

Georgia

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<http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Georgia/GEO-CbC-V-2016-002-ENG.pdf>

- **Context information from ECRI**

In 2014, the Georgian Parliament enacted the Law on the Elimination of All Forms of Discrimination. The enumerated grounds of discrimination include race, colour, language, citizenship, origin, religion or belief, national, ethnic or social origin, sexual orientation and gender identity.

The responses of the Georgian authorities to these incidents cannot be considered adequate. The authorities did not always sufficiently investigate and prosecute hate crime. The application of Article 53 of the Criminal Code of Georgia on aggravating circumstances is rare and there has not been a single case in which it was applied with regard to sexual orientation or gender identity.

Hate speech against ethnic and religious minorities, as well as against LGBT persons, continues to be a widespread problem in Georgia. Physical attacks against these groups also occur with worrying frequency.

- **Transphobia and data on hate crimes in the country**

There is no official data concerning racist and homo-/transphobic hate speech. Several NGOs document examples of hate speech by journalists and politicians and while they are indicative, they are not exhaustive. In its last report, ECRI recommended that the authorities monitor manifestations of stereotypes, prejudices and misconceptions of minority groups. However, little has been done in this regard, except by the Public Defender. ECRI recommends that the Georgian authorities establish an effective monitoring system for racist and homo-/transphobic hate speech.

The number of homo-/transphobic attacks in Georgia has grown in recent years.

ECRI was also informed that plans to create special units within the police to deal with racist and homo-/transphobic violence were discussed in the past, but that no further steps were taken.

24. ECRI recommends that the Georgian authorities establish an effective monitoring system for racist and homo-/transphobic hate speech. They should build on the expertise of the Public Defender and relevant NGOs.

35. Hate speech against LGBT persons ranges from insults in daily life to hateful comments made by politicians, journalists or members of the Georgian Orthodox clergy. The situation worsened during the discussion about the inclusion of sexual orientation and gender identity into the anti-discrimination law.

105. The Georgian authorities have no specific strategy to combat discrimination and intolerance against LGBT persons. Although the National Human Rights Strategy and its Action Plan include sexual orientation and gender identity, no effective measures have been implemented so far.

- **Legislative issues**

3. Language, religion and nationality are not listed as grounds in Article 142-1, but Article 142 prohibits "...violation of equality of human beings due to their language, sex, age, citizenship, origin, place of birth, place of residence, material or social status, religion or belief, social belonging, profession, marital status, health status, sexual orientation, gender identity expression, political or other opinion or any other ground that substantially violates human rights...". The prohibition in both articles, 142 and 142-1, is limited to acts that "substantially violate human rights". However, there is no case law to assess how this condition is interpreted.

8. The Law on the Elimination of All Forms of Discrimination was adopted on 2 May 2014 and entered into force on 7 May 2014. The purpose of the Law is to eliminate discrimination on the grounds of race, colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics (Article 1). The law prohibits direct and indirect discrimination (Articles 2.2 and 2.3 respectively). Article 2.7 allows for special measures intended to promote increased levels of de facto equality, which shall not be considered as discrimination. This is in line with ECRI's GPR No. 7, § 5. Furthermore, Article 2.5 prohibits "any action carried out for the purpose of forcing, encouraging, or supporting a person to discriminate against a third person". However, acts of segregation, discrimination by association, and announced intention to discriminate are not mentioned, as recommended in ECRI's GPR No. 7, § 6.

109. There is currently no recognised form of same sex partnerships in Georgia. This absence of recognition leads to various forms of discrimination in the field of social rights. In this regard, ECRI draws the attention of the authorities to the Recommendation CM/Rec(2010)5 of the Council of Europe's Committee of Ministers to member states on measures to combat discrimination on grounds of sexual orientation or gender identity.

110. The criteria for gender reassignment surgery are unclear and not standardised. The requirements for official recognition of a new gender identity and associated changes of documents are also vague.¹⁰³ ECRI would in particular like to draw the authorities' attention to Resolution 2048 (2015) of the Council of Europe's Parliamentary Assembly

- **List of recommendations from ECRI**

5. (§ 33) ECRI recommends that the authorities review their contracts with media outlets and cancel or not renew them in cases where media are known to engage in racist or homo-/transphobic hate speech. The authorities should also ensure that future contracts contain a clause stipulating that racist or homo- /transphobic hate speech will result in contract termination.

9. (§ 46) ECRI recommends that a provision prohibiting racist and homo- /transphobic insults and providing for measures and/or sanctions to be taken in case of its breach be introduced in the Parliament's Rules of Procedure. ECRI further recommends that all political parties take a firm stand against racist and homo-/transphobic discourse.

11. (§ 62) ECRI recommends close monitoring of whether the police investigates potential racist and homo-/transphobic motivations. Furthermore, ECRI recommends that racist and homo-/transphobic motivations are considered from the outset of judicial proceedings.

12. (§ 67) ECRI recommends that the training activities for the judiciary and law enforcement officials on investigating incidents of hate crime are scaled up. Furthermore, the trainings should cover homo-/transphobic hate crime. ECRI also recommends that the authorities conduct an impact assessment to evaluate the trainings and, if necessary, adjust them.

13. (§ 68) Moreover, ECRI recommends that the Georgian authorities set up a specialised unit within the police to deal specifically with racist and homo- /transphobic hate crime. When establishing this unit, the authorities should seek expert advice from the Public Defender, relevant NGOs and international organisations.

14. (§ 70) ECRI recommends informing the general public of the existence of criminal law provisions enabling racially motivated acts or acts of religious intolerance or homo-/transphobic acts to be punished; and to encourage victims to lodge complaints concerning such acts. ECRI also recommends initiating awareness raising programmes in schools and universities to combat racist and homo-/transphobic hatred.

22. (§ 108) ECRI recommends taking steps to combat intolerance and discrimination against LGBT persons. This should be done in close cooperation with the LGBT community and the Public Defender, who should receive support to establish a dedicated LGBT unit. Suitable elements for awareness-raising in schools should also be developed.

23. (§ 111) ECRI recommends that the authorities develop clear guidelines for gender reassignment procedures and their official recognition.