

GEORGIA

Most questions require a reply based on the following codification:

a. Yes, already done <input type="checkbox"/>	b. Yes, work is in progress <input type="checkbox"/>	c. We intend to work on this <input type="checkbox"/>	d. Position non determined <input type="checkbox"/>	e. No <input type="checkbox"/>
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Section I – Implementation and dissemination of the Recommendation

1. How would you assess the status of implementation of the Recommendation in your country?
Fully satisfactory ☐ Adequate ☐ Insufficient ☐ Absent ☐

Please explain your reply.

Following the adoption of Committee of Minister's Recommendation CM/Rec (2010)5 several legislative measures were carried in order to expressly outlaw discrimination on the basis of sexual orientation and gender identity. Nevertheless, there are persistent challenges present which needs to be further addressed.

2. Has a review been carried out of existing legislative and other measures which could result directly or indirectly in sexual orientation or gender identity discrimination?
a. ☐ b. ☐ c. ☒ d. ☐ e. ☐

Please explain and, if appropriate, provide examples of any such measures found:

Over the recent period the existing legislation, which could cause any direct or indirect discrimination on the ground of sexual orientation or gender identity, has not been revised. However, it must be emphasized the direct or indirect discrimination on the ground of sexual orientation and gender identity in compliance with European standard is constantly monitored by the relevant state organ, namely the Ministry of Justice of Georgia. Furthermore, it is within the competence of the Ministry of Justice to secure the legislative measures and their effective implementation in order to eliminate discrimination on any ground.

Are there measures in place to redress any such discrimination?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices:

The legislation of Georgia, currently in force, prohibits discrimination on several grounds. At the outset, according to the article 14 of the Constitution of Georgia everyone is free by birth and is equal before law regardless of race, colour, language, sex, religion, political and other opinions, national, ethnic and social belonging, origin, property and title, place of residence. The fact that the sexual orientation or gender identity as possible ground of discrimination is not expressly listed in the provision, does not mean that LGBT persons may not enjoy the protection guaranteed by the supreme law of Georgia. In the decision of 27 December 2010, the Constitutional Court of Georgia refused the narrow or pure grammatical interpretation of the article 14 of the Constitution and explained that in light of the principle of equality and non-discrimination the provision in question

shall be interpreted widely to cover other groups as well including those not directly envisaged in the provision.¹

Furthermore, the Code of Ethics for the Employees of the Office of the Prosecutors of Georgia adopted in 2006 imposes duty on the prosecutors to promote eradication of all forms of discrimination and respect the principle of equality before the law.

The draft Code of Ethics of Police states that the law-enforcement official must remain impartial in its work and resolve the matters based on respect of the parties' interests regardless one's race or ethnic or social belonging, language, gender, age, religion, political or other opinions, property, title, and sexual orientation.

In addition, the principle of non-discrimination is enshrined in a number of legal instruments in the area of healthcare, education and employment, which will be discussed below.

3. Have legislative and other measures against discrimination on grounds of sexual orientation or gender identity been adopted and implemented since the adoption of CM Recommendation 2010(5) (including the possible establishment of national action plans, the inclusion of the Recommendation in existing plans, or the creation of cross-sectoral working groups for its implementation)?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If appropriate, please provide examples of measures adopted or in preparation.

The legislative amendments that have been introduced in several areas, including criminal law, employment and healthcare will be extensively discusses below.

4. Are there measures in place to collect and analyse relevant data on discrimination on grounds of sexual orientation?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

Are there measures in place to collect and analyse relevant data on discrimination on grounds of gender identity?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

Are there measures in place to collect and analyse relevant data on hate crimes and hate-oriented incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

Please indicate the measures and, if appropriate, provide examples of good practices:

However, it should be pointed out that the processing of crime related statistical data is carried out by the analytical department of the Chief's Prosecutor office.

5. Do effective legal remedies for victims of sexual orientation or gender identity discrimination exist (including sanctions for infringements and adequate reparation for victims)?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so, are there measures in place to raise awareness and facilitate access of victims to such remedies?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

¹ Decision of Constitutional Court of Georgia, №1/1/493, 27 December 2010,II-4

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The victims of discrimination on the ground of sexual orientation or gender identity have equal access to justice. They are entitled to address the law-enforcement authorities under article 101 of the Criminal Procedural Code of Georgia and request to launch the investigation with respect to alleged discrimination. According to article 100 of CPC, the authorities are under the obligation to commence the investigation. Furthermore, the victims may also file a complaint before Public Defender and request the examination of the case. In addition, he/she may ask for reparation through civil proceedings, for either material or moral damages.

6. Which obstacles, if any, have been encountered in the implementation of the Recommendation?

7. Has the Recommendation, including its Appendix, been translated in all your national languages?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

8. Which steps have been taken to ensure dissemination of the Recommendation and its Appendix as widely as possible?

Information not available

Section II – Implementation of the specific provisions in the Appendix

I. Right to life, security and protection from violence

9. Are there measures in place to ensure an effective, prompt and impartial investigation into alleged cases of crimes and other incidents, where the sexual orientation or gender identity of the victim is reasonably suspected to have constituted a motive for the perpetrator?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Please see the response under question # 5

10. Are there measures in place to ensure that a bias motive related to sexual orientation may be taken into account as an aggravating circumstance?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Are there measures in place to ensure that a bias motive related to gender identity may be taken into account as an aggravating circumstance?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

On 17 March 2012 legislative amendments to the article 53 of Criminal Code of Georgia was introduced as a result of which hatred on account of sexual orientation and gender identity was added to list of aggravating circumstances of a crime. Correspondingly, the hate-motivated offence on the ground of sexual orientation and gender identity shall be taken into account while determining the sanction for the perpetrator.

11. Are appropriate measures taken to ensure that victims and witnesses of sexual orientation- or gender identity-related hate crimes and incidents are encouraged to report them?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The victims of discrimination on any ground, including sexual orientation or gender identity have equal access to justice. Furthermore, it should be pointed out that under the law on Legal Aid the victim of discrimination is eligible to obtain legal advice or legal aid at the expense of the State. The Legal Aid Service was established under the Ministry of Correction and Legal Assistance in July 2007. Today it covers the entire territory of Georgia through its Bureaus and Consultation Centres.

12. Do training programmes and procedures exist to ensure that the police, judiciary and prison officials possess the knowledge and skills to identify such crimes and incidents and provide victims and witnesses with adequate assistance and support?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Police Academy of the Ministry of Internal Affairs in cooperation with non-governmental and international organizations regularly organizes intensive course in human rights protection. Furthermore, since 2011 the Police Academy in cooperation with the Tolerance Centre functioning under the Public Defender's Office, has been implementing the nation-wide training course for the police on the subject of Non-Discrimination. The project is financed by the EU and involves various issues including effective investigation of hate-crimes. The training program focuses on reviewing the Georgian legislation and international law with emphasis on non-discrimination, stereotypes, xenophobia, racism and relevant case law of the European Court of Human Rights. Within the framework of this project the brochure "non-discrimination" was prepared and distributed to the police stations.

In addition, in November 2010 staff of the Internal Affairs was trained within the framework of EU instrument-TAIEX "Hate crimes and their investigations." The trainers were invited from OSCE/ODIHR, UK and Italy.

Are there specific measures in place to ensure the safety and dignity of lesbian, gay, bisexual and transgender persons in prison or in other ways deprived of their liberty, in accordance with paragraph 4 of the Appendix to the Recommendation?

- a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

13. Have appropriate measures been taken to combat all forms of "hate speech" against lesbian, gay, bisexual or transgender persons, in accordance with Article 10 of the European Convention on Human Rights and with paragraph 6 of the Appendix to the Recommendation?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so, have specific measures been taken to raise awareness of public authorities/ institutions of their responsibility to refrain from statements which may reasonably be understood as legitimising hatred or discrimination against lesbian, gay, bisexual or transgender persons?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Hate speech is not criminalized in Georgia, but regulated by means of civil, media and election legislation. The law on Broadcasting stipulates the conditions for broadcasting in accordance with the principle of free expression and free enterprise. The law further defines the rules of establishment of an independent regulatory authority in the broadcasting sector and determines the terms and procedures for issuing license and reviewing complaints. According to this law, license holders shall ensure accurate and fair coverage of facts and opinions and the identification of personal views, as well as the establishment of non-discriminatory and pluralistic coverage of public opinion and concerns. The same law prohibits broadcasting the programs containing material directed to incite hatred, discrimination that is offensive to any person or group on the basis of ethnic background, religion, opinion, age, gender, sexual preference or disability, or any other feature or status. Special emphasis of these features or statuses is only permissible within the context of a program if its aims merely to illustrate such hatred or discrimination, as they already exist in society.

Additionally, in this context, the Charter of Journalist Ethics of Georgia adopted in 2009 must be emphasized. Namely, under Principle 7 of the Charter journalist shall exercise diligence in order to avoid any kind of discrimination on racial gender, sexual orientation, language, religious, political or other grounds. Additionally, the protection of privacy and non-interference within one's private life has given due regard in the Charter.

Furthermore, according to article 4(8) of law on Advertising the placement and distribution of the improper advertising is prohibited. In addition, the Election Code of Georgia imposes certain restriction on the use of hate speech and on stirring up animosity among different social groups. Namely, article 45 (3) states that "The election program must not contain propaganda of war and violence, of overthrowing the existing state and social system or replacing it through violence, of violating the territorial integrity of Georgia, of calling to foster citizen hatred and enmity, religious and ethnic confrontation."

Organic law of Georgia on Political Unions of Citizens encompasses the similar non-discrimination clause. Precisely, article 5 (2) bans in its all forms creation and operation of a party aimed at subversion or forcible change of constitutional order of Georgia, infringement upon the country's independence, interference with its territorial integrity or which propagates war or violence or stirs up national, community religious or social animosity.

II. Freedom of association

14. Are there measures in place to ensure that freedom of association (including access to public funding available for non-governmental organisations) can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If any, please provide examples of limitations or exceptions to the guarantees set out in Paragraphs 9 and 10 of the appendix to the Recommendation and indicate whether any measure to review or lift such limitations or exceptions is in preparation:

The constitution of Georgia guarantees everyone's right to form and to join public associations including trade unions. Furthermore, as a consequence of the legislative amendments introduced in 2009, the process of registration of the non-commercial organizations has been significantly

simplified. The registration period was reduced to 1 day and the list of documents prerequisite to the registration was substantially decreased as well. As for the registration of organization which focuses their work on the protection of LGBT person's right, until now there are no reported cases of denial of registration. The organizations operate freely.

However, it should be pointed out that the right of association is not an absolute right and it can be restricted in the cases provided for by the law. According to the Constitution of Georgia formation of association is impermissible if such association aims at overthrowing or forcibly changing the constitutional structure of Georgia, infringing upon the independence and territorial integrity of the country or propagandising war or violence, inciting national, local, religious or social animosity.

15. Are there specific measures in place to effectively protect defenders of human rights of lesbian, gay, bisexual and transgender persons against hostility and aggression, including when allegedly committed by state agents, in accordance with the Declaration of the Committee of Ministers on Council of Europe action to improve the protection of human rights defenders and promote their activities?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Human Rights organizations focusing on defending the rights of lesbian, gay, bisexual and transgender person enjoy equal protection against hostility and aggression as any other organization. As explained above, in case of hostile incidents directed against the staff, they are entitled to file a complaint before the relevant state organ, request the investigation of the matter and punishment of the perpetrators.

16. Have measures been taken to ensure that non-governmental organisations defending the of human rights of lesbian, gay, bisexual and transgender persons are appropriately consulted on the adoption and implementation of measures that may have an impact on the human rights of these persons?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

In the recent period cooperation between the non-governmental organizations defending human rights of lesbian, gay, bisexual and transgender persons and the Government has been significantly improved. To this end, the legislative amendments of 27 March 2012 to the Criminal Code of Georgia should be pointed out. As a result of productive consultation with non-governmental organizations, hate motive to LGBT persons was added to the list of aggravating circumstances.

III. Freedom of expression and peaceful assembly

17. Are there measures in place to ensure that freedom of expression, including freedom to receive and impart information on subjects dealing with sexual orientation or gender identity, can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Are there measures in place to ensure that freedom of peaceful assembly can be enjoyed without discrimination on grounds of sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If specific limitations or exceptions regarding such freedoms are in place, please provide examples and indicate whether any measure to review or lift such measures is in preparation:

18. Do law enforcement authorities take appropriate measures to protect participants in peaceful demonstrations in favour of the human rights of lesbian, gay, bisexual and transgender persons?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There has been number of peaceful demonstrations in favour of the human rights of lesbian, gay bisexual and transgender persons carried out last year, the practice indicates that the City Council in none of those cases interfered with their right of peaceful assembly. As for the protection of the demonstrators against the hostility during the freedom of assembly events, it should be pointed out that on 18 May 2012, the law-enforcement officials fulfilled its obligation and effectively protected the demonstrators gathered in front of the Parliament Building from the third-party violence.

IV. Right to respect for private and family life

19. Have measures been taken to ensure that criminal law provisions which, because of their wording or scope, may lead to a discriminatory application with respect to sexual orientation or gender identity are either repealed, amended or applied in a manner which is compatible with the principle of non-discrimination?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Georgian criminal legislation, currently enforced, contains no provisions which may lead to a discriminatory effect. Homosexuality was decriminalised in Georgian in June 200. The age of consent for sexual affair is 16 for both- homo or heterosexual people.

20. Are there measures in place to ensure that personal data referring to a person's sexual orientation or gender identity are not collected, stored or otherwise used, except where this is necessary for the performance of specific, lawful and legitimate purposes, and that existing records that do not comply with this principle are destroyed?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please provide examples of exceptions to this principle, if any:

The law of Georgia on Personal Data Protection is the primary legal instrument regulating the rules of protection of personal data. According to the article 2, the list of sensitive information under law includes: person's race or ethnic origin, political opinion, religion, philosophical belief, trade union membership, health status, sexual life or conviction history and biometrical data, upon which the person can be identified. In light of the latter provision, the information regarding the person's sexual orientation is classified as data falling to special category and is subject to better protection. According to the article 6, part 1 of the above law, processing of information falling to special category is prohibited. However, part 2 of the same article defines the exceptions to the rule. Namely, restriction of processing sensitive data will not be effective in the following circumstances: a) The subject of data gave the written consent on the processing of special category data; b) the subject of data made public information about him/her without clear prohibition of using the data

on him/her; c) the data processing is necessary for a persons who processes it for fulfilling his/her labour responsibilities, or for implementation of the right related to it; d) date processing is necessary for protecting the vital important interests of the data subject of the third person and the data subject or legal capacity to give the consent; e) data processing is exercised for the purposes of public health, by the medical institutions for protection of a person's health, also if it is necessary for management or functioning of the healthcare system. It should be pointed out that the list included additional exception, under which the collection of the data was permissible "in the interest of the public", however by the amendments of 25 May 2012 Law on Personal Data Protection prepared by the Ministry of Justice aimed at better compliance with EU Directive EC/95/46, the above exception was repealed.

Furthermore, it should be emphasized that the data subject enjoys certain rights, which provide him/her with the possibility to control the process of his/her data. Namely, under article 21(1) of the Law of Georgia on Personal Data Protection the data subject is entitled to request the information regarding his/her data procession from the processing body. The above body, is required to provide the date subject within the 10 days limit the following information: what kind of data about him/her is being processed; the purpose of the data processing; the legal base for the data processing; the ways of data collection, to whom the the data was submitted and the ground and the purpose of such submission.

21. Are appropriate measures available to guarantee full legal recognition of a person's gender reassignment in all areas of life in accordance with the provisions of paragraph 21 of the appendix to the Recommendation?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Have prior requirements for legal recognition of a gender reassignment been reviewed in order to remove any abusive requirements?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Georgian legislation envisages the measure for the full legal recognition of a person's gender reassignment. Under the Article 22 of the Law on the Protection of Personal Data, the data subject is entitled to request the change or update of his/her personal information. In such case, the data processing official is required to correct, update, change, add, block, delete or destroy the data, if it is incomplete, incorrect or outdated, or if they have been collected unlawfully.

Most importantly, according to the law on the Civil Acts, a person has a right to ask the civil act registration body to make changes and/or additions to his entry including the name. The ground of such request includes the change of gender.

22. Once gender reassignment has been completed and legally recognised, is the right of a transgender person to marry a person of the sex opposite to their reassigned sex effectively guaranteed?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Provided that the relevant documentation necessary by law for the marriage is obtained, including the personal identification document recognizing the change of gender, Georgian legislation envisages no restriction of the right of a transgender person to marry a person of the sex opposite to their reassigned sex.

23. Where national legislation recognises registered same-sex partnerships, are their legal status, rights and obligations equivalent to those of heterosexual couples in a comparable situation?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

If national legislation does not recognise nor confer rights to registered same-sex partnerships and unmarried couples, has the possibility been considered to provide same-sex couples with legal or other means to address the practical problems related to this fact in their lives?

a. ☐ b. ☐ c. ☐ d. ☐ e. ☐

Please provide examples:

24. Are there measures in place to ensure that decisions regarding parental responsibility and adoption of a child are taken primarily in the child's best interest, as well as without discrimination based on sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

There is no discrimination on the ground of sexual orientation and gender identity in procedures of child adoption. The Civil Code of Georgia and the Law of Georgia on Adoption and Foster Care regulates the rules of child adoption. According to the article 1245 and 1245 of Civil Code adopting parent can be single person except to those persons who due to illness, moral or other personal characteristics cannot exercise the rights of parents or married couple. Furthermore, Article 5 of the Law on Georgia on Adoption and Foster Care defines the legal criteria for the adoption. Adopting parent may be any adult having legal capacity, accepts those:

- who was deprived of the parental right or previously has adopted person, was a guardian of minor or exercised the function of foster parent but these relations were annulled due to the improper performance of his/her duties.

- Whose right to parenthood has been restricted under the procedure established for by the Georgian legislation.

- Who was convicted by the Court for grave or especially grave crime and the conviction is not annulled pursuant to the procedure provided for by the Georgian legislation.

- Who is convicted for the offence considered in the Chapter XXIV of the Criminal Code of Georgia and his/her conviction is not annulled pursuant to the procedure provided for by the Georgian legislation.

In the view of the above considerations, it is clear that the law contains no restrictive provision directed against the rights of the adopting parent on the ground of sexual orientation or gender identity.

V. Employment

25. Does legislation prohibit discrimination in employment in the public and private sector on grounds of sexual orientation?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Does legislation prohibit discrimination in employment in the public and private sector on grounds of gender identity?

- a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

If so, are there measures in place concerning in particular:

- i) Access to employment
 - a. ☒ b. ☐ c. ☐ d. ☐ e. ☐
- ii) Promotion, dismissals, pay and other working conditions
 - a. ☒ b. ☐ c. ☐ d. ☐ e. ☐
- iii) Prevention and punishment of harassment
 - a. ☒ b. ☐ c. ☐ d. ☐ e. ☐
- iv) Protection of privacy of transgender persons
 - a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

Labour Code of Georgia, precisely article 3, expressly prohibits discrimination based on sexual orientation. While it is true that said provisions, currently in force, only applies to person who are already employed and it does not include recruitment process, it should be stressed out that the recent package of changes to the labour code elaborated by the Ministry of Justice of Georgia intends to fill in the gap. According to the draft bill, the discrimination on the ground of sexual orientation will be prohibited at the selection stage as well. The public presentation of the amendment package has already carried out. In the near future, package of changes will be submitted to the Parliament of Georgia for further examination.

VI. Education

26. Are there appropriate legislative and other measures, addressed to educational staff and pupils, to ensure that the right to education can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, taking into due account the over-riding interests of the child and the rights of parents regarding education of their children?

- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so, are there measures in place concerning in particular:

- i) Anti-discrimination training or support and teaching aids
 - a. ☐ b. ☐ c. ☐ d. ☐ e. ☒
- ii) Information, protection and support for pupils and students
 - a. ☐ b. ☐ c. ☐ d. ☐ e. ☒
- iii) Objective information on sexual orientation and gender identity in school curricula?
 - a. ☐ b. ☐ c. ☐ d. ☐ e. ☒
- iv) School equality and safety policies and action plans
 - a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The law of Georgia on General Education and the Law of Georgia on Higher education contains the provision, which expressly prohibits discrimination on any ground and recognizes access to education for all.²

² The Law of Georgia on General Education, article 13/(3) j

VII. Health

27. Are there appropriate measures in place to ensure that the highest attainable standard of health can be effectively enjoyed without discrimination on grounds of sexual orientation or gender identity, in accordance with the provisions of Paragraph 33 of the Appendix to the Recommendation?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Georgian legislation, namely the Law on Public Health of Georgia prohibits discrimination against patients on any ground, including the sexual orientation. Every citizen has equal access to medical assistance provided by state programs. Article 5-6 of the aforementioned law stipulates that discrimination against the patient on the ground of race, colour, sex, religion, political and other opinions, national, ethnic and social belonging, origin, property and position status, residence, morbidity, sexual orientation or personal negative mood is impermissible.

28. Has homosexuality been removed from the national classification of diseases?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

29. Are there measures in place to ensure that transgender persons have effective access to appropriate gender reassignment services?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If there are limitations to the costs covered by health insurance for gender reassignment, please explain:

The rules related to the gender-reassignment surgery are not prescribed in the law; however it is possible to undergo the procedure in two clinics in Georgia without any obstacles. According to the practice in the field, the person willing to undergo the surgery is referred to the State Commission on Bioethics. The commission appoints independent experts including psychologist, sexologist and psychiatrist. Following the course of the observation, the based on the diagnosis of "genuine transsexuality" the person in question may undergo the procedure. However the costs of the surgery is not covered by the insurance companies; therefore it is borne by the person undergoing the surgery.

VIII. Housing

30. Are measures taken to ensure access to adequate housing can be effectively and equally enjoyed by all persons, without discrimination on grounds of sexual orientation or gender identity, that protection is provided against discriminatory evictions, and that equal rights are guaranteed in respect of ownership of land and other property,?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Constitution of Georgia entitles everyone legally present within the territory to have the right to liberty of movement and freedom to choose his/her residence throughout the territory of Georgia.³

³ Constitution of Georgia, Article 22, part 1

In addition, the Civil Code enshrines the principle of equality in property, family and personal relations of private nature.⁴ Correspondingly, in civil relations legislation prohibits discrimination on any ground, including sexual orientation or gender identity.

31. With respect to the risk of homelessness faced by lesbian, gay, bisexual and transgender persons, in particular young persons and children, are measures taken to ensure that the relevant social services are provided without discrimination on grounds of sexual orientation or gender identity?
- a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

IX. Sports

32. Have measures (including awareness-raising measures) been taken to tackle discrimination on grounds of sexual orientation or gender identity (including the use of discriminatory insults) in sports and in connection with sports events?
- a. ☐ b. ☐ c. ☐ d. ☐ e. ☒

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

X. Right to seek asylum

33. In cases where your country has an international obligation in this respect, may a well-founded fear of persecution based on sexual orientation or gender identity be recognised as a valid ground for the granting of refugee status and asylum under your national law?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

The Georgian legislation excludes any discrimination in asylum seeking on any ground, including sexual orientation and gender identity. The law of Georgia on Refugee and Humanitarian Statuses declares that the status of refugee can be granted to a person if he/she has a justified fear that he/she may become the victim of persecution due to his/her race, religion, belief, nationality, belonging to the particular social group or political opinions, and he/she cannot or does not want, because of that fear, to return in the country of his/her origin, or enjoy protection of that country.⁵ Despite the fact that the list described above does not contain specifically discriminatory ground for sexual orientation or gender identity the "Membership of a social group" should be interpreted widely to include the LGBT group as well.

34. Does your country ensure that asylum seekers are not sent to a country where their life or freedom would be threatened because of their sexual orientation or gender identity?
- a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Please indicate the measures and, if appropriate, provide examples of good practices in this area:

⁴ The Civil Code of Georgia, Article 1

⁵ The Law of Georgian on Refugee and Humanitarian Statuses, Article 2

The Government of Georgia respects the principle of non-refoulement and ensures that asylum seekers are not returned to a country where their life or freedoms will be in danger. Namely, the Law of Georgia on the Legal Status of Aliens prohibits the deportation of an alien from Georgia to a country where: one is being persecuted for political opinion or an act which is not considered a crime under Georgian legislation, for protecting human rights or peace or progressive political and public or scientific, or other activity, or where one's life and health will be in danger.

XI. National Human Rights Structures

35. Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of sexual orientation?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Are National Human Rights Structures (equality bodies, ombudsperson, and national human rights institutions) clearly mandated to address discrimination on grounds of gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

If so please explain and indicate in particular, if appropriate, what possibilities of intervention are included in their mandate, including in particular with respect to discrimination on multiple grounds:

According to the Article 12 of Organic law of Georgia "on Public Defender of Georgia" the competence of the Public Defender includes the monitoring the observance of human rights and freedoms within the territory and jurisdiction of Georgia. Furthermore, examination of cases concerning alleged human rights violation, the protection of minority, including sexual minority is considered to be one of the most important functions of Public Defender's Office. Correspondingly, the despite the clear wording mandating this role to the Public Defender's Office, the practice shows that PDO assumes the responsibility to protect the sexual minority and implement appropriate measures when necessary. To this ends, it should be emphasized that subsequent to the intervention in the IDAHO March on 17 May 2012, the Public Defender made the public statement condemning the actions directed against the peaceful demonstrators.

XII. Discrimination on multiple grounds

36. Are there measures in place to ensure that the provisions of national law prohibiting or preventing discrimination also protect against discrimination on multiple grounds, including on grounds of sexual orientation or gender identity?

a. ☒ b. ☐ c. ☐ d. ☐ e. ☐

Section III - Follow-up

37. Which measures by the Council of Europe would you recommend to ensure that member states are guided in their national legislation and practice by the principles set out in the Recommendation and in its Appendix?

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38. Should the Council of Europe continue examining periodically the implementation of this Recommendation? If so, should such examination in future concentrate on specific issues, and which specific issues would you recommend examining in that case?

The Government welcomes the efforts from Council of Europe to continue the periodic implementation of the recommendation.

39. Are there any issues on which the Recommendation and its Appendix should be revised or completed? If so, please indicate them.

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