

FREEDOM OF RELIGION AND BELIEF IN GEORGIA

AMID AND BEYOND THE COVID PANDEMIC

2020-2021 (MAY)



TDI

TOLERANCE & DIVERSITY INSTITUTE

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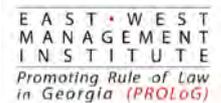
TOLERANCE AND
DIVERSITY
INSTITUTE (TDI)

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INTRODUCTION

2020 was particularly problematic in Georgia in terms of human rights protection and equality. The COVID-19 pandemic and its consequences severely affected minorities. The pandemic has highlighted many systemic problems in the protection of freedom of religion and belief. The state failed to ensure freedom of religion and belief for all, neglected equality between religious communities, and the separation of religion and the state. In the light of the ongoing pandemic, the hate speech has intensified, especially acutely towards ethnic Azerbaijani and Muslim citizens.

The year was also marked by the wave of anti-Semitic statements by the Georgian Orthodox Church clergy. The Patriarchate of the Church and the state officials did not condemn or address the anti-Semitic speeches of the high-ranking clerics adequately.

In April 2021, the Court of Appeals upheld the decision of Batumi City Court, ruling that the refusal of Batumi City Hall on the authorization of the building permit for the new mosque in Batumi is illegal and discriminatory. Nevertheless, Muslims still can not build the new mosque, and believers continue to pray in the open air – on land purchased to build a mosque.

In 2020 there were cases of religious discrimination at unified national exams. The National Assessment and Examinations Center (NAEC) rejected the Jewish and Adventist university applicants' request to reschedule their exam as they could not sit it on Saturday because of their religious belief. The Court made an essential and precedent-setting decision by ordering the NAEC to reschedule the applicants' exams to another day to ensure that the rights of the university entrants are not violated.

The State's religious policy and the role of the State Agency for Religious Issues under the Prime Minister, property-related obstacles for minority religious organizations, discriminatory legislation, violation of religious neutrality in public schools, timely investigation of hate crimes, and other systemic problems faced by religious minority communities in Georgia remained unresolved during the reporting period.

Religious minorities face many systemic problems, and the government has no will to resolve them. Moreover, often these obstacles are artificially created by the authorities. TDI considers that the government's attitude towards the fundamental right to freedom of religion and belief is becoming increasingly alarming. The government is growingly violating religious freedom, disregarding the principle of equality, and deepening discrimination between religious groups, which may be a precondition for more rigid and repressive actions against religious communities.

METHODOLOGY

The present report aims to overview and analyze the legal and policy situation of freedom of religion or belief in Georgia. The report covers the period of January 2020 – May 2021. This document analyzes systemic problems that minority religious communities have been facing for years and has remained unsolved during the reporting period.

The Covid-19 pandemic has more vividly exposed the problems related to the protection of freedom of religion and belief. The report analyzes the impact of the pandemic and the government's decisions on religious freedom, the principle of a secular state, and equality.

While collecting and processing empirical materials for the report, TDI applied a combination of various research instruments, including desk research and analysis of the Georgian legislation, state documents, reports produced by international and local organizations as well as the Public Defender of Georgia; public information retrieved from local and central authorities; outcomes of TDI's strategic litigation and advocacy, as well as court decisions. The state's policy and practice regarding freedom of religion are assessed in relation to the human rights protection standards set by the constitution of Georgia and international documents.

SUMMARY AND KEY FINDINGS

- ▶ TDI considers that the government's attitude towards the fundamental right to freedom of religion and belief is becoming more and more alarming. The government is increasingly violating religious freedom, disregarding the principle of equality, and deepening discrimination between religious groups.
- ▶ The COVID-19 pandemic and its consequences severely affected minorities. The pandemic has highlighted many systemic problems in the protection of freedom of religion and belief.
- ▶ The state failed to ensure freedom of religion and belief for all during the pandemic. Instead, the state demonstrated a differential treatment towards the Georgian Orthodox Church and other religious organizations.
- ▶ Discriminatory actions taken by the authorities against religious organizations during the pandemic were accompanied by statements of discriminatory content by the high-ranking officials. The most problematic of them were the discriminatory and non-secular statements of the Prime Minister and the Vice-Premier, justifying the differential treatment towards the religious groups.
- ▶ The role and activities of the LEPL State Agency for Religious Issues, working under the Prime Minister, remained problematic during the reporting period. Despite its mandate being the development of recommendations related to religious matters, the Agency did not issue any statement or recommendation on freedom of religion and religious activities during the state of emergency and the pandemic.
- ▶ The discrimination in legislation establishing differential treatment towards minority religious communities remained unresolved during the reporting period. Three constitutional claims of religious organizations on tax and property inequality remain pending at the Constitutional Court of Georgia.
- ▶ Despite being the longstanding problem for minority religious communities, the Parliament and Government of Georgia have not taken any measures to eliminate the discrimination in the legislation. Instead, the government granted yet another privilege to the Georgian Orthodox Church. In 2020, during the coronavirus-related state of emergency, the parliament adopted amendments to the legislation giving the Georgian Orthodox Church the exclusive right to acquire state forests into ownership.

- ▶ Another long-standing problem for non-Georgian Orthodox religious communities – the restitution of historic religious property – remained unresolved during the reporting period.
- ▶ In April 2021, the Kutaisi Appeal Court upheld the judgment of Batumi City Court ruling that the decision of the City Hall to reject granting the building permit for the Mosque was unlawful and religious discrimination was a factor.
- ▶ Despite the judgments of two courts, Batumi City Hall has been applying appeal mechanisms to protract the process since 2017. Therefore, the violation of Muslims’ fundamental right to freedom of religion and belief remains continuous – they are still unable to build the mosque and continue to pray in the open air.
- ▶ The issue of maintaining religious neutrality in public schools remains a problem. The alleged violations of religious neutrality also occurred while integrating the subject of Homeland Studies into the learning process. In 2020, schools reportedly offered students to attend Homeland Studies classes online. The classes are confessional in nature, based on the Orthodox religion, and loaded with discriminatory views.
- ▶ The involvement of human rights experts in the process of reviewing new school textbooks by the Ministry of Education should be positively assessed. In 2020 the textbooks for the 8th grade were evaluated and approved; in 2021, the textbooks for the 9th grade are being reviewed.
- ▶ In 2020 the university applicants became the victims of religious discrimination. The National Assessment and Examination Center (NAEC) denied the request of the applicants to reschedule their exam, as they could not sit the exam on Saturday because of their religious beliefs. However, based on TDI’s application, the court made an important decision and ordered the NAEC to re-schedule the exam for the applicants.
- ▶ Similar to the previous years, quality investigation of crimes motivated by religious intolerance remains problematic. The most challenging is the protracted investigations, assigning the status of the victim and indictment of individuals for the violence against Jehovah’s Witnesses.
- ▶ The indifferent approach of the government and a lack of will to sufficiently investigate previous hate crimes has incited continuous violence against Muslim citizens. As a result, in 2021, new cases of violence were revealed in the village Buknari.
- ▶ Xenophobic attitudes towards ethnic Azerbaijanis and Muslim citizens were evident in Kvemo Kartli. As soon as the COVID-19 pandemic spread in Georgia, the government took stringent measures in this region. There have been harsh police actions and xenophobic statements against local ethnic/religious minorities. The clergyman of the Orthodox Church, the Bishop of Marneuli and Hujabi, was particularly active by constantly stirring up ethnic and religious strife. He was also supported by a xenophobic group – the Georgian March.
- ▶ Anti-Semitic statements of the high-ranking Georgian Orthodox Church clergy have become alarming. Following these events, anti-Semitic messages have appeared on social networks too. However, the GOC has not acknowledged or condemned antisemitism of high-ranking clergy members, nor has the State assessed these statements critically.

1. FREEDOM OF RELIGION AND BELIEF AND COVID-19 PANDEMIC

1.1 LEGAL ISSUES

Freedom of religion and belief is a fundamental right protected by both international and Georgian law. It includes individual, collective, institutional, educational, and communication dimensions. Freedom of thought, conscience and religion belongs to the category of rights from which derogation is inadmissible even in the event of a state of emergency¹. A state is obliged to unwaveringly and impartially protect the freedom of religion and belief of all. When talking about the freedom of religion and belief, it is also inadmissible to divide religious groups into institutional characteristics or by any sign, for example, traditional and non-traditional, small and large, old and new groups.²

On March 21, 2020, the President of Georgia issued the decree, which declared a state of emergency, thus restricting specific rights and freedom protected by the Constitution of Georgia for two months. The Constitution defines a comprehensive list of rights and freedoms that may be restricted by the presidential decree during a state of emergency³. The list of these rights does not include the freedom of religion and belief. Therefore, it is inadmissible to restrict the freedom of religion within the scope of the state of emergency.

While the restriction extended to freedom of assembly⁴, the question arose as to whether the authorities could restrict religious service. The government of Georgia did not give a convincing answer to this question. Georgian authorities did not specifically define what was restricted for the religious organizations.

¹ International Covenant on Civil and Political Rights, Article 4(2); Constitution of Georgia, Article 71(4).

² CCPR General Comment No.22, para. 2.

³ Constitution of Georgia, Article 71.

⁴ For Instance, prohibition on gathering of more than 10 people in public places went into force from March 23. From April 3, only three people were allowed to gather in public places.

Religious practice, performing rituals, services, etc. are part of the external dimension of the freedom of religion and belief (forum externum)⁵. Religious service and collective gatherings at religious events, being an internal part of freedom of religion, could not be defined as an assembly in a classical understanding.

Despite of this, insofar as by Article 71 of the Constitution of Georgia it is prohibited to limit the freedom of religion and belief during the state of emergency, on one hand, and in case of an epidemic situation, the necessity of temporary restriction of this right may arise, on the other hand, the state can act within the existing legislation and prevent the spread of the epidemic. One of the ways to do so is to take appropriate measures within the framework of Article 5 of the Law of Georgia on Public Health. This provision prohibits each person from activities that pose a threat of spreading contagious and non-contagious diseases and causes health risks.

During the state of emergency, the Government of Georgia had not prepared special regulations and/or recommendations for religious organizations. Consequently, it is unclear on what legal grounds did the state grant the Georgian Orthodox Church the right to continue religious service during the pandemic and, on the other hand, on what grounds did it restrict the same right to other religious organizations. Therefore, it can be concluded that the government acted by circumventing the law, harshly disregarding the principles of the secular state and the fundamental right to freedom of religion.

1.2 ACTIVITIES OF RELIGIOUS ORGANIZATIONS

The measures taken by the state during the spread of the Coronavirus in Georgia were often discriminatory. The differentiated attitude of the state towards the Georgian Orthodox Church in contrast with other religious organizations has been demonstrated in a number of cases.

Like the rest of the world, COVID-19 Pandemic has affected freedom to manifest religion or belief and religious service in Georgia, hampering the participation of individuals and groups in religious rituals. The pandemic has limited access to places of worship, a celebration of religious holidays, social activities, and more. Nevertheless, the vast majority of religious communities have taken into account the directives and recommendations issued in the public health field and changed the forms of religious services. The exception was the Georgian Orthodox Church, which refused to comply with public health directives and change its forms of activity from the outset.

On 20 March 2020, The Synod of the Orthodox Church convened and decided to continue the religious service in the temples, as well as to leave unchanged the practice of communion with a shared

⁵ CCPR General Comment No.22, para. 4.

spoon.⁶ Unlike the Patriarchate of the Georgian Orthodox Church, the vast majority of other religious organizations have voluntarily decided to introduce the security norms: they have suspended religious gatherings, introduced online forms of communication and services, changed the rules of communion, etc.

For example, during the state of emergency declared in 2020, which coincided with the most important period for Muslims, the holy month of Ramadan, Muslims in Georgia completely stopped gathering in mosques, including for the collective prayers on Fridays.⁷

The government of Georgia never explained what was restricted for religious organizations and what was not. In parallel with the decisions made by the Georgian Orthodox Church, which refused to change the rules of religious gatherings, the government's approach may presumably mean a compromise by the government to the Church.

Despite its mandate being the development of recommendations related to religious matters, the LEPL State Agency for Religious Issues, working under the Prime Minister, did not issue any explanation or recommendation during the state of emergency. In the letter dated 10 November 2020, the Agency stated that religious service was not restricted during the state of emergency; however, the restriction applied to every type of assembly and gatherings in the public area; therefore, restriction of assembly and gatherings in the public area extended to religious associations.⁸ The Agency was not able to give the answer to why this approach of the Government did not apply to the Georgian Orthodox Church.

1.3 RESTRICTION OF MOVEMENT FOR RELIGIOUS ORGANIZATIONS

From 17 April to 27 April 2020, public transport was suspended, and any transportation via any type of vehicle was prohibited. As the basis of this restriction, the government of Georgia named the risk of high population mobility in connection with the Easter holiday. The mentioned restriction was announced by the government just a day earlier, on 16 April. On 17 April, the Patriarchate of Orthodox Church stated that the authorities did not negotiate this restriction with them, but in a telephone conversation with the government, they agreed that the clergymen, chanters, and chaplains of the Church were allowed to drive a vehicle.⁹

The government has not granted similar benefits for clerics of other religious organizations. Representatives of minority religious associations took several days to individually obtain the special driving permits. Religious organizations that provide continuous social services and programs (such

⁶ Resolution of the Synod of the Georgian Orthodox Church of 20 March 2020.

⁷ Georgian Muslim Division stops all kinds of collective prayers, Netgazeti, 20 March 2020, <https://on.ge/story/52383-საქართველოს-მუსლიმთა-სამმართველო-ყველა-სახის-კოლექტიურ-ლოცვას-აჩერებს>

⁸ Letter of LEPL State Agency for Religious Issues, letter No. 1/952 dated 10 November 2020.

⁹ Clergymen are not prohibited from moving by a vehicle, Netgazeti, 17 April 2020, <https://netgazeti.ge/news/444219/>.

as running the shelters for the elderly, providing people with food, delivering various types of medical service, etc.) were faced with particular problems.

Unlike the Georgian Orthodox Church, driving permits were issued in a limited number for non-dominant religious groups. According to the State Agency for Religious Issues, the agency petitioned 14 religious organizations for 228 motor vehicle driving passes. Out of these six organizations received one permit each, six received two, one received 13, and one – 197. The Agency points out that there was no limit for minority religious organizations, and every applicant received assistance.¹⁰ However, representatives of the religious organizations interviewed by TDI note that they were not given the required number of permits and in many cases only one permit was issued per a religious organization.

1.4. EXCLUSIVE PRIVILEGES GRANTED TO THE ORTHODOX CHURCH TO CELEBRATE RELIGIOUS HOLIDAYS

On 20 March 2020, The Synod of the Orthodox Church convened and decided to continue religious service in the temples, as well as to leave unchanged the practice of communion with a shared spoon.¹¹ A special discussion followed the issue of gathering in temples on Easter (19 April). Although there was a state of emergency in the country and the curfew from 9 pm to 6 am, public transport was suspended and any transportation via any type of vehicle was prohibited, the Church decided to hold a gathering on Easter eve and proceed with the services in the temples. The Church urged the parishioners to arrive at the temples before 9 pm, before enactment of the curfew. The only statement of compromise made by the Patriarchate was to maintain a two-meter distance between the assembled parishioners.¹² Only several bishops and priests under the GOC Patriarchate decided not to hold the Easter service at night with the attendance of people.

Public figures, both from legislative¹³ and executive¹⁴ branches of the government made a number of contradictory and inconsistent statements. Georgian authorities and the Patriarchate of the Georgia Orthodox Church held backstage negotiations and agreed that the parishioners were allowed to be in churches on Easter eve. For that, people had to arrive in the temples before 9 pm, before enactment of the curfew.¹⁵ At the same time, the government has not communicated with any other religious organization. They have never received any instruction as to how to act during the state of emergency.

¹⁰ Letter of LEPL State Agency for Religious Issues, letter No. 1/952 dated 10 November 2020.

¹¹ Resolution of the Synod of the Georgian Orthodox Church of 20 March 2020.

¹² Georgian Orthodox Clergymen to Hold Easter Vigil Despite Coronavirus Pandemic, Civi.ge, 15 April 2020. See: <https://civil.ge/archives/347100>

¹³ On 21 March 2020 the Speaker of the Parliament of Georgia answered questions of the journalists regarding the gatherings of the Orthodox Church and stated: “As the text of the Decree states, the freedom of religion and belief is not limited. Therefore, as of now, participating in the rituals is part of this right”.

¹⁴ Statement by the Vice Prime Minister Maia Tskitishvili, 3 April 2020 <https://netgazeti.ge/news/440326/>

¹⁵ Civi.ge, 15 April 2020 <https://civil.ge/archives/347100>

The selective approach towards religious communities during the state of emergency continued later on. By the decision of the Inter-agency Coordination Council on COVID-19, new restrictions were imposed from 28 November 2020, to 31 January 2021. It was forbidden to move both on foot and by vehicle from 9:00 PM to 05:00 AM, as well as to be in public spaces. The exceptions from the restrictions were New Year's Eve (night of 31 December) and Christmas Eve (night of 6 January).¹⁶

Making exceptions from this restriction and allowing only the Georgian Orthodox Church to celebrate Christmas is discrimination on a religious basis. It should be noted that the mentioned period coincides with the important holiday of various religious groups, including 25 December when the vast majority of Christian organizations celebrate Christmas.

Following the critical response to this decision made by the Coordinating Council, the government issued an additional statement: "The state ensures that representatives of all religions and confessions can freely attend this religious celebration. Relevant confessions must submit lists of their parishioners to the State Agency for Religious Issues, and the Task Force will issue one-off travel passes based on these lists."¹⁷

This approach is problematic due to several circumstances. First and foremost, it establishes an unequal, discriminatory rule for the Orthodox Church on one hand and for other religious associations on the other, which is contrary to the principle of equality established by the Constitution of Georgia and international standards. In addition to that, the requirement that religious associations submit the list of parishioners and clergymen to the State Agency for Religious Issues in order to receive a one-off travel pass creates a high risk of unjustifiably collecting personal data on clergymen and parishioners of specific religious associations by the state.

Non-Georgian Orthodox religious communities assessed the government's decision on celebrating Christmas as discriminatory and noted that being in the minority cannot be a reason for offense and unequal treatment.¹⁸

The state's differentiated treatment continued in 2021 too. The Government continues to grant exclusive privileges to the Georgian Orthodox Church and maintains its discriminatory policy towards other religious organizations.

¹⁶ Resolution of the Inter-Agency Coordination Council on tightening the Covid restrictions in Georgia
<https://stopcov.ge/en/shezgudvebi>.

¹⁷ The government added this information in the section of frequently asked questions of the website stopcov.ge
<https://stopcov.ge/en/Restrictions>

¹⁸ Statement of religious organizations, 1.12.2020
<http://www.tabula.ge/ge/story/183272-religiuri-gaertianebebi-cqitishvilze-ar-mivighebt-xelisuflebis-diskriminaciul-pozicias>
Statement of the Catholic Bishop, 3.12.2020
<http://www.tabula.ge/ge/story/183404-meufe-juzepe-cqitishvils-tqveni-gadatskvetelebani-sheicavs-ashkara-diskriminacias>

Part of Christian organizations celebrated Easter on April 4, 2021.¹⁹ Authorities again disregarded the interests of religious associations and parishioners and made no exceptions to lifting restrictions related to freedom of movement at night hours. Therefore, on April 4, religious organizations had to hold Easter service during the daytime.

However, a different rule applied on May 2, when the Georgian Orthodox Church celebrated Easter. By decision of the Government, in connection with the Easter liturgy, on 2 May the restriction on movement was in force from 23:00 on 23 May till 04:00, instead of regular curfew hours (21:00 – 05:00). In addition, the parishioners who came to churches for the service at night, spent the curfew hours in the temples without any impediment from the government.

1.5. PUBLIC STATEMENTS OF STATE OFFICIALS

Differentiative approach towards Georgian Orthodox church and other religious organizations was accompanied by the statements of discriminatory content by the high-ranking officials. On 14 April 2020, when addressing the Easter celebration of the Georgian Orthodox Church, the then-Prime Minister, Giorgi Gakharia said that the churches would not be closed “as we are an Orthodox state after all.”²⁰ The statement of the Prime Minister reveals the government’s preferential attitude towards the Georgian Orthodox Church, hence going contrary to the constitutional principle of the rule of law and equality; In addition, it ignores the idea of a secular state – the fundamental principle of the separation of religion and state.²¹

When justifying the exceptions granted from prohibition of movement in the night hours, Maia Tskitishvili, then-Vice Prime Minister, explained that this was due to the fact that the majority of the Georgian population is Orthodox.²² This statement too is discriminatory, as it assesses the ability of citizens to enjoy fundamental rights from the perspective of the majority, while imposing unequal conditions on minorities.²³

¹⁹ The Catholic, Armenian Apostolic, Lutheran and several evangelical churches marked the 2021 Easter on 4 April.

²⁰ Georgian government will not close churches – ‘especially on Easter’, OC media, 14.04.2020 <https://oc-media.org/georgian-government-will-not-close-churches-especially-on-easter/>.

²¹ Statement of the Tolerance and Diversity Institute, 15.04.2020 <http://tdi.ge/ge/statement/premieris-pozicia-saprtxes-ukmnis-konstituciur-cesrigsa-da-janmrtelobis-dacvas>.

²² Statement of the Vice-Prime Minister, 27.11.2020 https://stopcov.ge/ka/News/Article/maia_tskitishvili_-_khelisufleba_kvela_konfesiis_uflebebis_datsvas_uzrunvelkofs.

²³ Statement of religious organizations, 1.12.2020 <http://www.tabula.ge/ge/story/183272-religiuri-gaertianebebi-cqitishvilze-ar-mivighebt-xelisuflebis-diskriminaciul-pozicias>

1.6. COMMUNICATION AND ACCESS TO INFORMATION

Having complete, qualified and continuous information during a public health crisis reduces the risk of spreading the disease. Due to the specificity, sensitivity and importance of the issue, state and health agencies should have a particular approach towards religious activities.

The regulations issued during the Coronavirus pandemic in Georgia did not include information on how religious organizations, in particular, should have acted. The lack of special directives and recommendations regarding religious activities has led to a number of interpretations of both – the legal part of the restrictions imposed and the observance of epidemiological-sanitary rules.

The problem of receiving and communicating information was especially evident when the state of emergency was lifted in 2020. The lack of public information about religious activities has raised new questions about when and how religious gatherings could have been resumed. All the attempts of minority religious organizations to receive information and answers, remained unanswered by the government.

A special report by the Government of Georgia on the measures taken by the government against COVID-19 states that during the crisis, closed and open (online) meetings with the representatives of religious minorities were held regularly under the auspices of the Human Rights Council.²⁴ None of the religious organizations have confirmed the fact that they were invited to and participated in the meetings related to the coronavirus held under the auspices of the Government's Council. LEPL State Agency for Religious Issues states that it was involved in the activities of the Interagency Coordination Council, and the Agency informed the religious organizations operating in Georgia about the decisions made at the meetings of the Council.²⁵ The Agency did not provide copies of the information shared with religious associations during the state of emergency. The representatives of minority religious organizations state that they did not receive any information about the types of restrictions and regulations that applied to religious activities.

In many countries around the world, the state and public health agencies have developed special guidelines, principles and recommendations for the religious organizations that were based on mutual collaboration and aimed to reduce the risk of spreading the disease and address the needs of the state, community and religious associations.²⁶ It is important that the Government in Georgia also has transparent and constant communication with all religious organizations in order to avoid discrimination and protect the freedom of religion and belief of all.

²⁴ Statement of the Catholic Bishop, 3.12.2020 <http://www.tabula.ge/ge/story/183404-meufe-juzepe-cqitishvils-tqveni-gadatskvetilebani-sheicavs-ashkara-diskriminacias>

²⁵ Report of the Government of Georgia on the measures taken by the Government against COVID-19, para. 2.6 http://gov.ge/files/76338_76338_444796_COVID-19angarishi...pdf.

²⁶ Letter N1/837 of 28 September 2020 of the State Agency for Religious Affairs.

2. DISCRIMINATION IN THE LEGISLATION AND NEW PRIVILEGES FOR THE PATRIARCHATE OF GEORGIA

2.1. TDI'S STRATEGIC LITIGATION

The discrimination in legislation establishing differential treatment towards minority religious communities remained unresolved during the reporting period. The existing discrimination is particularly obvious in the Law on State Property and the Tax Code, granting exclusive privileges only to the Georgian Orthodox Church.²⁷

In 2018 the Constitutional Court granted two complaints of religious communities on tax inequality and discriminatory provisions of the State Property Law. The Court ruled that the provisions of the State property Law granting the privilege of receiving the state property free of charge only to the Georgian Orthodox Church is discriminatory and unconstitutional;²⁸ In another decision the Court ruled that the Tax Code contains discriminatory provisions establishing differential tax exemptions for religious organizations.²⁹

In its 2018 ruling, the Constitutional Court underlined that the historical role of the Georgian Orthodox Church cannot be perceived as a source of discrimination towards other religious organizations: “Differential treatment and affording legal preferences to the [Georgian Orthodox] Church is not and shall not be the goal of the Constitution. [...] Granting certain rights to the Church does not prevent other religious organizations from enjoying the same right”.

²⁷ For example, see. Recommendations of the US Centers for Disease Control and Prevention (CDC) for religious associations https://www.cdc.gov/coronavirus/2019-ncov/community/faith-based.html?CDC_AA_refVal=https%3A%2F%2Fwww.cdc.gov%2Fcoronavirus%2F2019-ncov%2Fphp%2Ffaith-based.html.

²⁸ For detailed information on inequality in the legislation and the 2018 decisions of the Constitutional Court of Georgia, see TDI's religious freedom report, available at - http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf

²⁹ Judgement N1/1/811 of 3 July 2018 of the Constitutional Court of Georgia. Available in Georgian at: <https://constcourt.ge/ka/judicial-acts?legal=1178>.

Judgement N1/2/671 of the Constitutional Court of Georgia, 3 July 2018. Available in Georgian at: Judgement N1/2/671 of the Constitutional Court of Georgia, 3 July 2018. Available in Georgian at: <https://constcourt.ge/ka/judicial-acts?legal=924>.

Despite these precedent-setting decisions and clear definitions of the Constitutional Court, the Parliament has not taken any measures to amend the legislation and ensure equality of religious organizations.

TDI continues strategic litigation to address the existing discrimination in the legislation. The Constitutional Court has been reviewing three constitutional claims of religious organizations, represented by TDI:

► **Constitutional claim on property tax of religious organizations**

On 30 April 2020, the Constitutional Court of Georgia admitted another constitutional claim of nine religious organizations for consideration on merits. The claim challenges the normative content of the contested norm allowing differential treatment of religious organizations other than the Georgian Orthodox Church, as a result of which only the minority religious organizations pay the property tax on land used for non-economic purposes.³⁰

The claimant religious organizations consider that the law contradicts the principle of equality guaranteed by article 11 of the Constitution. Article 201, Part 1(A) of the Tax Code of Georgia does not exempt religious organizations from the land tax used for non-economic purposes; however, the Georgian Orthodox Church is exempted from this tax based on the Constitutional Agreement between the State and the Church.

As of May 2021, the Court has not yet started substantive consideration of the case.

► **Constitutional claim on import tax of religious organizations**

On 16 April 2021, nine religious organizations applied to the Constitutional Court with a new claim asking to declare those norms of the Tax Code unconstitutional, that imposes import taxes for religious organizations, other than the Georgian Orthodox Church, on the import of religious goods.³¹

The applicant religious organizations have the interest to import religious goods from abroad to Georgia without paying relevant VAT and import taxes. Pursuant to the Constitutional Agreement between the State and the Georgian Orthodox Church, the imported items used for religious purposes by the Church are exempt from fees. However, based on article 159, Part 1(g) of the Tax Code, general conditions for calculating fees apply to goods and items imported by other religious organizations. Thus, the contested norm of the Tax Code creates unequal conditions for minority religious organizations and, therefore, contradicts Article 11 (right to equality) of the Constitution.

³⁰ Recording notice of 30 April 2020 of the Constitutional Court of Georgia on admitting the claim №1422 for consideration on merit. Available in Georgian – <https://www.constcourt.ge/ka/judicial-acts?legal=9133>

³¹ Constitutional Claim N1593. Available in Georgian – <https://www.constcourt.ge/ka/judicial-acts?legal=11126>

As of May 2021, the Court has not yet started the review of the case.

► **Constitutional claim on the right of religious organizations to purchase state property**

The Constitutional court has under review one more claim of nine religious organizations requesting to find those provisions of the State Property Law unconstitutional that prohibits religious organizations, except the Georgian Orthodox Church, to purchase or exchange the state property.³²

The applicant religious organizations applied to the Court with this claim in August 2019. The claimants sought that the Constitutional Court declare the normative content of article 3(1)(2)(5) of the Law on State Property unconstitutional, as being contradicting the right to equality guaranteed by the Constitution of Georgia. The provisions of the Law unjustifiably prohibit minority religious organizations to buy state property or to acquire it through the exchange.

The discriminatory provisions of the State Property Law limit the property rights of minority religious organizations: they can neither purchase the state property nor regain their historical property which is currently owned by the state. Such an approach of the state makes minority religious organizations particularly vulnerable, increases the risks of control by the state, violates the fundamental right to freedom of religion and belief and puts them in unequal conditions, compared to the Georgian Orthodox Church.

On 20 February 2020, the Constitutional Court held the hearing to review the case for consideration on merits. However, as of May 2021, the Court has not yet announced its decision on the admissibility of the case.

2.2. EXCLUSIVE RIGHT FOR THE GOC PATRIARCHATE TO ACQUIRE STATE FORESTS INTO OWNERSHIP

Despite being the longstanding problem for minority religious communities, the Parliament and Government of Georgia have not taken any measures to eliminate the discrimination in legislation. Instead, the government granted yet another privilege to the Georgian Orthodox Church. In 2020, during the coronavirus-related state of emergency, the parliament adopted amendments to the legislation giving the Georgian Orthodox Church the exclusive right to acquire state forests into ownership.³³

According to the new amendments to the Forest Code of Georgia, the transfer procedures of state forests to the Georgian Orthodox Church are regulated by the Law on State property. By the new

³² Constitutional claim of nine religious organizations N 1440. Available in Georgian – <https://constcourt.ge/ka/judicial-acts?legal=1410>

³³ TDI's statement on privileges granted to the Georgian Orthodox Church <http://tdi.ge/en/news/775-during-state-emergency-parliament-reviewing-legislation-transferring-state-forests>

amendments to the State Property Law, the Georgian Orthodox Church is enabled to take into ownership the forest (not more than 20 hectares (200,000m²) for each case) located nearby the churches and monasteries, and also territories of the forests that were already in possession of the Church. The previous possession rights meant that before the amendments, the Church could receive the forests with the right of usage, however the owner of the forest was still the State.

The parliament adopted the amendments with the first reading in October 2019. The second and third readings of the draft law were held during the COVID-19 related state of Emergency: on 19 March 2020, the parliament passed the draft with the second reading and on 22 May 2020 approved them with the third (final) reading. The changes entered into force on 1 January 2021.

No other religious organization except the Georgian Orthodox Church has a similar right. Generally, the Georgian legislation prohibits the privatization of forests, but now the Orthodox Church has become the only organization that can acquire state forests into ownership.

While the government does not take any measures to eliminate existing discrimination in the legislation towards minority religious groups, it grants one more property privilege to the Georgian Orthodox Church. The State Property Law, which, according to the new amendments, regulates the forest transfer to the Church, contains numerous discriminatory provisions, elimination of which has been one of the main requests of religious minorities for years. Religious organizations have even been challenging this law in the Constitutional Court of Georgia. Despite such circumstances, the government once again demonstrated its unsecular and loyal relations with the Georgian Patriarchate and ignored the legitimate concern of other religious communities.

3. PROPERTY RIGHTS OF MINORITY RELIGIOUS COMMUNITIES

3.1. PROBLEM OF RESTITUTION OF RELIGIOUS PROPERTY³⁴

Another long-standing problem for non-Georgian Orthodox religious communities – the restitution of historic religious property – remained unresolved during the reporting period. Since Georgia regained its independence from the Soviet Union in 1991, only the Georgian Orthodox Church has regained the property confiscated during the Soviet period. Other religious organizations are still unable to return their historic property.

Under the Constitutional Agreement of 2002 between the state and the Georgian Orthodox Church, the State recognizes the material and moral damages sustained by the Orthodox Church during the 19th and 20th centuries. By signing the Agreement, the State, as a factual owner of confiscated property, took over the responsibility to partially compensate for the material loss sustained by the Church. Additionally, since 2002, the State has been providing annual funding from the central budget to the Georgian Patriarchate.

Meanwhile, since Georgia's independence until the present day, no legal or political measures have been taken to ensure the return of houses of worship to religious minorities. The government even transferred the historic property of other religious communities to the Georgian Orthodox Church. For example, the GOC has misappropriated seven Catholic temples in the past years;³⁵ In 2017, the government transferred the historic Armenian (Tandoiants) church located in Tbilisi to the GOC;³⁶ In 2019 the state transferred the part of the former Lutheran church located in Asureti village to the GOC with the right of usage. The majority of these buildings are monuments of cultural heritage.³⁷

Instead of a restitution policy, in 2014, the Government, via the State Agency for Religious Issues (SARI), started funding four non-Georgian Orthodox religious communities (Muslim, Jewish, Roman

³⁴ Detailed information on the problem of restitution of religious property is available in TDI's document "Restitution Policy in Georgia", 2020 - http://tdi.ge/sites/default/files/restitution_policy_in_georgia.pdf

³⁵ Ibid, page 15.

³⁶ Ibid, page 14.

³⁷ Ibid, page 13.

Catholic, and Armenian Apostolic). The basis for this was Article 2(1) of the resolution establishing the SARI, which states that the government “is committed” to partially compensate religious communities against losses sustained during Soviet times. The SARI allegedly selected these four religious communities based on several characteristics which do not necessarily relate to past confiscation of property. As more religious communities than the four state-funded communities experienced confiscations and other losses, the government did not address the selective compensation problem during the reporting period.³⁸

3.2. OBSTACLES TO BUILD NEW PLACES OF WORSHIP

Non-Georgian Orthodox religious communities repeatedly face obstruction from local municipal councils and national state bodies such as the SARI to build new worship places. Such problems affect communities such as Muslims, Jehovah’s Witnesses, Catholics and Protestants. Typically, local Georgian Orthodox clergy and congregation members oppose proposals to build non-Georgian Orthodox places of worship. Then the local council finds excuses to obey Georgian Orthodox demands, often using spurious reasons to deny the building permit application.

One evident illustration of such discrimination is Batumi Muslims who, through the artificial obstacles from the state, cannot build a new mosque in the city. In 2017, the Foundation for the Construction of a New Mosque in Batumi applied to Batumi City Hall for a permit to build a mosque on a plot the Foundation owns. The City Hall refused to grant the first stage of the construction permit.

The Foundation appealed against the decision the same year in Batumi City Court. In September 2019, the Court upheld part of the appeal and established that the refusal was unlawful and the discrimination against Muslims was a factor. The Court returned the case to Batumi City Hall for reconsideration, but the Council appealed against the Court’s decision to Kutaisi Appeal Court. Consequently, the legal dispute continued in the court during 2020 and 2021. The Appeal Court held the final hearing on 2 April and delivered its judgment on 13 April 2021.

The Kutaisi Appeal Court upheld the judgment of Batumi City Court ruling that the decision of the City Hall to reject granting the first stage of building permit for the Mosque was unlawful and religious discrimination was a factor. This is a significant judgment of the national courts, confirming the persistent discrimination and violation of Muslims’ rights in Georgia.³⁹

Despite the judgments of two courts, Batumi City Hall has been applying appeal mechanisms to protract the process since 2017. Therefore, violation of Muslims’ fundamental right to freedom of religion and belief remains continuous – they are still unable to build the mosque and continue to pray in the open air.⁴⁰

³⁸ For more information on the state funding of religious organizations see TDI’s religious freedom report, page 47 http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf

³⁹ Information on the judgment of the court on Batumi Mosque case <http://tdi.ge/en/news/932-city-halls-refusal-build-new-mosque-was-illegal-and-discriminatory-court-appeal>

⁴⁰ Tolerance and Diversity Institute (TDI) and Social Justice Center (formerly EMC) defend the interests of the Batumi New Mosque Construction Fund in the court.

4. RELIGION AND EDUCATION

4.1. VIOLATION OF RELIGIOUS NEUTRALITY IN PUBLIC SCHOOLS

The 2005 Law on General Education defined religious neutrality and non-discrimination as one of the main principles of public schooling. Its objective is to create for all students a learning environment that is based on principles of equality and religious neutrality. Nevertheless, religious indoctrination and proselytism in public schools remain concerning to this day. There are frequent cases of non-academic display of religious symbols in public schools. Representatives of religious minorities told TDI that in educational facilities students are often differentiated based on religion and specific religious groups/denominations are frequently addressed by offensive terminology. Since 2019, there has also been a practice of teachers attending lectures on Orthodoxy.⁴¹ In 2019, information about similar lectures in different regions of Georgia and the participation of teachers therein has been spread several times.⁴² As part of the teachers stated, they were instructed by the educational resource centers to attend the lectures⁴³, while part stated that they were not informed about the topic of the lecture in advance.⁴⁴

According to the Ministry of Education of Georgia, in 2020, 4 cases of discrimination on religious grounds were filed with the Ministry.⁴⁵ According to the information provided by the Ministry, the Ministry considered that the information provided in the letters regarding the possible violations of students' rights were general and the cases described by the school were not confirmed. According to the Ministry,⁴⁶ following the application by the internal audit department, the school planned various events to be used as preventive measures – making leaflets on students' rights, holding human

⁴¹ 19 June 2019 announcement, TDI, available in Georgian at – <https://bit.ly/3tb30ke>

⁴² On religious indoctrination of public schools in highland Adjara, EMC, 1 November 2019. Available at – <https://bit.ly/3uZGIgM>

⁴³ “According to some of the teachers, the Ministry forcibly took them to the lecture on allotment”, On.ge, 2019, available in Georgian at – <https://bit.ly/3p434MG>

⁴⁴ “Teachers from Gori were given a lecture on Allotment”, Mosaic Gori Community Radio, 8 June 2019, available at – <https://bit.ly/3vFfUnh>

⁴⁵ Letter of 1 March 2021 of the Ministry of Education, Science, Culture and Sports of Georgia N: MES 1 21 0000172553

⁴⁶ Ibid.

rights and tolerance classes within the scope of the tutoring program, making informational booklets in coordination with teachers of civic education and fine arts, etc. It seems that the mentioned measures were considered sufficient by the Ministry and the cases of discrimination on religious grounds were not further investigated and addressed.

Alleged violations of religious neutrality also occurred during the integration of Homeland Studies into the learning process. In 2020, schools reportedly offered students to attend Homeland Studies classes online. The classes were mainly about Orthodoxy.⁴⁷ According to the Public Defender, the classes of Homeland Studies are confessional in nature, built on the Orthodox Christianity, loaded with discriminatory viewpoints and can be considered as a manifestation of religious indoctrination and proselytism.⁴⁸

According to the Ministry of Education, information about the above-mentioned class was not submitted to the Ministry.⁴⁹ Accordingly, the Ministry exempts itself from any responsibility for the subject being taught. Homeland Studies is neither compulsory, nor elective in form. The Ministry does not specify the way the subject is taught but states that the school has the right to offer the students, if they so wish, additional educational services, which is carried out independently of the Ministry. It should be noted that the subject offered within the framework of additional educational services should also be in line with the objectives of the National Curriculum, which names the upbringing of a tolerant citizen in today's ethnically and culturally diverse world as one of the main objectives. The discriminatory and confessional content of Homeland Studies does not meet these goals.

Like the environment in public schools, the school textbooks are largely written from an ethnic and religious majority standpoint. It is appreciated that since 2019 the Ministry of Education, in cooperation with the Public Defender of Georgia, has involved human rights experts in the process of reviewing the new school textbooks for all subjects. The criterion for human rights and the prohibition of discrimination also includes an assessment of the content of the textbooks in terms of a culture of tolerance and diversity. The process of evaluation and revision of the textbooks continued throughout the reporting period with the involvement of these experts: in 2020, the 8th grade textbooks were prepared and reviewed; In 2021, new 9th grade textbooks are being reviewed.

4.2. EXAM OBSTACLES FOR NON-GEORGIAN ORTHODOX UNIVERSITY APPLICANT

In 2020 the university applicants became the victims of religious discrimination. The National Assessment and Examination Center (NAEC) denied the request of the applicants to reschedule their exam, as they could not sit the exam on Saturday because of their religious belief.

⁴⁷ Homeland Studies for students – who teaches and what the subject is, public, 17 December 2020, available in Georgian at – <https://bit.ly/3fE11vV>

⁴⁸ Statement of the Public Defender of Georgia dated 25 December 2020, available at – <https://bit.ly/2SjWk1i>

⁴⁹ Letter of the Ministry of Education, Science, Culture and Sports of Georgia, dated 1 March 2021 NMES 1 21 0000172553

Two university applicants who are members of the Seventh Day Adventist Church, appealed to the NAEC on 30 June to reschedule their exam on 18 June as they cannot sit it on Saturday because of their religious belief. The NAEC unjustifiably denied the request of the applicants, thereby violating the rights of the applicants to freedom of religion, education and equality. A similar problem has also been faced by university applicants practicing Judaism.

Saturday for the Adventist and Jewish believers is the day of religious observance and abstinence from any work. It is unacceptable to engage in secular activities, including, to sit an exam, on Saturday. This right is protected under the freedom of religion and belief recognized by the Constitution of Georgia and international law.

The Tolerance and Diversity Institute (TDI), which defends the interests of two university applicants, submitted an injunction application to the Tbilisi City Court on 15 July 2020.⁵⁰ The application requested the Court to instruct the NAEC to reschedule the united national exam to 17 or 19 July or any other day save Saturday. It is worth to note that the schedule of exams, approved under the decree of the Minister of Education, Science, Culture and Sport, set three different dates for the English language exam, namely 17, 18 and 19 July. Consequently, rescheduling the exam to another day did not require the additional efforts from the NAEC.

The Court emphasized the importance of universal human rights and freedoms enshrined in the Constitution of Georgia, noting that a public institution must not unduly intrude on the protected right. The Court deliberated on the importance of freedom of religion or belief and the right to education.⁵¹

The Court noted that scheduling exams on Saturday for university applicants may serve a legitimate aim and that the schedule of united national exams is drawn up in accordance with the rule established under the law. However, the Court observed that the intrusion by the state on the rights of the applicants to belief, religion and education, even if it serves a legitimate aim, is unjustified because the limitation must be necessary and proportional to the restriction. Consequently, a measure applied by the NAEC restricts the rights of the applicants to belief, religion and education.

With the interim order, the Court instructed the National Assessment and Examinations Center to reschedule the English language exam of university applicants from 18 July to 17 or 19 July and to immediately enforce the injunction. Consequently, based on the Court order, the NAEC rescheduled the exam for the applicants to 19 July.

Besides, on 24 July 2020 TDI applied to the Tbilisi City Court with the university applicants' claim for substantive review of the case. The applicants claim to establish the fact of religious to discrimina-

⁵⁰ TDI's statement of 20 July 2020
<http://tdi.ge/en/news/842-tdi-appeals-court-against-national-assessment-and-examinations-center>

⁵¹ The interim decision of the Chamber of Administrative Cases of the Tbilisi City Court of 16 July 2020, case N3781793

tion, to eliminate the consequences of the discrimination and to receive the symbolic compensation of 1 Georgian Lari for the moral damages. As of May 2021, the court has not started the review of the application.

Additionally, based on an application by TDI, the Public Defender (Ombudsperson) of Georgia addressed the Minister of Education with a general proposal to consider religious needs of university applicants when organizing unified national exams.⁵² According to the Public Defender, the NAEC disregarded the needs of the university applicants arising from their religious belief in scheduling the exam, doing so put the applicants in an unequal situation as compared to other university applicants.

In order to avoid unjustified breach of the right to freedom of religion and belief as well as the right to equality in future, the Public Defender has requested the education minister to amend the normative acts regulating the exams, so that religious needs and rights of the university applicants are ensured.

⁵² General proposal of the Public Defender of 11 August 2020
<https://ombudsman.ge/eng/tsinadadebebi/tsinadadeba-sakartvelos-ganatilebis-metsnierebis-kulturisa-da-sportis-saministros>

5. CRIMES MOTIVATED BY RELIGIOUS INTOLERANCE AND THE STATE POLICY

Alike the previous years, quality investigation of crimes motivated by religious intolerance remains concerning. The most challenging issues are the protracted investigations, assigning the status of victim and indictment of individuals for the violence against Jehovah's Witnesses.⁵³

According to the information of the Ministry of Internal Affairs, in 2020 the Ministry initiated investigation into 9 hate crimes motivated by religious intolerance. The Prosecutor's Office informed about launching prosecution against 4 individuals. For the detailed statistics, please see the **annex** of this report.

5.1. VIOLENCE AGAINST JEHOVAH'S WITNESSES

The statistical data proves that mostly Jehovah's Witnesses are the victims of religious intolerance in Georgia. Crimes against this religious community often include physical violence, interference with religious rituals, damaging houses of worship, assets and religious literature. In comparison with the previous years, the number of such crimes was fewer during the reporting period.⁵⁴ The reason for the decrease of crimes was the COVID-19 pandemic as since the spread of the virus, Jehovah's Witnesses had stopped all kinds of public religious activities. Usually, they become victims of violence and persecution during their public religious activities.

5.2. VIOLENCE AGAINST MUSLIMS

Since 2012 cases of violation of Muslims' rights have become commonplace. From 2012 to 2016, eight large-scale violations of Muslims' rights living in different geographic areas of Georgia were

⁵³ See the annual human rights report of the Public Defender of Georgia, page 2017, available in Georgian <https://ombudsman.ge/res/docs/2021040110573948397.pdf>

⁵⁴ In 2020 Jehovah's Witnesses reported about 8 crimes. In 2019 this number was 24, in 2018 - 20. Detailed information about the crimes against Jehovah's Witnesses and the investigation is available in TDI's religious freedom report, page 96 http://tdi.ge/sites/default/files/tdi-report-freedom_of_religion_in_georgia_2010-2019.pdf

identified. In the majority of these cases, no charges were filed, while investigation of some of the cases are still ongoing without any legal outcome. The indifferent approach of the government and lack of will to sufficiently investigate such crimes, has incited continuous violence against Muslim citizens. As a result, in 2021 new cases of violence were revealed in the village Buknari.

Village Buknari of Chokhatauri municipality is populated by Christians and Muslims. The Muslim community had no mosque in the village and therefore, they had to go to other villages and towns for Friday prayers and religious holidays. In 2020 the local community purchased the private house to use it as a place of worship. This caused dissatisfaction from the local Georgian Orthodox population. The place of worship has the appearance of an ordinary house. As the locals say, to avoid the annoyance of Christian neighbors they refrain from constructing a minaret or using any characteristics that are common for the mosque.

The conflict escalated in December 2020 when the aggression of local Georgian Orthodox Church believers became more disclosed. There were incidents of verbal and physical violence during 10-13 January 2021.⁵⁵

The Ministry of Internal Affairs launched the investigation into one of the violent incidents in Buknari, under Article 126 of the Criminal Code of Georgia (violence) and detained one person.⁵⁶

After the escalation of the conflict the negotiations were initiated between the parties with participation of local and central authorities and religious leaders. Finally, the parties announced that both sides are reconciled and the conflict is over. TDI considers that beyond the measures taken for de-escalation of the conflict, the state must unconditionally protect freedom of religion and belief of the citizens and investigate each and every crime committed on the ground of religious intolerance. Otherwise, such violence will be encouraged in the society and the risk of further religious persecution will still exist.

According to the Public Defender of Georgia, the Buknari case is yet another proof that the state policy is merely limited to occasional settlement of similar cases instead of systemic prevention of such crimes.⁵⁷

⁵⁵ More details about the developments in the village Buknari
<https://socialjustice.org.ge/en/products/buknari-kidev-erti-religiuri-konfliktis-adgili>

⁵⁶ Statement of the Ministry of Internal Affairs, 12 January 2021
<https://police.ge/en/guriis-politsiam-chokhatauris-munitsipalitetshi-momkhdar-intsidenttan-dakavshirebit-1-piri-daakava/14274>

⁵⁷ Annual human report of the Public Defender of Georgia – 2020, page 217. Available in Georgian
<https://www.ombudsman.ge/res/docs/2021040110573948397.pdf>

5.3. CASE OF VAGIF AKPEROV, FORMER SHEIKH OF THE ADMINISTRATION OF ALL MUSLIMS OF GEORGIA

The forced resignation of Vagif Akperov, the former Sheikh of Administration of All Muslims of Georgia is a clear case of the State's unsecular and discriminatory state policy.

On 21 March 2021 the TV program Post-Factum of Mtavari Channel aired the interview with the former state security service employee Ivane Gulashvili (according to TV Mtavari, the interview was recorded on 24 November 2019).⁵⁸ Gulashvili says that several years ago he participated in the illegal intrusion in Vagif Akperov's computer and installation of the virus files, in order to start audio-video surveillance and obtain personal information. According to the interviewee, he received this order from the high-ranking security officer Nikoloz Sharadze, who currently is the chief of the land border defense department.

On 24 March 2021, after the above-mentioned interview was aired on TV, TDI and Vagif Akperov once again lodged the letter to the prosecutor's office, requesting to immediately grant Akperov the status of victim and to investigate the case of his forced resignation. This application, similarly to the previous ones, remained unanswered from the prosecutor's office.

Vagif Akperov has been a Muslim religious leader since 1996. He participates in different formats of interreligious dialogue and is engaged in various civic activities. Since 2011, Vagif Akperov held the position of Sheikh (highest religious position of Shia Muslims) of the Administration of All Muslims of Georgia⁵⁹ and served at the central Jumma mosque of Tbilisi. In 2012, after the change of the government, the State started exerting pressure over him and interfering with the autonomy of the religious organization.

On 27 December 2013, he was summoned to one of the buildings of the Ministry of Internal Affairs (so-called "Module" building), where, according to him, he was threatened with the dissemination of his personal information and ruining his reputation. MIA staff present at the meeting also hinted that his family would experience certain problems if he refused to resign, continuing to attend the mosque, talking to human rights organizations and media instead about this occurrence. As a result of pressure, Akperov wrote a resignation letter, as dictated by the representative of MIA, in the same building.

According to the religious leader, on 9 January 2014, the letter that he wrote under duress appeared at the session of the religious council (a management body of the Administration) and the council

⁵⁸ Secret file of the state security service, 21 March 2021, TV program Post Factum <https://mtavari.tv/post-factum/36779>

⁵⁹ Administration of All Muslims of Georgia is a religious entity which existed before 2011 amendments of the Civic Code of Georgia as a non-entrepreneurial non-commercial entity. After these amendments, the organization registered as the legal entity of public law.

decided to release the Sheikh of his duties. Since 9 January 2014 (the day his resignation took effect), he has been repeatedly contacted by strangers (he assumes, MIA representatives), offering high-paid jobs in various entities (including Georgian Oil and Gas Corporation and Gardabani Thermal Power Station), to buy his silence. However, the former Sheikh has turned down all such offers.

On 27 April 2016, after the joint appeal of the Public Defender of Georgia and Vagif Akperov,⁶⁰ the Prosecutor's Office of Georgia launched an investigation into the alleged abuse of power by a state official, according to article 333(3)C of the Criminal Code of Georgia. However, relevant actions have not been taken since 2016 to ensure an effective investigation, and no legal measures have been achieved.

On 4 December 2020, TDI addressed the prosecutor's office again⁶⁰ and gave the information about the person, who, according to Vagif Akperov, forced him to write the resignation letter in 2013, in the building of the Ministry of Interior. This person is Vazha Mazmiashvili.⁶¹ The prosecutor's office has not responded to this information either.

As of May 2020, Vagif Akperov is not still granted the status of victim, no one has been charged, the case remains open without any legal outcome.

⁶⁰ TDI's letter of 4 December 2020, N723/12/2020

⁶¹ See the journalistic investigation of Studio Monitor – "Religion under the control of State Security Service", 28 November 2020, Available in Georgian – <https://bit.ly/3fVrS5s>

6. ANTI-SEMITISM OF THE CHURCH

The Georgian Orthodox Church clergy have been making anti-Semitic statements from December 2020 onwards. The GOC has not acknowledged or condemned antisemitism of high-ranking clergymen, nor has the State assessed critically these statements. These events sparked public debates and comments from diplomats and international organizations.⁶² The recent Church anti-Semitism is also overviewed in the U.S. Department of State’s annual human rights and religious freedom reports.⁶³

On 20 December 2020, the Metropolitan of Kutaisi-Gaenati Eparchy of the Georgian Orthodox Church and the head of the Education Center of the Georgian Patriarchate, loane Gamrekeli made anti-Semitic statements during his sermon at Bagrati Cathedral in Kutaisi.⁶⁴ The sermon has promoted a dangerous religious stereotype that attributes collective guilt for the crucifixion of Jesus to the entire Jewish people and portrays Jews as persecutors of Christians – a widespread stereotype that represents the most solid basis of institutional antisemitism.

In the sermon about the life of Ambrose of Mediolanum, loane Gamrekeli recounted a story of a clash between Christians and the Jewish community; According to him, Christians who outnumbered the Jews defeated them and pulled down a synagogue. Later, Christians rejected a request of Jews to rebuild the synagogue, because according to the ruler, Jews tortured Christians for centuries and they had to pay the price for that. By providing this example, the Metropolitan justified the discrimination against Jews and the destruction of the synagogue; then, the Metropolitan generalized the “lineage of infidels” to those people who criticize the Patriarchate: “this fight continues to date, here, it is not determined by ethnicity, it is the fight of the lineage of infidels against the Church.”. In the same sermon, loane Gamrekeli mentioned one of the most widespread antisemitic conspiracy myths that Jews enjoyed special influence at the “king’s court” back then and continue to enjoy it today as well.

⁶² The full chronology and information on anti-Semitic statements and relevant developments is available in TDI’s document <http://tdi.ge/en/statement/antisemitism-church-updated-summary>

⁶³ 2020 Country Reports on Human Rights Practices: Georgia., March 30, 2021 and 2020 Report on International Religious Freedom: Georgia, May, 2021

⁶⁴ Sermon by the Bishop loane Gamrekeli, 20 December 2020 <https://www.facebook.com/watch/?v=387021805899586>

TDI issued a statement condemning antisemitism of the Church, calling on the GOC Patriarchate and the government of Georgia to critically assess and condemn antisemitism.⁶⁵

On 30 December 2020 the Metropolitan published the first letter on the official Facebook page of Kutaisi-Gaenati Eparchy. loane Gamrekeli did not acknowledge anti-Semitism in his sermon and said he did not single out Jews on the ethnic ground. He further accused concrete persons of attacking the Church.⁶⁶ In his second public letter of 1 January Metropolitan repeated that the sermon touched upon “historical facts” and justified his statements with the argument that he generalized his words on “organizations of TDI type operating in modern Georgia, not the Jewish community.” He declared that the TDI tries to “upset a centuries-long cordial relationship between the Church of Georgia and the Jewish people.”⁶⁷

Following TDI’s 28 December statement, current Ambassador of Georgia to Israel, Lasha Zhvania publicly supported Bishop Gamrekeli’s anti-Semitic statement. He said that assessment of Gamrekeli’s speech as anti-Semitism was defamation against the Church and Bishop Gamrekeli.⁶⁸

The sermon of Metropolitan loane Gamrekeli was followed by anti-Semitic statements of other Georgian Orthodox Church representatives. For example, Archpriest Ilia Karkadze, in his sermon, spoke about the “Jewish influence” and justified Stalin’s repressions against them.⁶⁹ According to him, Stalin could not be duped, because he was a “great genius”, however today, Georgia and Russia are conquered by “offshore money”. He says it is easy to guess who is leading this process – “They wield financial leverages today”. On 8 January 2021, the public relations unit of the Georgian Orthodox Church and Bishop loane Gamrekeli published a statement. The Metropolitan acknowledged the anti-Semitism in the sermon of Archpriest Karkadze, but not in his own statements.⁷⁰ Later on, other Orthodox Church clergymen made further anti-Semitic statement and such developments has become even more alarming.⁷¹

Unlike the Patriarchy of the Georgian Orthodox Church, which did not evaluate and respond critically to the series of anti-Semitic statements, anti-Semitism of the Church had been critically assessed by the diplomats and Jewish community organizations⁷². Ambassador of Israel to Georgia Ran Gidor

⁶⁵ TDI’s statement on Bishop loane Gamrekeli’s antisemitic sermon, 28 December 2020
<http://tdi.ge/en/statement/tdi-condemns-anti-semitism-georgian-orthodox-church>

⁶⁶ Bishop loane Gamrekeli’s public response of 30 December 2020
<https://www.facebook.com/672857109589231/posts/1593795830828683/?d=n>

⁶⁷ Bishop loane Gamrekeli’s public response to TDI, 1 January 2020
<https://www.facebook.com/672857109589231/posts/1594989677375965/?d=n>

⁶⁸ Statement of ambassador Lasha Zhvania, 28 December <https://www.facebook.com/Zhvanial/posts/1941813032639497>

⁶⁹ Archpriest Ilia Karkadze’s antisemitic sermon, 4 January 2021 <https://bit.ly/2TvsPKb>

⁷⁰ TDI on Acknowledgement of Anti-Semitism by the Metropolitan, 8 January 2021
<http://tdi.ge/en/statement/tdi-acknowledgement-anti-semitism-metropolitan>

⁷¹ TDI’s Statement about another case of religious anti-Semitism, 9 February 2021
<http://tdi.ge/en/statement/statement-about-another-case-religious-anti-semitism>

⁷² Statement by the Jewish organization Israeli House, 3 January 2021
<https://www.facebook.com/itsikmoshe/posts/3866954850021420>

made several official statements. According the Ambassador, Ioane Gamrekeli “had delivered his own highly controversial and problematic sermon, parts of which could have been interpreted as anti-Semitic”. Ambassador Gidor called upon “the Georgian government to make its voice heard loud and clear in condemnation of those hateful anti-Semitic speeches”.⁷³

⁷³ The firsts statement of Ambassador Ran Gidor, 4 January 2021, <https://www.facebook.com/IsraelinGeorgia/posts/3573825869350846>
Second statement, 4 January 2021,
<https://www.facebook.com/IsraelinGeorgia/photos/a.199692306764236/35730393>
Third statement, 8 January 2021,
<https://www.facebook.com/IsraelinGeorgia/photos/a.199692306764236/3583695425030557/>

7. HATE SPEECH AND XENOPHOBIA

The hate speech, xenophobia and discriminatory rhetoric towards ethnic Azerbaijanis became particularly evident in 2020. After the Georgian government declared Marneuli and Bolnisi a quarantine zone in the spring of 2020 and confirmed cases of coronavirus in the region, the social network was consumed by hate speech. This included a number of discriminatory statements from public figures.

For example, the director of the National Centre for Manuscripts noted that residents of the village of Marneuli should be “locked up and killed”. The statement was followed by swearing.⁷⁴

Also noteworthy is the statement of the head of the National Centre for Disease Control, Amiran Gamkrelidze,⁷⁵ for which he later apologized. Mr. Gamkrelidze stated that according to the information provided to him, a local mullah and a mufti in the Kvemo-Kartli region “played a bad role” in the quarantine zone.

The political party “Alliance of Patriots” actively used xenophobic and Turkophobic rhetoric during their pre-election campaign and stirred up religious-ethnic strife.⁷⁶ The pre-election video ads of the Patriots Alliance were xenophobic. At the same time, Irma Inashvili stated that the economic and ideological expansion of Turkey in Adjara had intensified, therefore, we must defend Adjara and Georgia⁷⁷. During the pre-election period, the Patriots Alliance displayed a banner⁷⁸ near the Georgian-Turkish border saying: “Defend Adjara! Defend your share of Georgia!”. The banner showed a map of Georgia, where Adjara was marked as an occupied territory.

⁷⁴ Statement of the civil platform “No to Phobia” dated 20 May 2020, available at – <https://bit.ly/34yjkw0>

⁷⁵ Statement of 2 May 2020, Tabula, available in Georgian <http://www.tabula.ge/ge/story/170552-gamkrelidze-mushevanze-mogvces-informacia-titqos-mati-mola-da-mufti-tamashobs-cud-rols>

⁷⁶ Statement of the civil platform “No to Phobia” dated 3 September 2020, available at Statement of the civil platform “No to Phobia” dated 20 May 2020, available at – <https://bit.ly/34yjkw0>

⁷⁷ Statement of 29 August 2020. Public Broadcaster, available at – <https://bit.ly/3c7PQtg>

⁷⁸ “Anti-Turkish Election Banner by Kremlin-friendly Party Removed after Backlash”, 31.08.2020, Civil.ge <https://civil.ge/archives/364292>
<http://tdi.ge/en/statement/civil-platform-no-phobia-responds-pre-election-campaign-alliance-patriots-georgia>

Xenophobia and hatred towards Georgian Azerbaijanis were also promoted by the Georgian Orthodox Church clergy. This was clearly demonstrated in the midst of the events related to David Gareji and the Nariman Narimanov monument.

On 24 May 2020, during the Sunday sermon, the Bishop of Marneuli and Hujabi, Giorgi Jamdeliani, issued an ultimatum to the Marneuli mayor as to the rehabilitation of the Nariman Narimanov monument. He demanded the removal of the monument and later made chauvinistic statements. During the meeting with the ethnic Azerbaijani population the bishop told them that they live on the Georgian soil and that for those who stand guard over the country – “May God reconcile the Georgian land”, and as to those who do not – “May this bring misfortune upon them all. The members of the Georgian March, who in turn have been waging a deliberate anti-Azerbaijani and xenophobic campaign for months, joined Jamdeliani’s statements.⁷⁹

On 30 May 2020, the State Security Service launched an investigation into this issue under the article of racial discrimination, however, the purpose of the investigation was not clear to the public. The agency actively summoned Muslim cleric Sheikh Mirtag Asadov and ethnic Azerbaijani activists in Kvemo Kartli for questioning.⁸⁰ As the purpose of the investigation was vague, it was reasonable to assume that the State was pressuring ethnic and religious minorities.

On 16 July 2020, Bishop Jamdeliani, the director of the Primakov Georgian-Russian Community Centre – Dimitri Lortkipanidze, and other leaders of the Georgian March held another rally in Marneuli demanding the removal of the monument.⁸¹

Attempts by the local diocese of the Orthodox Church to incite religious and ethnic strife in Kvemo Kartli have become systematic. For example, on 21 January 2021, according to media outlet reports⁸², Orthodox clergymen in the village of Meore Kesalo in Marneuli Municipality would not allow the ethnically Azerbaijani local population to use and cultivate agricultural land. The Kesaloians were first opposed by the local Orthodox clergy, and then by the Bishop of Marneuli and Hujab, George Jamdeliani. “Before your grandfather, my grandparents were here, on this soil,” Jamdeliani told the ethnic Azerbaijani population. It is the position of the diocese, that they are the ones possessing the right to dispose these lands⁸³. It should be noted that for the local population, farming and cultivation of the lands adjacent to the village are the main sources of livelihood. Ethnic Azerbaijanis say⁸⁴ they notice in the actions of the authorities unequal treatment and bias in the Orthodox clergy’s favor.

⁷⁹ Soviet-Era Monument Steals the Show in Georgia’s COVID-hit Marneuli, 30.05.2020, Civil.ge <https://civil.ge/archives/354407>

⁸⁰ Georgian Security Service to Probe Incitement of Ethnic Strife, 30.05.2020, Civil.ge <https://civil.ge/archives/354469>

⁸¹ “Rally against the monument of Nariman Narimanov in Marneuli”, Netgazeti, 16.07.2020, available at – <https://netgazeti.ge/news/468188/>

⁸² Marneuli Radio, 21 January 2021, available at – <https://bit.ly/3fCfS9R>

⁸³ Tabula, 27 January 2021, available at – <https://bit.ly/2SMCSKB>

⁸⁴ Marneuli Radio, 23 January 2021, available at – <https://bit.ly/3fDX8qP>

At the same time, on 27 January 2021, near the village of Kushchu in the Marneuli Municipality, the Orthodox Church under the leadership of Bishop Jamdeliani and with the participation of the “Georgian March” erected a cross on Gagi Fortress.⁸⁵ According to Jamdeliani, the cross and the Georgian state flag were lost near the village of Kushchu a few days earlier in unknown circumstances. Local Muslim population and clerics condemned the removal of the cross and flag, noting that ethnic Azerbaijanis respect religious and national symbols and that the issue at hand was likely to be a product of provocation.⁸⁶

Part of the Orthodox clergy and xenophobic, radical violent groups also jointly campaigned on the issue of David Gareji. Pro-Russian groups considered Azerbaijan together with Russia in the context of threats and occupation.⁸⁷ In 2021, the violent actions of the Orthodox clergy and the attack on journalists became alarming. For example, on 4 May, drunken clerics in Davit Gareji attacked cartographer Iveri Melashvili and a Mtavari Channel journalist, and physically assaulted them.⁸⁸

During the Covid Pandemic, xenophobic attitudes towards ethnic Azerbaijani population and minorities in the general public became apparent. Hate speech was heard from various groups in society, including public figures, politicians, and Orthodox clergy. The lack of state policy towards violent, radical groups is worth mentioning separately. These mainly pro-Russian groups, which stir up ethno-religious strife and attack their fellow citizens, receive no proper response from the State. They are supported by part of the Orthodox clergy, who further incite intolerance and xenophobia in society.

⁸⁵ “A new cross was erected on Gagi Fortress”, Mtavari Channel, 27 January 2021, available at – <https://mtavari.tv/news/30319-gagis-tsikheze-akhali-jvari-aghmartes>

⁸⁶ Mtavari Channel, 27 January 2021, available at – <https://bit.ly/3yTmJn1>

⁸⁷ Pre-election monitoring 2020, Media Development Fund, available at <http://mdfgeorgia.ge/uploads/Pre-Election%20Monitoring%202020.pdf>

⁸⁸ Clergymen Attack ‘Cartographers Case’ Suspect, Journalists in David Gareji, 05.05.2021 <https://civil.ge/archives/417878>

ANNEX: STATISTICAL DATA OF INVESTIGATION OF CRIMES MOTIVATED BY RELIGIOUS INTOLERANCE

In 2020, The General Prosecutor's Office, the Supreme Court, the Ministry of Internal Affairs, and the National Statistics Office of Georgia with the support of the Council of Europe Office started joint data collection on hate crimes. In a pilot mode, the agencies already published the first report on hate crime data covering the period of 1 October – 31 December 2020.⁸⁹

With the aim to analyze the response of the State on crimes motivated by religious intolerance, TDI requested the data from relevant institutions. The information includes the number of launched investigations and the prosecution in 2020, also the court statistics.

► The Ministry of Internal Affairs

According to the information of the Human Rights and Investigation Quality Monitoring Department of the Ministry, in 2020 the Department monitored 23 criminal cases containing the alleged religious intolerance motive.⁹⁰

In 2020 the Ministry started investigation on 9 cases:⁹¹

- ▷ Article 155 of the Criminal Code (illegal interference with religious rituals) – 5 cases
- ▷ Article 156 of the Criminal Code (persecution on religious grounds) – 4 cases.

► Prosecutor's Office

According to the information provided by the Prosecutor's Office of Georgia, the agency started criminal prosecution in the cases containing religious intolerance against 4 individuals:⁹²

⁸⁹ Joint report of data on hate crimes, October–December 2020 https://www.geostat.ge/media/36776/Hate-crimes_2020_IV.pdf

⁹⁰ Letter from the Ministry of Internal Affairs of Georgia N MIA 1 21 00230332, 1 February 2021.

⁹¹ Letter from the Ministry of Internal Affairs of Georgia N MIA 8 21 00331085, 11 February 2021.

⁹² The statistical data of the prosecution is calculated based on the letter of the Prosecutor's Office of 2 February 2021 №13/5226 and the 3-month joint statistics published by the GeoStat.

- ▷ Article 126¹ of the Criminal Code (domestic violence) – against one person
- ▷ Articles 126¹ and 11¹-151 of the Criminal Code (domestic crime, violence and threatening) – against one person
- ▷ Article 155 of the Criminal Code (illegal interference with religious rituals) – against one person
- ▷ Article 156 of the Criminal Code (persecution on religious grounds) – against one person.

In the cases of religiously motivated hate crimes in 2020 the prosecutor’s office granted the formal status of victim to 3 legal persons and 7 individuals.

▶ Common Courts

Pursuant to the data provided by the Supreme Court of Georgia, in 2020 the common courts:⁹³

With article 155 of the Criminal Code (illegal interference with religious rituals):

- ▷ Courts of first instance (city courts) received one case for examination; also continued examination of one case submitted to the court before 2020;
- ▷ The courts of appeals and the Supreme Court have not received any case with this article in the reporting period.

With article 156 of the Criminal Court (persecution on religious grounds):

- ▷ Courts of first instance (city courts) received two cases for examination – in one of them the Court made guilty verdict and quitted examination on the other because of the unfitness of the accused person to plead;
- ▷ The city courts continued examination of two cases submitted to the court before 2020. The courts gave guilty verdicts in both cases;
- ▷ The Courts of Appeals received two cases. In both cases the court upheld the decision of the lower courts;
- ▷ The Supreme Court received one case. Court found the case inadmissible.

With article 166 of the Criminal Code (interference with creation of political, public or religious unions and interference with their activities) of the Criminal Code of Georgia, none of the cases was received by common courts in 2020.

Article 53¹ of the Criminal Code (hate motive, including religious, as the aggravating circumstance to the criminal liability) was applied by the court in one case, concerning the domestic violence committed on the ground of religious intolerance.

⁹³ Letter from the Supreme Court of Georgia N3-22-21, 16 February 2021.

