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Meeting: 1419th meeting (December 2021) (DH)

Communication from an NGO (Georgian Young Lawyers' Association) (11/10/2021) in the case of IDENTOBA AND OTHERS v. Georgia (Application No. 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 : 1419^e réunion (décembre 2021) (DH)

Communication d'une ONG (Georgian Young Lawyers' Association) (11/10/2021) relative à l'affaire IDENTOBA ET AUTRES c. Géorgie (requête n° 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.

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DGI

11/10/2021

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Georgian Young Lawyers' Association

To: Department for the Execution of Judgements of
The European Court of Human Rights
Council of Europe
F-67075 Strasbourg Cedex, France

Dear Sir/Madam,

The Georgian Young Lawyers' Association (GYLA) wishes to present Rule 9 (2) submission to the Committee of Ministers of the Council of Europe in respect of the implementation of the ***Identoba and Others Group of Cases*** (Application No.73235/12). Since the execution of these judgements is still subject to the supervision, the present submission aims to provide to the Committee of Ministers the information regarding the general measures taken to date by the Georgian Government to fulfil its obligation for implementations of the judgements.

Please, find the enclosed Rule 9 (2) Submission of the GYLA. Should you require additional information about the provided submission, please, do not hesitate to contact us.

Yours faithfully,

Tamar Oniani

Head of the International Litigation Team

Georgian Young Lawyers' Association

Annex 1: Rule 9.2 Communication of the GYLA to the Committee of Ministers of the Council of Europe in respect of the implementation of the *Identoba and Others Group cases*.

Rule 9 (2) submission to the Committee of Ministers of the Council of Europe with regard to the
execution of judgments on the following group of cases:



Identoba and Others v. Georgia

(Applications Nos.: 73235/12; 71156/01; 28490/02; 18766/04; 7224/11)

Georgian Young Lawyers' Association (GYLA)

Tbilisi

11 October 2021

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1. INTRODUCTION

1. The Georgian Young Lawyers' Association (hereinafter "GYLA") would like to present this communication pursuant to Rule 9.2 of the Rules of Committee of Ministers to draw attention to the inadequacies in the execution of the European Court of Human Rights' (hereinafter "the Court") judgments delivered in the *Identoba and Others group of cases*¹ This submission is communicated for the supervision of the execution of judgements for consideration at the 1419th CM-DH meeting (30 November - 2 December 2021).
2. The present communication addresses the matters arising in relation to the general measures undertaken by the Georgian Government in the *Identoba and Others group of cases* and brings to the attention of the Committee of Ministers the key concerns and challenges related to the human rights condition of LGBT+ and Jehovah's witnesses. Finally, in this submission, GYLA provides recommendations and a number of steps that we consider are required to ensure the full and effective execution of these judgments.
3. For the above-mentioned reasons, the present submission briefly reviews the Court's judgements delivered in the *Identoba and Others group of cases*, the decision of 2020 of the Committee of Ministers of the Council of Europe 29 September - 1 October 2020) (DH), the general measures undertaken by the Georgian Government, as well as identifies the flaws made in the process of execution and provides recommendations that are required to eliminate these flaws.

2. SUMMARY OF IDENTOBA AND OTHERS GROUP OF CASES

4. Since 2007, the Committee of Ministers has been supervising the execution process of the judgements adopted by the Court against Georgia on *Identoba and Others group of cases*. This group unites the following 5 cases: *Identoba and Others v. Georgia* (№ 73235/12, 12/05/2015), *97 Members of the Gldani Congregation of Jehovah's Witnesses and 4 Others v. Georgia* (№ 71156/01, 03/05/2007), *Begheluri and Others v. Georgia* (28490/02, 07/10/2014), *Tsartsidze and Others v. Georgia* (№ 18766/04, 17/01/2017); *Aghdgomelashvili and Others v. Georgia* (7224/11, 08/10/2020).

2.1. *Identoba and Others v. Georgia; Aghdgomelashvili and Others v. Georgia*

5. The case of *Identoba and Others*² concerns the State's failure to provide due protection to peaceful demonstrators from homophobic violence by counterdemonstrators on 17 May 2012, the International Day against Homophobia, Transphobia and Biphobia and to conduct effective investigation in this respect.
6. With its judgment of 12 May 2015, the Court found the violation of Articles 3 and 11 in conjunction with Article 14 of the Convention. The Court underlined that the organizers had specifically submitted prior notice to the police regarding the holding of the demonstration and likelihood of abuse, as well.

¹ See also: GYLA's alternative report of 2019 about the execution of judgements delivered against Georgia, on the 2018 report (1-6104/19/9; 27.03.2019) of the Ministry of Georgia, submitted to the Committee on human rights and civil integration of the Parliament of Georgia,

Available: <https://gyla.ge/ge/post/saiam-parlaments-alternatiuli-angarishi-tsarudgina> , [12.06.2021];

See also, GYLA's alternative report of 2020 to the report of 2019 of the Ministry of Justice,

Available: <https://gyla.ge/ge/post/saiam-parlaments-strasburgis-sasamartlos-saqmeebis-agh-rulebismd-gomareobis-shesakheb-alternatiuli-angarishebit-mimarta> , [12.06.2021];

² *Identoba and Others v. Georgia*, № 73235/12, 12/05/2015.

Accordingly, taking into account the negative attitudes towards sexual minorities in Georgia, the police knew or should have known of the risks coming from the counterdemonstrators, and the state was obliged to protect the demonstrators in compliance with its positive obligation which it failed to do. The state has also fell short of their procedural obligation to conduct effective investigation, capable of unmasking the discriminatory motive and identifying those responsible for committing homophobic violence.

7. The case of *Aghdgomelashvili and Others* concern the following: in December 2009, police officers in civilian clothing entered the LGBT NGO office and, in the presence of the applicants and others, conducted a search of the premises. The police officers humiliated and debased the applicants, as well as their colleagues, by resorting to hate speech, by uttering insults such as “sick people”, “perverts” and “dykes” for everybody present in the office to hear. The applicants and some of their colleagues had been subjected to strip-searches without any justification provided by the material time, or, afterwards, during the examination of the case by ECtHR. The Court concluded, that the conduct of the police officers during the search of the office had been motivated by homophobic and/or transphobic hatred and must necessarily have aroused in the applicants feelings of fear, anguish and insecurity which were not compatible with respect for their human dignity. In addition, ineffectiveness of the investigation has lead for the Court to establish, that there were violation of Article 3 and Article 14, in their substantive and procedural limbs.³

2.2. 97 Members of the Gldani Congregation of Jehovah’s Witnesses and 4 Others (№ 71156/01), Begheluri and Others (28490/02), Tsartsidze and Others v. Georgia (№ 18766/04)

8. The cases concern⁴ religiously-motivated attacks committed by the various groups, including the extremist Orthodox believers, and in some cases, by the state representatives, that took place repeatedly during 1999-2001 and the state’s failure to conduct effective investigation in this respect. The Court found violation of Article 9 in conjunction with Article 14 of the Convention, and in the cases of *Begheluri* and *Gldani Congregation*, additionally declared violation of Article 3 (in its substantive and procedural limbs). The Court established that the conduct of the state’s agents, who either participated directly in the attacks against Jehovah’s Witnesses or showed acquiescence and complicity in the unlawful activities of private individuals, led to a failure to take the necessary measures to ensure that Jehovah’s Witnesses were able to exercise their right to freedom of religion. Furthermore, the authorities encouraged the violent actions against Jehovah’s Witnesses and created a climate of impunity throughout the country. The Court also noted that the state fell short of conducting effective investigation, capable of establishing discriminatory motive, despite the very fact, that the perpetrators’ (including both, private individuals and state agents) discriminatory motive was obvious taking into account the context of country-wide religious violence and prejudice against Jehovah’s Witnesses at the material time.
9. Additionally, in *Tsartsidze and Others* and *Begheluri and Others* cases, the Court noted that the domestic proceedings were superficial and one-sided, that was culminated in rejection of the applicants’ version of events and acceptance of the police’s version of events as true by default.

³ *Aghdgomelashvili and Others v. Georgia* , no. 7224/11, 08/10/2020.

⁴ *97 Members of the Gldani Congregation of the Jehova’s Witnesses and 4 Others v. Georgia*, no. 71156/01, 03/05/2007; *Begheluri and Others v. Georgia*, no. 28490/02, 07/10/2014; *Tsartsidze and Others v. Georgia*, no. 18766/04, 17/01/2017.

2.3. Summary of decision of the Committee of Ministers of 2020⁵

10. The Committee of Ministers last examined the *Identoba and Others group* of cases in 29 September-01 October 2020. Within this meeting, the Committee noted with concern⁶ that discrimination on grounds of sexual orientation, religious and gender identity still remains a serious challenge in Georgia, including the realization of freedom of expression and assembly by LGBTI persons and Jehovah Witnesses. The Committee further underlined, that identifying discriminatory motives in the context of investigations, qualification hate crimes as administrative offences and accordingly, exclusion discriminatory motives⁷ still remain serious challenge. A specialized investigative unit within the Ministry of Interior Affairs (MIA) in order to carry out effective investigations into hate crime still is not established. In particular, the Committee noted that no information has been provided in response to the Committee's call to the authorities to establish a specialized investigative unit that will be able to carry out effective investigations into hate crimes. Thus, the committee repeated its call for that requirement.

2.4. Information on general measures undertaken by the Georgian Government

15. On 25 June 2020, the Ministry of Justice of Georgia submitted an update action report to the Committee of Ministers on the execution of the *Identoba and Others group* cases.⁸ The report was also submitted to the Parliament of Georgia on 31 March 2021.⁹ In the action reports the State underlined that the fight against hate crime is the Government's one of main priorities. The State also reviewed undertaken measures in this respect.

16. In the action reports the Ministry of Justice of Georgia submitted that the number of criminal proceedings as well as the quality and effectiveness of the measures carried out by the *specialized* prosecutors/investigators to determine any hate motivation have been significantly increased. The Ministry also submitted the detailed information about trainings and sessions, which were provided for law enforcement and judicial authorities in the area of hate crimes for improving their qualification in this context. The Ministry submitted information about social awareness-rising campaigns held in recent years as well. The Government submitted statistical data on investigations and convictions with respect to discrimination issues and hate crimes and mentioned that the latter was produced on grounds of unified methodology and Memorandum of Understanding on the collection and publication of data on hate crimes signed on 23 September 2020. As one of the general measures, the State mentioned the extension of the MIA Human Rights Department's mandate to monitor the effectiveness of investigations including hate crime and underlined its importance as an additional control mechanism

⁵ CM/Del/Dec(2020)1383/H46-5, 1383rd meeting, 29 September – 1 October 2020 (DH), *Identoba and Others group v. Georgia* (Application No. 73235/12), Supervision of the execution of the European Court's judgments, available: <http://hudoc.exec.coe.int/eng?i=004-5894>, [12.06.2021];

⁶ CM/Notes/1355/H46-8, 1355th meeting, 23-25 September 2019 (DH) Human Rights, H46-8 *Identoba and Others group v. Georgia* (Application No. 73235/12), Supervision of the execution of the European Court's judgments, available: <http://hudoc.exec.coe.int/eng?i=CM/Notes/1355/H46-8E>, [12.06.2021];

⁷ The Code of Administrative Offences (hereinafter "the CAO) **does not envisage** discriminatory motive, as the aggravating factor for administrative liability;

⁸ Communication from Georgia concerning the case of IDENTOBA AND OTHERS v. Georgia (Application No. 73235/12), 1383rd meeting (29 September - 1 October 2020) (DH) - Action report (25/06/2020), §§ 28-60; available: [http://hudoc.exec.coe.int/eng?i=DH-DD\(2020\)572E](http://hudoc.exec.coe.int/eng?i=DH-DD(2020)572E), [12.06.2021];

⁹ 2020 Report concerning the execution process of the judgements/ decisions of the European Court of Human Rights (current cases), Ministry of Justice of Georgia, 2021, 53-63, Available: <https://info.parliament.ge/#lawdrafting/21857>, [12.06.2021];

in order to prevent failure to identify the motives in crimes in which intolerance and hate are not obvious.

3. THE MAIN CONCERNS WITH REGARD TO THE UNDERTAKEN GENERAL MEASURES

17. For full and effective execution of *Identoba and Others group cases*, various changes shall be made at the institutional as well as at the social level. The relevant measures, which are necessary for improvement of the human rights condition of LGBT + community and Jehovah's Witnesses, will be examined below in detail.

3.1. Human rights condition of LGBT+ community and Jehovah's Witnesses

18. Despite the above-mentioned measures undertaken by the Georgian authorities, as of today, the human rights condition of LGBT+ community and religious minorities, including Jehovah's Witnesses, still remains a serious challenge.¹⁰ Taking into consideration the intense stereotypical and discriminatory attitudes, prejudices and stigma spread over the whole country, LGBT+ community and Jehovah's witnesses still remain one of the most vulnerable groups in the society.¹¹ LGBT+ community still has difficulties with full enjoyment of their right to education, labor and availability with healthcare and social services.¹² As of today, the State still considers that Homophobia and Transphobia are not a systematic and/or structural problems. Hence, a selective punitive response on the individual occasions still remains the State's main strategy against fighting Homophobia.¹³
19. Additionally, it is alarming that due to the increased influence of homophobic and anti-gender groups, LGBT + individuals are still subject to oppression, violence and discrimination.¹⁴ For example, since May 2020, attacks against LGBT+ community members committed by radical groups have become frequent.¹⁵ The latter has been demonstrated, for example, by damaging the Tbilisi Pride office with paint, throwing eggs to it. Within this attack, LGBT+ community members became subjects to verbal

¹⁰ Submission of the Public Defender (Ombudsman) of Georgia to the Universal Periodic Review (UPR) 37th Session (January-February 2021), par. 29;

Available: <https://www.ombudsman.ge/res/docs/2020072014193876204.pdf>, [12.06.2021].

¹¹ Public Defender's Statement in connection with International Human Rights Day, available: <https://www.ombudsman.ge/geo/akhali-ambebi/sakhalkho-damtsvelisgantskhadeba-adamianis-uflebata-saertashoriso-dghestan-dakavshirebit>, [12.06.2021]; See, also: statement "Public Defender Establishes Discrimination against Transgender Woman who was Refused to Rent Apartment", 21.12.2020, available: <https://www.ombudsman.ge/geo/akhali-ambebi/sakhalkhodamtsvelma-transgenderi-kalistvis-binis-mikiravebaze-uaris-gamo-diskriminatsia-daadgina>, [12.06.2021]; See, also: Public Defender's Statement on International Human Rights Day, 09.12.2020, available: <https://www.ombudsman.ge/geo/akhali-ambebi/sakhalkho-damtsvelisgantskhadeba-uflebadamtsvelta-saertashoriso-dghestan-dakavshirebit>, [12.06.2021];

¹² Submission of the Public Defender (Ombudsman) of Georgia to the Universal Periodic Review (UPR) 37th Session (January-February 2021), par. 37;

¹³ Radio "Freedom", NGOs: Homophobic violence is a significant challenge, 27.04.2021, available: <https://www.radiotavisupleba.ge/a/31225299.html?fbclid=IwAR3Xkr5FjJWsiUJy06qrI0ldag3eSVktY3N0AD9OPKxBfqB00NYmgjrdtQk>, [12.06.2021];

¹⁴ US State Department, 2020 Country Reports on Human Rights Practices: Georgia, 2021, 61-2, available: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/georgia/>, [12.06.2021];

¹⁵ See, for example, the latest news: MTAVARI CHANNEL, "Another attack on a lesbian couple, 24.04.2021, available: <https://mtavari.tv/news/41209-erti-gogo-gonebis-dakargvamde-utsemia-meore>, [12.06.2021]; See, also: MTAVARI CHANNEL, „Attack on a lesbian couple in Tbilisi”, 21.04.2021, available: <https://mtavari.tv/news/40927-tbilisshi-lesbosel-cqvils-tavs-daeskhnen>, [12.06.2021];

abuse, humiliation and threats as well.¹⁶ Despite the fact that the ill-treatment is inflicted by private individuals, the State fails to ensure effective prevention in relation to future violations and the prompt and fair prosecution and punishment of perpetrators in the context of effective investigation, while violence is already perpetrated.¹⁷ Moreover, the State lacks effective policy of resocialization for the perpetrators of hate crimes.¹⁸ Unfortunately, last year any important effective measure for improving the human rights condition of LGBT+ community had not been undertaken.¹⁹

20. The human rights condition has not been improved in relation with Jehovah's Witnesses. As the Public Defender notes, Jehovah's Witnesses' appeal against alleged hate crimes still remains high. In most cases the main concern arises in relation to the ineffectiveness of the investigations conducted on such unlawful acts.²⁰ In 2020, contrary to the previous years practice, criminal proceedings on the alleged hate crimes committed against Jehovah's Witnesses are instituted under the Criminal Code of Georgia, which considers hate motive as an aggregative circumstance. However, substantial delays of the investigation make the State's response to such unlawful actions ineffective.²¹ Additionally, the amount of granting victim status and charging with a criminal offences to the above-mentioned occasions is obviously law.²²
21. Unfortunately, discrimination based on religion or gender identity is encouraged by the public officials,²³ while they shall take a crucial part in rising social awareness to the fight against homophobia and religious intolerance.²⁴ Problems in respect with the human rights condition of the above-mentioned groups of people are also supported by the Rainbow Index Data, according to which, Georgia is positioned only 30th place among 49 European states and the indicator is only 26% on the scale of fighting against hate crimes and hate speech.²⁵
22. Since 2020, contrary to last years, the world faces a new global challenge – an ongoing Covid-19 pandemic and its implications. Notably, COVID-19 has a disproportionate impact on the human rights of LGBT+ community and other minorities across the world,²⁶ Georgia has not been an exception in

¹⁶ Public Defender's Statement in connection with International Human Rights Day, quoted above, 10.12.2020; see, also, Public Defender's statement: Meeting on Growing Number of Attacks on Tbilisi Pride Office , 06.10.2020, available: <https://www.ombudsman.ge/geo/akhali-ambebi/shekhvedra-tbilisi-praidis-ofisze-gakhshirebultavdashmebtan-dakavshirebit> , [12.06.2021]; see, also, Netgazeti, "Throwing eggs to Tbilisi Pride office" 08.06.2020, available: <https://netgazeti.ge/news/458826/?fbclid=IwAR1bnwoq49uD7g8tIVbUpXWfNcXJHBCldu8zoxyL9CYKLCief2xn-mfGPU> , [12.06.2021];

¹⁷ Submission of the Public Defender (Ombudsman) of Georgia to the Universal Periodic Review (UPR) 37th Session (January-February 2021), par. 38;

¹⁸ Radio "Freedom", NGOs: Homophobic violence is a significant challenge, quoted above, 27.04.2021;

¹⁹ Public Defender's Parliamentary Report on the situation of human rights and freedoms (2020), 31.03.2021, 205, available: <https://www.ombudsman.ge/geo/akhali-ambebi/sakartvelis-sakhalkho-damtsvelis-saparlamento-angarishi-2020> , [12.06.2021].

²⁰ Ibid, 182;

²¹ Ibid;

²² Ibid;

²³ Public Defender's Parliamentary Report on the situation of human rights and freedoms (2020), 31.03.2021, 180-1; quoted in TV show "Covert Envelope", available: <https://rb.gy/elpzhm> , [17.04.2021];

²⁴ COMPILATION OF ECRI COUNTRY REPORTS RECOMMENDATIONS PERTAINING TO LGBT PERSONS, (fifth monitoring cycle), available: <https://rm.coe.int/09000016809e7b66> , [12.06.2021]; COVID-19 AND THE HUMAN RIGHTS OF LGBTI PEOPLE, United Nations Human rights office of the high commissioner, 17.04.2020, [12.06.2021];

²⁵ Rainbow Index, available: <https://www.rainbow-europe.org/#8634/8693/8694> , [12.06.2021];

²⁶ Report on the impact of the COVID-19 pandemic on the human rights of LGBT persons, 28.07.2020, available: <https://www.ohchr.org/EN/Issues/SexualOrientationGender/Pages/COVID19Report.aspx> , [12.06.2021];

this regard. In particular, the coronavirus pandemic has disproportionately impacted on the right of equality of LGBT+ community and religious minorities.²⁷

23. Due to the Coronavirus pandemic, in 2020, an International day against Homophobia, Transphobia and Biphobia (May 17) took place online.²⁸ However, it should be mentioned that, generally, the situation still remains critical with regard to the freedom of expression and assembly of LGBT + community. Despite the heinous experience of 17 May 2013, the authorities still fail to protect LGBT+ community's right to freedom of assembly, and manifestly ignore LGBT+ community and their rights.²⁹ The human rights condition of LGBT+ community has not been improved from year to year. Whereas, LGBT+ community's rights are restricted by private individuals,³⁰ in most cases, the State stays inactive and fails to comply with its positive obligations.³¹ As a result, the part of LGBT+ community fully neglects to celebrate 17 May manifestly in an open space.³²
24. The above-mentioned problems prove that the Georgian Government has failed to eradicate violations of the human rights in *Identoba and Others* group cases. Furthermore, freedom of expression and assembly, social and/or economic condition of LGBT+ community and Jehovah's Witnesses still remain serious problem that require systemic reforms.

Recent Developments - the Pride March 2021 Tbilisi

I. Background information

25. On 30 May 2021, a civic movement – “Tbilisi Pride” posted the video on its official Facebook page. According to the video, “Tbilisi Pride” provided information to society that Tbilisi Pride Week 2021 would be held soon.³³
26. On 4 June 2021, representatives of the organization told the journalists about their future plans concerning Tbilisi Pride Week 2021. On this meeting the events which would take place during 2021 Pride Week and the major aims of the mentioned week became known. Notably, the participants of the Pride Week aimed to speak out loud about problems and/or challenges of LGBT+ community members as well as to get solidarity from society. They also demanded from the state to undertake every suitable

²⁷ Public Defender's Parliamentary Report on the situation of human rights and freedoms, (2020), 31.03.2021, 17; See, also, Institute for Tolerance and Diversity, "No-phobia!" Statement on Christmas Eve to make an exception, 30.11.2020. available: <http://tdi.ge/ge/statement/ara-pobias-gancxadeba-shobis-games-gamonaklisisdacesebaze> ; Ecclesiastical Anti-Semitism - Updated Information, 09.02.2021, available: <http://tdi.ge/ge/statement/saeklesio-antisemitizmi-ganaxlebad-i-nformacia> , [12.06.2021];

²⁸ “Tbilisi Pride”, together we will survive! – 17 May online, 11.05.2020, available: <https://tbilisipride.ge/ka-GE/News/Details/53> , [12.06.2021];

²⁹ Statement of „Coalition for Equality”, “Human rights organizations respond to the events of June 14 and June 16 17.06.2019, available: <https://gyla.ge/ge/post/adamianis-uflebebeze-momushave-organizaciebi-14-ivnissa-da-16-ivniss-ganvitarebulmovlenebs-ekhmianebian#sthash.F3yoXYTI.dpbs> , [12.06.2021];

³⁰ Amnesty International, Georgia 2019, available: <https://www.amnesty.org/en/countries/europeand-central-asia/georgia/report-georgia/> , [12.06.2021];

³¹ Special Report of the Public Defender of Georgia on Combating and Preventing Discrimination and the State of Equality (2019), quoted above, 04.03.2020, 22;

³² “Coalition for Equality”, Statement “Coalition for Equality refers to the Georgian Government and the Ministry of Internal Affairs”, 01.06.2019, available: <https://gyla.ge/ge/post/koalicia-tanastorobistvis-saqartvelos-mtavrobas-da-shinagan-saqmeta-saministorsmimartavs#sthash.IIkimHf5.dpbs> , [12.06.2021];

³³ #TbilisiPride #TbilisiPride21, 30.05.2021, available: <https://www.facebook.com/watch/?v=3475435009224828>, [20.08.2021];

measures to create an equal environment and to protect their fundamental rights and freedoms.³⁴ As for the timetable, the 2021 Pride Week was organized during 1-5 July. It included those three events: July 1st (Thursday) – public screening of the March for Dignity,³⁵ July 3rd (Saturday) - an open-air Pride Fest, which would bring together queer artists and musician and the last one - July 5th (Monday) – the March for Dignity.³⁶

27. “Tbilisi Pride” stayed in touch with the MIA.³⁷ Meetings were held between the MIA and „Tbilisi Pride” with the involvement of United Nations Development Program (hereinafter “UNDP”), the partner organizations of “Tbilisi Pride”, representatives of the diplomatic corps accredited in Georgia and the representatives of international organizations and Deputy Minister of Internal Affairs - Alexander Darakhvelidze, Director of the Patrol Police Department -Vazha Siradze and other representatives of the Ministry.³⁸ From the first meeting, “Tbilisi Pride” provided detailed information to the MIA about their plans within the framework of the “Tbilisi Pride” week.³⁹ Taking into account past experiences, existence and mobilization of counter-demonstrators and the estimated number of them, one of the main purposes of the latter meetings and constant communication to the MIA was the Pride Week to be held in safe and peaceful environment.⁴⁰
28. As a result, Alexander Darakhvelidze, the Deputy Minister of International Affairs announced at the sitting of the Parliamentary Committee on Human Rights and Civil Integration that “the state is obliged to ensure the protection of the freedom of assembly and expression of any person within the law, if it does not exceed the norms established by law”. Therefore, “the police would protect Pride demonstrators’ right to express themselves at the “March of Dignity” within the framework of the law”.⁴¹ On July 1st, the Ministry of Internal Affairs, Vakhtang Gomelauri, released a statement regarding the scheduled activities within the Tbilisi Pride Week. He called on everyone to follow the

³⁴ On July 5, “Tbilisi Pride” will hold a “March of Honor”, 04.06.2021, available: https://www.radiotavisupleba.ge/a/31290279.html?fbclid=IwAR3VFxcAcx_OIXzU48fUWNBfMsaQ99gNexr7kBqCclxQdNpb4Pyf-XDb4gQ; [20.08.2021]; Pride Week will be held in Tbilisi on July 1-5, 04.06.2021, available: <https://1tv.ge/news/tbilisshi-1-5-ivliss-praidis-kvireuli-gaimarteba/>, [20.08.2021];

³⁵ British documentary film, featuring events around the first Tbilisi Pride, 01.07.2020, available: <https://www.marchfordignityfilm.com/>, <https://www.imdb.com/title/tt12242192/>, [20.08.2021];

³⁶ Tbilisi Pride Week 2021, 16.06.2021, available: https://tbilisipride.ge/enUS/News/Details/108?fbclid=IwAR0NEejOK8DrxGkuRYG02Ltb94AfuMZHvgul2Nbmhn_s4e4nBKv6kEFDsIJM, [20.08.2021];

³⁷ Giorgi Tabagari - We are working with the Ministry of Internal Affairs on the security of the events planned within the framework of the “Tbilisi Pride” week, we are trying to do everything to protect the safety of people at the rally, 01.07.2021, available: https://1tv.ge/news/giorgi-tabagari-vmushaobt-shss-stan-praidis-kvireulis-farglebshidagegmili-ghonisdziebebis-usaftrkhoebaze-vcdilobt-yvelaferi-gavaketot-rata-aqciaze-adamianta_usaftrkhoeba-iyos-daculi/, [20.08.2021];

³⁸ Information of the Ministry of Internal Affairs about the events held by the police in parallel with the “Tbilisi Pride” week, 07.07.2021, available: <https://police.ge/ge/shinagan-saqmeta-saministros-informatsia-tbilisi-praidis-kvireulis-paralelurad-politsiis-mier-chatarebuli-ghonisdziebebis-shesakheb/14771> [21.08.2021]; Ministry of Internal Affairs reports on July 5-6 Tbilisi Pride March counter rallies, 07.07.2021, available: <https://agenda.ge/en/news/2021/1886>, [21.08.2021];

³⁹ March of Dignity 2021 - Will the police protect LGBTQ activists from abusers?, 16.07.2021, available: <https://www.radiotavisupleba.ge/a/31311431.html>, [20.08.2021];

⁴⁰ Despite the threat of hate groups, “Tbilisi Pride” is not going to cancel the march, 24.06.2021, available: <https://www.radiotavisupleba.ge/a/31324505.html>, [21.08.2021];

⁴¹ According to the Deputy Minister of Internal Affairs, the police will protect the right to express themselves at the “March of Dignity” within the framework of the law, 18.06.2021, available: <https://www.radiotavisupleba.ge/a/31315006.html>, [21.08.2021]; the police will act within the framework of the law – the deputy of International Affairs about “the March of dignity”, 18.06.2021, available: <https://reginfo.ge/people/item/22600-polizia-imoqmedebs-kanonis-shesabamisad-%E2%80%93shs-ministris-moadgile-girsebis-marshze>, [21.08.2021];

requirements of the law. He also reported that “the law enforcement officers will act within the frames of its mandate and each case of violation will be foiled immediately”.⁴² Meetings concerning the safety of “March of the Dignity” were also held. According to the organizer of “Tbilisi Pride” “the representatives of the MIA promised that they would do everything to ensure safety, although they did not guarantee it.” More meetings regarding the latter issues were planned as well. Also, details about the above-mentioned meetings and concrete measures, which would be undertaken on July 5th were not public.⁴³

29. Representatives of the international community responded to the announcement of the Pride Week.⁴⁴ For example, on 28 June 2021, MEPs (Members of the European Parliament) issued a joint and open letter calling on Georgian Interior Minister Vakhtang Gomelauri to protect the constitutionally protected freedoms and rights of the activists with the police force during the march. They called on the authorities to effectively protect the security of the LGBT+ community and ensure their freedom of expression in accordance with the European Convention on Human Rights and the Association Agreement with the European Union.⁴⁵ The joint statement was signed by 28 MEPs. The US Ambassador to Georgia, Kelly Degan, expressed hope that “citizens will be able to enjoy freedom of expression and assembly in a peaceful environment without violence” and that the MIA was responsible for protecting people’s constitutional guarantees.⁴⁶ On 17 May (the international day against homophobia, biphobia, and transphobia) a joint statement by the United Nations and diplomatic missions in Georgia was released as well. The latter actors also expressed support and solidarity for LGBT+ community and emphasized the vital role of Georgian authorities “to take resolute action to put an end to all forms of discrimination”.⁴⁷

⁴² Statement of the Ministry, 01.07.2021, available: <https://police.ge/en/shinagan-saqmeta-saministros-gantskhadeba/14753>, [21.08.2021];

⁴³ They do not guarantee security, it is better for them to refuse the pride - Tabagari at the Ministry of Internal Affairs, 30.06.2021, available: <http://go.on.ge/2bai>, [21.08.2021]; According to Tabagari, meetings with the MIA will be held again, 04.07.2021, available: <https://formulanews.ge/News/52998>, [21.08.2021];

⁴⁴ Foreign officials about Tbilisi Pride: we stand together for right of everyone to live free, equal, 30.06.2021, available: <https://agenda.ge/en/news/2021/1796>, [21.08.2021];

⁴⁵ Tbilisi Pride: MEPs address Minister of Interior and call for sufficient and effective protection of protesters, 28.06.2021, available: <https://lgbti-ep.eu/2021/06/28/tbilisi-pride-meps-address-minister-of-interior-and-call-for-sufficient-and-effective-protection-of-protesters/?fbclid=IwAR0VnxVlpRTJlkiSWBOpjD3AQneXsKUZ3CrBxjND78ucxvxay8F9UVGV4g> [21.08.2021]; Freedom of expression & of peaceful assembly are protected rights and #Pride is a tool for #LGBTIQ political advocacy, 28.06.2021, available: <https://twitter.com/LGBTIintergroup/status/1409462849261408259/photo/2> [21.08.2021], Together with @LGBTIintergroup, I called today on Minister Vakhtang Gomelauri (@MIAofGeorgia) to ensure protection is given to #Pride protesters, 28.06.2021, available: <https://twitter.com/saskiabricmont/status/1409468493028806657/photo/2>, [21.08.2021]; MEPs Call on Gov’t to Protect Tbilisi Pride Activists, 28.06.2021, available: <https://civil.ge/archives/429602>, [21.08.2021];

⁴⁶ The US Ambassador hopes that the Pride will take place in peace, 29.06.2021, available: <https://www.radiotavisupleba.ge/a/31331646.html>, [21.08.2021]; Kelly Degan: Those who want to disrupt the peaceful exercise of constitutional rights through violence are violating Georgia’s constitution, 04.07.2021, available: <https://www.interpressnews.ge/en/article/114386-kelly-degan-those-who-want-to-disrupt-the-peaceful-exercise-of-constitutional-rights-through-violence-are-violating-georgias-constitution/>, [21.08.2021];

⁴⁷ Time to stand up for equal rights and fair treatment of LGBTIQ+ persons in Georgia, Brussels, 17.05.2021, available: https://eeas.europa.eu/delegations/georgia/98519/node/98519_en, [21.08.2021]; Diplomatic Missions Call for Upholding Equal Rights for LGBTQ Georgians, 17.05.2021, available: <https://civil.ge/archives/419872>, [21.08.2021];

30. The Public Defender of Georgia called on the competent bodies and officials “*to take measures that would actually protect the safety, freedom of expression and freedom of assembly of the participants in the March of Dignity*”.⁴⁸
31. Some of the statements of the state officials did not comply with human rights standards and resulted in encouragement of violence. Particularly, the Mayor of Tbilisi City, Kakha Kaladze, called the Pride Week ***inexpedient***.⁴⁹ Furthermore, the head of the ruling Georgian Dream party Irakli Kobakhidze said that “*given the entire context, these people **should be denied** the opportunity to hold this event*”.⁵⁰ Homophobic statement was also made by the Deputy Speaker of the Parliament of Georgia, David Sergeenko. Particularly, to the question whether the statements made by Irakli Kobakhidze violate the rights of minorities, he answered that “*Nobody is hindering them from doing what they are eager to do... They should probably ask the other part of the society and shouldn’t go for confrontation*”.⁵¹ Homophobic content was also expressed in statement of Aleko Elisashvili, one of the leaders of the political party “Citizens”. Notably, asked by a journalist whether a march of honor should be held, Elisashvili said that “*if they restrain themselves, it will be very good*.”⁵²

II. Hate groups in Georgia

35. Ultranationalist actors have traditionally become more active since the announcement of Pride Week.⁵³ Like previous years, they spread anti-Pride, homophobic information and encouraged society counter

⁴⁸Public Defender’s Statement on March of Dignity, 01.07.2021, available: <https://www.ombudsman.ge/eng/akhali-ambebi/sakartvelos-sakhalkho-damtsvelis-gantskhadeba-ghirsebis-marshitan-dakavshirebit>, [21.08.2021]; Lomjaria on “March of Dignity”: MIA should say what it is doing to protect constitutional rights, 18.06.2021, available: <https://www.radiotavisupleba.ge/a/31314694.html>, [22.08.2021];

⁴⁹ Kakha Kaladze - I do not consider Pride Week expedient - there are specific groups that can misuse it, 29.06.2021, available: <https://www.interpressnews.ge/ka/article/663304-kaxa-kalaze-praidis-kvireuli-mizansheconilad-ar-mimachnia-arseboben-konkretuli-jgupebi-romlebmach-sheizleba-es-arascoradgamoigenon/>, [21.08.2021]; Kakha Kaladze - I do not consider it expedient to hold Pride Week, because there are groups that can use it incorrectly, 29.06.2021, available: <https://1tv.ge/news/kakha-kaladze-praidis-kvireuls-gamartva-mizansheconilad-ar-mimachnia-radgan-arseboben-konkretuli-jgupebi-romlebmach-sheidzleba-es-arasworad-gamoigenon/>, [21.08.2021]; kakha kaladze – I do not consider Pride Week expedient, 29.06.2021, available: <https://netgazeti.ge/news/551096/>, [21.08.2021]; I do not consider it expedient to hold Pride Week – Kaladze, 29.06.2021, available: <http://go.on.ge/2b81>, [21.08.2021], Tbilisi Mayor does not consider it expedient to hold “Pride Week”, 29.06.2021, available: <https://www.radiotavisupleba.ge/a/31331499.html>, [21.08.2021];

⁵⁰ Chairman of ruling Georgian Dream party: holding Tbilisi Pride week is unreasonable, 19.06.2021, available: <https://jam-news.net/chairman-of-ruling-georgian-dream-party-holding-tbilisi-pride-week-is-unreasonable/>, [21.08.2021]; Ruling party head says holding of Tbilisi Pride events unreasonable, 18.06.2021, available: <https://agenda.ge/en/news/2021/1655>, [21.08.2021];

⁵¹ Civic organizations condemn homophobic statements made by ruling party members, 21.06.2021, available: <https://agenda.ge/en/news/2021/1685>, [21.08.2021]; Civic Platform No-Phobia!, Coalition for Equality and Other Civil Society Organizations Condemn Homophobic Statements of Georgian Dream Representatives, 21.06.2021, available: <https://gdi.ge/ge/news/ara-fobias-koalicia-21-06-2021.page?fbclid=IwAR2TS8WAFZnrDIhuDmOiOxUzZRAkBWdq2fKH5xyZB62o-mOBxfJNvox4I>, [23.08.2021];

⁵² Elisashvili on Pride: If they restrain themselves, it will be very good, 29.06.2021, available: <https://formulanews.ge/News/52676>, [22.08.2021]; If they restrain themselves, it will be very good: Elisashvili on “March of Honor”, 29.06.2021, available: <https://fortuna.ge/fortuna/post/tavs-tu-sheikaveben-kholme-dzalian-kargi-ignebe-elisashvili-ghirsebis-marshze>, [22.08.2021]; If they restrain themselves, it will be very good: Elisashvili on “March of Honor”, 29.06.2021, available: <https://metronome.ge/story/363187>, [22.08.2021];

⁵³ The Government Should Not Allow Far-Right Violence Against The March of Dignity, 26.06.2021, available: <http://www.democracyresearch.org/eng/650>, [23.08.2021], Hate speech, threats and misinformation before the “March of Dignity”, 02.07.2021, available: <https://isfed.ge/geo/blogi/sidzulvilis-ena-muqara-da-dezinformatsiuli>

to LGBT+ community.⁵⁴ They demanded: 1) the abolition of the Pride and 2) adoption a law, that would prohibit the propaganda of depravity in Georgia. They gave the government 10 days (until 25 June 2021) to cancel the Pride.⁵⁵ On 27 June 2021, after the expiration of the 10-day term given to the government, they threatened openly regarding disruption of the LGBT+ dignity march scheduled for July 5. The homophobic discourse around Pride Week has also been intensified by the ultra-right internet platform *Alt-info*, which was founded on January 2019.⁵⁶ It released the hate speech and threats against the March of Dignity,⁵⁷ whilst its hosts are characterized by homophobic, xenophobic, discriminatory attitudes - they were participants of the violent rallies held in Tbilisi on July 5-6.⁵⁸ At the briefing on June 24, where the ultra-right groups and media platforms, including, „Society for the Protection of Children's Rights,” „ERI,” „Georgian Idea,” „Georgian Mission” „Alt-Info”, announced mobilization and complete blockage of Rustaveli Avenue, the representative of Alt-Info stated: *“We are going to take the whole of Rustaveli, to control it, no propaganda of depravity will be carried out. We will do everything for that.”*⁵⁹

III. Events of the day of the Pride March – July 5, 2021

38. The March of Dignity, as already mentioned above, was announced by Tbilisi Pride as the conclusive event for Pride Week. The rally was supposed to be held on July 5, on Rustaveli Avenue. In parallel of the March of Dignity, two events were planned by its opponents. Notably, on the one hand, the

[gzavnilbighirsebismarshistsin/?fbclid=IwAR0BzE2HdwJ8wDx3ubWfbB2Fx4SJMLn1OQc8n3zicr5Q8lvo6RmIwVsk-E](https://www.facebook.com/gzavnilbighirsebismarshistsin/?fbclid=IwAR0BzE2HdwJ8wDx3ubWfbB2Fx4SJMLn1OQc8n3zicr5Q8lvo6RmIwVsk-E), [23.08.2021];

⁵⁴ Public Defenders’ Parliamentary Report on the situation of human rights and freedoms (2020), 31.03.2021, 177-178; Public Defenders’ Parliamentary Report on the situation of human rights and freedoms (2019), 02.04.2020, 175; Protest rally in front of the Tbilisi Pride office, 01.06.2020, available: <https://1tv.ge/video/saprotesto-aqcia-tbilisis-praidis-ofistan/?fbclid=IwAR2EYcYeFwFx-6X9AKPu7yp9pxFRfHSdAAVdP4hS85yK1FJKpvnfcDQbC0>, [23.08.2021]; According to Tbilisi Pride, Guram Palavandishvili dismantled the installation prepared by LGBTQ activists in "Mother Tongue Garden, 15.05.2021, available: <https://www.interpressnews.ge/ka/article/656068-tbilisi-praidis-inpormaciit-dedaenis-bagshi-lgbtk-aktivistebis-mier-momzadebuli-instalacia-guram-palavandishvilma-daarbia/>, [23.08.2021]; "Tbilisi Pride" activist - Guram Palavandishvili overthrew the installation, he was the most violent, the police did not respond, 15.05.2021, available: <https://www.interpressnews.ge/ka/article/656070-tbilisi-praidis-aktivisti-guram-palavandishvilma-instalacia-tavze-dagvamxo-qvelaze-izalada-policias-reagireba-ar-hkonda>, [25.08.2021];

⁵⁵ Pro-Russian businessman Vasadze gives "Dream" 10 days to cancel "March of Dignity", 15.06.2021, available: <https://formulanews.ge/News/52030>, [23.08.2021]; We are giving a deadline to cancel the "Pride" - Vasadze's ultimatum to the government, 15. 06. 2021, available: <https://tvpirveli.ge/ka/siaxleebi/politika/5349-vadzlevt-vadas-gaaugmon-praidi-vasadzis-ultimatumi-khelisuplebas>, [23.08.2021]; Vasadze's ultimatum to the government, 15.06.2021, available: <https://www.youtube.com/watch?v=PD09AT77mXY>, [23.08.2021]; Right-wing politician, businessman Vasadze urges gov't to cancel Tbilisi pride events, 15.06.2021, available: <https://agenda.ge/en/news/2021/1617>, 23.08.2021];

⁵⁶ Alt-Info, available: <https://www.mythdetector.ge/en/profile/alt-info>, [23.08.2021];

⁵⁷ Hate speech, threats and misinformation before the "March of Dignity", 02.07.2021; 5 July. "Invisible Hand" of "Alt-Info" ?!, 16.07.2021, available: <https://mediacritic.ge/blog/5-ivlisi-alt-inpos-ukhilavi-kheli>, [23.08.2021];

⁵⁸ Alt-info Facebook page deleted due to current announcements – ISFED, 19.07.2021, available: <https://www.radiotavisupleba.ge/a/31365991.html>, [23.08.2021];

⁵⁹ Opponents of the "March of Dignity" are going to control Rustaveli Avenue, 24.06.2021, available: <https://www.radiotavisupleba.ge/a/31324390.html>, [23.08.2021]; "We declare universal mobilization" - Putinist groups threaten to disrupt the march of dignity, 24.06.2021, available: <https://tabula.ge/ge/news/669165-vatskhadebt-sagoveltao-mobilizebas-putinisturi>, [23.08.2021]; Guram Palavandishvili intends to set up tents on Rustaveli to disrupt the Pride, 28.06.2021, available: <https://www.radiotavisupleba.ge/a/31330236.html>, [23.08.2021]; Palavandishvili: Why can't an egg hit my son's mother?!, 02.07.2021, available: <https://tabula.ge/ge/news/669489-palavandishvili-ratom-ar-sheidzleba-kvertskhi>, [23.08.2021];

- Patriarchate of Georgia has called for public prayer meeting at Kashveti Church at 5:00 P.M.⁶⁰ and on the other hand, the conservative groups have been mobilized to prevent the March of Dignity from taking place.⁶¹
39. On the morning of July 5th, before the start of the government session (about 11:00 A.M.)⁶², the Prime Minister of Georgia, **Irakli Gharibashvili** issued an alarming statement as far as he called the March of Dignity *inexpedient* and said that *the March should not take place as it is unacceptable to the majority of the population*.⁶³ This statement was followed by the MIA, which stated **"We once again publicly call on the participants of "Tbilisi Pride" to refuse to hold a march in open, public space on Rustaveli Avenue, due to the scale of the rallies planned by the opposing groups"**.⁶⁴
40. At about 11:00-11:45 counter protesters, the members of conservative groups, *destroyed the tents*⁶⁵ located in front of the Parliament of Georgia.⁶⁶ They also removed the EU flag in front of the parliament and raised a cross instead.⁶⁷ The EU flag had been removed again on the next day-July 6th, as well.⁶⁸
41. Hate groups also attacked civil society organizations. Notably, as one of the organizers of counter demonstration, *Konstantin Morgoshia* appealed, 500-600 people from those gathered in front of the Parliament of Georgia formed a group and relocated to the office of "Shame" movement. They tried to enter to the office with shouting, swearing and using insulting words. The office of "Shame" was empty, as its members left the building by using alternative exit. *Although the violent groups are characterized by aggression, only a few police officers have arrived on the scene*.⁶⁹ Not only the office of "Shame" was the object of attacks. Hate groups also broke into the office of "Tbilisi Pride". They climbed off the balcony, removed and burned the LGBT+ community flag, and tore up inventory.⁷⁰
42. Members of hate groups attacked ordinary people, including teenagers, girls, women, offices, cars, tourists and beat them. Journalists and other media representatives were also object of mass attack by

⁶⁰ Statement Made by the Patriarchate of Georgia (03.07.2021); The Patriarchate brings out the children for the contraction of the march of honor, 04.07.2021, available: <https://tabula.ge/ge/news/669578-ghirsebis-marshis-kontraktsiaze-sapatriarkos>, [25.08.2021];

⁶¹ Opponents of the "March of Dignity" are going to control Rustaveli Avenue, 24.06.2021;

⁶² July 5 development chronology, Right/Georgia, 03.08.2021, available: <https://www.facebook.com/rights.ge/photos/a.469320439752305/6282243055126652/>, [25.08.2021];

⁶³ Irakli Gharibashvili: "March of Dignity" is "inexpedient", "radical opposition" is behind it, 05.07.2021, available: <https://civil.ge/ka/archives/430534>, [25.08.2021]; According to Irakli Gharibashvili, Mikheil Saakashvili and the Radical Opposition are behind the Tbilisi Pride, 05.07.2021, available: <https://www.interpressnews.ge/ka/article/664120-irakli-garibashvilis-gancxadebit-tbilisi-praidis-ukan-mixeil-saakashvili-da-radikaluri-opozicia-dgas/>, [25.08.2021]; According to Irakli Gharibashvili, Mikheil Saakashvili and the Radical Opposition are behind "Tbilisi Pride", 05.07.2021, available: <https://www.ambebi.ge/article/262010-irakli-garibashvilis-gancxadebit-tbilisi-praidis/>, [25.08.2021];

⁶⁴ Statement of the Ministry of Internal Affairs, 05.07.2021, available: <https://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/14760>, [25.08.2021];

⁶⁵ Those tents were erected by the opposition political parties against the sitting government in the previous months.

⁶⁶ Anti-Gay Crowds Destroy Anti-Government Tents Outside Parliament, 05.07.2021, available: <https://civil.ge/archives/430521>, [25.08.2021];

⁶⁷ Members of the Putinist group lowered the EU flag in front of the parliament and raised the cross, 05.07.2021, available: <https://tabula.ge/ge/news/669627-putinisturi-jgupis-cevrebma-parlamentis-cin>, [25.08.2021];

⁶⁸ Violent groups again lowered the EU flag, 06.07.2021, available: <https://www.radiotavisupleba.ge/a/31344313.html>, [25.08.2021];

⁶⁹ Hate groups moved to the office of "Shame", 05.07.2021, available: <https://www.radiotavisupleba.ge/a/31341422.html>, [25.08.2021]; Chronology of July 5th, available: <https://www.facebook.com/watch/?v=2874940366060197>, [25.08.2021];

⁷⁰ https://gdb.rferl.org/86e16ad2-b8bb-4c23-a30e-d2f101a81d53_cx11_cy14_cw87_w1597_n_r1_st.png; Attack to the office of "Tbilisi Pride", 05.07.2021, available: <https://www.amerikiskhma.com/a/tbilisi-pride/5953534.html>, [25.08.2021];

the participants of the "March of Dignity" counterdemonstration.⁷¹ Particularly, *in the presence of the police*, journalists were severely beaten, cursed, equipment stolen and smashed. In addition to the hard experience that media representatives have suffered as a result of the actions of the violent groups, a number of victims highlight the inaction of the police, who on July 5 were present in relatively small numbers at the epicenter of the events. As a result, more than 50 journalists were attacked during a violent rally by homophobic groups. Some of the injured journalists were taken to hospital with serious injuries.⁷² On the same day, a Polish tourist, who was wearing earrings, was allegedly wounded due to a homophobic motive.⁷³

43. On July 5, during the coverage of the rally against Tbilisi Pride, **Alexander Lashkarava**, a journalist and cameraman of TV 1, was attacked by a group of people involved in gang violence with the motive of intolerance. He was severely assaulted. In particular, He was the subject of physical and verbal abuse while fulfilling his official duties in the office of the movement "Shame".⁷⁴ According to Miranda Baghaturia, a journalist who worked with Lashkarava on the incident day and became *an eyewitness* of his beating in this respect: **"My cameraman (Alexander Lashkarava) was in a pool of blood, being beaten mercilessly for 20 minutes. I was held by 15 people on the railing of the stairs, I was screaming, don't kill him. Alexander was dragged by 20 people and it became unable to see him."**⁷⁵ After the above-mentioned brutal attack, Lashkarava sustained serious injuries to the head, including fractured facial bones, multiple heavy bruising and brain concussion. Lashkarava also underwent surgery at the hospital, after which he was discharged and continued his treatment at home.⁷⁶ Bruises on his face, especially on his left eye, were so obvious, that it could be easily seen even by visual examination.⁷⁷

⁷¹ Mass attack on journalists by the participants of the "March of Dignity" contract, 05.07.2021, available: <https://civil.ge/ka/archives/430566>, [25.08.2021]; A person collides with a moped during a homophobic rally [Video], 05.07.2021, available: <https://netgazeti.ge/news/552139/>, [25.08.2021];

⁷² Everything points to the July 5 violence organized by group except the investigation, 07.07.2021, available: <https://netgazeti.ge/news/552711/>, [25.08.2021]; After beating 53 journalists and inaction by police, the prime minister says he condemns the violence, 06.07.2021, available: <https://formulanews.ge/News/53115>, [25.08.2021];

⁷³ A tourist who was wounded by radical groups for wearing an earring underwent surgery - what they say about his condition at the clinic, 05.07.2021, available: <https://rustavi2.ge/ka/news/203751>, [25.08.2021];

⁷⁴ A cameraman who was beaten during a violent rally on July 5 has been found dead, 11.07.2021, available: <https://netgazeti.ge/news/553547/>, [28.08.2021];

⁷⁵ "My cameraman was beaten mercilessly by 20 people in a pool of blood. I begged them not to kill him. The clergyman took touch my hair and told me "I will silence you" "- Miranda Baghaturia, TV Pirveli journalist, 06.06.2021, available: <https://fb.watch/7FVtYYzGnk/>, [28.08.2021]; Lexo Lashkarava, who was brutally beaten by a hate group, died, 11.07.2021, available: <https://www.amerikiskhma.com/a/georgian-cameraman-dies/5961618.html>, [28.08.2021];

⁷⁶ On July 5, the cameraman of TV Pirveli, who was beaten by the ultra-right, died, 11.07.2021, available: <https://civil.ge/ka/archives/431494>, [28.08.2021];

⁷⁷ See relevant photo material depicting Lashkarava's injuries: https://reginfo.ge/media/k2/items/cache/a2c05d7a18e3024e1f8e5807ec8bcb4d_XL.jpg?t=1626016891; https://gdb.rferl.org/caf3d8bd-b28f-4682-ad59-d679293dc2e1_w1597_n_r1_st.png; <https://itv.ge/videos/img-72971-1625980966.jpg>; <https://euronewsgeorgia.com/wpcontent/uploads/2021/07/%E1%83%9A%E1%83%90%E1%83%A8%E1%83%A5%E1%83%90%E1%83%A0%E1%83%90%E1%83%95%E1%83%90.jpeg>; [28.08.2021];

51. **Due to the large-scale aggression of violent groups, the “Pride March” was canceled.**⁷⁸ According to the organizers of “Pride March” - **“The inaction of the executive government has put the health and lives of Georgian citizens in real danger.”**⁷⁹
52. According to the latest information provided from the office of the general prosecution, a criminal prosecution regarding 5-6 July events is initiated against 31 person, on three criminal case.⁸⁰ Notably, a criminal prosecution under: the second part of Article 154 of the Criminal Code (unlawful interference with a journalist's professional activities, threatening to commit violence), Article 156, part 2, subparagraph (a) (prosecution of a person for professional activity, committed violence) and the second part of Article 225 (participation in gang violence) is initiated against 26 person. Article 156, part 2, subparagraph (a) and Article 225, part 2, is initiated against 1 person. Article 160, part 2, subparagraph (a) and part 3, subparagraph (a) (the threat of violence and the group violation of the inviolability of an apartment or other property)⁸¹, Article 156, par 2, subparagraph (a) and Article 225, part 2, is initiated against 3 person. Article 154, part 2 and Article 156, par 2, subparagraph (a) is initiated against 1 person. 56 person is recognized as a victim in respect of the above-mentioned criminal cases.

IV. Evaluation of July 5 events by different actors

47. The inaction of the government and its incitement of violence, aggression and homophobia were also criticized by **Public Defender of Georgia**, who stated that *“although group violence could be foreseen, MIA did not take effective preventive measures to prevent violence, neither has it responded fully or adequately to the criminal facts so far”*.⁸² The ombudsmen also mentioned the responsibility of the state *“to protect the rights of journalists as persons with special status and to take appropriate measures to prevent similar incidents (attacks against them)”*.⁸³
48. **Georgian non-governmental organizations (NGOs)** also condemned the riots, especially violent actions against citizens and journalists, as well as the inaction of the government and its failure to prevent violence and attacks committed on July 5th. Moreover, they required from the authorities effective investigation to be launched on the incident, which will be able to result in the identification

⁷⁸Georgia: Tbilisi Pride cancelled amid violent protests, BBC news, 05.07.2021, available: <https://www.bbc.com/news/world-europe-57720366>, [30.08.2021];

⁷⁹The “March of Honor” will not be held today, 05.07.2021, available: <https://www.radiotavisupleba.ge/a/31341743.html>, [25.08.2021]; The “March of Honor” will not be hold, 05.07.2021, available: <https://www.facebook.com/TiflisPride/photos/a.556984528139071/1157851294719055/?type=3>, [25.08.2021]; “March of Honor” will not take place today - what statement does “Tbilisi Pride” spread?, 05.07.2021, available: <https://www.ambebi.ge/article/262038-girsebis-marshi-dges-ar-shedgeba-ra-gancxadebas/>, [25.08.2021];

⁸⁰ A letter from the office of the general prosecution, 17.08.2021;

⁸¹ The Ministry of Internal Affairs detained 5 more people for attacking, persecuting and gang violence against journalists at a rally in Tbilisi on July 5, and 3 people for damaging the office of Tbilisi Pride, 08.07.2021, the Ministry of International Affairs, available: <https://police.ge/ge/shinagan-saqmeta-saministrom-5-ivliss-tbilisshi-gamartuli-aqtsiaze-jurnalistebe-tavdaskhmis-devnasa-da-djgufur-dzaladobis-faqtebe-kidev-5-piri-kholo-tbilisi-praidi-s-ofisis-dazianebe-faqte-3-piri-daakava/14773>, [02.09.2021];

⁸² Public Defender’s Statement on Events Developing on Rustaveli Avenue, Public Defender (ombudsman) of Georgia, 05.07.2021, available: <https://www.ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelis-gantskhadeba-rustavelis-gamzirze-mimdinare-movlenebis-shesakheb>;

Public Defender’s statement on investigation of actions of organizers of July 5-6 events, Public Defender (Ombudsman) of Georgia, 12.07.2021, available: <https://ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsvelis-gantskhadeba-5-6-ivlisis-movlenebis-organizatoria-kmedebelis-gamodziebastan-dakavshirebit>, [30.08.2021];

⁸³ Public Defender Responds to Frequent Attacks on Journalists, the Public Defender (ombudsmen) of Georgia, 27.07.2021, available: <https://ombudsman.ge/eng/akhali-ambebi/sakhalkho-damtsveli-zhurnalistebe-tavdaskhmis-gakhshirebul-faktebs-ekhmianebe>, [30.08.2021];

and adequate punishment of all the perpetrators.⁸⁴ NGOs also sharply criticized the statements made by Prime Minister, which “*further exacerbated the already tense background, incited violent actions by homophobic groups, and in fact gave carte blanche to violence*”.⁸⁵ NGOs deem, that the responsibility shall be placed on the government as far as on the one hand “*MIA failed to ensure the effective management of the process and the mobilization of an adequate number of police forces*”⁸⁶ and on the other hand, “*the law enforcement agencies (who were at the incident place) did not effectively prevent the cases of violence in the streets of Tbilisi*”.⁸⁷ Subsequently, events developed on July 5th was assessed as “*the March of Dishonor*”.⁸⁸

49. The same evaluation was constituted by International partners of Georgia and the human rights organizations.⁸⁹ For example, **Denis Krivosheev**, Amnesty International’s Deputy Director for Eastern Europe and Central Asia, regretted that the government failed in its most basic task to uphold the constitutionally protected fundamental freedoms. Even worse, “*they consistently fail in their duties by not properly investigating incidents of violence and bringing those suspected of responsibility to account*”. Therefore, according to him, this time effective investigation and punishment of all perpetrators with the full force of the law are vitally important, otherwise, another failure will be considered as the dangerous message “*that such attacks will be tolerated, paving the way for further violence against LGBT+ individuals, activists and organizations*”.⁹⁰ In a joint statements issued by **US, UK, the EU and a number of other diplomatic missions** firmly condemned violence as well as the failure of the government leaders and religious officials to condemn this violence, as “*violence is simply unacceptable and cannot be excused*”. They unanimously and unequivocally called on Georgian authorities to undertake proper measures.⁹¹
50. Events developed on July 5th regarding Tbilisi Pride Week and assessments by national and international actors obviously shows that even for today the human rights condition of LGBT+ community is alarming.

⁸⁴ NGOs, opposition: inaction of gov’t encourages violence against Tbilisi Pride activists, journalists, Agenda.ge, 05.07.2021, available: <https://agenda.ge/en/news/2021/1848>, [31.08.2021]; Homophobic Pogroms: CSOs Hold Government Accountable, 05.07.2021, available: <https://civil.ge/archives/430747>, [31.08.2021];

⁸⁵ GYLA statement on the violent actions that took place on July 5th, Georgian Young Lawyers’ Association, 05.07.2021, available: <https://gyla.ge/en/post/saia-s-ganckhadeba-5-ivliss-ganvitarebul-dzaladobriv-qmedebze#sthash.RqModRFS.uz5913iJ.dpbs>, [31.08.2021];

⁸⁶ Ibid.;

⁸⁷ Georgian authorities have failed to uphold citizen’s constitutional rights, International Society for Fair Elections and Democracy (ISFED), 05.07.2021, available: <https://isfed.ge/eng/gantskhadebebi/sakhelmtsifo-institutebi-ver-uzrunvelkofen-moqalageta-konstitutsiuri-uflebebis-datsvas#none>, [31.08.2021];

⁸⁸ 05.07.2021 – March of Dishonor, August, 2021, Georgian Democracy Initiative;

⁸⁹ European countries condemn violence against Tbilisi Pride march, PoliticoPro, 05.07.2021, available: <https://www.politico.eu/article/european-leaders-condemn-unacceptable-violence-at-anti-lgbt-demonstration-in-georgia/>, [31.08.2021]; International response to the violence in Tbilisi, Civil.ge, 06.07.2021, available: <https://civil.ge/ka/archives/430892>, [31.08.2021];

⁹⁰ Georgia: The authorities’ failure to protect Tbilisi Pride once again encourages violence, Amnesty International, 05.07.2021, available: <https://www.amnesty.org/en/latest/press-release/2021/07/georgia-the-authorities-failure-to-protect-tbilisi-pride-once-again-encourages-violence/>, [31.08.2021];

⁹¹ Joint Statement on violence in Tbilisi, U.S. Embassy in Georgia, 05.07.2021, available: <https://ge.usembassy.gov/joint-statement-on-violence-in-tbilisi/>, [31.08.2021]; EU alarmed by anti-LGBTIQ riot in Georgia, euobserver, 06.07.2021, available: <https://euobserver.com/world/152357>, [31.08.2021];

3.3. Absence of a Specialized Investigative Unit within the Ministry of Internal Affairs of Georgia for carrying out effective investigations into hate crimes

57. Despite numerous direct requirements⁹² of the Committee of Ministers for establishing a specialized investigative unit for carrying out effective investigations into hate crimes, as of today, this general measure is not still undertaken by the authorities. Despite establishment and extension of the mandate of the Human Rights Protection and Investigation Quality Monitoring Department within the MIA can be evaluated as the positive step, it cannot be regarded as the sufficient mechanism for fighting against hate crimes. The latter provision is supported by decision of the European Commission against Racism and Intolerance (ECRI) as well as the repeated call of the Committee of Ministers to the State for establishing the mentioned specialized investigative unit.⁹³ In particular, the Human Rights Protection and Investigation Quality Monitoring department lacks authority to conduct the investigation into crimes stated in the statute. It only develops recommendations to eliminate the shortcomings in the investigation process, including in relation to hate crimes, as its main function is monitoring the investigation rather than carrying out it.⁹⁴ Furthermore, while the recommendations for elimination of the shortcomings identified in the investigative process is non-compulsory, some questions and doubts arise in relation to its effective implementation.

3.4. Problems related to establishing a possible discriminatory motive within the investigation of hate crimes

58. Conducting effective investigation of hate crimes as well as punishment of perpetrators has been systemic problem for years.⁹⁵ According to the report 2020 of the Public Defender of Georgia, tendency about establishing a possible discriminatory motive within the investigation of hate crimes has been improved, whereas the investigation is launched under that Article of Criminal Code of Georgia, which defines discriminatory motive, as the aggravating circumstance of liability.⁹⁶ However, deficiencies identified in the investigation fall foul its effectiveness. Notably, indeed, in most cases some investigative measures are conducted in order to identify a discriminatory motive, but it is unknown which concrete investigative and/or procedural actions are conducted exactly. Moreover, the rate of granting victim status or accusation to persons is abruptly low.⁹⁷ It is essential that hate crimes must be investigated in accordance with all standards necessary for an effective investigation, including in the presence of proper ground, with timely granting of victim status to persons and bringing charges against

⁹² CM/Notes/1355/H46-8, 25.09.2019, 7, available: [http://hudoc.exec.coe.int/eng?i=CM/Del/Dec\(2019\)1355/H46-8E](http://hudoc.exec.coe.int/eng?i=CM/Del/Dec(2019)1355/H46-8E), [12.06.2021];

⁹³ ECRI, CRI(2019)4 Conclusions on the implementation of the recommendations in respect of Georgia subject to interim follow-up, 05/03/2019, available: <https://rm.coe.int/ecri-conclusions-on-the-implementationof-the-recommendations-in-respe/1680934a7e>, [12.06.2021];

⁹⁴ The Statute of the Human Rights Protection and Investigation Quality Monitoring Department of the Ministry of Internal Affairs of Georgia, 04.02.2019;

⁹⁵ GYLA's statement on International Day Against Homophobia, Transphobia And Biphobia, available: <https://gyla.ge/ge/post/saia-s-ganckhadeba-homofobiistransfobiis-da-bifobiis-tsinaagmdeg-brdzolis-saertashoriso-dghestan-dakavshirebit#sthash.jrPt5loW.dpbs>, [12.06.2021];

⁹⁶ Public Defender's Parliamentary Report on the situation of human rights and freedoms (2020), 31.03.2021, 182;

⁹⁷ Ibid;

defendant within a reasonable time. The State's ineffective policticy against hate crimes significantly undermines LGBT+ community's trust towards the law enforcement agencies.⁹⁸

3.5. Problems related to absence of discriminatory motive clause in the Code of Administrative Offences

59. As of today, the problem arises in relation to the Code of Administrative Offences (hereinafter "the CAO), which does not envisage the possibility of establishing discriminatory motive, as the aggravating factor for administrative liability. In particular, an exhaustive list of the aggregative circumstances is stated under Article 35, in which discriminatory motive is not envisaged. This means that an illegal act committed against LGBT+ community and/or Jehovah's Witnesses, which does not attain the criminal liability threshold, but according to the assessment of the investigative authorities, is qualified under the particular Article's simple composition of the CAO (for example, as it happened in response to the unlawful actions against Tbilisi Pride on July 21-22, 2020), it is impossible to establish discriminatory motive even in theory.⁹⁹ The Public Defender of Georgia also underlines the said problem in his numerous reports.¹⁰⁰ In absence of discriminatory motive in the CAO, it is impossible to provide accurate statistics on such crimes. Such situation complicates the State's as well as interested people's possibility to view a full picture and have an adequate response to hate crimes. Furthermore, an administrative offence committed on ground of the discriminatory motive is assessed the same way as one without such motive. The latter leads to ineffectiveness of the fight against hate crimes. It should be emphasized that absence of discriminatory motive clause with various other shortcomings, which leave people without guaranties ensured by right to a fair trial, further confirms the deficiency of the CAO. Hence, it is crucial to initiate relevant legislative changes in the CAO that will define discriminatory ground, as the aggravating circumstance of liability. It is also essential that the reform of the CAO, which has been continuing for years, should be implemented in accordance with the international standards.

4. SUGGESTED RECOMMENDATIONS TO ENSURE FULL AND EFFECTIVE EXECUTION OF THE GENERAL MEASURES

60. In order that the Identoba and Others Group cases are effectively and adequately implemented, GYLA considers that the following steps need to be taken:
- *The Government should create specialized investigative unit within the Ministry of Internal Affairs that would be capable of investigating the hate crimes;*
 - *The Government should amend the Code of Administrative Offences and define the discriminatory motive, as the aggravating factor of the liability;*

⁹⁸ 2020 Country Reports on Human Rights Practices: Georgia, U.S. Department of State, 30.03.2021, 61, available: <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/georgia/>, [12.06.2021];

⁹⁹ Statement of the Ministry of Internal Affairs, 02.09.2020, available: <https://police.ge/ge/shinagansaqmeta-saministros-gantskhadeba/13923>, [12.06.2021];

¹⁰⁰ Communication from an NHRI (Public Defender (Ombudsman) of Georgia) (05/08/2020) concerning the IDENTOBA AND OTHERS group of cases v. Georgia (Application No. 73235/12), 07.09.2020, available: [http://hudoc.exec.coe.int/eng?i=DH-DD\(2020\)775E](http://hudoc.exec.coe.int/eng?i=DH-DD(2020)775E), [12.06.2021]; Special Report of the Public Defender of Georgia on Combating and Preventing Discrimination and the State of Equality (2019), 37.

- *The Government should undertake social awareness-rising campaigns concerning the prohibition of discrimination and hate crimes;*
- *The Government should undertake relevant activities and measures in order to enhance the trust between the law enforcement agencies and the LGBT+ community and religious minorities.*
- *The Government should take into consideration the needs and interests of LGBT+ community and Jehovah's Witnesses while implementing measures against Covid-19.*