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## **EUROPEAN SOCIAL CHARTER**

Comments submitted by  
Georgian Young Lawyers' Association, Social Justice Center and  
Partnership for Human Rights  
concerning the 16th National Report on the implementation of  
the European Social Charter

submitted by  
**THE GOVERNMENT OF GEORGIA**  
Articles 7, 8, 16, 17, 19, 27, and 31  
for the period 01/01/2018 – 31/12/2021

Report registered by the Secretariat  
on 30 June 2023

**CYCLE 2023**



**GEORGIAN  
YOUNG  
LAWYERS'  
ASSOCIATION**



**Alternative Report submitted by national non-governmental  
organizations operating in Georgia**

**GEORGIAN YOUNG LAWYERS' ASSOCIATION**

**SOCIAL JUSTICE CENTER**

**PARTNERSHIP FOR HUMAN RIGHTS**

**on the**

**Implementation of the European Social Charter by Georgia**

**June 30, 2023**

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## 1. INTRODUCTION

1. Three non-governmental organizations operating in Georgia, namely Georgian Young Lawyers' Association, Social Justice Center and Partnership for Human Rights submit this alternative report on the Implementation of the European Social Charter by Georgia.
2. The submissions are made in respect with the certain aspects for the implementation of the following articles: Article 7 - the right of children and young persons to protection; Article 8 - the right of employed women to protection of maternity; Article 16 - the right of the family to social, legal and economic protection; Article 17 - the right of children and young persons to social, legal and economic protection, Article 31 – rights to housing. Relevant conclusion and recommendations are also provided.
3. The information about the author organizations of the alternative report are as follows:
4. **Georgian Young Lawyers' Association (GYLA)** is a non-governmental organisation founded in 1994, in Tbilisi, Georgia. The organisation operates in nine regions across the country and, among other strategic activities, provides free legal services. The mission of the organisation is to create a fair environment for all by improving democratic mechanisms. GYLA has been engaged in international litigation and shadow reporting since 2004.
5. **Social Justice Centre (SJC)** - is a left-wing civil society organization working on human rights and social justice, which aims to identify the structural causes for economic, social, and political inequality in Georgia, and to share critical knowledge while contributing to the transformation of the existing order through democratic means. Social Justice Center utilizes various instruments in its work: tries to create critical knowledge, promote and facilitate bottom-up democratic organization, and the building of solidarity between various groups. It also engages in policy advocacy efforts with different stakeholders and decision-makers.
6. **Partnership for Human Rights (PHR)** – is a non-governmental organisation founded in 2012, in Tbilisi Georgia. The organisations supports women, children and persons with disabilities to access justice and enforce rights guaranteed by international and national laws.

## 2. SUBMISSIONS ON THE IMPLEMENTATION OF ARTICLES OF THE CHARTER

### 2.1. Article 7 - the right of children and young persons to protection

7. Labour migration of children remains a covered subject, absent from all state reports and statistics. There is a very scarce reporting of this problem and the victims are left without proper remedies. The only source of data revealing the problem is the qualitative research conducted by local NGO "Young Pedagogues Union" (APU) in 2015 concerning illegal labor

migration of children from Turkey.<sup>1</sup> However, Government has not applied any effective resolution to the raised concerns. The research sample consists of 223 children and adolescents aged 14-22 years. All of them had experienced labor migration in Turkey starting from the age of 12 years.

8. The study reports that among all the respondent children, only 25.8% were accompanied by their parents. 57.5% of children had written permission from their parents to cross the border. 14.8% of the children note that they were neither accompanied by their parents nor had authorised permission to cross the wall, but they still did.
9. The respondents with the labor migration experience reported the following age when first visiting Turkey for labor migration:
  1. 12 years old - 0.8%
  2. 13 years old - 4.4 %
  3. 14 years old – 8%
  4. 15 years old - 30.8%
  5. 16 years old - 31.2%
  6. 17 years old - 24.1%
10. The research reports that children aged 12-17 cross the land border with Turkey to engage in illegal labor migration. Their labor migration is mainly temporary, lasts 3-4 weeks, and is repeated several times during the year. After the first visit, many of them cross the border without parental attendance.
11. The major labor migration destination for children are the cities in Turkey, relatively close to the Georgian border. The labor sites are mainly tea and nuts plantations. The significant majority of children work for 9 hours or more on daily bases. 79% of children estimate their work in Turkey as the hard work. Most of these children work without a written contract.
12. 7% of respondents note that their living conditions were tough. 2.2.% (5 respondents) report being victims of sexual violence during labor migration. 9.8 % of respondents say the employers requested them to fulfill the tasks beyond their verbal agreement. 82% of respondents note that they had one hour break during the 8-hour work day. 6.7% of respondents mention that they had never realized their right to a break time. 5% of respondents stated they were not always given time to take food. 4.5 % of respondents said that their salary was not fully enumerated.

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<sup>1</sup> Young Pedagogues Union, Exploring the Children's Labour Migration Practice from Adjara and Guria Region to Turkey, 2015 [https://apk.ge/ge/kvlevebi/acharisa-da-guriis-regionebidan-turketshi-arasrultslovanta-shromiti-migratsiis-praktikis-shestsavla?fbclid=IwAR1TLDiuy9JTMXPS\\_jdpIYtADDHD2wr9uf46eb0icQzkjyLkz60BSByUWwU](https://apk.ge/ge/kvlevebi/acharisa-da-guriis-regionebidan-turketshi-arasrultslovanta-shromiti-migratsiis-praktikis-shestsavla?fbclid=IwAR1TLDiuy9JTMXPS_jdpIYtADDHD2wr9uf46eb0icQzkjyLkz60BSByUWwU) [30.06.2023].

13. As it appeared, most of the school administrations in Georgia were aware of children's illegal labor migration, since they were missing the school time, but didn't report it. Social service Agency as well as law enforcement office apparently neglect the issue and do not actually take any measures to prevent or react on the practice of illegal labor migration of children.

## 2.2. Article 8 - the right of employed women to protection of maternity

14. The right of employed women to adequate pay for maternity leave has been violated in Georgia before, during and after Covid-19 pandemic. The women employed in the private sector received much less pay than the minimum established by the European Committee of Social Rights – at least 70% of their salary - during all these periods.
15. In September 2020, various changes were made in the labor legislation in Georgia with the aim to bring it closer to the international standards and improve the level of labor rights protection. The amendments made in the Labor Code included new rules in relation to the various aspects of maternity leave. In order to see whether the legislative guarantees actually improved and comprehensively assess the new regulations, it is necessary to recall the norms operating during the previous period in the first place.
16. According to the legislation existing before the 2020 labor reform, the women employed in the private sector were entitled to 730 days of maternity leave out of which 183 days (6 months) were to be remunerated. **The maximum pay envisaged for the entire payable period was 1000 GEL (356 EUR)** which was given from the state budget as a single allowance. The employers in the private sector bore no obligation to provide remuneration for the maternity leave of employed women. The aforementioned amount of pay was extremely inadequate to take care of the essential needs of the mother and her newborn child.<sup>2</sup> Therefore, the employed women refrained from the full usage of maternity leave and went back to work soon in order to continue receiving normal salary. This situation practically restricted the right to maternity leave of women employed in the private sector. The picture was drastically different in the public sector. According to the Law of Georgia on Public Service, the women employed in the public bodies, with the status of public officer, were entitled to the pay **equal to their full salary** during the entire payable period of maternity leave - 183 days (6 months).
17. Another significant problem in relation to the previous legislation was the lack of clear legal provisions, which would grant fathers the right to parental leave and ease the childcare responsibilities for the new mothers. According to the Labor Code, the employee was entitled

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<sup>2</sup> Social Justice Center – Research “Right to Maternity, Paternity and Parental Leave”, 26 October 2017, pages 36-41:

<https://socialjustice.org.ge/ka/products/kvleva-dedobis-mamobis-da-mshoblis-shvebulebis-ufleba-tanastorobis-shukze> [30.06.2023].

to the leave for pregnancy, childbirth and childcare. The component of childcare was not separated from the component of pregnancy and childbirth. The Code established a single entire period for the whole maternity leave – that of 730 days – and did not determine the independent length/period for each of its components. Thus, the childcare leave was essentially linked to the fact of pregnancy and childbirth, the subject of which could be only the mother. The father had no clear legal ground to request the childcare leave.<sup>3</sup>

18. According to the 2020 labor reform, the protection of the right to maternity leave slightly improved. Specifically, according to the changes made in the Labor Code, the definition of maternity leave was divided into several components. The concept of maternity leave due to pregnancy and childbirth was separated from the concept of childcare leave. The legislation also specified the number of days envisaged for the pregnancy and childbirth leave and that of the childcare leave and stipulated that the fathers could be the subjects of the right to childcare leave. According to the new regulations, the childcare leave can be applied by either the mother or the father. It should be noted that the payable periods were specified for the pregnancy and childbirth leave and for the childcare leave separately. The 126 days of leave allocated for the pregnancy and childbirth were fully payable. As for the childcare leave, 57 days were payable out of 604 - the total number of days.<sup>4</sup>
19. However, according to the Georgian Law on Public Service, maternity leave due to pregnancy and childbirth is not separated from the right to childcare leave, which negatively affects the rights of fathers.<sup>5</sup> Therefore, child's father is allowed to take an adoption leave, which is 90 days and may only be used if the child's mother has not used the maternity leave. These regulations unjustifiably limit the right of paternity leave and reduce its period.<sup>6</sup>
20. Despite certain positive changes, the 2020 labor reform overlooked the main issue that was making the right to maternity leave practically unrealizable – the critically low pay. The employed women in the private sector remained to be entitled only to 1000 GEL (356 EUR) for the entire payable period of the maternity leave (183 days (6 months)). If the father applied for the childcare leave, then the 1000 GEL would be divided between the mother and the father in proportion to the payable days of leave applied by them. The 1000 GEL pay during 6 months amounts to approximately 166 GEL a month, which is lower than the

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<sup>3</sup> Social Justice Center – Analytical Document “Maternity Leave before and after 2020 Labor Reform”, 24 November, 2021, page 6:  
<https://socialjustice.org.ge/ka/products/dekretuli-shvebuleba-2020-tslis-shromis-reformamde-da-mis-shemdeg> [30.06.2023].

<sup>4</sup> *Ibid*, pages 6-7.

<sup>5</sup> The Georgian Law on Public Service, art. 64 (1). Available:  
<https://matsne.gov.ge/en/document/view/3031098?publication=35> [30.06.2023].

<sup>6</sup> The Georgian Law on Public Service, art 64 (2).

subsistence minimum<sup>7</sup> and drastically lower than the average salary<sup>8</sup> in Georgia. Unlike the women employed in the private sector, the women employed in the public bodies, with the status of the public officer, continued to receive the pay equal to their full salary during the entire payable period of maternity leave (6 months).

21. The aforementioned regulations were operating in Georgia in relation to maternity leave during the Covid-19 pandemic.
22. As for the Decree No. 286 of the Government of Georgia, mentioned in the Government's report, it concerned those enterprises that had **reduced the number of employees or placed employees on lengthy unpaid leave** due to the economic harm caused by the pandemic.<sup>9</sup> Among the persons dismissed from jobs or put on indefinite periods of vacation could be the women on maternity leave. That is why they were entitled to the additional 1200 GEL state compensation. This sum was not a pay for maternity leave, but **a compensation for the forceful delay of work.**
23. It should be noted that since 1 January 2023, the pay for maternity leave increased in Georgia for the employees in the private sector, amounting to 2000 GEL. However, this issue is not analyzed in the present report, as the aforementioned period falls outside the reference period of the present report.<sup>10</sup>

### **2.3. Article 16 - the right of the family to social, legal and economic protection**

24. The social protection system has been flawed and ineffective since Georgia's independence, however, the Government has not taken measures to carry out major reform in this sphere. According to the National Statistics Office of Georgia, as of 2021, 17.5 % of the total population was in absolute poverty, while 18.9 % was in relative poverty.<sup>11</sup>
25. Targeted social assistance (hereinafter – “TSA”) is one of the most important mechanisms of the national social protection system. It concerns proxy means-testing of the welfare situation of families and regular cash payments for the households who have given

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<sup>7</sup> As of February 2023, the subsistence minimum for the working age male amounted to 256.4 GEL (91.12 EUR) in Georgia:

<https://www.geostat.ge/en/modules/categories/791/subsistence-minimum> [30.06.2023].

<sup>8</sup> In the fourth quarter of 2022, the average salary amounted to 1773.7 GEL (630.31 EUR), according to the data of National Statistics Office of Georgia:

<https://www.geostat.ge/en/modules/categories/39/wages> [30.06.2023].

<sup>9</sup> Decree No. 286 of the Government of Georgia on the Approval of the Targeted State Program to Alleviate the Damage Caused by the New Coronavirus:

<https://www.matsne.gov.ge/ka/document/view/4864421?publication=18> [30.06.2023].

<sup>10</sup> Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia:

<https://moh.gov.ge/ka/news/7251/> (link available only in Georgian) [30.06.2023].

<sup>11</sup> National Statistics Office of Georgia, Poverty and Gini Coefficients, <https://bit.ly/3lBrwjW>.



vulnerability scores under the statutory threshold – the TSA score threshold for beneficiaries more than 16 years is 65 000 points, while for the beneficiaries up to 16 years, the score is 120 000 points.

26. In 2021, 1/3 of the overall population (1.07 million people) was registered in the database of socially vulnerable households.<sup>12</sup> On the other hand, more than a half-million persons have been receiving social allowance. According to the Report of the Public Defender of Georgia, by 2021, the number of socially vulnerable families with children increased by 28 %.<sup>13</sup>

27. Despite the high prevalence of poverty, the Government has not taken steps to reform the existing TSA system and eradicate the systemic challenges associated with this service for years. These challenges can be formulated as follows:

- *The TSA system excludes certain groups/households, who need the assistance the most* - As of December 2021, the TSA system covered about 14 % of the total population of Georgia; however, considering the existing regulatory framework, as well as the fact that the system is based on the proxy means-testing (which by its design, has inclusion and exclusion errors), certain groups/households are not given the opportunity to receive TSA benefits. Among them are roofless persons, who are unable to register in the database of the socially vulnerable population (as they do not have a place of residence required by the legislation for the vulnerability assessment), persons belonging to the ethnic minority groups (as the existing system does not foresee linguistic accessibility of the system, including, the evaluation process for those who do not have proper knowledge of state language),<sup>14</sup> and persons with disabilities (as the disability status is still given to persons only in line with the medical model, which does not consider the individual needs of the representatives of the community). Additionally, in previous years international research papers<sup>15</sup> suggested that: 1) the exclusion errors in the 20 % of the poorest population was up to 58 %; 2) according to the ILO, by 2018, the TSA covered only 43 % of the poorest decile of children; 3) according to UNICEF, by 2019, only 76 % of the

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<sup>12</sup> Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia, 2021, p. 175, <https://bit.ly/3Xx8EZ3> [30.06.2023].

<sup>13</sup> Ibid., p. 212.

<sup>14</sup> UNICEF, A Detailed Analysis of Targeted Social Assistance and Child Poverty and Simulations of the Poverty – Reducing Effects of Social Transfers, 2019, pp. 5, 10; UNICEF, Georgia: Social Protection System Readiness Assessment, 2020, pp. 13 – 14.

<sup>15</sup> Kidd S., Athias D., Hit and Miss: An Assessment of Targeting Effectiveness in Social Protection with Additional Analysis, Working Paper, 2020, p. 25; International Labour Organization, UN Women, Assessment of the Social Protection System in Georgia, Final Report, 2020, p. 2, 23, 42 – 43, 54, 117; UNICEF, A Detailed Analysis of Targeted Social Assistance and Child Poverty and Simulations of the Poverty – Reducing Effects of Social Transfers, 2019, pp. 5, 13.

households in the poorest decile were covered by one or more social assistance services, including the TSA.

- *The process of inclusion in the TSA system is not instant* - The TSA system cannot ensure immediate evaluation and inclusion of a person in the system. In some cases, the period from filling out the application to actually receiving assistance can even be 3-4 months.<sup>16</sup>
- *The cash amount foreseen by the TSA is low* - The amount of social assistance foreseen per person is 30 - 60 GEL/10.5 - 21.1 EUR (the exact amount is dependent on the TSA score). On the other hand, as of December 2021, the social allowance per child (under 16 years old) was 100 GEL/35.1 EUR. These rates are incompatible with the subsistence minimum (223.5 GEL/78.5 EUR as of December 2021)<sup>17</sup> and show that the TSA system alone cannot cover the minimal needs of persons/households living in poverty.
- *The possibility to challenge the TSA score is limited* - the complaints mechanisms can also be regarded as problematic and blanket as it mainly focuses on the factual correctness of the assessment declaration and does not examine the fairness of the formula of the assessment. On the other hand, the relevant legislative provisions give the LEPL - Social Service Agency unnecessary discretion (the Agency has the power to re-assess the families who were given high TSA scores within 1 year) concerning the re-assessments of the beneficiaries, which can have the acute social effect on vulnerable households seeking social allowance.
- *Important municipal programs require a TSA score as a prerequisite for the inclusion of beneficiaries* - the prerequisite for getting involved in important municipal social protection programs (such as provision with food, homecare service for persons with disabilities, programs for covering the financial costs of medicines and/or medical treatment) is a certain TSA score.<sup>18</sup> Considering the fact that the TSA system can exclude certain groups/households from its coverage, such a requirement can leave persons not covered by the TSA system without any protection.

28. Against this background, in the summer of 2021, the Minister of Internally Displaced Persons from Occupied Territories, Labour, Health and Social Affairs of Georgia announced plans of reforming the social protection system by adopting the Social Code.<sup>19</sup> However,

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<sup>16</sup> Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia, 2020, p. 237, <https://bit.ly/3CTPdAu> [30.06.2023].

<sup>17</sup> National Statistics Office of Georgia, Subsistence Minimum, <https://bit.ly/3PBXlrl> [30.06.2023].

<sup>18</sup> UNICEF, Social Assistance: Description and Recommendations, 2017, p. 60.

<sup>19</sup> Available here: <https://bit.ly/3NxtWRI> [30.06.2023].

- the drafting process is vague, as there is no information available on the concrete legislative initiatives to be adopted by the Parliament;
- the drafting process is not inclusive, as the vulnerable groups are not included in the working processes and, therefore, their unique perspectives are not taken into account;
- the role of the Government is ambiguous, as the work is being carried out by non-state actors (mainly, Expertise France), which disregards the responsibility of the state authorities and creates risks for the implementation of the proposed reform.

#### **2.4. Article 17 - the right of children and young persons to social, legal and economic protection**

29. For several years, Georgia has witnessed a growing problem of sexual crimes against children and gender violence, but the root causes have not been addressed. Children are left to haphazardly receive information on sexual and reproductive health through informal channels, including social media and their peers. In searching for this information, they face increased risks of cyber sexual violence and grooming. Without comprehensive sex education in Georgia, we see a disturbing trend – increased sexual violence crimes against children since 2015.<sup>20</sup> Children and adolescents with disabilities face the increased risk of sexual violence since there is no accessible comprehensive sexual education in any form for these groups.

30. Research conducted in the European region under the auspices of the World Health Organisation (WHO) indicates: “the teenage birth rate tends to be much higher in countries, such as Bulgaria and Georgia, where no mandatory comprehensive sexuality education programs are in place.” The high rate of abortion and deliveries in underaged girls is primarily connected with the lack of information about sexual and reproductive health and rights. In 2018-2021 Georgia reported 454 child abortions and 2 564 deliveries.<sup>21</sup>

31. Children without parental care and under state protection experience severe discrimination, violence and negligence. In the Autumn of 2019, the Georgian Public Defender was denied access to one of the religious boarding schools (Ninotsminda Boarding School) that was functioning by violating the domestic licensing procedure for child care services.<sup>22</sup> Since the Public Defender of Georgia was the only supervising body to be allowed previously in the

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<sup>20</sup>Available here: <https://phr.ge/documents/Increasing%20the%20Risk%20of%20Sexual%20Violence%20against%20Children%20through%20Denying%20CSE%20in%20Georgia.pdf.pdf> [30.06.2023].

<sup>21</sup>Available here: [https://www.bzga-whocc.de/fileadmin/user\\_upload/Dokumente/BZgA\\_IPPFEN\\_ComprehensiveStudyReport\\_Online.pdf](https://www.bzga-whocc.de/fileadmin/user_upload/Dokumente/BZgA_IPPFEN_ComprehensiveStudyReport_Online.pdf), [30.06.2023].

<sup>22</sup>Available here: <https://ombudsman.ge/res/docs/2022012417163458457.pdf>, [30.06.2023].

boarding school, the denial of her access was extensively covered by the local and international media. As the late research by the international organization World Vision Georgia and NGO Youth House<sup>23</sup> report,<sup>24</sup> there have been placed around 1000 children in religious child institutions since 2013. Some of these institutions were non-regulated, operated beyond governmental control and others, even though they were licensed, were violating the terms of the laws. Children in these institutions experienced physical and emotional violence, sexual violence, discrimination and other forms of degrading and inhumane treatment. In 2021, based on the interim request of the local NGO Partnership for Human Rights, UN Child Rights Committee issued a temporary measure and imposed the Government of Georgia to let the Public Defender enter Ninotsminda Boarding-school. The criminal investigation was commenced on the reports of torture, rape and violent crimes against children while residing in religious boarding schools, there has been no effective measures taken and no judgment made by the domestic courts.<sup>25</sup> An unknown number of children remain in the non-regulated religious boarding houses until now. The State do not provide any official statistics or monitoring reports on that matter.

## **2.5 Article 31 - the right to housing**

32. The realization of the right to adequate housing can be regarded as one of the most pressing issues in Georgia. The Government has not developed a vision to ensure adequate housing for its population and eradicate different forms of homelessness in the country. The fact that the Government does not recognize housing provision as a serious issue is, *inter alia*, reflected in the absence of a national strategy and/or action plan on housing, severe lack of housing services and problematic legislation, which does not correspond to the international human rights standards in this sphere.

### **The Absence of the Unified State Policy**

33. One of the main challenges arising in this system is the absence of the state vision regarding the realization of the right to adequate housing and combatting homelessness. Despite the dire need, the Government has not taken any steps towards the development of the national housing strategy and action plan, which would foresee the ways to overcome the systemic problems both in the short-term and long-term manners. It should also be noted, that the Government (both at central and municipal levels) does not possess the basic information

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<sup>23</sup> World Vision, Georgia: Assessment of Muslim Boarding Schools in Georgia and Schools-Boarding Schools, Established by the Ministry of Education, Science, Culture, and Sport of Georgia and Recommendations, 2021.

<sup>24</sup> NGO "Youth House": Mapping and Assessment of Childcare Institutions under Georgian Orthodox Church, 2020.

<sup>25</sup> Available here: <https://osgf.ge/en/condition-of-pupils-of-ninotsminda-boarding-school-one-year-later/> [30.06.2023].

needed to plan and implement effective housing policy measures (both preventive and reactive measures), *inter alia*,

- statistical information on the prevalence of homelessness in the country;
- information on the major causes of homelessness;
- information on the forms of homelessness;
- information on the needs and challenges faced by various homeless groups.<sup>26</sup>

34. Against this background, several statistics (from the reporting period) show the probable large scale of homelessness:

- up to 2000 households and more than 400 persons were receiving housing services in Tbilisi, Rustavi, Kutaisi and Batumi Municipalities alone and about 700 households were on the waiting lists to receive the service;<sup>27</sup>
- up to 1000 persons with psychosocial and/or intellectual disabilities were living in large-sized facilities (psychiatric facilities, shelters for persons with psychosocial disabilities and boarding houses), as there is a lack of community housing services in the country;
- up to 10 000 families are squatters in the public or private property in Tbilisi and Batumi Municipalities alone;<sup>28</sup>
- the National Bureau of Enforcement had about 1 800 applications requesting eviction from real estate;<sup>29</sup>
- By 2021, 41.7 % of persons living in rented or pledged properties did not have financial access to housing.<sup>30</sup>

35. The National Strategy for the Protection of Human Rights in Georgia (for 2014 – 2020), which was adopted by the Parliament, foresaw the realization of the right to adequate housing as

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<sup>26</sup> Social Justice Center, Where are the problems in homelessness policy? 2020, pp. 1 - 2, <https://bit.ly/44izyWS>.

<sup>27</sup> Municipal Unit of Health and Social Services of Tbilisi Municipality, Statistical Collection, 2020, <https://bit.ly/3XxMaHm> [30.06.2023]; Correspondence N 01-3821321273 of Rustavi Municipality City Hall, 17.11.2021; Correspondence N 01-4421316324 of Kutaisi Municipality City Hall, 12.11.2021; Correspondence of Batumi Municipality City Hall N 01-1421335829, 01.12.2021.

<sup>28</sup> Special Report of the Public Defender of Georgia, the Right to Adequate Housing, 2015, p. 19, <https://bit.ly/3NStlpO>[30.06.2023].

<sup>29</sup> Correspondence N 11828 of LEPL – National Bureau of Enforcement, 1.03.2021.

<sup>30</sup> Social Justice Center, How affordable is house renting in Georgia? 2023, p. 26, <https://bit.ly/4450Pfl> [30.06.2023].

one of the strategic directions for the Government and underlined issues that should have been taken into consideration when tackling this problem. Unfortunately, all three National Human Rights Action Plans (for 2014 – 2015; 2016 – 2017 and 2018 – 2020 years) designed to implement the National Strategy, fully neglected the housing and homelessness issues; Therefore, this direction of the Strategy has not been fulfilled at all. On the other hand, the second National Human Rights Strategy, which was approved by the Parliament in 2023, fully excluded the housing issues from its coverage, which, once again shows that the state authorities are not committed to creating housing policy and making systematic changes in this sphere.

36. In the State Report, the Government stated that the Open Government Action Plan (for 2018 – 2019) foresaw the creation of housing policy documents.<sup>31</sup> To this end, in April 2019, the Inter-agency Commission was created under the coordination of the Ministry of Internally Displaced Persons from Occupied Territories, Labour, Health and Social Affairs; however, the Commission barely managed to have a few meetings. It failed to work effectively and could not achieve minimal progress in creating the housing policy documents.

### **Challenges in the Relevant Legislation**

37. In its Report, the GoG indicated that some issues related to housing policy are regulated by the Law of Georgia “on Social Assistance”, as well as the “Local Self-Government Code”.<sup>32</sup> According to the Report, among the regulated issues are the competencies, rights and responsibilities of the local self-governing bodies. Unfortunately, the mentioned regulations are flawed and the legislative system does not correspond with the international human rights standards at its minimal level.

38. The acute challenges of the existing legislation can be described as follows:

- The right to adequate housing and the corresponding state obligations are not prescribed by the national legislation, which, *inter alia*, results in fragmented and ineffective efforts to tackle homelessness issues. With the absence of specific legislative provisions, which would define the precise obligation of the governmental bodies, the central government does not take responsibility for guaranteeing adequate housing, while the efforts taken by municipalities are fragmented and ineffective. The municipalities lack legislative powers, financial and human resources to effectively tackle homelessness issues and mainly take limited action in the most urgent situations.

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<sup>31</sup> 16th National Report on the implementation of the European Social Charter Submitted by Georgia, Cycle 2023, pp. 32, 79.

<sup>32</sup> Ibid., pp.31, 79.

- The term - “homeless person” (“a person with no specific and permanent place of residence who is registered as homeless by a local self-government body”), which is defined by the Law “on Social Assistance” is vague and cannot be regarded as an effective tool for the identification and classification of homeless persons in the country. On the one hand, the requirement of a specific and permanent place of residence excludes various homeless groups (*inter alia*, persons living in inadequate housing, persons living in institutions designed for persons with disabilities, and persons temporarily living with friends or relatives) from its coverage. On the other hand, the formal requirement of registration at municipalities is not executed in most self-governing bodies. As of December 2021, only 15 municipalities (out of 64 municipalities)<sup>33</sup> had approved special rules for the registration of homeless persons. The criteria enshrined in these rules are not based on a uniform methodology and do not reflect international human rights standards of adequate housing.<sup>34</sup> As a result, the majority of municipalities do not register homeless persons and do not provide some kind of housing service, while the non-uniform homeless registration system in 15 municipalities creates an unequal approach between the persons with the same housing needs, but different places of residence;
- The legislative provisions regulating the provision of Targeted Social Assistance (TSA) for the most vulnerable population, exclude persons living on the streets from the possibility to register at the database of the socially vulnerable and receive minimal financial benefit from the Government. This regulation is even more problematic if it is taken into account the fact that the registration at the database and the special score given during the assessment of social vulnerability is a prerequisite for inclusion in many social and healthcare benefits, therefore, the most vulnerable group can be left without any assistance. The unconstitutionality of the norm has been examined by the Constitutional Court of Georgia for 7 years, however, no decision has been made yet.

39. In its Report, the Government suggests that the relevant legislative provisions will be developed in the creation process of the Social Code. However, the development of the Social Code is vague and not inclusive (as it does not foresee the participation of homeless communities in the creation process). Additionally, no vision concerning the development of the housing policy, as well as the draft provisions have not been created yet. Therefore, it is unclear whether the final result of the process will be efficient for homeless groups and will change the acute housing situation in the country.

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<sup>33</sup> Municipalities of Tbilisi, Kutaisi, Sagarejo, Senaki, Samtredia, Tetritskharo, Gori, Zugdidi, Rustavi, Vani, Ambrolauri, Kharagauli, Mestia, Khoni and Martvili.

<sup>34</sup> Special Report of the Public Defender of Georgia, Implementation of Housing Services in the Context of the Rights of Persons with Disabilities, 2022, pp. 34 - 36, <https://bit.ly/3Pxcekb>[30.06.2023].

## **Inadequate Housing Services**

40. In parallel with the flawed legislation and the absence of housing policy documents, the adequacy of housing services can be regarded as one of the challenging issues in the country. Housing programs are extremely limited and in some municipalities are presented in the form of emergency shelter, rent allowance and/or social housing. The main challenges concerning the provision of housing services can be formulated as follows:<sup>35</sup>

- The inadequate housing situation in social housing – The living situation in social housing is alarming in some municipalities. Extreme overcrowding, lack of accessibility of housing for persons with disabilities, and barriers concerning accessibility to central and municipal services are the most common problems for social housing throughout Georgia (for example, in Tbilisi, Rustavi, Kutaisi and Gori Municipalities). The most problematic situation is in Ozurgeti social housing where the living situation (especially, dampness) endangers the health of service beneficiaries, and in Gori social housing, where the building is damaged, which creates risks to the life and/or health of beneficiaries;
- Lack of long-term solutions for housing service beneficiaries – the emergency shelter and rent allowance services are short-term programs, while the social housing service is longer in duration; however, these services are mainly focused on the temporary solution to the problem. These programs fail to strengthen beneficiaries of the housing services; therefore, they are unable to move out of the housing services and graduate from homelessness.

## **Extremely Flawed Eviction Policy and Practice**

41. One of the main elements of the right to adequate housing – protection from forced eviction – can also be regarded as extremely flawed in the light of the relevant legislation, policy and practice, and does not correspond with minimum international standards.<sup>36</sup>

42. The relevant legislation does not provide for the unified notion of eviction, as well as the rights of persons/households facing eviction before, during and after evictions. In addition, the removal of persons during the demolition of the dwelling built as a self-help measure, without special permission, is not qualified as a form of eviction. Therefore, in these cases, persons cannot enjoy even minimal safeguards applicable for evicted persons (for example,

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<sup>35</sup> See, Social Justice Center, Practice of Providing Housing for Homeless Groups: What are the Special Needs of Women, 2022, <https://bit.ly/3pk2Eqh> [30.06.2023]; Special Report of the Public Defender of Georgia, Implementation of Housing Services in the Context of the Rights of Persons with Disabilities, 2022, <https://bit.ly/3Pxcekb> [30.06.2023].

<sup>36</sup> Social Justice Center, The Right to Adequate Housing - the Analysis of Basic Challenges, 2018, <https://bit.ly/443se1K> [30.06.2023].



serving an eviction notice). Unfortunately, instead of harmonizing an eviction policy with international standards, the Government criminalized unauthorized construction of housing/shelters, which are the self-help measures taken by homeless persons.<sup>37</sup>

43. Although the instances of eviction are decided by the court, the cases are only examined in the light of property rights, while the right to adequate housing of persons facing eviction is totally neglected – the court only takes into consideration the house ownership fact and does not examine other important factors, such as the risks of homelessness of families facing evictions, their social-economic vulnerability and their need for support. Additionally,
- the Government does not possess an eviction prevention policy, which would prevent persons/households from being evicted and becoming homeless;
  - the rules of execution of the court decision on evictions are not compatible with minimal international standards and neglect the dignity of evicted persons;
  - the housing services for evicted persons are insufficient and inadequate throughout the country, therefore, there is a high risk for them to become homeless.
44. Despite the above-mentioned challenges, the Government does not take any steps towards refinement of the legal standards for eviction – international standards have not been reflected in the Draft Code of Enforcement, which is submitted to the Parliament, but has not been examined at the second and third hearing yet. On the contrary, the Draft Code reinstates the abolished police evictions in certain cases, which creates the possibility to carry out evictions without a court decision.<sup>38</sup>
45. The moratorium on evictions set in 2020 during the COVID-19 Pandemic was an important measure for the socially vulnerable population. However, in the absence of homelessness prevention mechanisms, the decision to lift the moratorium from March 2022, put hundreds of households at real risk of becoming roofless.<sup>39</sup>

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<sup>37</sup> Social Justice Center, "Planned changes in construction legislation carry risks of homelessness criminalization", 2021, <https://bit.ly/3NS5SdX> [30.06.2023].

<sup>38</sup> Social Justice Center, "The draft Code of Enforcement ignores the legal standards for adequate housing", 2021, <https://bit.ly/44kV8Ko> [30.06.2023].

<sup>39</sup> Social Justice Center, "Lifting the moratorium on evictions puts hundreds of people at risk of becoming homeless", 2022, <https://bit.ly/3r5u8QX> [30.06.2023].

### **3. CONCLUSIONS AND RECOMMENDATIONS**

46. Taking into account the above provided information, the GYLA, SJC and PHR submit the following recommendations that Georgia needs to implement, namely *to*:

- Ensure protection and enforcement of the rights of the children engaged in labor migration.
- Ensure inclusiveness, openness and transparency in the development process of the Social Code, which will foresee the Government as the leading actor and ensure the compliance of the content of the Code with the international human rights standards;
- Develop effective mechanisms for combating poverty and ensure the maximum coverage of vulnerable groups by the relevant social protection services operating both at central and municipal levels;
- Revise the TSA system in the light of international human rights standards and ensure its adequacy towards the needs of the population;
- Ensure linguistic accessibility of the TSA system for ethnic minority groups;
- Ensure effective judicial oversight of the TSA system, including concerning the process of granting the TSA points and the re-assessment of socially vulnerable households;
- Ensure that the prerequisite for inclusion in services at the central and municipal levels is not a blanket TSA score, but the real needs of the population/vulnerable groups;
- Shorten the terms of inclusion of eligible households in the TSA system and for this purpose, make changes in the relevant legislative acts;
- Establish the practice of the periodic in-depth study of the needs of the population both at central and municipal levels, which would be the basis of the content of the social protection policy and relevant services.
- Examine the scale, forms and causes of homelessness and based on this information, develop a human rights-based housing strategy and action plan with adequate

financial and human resources, which will answer the systemic challenges in the sphere both in short-term and long-term manners;

- Revise the national legislative framework (including, bye-laws) in line with the international human rights standards and reflect every element of the right to adequate housing in respective provisions; Take all possible measures to change the existing system criminalizing homelessness and/or restricting the members of this group to have access to minimal social benefits;
- Revise and amend the notion of “homeless person” in line with the internationally recognized forms of homelessness;
- Set the effective institutional framework in the housing system; to this end, define the obligations and functions of the central and municipal authorities and create an effective coordination system between the relevant stakeholders;
- Develop national adequacy standards of housing services, which will fully reflect the international human rights obligations; in line with this standard, develop a wide range of housing services and housing stock, which provide long-term solutions for homelessness and ensure their accessibility throughout the country for all homeless groups;
- Fully revise the national standards regulating eviction procedures and harmonize them with international human rights standards to ensure the functioning of the relevant preventive and reactive mechanisms for these cases;
- Assess the adequacy of existing housing services, and correct deficiencies identified (if possible) or immediately provide the homeless beneficiaries with adequate alternative housing.
- Ensure development and introduce the comprehensive sexuality and reproductive education in order to protect children from sexual violence, in particular children with disabilities.
- Ensure effective investigation of the crimes against children in Ninotsminda boarding school and other non-regulated child institutions. Develop and implement full deinstitutionalisation of all children without exception and effective protection of their rights.