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Date: 13/08/2024

DH-DD(2024)913

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Meeting: 1507th meeting (September 2024) (DH)

Communication from NGOs (Social Justice Center, European Human Rights Advocacy Centre (EHRAC) (02/08/2024) concerning the cases of Georgian Muslim Relations and Others and Mikeladze and Others v. Georgia (Applications No. 24225/19, 54217/16) (Identoba and Others group, 73235/12).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1507^e réunion (septembre 2024) (DH)

Communication d'ONG (Social Justice Center, European Human Rights Advocacy Centre (EHRAC) (02/08/2024) relative aux affaires Georgian Muslim Relations et autres et Mikeladze et autres c. Géorgie (requêtes n° 24225/19, 54217/16) (groupe Identoba et autres, 73235/12) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



DGI – Directorate General of Human Rights and Rule of Law

Department for the Execution of Judgments of the ECHR

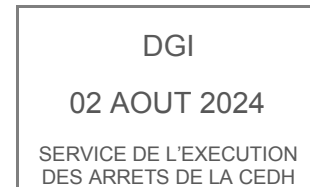
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2 August 2024

Rule 9(2) submission to the Committee of Ministers of the Council of Europe concerning the implementation of Mikeladze & Others v. Georgia (no. 54217/16) and Georgian Muslim Relations and Others v. Georgia (no. 24225/19), as a part of the Identoba Group of Cases (no. 73235/12) for the CM-DH meeting 1507 (17-19 September 2024) by the Social Justice Center and the European Human Rights Advocacy Centre

I. Introduction

1. The Social Justice Center and the European Human Rights Advocacy Centre, as the representatives of the applicants in these cases, wish to update the Committee of Ministers with information regarding the implementation of the judgments in terms of individual and general measures.
2. The submission further outlines the general situation in the country with regard to the serious structural challenges related to exercising freedom of religion by the Muslim minority in Georgia, as well as lack of state's efforts to eliminate these problems. In particular, the submission refers to the problem of ineffective investigations into religiously motivated hate crimes, exemplified by the recent incident of persecution of Georgian Muslims in the town of Adigeni. It also provides updated information regarding disturbing developments in the field of freedom of religion in the country, including proposals to criminalize acts of blasphemy, the discriminatory provisions in the new Defense Code limiting freedom of religion, continuing obstacles for Muslims to build mosques and discriminatory rules on financing religious organizations. Finally, we urge the Committee to request the Government to take the necessary steps to effectively implement the judgments and to ensure the protection of the right to freedom of religion as required by the Convention.

3. Since the above two cases illustrate the same systemic and longstanding problem of the exercise of freedom of religion by the Georgian Muslim minority and ineffective investigation of their complaints, the resolution of which requires the implementation of a series of legislative and policy measures which have not been taken into account by the Georgian Government, the present document should be read together with our submissions and recommendations made in the previous communications to the Committee of Ministers in 2022 and 2023.¹

II. The summary of cases and the Court's findings

4. The case of Mikeladze and Others v. Georgia (no. 54217/16) concerns the religiously motivated ill-treatment of the applicants by the police during their arrest and detention at a peaceful gathering in 2014 aimed at protesting the reconstruction of remnants of an allegedly Muslim mosque into a public library, and ineffective criminal investigation into their complaints. The Court found a violation of the substantive aspect of Article 3 of the Convention in respect of the first applicant and a violation of the procedural limb of Article 3 taken alone and in conjunction with Article 14 in respect of all four applicants. Regarding the procedural aspect of Article 3, the Court established that the investigation lacked institutional and practical independence, as well as requisite promptness on account of unreasonable periods of inactivity. It also concluded that the substantial and personal scope of the investigation was limited and the authorities failed to take all reasonable steps to investigate any possible religious prejudice in the police officers' actions towards the applicants.
5. The case of Georgian Muslim Relations v. Georgia (no. 24225/19), concerns the State's failure to protect the applicants from unlawful mob action, hate speech and other discriminatory actions by the local Orthodox Christian population against their attempt to open a Muslim boarding school in the city of Kobuleti. In particular, to prevent the applicants from opening a Muslim boarding school, the group of private individuals organized protests in front of the building, used hostile hate speech and threats, nailed a bleeding pig's head to the door of the school, and restricted their access to the building by erecting barricades and tyres, which continued for several weeks. The Court found that the authorities failed to fulfil their positive obligations under Article 8 and Article 9 of the Convention in conjunction with Article 14 on account of the following reasons:
 - As a result of the police's inaction, the applicants were subjected to hate speech and degrading treatment because of their membership of a religious minority; they felt deeply humiliated and had to endure continuous interference with their private life, dignity and religious beliefs. The passive attitude of the authorities, namely their failure to identify and punish the perpetrators, contributed to exacerbating the discriminatory treatment of the applicants.
 - The authorities failed to carry out an effective criminal investigation capable of revealing the possible hate motive and religious intolerance behind the violent incidents and identifying and punishing those responsible which was necessary to discourage and suppress unlawful and discriminatory mob action. The inadequate and lengthy investigation of allegations of religious

¹ Rule 9.2 Communication from NGOs SJC and EHRAC in the case of Mikeladze and Others v. Georgia, 18.10.2024 [https://hudoc.exec.coe.int/?i=DH-DD\(2022\)1181E](https://hudoc.exec.coe.int/?i=DH-DD(2022)1181E) see also: Rule 9.2. Communication from NGOs SJC and EHRAC, 19.10.2023 [https://hudoc.exec.coe.int/?i=DH-DD\(2023\)1310E](https://hudoc.exec.coe.int/?i=DH-DD(2023)1310E)

discrimination reinforced an atmosphere of official acquiescence and created a general sense of impunity.

- Domestic courts ignored the role of the police in a religiously tense atmosphere. In particular, while the Courts found the private individuals responsible for discriminatory treatment, they did not consider it necessary to order the police to ensure the identification and punishment of the perpetrators or taking any other measures to restore public order in the neighbourhood and to ensure that the applicants' religious rights were adequately protected.

6. The Court also found a violation of Article 1 of Protocol 1 of the Convention as:

- The applicants were denied access to the building for some time and the authorities failed to take proactive measures to stop the unlawful blockade of the building, as a result of which the applicants were unable to use the building.
- The Kobuleti Water Ltd and Kobuleti Municipality failed to connect the building to the city's sewerage system. The decision of the domestic court in the anti-discrimination case, which found that the refusal to connect the building to the sewerage system was unjustified, was not enforced.

III. Individual measures

Mikeladze and Others v. Georgia

7. The criminal charges under Article 333 3 (b) of the Criminal Code of Georgia (exceeding official powers) are being examined by the Akhaltsikhe District Court against two former police officers about allegations of ill-treatment toward the first applicant, T. Mikeladze. By the letter of 18 July 2024, the applicant's representative was informed by the Akhaltsikhe District Court that the Court has not delivered a judgment yet.²
8. As regards the remaining three applicants, a criminal investigation into the applicants' allegations is still ongoing without any conclusive results: the motive of religious intolerance is not revealed in the course of the investigation by the Prosecutor's Office (PO) and it is evident from the Government's updated action plan that the investigation has not progressed during the reporting period. Moreover, since the above three applicants have not been granted victim status, after almost 10 years since the disputed events took place, they cannot review case files and monitor the process of investigation in violation of the requirements of principles of promptness and victims' effective involvement.

Georgian Muslim Relations and Others v. Georgia

9. The applicants, except the eighth applicant, confirmed that they received the just satisfaction sums awarded by the Court.
10. Under the Law on Special Investigative Service, investigation of crimes in the cases in which the Court has established a violation of Convention rights after 28 February 2022, falls in the jurisdiction of the Special Investigative Service (SIS), therefore it will be responsible to carry out an effective investigation into the case.³ However, the Government's action plan has not specified

² Annex 1, Letter of the Akhaltsikhe District Court to the applicants' representative, 18.07.2024

³ Law on Special Investigative Service, Article 29 (3)

the activities planned or envisaged to properly execute the judgment, including the investigation. On 17 July 2024, the applicants' representative addressed the SIS with the request to provide information regarding the steps taken and/or planned to implement the judgement in accordance with the findings of the Court. At the time of sending the submission, the SIS has not responded to the applicants' letter.

IV. General Measures

11. The above two cases illustrate that the exercise of religious rights by Muslim and other religious minorities in Georgia is hampered by the systemic and longstanding problems that require proactive and comprehensive action by the State. However, in its 2023 report, the Public Defender of Georgia (PDO) noted that most of its recommendations to the state authorities regarding the freedom of religion had not been implemented and that the discriminatory provisions in the legislation continued to exist including the lack of a uniform and fair settlement of issues related to the return of property to religious organizations expropriated during the Soviet era.⁴

1. Investigation of hate-motivated crimes

12. Under the Law on the Special Investigative Service, investigation of crimes under Article 155 (unlawful interference with performance of religious rite) and Article 156 (persecution of persons, including because of their conscience, confession and faith) fall under the jurisdiction of the SIS. According to the SIS's report, in 2023, motive of religious intolerance was identified in 9 cases in total, out of which: 6 cases are classified under Article 156 (2) (a) of the CCG; 2 cases are classified under Article 155(1) of the CCG; 1 case is classified under Article 187 (1) of the CCG (damage or destruction of property).⁵ According to the information provided by the SIS, alleged victims of crimes under Article 155(1) and 156(2) were only Jehovah's witnesses and victim status was granted to 6 individuals in cases classified under Article 156(2).⁶

13. According to the unified statistics published by the Prosecutor's Office (PO), in 2023, the PO has brought criminal charges for hate crimes against 1218 individuals. However, only one individual was charged with the motive of religious intolerance under Article 156 of the CCG (persecution) and one individual with the motive of religious and gender intolerance (intersectional discrimination) under Articles 11¹-126 and 160 (violence and violation of the integrity of domicile or of any other property).⁷ In the reporting period, four individuals were recognized as victims of religiously motivated crime under Article 156, and two individuals were recognized as victims of religiously and gender motivated crime.⁸ It is noteworthy that the statistics does not include data

<https://matsne.gov.ge/ka/document/view/4276790?publication=11>

⁴ Public Defender of Georgia (PDO), Report On the Situation of Protection of Human Rights and Freedoms in Georgia, 2023, p. 137 <https://ombudsman.ge/res/docs/2024052911382931838.pdf>

⁵ Special Investigative Service, Statistical data of 2023, p. 49 https://sis.gov.ge/Statistics-and-reports?rec_id=45&lng=eng

⁶ Annex #2, Letter of the SIS, 31.07.2024

⁷ Prosecutor's Office, Hate crime analysis, 2023 <https://pog.gov.ge/uploads/98f289bc-HATE-CRIME-ANALYSIS-2023-1.pdf> pp. 2, 11, 14

⁸ Ibid, p. 33

regarding the number of requests lodged by the alleged victims of religiously motivated crimes to the investigative authorities on the granting of victim status, which would be important data to compare the proportion of requests satisfied/rejected. Notably, in the reporting period, no one has been convicted on the grounds of religious intolerance.⁹

14. In April 2024, the Human Rights Department of the Ministry of Internal Affairs (MIA), tasked with monitoring the quality and effectiveness of investigations, including on hate crimes, was reorganized. In particular, based on the new bylaw, the Department was tasked with ensuring the information security of the MIA, which is irrelevant to its functions and might hinder its human resources from focusing on its primary responsibilities. Most importantly, the territorial units (regional units and Tbilisi units) within the department were abolished.¹⁰ The structural changes were criticized by the former head of the Regional Unit of the Department, Goga Razmadze (G.R.), noting that the Minister and his deputies would be able to directly control and define the categories of crimes to be investigated by the Department, thereby directly controlling its work by the orders of the Minister.¹¹
15. In July 2023, G.R. publicly criticized the senior officials of the MIA (including Deputy Minister Aleksandre Darakhvelidze) and alleged that he was responsible for informally limiting the investigation monitoring functions of the Department and restricting cooperation with civil society and international organizations. He also alleged that the senior officials demanded the deletion of his public posts critical to human rights violations in the country. Namely, G.R. was allegedly asked to delete his critical posts on the events of 5 July 2021 when one journalist died shortly after being severely beaten by organized homophobic groups during pride events.¹² He also added that, on the grounds of an unplanned internal audit of the Department, several employees with critical positions were fired. Despite his attempts to discuss these problems within the Ministry, he was questioned in the General Inspection of the MIA where the Deputy Head of the General Inspection subjected him to inhuman and discriminatory treatment, exerting psychological pressure and debasing his dignity to force him to retire voluntarily.¹³ In November 2023, G.R. was dismissed from the MIA based on disciplinary proceedings.¹⁴ It should be underlined that in response to calls of the CM and the European Commission against Racism and Intolerance (ECRI) to establish a specialized department of hate crimes,¹⁵ the Government had noted the existence of the Department and

⁹ Unified statistics, 2023, p. 32 https://www.geostat.ge/media/60697/diskriminacia_2023.pdf

¹⁰ Order of the Minister of the Interior of Georgia on the Adoption of the Bylaw of the Human Rights Protection Department, 01.04.2024 <https://matsne.gov.ge/ka/document/view/6164919?publication=0>

¹¹ Tabula, “Former Head of the Department: Address to My Friends, Raise your Voice, They cannot Fire All of You”, 03.05.2024 (available only in Georgian) <https://tabula.ge/ge/news/717674-shss-s-sammartvelos-qopili-uprosi-mivmartav>

¹² Facebook Post https://www.facebook.com/goga.razmadze.77/posts/6950419024987800?ref=embed_post [last accessed on 23.07.2024]

¹³ ibid

¹⁴ Interpressnews, “Goga Razmadze: Several Months Long Fight Was Ended with My Dismissal”, 10.11.2023 (available only in Georgian) <https://www.interpressnews.ge/ka/article/777286-goga-razmaze-ramdenimetviani-brzola-chemi-samsaxuridan-gatavisuplebit-dasrulda/>

¹⁵ Committee of Ministers, 1451st meeting, 6-8 December 2022 (DH) H46-13 Identoba and Others group v. Georgia (Application No. 73235/12) [https://hudoc.exec.coe.int/?i=CM/Del/Dec\(2022\)1451/H46-13E](https://hudoc.exec.coe.int/?i=CM/Del/Dec(2022)1451/H46-13E)

specialization of investigators as an effective alternative mechanism to the specialized unit for hate crimes.¹⁶ However, the developments described above demonstrate the lack of political will among the senior officials within the law-enforcement authorities to respond effectively to hate crimes, which is a serious problem extending beyond the structural arrangement of the law enforcement system or its human and professional capacities.

2. Conflict in the town of Adigeni and the absence of a systemic approach to combat religious discrimination

16. The state's inadequate response to the facts of hate speech and persecution against Muslim minorities' attempts to exercise their freedom of religion remains a common occurrence in Georgia, which is demonstrated by the recent incident of March 2024.
17. On 8 March 2024 in the town of Adigeni (located in Southern Georgia), during the traditional Jumma prayer, in front of the building of Imam Merab Mikeladze, representatives of the Georgian Orthodox Church, accompanied by approximately 200 Orthodox Christians, gathered and asked the Muslims to leave the premises. Despite the fact that only three Muslims were present in the building, the situation on the ground escalated dramatically. Video footage depicts the Priest, Nikoloz Getsadze attempting to break in the property and threatening with violence, despite the presence of police cordon at the scene. The Priest's words, captured on video include threats against Mikeladze: "I will tear your face [swearing]... I will make you lamb forever... This house will never be yours." Other individuals accompanying the Priest echoed the hostile rhetoric by shouting: "it will be ours, Georgian people's, it will be Christians". Mayor of Adigeni town, Gocha Kimadze visited the scene and supported the Christians' demand: "Christians perceive this process as a provocation... Prayer house here will not bring peace. That's why I think it is not necessary to be here."¹⁷
18. Similar incidents occurred on 1 March 2024 and on 31 July 2023, when Orthodox clergy and locals gathered at Mikeladze's property and demanded that Muslims cease their religious activities. On 31 July 2023, local Orthodox priests gathered at Mikeladze's premises and insisted that Muslims cease their religious activities. A confrontation ensued at the site, requiring police intervention to calm the conflicting groups. The local Orthodox community argued that since Muslims did not live in the town of Adigeni, they had no right to gather in the town for prayer.¹⁸ Following the confrontation of 8 March, negotiations were held between Orthodox and Muslim clerics with the involvement of local and central authorities and the Muslims agreed to continue prayers in the distant village of Ijareti if the local government provided an alternative building. However, the local government has not fulfilled its promise and the Muslims continued their prayers at the disputed place. However, again, on 5 April 2024, Orthodox community and clergy gathered again

¹⁶ Government's Action Report concerning the group of cases of Identoba and Others v. Georgia, 2022, paras 33-34 [https://hudoc.exec.coe.int/?i=DH-DD\(2022\)1151E](https://hudoc.exec.coe.int/?i=DH-DD(2022)1151E)

¹⁷ Batumelebi, "Muslims Were not Allowed to Pray on Friday in Adigeni," 08.03.2024 <https://youtu.be/iZfljyVzKV0?si=Iz3UN-c71UqQDn-i>

¹⁸ Muslims comprise 20,9% of the population of the town of Adigeni and surrounding villages: State Agency of Religious Affairs, Distribution of population by regions, municipalities and religious affiliation (available only in Georgian) <https://religion.gov.ge/statmaps/#>

in front of Mikeladze's house and prevented the Muslims from praying, threatening with mobilizing larger groups and destroying his house.¹⁹ Finally, on 10 April 2024, in order to prevent risks of escalation, the local Muslims decided to cease their Friday prayers and refused to exercise their religious rights.

19. During the negotiations, the Head of the State Agency of Religious Affairs (SARI) stated that he only recognizes the All-Georgia Muslim Administration as the legitimate representative organization of the Muslim community.²⁰ He also publicly referred to the owner of the building and other leaders as representatives of other Islamic "sects," in an attempt to marginalize them. This approach is not only problematic from a theological and legal perspective but also raises concerns about discrimination and hierarchization within the religious community by the State.²¹ The rhetoric of the government representatives during the negotiations does not correspond to the principles of religious neutrality and equality, and have once again confirmed the problematic arrangement of the SARI, which is under the direct authority of the Prime Minister, and the legitimate criticism of its activities from civil organizations, the Public Defender and international organizations. These criticisms include the fact that issues of religious freedom are seen by the Government only from a security perspective and as means to control and hierarchize religious organizations and their communities.²²
20. On 12 and 28 March 2024, and subsequently, on 5 April, in response to the organized persecution and religious intolerance expressed by the Orthodox Christians, Merab Mikeladze and other prayers, represented by the SJC, addressed the SIS to commence an investigation into the crime prescribed under Article 156 of CCG and interrogate the instigators of the hostile acts and threats. However, the SIS responded that there was no sign of a crime that would mandate it to initiate an investigation and transferred the case to the MIA (which in turn has not taken any legal steps in response to the alleged victims' requests). Therefore, until today, the investigation has not commenced and none of the individuals participating in the 8 March incident has been interrogated.
21. It should be highlighted that the above incident is not an isolated occurrence in Adigeni Municipality, but rather a part of a disturbing pattern of harassment and intimidation targeting Georgian Muslims. Since 2013, the PDO, non-governmental organizations and authoritative international organizations have documented systematic infringement of the rights of Adigeni

¹⁹ Samkhretis Karibche, video footage on the situation in Adigeni, 05.04.2024

<https://www.facebook.com/watch/?v=1896259900835591>

²⁰ Imedi TV, "Meeting in Akhaltsikhe", 03.04.2024 <https://www.facebook.com/watch/?v=436942745512876>

²¹ It is noteworthy, that most of the Muslim community distrusts the Administration of Muslims of All Georgia as a state controlled organization, which does not express and protect legitimate interests of the community. See: TDI on the Decision of Mokhe Mosque, <https://tdi.ge/en/news/393-tdi-decision-mokhe-commission> also: US State Department, Georgia International Religious Freedom Report, 2022, p. 13 <https://www.state.gov/wp-content/uploads/2023/05/441219-GEORGIA-2022-INTERNATIONAL-RELIGIOUS-FREEDOM-REPORT.pdf>

²² Joint Statement of the Council of Religions under the Public Defender of Georgia and Non-governmental organizations about the State Agency for Religious Affairs, 01.05.2014

<https://socialjustice.org.ge/en/products/gantskhadeba-religiis-sakitkhta-sakhelmtsifo-saagentostan-dakavshirebit> ; see also: SJC, Critical Analysis of the Activities of the State Agency for Religious Affairs, 2016, pp.

68-85 <https://socialjustice.org.ge/uploads/products/pdf/Freedom-of-Religion.pdf>

Muslims in Chela (2013),²³ in Mokhe (2014),²⁴ in Adigeni (2016)²⁵ and Kvabijvari (2018).²⁶ In recent years, similar practices of persecution and harassment against Muslim minority groups have taken place in other regions of Georgia – Nigvziani (2012),²⁷ Samtatskaro (2013), Tsintskaro (2013),²⁸ and Buknari (2021).²⁹ Unfortunately, no single incident of threats, persecution and interference in religious activities against Georgian Muslims has resulted in an adequate response from the law enforcement authorities on previous occasions, feeding climate of impunity and fertile soil for the recurrence of violence. It also deepens marginalization and feeling of insecurity of the minority group damaging peaceful coexistence of different social and religious communities.

3. The anti-democratic rhetoric and legislative initiatives introduced by the ruling party

22. In its latest decision on the Identoba group of cases, the Committee expressed deep concern regarding “the seriousness of the situation with regard to protection of the rights of LGBTI persons and religious minorities and exhorted the authorities to demonstrate a firm commitment towards the fight against hate-motivated violence and impunity by conveying an unambiguous zero-tolerance message at the highest level towards any form of discrimination and hate crime against these communities and by duly bringing to justice organisers and instigators of hate violence without further delay.” Unfortunately, these calls have been ignored by the state authorities, which is evident by the Government's exclusionary policies towards minority groups, the introduction of a set of homo/bi/transphobic legislative initiatives³⁰ and constitutional amendments³¹ and anti-human rights and anti-LGBTQI rhetoric towards minorities,³² instrumentalising the Orthodox

²³ Tolerance and Diversity Institute (TDI), Report on Freedom of Religion in Georgia, 2010-2019, pp. 90-91 https://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf

²⁴ Public Defender of Georgia (PDO), Situation of Human Rights and Freedoms in Georgia, 2017, pp. 82, 101-102 <https://ombudsman.ge/res/docs/2019062409381039906.pdf>; PDO 2014 annual Report, pp. 269-270 <https://www.ombudsman.ge/res/docs/2019062409381078741.pdf> see also: PDO 2016 annual report, pp. 262-264 <https://ombudsman.ge/res/docs/2019062409381031243.pdf>

²⁵ Netgazeti, “*Struggle of Muslims for Rights in Adigeni*,” , 02.03.2016 (available only in Georgian) <https://netgazeti.ge/news/98526/>

²⁶ SJC, the Land Which Was Used by Muslims in Adigeni, Was Handed Over to the Patriarchate, 11.10.2019 (available only in Georgian) <https://socialjustice.org.ge/ka/products/mitsa-romlitats-adigenshi-muslimi-mosakhleoba-sargeblobda-sapatriarkos-gadaetsa>

²⁷ PDO, Report on the Situation of Protection of Human Rights and Freedoms in Georgia, 2013, pp. 160-161 <https://www.ombudsman.ge/res/docs/2019062409162473497.pdf>

²⁸ Ibid

²⁹ PDO, Report on the Situation of Protection of Human Rights and Freedoms in Georgia, 2021, p. 130 <https://ombudsman.ge/res/docs/2022070612391254904.pdf>

³⁰ Social Justice Center, the Government Against the Equality and Freedom of Expression – Comprehensive analysis of Homophobic Legislative Initiatives, 2024 <https://socialjustice.org.ge/ka/products/khelisufleba-tanastorobisa-da-gamokhatvis-tavisuflebis-tsinaaghmdeg-homofobiuri-sakanonmdeblo-initsiativebis-vrtseli-samartlebrivi-analizi>

³¹ Venice Commission, Opinion on the draft constitutional law on Protecting Family Values and Minors, 22.06.2024 [https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2024\)021-e](https://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2024)021-e)

³² Social Justice Center, Blue-colour Danger and GD's Russian-style Politics, 19.07.2024 (available only in Georgian) <https://socialjustice.org.ge/ka/products/tsisferi-safrtkhe-da-kartuli-otsnebis-rusuli-politika>

Church of Georgia through the rhetoric of ethno-religious nationalism³³ and leveraging its political influence while disregarding the needs and interests of other religious organizations and communities.

23. It is extremely concerning that such anti-democratic initiatives further deepen the existing structural and systemic inequalities among the various social groups and communities, including religious minorities, erodes social cohesion in the country and creates fertile soil for further religious conflicts.

3.1. Proposals to criminalize acts of blasphemy

24. Since our last submission in October 2023, as a result of the ruling party's antidemocratic legislative initiatives and policies, the human rights situation has deteriorated dramatically, negatively affecting the rights of religious minorities. Motivated to maintain its grip on power, the ruling party continues to instrumentalize the Orthodox Church of Georgia by increasing its financial benefits and enacting discriminatory legislative exceptions that undermine the principle of secularism.
25. The ruling party also uses the protection of faith as a justification to interfere with the freedom of expression. In January 2024, the Chairperson of the Parliament's Committee of Judicial Issues announced the criminalization of acts insulting religious premises and objects.³⁴ This initiative was a response to the performance of civic activist, Nata Peradze, who threw paintings at a Stalin icon placed in the Trinity Cathedral. Notably, the activist was sanctioned with five days of administrative imprisonment.³⁵ Criminalizing such acts is not in compliance with the requirements of foreseeability and rule of law. Considering that domestic legislation sufficiently protects private property and cultural objects through criminal and administrative provisions, it is of great concern that such legislation will be instrumentalized to silence critical voices in the name of religious sentiments. In addition, Public Defender and human rights organizations have been advocating for adding motive of discrimination in the Code of Administrative Offences to ensure adequate monitoring and sanctioning of discriminatory acts, which would be a more adequate and reasonable response to such incidents.³⁶ Instead of use of criminal mechanisms which are not suitable for ensuring long-term peace in the society, the State should work on resolving such conflicts by analyzing systemic underlying reasons and encouraging discussions and critical debates.

³³ Social Justice Center, "Language, Homeland, Faith, Short History of One Slogan, 2024 <https://socialjustice.org.ge/ka/products/ena-mamuli-sartsmunoeba-erti-lozungis-mokle-istoria>

³⁴ Parliament of Georgia, "Anri OkhanaShvili: We Are Initiating the Amendments in the Nearest Days Envisaging Stricter Criminal Liability for the Offense of the Religious Premises and Items", 10.01.2024 <https://www.parliament.ge/en/media/news/anri-okhanashvili-uakhloes-periodshi-davainitsirebt-tsvlilebebs-romelits-religiuri-nagebobisa-da-nivtebis-sheuratskhqofistvis-siskhlissamartlebriv-pasukhismgeblobas-gaamkatsrebs>

³⁵ Civil.ge "Civic Activist Nata Peradze Jailed for Defacing Stalin Icon", 02.02.2024 <https://civil.ge/archives/580305>

³⁶ Social Justice Center, Social Justice Centre responds to the initiative to criminalize insult of religious buildings and objects, 12.01.2024 <https://socialjustice.org.ge/en/products/sotsialuri-samartlianobis-tsentri-religiuri-nagebobebisa-da-nivtebis-sheuratskhqofis-kriminalizebis-initsiativas-ekhmianeba>

3.2. The new Defense Code and limitations of freedom of religion

26. In September 2023, the Parliament of Georgia adopted a new Defense Code, which discriminates against non-dominant religious organizations and their communities and negatively affects the right to freedom of religion. In particular, the Code obliges clergymen to serve in an alternative non-military labour service while the previous regulation, under the military service postponement mechanism, released all clergymen from the duty of military and alternative labour service.³⁷ However, under the Constitutional Agreement between the State and the Orthodox Church of Georgia, clergymen of the Orthodox Church will be exempted from both duties.³⁸ Similarly, all men between 18 and 60 will be automatically enrolled in the reserve defense forces except for the clergymen of the Orthodox Church who are released from all military duties under the constitutional agreement.³⁹ Therefore, although the Defense Code does not contain explicit discriminatory provisions, the new regulation is discriminatory in practice.
27. In addition, under Article 67 of the Code, appeal of decision on drafting of conscripts does not suspend its immediate legal effect. Therefore, individuals who object to military service on grounds of belief, religion, and conscience, will have to serve in the military despite appealing the drafting decision. While the law establishes brief timeframes for the Courts to examine these cases, the practice of protracted court proceedings even in cases with legally established tight deadlines, poses a serious risk that the Court review will be formalistic and the conscripts objecting military service will have to serve before the end of the court proceedings.⁴⁰ These amendments were also criticized by the PDO noting that the suspension mechanism is an important safeguard for the conscripts and must be available in the national legislation.⁴¹
28. Article 97 of the Defense Code also introduced an electronic system for military reserve forces which collects information on the faith of the reservists (all male citizens from 18 to 60). According to the PDO, creating such a registry raises doubts regarding the proportionality and necessity of this interference in the freedom of religion and recommended to the Parliament repealing this provision.⁴² The collection and processing of such data which falls in the special category of data and enjoys a higher standard violates the right to privacy and freedom of religion without adequate justification.

³⁷ Social Justice Center, “Proposed amendments to the Defense Code and other statutes exacerbate the legal plight of conscripts”, 28.11.2023 <https://socialjustice.org.ge/en/products/tavdatsvis-kodeksshi-da-skhva-aktebshidagegmili-tsvlilebebi-kidev-ufro-auaresebs-tsvvamdelebis-uflebriv-mdgomareobas>

³⁸ Article 4 of the Constitutional Agreement Between the Georgian State and the Orthodox Church of Georgia <https://matsne.gov.ge/ka/document/view/41626?publication=0>

³⁹ Tolerance and Diversity Institute (TDI), Freedom of Religion and Belief in Georgia, 2023, pp. 8-9 https://tdi.ge/sites/default/files/forb_in_georgia_2023_tdi.pdf see also, US Department of State, 2023 Report on International Religious Freedom: Georgia, <https://www.state.gov/reports/2023-report-on-international-religious-freedom/georgia/>

⁴⁰ Social Justice Center, “Proposed amendments to the Defense Code and other statutes exacerbate the legal plight of conscripts”

⁴¹ PDO, Report On the Situation of Protection of Human Rights and Freedoms in Georgia, 2023, pp. 139-140

⁴² Ibid,

3.3. Obstacles for Muslims to build mosques

29. Eight years after the initiation of a dispute over building a new mosque in Batumi, the domestic courts have not yet finalized the civil proceedings. On 25 May 2023, the Supreme Court of Georgia annulled the decision of the Appellate Court which established that rejection from the Batumi local government on the issuing of a building permission was discriminatory. The Supreme Court ruled that there was no discriminatory treatment and ordered the Appellate Court to reexamine the case. Throughout these years, the Muslim population in Batumi has been praying outside due to the lack of space in the existing mosque. The length of the civil proceedings and the manner of the courts in this case raise doubts about the intentional protraction of this matter.
30. The PDO reported that in January 2024, the Municipality of Gardabani rejected the request of the Administration of All Muslims of Georgia for a construction permit to build a shrine in the village of Kalinino on the basis that they failed to provide an opinion of the SARI on the building of the shrine. However, the legislation does not prescribe such an obligation for the construction of shrines and the SARI is not tasked with such a function.⁴
31. The ongoing difficulties faced by the Muslim community in Georgia in obtaining permission to build mosques highlight significant procedural and systemic issues. The prolonged civil proceedings in Batumi and the recent rejection of a construction permit in Gardabani suggest potential biases and administrative hurdles that disproportionately affect religious minorities.

3.4. Discriminatory rules on financing religious organizations

32. The state's overt favouring practices of the Georgian Orthodox Church still continue. In 2024, several months till the upcoming parliamentary elections, the Government increased the allocated budget of the Orthodox Church from annual funding of 25 million Lari to a total of 60 million Lari (approximately 20 million Euros) while the total annual funding of four other religious organizations amounts to 5.5 million Lari.⁴³ Moreover, the Orthodox Church receives hundreds of thousands of Lari annually from various municipalities, including those with a majority Muslim population. This signals the Government's intent to leverage and obtain political support from the Orthodox Church.⁴⁴
33. In July 2023, the Supreme Court of Georgia upheld the decision of the Appellate Court, which found that the acts of the Marneuli Municipality (with the majority of Muslim population) which annually finances solely the Orthodox Church of Georgia with 400 000 Lari in a non-transparent manner, were not discriminatory. The Supreme Administration of All Muslims of Georgia, representing the Muslim community in this case, took the case to the European Court complaining

⁴³ TDI, Freedom of Religion and Belief in Georgia, 2023, p. 20

⁴⁴ Social Justice Center, *"Increasing Budget Allocation to the Patriarchate in the runup to the 2024 Elections Signals an intent to politically leverage the Church"*, 21.03.2024

<https://socialjustice.org.ge/en/products/archevnebamde-ramdenime-tvit-adre-sapatriarkos-dafinansebis-radikaluri-zrda-eklesiis-politikuri-gamoqenebis-mizans-atarebs>

under Article 1 of the Protocol 12 of the Convention on the breach of prohibition of discrimination. Currently, the case is under examination by the Court.⁴⁵

V. Conclusion and recommendations

34. The above information well illustrates that the state's attitude towards the issues of religion is a part of the deteriorating trend of democracy, human rights, and the rule of law in the country. Regrettably, instead of taking adequate actions to eliminate the above problems, the State's discriminatory policies and legislative initiatives further deepen the existing inequalities in the Georgian society, fuel the hate speech against religious minority groups in Georgia and hinder the effective exercise of the right of freedom of religion.

35. In light of the challenges set out above, and the previous submissions communicated by the Social Justice Center and the European Human Rights Advocacy Centre, we reiterate the following recommendations on individual and general measures for the adequate implementation of the above judgments.

Individual measures in the case of Mikeladze and Others v. Georgia

- The Akhaltsikhe District Court should speedily finalize the criminal proceedings in the case of the first applicant;
- The Prosecutor's Office should grant victim status to the remaining three applicants in the Mikeladze case enabling them to be effectively involved in the investigation, identify the hate motive in the case and take all measures to reach a conclusive decision.

Individual measures in the case of Georgian Muslim Relations and Others v. Georgia

- The Special Investigative Service should promptly define and take the steps necessary for the execution of the judgment through the effective investigation and duly inform the applicants.

General Measures

- The investigative authorities should effectively investigate crimes committed based on religious intolerance, reveal the possible motives of religious intolerance and enable proper participation of the victims in the investigation;
- Authorities should develop effective preventive policies to combat hate crimes by addressing the structural causes of religious intolerance in society and by coordinating various agencies, including those responsible for education, social protection, information policy and religious freedom policy, to create a more just, safe and equal environment for religious minorities;
- The investigative authorities should continue specialized training and awareness-raising activities to enhance the capacity of law enforcement officials in investigating hate crimes,

⁴⁵ Social Justice Center, "Strasbourg Court has started examination on merits of the case on the alleged discriminatory financing of religious organizations from the Marneuli Budget", 22.03.2024 <https://socialjustice.org.ge/ka/products/strasburgis-sasamartlom-marneulis-biujetidan-religiuri-organizatsiebis-savaraudo-diskriminatsiuli-dafinansebis-sakmeze-arsebity-gankhilva-daitsqo>

managing inter-community conflicts, and sensitizing the police on issues of religious and ethnic diversity, equality, and secularism;

- The unified statistics should enable tracking the progress of each case and incorporate data on the number of refusals by investigative authorities to initiate investigations into alleged crimes, as well as the reasons behind difficulties in identifying the hate motive. Such comprehensive data should be publicly available;
- The Parliament of Georgia should include the discriminatory motive as one of the aggravating circumstances of administrative responsibility under the Code of Administrative Offences of Georgia;
- The authorities should strictly adhere to the principles of religious neutrality and secularism in decision-making processes and elaborate equal and fair policies towards all religious organizations;
- The State should review its institutional practices and policies on freedom of religion and take into account the criticism from the PDO, CSOs, and religious organizations regarding the mandate and practices of the State Agency for Religious Issues, which addresses religious issues from a security perspective, hierarchizes religious organizations, and has vague competencies in managing religious issues;
- The State should take effective measures to mitigate local conflicts by ensuring a free, equal and secure environment for the exercise of religious freedom by Muslim communities in Georgia, facilitating the peaceful and equitable coexistence of different religious groups, and strengthening the role of various State institutions in developing conflict transformation strategies and cooperation between religious communities.
- The State officials should include equality rhetoric in their public statements, address negative societal attitudes towards religious minorities through inclusive educational and information channels, programs and campaigns, and uphold the principles of secularism (religious neutrality) and inclusiveness.

Yours faithfully,



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