

# GEORGIA 2018 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The constitution provides for an executive branch that reports to the prime minister, a unicameral Parliament, and a separate judiciary. The government is accountable to the Parliament. The president is the head of state and commander in chief. Under a controversial new constitution that came into force after the December 16 presidential inauguration following the October-November presidential elections, future presidents will not be elected by popular vote. Organization for Security and Cooperation in Europe (OSCE) observers described the first round of the presidential elections in October as competitive and professionally administered, although they raised concerns including the lack of a level playing field, voter intimidation, and fear of retribution. OSCE observers repeated these concerns after the second round in November and assessed that the candidates “were able to campaign in a free environment; however, one side enjoyed an undue advantage and the negative character of the campaign on both sides undermined the process.”

While civilian authorities maintained effective control of the Ministry of Defense, there were indications that at times they did not maintain effective control of domestic security forces.

Human rights issues included an allegation of an unjustified killing by security forces; arbitrary detentions and deprivation of life by Russian and de facto authorities of the country’s citizens along the administrative boundary lines (ABLs) with the Russian-occupied regions of Abkhazia and South Ossetia; unlawful interference with privacy; allegations of high level corruption of government officials; and crimes involving violence or threats targeting lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons.

The government took steps to investigate some allegations of human rights abuses, but shortcomings remained. Such shortcomings included lack of accountability for the May 2017 reported abduction from Georgia and rendition to Azerbaijan of Azerbaijani journalist and activist Afgan Mukhtarli.

De facto authorities in the Russian-occupied Georgian regions of Abkhazia and South Ossetia remained outside central government control and were supported by several thousand Russian troops and border guards occupying the areas. A cease-fire remained in effect since 2008. Russian border guards restricted the movement

of local populations. While there was little official information on the human rights and humanitarian situation in South Ossetia due to limited access, allegations of abuse persisted.

De facto authorities in the Russian-occupied regions of Abkhazia and South Ossetia restricted the rights, especially of ethnic Georgians, to vote or otherwise participate in the political process, own property, register businesses, and travel. Although de facto South Ossetian authorities refused to permit most ethnic Georgians driven out due to the 2008 conflict to return to South Ossetia, a special crossing arrangement existed for those from Akhagori district. De facto authorities did not allow most international organizations regular access to South Ossetia to provide humanitarian assistance. Russian “borderization” of the ABLs continued, separating residents from their communities and livelihoods.

## **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There was one allegation that the government or its agents committed an unjustified killing. There was at least one report of de facto authorities in the Russian-occupied regions of Georgia committed an arbitrary on unlawful killing.

Eighteen-year-old Temirlan Machalikashvili died in a Tbilisi hospital on January 10 after security forces shot him during a counterterrorism raid in the Pankisi Gorge in December 2017. His father, Malkhaz Machalikashvili, alleged the killing was unjustified. The Public Defender emphasized the importance of a transparent, objective, and timely investigation; nongovernmental organizations (NGOs) criticized the subsequent investigation as lacking integrity.

In February de facto South Ossetian authorities arrested ethnic Georgian and former soldier Archil Tatunashvili near the ABL. Tatunashvili died in custody. After initially refusing to return his remains, the de facto authorities released the body to Georgian authorities in March. An autopsy found that his organs had been removed, and the government determined Tatunashvili had been tortured.

In June the government published the “Otkhozoria-Tatunashvili list,” named for Tatunashvili and another citizen, Giga Otkhozoria, who was killed by de facto Abkhaz authorities in 2016. The list named 33 alleged human rights violators accused of committing grave acts against Georgians in the occupied territories; the

government imposed sanctions on the 33 persons named, including restrictions on finances, property, and movement.

On October 30, Tbilisi City Court found former deputy defense minister Davit Akhalaia guilty in connection with the high-profile murder of Sandro Girgvliani in 2006 and the kidnapping of Vamekh Abulashvili and Kakha Dabrundashvili in 2005. The court convicted Akhalaia of abuse of power, illegal deprivation of human liberty, and humiliation of human dignity, and it sentenced him in absentia to seven years and six months in jail.

The Chief Prosecutor's Office (CPO) announced October 17 that it was reinvestigating the 2008 death of Badri Patarkatsishvili, after the Office released audio tapes dating back to 2007 that appeared to reveal the premeditation of his murder. The CPO charged former government officials Levan Kardava, Revaz Shiukashvili, and Giorgi Merebashvili, who were heard on the tapes discussing different methods of murdering Patarkatsishvili that would make the cause of death appear natural. The CPO released an October 17 statement that the murder was planned "on former President Mikheil Saakashvili's orders" because "Patarkatsishvili was a political rival and the archenemy of the government." Some observers, however, alleged the CPO released the tapes for political reasons in context of the presidential election. The investigation was ongoing as of November.

## **b. Disappearance**

The government's investigation into the reported kidnapping of Azerbaijani journalist Afgan Mukhtarli by government officials in May 2017 appeared stalled. Concerns remained that the government was involved in Mukhtarli's disappearance from Tbilisi and arrest by Azerbaijan authorities on the border with Georgia border (see section 1.d., Role of the Police and Security Apparatus).

There were frequent reports of detentions of Georgians along the ABLs of both the occupied regions of Abkhazia and South Ossetia, including the case of Archil Tatumashvili (see section 1.a.).

More than 2,300 individuals were still missing following the 1992-93 war in Abkhazia and the 2008 Russia-Georgia conflict, according to the International Committee of the Red Cross (ICRC).

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

While the constitution and law prohibit such practices, there were reports government officials employed them. In its May report to parliament for 2017, the Public Defender's Office (PDO) stated that effectively combating torture and other forms of cruel, inhuman, or degrading treatment remained "one of the most important challenges of the country."

The PDO reported it asked the Office of the Chief Prosecutor to investigate 72 allegations of such mistreatment by police officers and prison staff between 2013-17; of these, the prosecutor's office did not identify any perpetrators according to the PDO. The PDO reported an increase in the number of cases of mistreatment by police it referred to the CPO in 2017 and an increase in 2017 in the rate of injuries sustained by individuals admitted to temporary detention facilities and during or after administrative arrests. Of the 10 cases the PDO asked the prosecutor's office to investigate in 2017, the prosecutor's office had not identified any perpetrators according to the PDO's report to parliament. The PDO continued to consider the existing system of investigation into alleged torture and other mistreatment by law enforcement officials neither effective nor independent. NGOs and the PDO continued to recommend the creation of an independent mechanism to investigate allegations of misconduct. They also continued to call for greater oversight of security officials.

The Georgian Young Lawyers' Association (GYLA) reported it submitted six complaints of cruel, inhuman, or degrading treatment or punishment from inmates in penitentiary facilities to the CPO for investigation. GYLA also reported it submitted 10 complaints of such treatment by law enforcement officers, compared with five in 2017. In an additional case, GYLA accused the mayor of Marneuli of degrading treatment (see section 3). The CPO opened investigations into the complaints, but had not reached a final decision in any of the cases as of mid-December.

On the 2015 alleged physical assault of lawyer Giorgi Mdinaradze by then head of the Vake-Saburtalo Police No. 5 Lasha Kvirkaia, in March the Tbilisi Court of Appeals upheld the Tbilisi City Court ruling that found Kvirkaia guilty of abuse of power but acquitted him on the charge of violence in October 2017. In response to the CPO's appeal, the Supreme Court concluded that the abuse of power included violence and sentenced Kvirkaia to five years in prison on October 26. The PDO reported that the prosecution did not submit charges against any additional police

officers who allegedly participated in the assault and noted the lower court hearings had been postponed a number of times because police officers called as witnesses did not appear in court.

As of mid-December, several former officials remained on trial at Tbilisi City Court in various cases of torture and other crimes allegedly committed during the time during the former government, including former deputy chief of the general staff Giorgi Kalandadze, former deputy culture minister Giorgi Udesiani, and former director of Gldani No. 8 prison Aleksandre Mukhadze (see Section 1.d). On February 27, the Tbilisi Court of Appeals upheld former deputy defense minister Davit Akhalaia's 2016 conviction for conspiracy to commit murder and abuse of power during the 2006 Navtlughi special operation that resulted in the killing of three unarmed men. In April Tbilisi City Court convicted former defense minister Bacho Akhalaia of organizing torture and sexual violence.

In June Tbilisi City Court convicted former president Mikheil Saakashvili in absentia and sentenced him to six years in prison for abuse of power for ordering a physical assault of former member of parliament Valery Gelashvili. Ministry of Internal Affairs special forces attacked Gelashvili shortly after a 2005 dispute between Saakashvili and Gelashvili. The United National Movement opposition party claimed the case against Saakashvili was politically motivated.

### **Prison and Detention Center Conditions**

While overall prison and detention facility conditions improved, conditions in some old facilities were inhuman and lacked sufficient ventilation, natural light, minimum living space, and adequate health care.

Inmate-on-inmate violence, criminal subcultures, and informal management remained persistent systemic problems.

Physical Conditions: While the law requires authorities to hold persons in pretrial detention separately from convicted prisoners, the PDO reported overcrowding still led authorities to place persons held in pretrial detention and convicted prisoners together in several prison facilities, especially Gldani #8 and Kutaisi #2.

In July the Ministry of Corrections, which is responsible for the penitentiary system, became part of the Ministry of Justice. According to the Ministry of Justice, 15 prisoners died in the penitentiary system in 2017, compared with 27 in 2016.

While the Ministry of Justice maintained a special medical unit for prisoners with disabilities, the PDO reported prisons and temporary detention centers did not take into account the needs of persons with disabilities, including for medical services. The PDO also noted the majority of institutions failed to compile data on and register the needs of persons with disabilities. According to the Penitentiary Department, some facilities began to adapt their infrastructure to accommodate persons with disabilities (see section 6, Persons with Disabilities).

Prison conditions in Abkhazia and South Ossetia were reported to be chronically substandard.

Administration: The PDO noted there was only one ombudsperson authorized to respond to complaints by prisoners and reported that obstacles such as a lack of information on their rights, fear of intimidation, distrust of the outcome, and lack of confidentiality could deter prisoners from filing complaints with judicial authorities. According to the Ministry of Justice, amendments to the administrative procedure code adopted in June 2017 improved complaint procedures as well as the complaint mechanism with regard to parole decisions.

According to the PDO, records on registering and distributing detainees in temporary detention centers were often incomplete or erroneous.

Independent Monitoring: The government permitted independent monitoring of prison conditions by international prison monitoring organizations, including the Council of Europe's Committee for the Prevention of Torture, and some local and international human rights groups. The national preventive mechanism operating under the PDO had access to penitentiaries, conducted planned and unscheduled visits, and was allowed to take photographs during monitoring visits. National preventive mechanism members, however, did not have unimpeded access to video recordings of developments in penitentiaries.

The ICRC had full access to prisons and detention facilities in undisputed Georgian territory and some access to prison and detention facilities in South Ossetia. The ICRC did not have access to prisons and detention facilities in Abkhazia.

Improvements: Following the 2017 introduction of house arrest as an alternative to incarceration for adult offenders, the government opened a prerelease center in January that offered both home and work release to inmates who had less than a

year of their sentence left to serve. Authorities allowed female inmates with infants and children to leave facilities during the weekends after their child turned three and to keep a baby born in prison with them for up to three years. The government increased the number of local councils (i.e., parole boards) to six in an effort to improve the case review process. The Department of Corrections continued to develop a list of authorized documents inmates may retain in cells, including indictments, court judgments, receipts for personal property held upon intake, and up to 100 pages of their case files. The PDO reported that the Department had not finalized the list despite a 2015 recommendation to do so. In June 2017 Parliament passed legislation, which entered into force in January, to allow low risk inmates and inmates serving sentences in juvenile rehabilitation institutions to acquire higher education. Also in January the Ministry of Internal Affairs launched a project with UNICEF to provide psychological services to juveniles by December. The Ministry of Internal Affairs reported that during the year, it renewed training courses for Temporary Detention Department staff on recording detainees' injuries, including by photograph, renovated two temporary detention facilities, and opened medical units in four facilities.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his/her arrest or detention in court. The government's observance of these prohibitions was uneven.

As of November 7, the trial of former justice minister Zurab Adeishvili remained underway in Tbilisi City Court. In 2016 the CPO charged Adeishvili in absentia in connection with the alleged illegal detention and kidnapping of a former opposition leader, Koba Davitashvili, in 2007.

In January Tbilisi Court of Appeals upheld a trial court's July 2017 decision finding a former senior official of the Ministry of Internal Affairs, David Devnozashvili, and the former director of Gldani Prison #8, Aleksandre Mukhadze, guilty of misuse of power in the 2011 "photographers' case" in which the previous government arrested four photographers and charged them with espionage. The defendants appealed this decision to the Supreme Court, which declared the appeal inadmissible in June. In response, the CPO motioned the Tbilisi Court of Appeals to revisit the 2011 decision against the photographers and acquit them of all charges. As of December, the case was ongoing.

#### **Role of the Police and Security Apparatus**

The Ministry of Internal Affairs and the State Security Service of Georgia (SSSG) have primary responsibility for law enforcement and the maintenance of public order. The ministry is the primary law enforcement organization in the country and includes the national police force, the border security force, and the Georgian Coast Guard. The SSSG is the internal intelligence service responsible for counterintelligence, counterterrorism, and anticorruption efforts. The Ministry of Finance and the CPO have investigative services with police powers in financial investigations, and the CPO is required to investigate high-profile cases and other criminal offenses. The office may take control of any investigation if it determines doing so is in the best interest of justice (e.g., in cases of conflict of interest and police abuse cases). In certain politically sensitive cases investigated by the Prosecution Service--including the case of Azerbaijani journalist Afgan Mukhtarli and instances of political violence--impunity remained a problem.

The Ministry of Defense is responsible for external security, although the government may call on it during times of internal disorder.

While civilian authorities maintained effective control over the Ministry of Defense, senior civilian authorities reportedly did not always maintain effective control over the Ministry of Internal Affairs and the SSSG.

The effectiveness of government mechanisms to investigate and punish abuse by law enforcement officials and security forces was limited, and domestic and international concern over impunity remained high.

There were large protests in May surrounding the conduct of law enforcement bodies' investigation and prosecution of the killing of two juveniles that occurred in December 2017, known as the "Khorava Street murders." Civil society groups questioned the investigation's impartiality. As a result of the controversy, the country's chief prosecutor resigned, and parliament, for the first time, set up an Investigative Commission in June. In September, the commission, headed an opposition party leader, concluded that the investigation was compromised in favor of former influential Prosecutor's Office official Mirza Subeliani, as some investigatory procedures, including the questioning of witnesses and collection of material evidence, completely bypassed Subeliani and two of his relatives allegedly implicated in the crime. The commission also accused former Chief Prosecutor Irakli Shotadze of either "negligence" or "abuse of power." Government officials partially agreed with the commission's conclusions that the investigation did not properly execute procedures regarding evidence collection,



examinations, and questioning witnesses, but they also contested the claim that undue outside influence compromised the investigation. Zaza Saralidze, father of one of the boys killed, continued to lead protests.

During the year, the president, the public defender, local and international NGOs, and the international community continued to express concerns about impunity for government officials in connection with the reported May 2017 abduction and forced rendition of Azerbaijani freelance journalist and activist Afgan Mukhtarli from Georgia to Azerbaijan. As of mid-December, the Chief Prosecutor's Office claimed it continued to investigate the incident and was waiting for a response to its request to Azerbaijan's government to interview Mukhtarli. The Public Defender's Office, NGOs, and Mukhtarli's wife criticized the investigation for its lack of urgency and transparency, as well as for the authorities' refusal to grant Mukhtarli "victim status." Such status would have allowed Mukhtarli's lawyers to request special protection for the life, health, and property of Mukhtarli and his close relatives. NGOs accused investigators of ignoring alleged abuses of power by government authorities. These developments, combined with the government's failure to issue an interim report on the investigation and the July comment of Vakhtang Gomelauri, the head of the SSSG, that "some investigations are never solved" added to concerns of government involvement in Mukhtarli's disappearance from Tbilisi and arrest on the Azerbaijan-Georgia border.

There were reports of impunity for abuses of state resources, including politically motivated surveillance (see section 1.f.) and interference by SSSG officials (see section 3).

The CPO continued training prosecutors on proper standards for prosecuting cases of alleged mistreatment by public officials. In 2017 the CPO started 127 investigations for alleged mistreatment by penitentiary and law enforcement officers from 2013 to 2016. Of these, 17 persons faced prosecution proceedings in 2017: three police officers and 14 penitentiary employees.

The trial in the Tbilisi City Court against the former head of the Constitutional Security Department, Davit Akhalaia, and three additional former Ministry of Internal Affairs officials for their role in the violent dispersal of a protest in 2011 remained underway as of November.

In July prominent NGOs released a joint report addressing the police raids of Tbilisi nightclubs (see section 1.d.). The NGOs questioned the legitimacy of measures taken by law enforcement in the nightclubs, arguing their actions were

excessive. Government officials defended their actions as appropriate and in line with international standards.

### **Arrest Procedures and Treatment of Detainees**

Law enforcement officers must have a warrant to make an arrest except in limited cases. The criminal procedure code provides that an arrest warrant may be obtained only where probable cause is shown that a person committed a crime for which conviction is punishable by imprisonment and that the individual may abscond or fail to appear in court, destroy evidence, or commit another crime. GYLA noted the law did not explicitly specify the role and powers of a judge in reviewing the lawfulness of arrests, and that courts often failed to examine the factual circumstances of the detention.

Upon arrest, a detainee must be advised of his or her legal rights. Any statement made after arrest but before a detainee is advised of his or her rights is inadmissible in court. The arresting officer must immediately take a detainee to the nearest police station and record the arrest, providing a copy to the detainee and his or her attorney. The Public Defender reported, however, that maintenance of police station logbooks was haphazard and in a number of cases the logbooks did not establish the date and time of an arrest.

Detainees must be indicted within 48 hours and taken to court within 72 hours. Anyone taken into custody on administrative grounds has the right to be heard in court within 12 hours after detention. Violating these time limits results in the immediate release of the person.

The law permits alternatives to detention. NGOs and court observers reported that the judiciary failed to use alternative measures adequately. The government also lacked a monitoring mechanism for defendants not in custody.

Detainees have the right to request immediate access to a lawyer of their choice and the right to refuse to make a statement in the absence of counsel. An indigent defendant charged with a crime has the right to counsel appointed at public expense. The threshold for aid was so low, however, that many low income defendants could not afford counsel during critical stages of criminal proceedings.

Detainees facing possible criminal charges have the right to have their families notified by the prosecutor or the investigator within three hours of arrest; persons charged with administrative offenses have the right to notify family upon request.

The 2017 report of the national preventive mechanism released in July 2018 noted that this right was mostly observed. The Public Defender's Office documented that 71 percent of detainees in 2017 made use of this right, compared to 56 percent in 2016. The law requires the case prosecutor to approve requests by persons in pretrial detention to contact their family.

Witnesses have the right to refuse to be interviewed by law enforcement officials for certain criminal offenses. In such instances, prosecutors and investigators may petition the court to compel a witness to be interviewed if they have proof that the witness has "necessary information." The public defender reported that police continued to summon individuals as "witnesses" and later arrested them. According to the public defender, police used "involuntary interviews" of subjects, often in police cars or at police stations. The report of the national preventive mechanism for 2017 noted that police failed to advise interviewees of their rights prior to initiating interviews and failed to maintain records of individuals interviewed in police stations or vehicles.

Concerns persisted regarding the authorities' use of administrative detention to detain individuals for up to 15 days without the right to an effective defense, defined standards of proof, and the right to a meaningful appeal.

Pretrial Detention: NGOs noted inconsistent application of the standards to grant bail or order detention. Although there was a noticeable improvement in the substantiation of motions and rulings, prosecutors and judges at times did not articulate a reasoned and specific justification for requesting or ordering detention and did not discuss the lawfulness of the detention. According to Supreme Court statistics, as of July, pretrial detention was used in 41.6 percent of cases compared with 32.8 percent for the same period in 2017. Trial monitors attributed the increase in detention rates to a decrease in substance abuse cases, which often resulted in the defendant being remanded released on bail, and an increase in reported domestic violence cases, which usually involved the detention of the defendant. PDO reported the increase did not necessarily reflect an increase of domestic violence or reliance on detention.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The criminal procedure code provides that in exigent circumstances, a person can be arrested without a court warrant. A person must be released immediately if the substantial breach of an arrest procedure has been identified. This decision can be made by a prosecutor or a judge at the first appearance hearing within 72 hours from the arrest. The law provides that the arrested person shall be fully reimbursed

from the state budget for the damage incurred as a result of an unlawful and unjustified arrest. The national preventive mechanism noted that, as in previous years, persons under administrative arrest rarely exercised their right to a defense attorney in 2017. There is no meaningful judicial review provided by the code of administrative violations for an administrative arrest.

#### **e. Denial of Fair Public Trial**

Although the constitution and law provide for an independent judiciary, there remained indications of interference in judicial independence and impartiality. Judges were vulnerable to political pressure from within and outside of the judiciary.

The Coalition for an Independent and Transparent Judiciary, Transparency International, and others continued to raise concerns over a lack of judicial independence. During the year, they highlighted problems including the strengthening of an influential group of judges primarily consisting of High Council of Justice members and court chairs, that allegedly stifled critical opinions within the judiciary and obstructed proposals to strengthen judicial independence; the impact of the High Council's powers on the independence of individual judges; manipulation of the case distribution system; a lack of transparency in the High Council's activities; and shortcomings in the High Council's appointments of judges and court chairpersons.

The president, the public defender, the Coalition for an Independent and Transparent Judiciary, and the international community continued to highlight shortcomings in the 2017 legislative package informally known as the "third wave of judicial reform." They pointed to problems in the laws' implementation and highlighted challenges to judicial independence, including flawed processes for selecting judges at all court levels, many to lifetime appointments, which left the judiciary vulnerable to political influence.

In May Chief Prosecutor Irakli Shotadze resigned over allegations that his office improperly influenced the investigation of the Khorava Street murders (see section 1.d.). Civil society groups widely criticized Minister of Justice Tea Tsulukiani for nominating a new chief prosecutor in advance of the adoption of new constitutional rules designed to ensure impartiality in appointment of the chief prosecutor. The new constitution empowers a new 15-member Prosecutor's Council, rather than the justice minister, to nominate the chief prosecutor.

In August Supreme Court Chief Justice and Chair of the High Council of Justice Nino Gvenetadze resigned. Civil society and opposition politicians widely believed she stepped down due to political pressure. Civil society organizations urged then-President Margvelashvili to nominate a new chief justice; the president declined to do so, saying he had “failed to achieve broad public consensus” over a candidate.

On December 24, the High Council of Justice (HCOJ) nominated 10 controversial candidates to the Supreme Court. Civil society, opposition, and some ruling party members accused the nominees, all of whom were alleged to be a part of, or closely affiliated with, the influential group of judges that civil society referred to as a “clan.” They also criticized the lack of a transparent nomination procedure or clear criteria for nominees. The non-transparent nature of the nominations immediately became a divisive issue within Parliament and, on December 27, the Chair of the Parliamentary Legal Issues Committee, a Georgian Dream member of parliament (MP), resigned in protest. That evening, the HCOJ granted a lifetime lower court appointment to Levan Murusidze, who had been accused of corruption. This prompted a major outcry, and several NGOs released a statement blaming Georgian Dream for not having the will to reform the judiciary. On December 28, Parliamentary Speaker Irakli Kobakhidze agreed that criteria for selecting judges had to be modified and, as of year’s end, the debate continued in Parliament.

### **Trial Procedures**

The constitution and law provide for the right to a fair and public trial. The Public Defender reported numerous violations of the right to a fair trial, and NGOs noted this right was not enforced in some high profile, politically sensitive cases. NGOs reported courts were inconsistent in their approaches to closing hearings to the public and at times did not provide an explanation for holding a closed hearing.

Defendants are presumed innocent and must be informed promptly and in detail of the charges against them, with free interpretation as necessary. Defendants have a right to be present at their trial and to have a public trial except where national security, privacy, or protection of a juvenile is involved.

In August, the Supreme Court rejected the appeal of Giorgi Mamaladze, who had been convicted in 2017 of “preparing for premeditated murder.” The Tbilisi Appeals Court had already upheld the original conviction in February. The PDO and NGOs consistently raised concerns that the investigation and court proceedings deprived the defendant of a fair trial.

The law allows for trial in absentia in certain cases where the defendant has left the country. The code on administrative offenses does not provide the necessary due process provisions including the presumption of innocence, especially when dealing with violations that can result in a defendant's deprivation of liberty.

The law does not prescribe a maximum period for investigation of cases but stipulates a maximum period for trial if a suspect is arrested. The criminal procedure code requires trial courts to issue a verdict within 24 months of completing a pretrial hearing.

GYLA noted that unreasonable delays in cases and court hearings were a serious factor in limiting the right to timely justice. The requirement of a continuous trial was met only in jury trial cases. In bench trials with defendants not in custody, trials were scheduled with intervals as long as one month. GYLA also reported that judges were unable to maintain order in many cases. The Public Defender's Office highlighted weak reasoning in court judgments.

Examples of delayed proceedings included the related cases of Temur Barabadze and founding Millennium Challenge Fund Georgia Chief Executive Officer Lasha Shanidze and his father Shalva. According to court documents, Barabadze was forced to testify against the Shanidzes under duress in 2009, but subsequently recanted his testimony. Pending for more than seven years, court hearings in Barabadze's case began in spring 2017. Completion of judicial review of the Shanidzes' 2011 embezzlement convictions based on Barabadze's coerced testimony continued to await resolution of Barabadze's case. In June Barabadze's case was separated from the Shanidzes' case, and the trial court acquitted him. The Prosecutor's Office appealed the trial court's decision, however, and the trial remained underway as of year's end.

Defendants have the right to meet with an attorney of their choice without hindrance, supervision, or undue restriction. Defendants enjoy the right to have an attorney provided at public expense if they are indigent, but many did not always have adequate time and facilities to prepare a defense. The Public Defender's Office noted that while a state appointed lawyer generally was available for those in need, state appointed attorneys often were not present until submitting charges or plea bargaining.

In criminal proceedings, defendants and their attorneys have the right of access to prosecution evidence relevant to their cases no later than five days before the

pretrial hearing and can make copies. Defendants have the right to question and confront witnesses against them and to present witnesses and evidence on their own behalf at trial. Defendants have the right to refuse to testify or incriminate themselves. While a defendant generally has the right to appeal a conviction, making an effective appeal under the administrative code was difficult. By law, defendants have 30 days to file an appeal once they receive the court's written and reasoned judgment. Administrative sentences that entail incarceration must be appealed within 48 hours and other sentences within 10 days. On October 19, the Constitutional Court issued a decision in a case related to appeal procedure in administrative violation cases. It noted that the existing appeal procedures were substandard and declared them unconstitutional. Based on this decision, the existing provisions were scheduled to lose legal force on March 31, 2019 and be replaced by new procedures allowing meaningful appeals in cases of administrative violation.

By law a court must certify that a plea bargain was reached without violence, intimidation, deception, or illegal promise and that the accused had the opportunity to obtain legal assistance. Plea bargaining provisions in the criminal procedure code provide safeguards for due process, including the removal of a no contest plea and allowing charge bargaining. The evidentiary standard for plea agreements stipulates that evidence must be sufficient to find a defendant guilty, without a full trial of a case, and must satisfy an objective person that the defendant committed the crime. GYLA reported that courts did not fairly evaluate the voluntariness of a defendant's plea agreement and that, out of 303 motions proposed by the prosecution, judges approved 98 percent (298). According to Supreme Court statistics for the first eleven months of the year, the rate of cases disposed of via plea agreements stood at 6.6 percent, while cases resolved by trial constituted 33.4 percent. During the same period, courts fully acquitted defendants in 7.1 percent of trials and partially acquitted them in 2.9 percent of trials. Of cases reviewed on their merits, courts terminated the prosecution in 3.1 percent of trials.

### **Political Prisoners and Detainees**

Opposition party members and family members of prisoners stated the government held political prisoners. The government permitted international and domestic organizations to visit persons claiming to be political prisoners or detainees, and several international organizations did so.

### **Civil Judicial Procedures and Remedies**

The constitution provides for an independent and impartial judiciary in civil matters, but there were concerns about the professionalism of civil judges and transparency in their adjudication. The constitution and law stipulate that a person who suffers damages resulting from arbitrary detention or other unlawful or arbitrary acts, including human rights violations, is entitled to submit a civil action. Individuals have the right to appeal court decisions involving alleged violation of the European Convention on Human Rights by the state to the European Court of Human Rights (ECHR) after they have exhausted domestic avenues of appeal.

There were reports of lack of due process and respect for rule of law in a number of property rights cases. NGOs also reported several cases in which groups claimed the government improperly used taxes on property to pressure organizations, as was the case with the International Black Sea University (see section 2.a.).

### **Property Restitution**

In Abkhazia, the de facto legal system prohibits property claims by ethnic Georgians who left Abkhazia before, during, or after the 1992-93 war, thereby depriving internally displaced persons of their property rights in Abkhazia.

In a 2010 decree, South Ossetian de facto authorities invalidated all real estate documents issued by the Georgian government between 1991 and 2008 relating to property in the Akhgori Region. The decree also declared all property in Akhgori belongs to the de facto authorities until a “citizen’s” right to that property is established in accordance with the de facto “law,” effectively stripping ethnic Georgians displaced in 2008 of their property rights in the region.

The EU Monitoring Mission (EUMM) had little indication that de facto South Ossetian authorities demolished houses belonging to Georgian internally displaced persons (IDPs) in Eredvi during the year, as they did in 2017, but EUMM observed scavengers at work.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions without court approval or legal necessity and prohibit police from searching a residence or conducting nonconsensual electronic surveillance or monitoring operations without a warrant. NGOs, media, and others asserted that the government did not respect these



prohibitions. For example, there were widespread reports that the government monitored the political opposition. Local and international NGOs also reported that government officials monitored independent Azerbaijani journalists and activists residing in the country. In a June 18 report, Transparency International/Georgia and the Human Rights Education and Monitoring Center raised concerns about the State Security Service's secret surveillance system due to lack of political neutrality and weak oversight.

As of year's end, cases submitted to the Constitutional Court challenging a law on electronic surveillance were pending. The plaintiffs (NGOs and the PDO) asserted the law did not satisfy the requirements of a 2016 Constitutional Court ruling requiring an independent body to oversee electronic surveillance.

Some opposition politicians raised concerns that the government was prolonging a 2016 the investigation in order to justify monitoring political opponents allegedly involved in the recording or to sway voters ahead of the fall presidential elections (see Section 3). The investigation concerns audio tapes in which, allegedly, certain opposition leaders discuss organizing a revolution.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution and law provide for freedom of expression, including for the press, and citizens generally were free to exercise this right, although there were allegations the government at times did not adequately safeguard that freedom. During the year journalists, NGOs, and the international community raised concerns about the environment for media pluralism.

Press and Media Freedom: Independent media were very active and expressed a wide variety of views. On October 17, independent Iberia Television suspended broadcasting. The station's owner alleged that the station's financial problems were linked to government pressure. Iberia's closure, and the 2017 merger of three television stations decreased media pluralism and increased the concentration of media outlets in favor of the ruling party. NGOs have criticized the close relationship between the heads of the Georgian Public Broadcaster (GPB) and Georgian National Communications Commission (GNCC) and the ruling party and media monitoring organizations report GPB's editorial bias in favor of the ruling party.

On February 21, Parliament overrode President Margvelashvili's January 15 veto of controversial amendments to the Law on Broadcasting that Parliament initially passed in December 2017. While the GNCC supported the amendments that had been initiated by GPB management, NGOs, private television stations, and opposition parties heavily criticized the amendments for enabling the GPB to receive additional revenue from commercial advertising and rendering the station's restructuring process opaque. The GNCC report on broadcasters' revenues for the first quarter of the year showed an increase of revenues at GPB and a decrease at regional broadcasters outside Tbilisi.

Members of the GPB board elected by the ruling party frequently criticized NGOs, particularly in response to a July 2017 letter a group of 24 NGOs sent to high-level foreign officials that cited a "deteriorated media environment." GPB published a series of articles deriding the civil sector for this critique, prompting the Media Advocacy Coalition to issue a statement in defense of the civil sector in February.

By law, media outlets are obligated to disclose information about their owners. While media ownership transparency allowed consumers to judge the objectivity of news, laws obliging broadcasters to disclose information about their financial sources were not fully enforced.

Some media outlets, watchdog groups, and NGOs continued to express concern regarding media pluralism and political influence in the media, especially against those critical of the government. Concerns persisted concerning government interference with and criticism of pro-opposition bias in some media outlets, in particular in the country's most widely viewed television station, Rustavi 2. In March 2017, the ECHR suspended the Supreme Court's decision to transfer Rustavi 2's ownership to a former owner, Kibar Khalvashi. The ECHR's review of the case remained pending at year's end. Rustavi 2 struggled financially because of frozen assets and an overdue tax bill. In April a number of NGOs and rights groups reaffirmed their support for the ECHR's interim measure on Rustavi 2 because it allowed the station to maintain its editorial independence.

Violence and Harassment: Crimes against media professionals, citizen reporters, media outlets were rare; however, during the year there were at least three reports of such violence. For example, in March members of the far-right group Georgian March damaged a car and injured a Rustavi 2 journalist during a protest against the station's high-profile anchor, Giorgi Gabunia, who had referenced Jesus Christ in an on-the-air joke about Georgian Dream Party chairman Bidzina Ivanishvili's tree collection. Georgian March filed a complaint to the station and demanded

Gabunia's apology for insulting their religious sentiment. NGOs and human rights advocates considered the protesters' actions criminal offenses, such as coercion, illegal restriction of liberty, violence, damage of property, and unlawful interference with the journalist's professional activities. GYLA called upon the relevant bodies to investigate the matter. The Ministry of Internal Affairs opened an investigation and arrested several individuals for hooliganism, all of whom were subsequently released on bail. The pretrial hearings continued as of November 7.

Nongovernmental Impact: Media observers, NGO representatives, and opposition politicians alleged that Georgian Dream party chair and former Prime Minister Bidzina Ivanishvili exerted a powerful influence over the government and judiciary, including in court decisions against Rustavi 2.

While there was a relatively greater diversity of media in Abkhazia than in South Ossetia, media in both occupied regions remained restricted by de facto authorities and Russian occupying forces.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, but concerns remained about unauthorized surveillance. Surveillance laws introduced in 2017 attracted criticism for allowing excessive access to user data (see section 1.f.).

According to International Telecommunication Union statistics, approximately two-thirds of the population used the internet. High prices for services and inadequate infrastructure limited access, particularly for individuals in rural areas or with low incomes.

Insufficient information was available about internet freedom in Abkhazia and South Ossetia.

### **Academic Freedom and Cultural Events**

NGOs continued to raise concern that the government improperly pressured schools that Turkish authorities alleged to be linked to the Gulen movement, which they accused of responsibility for the 2016 coup attempt. After the 2017 closure of two secondary schools and arrest of their general director, Mustafa Cabuk, on a Turkish government extradition request (Cabuk was released in February, see section 2.d.), officials began to impose administrative pressure on the International

Black Sea University, a leading private institution, citing tax liens on the university's properties as a reason to prevent it from taking on new students.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution and law provide for the freedoms of peaceful assembly and association; government respect for those rights was uneven.

### **Freedom of Peaceful Assembly**

The constitution and law generally provide for freedom of assembly. Human rights organizations expressed concern, however, about provisions in the law, including the requirement that political parties and other organizations give five days' notice to local authorities to assemble in a public area, thereby precluding spontaneous demonstrations. NGOs reported that police sometimes restricted freedom of assembly. For example, on December 17, 14 NGOs accused the authorities of restricting opposition access to the site of a planned Inauguration Day demonstration on December 16. The government responded that it had provided an area for demonstrations, but that protestors had refused to use it. As of mid-December, two supporters of Georgian Dream and one opposition activist were in detention after inauguration day incidents. Two Georgian Dream activists were arrested after allegedly assaulting an opposition activist in Velistsikhe, and opposition leader Davit Kirkitadze was arrested after he reportedly assaulted a police officer who was blocking the highway with a bus. Kirkitadze and his supporters claimed his arrest was politically motivated. NGOs also stated police abused the administrative offences code to detain participants of peaceful assemblies based on articles 166 (petty hooliganism), 173 (non-compliance with a lawful order of a law enforcement officer), and 150 (defacing the appearance of a self-governing unit).

There were several protests in May, including those against raids on popular nightclubs and in support of the International Day Against Homophobia, Transphobia, and Biphobia (IDAHOT). In May LGBTI organizations were unable to hold a sanctioned IDAHOT rally due to safety concerns following large rallies attended in part by far right groups that threatened violence against LGBTI supporters. Several LGBTI activists still met in front of the State Chancellery under heavy police presence. The PDO reported violence against LGBTI individuals, whether in the family or in public spaces, was a serious problem, and that the government has been unable to respond to this challenge.

## **Freedom of Association**

There were reports that some government representatives and supporters of the ruling party pressured political opposition figures and supporters and state employees (see Section 3).

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation of citizens, but de facto authorities and Russian occupying forces limited this freedom in Abkhazia and South Ossetia.

The government cooperated with the UN High Commission for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and most other persons of concern. The Public Defender's Office and NGOs, however, alleged that authorities made politically motivated decisions on asylum and other requests affecting selected Turkish and Azerbaijani citizens.

In-country Movement: There were substantial impediments to freedom of internal movement due to a lack of access to the breakaway regions of Abkhazia and South Ossetia. The majority of the approximately 300,000 IDPs from Abkhazia and South Ossetia wished to return to their areas of origin but lacked adequate security provisions and political, human, economic, and movement rights absent a political resolution to the conflicts.

Foreigners were restricted from moving in and out of South Ossetia but could access Abkhazia with approval from the de facto authorities. There were reports that late in the year citizens of Commonwealth of Independent States countries were prohibited from entering Abkhazia except from Russia, which violated Georgian law. This placed additional restrictions on international humanitarian access to Abkhazia. Crossing permits introduced by de facto South Ossetian authorities were the only document that allowed movement across the South Ossetia ABL to or from Tbilisi-administered territory (TAT).

Some residents of Abkhazia who used their Georgian passports had to obtain permission from de facto security services to cross the Abkhazia ABL to or from TAT. Georgian passport holders could cross a checkpoint if they possessed invitation letters cleared by the de facto state security services allowing them to enter Abkhazia. The latter did not consistently provide permission to cross and limited movement to specific areas. In August de facto authorities suddenly declared older Soviet-era passports, used by thousands of ethnic Georgians living in Abkhazia, to be no longer valid for crossing, threatening the livelihood of many residents. De facto authorities then blocked some ethnic Georgians who had used Soviet-era passports to cross into TAT from returning to Abkhazia. De facto authorities claimed that residents without valid crossing documents would be allowed to apply for residence permits, which would enable them to cross, but it remained unclear how these new regulations would be implemented.

Georgian law prohibits entry into and exit from the breakaway regions through the territory of neighboring states (i.e., Russia).

Russian and Abkhaz de facto authorities limited international organizations' ability to operate in Abkhazia. Russian and South Ossetian de facto authorities limited international organizations, including humanitarian organizations, access to South Ossetia; however, the Co-Chairs of the Geneva International Discussions--representing the United Nations, the OSCE, and the EU Special Representative for the South Caucasus and the Crisis in Georgia--visited South Ossetia quarterly prior to each round of the discussions, accompanied by UNHCR. The ICRC office in Tskhinvali was the only international organization representation in South Ossetia.

De facto authorities and Russian forces in the Russian-occupied territories also restricted the movement of the local population across the ABL, although they showed flexibility for travel for medical care, pension services, religious services, and education. Villagers who approached the line or crossings risked detention by Russian Federation "border guards." Russian border guards along the ABL with Abkhazia typically enforced the boundary-crossing rules imposed by de facto authorities through detentions and fines. Along the South Ossetia ABL, Russian border guards frequently transferred individuals to de facto authorities. The SSSG reported that detentions by de facto authorities typically lasted two to three days until the detainee paid "fines" set by the de facto "court," although some sentences for "violations of the state border" carried considerably longer terms.

The European Union Monitoring Mission was aware of 14 individuals detained along the ABL with Abkhazia and 92 detained along the line with South Ossetia as

of November. There were credible reports based on local sources that, on several occasions, local South Ossetian or Russian “border guards” crossed into government-controlled territory to detain an individual. There were also reports of arbitrary arrests of ethnic Georgians by de facto authorities, particularly in the Tskhinvali and Gali regions of South Ossetia and Abkhazia, respectively. Most often, the arrested individuals were accused of violating the “state border.” According to EUMM, many detainees were obliged to sign documents in Russian that they did not understand.

De facto authorities continued to expand fencing and other physical barriers along the ABL between the government-administered area and South Ossetia. This expansion of the Russian “borderization” policy further restricted movement, creating physical barriers and obstructing access to agricultural land, water supplies, and cemeteries. In November, Russian occupation forces in South Ossetia erected fencing along a one-kilometer line at the village of Atotsi, Kareli Municipality. Local residents reported they had already tilled and sowed the land that was then taken away, and they would not be able to reap the harvest.

In March 2017 Abkhaz de facto authorities closed two crossing points across the ABL, leaving crossing points open only at the Enguri Bridge and Saberio-Pakhulani. As access to government-administered territory became more restricted and visits to family and friends living across the ABL much more difficult to arrange, the closure of crossing points further impoverished and isolated the population in lower Gali and contributed to a growing sense of isolation. The closure also prevented children from attending classes in their native Georgian language across the ABL.

### **Internally Displaced Persons**

As part of a broader consolidation plan, the government abolished the Ministry for Refugees, Accommodation, and Internally Displaced Persons in August, dividing the ministry’s responsibilities among the Ministries of Interior, Labor, Health, and Social Affairs, as well as the State Ministry for Reconciliation and Civic Equality. According to the government, as of August, there were approximately 280,000 IDPs from the 1992-93 and 2008 conflicts. UNHCR estimated 235,176 persons were in an “IDP-like” situation, some 50,000 of whom were in need of protection and humanitarian assistance. This number included individuals who have returned to Abkhazia and South Ossetia, as well as those displaced in the 2008 conflict who subsequently were relocated, or have obtained housing or cash compensation.

Most persons displaced in 2008 received formal IDP status in accordance with national legislation, although some individuals who were not displaced by the 2008 conflict and lived close to the ABL were officially described as being in an “IDP-like situation.” The government provided monthly allowances to persons recognized as IDPs, promoted their socioeconomic integration, and sought to create conditions for their return in safety and dignity.

Despite their 1994 agreement with Georgia, Russia, and UNHCR that called for the safe, secure, and voluntary return of IDPs who fled during the 1992-93 war, Abkhaz de facto authorities continued to prevent the return of those displaced by the war. Between 45,000 and 60,000 IDPs have returned since that time to the Gali, Ochamchire, and Tkvarcheli regions of lower Abkhazia, but Abkhaz de facto authorities refused to allow the return of IDPs to other regions. De facto authorities prevented IDPs living elsewhere in the country from reclaiming homes in Abkhazia, based on a “law” that expropriated all “abandoned property” from the 1992-93 war. IDPs who returned were allowed to sell but were barred from buying property.

Ethnic Georgians living in Abkhazia lacked fundamental rights and confronted onerous registration requirements that threatened their continued status. De facto authorities continued to pressure ethnic Georgians to acquire a “foreign residency permit,” which allows the holder to cross the ABL and remain in Abkhazia for a period of five years. An applicant must, however, accept the status of an alien (i.e., a Georgian living as a foreigner in Abkhazia), may not purchase property, may not transfer residency rights of property to children born in de facto controlled territory, may not vote, and must accept a lack of other basic rights. As of December 31, de facto authorities continued to allow ethnic Georgians to cross the ABL with “Form Number Nine,” an administrative pass that de facto authorities had previously threatened to discontinue.

### **Protection of Refugees**

Access to Asylum: A 2017 law remained in effect guaranteeing access to international protection, including access to asylum or refugee status. NGOs, however, alleged that executive and judicial authorities made politically motivated decisions in response to asylum requests by some Turkish citizens and a number of Azerbaijani citizens.

The law distinguishes among three types of protection: a) refugee status (as per the 1951 Refugee Convention), b) protected humanitarian status (complementary



protection), and c) temporary protection. In 2017, the government's acceptance rate for granting refugee or humanitarian status was 18 percent. During the first six months of the year, the overall acceptance rate was 6.8 percent (25 were recognized as eligible for refugee or humanitarian status while 343 were rejected).

In February, authorities released on bail a Turkish citizen, Mustafa Emre Cabuk. The release followed a statement by the Parliamentary Assembly of the Council of Europe's co-rapporteurs for Georgia questioning the use of pretrial detention for asylum seekers and urging that asylum requests "should be based only on humanitarian and human rights law, including the European Convention on Human Rights, whose requirements should be fully applied." In July 2017, the government had denied asylum Cabuk and his family after it detained him following a Turkish government extradition request, which accused him of being a member of a terrorist organization.

The Public Defender's Office and local and international NGOs continued to raise concerns about the government's refusal to grant asylum, other protected status, or residency permits to a number of Azerbaijani journalists and activists. The NGOs claimed the individuals were politically persecuted in Azerbaijan and accused the Georgian government of rejecting the asylum and residence permit requests despite continued pressure against activists by the Azerbaijani government. The NGOs reported the government based its refusal of asylum and residence permits on national security interests without giving clear reasons or citing relevant legislation. In 2017 three NGOs reported that Azerbaijani dissidents no longer viewed the country as a safe haven.

The Public Defender's Office reported it found several unreasonable instances of refusal to grant citizenship, asylum/refugee status, and residency permits to foreigners on national security grounds after reviewing the government's confidential considerations in some cases.

Employment: Asylum seekers (from the start of the asylum procedure) and persons under international protection have legal access to the labor market. Foreigners, including persons under international protection, can register at the "Worknet" state program for vocational training and skills development.

Access to Basic Services: The government provided limited assistance to persons with protected status. In 2017 the government opened an integration center to provide structured integration programs for such persons. The country's reception

center had adequate services for asylum seekers and had capacity for approximately 150 persons.

The law enables refugees and asylum seekers to receive a temporary residence permit during the entirety of their asylum procedure as well as documentation necessary to open a bank account and register a business or property. Refugees receive a renewable temporary residence permit for three years, while protected humanitarian status holders receive a permit for one year, renewable upon a positive assessment of the need for continued protection. Access to education remained a problem due to the language barrier, notwithstanding the government's provision of Georgian language classes.

Durable Solutions: The government offered a path to naturalization for refugees residing on its territory. The naturalization process began in 2009, when there were 1,200 Chechen refugees in Pankisi. As of November, 58 percent (699) applied for citizenship. Out of these applications, the government naturalized 78 percent (545) and rejected 22 percent (154). Approximately 17.5 percent (211) of the initial refugee population remained in Pankisi and had yet to be naturalized, including several whose applications authorities rejected because they failed to pass the required language and history tests. Authorities purportedly denied others naturalization based on national security concerns.

Temporary Protection: The law provided for avenues to temporary protection to individuals who may not qualify as refugees. The law provided temporary residence permits, but these permits are not a form of international protection per se in the meaning of refugee law. The Ministry of Internal Affairs may grant these temporary permits to individuals who meet the criteria for refugee status or humanitarian protection, but who were rejected on national security grounds. From January to June, 433 persons applied for asylum and authorities granted humanitarian status to three percent (13). In the first six months of 2017, 379 individuals applied for asylum and authorities granted humanitarian status to six percent (22).

### **Stateless Persons**

According to government statistics, as of October, authorities granted 22 percent of the year's applications for stateless status (eight out of 32).

The law defines a stateless person in line with the 1954 UN Convention relating to the Status of Stateless Persons and lists specific rights and responsibilities of

stateless persons. The law provides that an adult can be granted citizenship if he or she has permanently resided on the country's territory during the previous five years; knows the state language; is familiar with the country's history and laws and able to pass the relevant tests; and has a job or owns real estate on the country's territory, conducts business, or owns shares in a Georgian company or industry. In exceptional cases, the president may grant citizenship to individuals who do not satisfy these requirements.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. On December 16, a new constitution, approved in September 2017, went into effect. The constitution eliminated direct election of the president and maintained the current parliamentary electoral system until 2024.

#### **Elections and Political Participation**

Recent Elections: An OSCE/Office of Democratic Institutions and Human Rights (ODIHR) election observation mission assessed that the October 28 first round of the presidential elections “was competitive and professionally administered.” While they recognized that candidates campaigned freely and voters had a genuine choice, the observers raised concerns about the “misuse of administrative resources,” an “unlevel playing field,” “sharp polarization of the private media, negative campaigning and harsh rhetoric,” “legal changes that increased the representation of the ruling party at all election administration levels,” and “insufficient transparency in the selection of nonpartisan members” that “undermined the perception of impartiality.”

OSCE/ODIHR's election observation mission stated that the November 28 second round of the presidential election was marked by an undue advantage for the ruling party backed candidate and that “the negative character of the campaign on both sides undermined the process.” The assessment said the “increased misuse of administrative resources further blurred the line between party and state” and that private media showed sharp polarization while public media did not ensure editorial independence and impartiality and “displayed a clear bias against the opposition.” The observation mission reported the handling of election complaints “often lacked proper consideration of substance, and commissions took narrow or inconsistent interpretations of the law, all of which impacted the right to effective remedy.” The National Democratic Institute (NDI) stated reports of intimidation

of state employees to vote for the ruling party backed candidate, or not to vote, “were widespread ahead of the run-off, including firsthand accounts from family members of NDI staff.” In a November 27 joint statement, the International Society for Fair Elections and Democracy, Transparency International Georgia, and GYLA also reported widespread intimidation before the run-off, with “employees of municipal public institutions, private sector employees, socially vulnerable voters and voters with previous conviction” pressured. Most reportedly were urged to vote for the ruling party backed candidate or were threatened because of their support for the opposition candidate. Municipal employees reported dismissal threats.

In August United National Movement (UNM) party members released an audio recording allegedly demonstrating ruling Georgian Dream party collusion with the Central Election Commission (CEC) to stack district and precinct election commissions with Georgian Dream supporters. Several opposition parties called for the resignation of the CEC chairperson. The CEC promised a strong response if the allegations of collusion were substantiated. Several election monitors raised the issue in their reports, and the chair of the Krtsanisi district election commission resigned. In October, the CEC concluded there was no collusion or violations and closed the investigation.

#### Political Parties and Political Participation:

Establishing accountability for political violence remained a problem, including for a number of attacks on opposition figures before the second round of the presidential election. The Ministry of Internal Affairs reported in November 22 people were charged with violent crimes. In one such incident in Akhalkalaki, four UNM activists were beaten and sustained injuries serious enough to require hospitalization for several days; the Ministry of Internal Affairs charged five Georgian Dream activists with violence. In some other cases, the Ministry rejected opposition assertions that assaults were election related.

NDI noted that “most striking about this election were the aggressive, personalized, and unprecedented attacks by senior state officials against...civil society organizations and their leaders in the days and weeks leading up to election day” (see section 5).

Following a June assault by the then mayor of Marneuli on a citizen whom he forced to apologize to “41” (Georgian Dream’s ballot number) and whose face he smeared with his own urine, the Prosecutor’s Office opened an investigation into

those involved, including the mayor, United National Movement MP Azer Suleymanov, a Georgian Dream member of the Marneuli Sakrebulo (city council) Ramin Allahverdiyev, and one of the mayor's relatives of Marneuli's mayor. The mayor was charged with degrading and inhumane treatment and faced five to 10 years in prison if convicted. The trial was underway as of November 7.

Participation of Women and Minorities: No laws limit the participation of women and members of minorities in the political process, and women and minorities did participate.

De facto authorities in Abkhazia stripped ethnic Georgians of their Abkhaz "citizenship" in 2014, preventing them from participating in elections. Ethnic Georgians willing to apply for Abkhaz "passports" generally did not receive them in time to participate in elections due to extensive delays. Ethnic Georgians in South Ossetia were also required to accept a South Ossetian "passport" and "citizenship" to participate in political life.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for officials convicted of corruption. While the government implemented the law effectively against low-level corruption, NGOs cited weak checks and balances and a lack of independence of law enforcement agencies as among the factors contributing to high-level corruption. NGOs assessed there were no effective mechanisms for preventing corruption in state-owned enterprises and independent regulatory bodies. While noting that petty bribery was extremely rare, Transparency International continued to describe corruption as a "serious problem" in the country.

Corruption: During the pre-election period several sets of audio recordings were released purporting to implicate current and former government officials in alleged corruption, torture, and abuse of power. Various parties questioned their authenticity. In one set, former CPO official Mirza Subeliani described himself as the government's chief "fixer" in the Khorava Street murder case (see section 1.d.), and claimed to have resorted to violence to force witness testimonies in this, and to have employed torture to coerce witness testimony in several other cases. In another, the head of the Omega Group, a large conglomerate including Iberia TV, alleged that current and former high-level officials had demanded bribes and engaged in violent racketeering, to include the physical abuse of a former minister. As of December, the investigation into these tapes was ongoing.

As of November 14, current and former public servants faced prosecution on charges of bribery while an additional 79 were charged with other mispending or abuse of office. In July authorities questioned the former ministers of infrastructure and economy in connection with a high-profile corruption case. Some observers considered these investigations politically motivated. The investigation continued at year's end. Although the law restricts gifts to public officials to a maximum of five percent of their annual salary, a loophole allowing unlimited gifts to public officials from their family members continued to be a source of concern for corruption watchers. As of August, the Anticorruption Agency of the SSSG had detained five public servants at the local and central levels for taking bribes. NGOs continued to call for an independent anticorruption agency outside the authority of the SSSG, alleging its officials were abusing its functions.

Financial Disclosure: The law requires public officials to submit annual declarations of their income and property for tax inspection; these were posted online. Declarations were not subject to verification, and Transparency International estimated that 16 members of parliament had undeclared assets as of November. The Civil Service Bureau receives annual financial declarations from public officials and publishes them in mid-January.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

Domestic and international human rights groups in most instances operated without government restriction, investigating and publishing their findings on human rights cases. Tension between the government and a number of leading NGOs increased, however, especially in the run-up to presidential elections. Soon after 13 NGOs highlighted concerns about indications of high level corruption (see Section 4) and informal clan rule in early October, prominent members of the government launched verbal attacks on those groups and their leaders. The Public Defender and NGOs expressed alarm regarding these attacks on civil society, asserting that a coordinated government attack on civil society harmed democracy. Also in October, the Speaker of Parliament labeled a prominent civil society leader “an accomplice to fascists” for asserting that a television director’s provocative comments did not violate the election code. Some government officials accused NGOs of publishing unsubstantiated accusations against the government, for example, when the NGOs reported a confidential source had alleged that government officials printed false identification cards in advance of presidential elections.

Some government officials accused NGOs of alleged political bias and publishing unsubstantiated accusations against the government, for example, when the NGOs reported a confidential source had alleged that government officials printed false identification cards in advance of presidential elections.

The United Nations or Other International Bodies: While there was little official information on the human rights and humanitarian situation in South Ossetia and Abkhazia due to limited access, allegations of abuse persisted. In March the UN Human Rights Council adopted a resolution calling for immediate access for the Office of the High Commissioner for Human Rights (OHCHR) and international and regional human rights mechanisms to Abkhazia and South Ossetia. In June the OHCHR reported that de facto authorities in Abkhazia and South Ossetia had not granted the requested access and expressed concern that, despite repeated requests since 2011, these de facto authorities had never granted it access. The OHCHR stated that the lack of access raised legitimate questions and concerns about the human rights of the populations in Abkhazia and South Ossetia.

Government Human Rights Bodies: NGOs viewed the Public Defender's Office, which has a mandate to monitor human rights and investigate allegations of abuse and discrimination, as the most objective of the government's human rights bodies. The amended constitution that came into force December 16 limits the public defender to one six-year term in office.

The public defender's authority does not include the power to initiate prosecutions or other legal actions but the office can recommend action, and the government must respond. While the office generally operated without government interference and was considered effective, the public defender reported that government offices at times responded partially or not at all to inquiries and recommendations, despite a requirement to respond to information requests within 10 days and initiate follow up action within 20 days. Among government offices that failed to satisfy such requests in 2017, the Public Defender's Office report highlighted the SSSG and the Ministry of Justice and its entities.

The public defender retains the right to make nonbinding recommendations to law enforcement agencies to investigate particular human rights cases. The public defender must submit an annual report on the human rights situation for the calendar year but can also make periodic reports. The office may not report allegations of torture unless the victim gives clear consent or a monitor from the office witnesses the torture.

By law the chief prosecutor is responsible for protection of human rights and fundamental freedoms. The human rights unit of the Chief Prosecutor's Office monitored overall prosecution and supervised compliance with national and international human rights standards. The unit reviews statistical and analytical activities within the prosecution system and is responsible for examining and responding to recommendations of national and international institutions involving human rights. The Human Rights Division of the Ministry of Internal Affairs and the Chief Prosecutor's Office also have mandates to monitor and investigate allegations of abuse and discrimination.

The Incident Prevention and Response Mechanism (IPRM), which is designed to cover Abkhazia and South Ossetia and includes security actors from the government, Russia, and de facto authorities of the breakaway regions, considered human rights abuses reported in the occupied territories and along the ABL. Due to a dispute over agenda items, however, the IPRM meetings in Gali (Abkhazia) have been suspended since June. IPRM meetings in Ergneti (South Ossetia) resumed in December following a three-month suspension. De facto authorities in the occupied territories did not grant representatives of the Public Defender's Office access.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: Rape is illegal, but criminal law does not specifically address spousal rape. A convicted first time offender may be imprisoned for up to eight years. Through June, the Prosecutor's Office initiated investigations in 14 rape cases, compared to seven in 2017. The government enforced the law effectively.

In cases that do not result in injury, penalties for conviction of domestic violence include 80 to 150 hours of community service or imprisonment for up to one year. Domestic and other violence against women remained a significant problem, which the government took several steps to combat. Such steps included designating specialized prosecutors to handle such offences and creating a risk assessment tool for police officers responding to such incidents. In May Parliament adopted amendments enabling courts to take away the right to carry firearms from persons convicted of domestic violence.



NGOs reported the Prosecution Service and the Ministry of Internal Affairs took significant steps to address domestic abuse and gender-based violence, including a new risk assessment tool announced by the ministry to aid police in protecting victims. The ministry developed the tool, which went into effect September 1, in tandem with NGOs and human rights organizations. Media reported, however, some instances of police ignoring or covering up cases of domestic violence, particularly if the accused were associated with the ministry.

NGOs and the government expanded the services provided to victims of domestic violence in recent years. NGOs claimed public awareness of legal remedies had grown, leading to the quadrupling of reported cases of domestic violence in recent years. In 2017 authorities prosecuted 1,986 domestic violence cases, as compared to 550 in 2014. In 2014 only 14 percent of defendants were placed in pretrial detention, while that figure reached 83 percent in 2017. NGOs reported law enforcement officials and prosecutors in Tbilisi showed improved professionalism in handling domestic violence crimes.

Domestic violence laws mandate the provision of temporary protective measures, including shelter and restraining orders that prohibit an abuser from coming within 330 feet of the victim and from using common property, such as a residence or vehicle, for six months. The Public Defender's Office stated that victims often reported receiving inadequate responses from law enforcement officers to restraining order violations. As of August, violating a restraining order was considered a criminal offense on the first rather than the second occurrence.

Local NGOs and the government jointly operated a 24-hour hotline and shelters for abused women and their minor children, although space in the shelters was limited and only four of the country's 10 regions had facilities.

Other Harmful Traditional Practices: Kidnapping women for marriage occurred in remote areas and ethnic minority communities but was rare. The Public Defender's Office reported some cases of kidnapping for marriage, forced marriage, and early marriage in its 2017 report. In October, the Georgian Women's Movement, a group of human rights and gender equality activists, criticized police delays in teen bride kidnapping investigations, almost exclusively concentrated in ethnic minority regions.

Sexual Harassment: Sexual harassment in the workplace was a problem. The criminal code criminalizes harassment. In March the Ministry of Internal Affairs began investigating a sexual harassment case initiated by several women against

the head of a prominent civil organization. The case sparked public debate about sexual harassment in the workplace. The Public Defender's Office reported it received 14 allegations of sexual harassment during the year. The PDO referred two of these cases to the courts, but the majority were outside the statute of limitations, which stands at three months after the victim becomes aware of the discrimination against them. The government initiated a sexual harassment training course for all civil servants to raise awareness of the problem.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: Civil society organizations continued to report discrimination against women in the workplace. In April Parliament passed a gender equality action plan. On May 15, Parliament held the first National Conference on Gender Equality in Local Municipalities, which underlined the importance of women in leadership. The Public Defender's Office monitored gender equality cases, in particular of domestic violence and workplace harassment.

## **Children**

Birth Registration: By law, citizenship derives from parents at birth or from birth within the country's territory, and children born to stateless parents in the country are citizens. According to UNICEF, 99 percent of births were registered before the child reached the age of five.

Since 2015, UNHCR has reported a widening documentation gap in Abkhazia, noting that fewer residents of Gali District held valid documents due to the expiration and nonrenewal of documentation by de facto authorities there. The solution offered by de facto authorities, i.e., to issue permanent residence permits, did not provide the full scope of rights and was not welcomed by the majority of Gali District residents who did not wish to declare themselves foreigners living in their ancestral land. While IDP returnees were in principle able to get their children's births registered with de facto authorities, they preferred to have their births registered with Georgian authorities.

Education: Children of noncitizens often lacked the documentation to enroll in school. The level of school attendance was low for children belonging to disadvantaged and marginalized groups, such as street children and children with disabilities or in foster care. The Public Defender's Office reported that violence, negligence, and other forms of mistreatment were still acute in educational

institutions. According to a UNICEF study released in July, the majority of street children did not have access to either education or medical services beyond emergency care.

Child Abuse: Various forms of child abuse, including trafficking, forced labor, or forced begging, were punishable by a spectrum of prison terms and fines.

Domestic violence against minors was punishable by imprisonment for one to three years, and the trafficking of minors was punishable by imprisonment anywhere from eight to twenty years depending on the specific circumstance.

Authorities referred children who suffered abuse to the relevant community and government services in coordination with stakeholders, including police, schools, and social service agencies.

Early and Forced Marriage: The legal minimum age for marriage for both men and women is 18. Conviction of forced marriage of an individual younger than 18 is punishable by two to four years' imprisonment. As of August, the Public Defender's Office was reviewing 22 instances of alleged early marriage. During the year, the Ministry of Internal Affairs opened investigations into four cases. Reports of child marriages continued throughout the year, although there were no official statistics. Child marriages reportedly occurred more frequently among certain ethnic and religious groups.

Sexual Exploitation of Children: Convictions relating to commercial sexual exploitation of children and possession of child pornography are punishable by up to five years' imprisonment. Street children and children living in orphanages were reportedly particularly vulnerable to exploitation.

The minimum age for consensual sex is 16. The law classifies sexual intercourse with a juvenile as rape, provided the perpetrator is proven to be aware of the victim's age. The penalty is up to nine years' imprisonment; the government generally enforced the law. Conviction of other sexual crimes carried increased levels of punishment if the victim was a juvenile. As of July, the Ministry of Internal Affairs opened investigations into 17 cases of rape of a minor and 159 cases involving other sex-related crimes.

In July UNICEF reported street children were particularly vulnerable to violence from caretakers and fellow street youth. According to testimonies from children living on the streets of Tbilisi, internal group dynamics among these children

sometimes entailed sexual “reward” structures that exposed primarily girls to abuse at the hands of older group members.

**Displaced Children:** The Public Defender’s Office reported a lack of information about street children and noted the inadequacy of resources devoted to them. It was unclear how many were geographically displaced and a significant portion belonged to families that migrated seasonally to Georgia from Azerbaijan.

**Institutionalized Children:** The government continued replacing large-scale orphanages with smaller foster parenting arrangements. According to the Social Service Agency, as of August, 340 children were housed in 47 small-group homes and 1,483 children were placed in different forms of foster care. The government provided grants for higher education for institutionalized and foster-care children, including full coverage of tuition and a stipend, and provided emergency assistance to foster families.

UNICEF and a foreign development agency supported the government in developing small-scale facilities for children with severe and profound disabilities with the view to closing the Tbilisi infant home.

**International Child Abductions:** The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

## **Anti-Semitism**

Observers estimated the Jewish community to be no more than 6,000 persons. There were no reliable reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

## **Persons with Disabilities**

While the constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education,

transportation, access to health care, the judicial system and right to a fair trial, and the provision of other government or private sector services, the government did not effectively enforce these provisions. The PDO reported that persons with disabilities continued to encounter barriers to participating fully in public life. Many families with children with disabilities considered themselves stigmatized and kept their children from public view. Discrimination in employment was also a problem.

The law mandates access to buildings for persons with disabilities and stipulates fines for noncompliance. Very few public facilities or buildings, however, were accessible. Public and private transportation generally did not accommodate persons with disabilities, and sidewalk and street crossing access was poor.

The Public Defender's Office stated that inclusive education remained a major challenge. Despite the introduction of inclusive education in professional and general educational institutions, preschool and higher education were not part of the system. Only a limited number of preschools among the 165 monitored by the PDO in Tbilisi in 2016 were accessible to children with disabilities. The PDO has not conducted specific monitoring of preschool institutions since then, but maintained that the situation has not changed.

The PDO reported that state-run institutions caring for persons with disabilities lacked the infrastructure, trained staff, psychosocial services, and contact with the outside world and families needed to provide for the delivery of services. It raised concerns about a high number of deaths of residents in regional facilities. The Ministry of Internal Affairs opened investigations into several deaths at state-run institutions, but the PDO reported its study of these investigations revealed the investigations were ineffective.

In April 2017, parents of children with disabilities protested the unequal distribution of government assistance for persons with disabilities and claimed that children in only some regions received government funding. The parents requested an increased budget for rehabilitation programs for children with disabilities then, but the budget for the year showed no change.

Out of 46,708 public sector employees, just 55 were persons with disabilities in 2017. Legislation that disqualifies a person with disabilities working the public sector from receiving state disability assistance may be a disincentive to such work.

## **National/Racial/Ethnic Minorities**

The PDO and NGOs reported some instances of discrimination against minority communities. During the year, the PDO received nine claims of discrimination based on national/ethnic origin. In only one of these cases, in which a person with permanent residence was denied access to state health care programs, did the courts determine that a person had been discriminated against based on their nationality/ethnicity. Despite noting advancements in minority protection and civic integration during the year, the PDO reported efforts to address remaining gaps remained insufficient. NGOs found on minority rights that victims rarely registered claims due to a lack of knowledge about their rights and criticized authorities for not raising greater awareness in minority communities.

As of November 1, the Ministry of Internal Affairs reported five individuals were detained for committing a crime on the basis of nationality, race, or ethnicity.

In September minority rights activist Vitali Safarov was killed outside a popular bar in central Tbilisi. Human rights NGOs alleged the two men responsible were members of a neo-Nazi group, and witnesses reported the altercation began because the activist was speaking Russian rather than Georgian. The NGOs advocated for the addition of xenophobic pretext to the murder charges, which would carry a heavier punishment. On October 31, the Chief Prosecutor's Office added the charge of "premeditated murder due to racial, religious, national or ethnic intolerance due to his nationality and profession." As of November, the investigation continued. The media reported numerous cases of hate speech targeting minority groups.

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Weak Georgian-language skills remained the main impediment to integration for members of the country's ethnic minorities, in addition to political, civic, economic, and cultural obstacles to integration. Some minorities asserted that the law requiring "adequate command of the official language" to work as a civil servant excluded them from participating in government. The Public Defender's Office reported that involving ethnic minorities in national decision-making processes remained a problem due to the small number of representatives of ethnic minorities in the central government.

The government continued its "1+4" program for ethnic minorities to study the Georgian language for a year prior to their university studies. According to a quota

system, the government assigned 12 percent of all bachelor or higher certificate-level placements to students with ethnic minority backgrounds. Of these reserved slots, ethnic Armenian and Azerbaijani communities each received 40 percent of the slots (about five percent of the total slots), while Ossetian and Abkhaz communities received 10 percent each (about one percent of the total slots).

The law permits the repatriation of Muslim Meskhetians deported in 1944. According to the former ministry of refugees and accommodation--whose functions were spread over the Ministries of Infrastructure, Internal Affairs, and Labor, Health, and Social Affairs--1,998 of more than 5,841 applications were approved by August. Of this number, 494 applicants received “conditional citizenship,” which, according to a presidential decree, grants them “full Georgian citizenship” upon renouncing their foreign citizenship within five years.

De facto Abkhaz authorities enacted policies that threaten the legal status of ethnic Georgians living in the Gali District of Abkhazia. They closed village schools and forced ethnic Georgians to study strictly in the Russian language. De facto authorities dismissed ethnic Georgian teachers in Abkhazia deemed to have insufficient knowledge of Russian. In 2015 de facto authorities shifted the language of instruction for students in first through fourth grades in Lower Gali to Russian. Russian was the only instructional language in the Tkvarcheli and Ochamchire zones, and the de facto authorities have prohibited Georgian language instruction since the 2008 conflict. The Public Defender’s Office noted that, in the Gali, Ochamchire, and Tkvarcheli Districts, ethnic Georgian students and teachers had poor command of Russian, and therefore Russian-only instruction had significantly affected the quality of their education. Local communities had to either pay for teachers, arrange for teachers to cross from undisputed government territory to teach, or send their children across the ABL for Georgian-language lessons. According to the EUMM, some Gali students seeking to attend school in government administered territory faced difficulties at the start of the school year crossing the ABL to attend school. Secondary school graduates had to cross the administrative boundary to take university entrance examinations. In February the EUMM noted that fewer schoolchildren were crossing the ABL, and there were more reports of barriers to studying in their mother tongue.

South Ossetian de facto authorities also required ethnic Georgians of all ages to study in Russian.

The government continued to report discrimination against ethnic Georgians in the occupied territories. The public defender noted the case of Tamar Mearakishvili,

an activist in South Ossetia who alleged persecution by the de facto authorities because of her Georgian ethnicity.

### **Acts of Violence, Discrimination, and Other Abuses based on Sexual Orientation and Gender Identity**

The criminal code makes acting on the basis of prejudice because of a person's sexual orientation or gender identity an aggravating factor for all crimes. According to NGOs, however, the government rarely enforced the law, and law enforcement authorities lacked robust training on hate crimes. According to the LGBTI community, the law provides for legal gender recognition for transgender persons.

The PDO reported that LGBTI individuals continued to experience systemic violence, oppression, abuse, intolerance, and discrimination. LGBTI rights organizations reported several instances of violence against LGBTI individuals during the year. The authorities opened investigations into several of the cases, including one that resulted in the court instructing law enforcement officers to be more responsible when performing their duties. The PDO reported violence against LGBTI individuals, whether in the family or in public spaces, was a serious problem, and that the government has been unable to respond to this challenge. LGBTI organizations, NGOs, and the PDO reported that the government's ineffective antidiscrimination policy reduced the LGBTI community's trust in state institutions, and they pointed to homophobic statements by politicians and public officials as furthering hatred and intolerance against the LGBTI community.

LGBTI activists reported that it was common for them to close their offices due to threats to their staff's safety. On September 28, four individuals associated with Equality Movement, a prominent LGBTI rights NGO, allegedly came under attack in their office's backyard. The attackers allegedly shouted homophobic slurs during the physical assault. Facing ongoing threats, Equality Movement moved its office to a temporary location under private guard protection. As of November, the investigation was pending.

There were no results in two separate government investigations into the August 2017 accusations by two LGBTI organizations' leaders that Batumi police officers physically abused them after police officers failed to intervene in their physical assault by several persons.



## **HIV and AIDS Social Stigma**

Stigma and discrimination against persons with HIV/AIDS were major barriers to HIV/AIDS prevention and service utilization. NGOs reported that social stigma caused individuals to avoid testing and treatment for HIV/AIDS. Some health-care providers, particularly dentists, refused to provide services to HIV-positive persons. Individuals often concealed their HIV/AIDS status from employers due to fear of losing their jobs.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law generally provides for the right of most workers, including government employees, to form and join independent unions, to legally strike, and to bargain collectively. Employers are not obliged, however, to engage in collective bargaining, even if a trade union or a group of employees wishes to do so. The law permits strikes only in cases of disputes where a collective agreement is already in place. While strikes are not limited in length, the law limits lockouts to 90 days. A court may determine the legality of a strike, and violators of strike rules can face up to two years in prison. Although the law prohibits employers from discriminating against union members or union-organizing activities in general terms, it does not explicitly require reinstatement of workers dismissed for union activity.

Certain categories of workers related to “human life and health,” as defined by the government, were not allowed to strike. The International Labor Organization noted the government’s list of such services included some it did not believe constituted essential services directed related to human life and health and cited as examples restrictions on all employees in “cleaning municipal departments; natural gas transportation and distribution facilities; and oil and gas production, preparation, oil refinery and gas processing facilities.” The government provided no compensation mechanisms for this restriction.

The government did not effectively enforce laws that provide for workers’ freedom of association and prohibit antiunion discrimination, and violations of worker rights persisted. There were no effective penalties or remedies for arbitrarily dismissed employees, and legal disputes regarding labor rights were subject to lengthy delays. Without a fully functioning labor inspectorate and mediation services in the Ministry of Health, Labor, and Social Affairs, the government was

unable to enforce collective bargaining agreements (as required by law) or provide government oversight of employers' compliance with labor laws. Employees who believed they were wrongfully terminated must file a complaint in a local court within one month of their termination.

In 2017 the Prime Minister authorized the Minister of Labor, Health, and Social Affairs to chair a new Tripartite Commission that aimed to facilitate social dialogue among representatives of industry and organized labor. At the first Tripartite Commission, focused on Social Partnership, held on February 18, the Minister emphasized the importance of finalizing labor safety issues. Some labor rights organizations, however, noted that the Commission did not take any significant steps during the year except to define the eleven sectors that would constitute "hard, hazardous, and harmful work" under an occupational safety and health (OSH) law that passed in March.

Workers generally exercised their right to strike in accordance with the law but at times faced management retribution. The Georgian Trade Union Confederation (GTUC) reported that the influence of employer-sponsored "yellow" unions in the Georgian Post and Georgian Railways continued and impeded the ability of independent unions to operate. NGOs promoting worker rights did not report government restrictions on their work.

GTUC resumed its engagement in the Tripartite Commission following the Tkibuli mine incidents in the spring during which several miners died in accidents. The GTUC had suspended discussion with the Commission over a 2017 dispute with Georgian Post and Georgian Railways.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The government's enforcement of the laws was not always effective. Forced labor is a criminal offense with penalties for conviction that would be sufficient to deter violations; the low number of investigations into forced or compulsory labor, however, offset the effect of strong penalties and encouraged the use of forced and compulsory labor.

The Ministry of Labor, Health, and Social Affairs reported that it found no cases of forced or compulsory labor although the GTUC claimed this was because there were no improvements in the government's efforts to improve labor inspection. The law permits the ministry's inspection department to make unannounced visits

to businesses suspected of employing forced labor or human trafficking. The ministry reported that, as of August, it had inspected 154 companies on suspicions of human trafficking and forced labor.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The minimum legal age for employment is generally 16, although in exceptional cases children may work with parental consent at age 14. Children younger than 18 may not engage in unhealthy, underground, or hazardous work; children who are 16 to 18 are also subject to reduced workhours and prohibited from working at night. The law permits employment agreements with persons younger than 14 in sports, the arts, and cultural and advertising activities.

In March, the government adopted a National Human Rights Action Plan that includes a chapter on children's rights. The Ministry of Labor, Health, and Social Affairs reported that it found no cases of child labor law violations during the year. The lack of a labor inspectorate with the authority to levy fines seriously undermined enforcement efforts, and the low number of investigations into child labor made it unclear how effectively the government enforced the law. Except in cases of suspected human trafficking or forced labor violations, the Department of Labor Inspection was only able to conduct monitoring if enterprises voluntarily invited inspectors and asked them to assess their Occupational Safety and Health situation. Even in such cases, inspectors did not have a mandate to sanction firms for violations of OSH regulations and could only issue recommendations. Depending on the offense, conviction of child labor is punishable by fine, removal of operating permits, community service, probation, or imprisonment.

According to the *National Child Labor Study* for 2016, the latest year for which data was available, the majority of working children (an estimated 83 percent) were employed in agriculture, mainly helping self-employed family members in a family enterprise or farm. In older age groups, children became increasingly involved in other industries. Many children younger than 16 worked on small, family-owned farms. In most cases, authorities did not consider this work as abusive or categorized as child labor. In some ethnic minority areas, family farm obligations interfered with school attendance, and school participation by ethnic minority children was especially low. Some families in rural Kvemo Kartli (an ethnic Azeri region) and Kakheti (where there was also a significant ethnic Azeri

population) worked on distant pastures for six to nine months a year, so their children seldom attended school. Estimates of the number of children affected were not available.

Street begging remained the most visible form of child labor, especially in Tbilisi. In July, UNICEF reported children of street families and unaccompanied children moved following the agricultural and tourist seasons, including to tourist sites along the Black Sea during the summer. Such children were vulnerable to violence and did not have access to either education or medical services beyond emergency care.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination in employment but it does not specifically prohibit discrimination based on HIV or other communicable disease status or social origin. The law further stipulates that discrimination is considered “direct or indirect oppression of a person that aims to or causes the creation of a frightening, hostile, disgraceful, dishonorable, and insulting environment.”

As there was no legal basis for labor inspection or a labor inspectorate with the authority to impose fines, the government did not effectively enforce the law.

Discrimination in the workplace was widespread. GTUC reported cases of discrimination based on age, sexual orientation, and union affiliation. Companies and public workplaces frequently reorganized staff to dismiss employees who had reached the qualifying age to receive a pension. In addition, vacancy announcements often included age requirements as preconditions to apply for a particular position. GTUC reported widespread instances of harassment in both the public and private sectors based on union affiliation, notably in the railway and postal services.

While the law provides for equality in the labor market, NGOs and the Ministry of Labor, Health, and Social Affairs agreed that discrimination against women in the workplace existed and was underreported. Although some observers noted continuing improvement in women's access to the labor market, women were largely confined to low-paying, low-skilled positions, regardless of their

professional and academic qualifications, and salaries for women lagged behind those for men.

There was some evidence of discrimination in employment based on disability. There were also reports of informal discrimination against members of Romani and Azerbaijani Kurdish populations in the labor market.

### **e. Acceptable Conditions of Work**

The minimum wage for state-sector employees was GEL 115 (\$43) per month. The official minimum wage in the private sector has not changed since the early 1990s, and it remained GEL 20 (\$7.50) per month. Both official monthly minimum wages did not meet the official subsistence income level, which the National Statistics Office lists as GEL 175 (\$65) per month. Employers did not apply the official minimum wage in practice, however, as the lowest paid jobs in the private sector typically did not pay less than GEL 200 (\$75) per month.

The law provides for a 40-hour workweek and a weekly 24-hour rest period unless otherwise determined by a labor contract. Overtime is defined as work by an adult employee in excess of the regular 40-hour workweek, based on an agreement between the parties. An executive order establishes essential services in which overtime pay may not be approved until employees work more than 48 hours a week. Shifts must be at least 12 hours apart. Employees are entitled to 24 calendar days of paid leave and 15 calendar days of unpaid leave per year. Pregnant women or women who have recently given birth may not be required to work overtime without their consent. Minors who are 16 to 18 may not work in excess of 36 hours per week. Minors who are 14 or 15 may not work in excess of 24 hours per week. Overtime is only required to “be reimbursed at an increased rate of the normal hourly wage...defined by agreement between the parties.” The law does not explicitly prohibit excessive overtime.

In March the government adopted new Occupational Safety and Health legislation for “hard, harmful, and hazardous” industries. The legislation requires businesses in eleven identified sectors to allow unannounced occupational safety, and health inspections; establishes occupational safety and health standards for these industries; and authorizes labor inspectors to issue fines up to 50,000 GEL (\$18,800) for lack of compliance. These sectors are transport, light industry, furniture manufacturing, glass production, heavy industry, oil and gas, metallurgy, mining, construction, electricity, and chemical production. Provisions concerning the compulsory insurance of employees by the employer against accidents will

come into force on January 1, 2019. GTUC and NGOs criticized the legislation for being limited to occupational, safety, and health, and for limiting the standards to only “hard, harmful, and hazardous” industries.

The government did not effectively enforce minimum wage, hours of work, occupational safety, or health standards in sectors outside of the 11 identified “hard, harmful, and hazardous” industries.” Inspection in these cases remained voluntary, and employers in most cases received five days’ notice before labor inspectors visited worksites. Inspectors did not have the ability to levy fines or other penalties on employers for substandard working conditions, in part because the law does not stipulate acceptable conditions of work. Penalties were inadequate to deter violations. As of August, the Ministry of Labor, Health, and Social Affairs reported it had 25 inspectors and an additional 19 in training. The ministry also reported it inspected 36 companies on labor safety grounds and 118 on forced labor grounds as of August, but none of the allegations was substantiated. NGOs claimed the number of inspectors was insufficient to enforce compliance. A law governing entrepreneurial activity also inhibited labor inspectors’ access to enterprises by disallowing unannounced visits by inspectors except in cases of suspected trafficking in persons and occupational, safety, and health issues in the eleven “hard, harmful, and hazardous” industries.

Employer violations of workers’ rights persisted, and it was difficult for workers to remove themselves from hazardous situations without jeopardizing their employment. Workers hired on fixed term contracts frequently feared that calling employers’ attention to situations that endangered health or safety would be cause for employers not to renew their contract.

Conditions for migrant workers were generally unregulated. While the government did not keep specific statistics of migrant laborers in the country, the Public Services Development Agency issued up to 5,000 residence permits to migrant workers. According to the International Organization for Migration, a significant number of migrant workers came to the country to work on foreign-financed projects, where they lived at the worksite. It also reported that other labor migrants found employment in the tourism industry or arrived in the country without previously secured employment, were unable to find concrete employment opportunities, and had insufficient resources to remain in the country or finance their return home.

NGOs reported that a significant number of workers were employed in the informal economy and were often exploited in part because of the frequent lack of

employment contracts. Such conditions, they alleged, were common among those working as street vendors or in unregulated bazaars.

According to the Public Defender's December 8 statement, 35 persons had been killed and 77 injured in workplace and industrial accidents. The mining and construction sectors remained especially dangerous. Of the 33 deaths reported, 12 died in the Tkibuli coal mines during a three-month period. This series of accidents prompted authorities to close the mine and open an investigation of labor safety conditions that resulted in the detention of six company officials running the mine.