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### DH-DD(2021)1151

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Meeting: 1419<sup>th</sup> meeting (December 2021) (DH)

Communication from NGOs (Social Justice Center and ILGA-Europe) (26/10/2021) 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<sup>e</sup> réunion (décembre 2021) (DH)

Communication d'ONG (Social Justice Center et ILGA-Europe) (26/10/2021) 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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**Rule 9(2) submission to the Committee of Ministers of the Council of Europe  
concerning implementation of *Identoba & Others v. Georgia*  
for the CM meeting CM-DH 1419<sup>th</sup> (30 November – 2 December 2021)  
By  
The Social Justice Center (former EMC)  
and ILGA-Europe**

26 October 2021

**Introduction**

1. The case of *Identoba and others v. Georgia* (Application no. 73235/12) (the *Identoba* case) concerns the failure of the Georgian authorities to provide adequate protection against inhuman and degrading treatment inflicted by private individuals on LGBTI activists who were attacked during a peaceful demonstration in May 2012 (substantive violations of Article 3 in conjunction with Article 14), as well to conduct any effective investigation into these events (procedural violations of Article 3 in conjunction with Article 14). In addition, the Court held that the authorities had breached their obligation to ensure that the march could take place peacefully by failing sufficiently to contain homophobic and violent counter-demonstrators (violation of Article 11 taken in conjunction with Article 14).
2. This submission is communicated by the Social Justice Center (former EMC) and ILGA-Europe<sup>1</sup> as non-governmental organizations, under Rule 9(2) of the Rules of the Committee of Ministers (CM) for the supervision of the execution of judgments for consideration at the meeting CM-DH 1419<sup>th</sup> meeting (30 November – 2 December 2021). It responds to the Action Report of the Government of Georgia submitted on 08 October 2021<sup>2</sup> (the Government Action Report). This submission addresses matters arising in relation to general measures in respect of the *Identoba* case rather than the *Identoba Group* as a whole.
3. This submission refers to previous Rule 9.2 submissions of 16 November 2016 (the 2016 CSO submission),<sup>3</sup> 10 May 2018 (the 2018 CSO submission),<sup>4</sup> 2 August 2019 (the 2019 CSO submission)<sup>5</sup> and 10 August 2020 (the 2020 CSO submission).<sup>6</sup>

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<sup>1</sup> Social Justice Center (former Human Rights Monitoring and Education Center (EMC)) is a human rights organization working on equality policy, social rights and monitoring of the institutional reforms of the state (emc.org.ge), ILGA-Europe is the European Region of the International, Lesbian, Gay, Bisexual, Trans and Intersex Association, an umbrella organization for the global LGBTI movement (ilga-europe.org).

<sup>2</sup> DH-DD(2021)1008, available at: [https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DH-DD\(2021\)1008E%22%5D%22%7D](https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DH-DD(2021)1008E%22%5D%22%7D)

<sup>3</sup> DH-DD (2016) 1303, available at: [https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DH-DD\(2016\)1303E%22%5D%22%7D](https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DH-DD(2016)1303E%22%5D%22%7D)

<sup>4</sup> DH-DD(2018)489, available at: [https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DH-DD\(2018\)489E%22%5D%22%7D](https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DH-DD(2018)489E%22%5D%22%7D)

<sup>5</sup> DH-DD(2019)938, available at: [https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DH-DD\(2019\)938E%22%5D%22%7D](https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DH-DD(2019)938E%22%5D%22%7D)

<sup>6</sup> DH-DD(2020)776, available at: [https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DH-DD\(2020\)776E%22%5D%22%7D](https://hudoc.exec.coe.int/eng#%7B%22EXECIdentifier%22:%5B%22DH-DD(2020)776E%22%5D%22%7D)

## Executive Summary

4. This submission provides an assessment of the implementation of the General Measures under the *Identoba* case. It provides an assessment of (a) Georgia's National policy to combat discrimination and intolerance, (b) Investigation and prosecution of hate crimes, and (c) the status of implementation of the right to freedom of peaceful assembly of LGBTQI people.
5. The Submission sets out the main recommendations to be implemented by the State to achieve the significant progress towards the protection of the human rights of LGBTQI people in Georgia.
6. The Submission asks the CM to request the State to take effective measures and demonstrate progress towards the implementation of the recommendations made by this submission.

## Main Findings

7. The government of Georgia made significant steps in fighting against hate crimes in Georgia. However, addressing hate crimes requires comprehensive work on countering discrimination more widely. It is a matter of concern that most serious hate crime cases were not addressed adequately by Government of Georgia (see. paras. 13-17).
8. So far as freedom of assembly is concerned, the refusal of the authorities to guarantee the safety of participants in the 2019 and 2021 Tbilisi Pride March, and the consequent impossibility of holding this event, demonstrates that this aspect of the *Identoba* judgment is still far from being satisfactorily implemented (see paras. 18-32). The failure of the authorities to face down threats of violence by far-right groups, in effect acquiescing in those threats, is egregious.
9. The anti-pride violent events which took place on 5-6 July 2021 has exposed the scale of the violence and the power of ultra-conservative groups, as well as its political tolerance by the state authorities. The massive mobilization of those groups was preceded by openly anti-democratic public statements by the high-ranking state officials. The position of Georgian Patriarchate, as well as individual clergies and leaders of the ultra-conservative groups were highly problematic and equated to incitement of violence. Failure of the law-enforcement officials to identify and prevent the risks of violence in a timely manner arouses the doubts that the state inaction is intentional. Evidently, the LGBTQI groups are permanently instrumentalized in Georgia for the political gains. These events have once again demonstrated that the Georgian authorities failed in their obligation to uphold the right to freedom of assembly and expression.

### a. National policy to combat discrimination and intolerance

10. Any assessment of the measures needed to implement the *Identoba* judgment must take account of the situation of the LGBTQI community in Georgia. The 2018 report of the UN Independent Expert on sexual orientation and gender identity on Georgia is still very relevant as the situation remains challengeable. According to the report: "violence and discrimination based on sexual orientation and gender identity are pervasive in Georgia: beatings are commonplace, harassment and bullying constant, and exclusion from education, work and health settings appear be the norm. Although lesbian, gay, bisexual and trans and gender diverse persons are among the most

vulnerable individuals in society, a recent Council of Europe survey revealed that only 33% of people in Georgia think that it is right to protect their rights.”<sup>7</sup>

### **The National Human Rights Strategy and the accompanying action plans (2014 – 15, 2016 – 2017, 2018 – 20)**

11. As noted in the 2016, 2018, 2019 and 2020 CSO submissions, no effective measures to combat sexual orientation or gender identity discrimination were implemented under the 2014 – 2015 action plan.<sup>8</sup> The 2016 – 2017 action plan contained only five main tasks addressing directly sexual orientation/gender identity discrimination. Most of them were not fully implemented.<sup>9</sup>
12. Despite the fact that the previous action plan for 2018-2020 was approved on 17 April 2018,<sup>10</sup> till February 2020 the NAP did not address the rights of LGBTQI people. In 2020 the Human Rights Secretariat as a responsible agency on NAPs has drafted a separate chapter 15 on SOGI. Draft version was open for comments from civil society and some of the suggestions from Social Justice Center, WISG and other partners have been included. Chapter 15 of the Action Plan includes three goals and aims to combat hate-motivated crimes, raising awareness on sexual orientation and gender identity (SOGI) and the improvement of SOGI-specific social and healthcare services. However, as the chapter 15 was adopted on 17 February 2020, its implementation was hindered due to the pandemic caused by Covid-19.

#### **b. Investigation and prosecution of hate crimes**

13. The measures taken by the Georgian authorities to address hate crime and discrimination, as highlighted in the Updated Action Report (paras. 12-24) has to be welcomed, however, the frequency and brutality of homo/bi/transphobic hate crimes and incidents remain challengeable affirming that much more has to be done.
14. According to the Action Report, the collection of data has been improved since 2016, which should be welcomed. Under the October-December 2020 unified statistics provided by Geostat, Ministry of Internal Affairs of Georgia (MIA) has launched the investigation on 13 homo/transphobic hate crime cases,<sup>11</sup> and prosecutor’s office has started the prosecution on 5 cases.<sup>12</sup> In addition, according to the 2020 report of the prosecutor’s office prosecution has been started against 17 individuals based on SOGI based hate crimes. However, it should be highlighted that the victims

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<sup>7</sup> Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity on Georgia, A/HRC/41/45/Add.1, para. 31, 15.05.2019, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/139/35/PDF/G1913935.pdf?OpenElement>

<sup>8</sup> DH-DD (2016) 1303 – paras 31 - 32

<sup>9</sup> Government’s Report on the implementation of the action plan (2016-2017), goal 13.3, available at: <http://myrights.gov.ge/uploads/files/docs/6971Report2016-2017.pdf>

<sup>10</sup> The Government Decree N182, April 17, 2018 on the approval of the Government’s Human Rights Action Plan for 2018-2020 years, chapter 15. available at: <https://matsne.gov.ge/ka/document/view/4153833>

<sup>11</sup> United report on the statistics of hate crimes, October-December 2020, available at: [https://www.geostat.ge/media/36779/diskriminaciis-nishnit\\_2020\\_IV.pdf?fbclid=IwAR1TRZdklfuunM\\_i3sVTPy5vOZdVFETtIF09Krnfib5Ib7AigEFfiVWE98s](https://www.geostat.ge/media/36779/diskriminaciis-nishnit_2020_IV.pdf?fbclid=IwAR1TRZdklfuunM_i3sVTPy5vOZdVFETtIF09Krnfib5Ib7AigEFfiVWE98s)

<sup>12</sup> Ibid

usually refrain from reporting to law enforcements because of the fear of forcible outing and re-victimization resulting in reporting gap.<sup>13</sup>

15. As indicated in the updated Action Report (paras. 22-24), for the purposes of combating hate crimes, Ministry of Internal Affairs has created the Human Rights Protection and Investigation Quality Monitoring Department,<sup>14</sup> which *inter alia* monitors investigation on hate crimes.<sup>15</sup> Establishment of the new department has to be welcomed, however, it should be reiterated that it carries a different remit than the unit proposed by UPR and the Committee. Moreover, it's centralized, coordinating body, giving rise to concerns that it may not be sufficient due regard problems at the local level, nor, for example, detailed issues arising in the investigatory process. It shall also be noted that in its conclusions on the Implementation of the Recommendations in Respect of Georgia subject to Interim Follow-Up, ECRI noted: "More importantly, such a department is not a substitute for a specialized investigative unit within the police, as recommended by ECRI. The new department was created to review hate crime investigations, not to carry them out. It therefore does not constitute a dedicated reinforcement of hate crime investigation capacity at law enforcement level".<sup>16</sup> This recommendation has been also addressed by the UN Independent Expert on sexual orientation and gender identity.<sup>17</sup>
16. Fight against hate crimes also involves the victim support services, which is still a challenge in Georgia. While the victims of hate crime can access the Offices of Protecting Witness and Victim within the Prosecutor's Office and the Ministry of Internal Affairs system; these offices, however, have a limited number of coordinators throughout Georgia. One of the responsibilities of the coordinator is to offer victims the services available at different state agencies and civil society organizations. The vital importance of the challenge is that the state doesn't offer relevant services for the victims of hate crimes itself and the coordinators of the Prosecutor's and MIA's are seeking those services outside the system and mainly approaching civil society organizations. Because of the limited capacity of the NGO's services, reduced even further due to the pandemic, it is crucial that the State provides such guarantees as part of the fight against hate crimes itself.
17. Despite the emergence of the ultra-conservative violent groups in 2016 and their active role in anti-democratic activity, the government of Georgia still ignores the problem and fails to elaborate the unified preventive strategy against anti-gender and ultra-conservative rhetoric and violence. Thus, the problem remains unresolved without legal, social and educational methodological tools to fight against the root causes of such violence and hate speech, which results in diminishing the democratic values and human rights in Georgia.

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<sup>13</sup> Jalagania L. "Social Exclusion of LGBTQ Groups in Georgia", 2020, Social Justice Center, available at: <https://socialjustice.org.ge/en/products/lgbtk-igufis-sotsialuri-ekskluziis-kvleva-sakartveloshi>

<sup>14</sup> Order of the Minister of Internal Affairs N1 of January 12, 2018, available at: <https://matsne.gov.ge/ka/document/view/3999709>

<sup>15</sup> Details about the department are available at: <https://police.ge/en/adamianis-uflebata-datsvis-departamentis-mandati-gafartovda/12477>

<sup>16</sup> ECRI Conclusions on the Implementation of the Recommendations in Respect of Georgia Subject to Interim Follow-up, 05.03.2019, available at: [https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680934a7e?fbclid=IwAR3LpX9rD6dS9J8MZwZ-ZGg\\_eSOLDaRrVYO8kx6PR6gnTKU7D04r\\_czH3yA](https://rm.coe.int/ecri-conclusions-on-the-implementation-of-the-recommendations-in-respe/1680934a7e?fbclid=IwAR3LpX9rD6dS9J8MZwZ-ZGg_eSOLDaRrVYO8kx6PR6gnTKU7D04r_czH3yA)

<sup>17</sup> Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity on Georgia, A/HRC/41/45/Add.1, para. 99.

**c. Exercise of the right to freedom of peaceful assembly**

18. The enjoyment of the right to freedom of assembly and manifestation still remains a challenge for LGBTQI groups despite the fact that the Georgian legislation fully guarantees freedom of assembly and manifestation for all persons without discrimination.
19. The traumatic experiences of 2012 and 2013 International Day Against Homophobia, Transphobia and Biphobia (IDAHOT) events and State's failure to condemn violent attacks has affected the ability of the LGBTQI community and their supporters to make effective use of their freedoms of expression and peaceful assembly in following years. Since 2013, rather than respecting the LGBTQI activists' choice of time and space for holding an assembly and fulfilling its positive duty to provide adequate protection, the authorities relied on a threat of violent counter-demonstrations to restrict their right to demonstrate. Consequently, the powerful well-organized anti-gender, conservative groups have monopolized the public space. As the Public Defender's Office (PDO) has highlighted in its annual report of 2020 that "While activists have struggled for years to secure public spaces for safe assembly, IDAHOT on 17 May, 2020, was held online."<sup>18</sup>
20. Similarly, as indicated in the previous Rule 9.2 Submission, in 2019 due to the threats from the violent extremist groups and absence of security guarantees from MIA, instead of marching at the planned venue, Tbilisi Pride had to resort to a highly secret gathering in front of the MIA building with 15 participants, which lasted only 30 minutes. Despite the fact that homophobic groups had formed "civil guard" unit equipped with wooden clubs to attack participants of the Tbilisi Pride March and were publicly inciting the violence, neither the leaders nor the members of this violent groups have faced any charges.<sup>19</sup>
21. As indicated in the Action Report (see para. 24), only one individual was arrested on June 20, 2019 and was charged under article 239 (Hooliganism) of the Criminal Code. The victim status was granted to 2 individuals – which should be assessed as inadequate investigation comparing the scale and the form of the violent actions and incitement to violence. Action report further indicates that "the investigation in other episodes is currently ongoing" (see para. 24), which also should be assessed as ineffective as these actions have taken place in 2019.

**5-6 July 2021 - Tbilisi Pride Event**

22. On 4 June 2021, LGBTQI rights organization Tbilisi pride announced its plan to hold the Pride March On 5th of July on Rustaveli avenue in Tbilisi. Since the announcement, the ultra-conservative, far- right groups have openly expressed their intentions to disrupt the March.<sup>20</sup> Georgian Patriarchate requested the authorities not to support the Pride March and condemned the organizers for the "propagation of the non-traditional way of life, aimed at legalization of a

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<sup>18</sup> Annual Parliamentary report of the Public Defender of Georgia, 2020, pp. 137-138, available at: <https://ombudsman.ge/res/docs/2021070814020446986.pdf>

<sup>19</sup> DH-DD (2020)776

<sup>20</sup> "Pride is beginning – who protects and who's against the pride", 30.06.2021, available at: <https://www.radiotavisupleba.ge/a/31334344.html>

"Levan Vasadze asks the Government to ban the Pride event", 15.06.2021, available at: <https://bit.ly/3yvZ0b7>

"Opponents of the Pride March are ping to control the Rustaveli Avenue", 24.06.2021 available at: <https://www.radiotavisupleba.ge/a/31324390.html>

grave sin.”<sup>21</sup> The high-ranking political figures expressed their views against holding the Pride March as well. In particular, the leader of the ruling party “Georgian Dream” Irakli Kobakhidze called the organizers of Tbilisi Pride irresponsible, while Prime Minister of Georgia – Irakli Garibashvili that it was inappropriate to hold a Pride March while 95% of the Georgian population was against it.<sup>22</sup>

23. Homophobic groups publicly used hate speech and called for violence against the LGBTIQ activists on multiple occasions before and during the 5 July. On 28 June, a reporter of the extremist media outlet “Alt-info” - Zurab Makharadze, asserted that he would use force to defend his values.<sup>23</sup> On 4 July, a leader of the far-right group, Guram Phalavandishvili, erected the tents at Rustaveli avenue in order to disrupt the Pride March.<sup>24</sup> On 5 July he stated that, since the Police would not use the adequate force against the “propagation of perversion”, people would come to replace the police.<sup>25</sup> The same day, the Counter-demonstrators gathered themselves in front of the Parliament building at Rustaveli avenue. A clergyman, Spiridon Tskifurishvili, preached from the tribune: “you are obliged to commit violence for the motherland, for God, for purity.”<sup>26</sup> Instead of taking any action, MIA requested the Pride March organizers to refrain from holding the March at an open space due to the threats from the counter-demonstrators.<sup>27</sup>
24. On 5 July, at 12 o’clock, a founder of “Alt-Info” media outlet, Konstantine Morgoshia, informed the counter-demonstrators gathered in front of the Parliament that Tbilisi Pride organizers were at the office of the “Shame Movement”<sup>28</sup> and 500-600 people should be moving to that direction. Within ten minutes, the violent groups raided the Office of “Shame Movement”. The violent groups attacked two journalists, one of them - Lekso Lashkarava sustained several injuries and went through with the surgical operation as a result. He died in his house after several days, but the reason for his death has not been established.<sup>29</sup>
25. While the Pride Organizers managed to leave the office of “Shame Movement” before the arrival of the violent groups, they were chased down on multiple other locations.<sup>30</sup> The office of the Tbilisi Pride was another target of the counter-demonstrators. Members of a violent homophobic mob

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<sup>21</sup> “We are calling the Government to prevent the country destabilization and turmoil”, 29.06.2021, available at: <https://formulanews.ge/News/52722>

<sup>22</sup> “According to Irakli Kobakhidze, holding a “Pride Week” is irresponsible”, 18.06.2021, available at: <https://civil.ge/ka/archives/428210>;

“March” is inappropriate”, 05.07.2021, available at: <https://civil.ge/ka/archives/430534>

<sup>23</sup> “Alt-Info’s test, how to respond to the violence announced through the television channel”, 19.07.2021, available at: <https://netgazeti.ge/news/554883/>

“Chronology of the attacks on “Shame Movement” and Lekso Lashkarava, 17.07.2021, available at: <https://bit.ly/3DhG3MV>

<sup>24</sup> “There may be victims, I’m announcing once again – Another threatening statement by Guram Phalavandishvili”, 05.07.2021, available at: <https://rustavi2.ge/ka/news/203650>

<sup>25</sup> “Opponents of Tbilisi Pride, including the clergymen are gathering near Rustaveli metro station”, 05.07/2021, available at: <https://www.interpressnews.ge/ka/article/664114-tbilisi-praidis-mocinaagmdegeebi-rustavelis-metros-mimdebare-teritoriaze-ikribebian-mat-shoris-arian-sasuliero-pirebi/>

<sup>26</sup> “Why is Clergyman forgiven, while others are not”, 06.07.2021 available at: <https://netgazeti.ge/news/552442/>

<sup>27</sup> Statement of the Ministry of Internal Affairs of Georgia, 05.07.2021, available at: <https://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/14760>

<sup>28</sup> Anti-Occupation Civil Movement, for more information see: [https://shame.ge/?fbclid=IwAR19U2a6R0jhvqNCaCxDNQy9g99j40p\\_ocsMJmTyGQymgRTVisiSym1\\_3GQ](https://shame.ge/?fbclid=IwAR19U2a6R0jhvqNCaCxDNQy9g99j40p_ocsMJmTyGQymgRTVisiSym1_3GQ)

<sup>29</sup> “The Operator - Lekso Lashkarava is deceased”, 11.07.2021, available at: <https://bit.ly/3zBEEP0>

<sup>30</sup> “Everything points to organized violence on July 5, except for the investigation”, 07.07.2021, available at: <https://netgazeti.ge/news/552711/>

climbed onto the balcony of the office of Tbilisi Pride on the third floor. Tearing a rainbow flag apart, they threw it down to the cheering crowd and broke the windows before ransacking the building and damaging the office inventory.<sup>31</sup> They also attacked the Pride March organizers near “UN Office”, where two more journalists got injured,<sup>32</sup> and threw the explosives at the “Human Rights House Tbilisi” where the Pride March organizers moved subsequently.<sup>33</sup> Furthermore, the violent groups raided the anti-government tents and tore down the EU flag outside the Parliament building.<sup>34</sup>

26. In view of the open calls for violence by the homophobic groups, it is striking, that in its public statement, MIA called violent clashes on 5 July “unexpected”. Furthermore, MIA did not see the need to organize special police cordons at Rustaveli avenue, since it was occupied only by the opponents of the Pride March.<sup>35</sup> On 7 July, MIA informed the public that 3200 policemen were mobilized at different locations in Tbilisi, without clarifying which police units they belonged to.<sup>36</sup> According to the Minister of Internal Affairs at first, the policemen were located at 3 venues and in the end, they were present at 20 different locations, that would amount to 150 policemen for each location.<sup>37</sup> Evidently, the police presence and preparedness were insufficient to circumvent the violent attacks on LGBTQI activists and journalists at the offices of the “Shame Movement”, UN, Tbilisi Pride and Human Rights House, despite the fact that the Pride March organizers were publicly announcing their locations through live media. MIA has itself acknowledged that the police force near the “Shame Movement” proved to be insufficient to prevent the raid by the homophobic groups.<sup>38</sup> In addition, the compilation of video materials prepared by media outlet “Publika” depict the inactivity of the police while the counter-demonstrators were freely entering the building.<sup>39</sup>
27. Due to the organized violence by the far-right groups and insufficient police response, the Tbilisi Pride cancelled the Pride March.<sup>40</sup> Even though publicly available sources unequivocally indicated to the immediate threats of violence, the police efforts proved to be inadequate both in securing the right to hold an assembly and in protecting the physical and moral integrity of LGBT activists

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<sup>31</sup> Amnesty International, “Georgia: The authorities’ failure to protect Tbilisi Pride once again encourages violence”, 05.07.2021, Available at: <https://www.amnesty.org/en/latest/press-release/2021/07/georgia-the-authorities-failure-to-protect-tbilisi-pride-once-again-encourages-violence/>; “Hate groups, raided the office of “Tbilisi Pride” 05.07.2021, available at: <https://www.radiotavisupleba.ge/a/31341554.html>

<sup>32</sup> “This was an unimaginable hell – story of Giorgi Tabagari after July 5”, 30.07.2021, available at: <https://netgazeti.ge/news/555896/>

<sup>33</sup> “Violent groups threw explosives to the building where 50 people were gathered”, 05.07.2021, available at: <https://netgazeti.ge/news/552305/>; Tbilisi, July 5-6 2021, Media Advocacy Coalition, available at: [https://osgf.ge/wp-content/uploads/2021/09/5\\_6\\_IVLISI\\_DOCU\\_GEO\\_19\\_09.pdf](https://osgf.ge/wp-content/uploads/2021/09/5_6_IVLISI_DOCU_GEO_19_09.pdf)

<sup>34</sup> Extremist group behind Tbilisi Pride violence granted ‘national broadcaster’ status, 10.09.2021, available at: <https://oc-media.org/extremist-group-behind-tbilisi-pride-violence-granted-national-broadcaster-status/>

<sup>35</sup> On what occasion will Vakhtang Gomelauri Leave the Office, Questions to The Minister of Internal Affairs after the exclusive interview in Night Currier, 23.07.2021, available at: <https://rustavi2.ge/ka/news/205348>

<sup>36</sup> Statement of MIA, 07.07.2021, available at: <https://police.ge/ge/shinagan-saqmeta-saministros-informatsia-tbilisi-praidis-kvireulis-paralelurad-politsiis-mier-chatarebuli-ghonisdziebebish-shesakheb/14771>

<sup>37</sup> V. Gomelauri on the events of July 5: “we mobilized as many policemen as possible”, 08.07.2021, available at: <https://formulanews.ge/News/53249>

<sup>38</sup> Statement of MIA, 07.07.2021, available at: <https://police.ge/ge/shinagan-saqmeta-saministros-informatsia-tbilisi-praidis-kvireulis-paralelurad-politsiis-mier-chatarebuli-ghonisdziebebish-shesakheb/14771>

<sup>39</sup> “Chronology of the attacks on “Shame Movement” and Lekso Lashkarava”, 17.07.2021, available at: <https://bit.ly/3DhG3MV>

<sup>40</sup> “Pride: “Pride March” #for solidarity will not be held today”, 05.07.2021, available at: <https://formulanews.ge/News/53042>

as well as the journalists fulfilling their duties. In total, 53 media representatives, 11 activists and 7 police officers got injured as a result of the violent clashes on July 5.<sup>41</sup>

28. According to the data provided by MIA on 30 July, 31 persons were detained in relation to the 5 July events on account of obstruction of journalistic activity, persecution, group violence, breach of inviolability of home or other possession.<sup>42</sup> However, the organizers of the counter demonstrations have not faced charges, despite the availability of ample video materials depicting that they publicly incited violence and mobilized violent groups.<sup>43</sup> Nor did the authorities commence the investigation in relation to the disruption of the right to hold an assembly.<sup>44</sup>
29. In light of the above events, it is clear that not only did the authorities fail to protect the LGBTQI activists from threats of violence, they have in effect acquiesced to such threats. In particular, the Government openly opposed holding the Pride March, ignored the clear calls for violence by the organizers of the counter-demonstration, failed to make adequate preparations to ensure smooth conduct of the Pride March and the safety of its participants. Finally, the Government failed to punish the key leaders of the far-right groups, once again breeding the feeling of impunity and encouraging homo/transphobic violence in the society.
30. It is also noteworthy that, The Georgian National Communications Commission (GNCC) has granted 'national broadcaster' status to Alt-Info, obligating all TV providers in the country to provide the channel to the subscribers, despite it being one of the main mediums for mobilizing crowds that attacked dozens of journalists covering their anti-Pride protest in central Tbilisi.<sup>45</sup>  
**Allowing the xenophobic, misogynist and homophobic tv channel<sup>46</sup> to broadcast nationwide is a very alarming and dangerous precedent for transitional democracies like Georgia.**
31. The events of 5 and 6 July described above are another traumatic experience for LGBTQI community in Georgia and for entire society. In general, after 5 and 6 July, the feeling of insecurity had intensified in to the community as individual violent acts continued taking place next days as well<sup>47</sup>. For several days those members of the LGBTQI community who could be perceived as "different" due to their gender expression were obliged to avoid public spaces as the risk of violence was extremely high.<sup>48</sup>
32. To sum up, LGBTQI community in Georgia does not enjoy the right to freedom of assembly even after 2013 IDAHOT experience and further general measures are required to comply with Georgia's obligation to implement the *Identoba* judgment in this respect.

## Recommendations

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<sup>41</sup> Pataridze, M. and Gerliani, T. Legal Analysis of 5-6 July events, Social Justice Center, 06.09.2021, available at: <https://socialjustice.org.ge/ka/products/5-ivlisis-movlenebis-samartlebrivi-shefaseba-pirveladi-analizi>

<sup>42</sup> Ibid

<sup>43</sup> Ibid

<sup>44</sup> Ibid

<sup>45</sup> Extremist group behind Tbilisi Pride violence granted 'national broadcaster' status, 10.09.2021, available at: <https://oc-media.org/extremist-group-behind-tbilisi-pride-violence-granted-national-broadcaster-status/>

<sup>46</sup> Georgia's Trump-loving Alt-right begin broadcasting on TV, 11.02.2021, available at: <https://oc-media.org/features/georgias-trump-loving-alt-right-begin-broadcasting-on-tv/>

<sup>47</sup> Focus group with the representatives of LGBTQI community organizations in Georgia, 16.09.2021

<sup>48</sup> Pataridze, M. and Gerliani, T. Legal Analysis of 5-6 July events, Social Justice Center, 06.09.2021, available at: <https://socialjustice.org.ge/ka/products/5-ivlisis-movlenebis-samartlebrivi-shefaseba-pirveladi-analizi>

With a view of adequately addressing general measures under the *Identoba* case, Social Justice Center and ILGA-Europe submits the following recommendations:

- Together with civil society actors, the State should establish measures necessary to enable the safe and peaceful gatherings of LGBTQI activists and take preventive measures to deter violence, hatred and discriminatory attitudes and behavior;
- Georgian authorities should properly investigate violence and incitement of violence against LGBTQI people directed from the ultra-conservative violent groups in Georgia;
- The Government of Georgia should develop the unified policy against violent extremists, including by providing the state strategy and action plan. This policy should be based on the elimination of the root causes of the violent actions and ultra-conservative narratives in Georgia. It should further focus on the wide methods of preventive strategies (legal, social, educational) as well as address the persisting problems of hate crimes and hate speech by providing effective investigation and adequate punishment based on the principle of due diligence.
- Georgian authorities should establish a hate crime investigation unit within the law enforcement system in order to strengthen the investigation/prosecution/prevention of hate crimes based on SOGIE and should work towards the elaboration of the effective preventive policies against hate crimes/incidents by close cooperation with other state institutions;
- Georgia to work towards elaboration of victim-based approach by strengthening its services, including social workers, psychologists, shelter services and others;
- Georgia should ensure the availability of high quality, timely and reliable disaggregated unified statistics in regards to hate crimes that shall enclose data of the Ministry of Internal Affairs, Prosecutors Office of Georgia and General Courts in a way that the processing of the single case was visible.
- In order to decrease the negative attitudes against LGBTQI group in Georgia the government should strengthen the democratic values and the principle of the protection of human rights through educational and informational channels, programs and campaigns. These values should be seen and supported in public statements and rhetoric of the state officials of Georgia as well.

## Conclusion

The Government of Georgia has made significant and important steps to fight against homo/transphobic hate crimes. However, it is not accompanied with the systemic approach, as the right to LGBTQ group to enjoy their right to freedom of assembly and expression is not properly protected. There are profound gaps at the policy level, as the significant progress was not achieved regarding the organization of pride marches/assemblies after 2012, contrary to Moldova for example, where important changes were made towards the implementation of general measures in the case of *GENDERDOC-M v. MOLDOVA*<sup>49</sup> delivered by the European Court of Human Rights in 2012.<sup>49</sup>

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<sup>49</sup>GENDERDOC-M v. MOLDOVA, Application no. 9106/06, judgment delivered 12/06/12.