peers”.

In 2015, under the subprogram of “School Contests”, a contest of video footages “Europe through my lens” was held. It aims to help schoolchildren perceive the essence and importance of European values in the modern Georgian space; express their own vision of European values, violence, equality and tolerance matters included.

From 2013, Georgia, namely MoES, is involved in the Council of Europe’s pilot project “Human Rights and Democracy”. Other participants of the project are Lithuania, Belarus and Russia. The project envisages development of supplementary learning materials for teachers’ training program. Each country is given a specific topic to work on. In 2014, Georgia worked on the following themes: (1) Intercultural communication; (2) Antidiscrimination; and (3) Hate Speech.

Within the framework of the project, the Georgian side had prepared three projects: 1. shared weekly calendar, 2. AntiDiscrim-media, 3. NoHateSpeechComics. All three projects were met with enthusiasm. It was mentioned that Georgia was the only country that had provided materials precisely reflecting the requirements of the Council of Europe. The resources were very much creative and could be used by other countries in the future. A methodological instrument had been created under the project. It included theoretical overview and recommendations for above mentioned 3 practical project lessons. Theoretical and practical parts were focused on developing students’ skills so that they could identify/avoid discrimination and hate speech and gain intercultural communication skills.

The study courses included in the curricula of the Georgian universities envisages raising awareness on combatting racist and homo-transphobic hatred and development of tolerance. These courses are: “Institute of Civic Society and the State”, “Fundamental Conceptions of the relationships between Politics and Religion”, “Democracy and Democratization”, etc.

The term “LGBT” doesn’t appear in the National Curriculum as such, but the issues of tolerance and respect to freedom of beliefs and belongings are envisaged under the National Curriculum in the social science group subjects.

Since 2014 the process of National Curriculum (2011-2016) revision is ongoing. In the renewed curriculum the social science group subjects will be offered in a more intensive manner so that the teaching on human rights, raising tolerance and respect for all kinds of minorities will be more highlighted and promoted.

At this stage the Standard for Social Sciences at primary level has already been elaborated, where the gender issues in general are far more widely represented. According to the new curriculum (unlike the National Curriculum for 2011-2014) teaching of Social Studies starts from the III grade: a) in grades III-IV introduction of new subject - “Me and Society “ is planned, where one of the areas - social-cultural development and citizenship supports the formation of human values such as: respect to others’ rights, tolerance, equality and the like and should bring up active citizens, who understand the importance of common rules and act in nonviolent manner in the conflict situations. b) in grades V-VI the subject “Our Georgia” is taught, with focus on such issues as: how we should oppose behaviors which are detrimental to society, for example: ignoring any kind of minorities, discrimination, unhealthy lifestyle and aggressive actions (bullying, racism and etc.) and how we should protect our peers and our rights in nonviolent manner.

Through the above-mentioned subjects the issues of tolerance, respect to others' rights and freedom of choice will be more highlighted and promoted.

### **Integration policies**

#### **16) Paras. 76, 78, 80, 82, 83, 86, 89:**

“A particular emphasis was placed on the teaching of Georgian as a second language, an area that ECRI had also identified as being in need of improvements in its last report. The “Georgian Language for Future Success” programme started in 2011 with the aim of improving knowledge of the Georgian language among historical ethnic minorities. The authorities supported 300 teachers for one year to teach Georgian in minority regions. ECRI was also informed that, as a follow up to one of its 2010 priority recommendations, the Zurab Zhvania Public Administration School revised its policies in 2014 and reviewed the quality of training resources for teaching Georgian to minorities. As a result, a basic course of Georgian as a Second Language was delivered by the school in 2014 in eight regional training centres. However, neither activity was rolled out further, and while the programmes were positive steps, the scale remains insufficient”

#### **GoG Comment:**

To support strengthening of ethnic minority integration process, the Ministry of Education and Science of Georgia pursues consistent language policy considering the language needs of ethnic minority students. In this regard the “Sub-programme 5-“Language Education - Quality Education” (approved by the Minister of Education and Science of Georgia under the order N220) was carried out, which aimed at developing common vision on language education policy and organizing new model for teaching/learning of existing minority languages at Georgian as well as at minorities' language schools/sectors, in order to support the language needs of ethnic minority students and improve their literacy level.

Within the framework of the sub-program, the MoES started to work on the Standard of Native Language for ethnic minorities (covering listening, speaking, reading and writing competences) which will be integrated in the National Curriculum. It will be basis for concrete programmes for Azerbaijani, Armenian and Russian Languages. Besides, elaboration of common standard for languages of ethnic minorities represented in small groups has been initiated. The schools where such languages can be introduced optionally have already been selected.

The essay contest “Georgian Language for My Success” was held by the MoES in May 2014 in the framework of “The Subprogram of School Competition” under the program of “Encouraging Especially Gifted Youngsters” for the pupils of non-Georgian schools and non-Georgian branches of the schools. Its aim was to raise motivation of ethnic minority pupils for learning the state language. Within the competition the pupils were given an opportunity to write an essay, expressing their own ideas regarding the need for knowing the state language; have discussions on what it meant to be successful in a modern society; what must be done to be successful in life and how knowledge of the Georgian language would help them achieve this goal. 40 pupils and their 40 teachers who had won the competition took part in the “Georgian Language International Summer School in Georgia” activity, envisaged by the “Programme of Summer Schools”.

In May 2015 in the framework of “The Subprogram of School Competitions”, under the programme of “Encouraging Successful Pupils”, the MoES announced essay competition “My Culture and Tradition”. Its aim was to facilitate intercultural dialogues and teaching Georgian to ethnic minorities, as well as learning Georgian by them. The first 50 winners of this competition and their 50 teachers will participate in “The Multicultural Summer School for Ethnic Minorities”, an activity envisaged by “Summer Schools Programme”.

“The Multicultural Summer School for Ethnic Minorities” aims at promoting civil integration of ethnic minorities and their involvement in the country’s political, economic and social life.

In 2014, teaching of the Ossetian language was funded in public schools of Lagodekhi municipality, in the villages of Pona and Arashperani, and in the village of Tsitskanaantseri, Kvareli municipality. The project “Saunje” (Treasure) was funded in the public school of Tazaqendi, Gardabani Municipality. In its framework, school library was renewed with Georgian language fiction literature.

There were projects funded in 2015, in the framework of “The Subprogram of Encouraging School Initiatives”, under the program of “Facilitating General Education”, as well as in the villages of Duisi, Birkiani, Dumasturi, Jokolo and Omalo of Akhmeta Municipality. In their framework, circles of Georgian dance and songs, as well as football circles will be organized. Besides, thick-felt manufacturing circle and Georgian culture studying circle were funded in the public schools of Duisi and Omalo respectively.

On June 1, 2015 ethnic minority pupils from Samtskhe-Javakheti, Kvemo Kartli and Pankisi were brought to Tbilisi by MoES in connection with the International Children Protection Day. They visited the sites of Tbilisi and attended cultural events there.

It should be noted that hiring of an expert in the field of General Education for ethnic minorities is planned by the MoES. Under the expert guidance, a group will be working on designing a document on Education policy for ethnic minorities.

A special educational preparatory programme of the Georgian language has been implemented since 2010 with the aim of promoting the receipt of higher education by ethnic minorities. Enrolment in this programme takes place on the basis of the results of only one exam - General Ability Skills tests in Azeri, Armenian, and Abkhazian and Osetian. Thus acquiring Georgian language writing, reading, listening and speaking competences is ensured to the extent enabling representatives of ethnic minorities to pursue further studies at the Bachelor’s level. In the framework of the program, state study grants are provided to the students. It involves providing funding in the course of one year for the special educational preparatory programme of the Georgian language and throughout four years for pursuing studies at the Bachelor’s level.

The Ministry of Education and Science of Georgia has been carrying out systematic and cohesive policy of state language teaching for minorities in order to remedy existing challenge - lack of sufficient knowledge of the Georgian language by minority groups. The MoES implemented two programs "Teach Georgian as a Second Language" and "Georgian Language for Future Success".

“Teach Georgian as a Second Language” program, which has been carried out since 2009, sent qualified Georgian language specialists to Samtkhe-Javakheti, Kvemo Kartli and Kakheti regions populated by ethnic minorities to deliver classes, teach Georgian language to students, teachers and community members, carry out various extracurricular activities, organize summer camps and exchange programs etc. Since 2011, only certified teachers have been recruited under the program.

Under the program “Teach Georgian as a Second Language”, Georgian language clubs were organized in 90 schools in the regions populated by ethnic minorities; there were 3545 attendants (2625 students, 484 teachers and 436 local community member) registered by 2014.

"Georgian Language for Future Success" program has been implemented since 2011, sending volunteer assistant teachers to ethnic minority regions. Within the frames of the program, more than 600 assistant teachers of Georgian language were sent to the regions. One of the most important components of the program “Georgian Language for Future Success” that has been running since 2011 by the MoES, is to publish new

textbooks of Georgian as a second language. For the academic year of 2013-2014, I-XII levels of students' textbooks, students' workbooks and teachers' books were developed and published. Special CD has also been included in each package. To make education process more efficient, the MoES developed computer games in line with each level of textbooks. These games are uploaded on the Ministry's supported [www.buki.ge](http://www.buki.ge) website. All learning materials are provided free by the state to all minority school students and teachers.

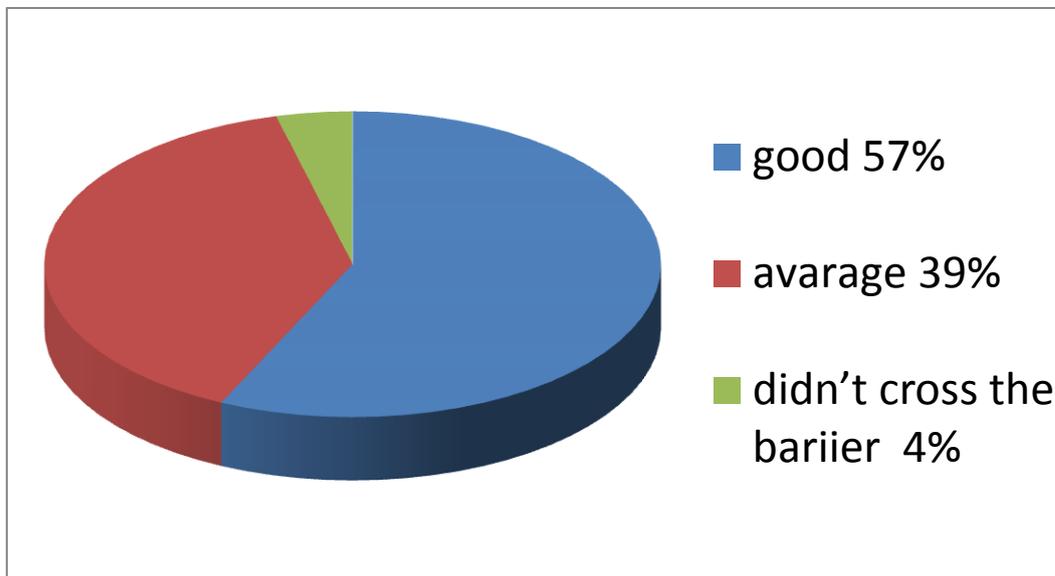
Starting 2014 academic year, the project was diversified by adding Geography and History Subjects assistant teachers. As a result of the competition for these subjects teacher positions 28 persons were hired along with 153 Georgian language teachers and assigned to schools to assist local teachers and introduce the bilingual method of teaching.

Starting 2015 calendar year, aiming at better efficiency and improvement of the professional skills of local Georgian Language and Subjects Teachers, the two programs ("Georgian Language for Future Success" and "Teach Georgian as a Second Language") were united under the title of "Georgian Language for Future Success".

Currently in the frame of the Program "Georgian Language for Future Success" 288 teachers (200 assistant teachers and 88 trainer teachers) are sent to 228 ethnic minority schools of Samtskhe-Javakheti, Kvemo Kartli and Kakheti region.

In 2014, student results in Georgian Language at School Leaving Exam were as follows:

(Note: these schoolchildren studied at the schools where program "Teach Georgian as a Second Language" is being implemented)



**Schoolchildren who scored 6, 7, 8, 9 and 10 points in school leaving examinations (CAT)**

2011	2014
10 point 12%	10 point 7%
9 point 13%	9 point 27%
8 point 20%	8 point 23%
7 point 19%	7 point 21%
6 point 27%	6 point 18%
Failed 9%	Failed 4%

In the framework of the above-mentioned programme, an increase in the number of trainer teachers and assistant teachers participating in this programme is planned. Contest for the selection of trainer teachers is over at this stage. Compared to the previous year, their number has been increased by 9. They are tasked to teach Georgian as a second language in non-Georgian language schools in Samtskhe-Javakheti, Kvemo Kartli and Kakheti, as well as to deliver Georgian language courses to the local teachers with the aim of embarking on a teaching activity, their integration in the scheme of professional development and career advancement.

At present, a competition for selecting a new group of the trainer teachers is underway in the framework of the programme. An increase in their number is also provided by the state budget for the new academic year. It should be noted that this year representatives of ethnic minorities -2015 academic year graduates, having undertaken educational preparatory programme of the Georgian language at the accredited Georgian institutions of higher education, have been given a chance to participate in the competition and further in the programme in the capacity of assistant teachers.

In 2014 lots of work was done at MoES, through Zurab Zhvania School of Public Administration (ZSPA) to reflect ECRI recommendations: existing teaching resources were revised, the needs of minorities were defined and programs, tailored to the specifics of the target groups- ethnic minorities employed in public sector, were developed. In 2014 a course of basic Georgian was developed and piloted in eight regions of Georgia. In 2015, the ZSPA continues the development process and starting from February 2015 provides the courses of the Georgian language at the following levels: A1, A2 and B1.

Starting July 2014, the ZSPA has been providing Public Administration Courses for ethnic minorities in Kutaisi. Up to 100 minorities, employed in public sector benefited from this program.

“The Subprogram of Promoting Social Inclusion” of the MoES takes care of involvement in the learning process of adolescents with Special Education Needs, including those representing ethnic and religious minorities, those with linguistic problems as well as those not holding Georgian citizenship. It creates the opportunity for realizing individual abilities under equal conditions for “every child” experiencing difficulties in learning.

In order to create favorable environment for learning and pupils, bringing adolescents representing ethnic, national and religious minorities, also adolescents with linguistic problems and those not holding Georgian citizenship and their local peers together around the common interests, mutual participation in school activities alongside with their peers, involving adolescents in social life, Roma and Meskhetians have the chance to demonstrate their potential to the maximum extent.

By active engagement of Meskhetian and Roma children in the country's political, economic and social life integration with their peers is promoted, and it is double beneficial: Integration process of the Meskhetian and Roma adults with their peers is facilitated;

There is a rise in the level of tolerant disposition and attitude among public school pupils towards peers with different abilities, religions or ethnic origin. Those, who have undergone training under this subprogram, are no more prejudiced towards the peers of other religions, different abilities and those with linguistic problems and are on friendly terms with them in spite of the mentioned differences.

Cultural activities helped to demonstrate unique characteristics and interests of "every child", which were their original aim and besides, the approach of "charity" towards Meskhetian and Roma children was replaced with the "cooperation" approach.

In the framework of the "Subprogram of Promotion of Social Inclusion", access to education and teaching of a state language to the Meskhetian adolescents coming out of the families forcibly moved in the forties of the twentieth century from the then Soviet Socialist Republic of Georgia by the former Soviet Union authorities, is facilitated in order to achieve the aim of their full civil integration.

125 Meskhetian adolescents in total - repatriates and with no status have been involved in the "Subprogram of Promotion of Social Inclusion" since 2009 up to now in order to have access to all the educational resources in Georgia. In the capital city of Tbilisi their number amounts to 20, in the city of Akhaltsikhe to 20, in the village of Abastumani, Adigeni Municipality to 12, in the settlement of Nasakirali, Ozurgeti Municipality to 40, in the village of Tsitelubani, Gori Municipality to 5, and in the village of Ianeti, Samtredia Municipality to 28.

Further, 144 Roma adolescents in total have been involved in the "Subprogram of Social Inclusion" since 2009 up to now. Their number in the capital city of Tbilisi amounts to 11, in the city of Rustavi to 13, in the city of Zugdidi to 7, in the city of Poti to 14, in the city of Kutaisi to 21, in the city of Dedoplistskaro to 10, in Kobuleti to 54, in Etseri to 4, in Zugdidi region to 10.

By means of planned activities and interagency meetings, the number of the repatriated Meskhetians and Romas living in the various regions of Georgia and with no Georgian citizenship status are periodically updated; database is renewed; problems of the Meskhetian and Roma adolescents are identified and solved and they are involved in the learning process.

Documentation-related problems of the adolescents with no Georgian citizenship are solved to include them in school database and for the National Centre for Education Quality Enhancement to recognize the study programmes undertaken in Azerbaijan, thus enabling the adolescents to get involved in the learning process.

Through regular cooperation of the Meskhetians and Roma children with their peers and regular planning and fulfillment of community activities, they realize the need for having good command of the state language and thus become more motivated to learn it. Adolescents for whom the state language of Georgia is not a native language are given the chance to get involved in the ongoing activities.

With the aim of promoting preservation of cultural originality of the Meskhetians and Roma people and sharing traditions of multiculturalism of the Georgian society, the public is being informed on the history of the Meskhetians and Roma, as well as their present daily life. Thus, awareness raising and development of positive disposition towards the Meskhetians and Roma people among the public is promoted.

In the course of 2014-2016 meetings with parents of the Roma and Meskhetian adolescents living in the above-mentioned regions are held to maintain motivation of their children to be engaged in learning process, and even to increase their

motivation, thus ensuring that they pursue further studies. Thus, more Roma and Meskhetians will be involved in the integration process.

Since 2013 every person with basic education, including ethnic minorities is entitled to undertake state-funded Vocational Training programs.

The MoES has been involved in the state interagency commission set up with the aim of coordinated implementation of the National Concept for Tolerance and Civic integration and its Action Plan, which currently works on the “State Strategy for Civil Equality and Integration and 2015-2017 Action Plan. The mentioned Action Plan, unlike 2009-2014 Action Plan, envisages topics related to enhancement of accessibility to Vocational Education for ethnic minorities.

The MoES is working on the model of teaching Georgian to ethnic minorities in the system of Vocational Education; adaptation of professional tests - their translation is also planned. After this model is carried out to the full extent, a wide range of vocational training programs will be available to ethnic minorities.

In addition, in 2015 under the initiative of the Minister of Justice of Georgia, Georgian Language Course for ethnic minorities commenced in four Community Centers (Poka, Kabali, Sartichala, Kvareltskali). The Project was implemented with the financial support of United Nations Development Programme (UNDP). The Course is tailored on needs of the local population and mainly uses the methods that assist the participants in developing speaking skills. After the successful completion of the course, up to 90 participants received special certificates from PSDA and Training Center of Justice.

The Ministry of Justice of Georgia plans to continue organizing Georgian Language Courses for ethnic minorities.

**17) p. 23, para. 79:**

„Two groups that have not been included in the National Concept for Tolerance and Civic Integration and its Action Plan are refugees and persons who have been granted subsidiary protection. ECRI was informed that the authorities are planning a Local Integration Programme for them. At the moment the social and economic support for these groups remains marginal. They receive a monthly allowance of approximately € 18 and have access to basic health care and education. They are also allowed to work, but exercising this right is difficult due to language barriers, except for persons with sufficient knowledge of Russian. Language courses are not offered, except for in some cases by the UNHCR. Refugee support programmes are mainly funded by international organisations, for example in the Pankisi valley. Such support is vital, but it is not a reliable solution for long term integration“.

**GoG Comment:**

Asylum seekers, refugees and humanitarian status holders are provided with the Georgian language study courses under the Governmental Decree #15 of 29 January 2015 and 67 children are already involved in these courses. As for pre-school education, asylum-seekers, refugees and humanitarian status holders are provided with pre-school education under the Decree #2-5 of the Municipal Council of Tbilisi and, recently, 18 children were involved in these courses.

Upon the consultations with the UNHCR, the Integration of Asylum seekers had become a part of the Strategy on Migration 2016-2020. The Strategy was approved on 30 November 2015 and the detailed Action Plan was approved on 22 December 2015. The key directions and description of the integration policy for asylum seekers, refugees and humanitarian status holders are included in the Action Plan of Migration Strategy. At the same time, the coordination mechanisms are also enshrined in the strategy (e.g. with the Ministry of Education and Science, Ministry of Labor Health and Social Affairs etc.). As regards the action plan, it identifies financial needs that are necessary to implement the integration activities.

The Migration Strategy for 2016-2020 defines the following integration directions of the asylum seekers, refugee and humanitarian status holders, such as:

- Providing integration programs and state services for the refugees and humanitarian status holders in the capital as well as in the regions;
- Further development of the intensive program about the language, culture and legislation basics and offering courses for adults with the school age people;
- In full compliance with the Vocational Education Reform Strategy 2013-2020 of Georgia and strategic directions of development of education and science system in Georgia, further development of the recognition methodology of the formal and informal education in Georgia, which will have a positive impact on the recognition of formal and informal education of the asylum holders in Georgia;
- Involvement of the asylum holders in Georgia in the professional preparation program of the Ministry of Labor, Health and Social Protection and the vocational educational program of the Ministry of Education of Georgia;
- Supporting the involvement of the asylum holders in Georgia in the vocational educational program of the Ministry of education of Georgia;
- Developing timeframe for the periodic meeting with the asylum seekers in the temporary reception centres. Providing information about the living in Georgia, integration in the local communities, legislative updates and their rights;
- Providing information regularly (at least once a year) for the asylum holders in Georgia regarding the legislative amendments as well as new governmental initiatives and programs;
- Spreading the Informational Brochure of the MRA to the target groups, being adopted in 2015 on Arab, Persian, English, French and Russian languages and enshrines important information about the administrative procedures, integration and living possibilities in Georgia. The awareness raising of the local and non-governmental organizations as well as other intermediary links about the asylum system and main aims of the integration policy in Georgia;
- Developing indicators for measuring the successful integration of the refugees and humanitarian status holders in Georgia, as well as gathering all essential data for monitoring those indicators.

**18) p. 23, para. 80:**

“Similarly, the support for Meshketians was not part of a comprehensive repatriation and integration strategy for Meshketians, as recommended by ECRI in 2010. The strategy was only finalised in 2014 and the adoption of the corresponding action plan for its implementation is still pending.”

**GoG Comment:**

The issue of repatriation of Muslim Meskhetians is of great importance to the government of Georgia. A number of legislative acts were adopted that regulate the process of repatriation and define responsible government bodies in this process.

On 12 September, 2014, Georgian Government adopted a decree on the “State strategy of Repatriation of Persons forcefully sent into exile from the Soviet Socialist Republic of Georgia by the Former USSR in the 40’s of the 20th Century”. Currently, drafting process of the action plan is completed and now it is going through internal inter-institutional processes in the Government of Georgia. On 30 December 2015

Meeting of the Inter Ministry Repatriation Council was held, where the draft Action Plan was presented.

Draft Action Plan of Repatriation for 2016-2017 enshrines activities for descent return of repatriates as well as their integration programs in Georgia. According to the Draft Action Plan, the MRA will primarily identify the needs of the returnees followed by the identification of the resources of Georgia to meet their needs. There will be implemented integration activities for repatriates such as: financing business projects; setting benefits and simplified procedures on the import of goods for repatriates holding permanent residence in Georgia; guaranteeing the accommodation; holding information campaigns about the integration possibilities in Georgia; holding information campaigns for the population of Georgia; guaranteeing their access on education and possibilities for studying Georgian language; supporting their economic and social integration; etc.

**19) p. 23, para. 83:**

“The infrastructure projects referred to in paragraph 77, which aimed at reducing socio-economic marginalisation of historical ethnic minorities and were implemented under the 2009-2014 Action Plan, did not include sufficient skill- building activities, such as vocational training programmes.”

**GoG Comment:**

The given formulation “reducing socio-economic marginalization of historical ethnic minorities” is not accurate, as long as the infrastructure projects aimed at improving the social-economic conditions and opportunities of ethnic minorities in the regions of their compact residence.

**20) p. 23, para. 84:**

„In spite of the existing integration policies contained in the 2009-2014 National Concept for Tolerance and Civic Integration and the Action Plan, marginalisation also persists with regard to social services in minority regions. While some improvements have been made, for example in the field of social security and in particular the health care sector, the availability of information in minority languages remains low and people are not always aware of services even when they exist. The Ministry of Health, Labour and Social Affairs held a series of information meetings specifically targeting historical ethnic minorities, but the scale of this outreach work remained limited.“

**GoG Comment:**

It is not clear what is meant under the phrase “marginalization also persists with regard to social services in minority regions”. All citizens of Georgia have equal access to state social programs and services. However, due to the lack of knowledge of the State language they might experience difficulties with the access to information on the programs and services in their native languages.

Within the Hepatitis C elimination state programme information campaign for ethnic minorities was planned and implemented to improve accessibility on programme services, raise information awareness and promote communication process with ethnic minorities. Information brochures were prepared and printed in Georgian language as well as in languages of ethnic minorities (5000 brochures in Armenian language, 5000 brochures in Azerbaijani language, and 5000 in Russian language).

Brochures were distributed in the entrance hall of the Ministry of Labour, Health and Social Affairs of Georgia, in branches of LEPL Social Service Agency and administrative units, including densely populated regions of ethnic minorities: Samtskhe Javakheti and Kvemo Kartli. The brochures were also handed to the village doctors. As for the electronic versions, they are accessible on the web site (<http://www.moh.gov.ge>) of the Ministry of Labour, Health and Social Affairs of Georgia.

**21) p. 23, para. 85:**

“In many geographically isolated minority areas, Georgian radio and television are unavailable and people rely on Azeri, Armenian or Russian language media. This results in insufficient awareness of current events in Georgia in such areas, which in turn contributes to low levels of political participation of minority members. Although the authorities took some technical measures to increase the coverage of the Public Broadcaster, the problem was not fully resolved. This is likely to change only with the switch to digital broadcasting which is foreseen for the near future. Making Georgian public broadcasting more widely available, however, would not be sufficient to address the problem, as minority language programmes are limited and not always of the expected quality. The 2009-2014 Action Plan included an increase of minority language programmes, but their ratings and attractiveness remained low. The programme “Our Yard”, designed to cover minority issues, has been criticised by minority members for portraying historical ethnic minorities as isolated groups, rather than emphasising their integration, and at times even reproducing stereotypes.”

***GoG comment:***

The information provided is not complete: Television news programs on five national minority languages (Armenian, Azerbaijani, Russian, Abkhazian, Ossetian) are daily aired on the Georgian Public Broadcaster. Since October 2014 the information-analytical program “Nastoyascheye Vremya” (“Real time”, joint project of RFE/RL and “Voice of America”) is aired on Public Broadcaster which provides ethnic minorities with information on political, economic developments in Georgia and worldwide. The news program is also aired daily on the “First Radio” in above-mentioned national minority languages, also in Kurdish. The state also supports printed media in Azerbaijani and Armenian languages”.

**22) p. 24, para. 87:**

“Following the expiry of the National Concept on Tolerance and Civic Integration 2009-2014 and its Action Plan, the authorities are in the process of drafting and adopting a new Civic Equality and Integration Strategy 2015-2020”.

***GoG comment:***

State Strategy for Civic Equality and Integration and Action Plan for 2015-2020 was adopted by the Government of Georgia on August 17, 2015. The new Strategy is based upon the principle of equality and “more diversity, more integration” approach and aims at contributing to the provision of equality; ensuring ethnic minorities’ full-fledged participation in all spheres of public life; and preserving national minorities’ culture and identity.

**23) p. 24, para. 88:**

“ECRI would also like to encourage the Georgian authorities to swiftly adopt the outstanding action plan for the repatriation and integration of Meshketians and the integration strategy for refugees and persons who have been granted subsidiary protection.”

***GoG Comment:***

Please refer to the comments on the paragraphs 79 and 80.

**Religious intolerance and discrimination**

**24) p. 25, para. 94:**

“The near monopoly of one Christian church has not facilitated the creation of a constructive pluralistic religious tradition in the past. This is also visible in the ongoing problem concerning the return of religious buildings, many of which are currently used by the Georgia Orthodox Church, to previous owners. The Armenian

Apostolic Church demands the return of six churches. The Armenian Apostolic Church has the status of a legal entity under public law (LEPL) and it appears that this is deemed insufficient by the authorities to consider the Church as a legal successor in ownership of these buildings”

**GoG Comment:**

The State Agency for Religious Issues established “The State Religious Policy Research Centre” in co-operation with academic sphere. One of the functions of the Centre is research of the ways of establishment of ownership over disputed religious buildings between various religious organizations. The legal status of the Armenian Apostolic Church is irrelevant, the issue is more complex and sensitive as the state has to stand aloof from interfering into inter-confessional relations in order to maintain neutrality. So far the Agency has not received any proof/information of historical ownership from the Armenian Apostolic Church regarding any of the buildings that it contests.

**25) p. 26, para. 95:**

“The construction permit for a new Catholic church in Rustavi has been pending for over two years, in spite of a court judgment instructing the municipal administration to issue the permit. For many years, the Muslim community in Batumi remained unable to secure permission for a second mosque. Several hundred Muslims are regularly unable to fit into the existing mosque for Friday prayers and have to pray in the open in adjacent streets. Eventually the municipality agreed to the construction of a new mosque, but under the condition that it will be built at a considerable distance from the city center. Jehovah’s Witnesses also often face problems when attempting to construct Kingdom Halls, as seen in the case of Terjola.”

**GoG Comment:**

With regard to the Rustavi Catholic church the Agency has issued a report in favor of its construction. As to the Batumi Mosque it should be noted that the residency or the Administration of Muslims of all Georgia has moved to the premises purchased by the state and handed to the Administration. Also the commercial space adjacent to the mosque has been cleared. All these serves to resolve the problem of insufficient space for prayers.

**26) p. 26, para. 96:**

“ECRI recommends solving the remaining disputes about religious property in a speedy, transparent and fair manner. ECRI also recommends that permits for the construction of places of worship are not withheld due to religious prejudices or local protests, but that applications are processed in accordance with applicable laws.”

**GoG comment:**

The State Agency for Religious Issues partially agrees with the recommendation, which contemplate creation of effective mechanisms to meet with economic and financial needs of religious communities and organizations. It should be noted that in this regard the Agency, shortly after its establishment, created “The recommendatory commission on property and financial issues of religious associations”. The Commission, based on application, examines financial and property needs of religious communities and organizations and prepares appropriate recommendations to the relevant institutions. It is important that the Commission, besides the representatives of the Agency, brings together representatives of other government officials and independent experts, as well as representatives of those religious community (with right to vote), whose issue is being discussed, in a rotational manner. The outcome of the given policy and practice is clearly positively evaluated by the religious communities and associations. In addition, in line with growth of experience, the Agency constantly works for improvement of the Commission’s activities and will strengthen the effort in future to modernize it, in

order to meet the property and financial needs of religious communities in a transparent, quick and fair mode.

**27) p. 26, para. 98:**

“The agency decided on funding for four religious groups as partial compensation for injustices and damages suffered during the Soviet era. The Muslim community received

GEL 1 100 000, the Armenian Apostolic Church GEL 300 000, the Catholic Church GEL 200 000 and the Jewish community GEL 100 000. However, these groups complained that there was insufficient dialogue with them prior to the decision and a lack of transparency about the criteria.”

**GoG Comment:**

Funding of four religious organizations, provided by the Decree №117 of the GoG dated by 27 January 2014, shall not be considered as compensation or restitution for any established damage, but bears rather a symbolic character because the amount of the damage received during the Soviet totalitarian regime is unknown. Accordingly, criteria for defining amount of financial assets takes into account current circumstances related to those religious organizations.

**28) p. 26, para. 99:**

“Doubts about the agency’s work increased further with the publication of its Religious Policy Development Strategy in early 2015. It states that the Georgian State needs to “avoid interference of the neighbour states in the internal politics of Georgia by using Georgian population’s ethnic-religious diversity. In Georgia ... [t]he scope of the problem was only limited on protection of religious minorities rights, while, at the same time, it should cover internal and foreign security discourses of the state.” Many observers note that viewing religious freedom and the rights of religious minorities through a security perspective is detrimental to the protection of rights and the prevention of discrimination and intolerance. It also carries a risk of becoming a self-fulfilling prophecy, as it can result in the marginalisation of minorities, eroding their trust in, and identification with, the state.”

**GoG Comment:**

The Religious Policy Development Strategy is a transparent document easily accessible to everyone. The Strategy covers almost all aspects of the religious sphere. There are several incentives for development of religious policy including respecting freedom of religion, ensuring religious diversity, etc. The rest of relevant questions shall be seen through the prism of Georgian legislation and its international obligations, keeping in mind the abovementioned incentives. It is unreasonable to consider the security component of the Strategy separately from the entire document and out of its context. In fact, the description of neighbouring policy and religious diversity serves to reflect the reality that exists in the region. The security aspect of the Strategy should be read in a positive context of broadening the rights of religious denominations and ensuring the protection of their interests. The whole chapter of the Strategy is dedicated to the religious minorities and ensuring their rights, whereas the security component is mentioned only in the descriptive part of the preview.

**29) p. 27, para. 101:**

“ECRI recommends amending the strategy for the development of a religious policy to focus on the rights of religious minorities, the principle of non-discrimination and the promotion of religious tolerance from a perspective of inclusion and integration. Furthermore, the concept of integrating religious minorities into a state policy should be clarified in line with full protection of the rights of religious minorities”

**GoG Comment:**

The State Agency for Religious Issues agrees with the recommendation on review of draft document “Religious Policy Development Strategy of Georgian State”, published by the Agency. It should be noted that the document has been presented as a draft, till now, and is open for recommendations and comments. In result of consultations, the Agency believes that the “Strategy”, as an acting document, should be developed in direction of protection of rights of religious minorities and promotion of anti-discrimination environment. The final formation and enforcement of the document is planned in 2016.

**30) p. 27, para 103:**

“ECRI recommends that the Georgian authorities scale up their support for the Council of Religions, which operates under the auspices of the Public Defender’s Tolerance Centre. The authorities should in particular task the newly created State Agency for Religious Issues to cooperate with the Council of Religions and utilise the Council’s expertise and recommendations in order to tackle the problem of religious intolerance.”

**GoG comment:**

The State Agency for Religious Issues doesn’t agree with the recommendation, which calls on the government to entrust the State Agency for Religious Issues for co-operation with the Council of Religions, acting under the Tolerance Centre at the Ombudsman’s office, which is essentially contradictory. It should be noted that a number of essential details to this matter were explicitly clarified to official delegation of ECRI, by the Agency:

- First of all, the State Agency for Religious Issues, from the day of its establishment, actively cooperates with the all religious communities in Georgia and their organizations, including members of Council of Religions, on individual, as well as on an open inter-religious formats.
- It is noteworthy that the Agency, when implementing its activities, cooperates with way more religious communities and associations, than represented in the Council of Religions.
- It is important that the Agency’s mandate is different with its content from the Council of Religions’ mandate, and it is broader than the inter-religious activity of Council of Religions.
- Must be taken into account, that the Agency is actively cooperating with the Ombudsman’s Office, however, the Agency has not yet received any recommendation from the Council of Religions

Therefore, the recommendation, according to which the Agency should be limited in relationship with religious communities only with format of Council of Religions, represents an initiative to strengthen a specific institution, at the expense of the damage of the scope, as far as, nor the Council covers all entities, nor its format provides solution to all needs of religious communities and organizations.

ANNEX

Investigation Opened					
Article of Criminal Code of Georgia	2010	2011	2012	2013	2014
Article 142 „ <u>Violation of Equality of Humans</u> ”	1(ethnic intolerance)	0	0	0	0
Paragraph 1 of Article 142' " <u>Racial Discrimination</u> "	1(national and ethnic intolerance)	0	0	0	1 (racial intolerance)
Article 155 " <u>Illegal Interference into the Performance of Religious Rights</u> "	3 (religious intolerance) <b>two cases terminated due to the absence of criminal act</b>	2 (religious intolerance -1, unknown-1) <b>terminated due to the absence of criminal act</b>	2 (religious intolerance) <b>one case terminated due to the absence of criminal act</b>	2 (religious intolerance )	4 (religious intolerance) <b>2 cases terminated due to the absence of criminal act</b>
Article 156 " <u>Persecution</u> "		2 (religious motive) <b>one case terminated due to the absence of criminal act</b>	6 (religious intolerance -4, political - 1, unknown - 1) <b>two cases terminated due to the absence of criminal act</b>	14 (religious motive- 5 political - 9) <b>4 case terminated</b>	12 (religious motive) <b>4 case terminated</b>
Article 166 " <u>Obstruction to Creation of Political, Public or Religious Unions or Interference in their Activities</u> "	0	0	1(political motive)	0	1 (religious motive) <b>terminated under prosecutorial discretion</b>
<b>Total:</b>	<b>5 started - 2 terminated</b>	<b>4 started - 3 terminated</b>	<b>9 started - 3 terminated</b>	<b>16 started - 4 terminated</b>	<b>18 started - 7 terminated</b>

Prosecution Started					
Article of Criminal Code of Georgia	2010	2011	2012	2013	2014
Paragraph 2 of Article 144' " <u>Torture</u> " (with violation of equality of humans)	0	0	6 persons	0	0
Paragraph 2 of Article 144" " <u>Inhuman or Degrading Treatment</u> " (with violation of equality of humans)	0	0	6 persons	1 person	0
Article 155 " <u>Interference into the Performance of Religious Rights</u> "	0	0	0	0	1 person
Article 156 " <u>Persecution</u> "	1 person	0	10 persons	2 persons (1political, 1 religious motive), 3 diversion	6 persons
<b>Total:</b>	<b>1</b>		<b>22</b>	<b>6</b>	<b>7</b>

