



## Summary of the Human Rights Situation in 2015

The *Human Rights Education and Monitoring Center* (EMC) presents an overview of significant processes related to the human rights situation in Georgia in 2015, focusing on the fields covered by the organization.

### I. Judiciary and Law Enforcement Systems

In response to the obligations envisaged by the Visa Liberalization Action Plan and the Human Rights Action Plan, as well as the repeated criticism from the society, the Government initiated the process of reform in the law enforcement system in the current year. As a result of the reform, the Ministry of Internal Affairs (MIA) and the Security Services were separated and the rule for selecting the Chief Prosecutor was changed. In the current year, the Government also took specific, yet non-systemic, steps towards reforming the drug policy, including drug testing.

Regardless of reforms in law enforcement agencies, the issue of political neutrality and functional autonomy of the police and the Prosecutor's Office remains a challenge. Unfortunately, the implemented reform failed to cover numerous fundamental problems of these systems, including the independence of agencies, responsibility and accountability, reform of investigation systems, etc. As a result of the reform, the newly created Security Service obtained unjustifiably broad authority, including the right to investigate. In addition, the Service maintained the right to interfere in private life without judicial control.

The law enforcement agencies have not expressed adequate readiness to eliminate the facts of violence and cases of conflict on political grounds, such as organized attacks on the offices of political opposition parties and events occurring near the houses of Constitutional Court judges, in a timely and effective manner. The issue of political neutrality of the police also arose during public screenings of torture and violent acts in different regions, when the law enforcers reacted ineffectively.

The facts of abuse of power from the police against citizens, as well as issues related to effective response to these facts and impunity, remain a challenge. Regrettably, the Government has not expressed a clear political will to create an independent investigation mechanism.

Ambiguous and unsound processes of selection, appointment and promotion of judges and problems of non-transparent and unsubstantiated activities of the High Council of Justice remain particularly challenging. Problems remain in terms of case distribution in courts. Unsubstantiated court decisions in cases related to the media and the freedom of expression also raised certain questions.

The severity of problems related to drug policy was highlighted after the death of Levan Abzianidze as a result of drug testing in Kutaisi. Despite the changes implemented during the current year, drug policy remains a repressive and powerful tool for the state. The important progressive clarifications made by the Constitutional Court in the case of purchase and storage of Marijuana in large amounts need to be adequately reflected in the state policy and legislation.

## II Anti-discrimination Policy

The adoption of the *Law on the Elimination of All Forms of Discrimination* was a major step forward for ensuring equality in the country. However, the significant shortcomings of the law seriously complicate effective performance of anti-discrimination mechanisms. In this regard, limited and weak mandate of the Public Defender in the litigation of cases of discrimination towards private persons, nonexistence of enforcement mechanisms for the recommendations of the Public Defender, unreadiness of the judicial system to litigate discrimination cases, and non-implementation of the anti-discrimination policy by the state agencies to prevent discrimination, are especially problematic.<sup>1</sup>

The situation of religious freedom in the country essentially has not changed and the state has not taken any significant steps to solve the existing systemic problems. The state policy related to the issues of religious freedom is based on non-secular and discriminatory approaches and grants exclusive preference to the Orthodox Church.

In the reporting period, several cases of gross violation of the principle of secularism by the state have been revealed, contributing to the tendency of institutionalization of the involvement of the Church in state policy.

The policy of the State Agency on Religious Affairs, which became the main state agency working on the issues of religious freedom, fails to respond to the existing challenges and tries to conceal problems through controlling religious organizations. Despite the concentration of power in the hands of the Agency, the latter has proved unable to resolve the ongoing religious conflicts through political negotiations, which must be pointing to the nonexistence of relevant political will of the state.

The state continues the policy of controlling Muslim religious organizations, leading to the elimination of religious space for self-representation for the Muslim community and, consequently, the alienation of this community. EMC considers that the problem of radicalization of particular Islamic groups is at least partially facilitated by the discriminatory and repressive policy of the state towards the Muslim community.

In contrast to the previous years, 2015 has not witnessed any cases of religious violence of social nature. However, religious conflicts identified earlier were, in fact, conserved, and the state failed to

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<sup>1</sup> See the statement for the *Tanastoroba* Coalition : <http://emc.org.ge/2015/12/04/koalicia/>

ensure the protection of the rights of discriminated religious communities, including those in Samtatskaro, Kobuleti, Terjola, and Mokhe.

Effective investigation has been ensured for none of the highly publicized cases based on religious intolerance. No persons were punished. In the conditions of impunity, the number of cases of violence on the grounds of religious hatred has increased significantly, as confirmed by the statistics of violence towards the most marginalized religious community, Jehovah's Witnesses.

In the process of construction of religious buildings, religious organizations still face discriminatory treatment from local government agencies.

Regardless of attempts at advocacy, the state fails to fight against the practices of indoctrination, proselytism and discrimination in public schools.

The situation remains unchanged in terms of protecting the rights of LGBT persons as well. With the rise of homophobic discourse and the politicization of the issue by the Government, the LGBT community and issues are further marginalized. In the context of politicization, the public statement of the Prime Minister regarding the editing of the definition of marriage in the constitution by narrowing it down to 'marriage of men and women' is especially worth noting.

Considering the violent raid on LGBT activist gathering on May 17, 2013 and the clearly ineffective policy of the state, the members of the LGBT community were, *in fact*, unable to benefit from the freedom of manifestation in 2014 and 2015. The organization of several small, isolated gatherings on May 17, 2015, in strictly confidential conditions cannot be considered as examples of real state guarantees of freedom of association for LGBT community members.

In the current year, the Tbilisi City Court entered a judgment of acquittal on two famous cases of violence on homophobic and transphobic grounds – violent raid on the gathering of LGBT activists on May 17, 2013, and the killing of transgender woman, Sabi Beriani. The analysis of the ruling on the case of May 17, 2013 points to ineffective performance of investigation agencies on one hand and clear unsubstantiation of legal assessments of the court on the other.

Law enforcement agencies fail to ensure the necessary systemic mechanisms for effective investigation and prevention of crimes motivated by homophobic or transphobic hatred. The state has no special strategies or action plans to fight against homophobic and transphobic crimes; does not produce in-depth statistics on hate crimes; does not have a special agency for hate crimes, equipped with adequate knowledge and sensitivity.

Regardless of active advocacy of LGBT organizations, in the current year, the state failed to regulate the procedures of recognition of the sex of transgender persons in order to eliminate the existing practices of gross violations on physical and psychological inviolability of persons.

### III. Social Policy

In the ongoing year, the Government created rudimentary mechanisms of labor inspection system by forming the Department of Labor Inspection and the State Program of Monitoring on Labor Conditions. The authority granted to the Department is extremely limited, making it an essentially ineffective mechanism. **Labor policy has not been refined in the reporting period; therefore, even minimal guarantees of the rights of workers remain a serious challenge to the existing Government.**

In terms of safe working environment, the situation in enterprises is extremely grave, especially for the persons employed in facilities with higher technical risks. The Department of Labor Inspection created by the state is a fragile mechanism, maintaining the need for an effective monitoring mechanism for labor conditions and security. Furthermore, the tripartite commission created by the state is incapable and the existing experience of using the mediation mechanism points to its ineffectiveness. Regardless of the amendments to the *Labor Code*, normative space regulating labor rights highlights the need for significant review and refinement of the legislative base.

**In the reporting period, no steps have been taken for the advancement of the rights situation of homeless persons. Moreover, repressive policy towards homeless persons living in state facilities has been strengthened.**

The right to shelter was not included in the Human Rights Action Plan, demonstrating the non-recognition of this problem as a challenge. Currently, even rudimentary elements of material, procedural, or institutive mechanisms guaranteeing the right to shelter are nonexistent, which can be characterized as nonexistence of state policy. The state does not evaluate the scope of homelessness, the needs of homeless persons, and the forms or underlying reasons of homelessness. Therefore, the fragmented and superficial policy fails to respond to existing challenges and leaves homeless groups in extreme poverty.

The state continues the policy of non-recognition towards the extremely vulnerable groups living in state-owned facilities for the purposes of self-assistance. The newest legislative changes delegate the issue of evicting homeless persons from state-owned facilities exclusively to the regulation of criminal justice, thus further aggravating the human rights situation of these persons and continuing the repressive state policy, while the state fails to meet its positive obligation of guaranteeing conditions for dignified life.

In terms of protecting the rights of persons with disabilities, the legislative body implemented a fundamental reform of the system of legal capacity in order to enforce the decision of the Constitutional Court of Georgia, changing the model of full incapacity to the model supportive decision-making. In addition, the Public Defender apparatus was identified as the monitoring organ for the implementation of the convention of rights of persons with disabilities.

Regardless of the positive developments mentioned above, **the main directions of state policy have not undergone significant reforms, thus failing to improve the rights situation of persons with disabilities.** Specifically, the national legislation regulating the protection of the rights of persons with disabilities

is largely incompliant with the main principles of the UN Convention on the Rights of Persons with Disabilities and contradicts some of these principles. The normative base and the general policy remain based on the medical mode. An effective institutional framework for implementing and coordinating the UN Convention is nonexistent. The realization of rights to access to environment, information, and services, access to/elimination from the labor base and services of education, health, and social protection for persons with disabilities remain as unresolved problems.

## Conclusion

EMC considers that in the current year, the most serious challenge to the human rights situation was the ineffective implementation of policies of inequality and anti-discrimination by the state, as well as the superficiality and fragmentation of institutional reforms, failing to ensure the freedom of the basic state instruments from political and other improper influences. The fact that the issues of social vulnerability and social policy fall beyond the strategic views and recognition of the state remains challenging.

It is essential that the state work towards the protection of human rights, especially to ensure equality, and continue the initiated reforms after the termination of the visa liberalization process.

Considering the *possible* negative influences of pre-election processes on the human rights situation, it is necessary that the state ensure conduction of elections in safe, democratic, and plural conditions and the protection of the political and religious neutrality of state agencies.