

ACCESS TO TARGETED SOCIAL ASSISTANCE
SYSTEM AND MECHANISMS FOR PROTECTING THE RIGHTS
OF PEOPLE LIVING IN POVERTY



SOCIAL
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CENTER

Access to Targeted Social Assistance System and Mechanisms for Protecting the Rights of People Living in Poverty



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Supervisor: Salome Shubladze
Researcher: Mariam Janiashvili
Researcher of International Practice: Khatuna Kvintskhadze
Research Assistant: Giga Karapetiani
Translator: Ketevan Sokhadze
Editor of Georgian Version: Medea Imerlishvili
Layout: Tornike Lortkipanidze
Cover Design: Roland Raiki

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Address: I. Abashidze 12b, Tbilisi, Georgia
Phone: +995 032 2 23 37 06

www.socialjustice.org.ge
info@socialjustice.org.ge
<https://www.facebook.com/socialjustice.org.ge>

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Introduction

The targeted social assistance program is a key component of Georgia's social protection system. It operates by assessing the socio-economic status of households using the Proxy Means Testing (PMT) methodology, which indirectly evaluates a family's welfare. Based on the score assigned, financial assistance in the form of a subsistence allowance is provided.

The targeted social assistance system has been in place for 18 years and continues to cover an increasing number of beneficiaries each year. As of August 2024, 680 833 people were receiving subsistence allowance, accounting for 18.43% of Georgia's population. This figure indicates that despite a reduction in the rate of absolute poverty in the country,¹ the number of people dependent on targeted social assistance is increasing, pointing to the socio-economic vulnerability of a significant segment of the population.

The targeted social assistance system is intrinsically complex, consisting of multiple interrelated stages, the interactions of which ultimately affect its overall effectiveness. One of the key phases is the re-evaluation of a family's score, which may also include an appeals process.

It is undeniable that access to legal protection mechanisms and the ability to appeal are crucial for the realization of any right. However, in the context of the targeted social assistance system, access to mechanisms for protecting rights becomes particularly vital. These mechanisms not only ensure the restoration of violated rights but also guarantee that individuals living in extreme socio-economic conditions receive the minimum support necessary for survival.

Decisions related to enrollment in the targeted social assistance program, score assignment, and the suspension or termination of assistance are made by the LEPL - Social Services Agency. While current regulations provide formal procedures for appealing the Agency's decisions, it is important to analyze how well the system meets the needs of individuals, whether it adequately considers their socio-economic vulnerabilities, and how effectively it supports them.

¹ According to data from the National Statistics Office of Georgia, the proportion of the population living in absolute poverty was 17.5% in 2021, 15.6% in 2022, and 11.8% in 2023. See National Statistics Office, Poverty and Gini Coefficients, <https://cutt.ly/SeOAFpDa>.

The aim of this study is to examine one of the crucial aspects of the targeted social assistance mechanism – namely, the re-evaluation of the assigned score and the appeals process – and to identify the barriers that significantly hinder individuals from exercising their social rights.

Methodology

In line with the research topics to be covered, both desk research and qualitative research methods were employed.

As part of the desk research, we examined sources such as:

- Relevant international standards, including binding standards established by the UN and the Council of Europe, along with definitions from international mechanisms (e.g., the UN Committee on Economic, Social and Cultural Rights);
- National standards, including laws and by-laws;
- Public information requested from the LEPL - Social Services Agency as part of the research;
- Court decisions available from public sources that pertain to aspects defined by the research on the administration of the subsistence allowance;
- Reports, studies, and articles from both international and national sources that examine the system's characteristics at global and local levels.

Furthermore, interviews were conducted with relevant stakeholders using a pre-designed questionnaire. Specifically, we carried out the following:

- An interview with the Deputy Director of the LEPL - Social Services Agency;
- A focus group discussion with four coordinators of social agents from the LEPL Social Services Agency;
- Interview with two representatives of the Public Defender's Office;
- Individual interviews with five persons in contact with the targeted social assistance system.

It should be noted that the LEPL - Social Services Agency provided only a small portion of the requested public information, which may be considered a major limitation of the research.

I. The Targeted Social Assistance System and Access to Legal Protection Mechanisms - Relevant International Standards

1.1. Where is the Right to Social Protection Guaranteed? An Overview of International Standards

The right to social protection and an adequate standard of living is upheld by several key international human rights documents. These include the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the UN Convention on the Rights of Persons with Disabilities, the UN Convention on the Rights of the Child, the European Social Charter, and others.

According to Article 22 of the Universal Declaration of Human Rights, everyone, as a member of society, has the right to social security. Article 25(1) states that everyone has the right to a standard of living adequate for their health and well-being, including food, clothing, housing, and medical care, as well as the right to social security in the event of unemployment, sickness, disability, widowhood, old age, or other circumstances beyond their control that result in the lack of means of livelihood.

Article 9 of the International Covenant on Economic, Social and Cultural Rights affirms that member states recognize the right of everyone to social security. Additionally, Article 11 guarantees the right to an adequate standard of living and underscores the human right to continually improve living conditions.

Significant provisions are also included in the European Social Charter, which contains various articles outlining the comprehensive obligations of states, including the establishment, maintenance, and strengthening of social protection systems, social support for individuals without adequate income, the provision of social assistance services for families, and efforts to combat poverty and social exclusion.²

Important regulations in the area of social protection are found in international instruments such as the UN Convention on the Rights of Persons with Disabil-

² European Social Charter, 1996, Articles 12-14, 16, and 30.

ities (2006), the UN Convention on the Rights of the Child (1989), and the UN Convention on the Elimination of All Forms of Discrimination Against Women (1979), among others.

It is important to note that Georgia is a signatory to all the aforementioned treaties and is therefore responsible for fulfilling the obligations they impose. The only exception is the European Social Charter, under which the country has recognized only a limited number of provisions³ related to the right to social protection as mandatory. This limitation significantly impedes the full implementation of international standards for social and economic welfare at the national level.

1.2. Mechanisms for Rights Protection and Appeal: A Review of International Standards

1.2.1. Why is Access to Rights Protection Mechanisms Crucial for Targeted Social Assistance Matters?

Alongside the aforementioned international instruments, which offer rather general definitions of rights and state obligations, it is essential to analyze the interpretations related to the social assistance system and the right to social protection provided by various relevant international mechanisms (such as UN Committees and UN Special Procedures), as it allows for a detailed examination of the significant elements of this right.

According to General Comment No. 19 of the UN Committee on Economic, Social and Cultural Rights, the right to social security is central to guaranteeing human dignity, especially when individuals face conditions that deprive them of the ability to enjoy rights guaranteed by the Covenant.⁴ In this context, social security plays a crucial role in poverty reduction and alleviation and helps prevent social exclusion.⁵

3 Note: these are Articles 12(1), 12(3), 14(1), and 14(2).

4 Committee on Economic, Social and Cultural Rights, General Comment No. 19: The Right to Social Security, E/C.12/GC/19, 2008, para. 1.

5 Ibid., para. 3.

The same document affirms that states have discretion to create various types of social security schemes, but their content must comply with the standards of the right to social security. Social security should be viewed as a social good and not merely as an instrument of economic or financial policy and individuals' rights to access benefits without arbitrary and unreasonable restrictions must be adequately guaranteed.⁶ The shift in the paradigm regarding social rights and the transformation from a charitable model to a human rights-based model has redefined recipients of social protection services as active rights-holders and established state accountability in this area.⁷

Although the mechanisms developed by states for social protection differ from one another, there are core principles that constitute the essential part of the rights to social security and an adequate standard of living, which the content of social protection programs must meet. These include equality and the prohibition of discrimination, transparency, accountability, access to information, and participation.⁸ Moreover, principles of adequacy, financial accessibility, and availability of services must be upheld in any type of policy implementation.⁹

The UN Special Rapporteur on Extreme Poverty and Human Rights discusses the phenomenon of “non-take-up” in social protection systems. This occurs when individuals entitled to social protection ultimately do not receive such benefits for various reasons – be it complex procedures, insufficient information, administrative barriers, or errors. The Rapporteur distinguishes between primary and secondary non-take-up. In the first case, certain social groups, such as informal workers, can be automatically excluded from social protection schemes, or individuals entitled to benefits face other obstacles in requesting these benefits. In the case of secondary non-take-up, some individuals do apply for benefits but do not receive them.¹⁰ The Special Rapporteur considers this phenomenon a fundamen-

6 Ibid., paras. 9, 10.

7 Report submitted by Ms. A.-M. Lizin, independent expert, pursuant to Commission resolution 1998/25, Human Rights and Extreme Poverty, E/CN.4/1999/48, 1999, para. 34.

8 Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, A/HRC/11/9, 2009, para. 22.

9 Regarding the content of the given principles, see Social Justice Center, Mariam Janiashvili, “The Role of Targeted Social Assistance in the Social Protection System and Its Connection with Other Social Support Services,” 2023, pp. 13–14.

10 Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter, A/HRC/50/38, 2022, para.6.

tal challenge encountered in most countries. Paradoxically, it disproportionately harms the most marginalized and socially isolated groups – those who need social assistance the most.¹¹ The Special Rapporteur asserts that, regardless of the reasons, the phenomenon of non-take-up is a failure of the social protection system and not an individual problem. Consequently, its elimination should be a priority for social security systems.¹²

Given the aforementioned challenges, the implementation and effective use of appeal mechanisms in social protection systems, according to international standards, is part of the state's obligation in administering social security systems and represents a significant indicator of good governance.¹³

It should be noted that the importance of guaranteeing the right to substantive review and consideration of decisions regarding the allocation/distribution of targeted social assistance increases due to the peculiarities of this support mechanism. Such systems (targeted social assistance) are not universal but rather aimed at specific groups living in poverty, thus requiring special instruments to identify beneficiaries in need. Based on international experience, these instruments may be refined and exhibit varying degrees of sensitivity to needs; however, they can never identify all individuals living in poverty.¹⁴ Consequently, they face inclusion and exclusion errors, which may result in individuals needing support being left outside social assistance programs.

Considering the potential errors inherent in the design of targeted programs, social protection programs in various countries either: 1. do not provide for an appeals mechanism at all (e.g., financial assistance programs in Brazil, Costa Rica, and Chile); 2. provide for an appeals mechanism but do not use it in practice (e.g., financial assistance programs for vulnerable children in Kenya); or 3. have a rights protection mechanism but apply it only in limited cases (e.g., the conditional financial assistance program in the Philippines).¹⁵ Re-

11 *Ibid.*, paras. 10-11.

12 *Ibid.*, para. 12.

13 International Labour Organization, *Complaints and Appeals Mechanisms: Protecting the Right to Social Security*, 2021, p. 4.

14 World Bank Group, *Revisiting Targeting in Social Assistance: A New Look at Old Dilemmas*, 2022, p. 308.

15 Kidd, S., *Social Exclusion and Access to Social Protection Schemes*, 2014, p. 27.

ardless of whether a targeted program includes an appeals mechanism, the substantive consideration of cases involving violations of individuals' rights (especially in cases of indirect assessments of welfare) is practically impossible due to the design of the programs.¹⁶

A similar argument is made by the UN Economic Commission for Latin America, which states that when social protection programs are not universal in a country, careful examination of targeted mechanisms from a human rights perspective is necessary. The more complex and intricate the methods for calculating targeted programs, the more ambiguous the criteria for who falls under the program will be, ultimately complicating or preventing oversight by beneficiaries. Moreover, the less transparent the process, the more difficult it will be for individuals to gain access to these programs, leading them to perceive the program not as a right but as a political instrument.¹⁷ Ultimately, transparency entails, on the one hand, ensuring that information about various components of financial assistance mechanisms (e.g., eligibility criteria, methodology, nature of benefits, appeals mechanisms) is accessible to everyone, and on the other hand, empowering beneficiaries and society at large to identify the roles and responsibilities of all interested parties.¹⁸

Moreover, the effective use of appeals mechanisms allows for the assessment and improvement of existing programs, better aligning them with community needs, while enabling courts to identify violations of constitutional or international instruments, thus driving progressive reforms.¹⁹

16 Kidd, S., Gelders B., Bailey – Athias D., Exclusion by design: An assessment of the effectiveness of the proxy means test poverty targeting mechanism, 2017, p. 14.

17 United Nations Economic Commission for Latin America and the Caribbean, the Rights-based Approach to Social Protection in Latin America: from Rhetoric to Practice, 2014, p. 21.

18 Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, A/HRC/11/9, 2009, paras. 45 – 46, 99.

19 World Bank Group, Revisiting Targeting in Social Assistance: A New Look at Old Dilemmas, 2022, p. 221; International Labour Organization, Complaints and Appeals Mechanisms: Protecting the Right to Social Security, 2021, p. 3.

1.2.2. What Barriers Do People Living in Poverty Face in Accessing Appeals Mechanisms?

As mentioned above, ensuring access to grievance and rights protection mechanisms is especially crucial for people living in poverty. This assertion is supported by the negative consequences experienced by individuals when they are denied access to basic welfare benefits, along with the various barriers that socially vulnerable groups encounter in trying to obtain those benefits.

The UN Special Rapporteur on Extreme Poverty and Human Rights categorizes the barriers faced by people living in poverty when accessing rights protection mechanisms into several key areas.²⁰ These include:

Social and Cultural barriers

Due to the asymmetry of power, stigma, discrimination, and significant socio-economic challenges, individuals living in poverty often refrain from seeking legal protection for their rights.

One of the main challenges preventing people living in poverty from seeking legal remedies is the fear of retaliation, especially considering the high likelihood that they have already experienced arbitrary actions by state institutions, neglect of their needs, corruption, and decisions made against their interests.²¹

Due to numerous structural and institutional challenges, people living in poverty have limited knowledge about their rights, particularly socio-economic rights, the state's obligations, and the mechanisms available to protect those rights. This issue is especially problematic when it comes to adequately informing individuals or groups facing dual or multiple vulnerabilities (e.g., persons with disabilities, women, ethnic minorities).²²

20 See: Report of the Special Rapporteur on extreme poverty and human rights, A/67/278, 2012.

21 Ibid., para. 21.

22 Ibid., paras. 17, 24 – 25.

Legal Barriers

In addition to socio-economic factors, one of the main barriers to accessing legal protection mechanisms is legislative regulations that either fail to acknowledge the challenges faced by people living in poverty or even encourage their discrimination and segregation.²³

A particularly problematic issue is the absence of effective mechanisms for responding to social policy initiatives and related administrative decisions. This shortcoming is tied to the challenges or lack of deliberation concerning social and economic rights at the local level. As a result, the state's measures in the realm of social protection are often perceived not as components of human rights protection, but rather as acts of goodwill and charity.²⁴

Institutional and Structural Barrier

A significant issue in accessing mechanisms for the protection of rights is the geographical barriers to access. People living in remote regions have to travel long distances, often at their own expense, to refer to these mechanisms. This situation is particularly problematic for the elderly, persons with disabilities, women, and children, ultimately depriving them of access to justice.

When considering access to mechanisms for the protection of rights, it is essential to account for beyond geographical factors. A significant barrier is the lack of accessibility in the appeals process for individuals with diverse needs. Such barriers arise, for example, when administrative buildings are not accessible to individuals with mobility challenges, or when complaint forms are not adapted for those with visual disabilities. Without effective policies to eliminate these barriers, a significant portion of the community remains excluded from rights protection mechanisms.

Another significant administrative barrier is the inadequate resources (both financial and human) of the relevant agencies. As a result, the mechanisms for responding to rights violations are often slow, flawed, and less responsive to the

23 Ibid., paras. 28– 29.

24 Ibid., paras. 31– 32.

needs of people living in poverty.²⁵ Even more problematic is the presence of corruption within such systems, as well as the lack of sensitivity among representatives of these mechanisms towards individuals living in poverty, coupled with stigmatizing attitudes.²⁶

Among the most significant challenges are the financial costs associated with filing complaints and obtaining legal assistance, which are closely linked to individuals' dire socio-economic conditions. People living in poverty encounter substantial financial barriers when seeking legal consultations, gathering necessary documentation for legal proceedings, notarizing documents, and participating in hearings before courts and administrative bodies. This issue is particularly pressing for those engaged in domestic work and caregiving, the majority of whom are women. Due to the intensity and nature of their responsibilities, they may be unable to leave their homes to file a complaint or attend hearings related to their cases.²⁷

The inadequacy or absence of legal assistance

In light of the challenges mentioned above, access to free and adequate legal assistance is crucial for individuals living in poverty. Conversely, excluding certain categories of cases from free legal aid or limiting the availability of free legal representation in quasi-judicial mechanisms amounts to discrimination.²⁸

In many cases, the provision of free legal assistance is means-tested and subject to several restrictions. The UN Special Rapporteur on Extreme Poverty and Human Rights notes that the mechanisms for targeting beneficiaries are often inaccurate and do not adequately identify the challenges faced by individuals.²⁹

25 Ibid., paras. 41–42.

26 Ibid., paras. 45–47, 57–59.

27 Ibid., para. 56.

28 Ibid., para. 62.

29 Ibid., para. 63.

Shortcomings of the Judicial System

In addition to the numerous systemic barriers mentioned above, the quality of rights protection for individuals living in poverty is significantly impacted by shortcomings in the judicial system. Inadequate resources and logistical support often lead to unjustified delays in the decision-making and enforcement processes. This challenge disproportionately affects those living in poverty, as their access to justice can be crucial to their very survival.³⁰

1.2.3. What Requirements Should Rights Protection Mechanisms Meet?

It is important for the state to understand that the right to social protection does not end with the mere guarantee of social support mechanisms on paper; it must translate into effective coverage for the population and practical enjoyment of this right, where good governance and an independent judiciary play a crucial role.³¹ To this end, the UN Committee on Economic, Social and Cultural Rights notes that a series of measures must be implemented, including:

- Developing an adequate national legislative framework that, among other issues (e.g., objectives and strategies set in the field of social protection, institutional responsibility, etc.), includes provisions for monitoring mechanisms and rights protection measures;
- Ensuring the right to social protection is incorporated into national strategies and action plans. The indicators in these documents should encompass the key elements of the right to social protection (e.g., adequacy, coverage of social risks and contingencies, financial accessibility, and availability), address issues of discrimination and equality, and cover all individuals;
- Ensuring legal protection mechanisms and judicial oversight for violations of the rights outlined in the Covenant.³² The UN Committee on Economic, So-

³⁰ Ibid., paras. 68 – 69.

³¹ Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter, A/HRC/50/38, 2022, para. 5; Committee on Economic, Social and Cultural Rights, General Comment No. 19: the Right to Social Security, E/C.12/GC/19, 2008, para. 70.

³² Committee on Economic, Social and Cultural Rights, General comment No. 3: The Nature of States Parties Obligations, (art. 2, para. 1, of the Covenant), 1990, para. 5; Committee on Economic, Social and Cultural Rights, General Comment No 9: The Domestic Application of the Covenant, E/C.12/1998/24, 1998, paras. 2, 8; Committee on Economic, Social and Cultural Rights, General Comment No. 19: the Right to Social Security, E/C.12/GC/19, 2008, para. 72, 75.

cial and Cultural Rights emphasizes that incorporating relevant international social protection instruments into the national legal system will significantly enhance the application of Covenant provisions by national courts and improve the functioning of mechanisms for addressing rights violations.³³

When transferring large sums of money to beneficiaries, numerous questions arise regarding the potential abuse of power by those responsible for administering the program. Therefore, considering the existing asymmetry of power between the implementers of social programs and the beneficiaries, the existence of an accountability system is crucial.³⁴ Accountability, along with other principles (such as participation and transparency), is an integral part of a human rights-based approach and helps to prevent corruption, abuse of power, mismanagement, and political manipulation.³⁵

Without accountability mechanisms, social programs are viewed not as rights and assistance but as tools of patronage, clientelism, and political manipulation.³⁶ Therefore, the state must establish accessible and effective accountability mechanisms that enable scrutiny of any actors (including policymakers) whose actions have affected the rights of individuals living in poverty.³⁷ Such oversight mechanisms are particularly crucial at three key stages: 1. Possibility of inclusion in the program; 2. program administration (to ensure appropriate notification in cases of power abuse); and 3. the process of providing financial assistance.³⁸

33 Committee on Economic, Social and Cultural Rights, General Comment No. 19: the Right to Social Security, E/C.12/GC/19, 2008, para. 79.

34 United Nations Economic Commission for Latin America and the Caribbean, *the Rights-based Approach to Social Protection in Latin America: from Rhetoric to Practice*, 2014, p. 31.

35 Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, A/HRC/11/9, 2009, para. 44; Report of the independent expert on the question of human rights and extreme poverty, A/64/279, 2009, paras. 71, 74; OHCHR, *Guiding Principles on Extreme Poverty and Human Rights*, 2012.

36 United Nations Economic Commission for Latin America and the Caribbean, *the Rights-based Approach to Social Protection in Latin America: from Rhetoric to Practice*, 2014, pp. 31; Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, A/HRC/11/9, 2009, para. 47.

37 Report of the independent expert on the question of human rights and extreme poverty, A/63/274, 2008, para. 25; Also. see: Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, A/HRC/14/31, 2010, para. 56.

38 Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, A/HRC/11/9, 2009, para. 47.

According to the UN Committee on Economic, Social and Cultural Rights, effective mechanisms for protecting rights should not be limited to judicial recourse alone. In many instances, intervention by administrative bodies can also facilitate the realization of the rights enshrined in the Covenant. It is essential that administrative procedures are effective, accessible, financially feasible, and timely.³⁹ Furthermore, there should be the possibility of judicial recourse following the completion of administrative procedures. The UN Committee emphasizes that any individual or group should have access to international mechanisms in cases of violations of the right to social protection.⁴⁰

A human rights-based approach requires the existence of appeals mechanisms that meet the following criteria: impartiality, transparency, effectiveness, simplicity, timeliness, accessibility, and financial feasibility.⁴¹ To reduce the power imbalance created within the system, the appeals mechanisms should accommodate both individual and collective complaints, ensure guarantees of anonymity, be culturally appropriate, gender-sensitive, and adequately resourced.⁴² The right to social protection also encompasses the provision of legal assistance in cases of rights violations.⁴³

According to the Independent Expert on Human Rights and Extreme Poverty, anonymous and free hotlines in Argentina, Brazil, and Mexico have exposed instances of clientelism and corruption.⁴⁴

39 Committee on Economic, Social and Cultural Rights, General Comment No 9: The Domestic Application of the Covenant, E/C.12/1998/24, 1998, para. 9.

40 Committee on Economic, Social and Cultural Rights, General Comment No. 19: the Right to Social Security, E/C.12/GC/19, 2008, para. 77.

41 International Labour Organization, R202 - Social Protection Floors Recommendation, 2012 (No. 202), para. 7; Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter, A/HRC/50/38, 2022, para. 5; Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, A/HRC/11/9, 2009, para. 48; Sepúlveda M., Nyst C., *The Human Rights Approach to Social Protection*, 2012, Recommendation No. 29.

42 Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, A/HRC/11/9, 2009, para. 48, 99; Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, A/HRC/14/31, 2010, para. 81.

43 Committee on Economic, Social and Cultural Rights, General Comment No. 19: the Right to Social Security, E/C.12/GC/19, 2008, para. 77; Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, A/HRC/11/9, 2009, para. 49.

44 Report of the independent expert on the question of human rights and extreme poverty, Magdalena Sepúlveda Carmona, A/HRC/11/9, 2009, para. 48.

It is important to emphasize the state's obligation to ensure access to information related to the content of social rights, social protection programs, and appeals mechanisms while considering geographical, financial (e.g., the absence of free access to laws and by-laws), technological, and linguistic barriers in this process.⁴⁵ In terms of access to information, the transparency of the eligibility criteria for social protection services is particularly crucial. This transparency becomes unattainable if receiving specific benefits is linked to complicated procedures, including complex methodologies.⁴⁶ One study highlights such challenges through the example of Armenia, where information about the program and its methodology was published, but it employed a Proxy Means Testing methodology that was difficult to understand and subsequently appeal.⁴⁷

Additionally, international standards indicate that to ensure access to mechanisms for the protection of rights, national human rights institutions must have the capacity to respond to violations of these rights. Furthermore, the state should provide support to judges and lawyers to ensure they pay appropriate attention to violations of the right to social protection while carrying out their responsibilities.⁴⁸ The state is also obliged to respect, protect, and promote the activities of human rights defenders and other representatives of civil society, so that vulnerable and marginalized individuals and groups can realize their right to social protection through their efforts.⁴⁹

1.3. Key Interpretations by International and Foreign Courts: A General Overview

The European Court of Human Rights examined the case of *Moskal v. Poland*, where the applicant retired early to care for his child's health.⁵⁰ However, one year later, his pension was revoked on the grounds that his child's health condition did not require constant parental care. The appeal against the decision to terminate

45 Report of the Special Rapporteur on extreme poverty and human rights, A/67/278, 2012, paras. 27, 96; Kidd, S., *Social Exclusion and Access to Social Protection Schemes*, 2014, p. 26.

46 Kidd, S., *Social Exclusion and Access to Social Protection Schemes*, 2014, p. 28.

47 Ibid., Coady, D., Grosh, M., & Hoddinott, J. (2002). *Targeting of Transfers in Developing Countries: Review of Experience and Lessons*. p. 53.

48 Ibid., para. 48; Committee on Economic, Social and Cultural Rights, General Comment No. 19: the Right to Social Security, E/C.12/GC/19, 2008, paras. 77, 80.

49 Committee on Economic, Social and Cultural Rights, General Comment No. 19: the Right to Social Security, E/C.12/GC/19, 2008, para. 81.

50 *Moskal v. Poland* (no. 10373/05), 2010; <https://cutt.ly/heTymRF6>.

the pension was unsuccessful. Subsequently, two years later, in a different legal proceeding, he was awarded a benefit amounting to half of the previously granted pension. Before the European Court, the applicant asserted that his rights to property and to a fair trial were violated in relation to Article 14 of the Convention.

In the context of property rights, the court underscored the significance of the principle of good governance, asserting that public authorities are obligated to act with due diligence, particularly in matters of substantial importance to individuals, such as social benefits. In the case at hand, the court determined that the authorities did not execute their responsibilities with the requisite promptness, appropriateness, and consistency.⁵¹

In light of the importance of social justice, the court determined that public authorities should not be prohibited from correcting permissible errors, even if they arise from negligence. A contrary conclusion would contradict the doctrine of unjust enrichment. This would also be unfair to those individuals who contribute to the social security fund and could lead to the misallocation of limited public resources. However, these general principles cannot outweigh situations where an individual bears an excessive burden due to the withdrawal of their benefits. If an error was made by the public authorities without any fault from third parties, a different proportionality approach should be adopted to assess the extent of the burden imposed on the applicant. In this context, the court noted that the applicant had completely lost their unemployment benefits and considered the risk that they might struggle to find new employment due to their age and the economic conditions of the country.⁵² Thus, the court found the burden placed on the applicant to be excessive and determined that the state failed to maintain a fair balance between the general interests of society and the fundamental rights of the individual.

Similarly, in the case of *Čakarević v. Croatia*, the court examined the issue of retrospective recovery of unemployment benefits that were granted in error. The court determined that the applicant had a legitimate expectation, under Article 1 of Protocol No. 1 of the Convention, to receive the benefit as a lawfully granted assistance. The court noted that the nature of this benefit was to support the fulfillment of basic living needs and took into account that at the time of receiving

⁵¹ *Ibid.*, para. 72.

⁵² *Ibid.*, paras. 73-74.

the benefit, the applicant had a legitimate expectation that access to the funds awarded would not be called into question.⁵³

The court considered the individual's financial and personal circumstances and concluded that the obligation to repay the mistakenly granted unemployment benefits imposed an excessive burden on the individual. Specifically, this benefit represented a significant sum for the applicant, particularly given that it was his sole source of income. The funds had been used to meet essential basic needs, and the applicant also faced mental health challenges and had been unable to work for an extended period. Consequently, the court found a violation of Article 1 of Protocol No. 1 of the Convention.⁵⁴

The U.S. Supreme Court, without an oral hearing, assessed the constitutionality of terminating social welfare benefits in several cases. For example, in *Kelly v. Wyman*,⁵⁵ the applicants challenged the fairness of welfare administration, particularly the termination of benefits without a prior oral hearing. The court indicated that for welfare recipients facing dire need, the withdrawal of benefits without a prior evidentiary hearing is unjust unless there are compelling reasons.

In the case of *Mathews v. Eldridge*,⁵⁶ the claimant challenged the administrative regulations of the Department of Health, Education, and Welfare, which allowed for the termination of disability benefits when the existence of the disability was in dispute. According to these procedures, individuals who had their benefits terminated could request a review only within six months of the termination. The claimant argued that the inability to appeal beyond that timeframe violated their right to due process under the Fifth Amendment of the Constitution.

The Supreme Court concluded that the existing administrative procedures fully complied with due process requirements. Unlike previous cases, disability benefits were not based on financial need. The Court noted that individuals seeking disability benefits typically do not rely on this assistance as their primary source of income. Additionally, the Court emphasized that oral hearings would be less effective for resolving disability claims, which are primarily based on medical ev-

53 Čakarević v. Croatia (no. 48921/13), 2018, 3060. 64-65; <https://cutt.ly/peTymV4S>.

54 Ibid., para. 87-91; See also, *Romeva v. North Macedonia*, 2019, paras. 66-79.

55 *Kelly v. Wyman*, 294 F. Supp. 893 (S.D.N.Y. 1969), <https://cutt.ly/SeTyWhNQ>.

56 *Mathews v. Eldridge*, 424 U.S. 319 (1976), <https://cutt.ly/8eTyWmIO>.

idence. Ultimately, the Court determined that an evidentiary hearing model is neither necessary nor the most effective method of decision-making in all cases.

The U.S. Supreme Court developed a two-step test for assessing due process claims. First, the Court examines whether the issue at hand implicates due process protections, that is, whether the government's actions have violated liberty or property interests protected by the right to due process. This step requires analyzing the nature or significance of the interest at stake. If the interest is found to be constitutionally significant, the Court then determines what procedural safeguards are required to protect that right. To determine when due process is required, the Court applies a balancing test: the need for procedural protections for the individual is weighed against the government's interest.

The Court focused on the nature of the claim, finding that disputes over disability benefits are based on medical evidence, which can be more easily documented and submitted in written form. In contrast, social welfare cases are often more effectively resolved through oral hearings and questioning. In the case at hand, the Court also noted that the recipient had been periodically sent detailed questionnaires, had access to full information, and could submit updated information at any time. Therefore, the Court concluded that the value of an oral hearing in this context would be minimal.⁵⁷

57 Soeka E.M., Constitutional Law: Due Process: Termination of Social Security Benefits: Prior Evidentiary Hearing Not Required (*Matthews v. Eldridge*), "Marquette Law Review", 1976, Vol. 60, Issue 1.

II. The Targeted Social Assistance System in Georgia – How Are People Punished When Left Out of the System?

According to the Constitution, Georgia is a social state, which, among other things, means that the state is committed to strengthening the principles of social justice, social equality, and social solidarity in society. It also entails ensuring equal social and economic development across the entire territory of the country, safeguarding people’s health and social protection, providing a minimum standard of living and decent housing, and caring for the welfare of families.⁵⁸

Moreover, according to Article 9, Paragraph 1 of the Constitution of Georgia, human dignity is inviolable and is protected by the state. As interpreted by the Constitutional Court, “the protection of human dignity is something that unconditionally belongs to every person from the state. Dignity implies a social demand for respect from the state towards individuals.”⁵⁹

Over the years, there has been an active discussion regarding the assessment of rights related to the social assistance system.⁶⁰ As evident from practice, certain cases related to this issue are reviewed by the judiciary; however, this process is characterized by a number of problems (see sections 2.2 and 2.3).

Notably, the Supreme Court of Georgia has clarified that social rights are connected to individuals’ vital interests. According to the Court, *“It is the function of the state to ensure the resolution of public interests for its citizens, including social issues, during which the state provides assistance to certain categories of individuals. One of the public functions of governance in the social sphere is to establish a coherent system of social assistance in the country that ensures fair, targeted, and effective support for the population. The principles of administrative law – legality, rule of law, equality before administrative bodies, impartiality, etc. – fully apply to the actions of the Social Assistance Agency.”*⁶¹

58 The Constitution of Georgia, 1995, Art. 5.

59 Decision No. 2/2/389 of the Constitutional Court of Georgia, October 26, 2007, in the case of “Georgian citizens Maia Natadze and others v. Parliament of Georgia and President of Georgia,” para. 30, <https://cutt.ly/neTuEAot>.

60 Vakhang Natvlishvili, “Imbeciles, Drunkards, Beggars” - A Brief History of Social Law in Georgia, 2022, <https://cutt.ly/BeTuEGAR>.

61 Decision of the Administrative Chamber of the Supreme Court of Georgia, Case №bs-509-506 (2k-17), 30.11.2017.

On the other hand, the Constitutional Court has assessed the dimension of the right to human dignity in the context of the administration of social assistance. In the case of “*Georgian citizen Tamar Tandashvili v. Government of Georgia*,” the Court indicated that social assistance serves to meet individuals’ primary needs, ensure physical survival, foster developmental prospects, and facilitate integration into society.⁶² The Court clearly stated that treating a person as a mere object of legal consideration and exploiting their severe social condition to achieve objectives is incompatible with the right to dignity.⁶³

The aim of this chapter is to discuss the legislative and practical aspects related to the granting or reissuing of the socially vulnerable status score, the de-registration of families living in poverty from the social assistance system, and the protection of their rights, considering the peculiarities of the social assistance system in Georgia.

2.1. Key Features of the Targeted Social Assistance System

The targeted social assistance in Georgia is the primary mechanism for supporting persons living in poverty. It is administered at the central government level, with the Social Service Agency being responsible for its functioning. To qualify for the allowance, individuals must be registered in the unified database of socially vulnerable families and have a score below the legislatively established threshold. Specifically, for households where all members are over 16, the prerequisite for receiving the allowance is a rating score of 65 000 or lower, while households with members under 16 must have a score of 120 000 or lower. In these cases, families receive between 30 to 60 GEL per month for each member over 16 and 200 GEL for each member under 16.

As noted above, the prerequisite for involvement in the system is for the household to have a rating score below the legally defined threshold. The process for score allocation and receiving the allowance consists of the following phases: 1. Submission of an application by a family representative at the territorial office of the Social Service Agency; 2. A visit by a social agent to the family within one

62 Decision of the Constitutional Court of Georgia, May 11, 2018, №2/3/663, in the case “*Citizen of Georgia Tamar Tandashvili v. The Government of Georgia*,” paras. 48-49; <https://cutt.ly/8eTuRmRl>.

63 *Ibid.*, para. 53.

month of the application to assess the social and economic situation based on a legally defined instrument; 3. Inputting the information obtained from the assessment into a specialized program; 4. Generation of the family's welfare score by the program.⁶⁴ According to legislation, following the initial assessment, the Agency is required to periodically, but at least once every four years, verify the social and economic conditions of the families.⁶⁵

The assessment of the social and economic conditions of families applying for social assistance and the allocation of scores is carried out in accordance with a special methodology. This methodology is based on the indirect assessment method of household welfare (PMT), which is characterized by inclusion and exclusion errors. The system in Georgia has evolved and improved over the years – the latest version of the methodology was approved by the Georgian government on December 31, 2014, after which it underwent 12 technical and substantive changes.⁶⁶

Despite the changes, many households in need of support potentially remain outside the system due to flaws in the methodology.⁶⁷ Various studies confirm this. For example, a study conducted by the International Labour Organization in 2018⁶⁸ found that targeted child assistance covered only 43% of the poorest decile⁶⁹ of minors. According to UNICEF's 2019 study,⁷⁰ 76% of the poorest decile and 39% of the second decile of households received some form of social assistance. Considering the design of the program, the International Labour Organization's

64 Social Justice Center, Ana Diakonidze, "Targeted Social Assistance in Georgia: Social Impact of the Program and Potential of Poverty Alleviation", 2023, p. 10.

65 Ordinance No. 126 of the Government of Georgia, April 24, 2010, on "Measures for Reducing the Level of Poverty in the Country and Improving Social Protection of the Population," Annex No. 1, Art.1 2 (5).

66 Ordinance No. 758 of the Government of Georgia, dated December 31, 2014, on the Approval of the Methodology for Assessing the Socio-Economic Status of Socially Vulnerable Families (Households).

67 Regarding the flaws in the methodology, see: Social Justice Center, Ana Diakonidze, "Targeted Social Assistance in Georgia: Social Impact of the Program and Potential of Poverty Alleviation", 2023.

68 International Labour Organization, UN Women, Assessment of the Social Protection System in Georgia, Final Report, 2020, p. 23.

69 In the case where the population is divided into 10 groups based on income, each group represents a decile.

70 UNICEF, A Detailed Analysis of Targeted Social Assistance and Child Poverty and Simulations of the Poverty – Reducing Effects of Social Transfers, 2019, p. 5, 13.

research indicates that the highest number of complaints regarding services within the social protection system is related to the targeted social assistance system.⁷¹

Despite this, the number of people involved in the program has been increasing over the years. The number of beneficiaries has notably grown in recent years. As of August 2024, 680 833 individuals receive subsistence allowance (18.43% of the Georgian population), while 1 252 114 people are registered in the database of socially vulnerable individuals (33.6% of the population).⁷²

In light of the aforementioned statistical data, a study conducted by ACT-Global is particularly noteworthy, as it examined social assistance along with other social protection programs. According to the study, despite 18 years since the program's initiation, only 62.1% of households in Georgia are aware of the social assistance program.⁷³ For 12.1% of those informed about the program, obtaining information on how to register presented a challenge.⁷⁴

One of the main issues people discussed in the aforementioned study is the program's design and its unfairness. Moreover, 26.5% of beneficiary households disagreed with the score they received, while 73.2% of families that remained outside the program also expressed disagreement.⁷⁵ Another challenge mentioned by survey participants is the amount of support received through the program – 72% of beneficiaries indicated that buying groceries for their families is a problem.⁷⁶

According to the UNICEF report from 2020, the Social Service Agency conducts 5 000 to 6 000 assessments each week, with approximately half of these being routine checks for beneficiaries and the other half requested by households.⁷⁷ Considering the statistical data, each social worker is responsible for assessing about

71 International Labour Organization, UN Women, Assessment of the Social Protection System in Georgia, Final Report, 2020, p. 2, 32.

72 Statistical data from the LEPL Social Service Agency, Social Assistance - <https://cutt.ly/ZeTaJQ5m>; Database of the Targeted Social Assistance Program - <https://cutt.ly/oeTaKsRn>.

73 ACT Global, Knowledge Attitudes and Practices (KAP) Survey on Social Protection Programs & Services in Georgia, 2022, p. 7.

74 Ibid., p. 50.

75 Ibid., p. 31.

76 Ibid., p. 64.

77 United Nations Children's Fund (UNICEF), Georgia Social Protection System Readiness Assessment, 2020, p. 15.

170 cases per month.⁷⁸ UNICEF noted that, at the time of the study, there were no significant challenges in terms of human resources (except for agents working in densely populated areas, who are quite overloaded); however, if the number of citizen requests for assessments increases, the program may face challenges in managing additional workloads, especially since there were “no plans for acquiring additional human resource capacity, for example by hiring and training new social agents or training some other public sector employees as social agents.”⁷⁹

In light of the above context, it is also noteworthy that another finding by the United Nations Children’s Fund (UNICEF) indicates that the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, along with the LEPL - Social Service Agency, lacks the capacity for systematic monitoring of the functioning of the targeted social assistance program, making it challenging to evaluate the program’s effectiveness in addressing the needs of the population living in poverty.⁸⁰

2.2. 1 Year Before Reassessment - How Regulations Fail to Address Needs of the Population?

As mentioned above, to qualify for the targeted social assistance, a household must score below the legally established threshold. Due to flaws in the welfare assessment methodology, families living in poverty may be assigned disproportionately high scores relative to their socio-economic status. As a result:

- Households may receive assistance but, due to their score, might receive less support than what corresponds to their social and economic conditions;
- Members of the household aged 16 and over may not qualify for social assistance, while monthly aid of 200 GEL may still be provided for minors under 16 living in the household (if there are children present);
- A household may not receive any social assistance at all and could miss out on several essential municipal services tied to the socially vulnerable score⁸¹ (e.g., free meal programs, one-time or ongoing municipal cash assistance).

78 Ibid.

79 Ibid.

80 Ibid.

81 Regarding this issue, see: Social Justice Center, Mariam Janiashvili, “ The Role of Targeted Social Assistance in the Social Protection System and Its Connection with Other Social Support Services,” 2023.

Given the importance of the welfare score for a family's well-being, it is crucial that any questions or inaccuracies related to this score are addressed promptly. Unfortunately, despite this significance, the current regulations are not tailored to meet the needs of those seeking assistance. Moreover, families often wait for months to have their scores reassessed.

According to the law, the assigned score can be reviewed for correction if any of the criteria used by the social agent are recorded inaccurately. Data corrections, which could lead to changes in the score, are allowed within 90 days from the family's socio-economic assessment. For this, an authorized family representative must submit a written request to the Social Service Agency, along with relevant documentation, if necessary.⁸²

If the data considered for assessing the socio-economic status of a household is accurately recorded and not subject to correction, the household will need to wait at least one year for a re-assessment. The normative framework governing this issue disregards the dynamic nature of socio-economic vulnerability and states that “[the household’s] assigned rating score is a fixed unit, which, as a rule, can be changed no earlier than one year after it has been assigned.”⁸³ Therefore, a household registered in the database, which believes that the assigned score does not reflect its actual socio-economic status, has the right to request a re-assessment only after one year has passed since the score was granted.⁸⁴

It is important to note that the legislation allows for a re-assessment to take place before the one-year period elapses. For instance, the Agency is authorized to initiate a re-assessment of a registered household's socio-economic status at its discretion.⁸⁵ However, based on the regulation's wording, it is clear that such re-assessment is at the Agency's discretion, and it does not guarantee that the household's status will be reviewed before the legally defined period. To gain further clarity, during the research process, the Social Justice Center requested public information from the Social Service Agency. However, the Agency did not provide statistics on re-assessments conducted before the one-year period.

82 Ordinance No. 126 of the Government of Georgia, April 24, 2010, on “Measures for Reducing the Level of Poverty in the Country and Improving Social Protection of the Population,” Annex No. 1, Article 9 (2).

83 Ibid.; Article 12 (2).

84 Ibid.; Article 10 (6).

85 Ibid.; Article 10 (5).

A second instance in which a family's reassessment might occur before the one-year mark is through the court appeal process. According to publicly accessible court rulings, disputes over a family's socio-economic assessment and the assigned score are relatively uncommon, with such cases being even rarer in regions.

As evident from publicly available court rulings, the courts cannot evaluate the adequacy of the social vulnerability score assigned to families. Some decisions indicate that the score is calculated by a computer system, taking into account various factors, making a detailed examination of the scoring process impossible due to the system's design.⁸⁶ If the Social Services Agency conducted the process in compliance with formal legal requirements, the court typically considers the family's potential severe socio-economic condition but does not grant a request for reassessment.

On the other hand, some publicly available court decisions indicate that the assessment was technically flawed (e.g., the social agent incorrectly or inaccurately filled out a specific section) and/or that the Agency failed to investigate all necessary information for the assessment process, leading the Agency to request a re-evaluation of the family.⁸⁷ However, based on the existing methodology for calculating the score, the likelihood that a re-evaluation will result in a lower score and the awarding of social assistance is relatively low.

In this regard, the practice of the Supreme Court of Georgia is also noteworthy. Publicly accessible decisions indicate that the Social Service Agency has repeatedly appealed second-instance court rulings that ordered a reassessment of a household's status. In the majority of these cases, the Supreme Court points out that the appeal does not meet the requirements of the Administrative Procedure Code of Georgia and is not admissible.⁸⁸

86 For example, see the decision of the Batumi City Court's Administrative Cases Chamber, Case No. 010310017002189446, dated May 11, 2018; the decision of the Kutaisi City Court's Administrative Cases Chamber, Case No. 80310019002904400, dated May 21, 2019; and the decision of the Tbilisi City Court's Administrative Cases Chamber, Case No. 3/889-18, dated April 5, 2018.

87 For example, see Telavi District Court decision, Case №200310019003070058, 12.12.2019; Rustavi City Court decision, Case №3-9-19, 4.04.2019; Kutaisi City Court's Administrative Cases Chamber decision, Case №080310018002247393, 12.04.2018.

88 For example, the decision of the Administrative Chamber of the Supreme Court of Georgia, Case №BS-570-563(K-15), 12.11.2015; the decision of the Administrative Chamber of the Supreme Court of Georgia, Case №BS-819(K-19), 16.01.2020; the decision of the Administrative Chamber of the Supreme Court of Georgia, Case №BS-450(K-23), 11.07.2023.

Appealing the Socially Vulnerable Score – Cases from Judicial Practice

Case №1

As a result of an evaluation by a social agent, a one-person household was assigned a high score (105 320 points), leading to the termination of the subsistence allowance that had been provided since 2006. The citizen appealed to the court to protect the rights. According to the case materials, the applicant was a single veteran with a severe disability and serious health issues. The income of the applicant consisted only of a pension and an additional social package from the state (a total of 202 GEL per month at the time of filing the claim).

Before turning to the court, the individual requested a re-evaluation from the Social Services Agency. Since there were no factual errors in the assessment of the socio-economic condition, the Agency denied the request and informed the citizen that any request for re-evaluation could only be made at least one year after the initial score was given.

The court rejected the applicant's claim, noting that the data entered into the declaration by the social agent is processed through a computer system. Since the information did not require corrections, and the declaration was filled out in accordance with legal requirements, the claim that the applicant was assigned an unreasonably high score was unfounded. The applicant appealed the decision in a higher court, which, like the lower court, found that the data in the household's declaration was accurate and thus dismissed the claim.

Case №2

A family registered in the Unified Database of Socially Vulnerable Families since 2005 was receiving a subsistence allowance. After a re-evaluation in January 2016, the family was assigned a score of 127 800, and their benefits were discontinued. The citizen appealed this decision in court, arguing that

the household lived in poor conditions, in a dilapidated home, and that the family members suffered from serious health issues.

The first instance court rejected the claim, but the appellate court overturned the decision and ordered the Social Services Agency to reassess the family's condition. As a result, in October 2017, the household received an even higher score of 154 410. The citizen then appealed this score in court as well. Finally, 2.5 years after the termination of the subsistence allowance, in September 2018, the appellate court ordered another reassessment of the family. It is not publicly known whether the family was ultimately assigned a score that reflected their socio-economic condition.

Case №3

At the time of the appeal, the household consisted of three members. The total living space of the home was 30 square meters. Two family members were pensioners, one of whom had a severe disability, requiring constant assistance due to mobility challenges. The Social Services Agency had evaluated the household's socio-economic condition multiple times. However, during the most recent evaluation, the family was assigned a score of 136 280, disqualifying them from receiving subsistence allowance.

The family appealed the score in court, arguing that the high score was due to the electricity payments made over the course of a year before the evaluation, totaling 1 164.47 GEL (an average of 97 GEL per month).

During the case hearing, the applicants explained that they had gradually received interest-free loans from a private individual (totaling 1 100 GEL) to cover their utility expenses. The court found that this amount had not been reported in the family's declaration, specifically in their income. The court stated that the administrative body had failed to consider the family's receipt of financial assistance, which would have significantly impacted the final score. Consequently, the court annulled the appointed score and ordered the Agency to reassess the family's condition.

Analyzing publicly available individual court decisions reveals that even when the court determines that the Social Service Agency inadequately assessed a family's socio-economic status and mandates a re-evaluation, the decision to reinstate discontinued subsistence allowance is generally not made.⁸⁹ As a result, some families remain without support until the reassessment occurs.

In cases where individuals are awaiting re-evaluation, their very survival could be at risk. Not only are they denied the right to receive a subsistence allowance, but they are also unable to access various municipal services⁹⁰ tied to their social rating score. Therefore, timely access to justice is crucial for families living in poverty. However, an analysis of some publicly available cases⁹¹ reveals that courts often issue decisions with delays, which severely affects the rights of these individuals. On the other hand, in some instances,⁹² courts have rendered decisions a few months before the one-year re-evaluation period elapses. Still, this practice remains inconsistent.

The challenge related to timelines is particularly problematic when the case is referred to the Supreme Court. In such instances, the process can last for several months or even years.

89 For example, see the decision of the Kutaisi City Court Administrative Cases Chamber, Case №0803100180023263057, dated 31.05.2018; the decision of the Tbilisi City Court Administrative Cases Chamber, Case №3/8060-17, dated 17.04.2018; and the decision of the Tbilisi City Court Administrative Cases Chamber, Case №3/905-18, dated 26.04.2018.

90 Note: Certain social services are not tied to the score and/or consider even a high score sufficient for eligibility.

91 For example, see the decision of the Batumi City Court's Administrative Cases Chamber, case №010310017002189446, dated 11.05.2018. The court's decision was issued one month after the expiration of the 1-year reassessment period, and the citizen's request was denied.

92 For example, see the decision of the Rustavi City Court, case №3-9-19, dated 04.04.2019; the decision of the Tkibuli Magistrate Court, case №841310518002704978, dated 21.12.2018; and the decision of the Kutaisi City Court's Administrative Cases Chamber, case №080310018002247393, dated 12.04.2018.

Example from the Supreme Court Practice:

As a result of the socio-economic status assessment in June 2015, a social agent filled out the relevant declaration, which assigned the household a score above the legal threshold, thereby denying the family subsistence assistance. The household was reassessed in December 2015, but this time received an even higher rating score. The applicants appealed this score in the first instance court, which found that the social agent had not fully recorded the information. Consequently, the court instructed the Social Service Agency to reassess the household, considering the factual circumstances.

The Social Service Agency appealed the decision in the Court of Appeals. The appellate court determined that the social agent had correctly filled out the assessment of the household's socio-economic situation and, therefore, overturned the first instance court's decision. The court also noted that by the time the decision was rendered, the one-year period following the score assignment had already passed, allowing the household to request a new reassessment from the Social Service Agency.

The family then appealed the appellate court's decision to the Supreme Court, which issued its ruling in November 2018 (3.5 years after the initial score was assigned). The Supreme Court determined that not all relevant circumstances had been properly assessed during the household's evaluation and ordered the local unit of the agency to reassess the household's situation. Open sources do not provide information on whether the household ultimately received a score sufficient to qualify for subsistence allowance.

From the case materials examined by various courts, it is evident what a difficult situation a family may find itself in while awaiting a court decision and a reassessment by the agency.

*[Defendant] is 76 years old, single and ill. He has had a myocardial infarction. In 2013, he underwent aorto-coronary bypass surgery and has diabetes. Since 2008, he has been registered in the unified database of socially vulnerable families and has been receiving financial assistance. However, on August 27, 2018, he received a notification from the [municipality] district office that his registration was terminated as of August 19, 2018, because he was not living permanently at the stated address, which the applicant disputes. According to the applicant, he indeed lives at his residential address. His only income is his pension, which is insufficient to cover his health-related expenses. Social assistance is vital for him.*⁹³

*“[The socially vulnerable] family gained two more members, further worsening the family’s financial situation. Additionally, [a family member’s] health has deteriorated; specifically, the applicant was diagnosed with a life-threatening illness that requires permanent/medication/outpatient treatment. Following the re-evaluation, [...] the family was assigned 65 720 rating points. [...] The applicant believes that his family’s social assistance was revoked in violation of the law, which has plunged the family into a severe situation. Furthermore, the house where the applicant lived was sold at auction, further exacerbating his condition.”*⁹⁴

*“The applicant [Name, Surname] is 82 years old; his child, whom she cares for, has health issues. Specifically, [he/she] suffers from schizophrenia. [The citizen] was denied a re-evaluation of his family’s socio-economic condition and was informed that his family could apply to the relevant territorial unit of the agency after one year. [The citizen] is experiencing extreme economic hardship; the only means for the survival and existence of their family is social assistance. None of the family members are working, the house they live in is dilapidated, and living there is dangerous and unsafe. The health condition of all family members is unbearably severe, and they have one cow that does not provide milk.”*⁹⁵

93 Decision of the Administrative Cases Chamber of the Supreme Court of Georgia, Case №BS-903 (K-19), 5 March 2020.

94 Batumi City Court, Administrative Cases Chamber, Decision on Case №010310017002189446, May 11, 2018.

95 Decision of the Tkibuli Magistrate Court, case №841310518002704978, December 21, 2018.

Alongside the court, another institution that citizens turn to for assistance is the Public Defender's Office. In cases where any type of inaccuracy is identified in the household assessment declaration, the office's representatives contact the Social Service Agency and request a reassessment of the household. However, there are instances when they cannot find anything 'tangible' in the declaration, and the need for a reassessment is called into question.⁹⁶

2.3. Punitive Mechanisms for Violations of Legal Obligations by Families

2.3.1. Legally Mandated Punitive Mechanisms

Under current regulations, punitive measures are applied even to families who violate pre-determined obligations during the assessment of their household by a social agent or later during the period of receiving subsistence allowance.

Specifically, if a household member or authorized family representative provides false or incorrect information to the social agent during the assessment of the family's socio-economic condition, the entire household is penalized. In such cases, the Social Services Agency is empowered to: 1. Terminate the household's registration in the database of socially vulnerable families; 2. Deny future registration in the database; or 3. Prohibit the household from reapplying for registration in the database for the next year.⁹⁷

Based on these grounds for the removal of families from the database of socially vulnerable individuals, the Social Justice Center requested information from the Social Service Agency. Unfortunately, the Agency did not provide any information on this matter.

Aside from the scale of this problem, it remains unclear under what circumstances a family's registration in the database of socially vulnerable individuals is terminated and in what cases they are additionally prohibited from reapplying for

96 Interview with representatives of the Public Defender's Office of Georgia.

97 Ordinance No. 126 of the Government of Georgia, April 24, 2010, on "Measures for Reducing the Level of Poverty in the Country and Improving Social Protection of the Population," Annex No. 1, Art. 10 (2).

registration in the database for one year. In this case as well, the decision is left to the Agency's discretion (*"The Agency is authorized to decide, based on the information obtained, whether to lift the prohibition on re-registration for the family in the database for the next year"*⁹⁸), which could even be used arbitrarily by the administrative body. Alongside the complexity of the program's methodology, such regulations further obscure the mechanism.

On the other hand, as mentioned above, the program also penalizes families during the process of receiving social assistance and for failing to fulfill established obligations. Specifically, families can face consequences for not providing the Social Services Agency with important information, such as changes in family composition (like deaths, additions, or exclusions), changes in their permanent address, or any circumstances that might improve their socio-economic situation. If families do not report these changes by the end of the month following the change, the agency can terminate their social assistance, re-evaluate their situation, cancel their registration in the database, or prohibit them from reapplying for registration for the next year.⁹⁹ In various court cases, citizens have claimed they were unaware of these reporting requirements, but such claims generally carry little weight with the court.¹⁰⁰

In this case as well, it remains unclear when and which punitive measures prescribed by law should be applied by the Social Service Agency. It is noteworthy that, despite requests for public information, the Agency has not provided statistical data related to this issue.

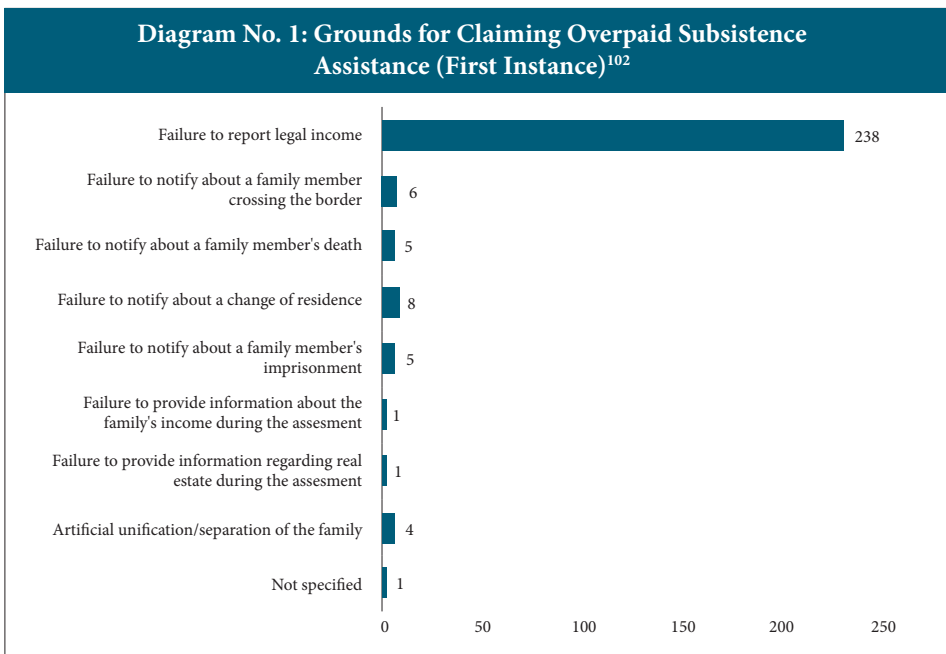
98 Ibid., p. 10 (2¹).

99 Ordinance No. 145 of the Government of Georgia dated July 28, 2006, on Social Assistance, Article 10 (4).

100 For example, see the decision of the Khashuri District Court, case №130310019003154132, dated December 10, 2019; the decision of the Kutaisi City Court Chamber of Administrative Cases, case №080310017002105555, dated May 29, 2018.

2.3.2 Repayment of Overpaid Subsistence Allowances to the State Budget

An analysis of publicly available court decisions¹⁰¹ reveals that the majority of disputes related to subsistence allowances are connected to the failure of families to report changes in their demographic or socio-economic status. In such cases, the Social Services Agency first addresses the household and, if necessary, takes the matter to court, seeking the repayment of overpaid subsistence allowances to the state budget.

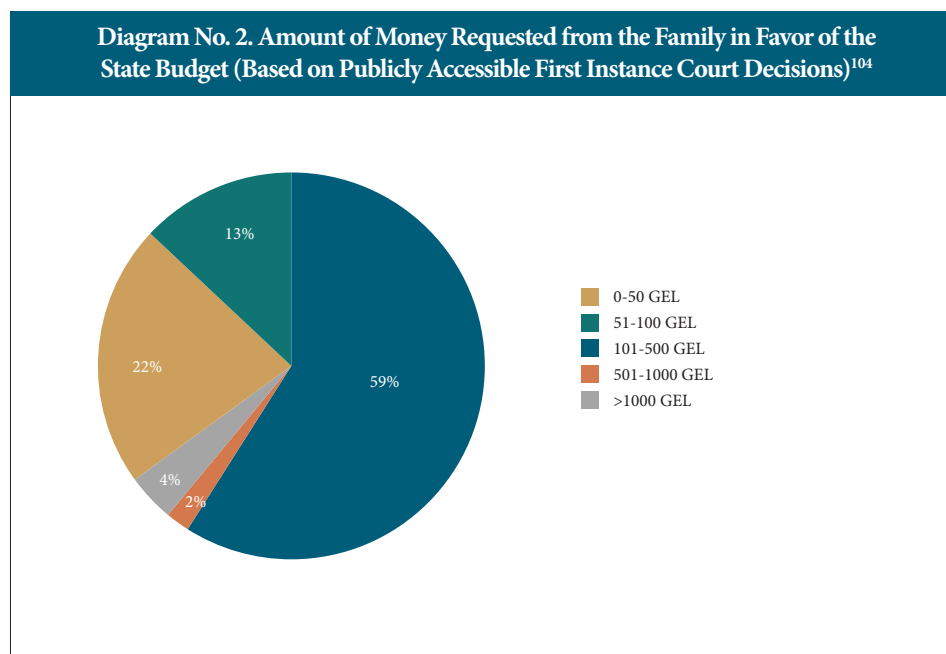


101 Court decisions on subsistence allowance cases from both the first and second instances were available on the Case Management System website of the Georgian courts (<https://cutt.ly/seTdV302>). However, most decisions are publicly available only up until 2020. On the other hand, decisions of the Supreme Court of Georgia are publicly accessible (<https://cutt.ly/1eTdMvfj>), although the majority of these decisions focus not on the recovery of overpaid amounts but rather on the reassessment of families.

102 Note: The provided data was processed during the analysis of publicly accessible decisions. The data does not include decisions where the information was encrypted, making it impossible to identify a crucial indicator for analysis — the amount of funds requested in favor of the budget.

The law stipulates that in this case, the family must return the excess subsistence allowance (the allowance received from the beginning of the period when the family did not inform the Agency of changes) to the state budget.¹⁰³ If the family is still receiving subsistence allowance, the Agency is obligated to withhold 20% of the amount payable to the family. For example, if there is a family with two members and the family receives 100 GEL monthly as assistance, they will receive 80 GEL for the next five months. On the other hand, if the family's subsistence assistance is terminated, the Agency will decide to recover the overpaid subsistence allowance and will refer the matter to the court for the collection of the funds.

Based on publicly accessible court decisions, the amounts requested by the Agency vary. Several decisions involve the return of amounts ranging from 10 to 50 GEL, while some the return of more than 1 000 GEL.



103 Ordinance No. 145 of the Government of Georgia of July 28, 2006, on Social Assistance, article 9¹.

104 Note: Several decisions from the Mtskheta District Court and Tbilisi City Court were not included in this analysis, as the encrypted data did not allow for the determination of the amounts requested by the agency.

Typically, a large number of citizens do not participate in the consideration of such cases by the court, and as a result, information regarding their positions and the challenges they face is not publicly accessible.

Table No. 1. Citizen Participation Rate in Court Proceedings Regarding the Return of Funds (First Instance)¹⁰⁵

Announced	Not Announced	Not Specified
53	215	1

It is noteworthy that in the cases where citizens participated, they indicated that they did not have the ability to pay the requested amount to the state. Consequently, some of them sought additional time or installment payment.¹⁰⁶ In several instances, citizens also pointed out that they were still registered in the social assistance database and were receiving subsistence allowance; however, the court did not consider this fact as relevant during the decision-making process regarding the return of funds.¹⁰⁷

Cases from Court Practice

Case № 1

The territorial unit of the Social Service Agency filed a lawsuit against a family for the return of excess benefits amounting to 160 GEL. According to the claim, one family member had reported income that was not disclosed to the Agency. The defendant presented a divorce certificate and stated that the person with the reported income no longer lived with the family. They also mentioned living in another person's apartment with two children and having a severe financial situation.

105 Note: The provided data was processed during the analysis of publicly accessible decisions. The data does not include decisions where the information was encrypted, making it impossible to identify another crucial indicator for analysis — the amount of funds requested in favor of the budget.

106 For example, Decision of the Kutaisi District Court Administrative Cases Chamber, Case №080310019002814870, March 22, 2019.

107 Decision of the Akhmeta Magistrate Court, Case №251310019003059021, August 16, 2019.

The court did not consider the family's socio-economic condition and granted the Agency's request, merely noting that according to the divorce certificate, the person with the reported income lived with the family at the time of receiving that income.

Case № 2

The territorial unit of the Social Service Agency filed a lawsuit regarding the return of excess benefits amounting to 299.41 GEL. The Agency claimed that two family members had reported legal income, which had not been communicated to the Agency, thus violating the household's obligation to report. The defendant stated in court that they were experiencing extreme hardship and could not pay the amount requested by the Agency. Regarding the reported legal income, a family representative noted that the spouse and child had temporary jobs, and their salaries included additional payments for other people, increasing their income. The defendant indicated that no family member was employed during the court proceedings.

The court did not consider the family's socio-economic condition, stating only in the reasoning section that the household had failed to fulfill its reporting obligation, therefore the Agency's request was justified, and the amount should be returned to the state budget.

In one of the cases under consideration in court, a person stated the inability to pay the amount of 60 GEL imposed on this individual. Consequently, the court decided to allow for a payment in installments of this amount, ordering the defendant to pay 12 GEL per month (which is 20% of the total amount).¹⁰⁸ In another case, the court divided the 60 GEL into three parts and ordered the citizen to pay 20 GEL per month.¹⁰⁹

In publicly accessible cases, there are instances where the court ordered a family to return a subsistence benefit of 220 GEL, to be paid at a rate of 22 GEL per month

108 Decision of the Bolnisi District Court, Case №160310018002622221, October 16, 2018.

109 Decision of the Gurjaani District Court, Case №340310019002949482, June 13, 2019.

over ten months.¹¹⁰ In another case, the court decided on a monthly payment of 100 GEL with a 20% coverage,¹¹¹ and in yet another instance, the court allocated a payment of 30 GEL to the family to be distributed over one year.¹¹²

In almost all publicly accessible decisions, the court upholds the requests of the Social Service Agency. Refusal to return the requested funds was noted in only four cases.¹¹³ In one instance, the court indicated that the family's socio-economic condition had not changed in a way that would require the household to notify the Social Service Agency within one month. In another case, the defendants¹¹⁴ contacted the Agency regarding the submission of a receipt for the payment and expressed their willingness to return the funds (30 GEL and 10 GEL). Consequently, the Agency's representative withdrew the claim during the preparatory session, and the case was dismissed.

Additionally, in one case, the court stated that a single socially vulnerable person temporarily living with a relative due to health issues did not constitute a change of permanent residence that would trigger a reporting obligation to the Social Service Agency; thus, the Agency's request for the return of the benefit funds was not granted.

In yet another case, the Social Service Agency sought the return of the subsistence benefit due to the household's failure to report income. The court noted that although a family member had received a higher salary in the subsequent months (2 636 GEL, 1 666 GEL, and 1 549.77 GEL) compared to previous months (approximately 1 454 GEL), the circumstances that justified the continuation of the "social package" had not changed. The court did not provide in-depth reasoning, leaving unclear the basis on which it assessed the unchanged criteria of the family's socio-economic condition.

110 Decision of the Akhmeta Magistrate Court, Case №251310019003059021, August 16, 2019.

111 Decision of the Bolnisi District Court, Case №160310018002622166, October 16, 2018.

112 Decision of the Bolnisi District Court, Case №160310019002848780, March 20, 2019.

113 Decision of the Senaki District Court, Case №411310019003039861, November 26, 2019. Decision of the Sachkhere District Court, Case №100310018002709572, December 18, 2018; Decision of the Tkibuli Magistrate Court, Case №841310219003008716, October 4, 2019; Decision of the Tbilisi City Court Administrative Cases Chamber, Case №3/4886-18, December 27, 2018.

114 Two different defendants.

Despite several interesting clarifications, it should be noted that when the Social Service Agency requests the return of overpaid benefits, the court usually grants the request without examining the family's socio-economic situation. The court typically rules in favor of returning the "overpaid" benefit to the state budget.

Additionally, both current regulations and court practices penalize families for failing to report information that the Agency can obtain independently from other state institutions (e.g., information on a person's income if they are employed in the formal sector, information on a person's death, imprisonment, departure from the country, etc.). This raises questions as to why the existing legislation imposes this additional reporting obligation on families. Failure to notify the Agency, for various reasons, often results in the termination of benefits for the family, and if the amount is not repaid, both the Social Service Agency and the court incur additional costs (e.g., in legal proceedings). Resources could be better allocated to automatically obtaining this information and recalculating the household's score.

The legal basis for not returning subsistence benefits lies in the legalization of overpaid benefits. According to the Law of Georgia on Social Assistance, such legalization has occurred three times:¹¹⁵

- On April 2, 2015, benefits overpaid up to April 1, 2015, were legalized.
- On December 22, 2016, benefits overpaid up to December 1, 2016, were legalized.
- On June 9, 2021, benefits overpaid up to April 1, 2021, were legalized.

As a result of these amendments, ongoing administrative, judicial, and enforcement proceedings related to the return of benefits are terminated. However, if a person voluntarily repays the benefit or complies with a court decision before the legalization decision is made, the amount paid to the state budget is not refundable.

It is important to note that during these periods of amnesty, explanatory notes to the legislative proposals state that, despite having received overpaid benefits, the families are classified as socially vulnerable. Therefore, pursuing the return of

115 Law of Georgia on "Amendments to the Law of Georgia on Social Assistance," 3436-IIS, April 2, 2015; Law of Georgia on "Amendments to the Law of Georgia on Social Assistance," 197-RS, December 22, 2016; Law of Georgia on "Amendments to the Law of Georgia on Social Assistance," 608-IVMS-XMP, June 9, 2021

these amounts through court proceedings is deemed inappropriate and burdensome for the population.¹¹⁶

Table №2. Number of Families Affected by the Amnesty (Excluding Ongoing Court Disputes)

Year/Type of Amnesty	Number of Families	Amount in GEL (Total)
2015	3 065	767 526
2016	~ 3 500	900 500
2021	3 478	658 512

Despite the apparent rationale behind such amnesty measures, it remains unclear why the underlying systemic issues are not addressed, particularly when the problem is acknowledged. Instead, legalizations are implemented sporadically and without a predictable pattern. Furthermore, these measures do not apply to families who, potentially at the expense of sacrificing basic needs, voluntarily complied with administrative or court decisions. It is uncertain why the system continues to allow the recovery of overpaid benefits from families in difficult situations and holds the entire household, including vulnerable members, accountable due to one member's failure to report information to the Agency.

2.4. Penalty for Voluntarily Leaving the System

One of the challenges facing the subsistence allowance system is the prolonged inclusion of beneficiaries, with no mechanisms designed to empower families and help them overcome poverty. As a result, families remain dependent on the system for years. As of 2023, 47% of recipients had been in the system for more than five years, 19.3% for over 11 years, and over 61 000 individuals had been in the system for more than 15 years.¹¹⁷

116 Explanatory Note on the Draft Law of Georgia on “Amendments to the Law of Georgia on Social Assistance,” March 30, 2015, <https://cutt.ly/WeTfMrEQ>; Explanatory Note on the Draft Law of Georgia on “Amendments to the Law of Georgia on Social Assistance,” August 17, 2016, <https://cutt.ly/neTfMfUJ>; Explanatory Note on the Draft Law of Georgia on “Amendments to the Law of Georgia on Social Assistance,” 2020, <https://cutt.ly/neTfMTtZ>.

117 Social Justice Center: More than 47% of recipients of social assistance remain in the system for more than 5 years, 2023, <https://cutt.ly/feTf1Ejp>.

Without fair remuneration systems, effective economic empowerment, and social support mechanisms, leaving the system is practically impossible for families. However, the government has failed to create a system that genuinely helps people overcome poverty. Instead, a public employment program was introduced, offering a monthly supplement (up to 300 GEL for full-time employment) in exchange for participation in the program, seemingly aiming to boost economic activity. Yet, the program does not prepare participants for the open labor market, nor does it develop necessary skills. It also fails to address long-term unemployment and does not focus on overcoming barriers specific to different groups, such as creating care services to support women. This approach indicates that instead of empowering beneficiaries, the system further entrenches them in dependency on benefits.¹¹⁸

In light of this, it is reasonable for an individual or family in the program to prefer the guaranteed income from benefits along with the additional advantages tied to the “socially vulnerable” status, rather than taking on an unstable, low-wage job. Even when a family chooses to exit the system and requests the Social Service Agency to terminate the registration in the database, the Agency has the authority to deny reassessment of the household’s socioeconomic status for up to one year from the request date.¹¹⁹

This regulation serves as a discouragement for families considering leaving the targeted social assistance system. In the event of worsening socioeconomic conditions, citizens who voluntarily exited the program are left without support. There is no unemployment insurance to provide temporary financial assistance during the loss of income, and the targeted social assistance system also denies immediate re-entry. Consequently, families find themselves without state support simply because they once chose to leave the system voluntarily.

As a result of the factors listed above, many people do not voluntarily leave the system.

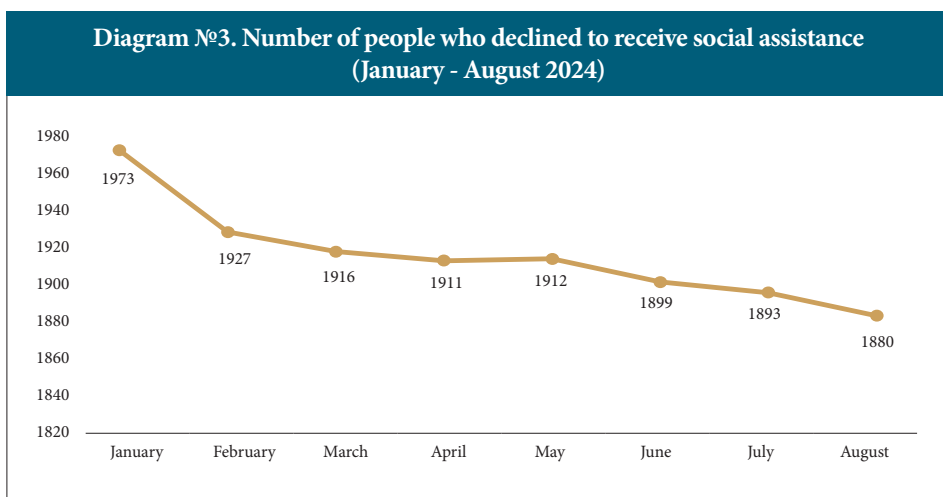
118 For the program evaluation, see Social Justice Center, Tatuli Chubabria, “Anatomy of the Public Employment Program - Program costs, objectives and results in one year,” 2023, <https://cutt.ly/Vef5oQyg>.

119 Ordinance No. 126 of the Government of Georgia, April 24, 2010, on “Measures for Reducing the Level of Poverty in the Country and Improving Social Protection of the Population,” Annex No. 1, Art. 10 (3).

“Such statements are typical of families whose score is just above the threshold and they are merely included in the database. They do not receive assistance and need to not be recorded in the database for certain legal actions.”

Representatives of the Public Defender’s Office of Georgia.

According to information published by the Social Service Agency, thousands of people withdrew from social assistance in 2024, but the reasons for this are unknown.



III. What Prevents Citizens from Accessing Effective Mechanisms for Protecting Their Rights?

By analyzing the legislative framework, practical challenges, and the perspectives of citizens involved in the system, we can identify the main barriers that hinder people from effectively protecting their rights within the social assistance system.

3.1. The Program's Design as a Barrier to Rights Protection

As mentioned earlier, one of the main obstacles for citizens in protecting their rights is the design of the social assistance system. The methodology for calculating the welfare score presents various challenges,¹²⁰ ultimately leading to errors in the inclusion or exclusion of households from the system. As a result, many individuals or households in need of support are left outside the system.

As discussed in previous sections, when a household is excluded from the system, their options for protecting their rights are limited. If there is any inaccuracy in the welfare assessment questionnaire, the household has the option to request a correction or reassessment of their score. However, if a high score is assigned based on formally correct data, there is no immediate mechanism for restoring rights, and the household must wait at least one year for a new evaluation.

It is worth noting that, just a few months ago, the Social Service Agency itself acknowledged the challenges faced by people living in poverty but excluded from the system. According to Agency representatives, the Agency began identifying households that social agents considered to be living in poverty but had been assigned high scores.¹²¹ Dozens of families¹²² facing such challenges were referred to

120 Social Justice Center, Ana Diakonidze, “Targeted Social Assistance in Georgia: Social Impact of the Program and Potential of Poverty Alleviation”, 2023.

121 Interview with the Deputy Director of the Social Service Agency; Focus Group with Coordinators of Social Agents.

122 Note: According to the Deputy Director of the Social Service Agency, the number of such families was only 160 in one month, while the coordinators of social agents reported 180 families. The Social Justice Center requested public information from the agency to determine the exact number of such households; however, the Agency did not provide this information.

municipalities for assistance. However, local-level support for these households is typically limited to one-time assistance¹²³ and does not address their real, ongoing needs.

3.2. Complex and Fragmented Legislative Framework

As mentioned above, the social assistance system is quite complex and intricate, which hampers citizens' understanding of the mechanism. The methodology for calculating the welfare score and its corresponding formulas pose significant challenges for individuals. Although these formulas are publicly accessible,¹²⁴ their content is virtually incomprehensible to the population.

Moreover, the situation is further complicated by the fact that regulations related to the social assistance mechanism are not consolidated into a single document but are dispersed across various legislative and subordinate acts. For instance, the functioning of the social assistance system is regulated by:

- The Law of Georgia on Social Assistance;
- Ordinance No. 145 of the Government of Georgia dated July 26, 2006, on Social Assistance;
- Ordinance No. 126 of the Government of Georgia dated April 24, 2010, on Measures for Reducing Poverty Levels and Improving Social Protection of the Population in the Country;
- Ordinance No. 93 of the Government of Georgia dated March 30, 2010, on the Approval of the Methodology for Assessing the Socioeconomic Status of Socially Vulnerable Families;
- Order No. 141/n of the Minister of Labor, Health, and Social Affairs of Georgia dated May 20, 2010, on Approving the Procedure for Assessing the Socioeconomic Status of Socially Vulnerable Families;
- Ordinance No. 758 of the Government of Georgia dated December 31, 2014, on the Approval of the Methodology for Assessing the Socioeconomic Status of Socially Vulnerable Families (Households);

123 Interview with the Deputy Director of the Social Service Agency; Focus Group with Coordinators of Social Agents.

124 For example, see the Ordinance of the Government of Georgia No. 93 dated March 30, 2010, on the Approval of the Methodology for Assessing the Socio-Economic Status of Socially Vulnerable Families.

- Order No. 140/n of the Minister of Labor, Health, and Social Affairs of Georgia dated May 20, 2010, on Approving the Application Form and Procedure for Registration, Deregistration, and Reassessment (Verification) of Socially Vulnerable Families in the Unified Database.

Furthermore, the same issue (for example, the grounds for the termination of social assistance) may be partially regulated by different acts (one aspect of the issue by one act, and another aspect by another act), which complicates both the clarity and the perception of the system as a whole.

3.3. Lack of Information on the Right to Appeal

In addition to the challenges mentioned above, one significant barrier in the process of rights protection is the lack of information regarding the possibility of appeal. During interviews conducted as part of the research, recipients of social assistance indicated that they were unaware of the assessment criteria and had received information from neighbors or acquaintances already enrolled in the system, rather than from official sources.¹²⁵ The respondents also stated that they did not know about their right to appeal after their score was assigned.¹²⁶

“They [social agents] didn’t say anything about that; they are not allowed to tell you such things. You just fill out the declaration, and that’s it. No one ever provided that information. When I went to my municipality, I requested the declaration, then went to Didube to appeal my score.”

An individual in contact with the targeted social assistance program

It is noteworthy, that if a household is not granted social assistance based on the assessment, social agents do not conduct a follow-up visit to inform the household of the results. Consequently, the responsibility of seeking information falls on the household, requiring them to approach the local unit of the Social Services Agency. According to a UNICEF study, this regulation may negatively impact public trust in the social assistance program.¹²⁷

125 Interviews with individuals in contact with the targeted social assistance program.

126 Interviews with individuals in contact with the targeted social assistance program.

127 United Nations Children’s Fund (UNICEF), Georgia Social Protection System Readiness Assessment, 2020, p. 14.

“One month passed, then two months, and I followed up. For those two months, I did not receive any [benefits]. I went in, and they told me that the score had not come through yet. Eventually, a high score came in, and I was removed from the program.”

An individual in contact with the targeted social assistance program

Interestingly, one respondent managed to secure the right to receive social assistance by appealing the score to the agency, although they indirectly linked this success to the pre-election period.

“A social agent came, and then I received an exceptionally high score, which did not match my living conditions at all. The house was practically falling apart; the roof was caving in... My husband was not working, and neither was I. I went to the Ministry and filed a complaint. Honestly, it took more than a month, and I was not expecting anything at that point; I knew they were supposed to come within a month, and since they did not, I thought it was over, and they would not come. Then, the social agent called me, saying they were coming for an inspection. I was not even home, but I rushed back right away. I was so happy they finally came to check. There was also some election going on at the time – I don’t remember which – and I figured that might have been why they came.”

An individual in contact with the targeted social assistance program

In addition to the lack of specific information, perceptions surrounding social assistance present a challenge that diminishes the likelihood of safeguarding rights through legal means for individuals who do not receive such support. The view of social assistance as a government gift rather than a fundamental human right has persisted since the program’s establishment. Notably, when the draft law on “Social Assistance” was introduced in the Parliament of Georgia, the explanatory note stated, “The concept of “social assistance” was frequently interpreted by both the public and various government entities as a human right, which contradicts the true essence of the term. This draft law characterizes social assistance as a “gift” from the government to the groups specified within the legislation”.¹²⁸

128 Explanatory Note on the Draft Law on Social Assistance in Georgia, 10.07.2006, <https://cutt.ly/geThprFY>.

It is noteworthy that according to the current version of the law, its fundamental principle is the recognition of “social assistance as state support based on needs assessment, but not an unconditional right guaranteed by law.”¹²⁹ Consequently, we can conclude that the paradigm surrounding social assistance has not changed in the last 18 years. This attitude complicates the public’s perception of social assistance as a right and diminishes the possibility of protecting their rights through legal mechanisms.

It is noteworthy that the initial version of the law denied the possibility for families to appeal the score received in court. The explanatory note of the draft law indicated that “the decision to deny social assistance must first be appealed to the territorial or central agency, and then to the ministry. The decision made by the latter is final, as social assistance allocation is based on a special methodology, and the decision is effectively made by a computer program rather than a specific individual. Thus, the essence of the appeal can only pertain to the technical aspects of this mechanism (such as delays in decision-making, procedural errors, etc.) and not the substantive aspect, which relies solely on the applicant’s actual living conditions.”¹³⁰

The absence of a judicial avenue to contest the welfare score was challenged by the Public Defender in the Constitutional Court in 2007, asserting that the pertinent provision violated the right to access judicial remedies for the protection of human rights and fundamental freedoms.¹³¹ The positions of the judges were evenly split concerning the adjudication of rights pertaining to social security and social assistance. The court stated that it lacked the authority to assess the methodology based on normative acts (as the methodology itself was not the subject of dispute), as well as the issue of whether the established score level and amount constituted a violation of any rights since this matter should be determined by the relevant court in each specific case.

On the other hand, the court stated that the prohibition against individuals appealing to the courts under the current provision indicated that the legislature

129 The Law of Georgia on Social Assistance, Article 5 (a).

130 Explanatory Note on the Draft Law on Social Assistance in Georgia, 10.07.2006, <https://cutt.ly/geThprFY>.

131 See: Public Defender of Georgia v. Parliament of Georgia, Decision No. 1/2/434 of the Constitutional Court of Georgia, 2009.

had not even acknowledged the theoretical possibility of violating citizens' rights within the social assistance system (including aspects related to the methodology, scoring levels, and amounts). This lack of consideration contradicted the requirements of Article 42 of the then-current version of the Constitution ("Every individual has the right to seek protection of their rights and freedoms in court").

Despite the Constitutional Court's ruling granting citizens the opportunity to appeal violations of their rights in court, the perception of the social assistance mechanism (as a discretionary act of the government) and the design of the system significantly diminish the real and effective protection of rights, rendering it, in certain cases, impossible.

3.4. Financial Accessibility and Other Barriers

In Georgia, many individuals face numerous barriers in the process of restoring their violated rights. These include institutional and legislative barriers, geographical, infrastructural, and physical barriers, as well as problems related to financial accessibility. Additionally, challenges related to general and legal awareness, along with various cultural and social barriers, also play a significant role.¹³²

One of the significant barriers for individuals living in poverty is the difficulty in accessing legal assistance. According to the Social Justice Center's research, "*Full access to the justice system can potentially be associated with so many costs that it is often considered a luxury.*"¹³³ The issue of financial accessibility becomes particularly acute when it comes to covering the fees for legal representation services and litigation costs.¹³⁴

It is noteworthy that the state has certain mechanisms in place to facilitate financial access to legal assistance for individuals living in poverty. However, these mechanisms are limited in scope and fail to provide adequate legal support to a significant portion of the population.¹³⁵

132 See: Social Justice Center, Access to Justice in Georgia, 2021.

133 Ibid.; p. 150.

134 Ibid.

135 Gvasalia T., The Court and the Social Assistance System, Platform "Komentari", <https://cutt.ly/geThpKwC>.

- **State Fees:** Under existing legislation, there is no requirement to pay state duty for cases related to social protection issues.¹³⁶
- **Case-Related Expenses:** These include costs such as payments for witnesses, specialists, and experts; fees for interpreters; expenses incurred for fact verification at the court's request; enforcement costs related to court decisions, and other associated charges.¹³⁷ Parties registered in the Unified Database of Socially Vulnerable Families who are receiving subsistence allowances are exempt from these expenses.¹³⁸ However, if a party is not currently receiving or has ceased receiving subsistence assistance, but is involved in a legal dispute – such as one concerning the termination of that assistance – they will not be exempt from these expenses.
- **Free Legal Aid:** According to Georgian legislation, a family member of a socially vulnerable household with a certain score is considered insolvent and eligible for state support. Specifically, a family member is considered insolvent if their rating score is below 70 001, or if they belong to a family with a score below 100 001 and meet at least one of the legal categories (e.g., a member of a family with three or more children under the age of 18; war or military forces veteran; a person with a disability under the age of 18; persons with severe or significant disabilities; persons with moderate disabilities if the disability has been present since childhood; orphans under the age of 18; or individuals displaced due to military aggression by the Russian Federation against Georgia).¹³⁹ In such cases, the Legal Aid Service provides insolvent individuals with legal document preparation support for any civil and administrative matters. However, for representation in court or before administrative bodies, it is essential that the provision of legal assistance is considered necessary based on the significance and complexity of the case.¹⁴⁰ According to 2022-2023 (as of September) statistical data, the Legal Aid Service provided 666 consultations on social protection issues, representation in 106 court cases, and representation in 8 administrative cases.¹⁴¹

136 Georgian Administrative Procedure Code, Art. 9.

137 Civil Procedure Code of Georgia, Art. 44.

138 Ibid.; Art. 46.

139 Ordinance No. 424 of the Government of Georgia, June 30, 2014, “On the Definition of the Procedure for Determining a Person’s Insolvency,” Art. 2.

140 Law of Georgia on Legal Aid, Art. 5.

141 Gvasalia T., Fighting for Recognition of Poverty, Platform “Komentari”, <https://cutt.ly/ueThat5l>.

Due to various barriers, including financial ones, the percentage of individuals in Georgia who use the opportunity to appeal to the relevant institutions is low. Research supports this finding; for instance, according to the 2019 survey conducted by the World Justice Project, 11% of those who faced legal problems reported that it was difficult or nearly impossible for them to obtain the funds needed to resolve their issues.¹⁴² Additionally, a study conducted by CRRC Georgia, the Social Justice Center, and the Institute for Development of Freedom of Information found that 70% of respondents considered accessing the court or participating in legal proceedings to be too expensive.¹⁴³

Alongside financial barriers, geographical access presents a significant challenge. In rural areas and regions distant from municipal centers, this issue is even more acute. According to one respondent in the study, they could only obtain information related to subsistence allowance by visiting the relevant territorial unit of the Agency; they did not proactively receive information from the Agency about the assessment and scoring process. The respondent noted that this was a significant problem because she lived in a village, and the cost of transportation to the regional center was a considerable financial and time burden for her.¹⁴⁴

Another significant issue is the access of representatives of ethnic minorities to the system. According to the Social Service Agency, information on the procedure for appealing a rating score can be obtained at the Agency's service centers as well as through its official website (www.ssa.moh.gov.ge), which is available in Georgian, Armenian, and Azerbaijani.¹⁴⁵ Despite the Agency's assertion that this information is accessible to ethnic minorities, its statistics reveal that in 2023, a total of nearly 660 appeals regarding rating scores were submitted, but only about 4% of the applicants were of Armenian or Azerbaijani ethnicity.¹⁴⁶

According to the coordinators of social agents, representatives of ethnic minorities who do not speak the state language are required to have a so-called "trusted

142 World Justice Project, *Global Insights on Access to Justice 2019, Country Profile: Georgia*, <https://cutt.ly/YeThac7J>.

143 CRRC Georgia, Social Justice Center, Institute for Development of Freedom of Information (IDFI), *Access to the Court: Results of the Public Survey, 2020*, p. 12.

144 Interview with an individual in contact with the targeted social assistance program.

145 Correspondence No. SSA 5 24 00283841 from the LEPL Social Service Agency (SSA), March 11, 2024.

146 *Ibid.*

person” (a relative or neighbor who knows Georgian) when communicating with the Social Service Agency during the assessment process and in subsequent interactions.¹⁴⁷ As the coordinators note, representatives of ethnic minorities typically come to the Agency’s local territorial units with such trusted individuals. However, the agency does not cover the costs of interpreters to ensure effective communication. This policy poses challenges to the protection of personal data for individuals living in poverty and creates significant barriers to accessing the system (including financial and informational access), as individuals living in poverty must seek interpreter services on their own.

147 Focus Group with Social Agents’ Coordinators.

Conclusion and Future Perspectives

The targeted social assistance program serves as a key component of Georgia's social protection system. Each year, the number of individuals availing themselves of this service continues to rise, reaching a historic milestone of over 680 000 as of August 2024.

Several aspects of the targeted social assistance system's design significantly influence the legal status of both prospective and current beneficiaries. A critical issue is the reassessment of the scores allocated to families and the right to appeal the Agency's decisions.

The right to social protection and an adequate standard of living is affirmed by several key international human rights documents, including the UN Covenant on Economic, Social and Cultural Rights, the UN Convention on the Rights of Persons with Disabilities, the UN Convention on the Rights of the Child, and the European Social Charter, to which Georgia is a signatory. As a result, the country is obligated to effectively implement these international standards.

According to these international standards, access to remedies for the protection of rights is a crucial aspect of the right to social protection. This access not only supports the improvement of socio-economic conditions for individuals or families but can also result in program changes that better align with the needs of the population.

Despite the expectation that appeal mechanisms should be transparent, effective, simple, swift, accessible, and financially feasible, the systems in place for protecting the rights of people living in poverty in Georgia still do not meet international human rights standards. The design of the targeted social assistance system, characterized by a complex and fragmented legislative framework, a lack of information regarding the appeals process, and issues with financial accessibility to legal assistance, are just a few of the challenges faced by individuals living in poverty.

The research has identified unjust legislation as a major issue, as it forces families to wait one year for a reassessment if they are assigned an unreasonably high score that does not reflect their social and economic status. The legislation is equally repressive towards families that provide incorrect information to social agents during the evaluation of their socio-economic conditions, or for households that

fail to promptly submit required information to the Social Service Agency, such as changes in the family's demographic status.

Unfortunately, under these unjust legal conditions, the judiciary often overlooks the challenges faced by individuals living in poverty. As a result, even the fulfillment of families' basic needs becomes uncertain.

Given the variety of these challenges, it is essential to implement measures that align the mechanisms for protecting the rights of families living in poverty with international human rights standards. In the long term, it is crucial that these mechanisms effectively safeguard the rights and dignity of vulnerable populations. It is crucial that, in the long term:

- Reform the targeted social assistance system to ensure that individuals have access to effective social support tailored to their needs, rather than imposing numerous technical and legal barriers.

Before implementing fundamental reforms to the social protection system, it is crucial to adopt measures that at least minimally facilitate access for people in poverty to the system and its support services, ensuring that their access to benefits is not hindered in the name of formal legal enforcement. Among these measures, the following are particularly important:

- Remove the one-year restriction on requesting a review of the scores assigned through family assessments, or, at the very least, reduce it to a more reasonable timeframe;
- Remove the requirement for beneficiaries to provide details about their family's socio-economic and demographic situation, allowing for automatic retrieval of this data from different state databases;
- Revoke the blanket regulation that revokes registration rights in cases where families provide incorrect information during assessments;
- Abolish the regulation that denies citizens who voluntarily exit the system the opportunity to be reassessed by the Social Service Agency for a period of one year.
- Proactively inform citizens of their right to appeal assigned scores, ensuring that this information is available in the languages of ethnic minorities;
- Ensure that the state covers communication costs for representatives of ethnic minorities and implements interpreter services, especially in relevant branches of the Social Service Agency;

- Ensure free legal representation for individuals living in poverty in cases regarding subsistence allowance, both in administrative bodies and in court;
- Exempt individuals living in poverty from costs associated with court proceedings related to subsistence allowance cases;
- Continuously identify families not included in the targeted social assistance system and guarantee their sustained access to both central and municipal services;
- Ensure the effective functioning of the monitoring mechanism for the targeted social assistance program and consistently evaluate the accuracy of the program's objectives for the population living in poverty.

