

FREEDOM OF RELIGION AND BELIEF IN GEORGIA

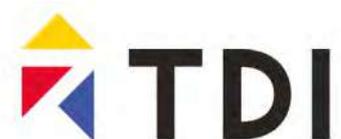
2022
R E P O R T



TOLERANCE AND DIVERSITY INSTITUTE

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METHODOLOGY

The purpose of this report is to review and analyze the legal and political aspects of the state of freedom of religion and belief in Georgia. The report covers the year 2022. It analyzes the systemic problems that non-dominant religious organizations have been facing for many years and remain unsolved during the reporting period. Besides, new legal and political issues related to freedom of religion and belief are also reviewed.

In the process of preparing the report, various research tools were used for obtaining and processing empirical material: desk research, the analysis of Georgian legislation, state documents, reports of the international and local organizations and of the Public Defender, public information requested from local and central authorities, interviews with various religious community members, the results of litigations conducted by TDI and court decisions. The state's policy and practice in terms of freedom of religion and belief are evaluated in relation to the constitutional and international standards of the protection of human rights.

MAJOR TENDENCIES

The year 2022 was distinguished by the Georgian government's openly anti-democratic and anti-Western policy. With the full-scale invasion of Russia in Ukraine and the developments surrounding the EU candidate status in Georgia, such a policy of the Georgian government has become even more obvious. The alarming decline in respect for democracy, the rule of law, and human rights in the country was also naturally reflected in the state of freedom of religion and belief.

All systemic problems in terms of freedom of religion and belief and equality of religious communities remained unresolved during the reporting period.

There has been no attempt to eliminate the existing discrimination in the legislation by granting property and tax rights and privileges exclusively to the Georgian Orthodox Church. On the contrary, during the reporting period, the government developed a new legislative initiative that exempts only Orthodox Church clergy members from military obligation.

Property and ownership issues of minority religious communities remain a pressing problem. No steps have been taken toward returning the religious buildings confiscated by the Soviet regime and developing a restitution policy. The positive news in 2022 was that the Jewish community managed to register the ownership of a part of the old Synagogue in Tbilisi. The Jewish community obtained this right through the court in 2001, but the decision was not enforced since then.

The government's practice of creating artificial obstacles for the construction of new places of worship was also maintained. Muslims in Batumi are still praying under the open air because Batumi City Hall has been illegally and discriminatorily refusing to issue a permit for the construction of a new mosque in Batumi from 2017 to the present day. The violation of the fundamental rights of Muslims has a continuous character.

The case of the Evangelical Church of Georgia, which faces the danger of losing its only prayer house, is also related to the property and independence of the religious community. In November 2022, the Tbilisi Court of Appeals reversed the decision of the city court and ordered the pastor of the Evangelical Church to pay the plaintiff the money that had been collected by

church donations over the years for building the prayer house. The case against the Evangelical Church, appearing in the form of a private civil dispute, may be part of the government's repressive religious policy.

Public schools in Georgia display a low detection rate of religious discrimination and violations of religious neutrality. Contrary to the statistics, the representatives of minority religious organizations still emphasize that the facts of violations of the law in schools are frequent. It should be appreciated that the process of reviewing new school textbooks by the Ministry of Education and Science has been maintained, in which human rights experts also participate and evaluate the content regarding discrimination in the textbooks presented for contests.

Several cases of antisemitism were revealed in 2022. Antisemitism also remains problematic in the rhetoric of the Orthodox clergy.

The statistics of crimes committed on the grounds of religious intolerance is still relatively low compared to previous years, but the problem remains not the initiation of the investigation but the delay in the filing of charges by the prosecutor's office and the granting of victim status to the victims. This is directly reflected in the small number of decisions in court on such criminal cases.

The case of alleged illegal surveillance files of the State Security Service made public in 2021 remains unsolved. The files proved that the government exerts large-scale pressure and control on the clergy and the religious sphere in general.

The non-secular policy of the state is also manifested in the actions and rhetoric of high-ranking officials. Another part of the government's anti-Western and anti-democratic policy is the populist religious content, by which it constantly tries to use the authority of the Georgian Orthodox Church for its own advantage and it happens at the expense of neglecting the rights of minorities.

To summarize the main tendencies, one could say that the relevance of problems in the field of freedom of religion and belief has significantly decreased, a fewer number of new, rigid, and violent cases come to the surface, the crime rates have declined, problems are rarely spoken about even by religious communities themselves, and the topic of freedom of religion rarely arises in the general picture of the country's problems. Accordingly, it seems that, at first glance, the situation is stable and does not go through significant regression.

However, considering the state of religious freedom, state policies, and court decisions, it can be said that this "stability" is highly misleading. The transformation of the state's religious policy

became obvious immediately after the change of government in 2012 when Muslims became victims of large-scale and systemic oppression. Shortly in 2014, the State Agency for Religious Issues was established under the Prime Minister; its mandate is problematic and unclear. In 2015, the Agency published the document “Strategy for the Development of Religious Policy of the State of Georgia”. The content and the goals of the strategy showed that the priority of the state is not to protect the freedom of religion and the rights of religious organizations but to reinforce the mechanisms of control over them. The alleged files of the State Security Service also make it clear that the government’s pressure and control over religious organizations is alarming. Therefore, it can be said that the situation of freedom of religion and belief has, in fact, worsened, and the abstract stability is the result of the government’s repressive policy.

1. DISCRIMINATION IN LEGISLATION

Until now, the existing discriminatory norms in the legislation, which introduce differentiated approaches to religious minorities, remain a problem. In particular, we encounter examples of such discrimination in the Law on State Property and the Tax Code, where exceptional privileges are granted only to the Georgian Orthodox Church. Despite the fact that religious minorities have been facing these problems for a long time, the legislative and executive authorities have not taken any steps to eliminate the existing discrimination in the legislation.

In 2020, Instead of eliminating the existing discrimination in the legislation, the Parliament of Georgia, under the state of emergency related to Covid-19, implemented legislative changes that granted the Patriarchate the exclusive right of ownership of state forests. In 2022, the government prepared a draft of the Defense Code, according to which only the clergy of the Orthodox Church would be exempt from military service. Therefore, the state's religious policy is not only inclined toward avoiding correction of the existing discrimination in the legislation but also introduces new sources of inequality.

1.1. TDI'S CONSTITUTIONAL CLAIMS ON TAX AND PROPERTY INEQUALITY

It has been several years since the Tolerance and Diversity Institute has been actively involved in litigation aimed at repealing the validity of discriminatory norms in the legislation. Currently, TDI is representing religious organizations in four ongoing cases in the Constitutional Court.

1. One of the cases concerns the existing tax disparity among religious organizations. In particular, the contested norm exempts only the Orthodox Church from the tax on land (property) used for non-economic purposes and leaves all other religious organizations outside of the exemption. On April 30, 2020, the Constitutional Court accepted the case for merits review,¹ although the date of the hearing on the merits remains unknown.²
2. In addition, on April 16, 2021, nine religious organizations lodged a constitutional complaint with the Constitutional Court of Georgia³ and requested to recognize as unconstitutional the norms

1 See record of the minutes of the Constitutional Court of Georgia taken on April 30, 2020 regarding the acceptance of the lawsuit for the review on merits. Constitutional lawsuit No. 1422, available in Georgian at: <https://www.constcourt.ge/ka/judicial-acts?legal=9133>

2 Religious organizations filed a lawsuit with the Constitutional Court on May 7, 2019. The interests of the plaintiffs are defended by the Tolerance and Diversity Institute (TDI) and the Constitutional Law Clinic of Free University of Tbilisi.

3 Constitutional Lawsuit N1593, available in Georgian at: <https://constcourt.ge/ka/judicial-acts?legal=11126>

of the Tax Code, which exempt only the Georgian Orthodox Church from import tax when importing religious items, while restricting other religious organizations from using the same opportunity.⁴ In June 2021, the court accepted the case for consideration.

3. The following lawsuit, in which TDI represents seven religious organizations in the Constitutional Court, was filed on July 29, 2021.⁵ The disputed norms concern the entry of the law on state property, which limits the right of religious organizations to privatize state-owned religious buildings and their ruins. The existing legal regulation prohibits the privatization of this category of property to all entities, including religious organizations. Nevertheless, the Patriarchate of the Georgian Orthodox Church still reserves this right, which derives from the constitutional agreement signed between the Church and the State.⁶ The issue is problematic on both sides: not only it creates discrimination, but it also deprives all minority religious communities of the opportunity to regain property confiscated during the Soviet Union. On December 28, 2021, the Constitutional Court accepted the case for merits review.⁷ The date of the hearing on the merits, however, remains unknown.
4. Regarding the admissibility of the lawsuit, the court has not yet made a decision on the 2019 constitutional lawsuit of religious organizations,⁸ which disputes the discriminatory norms of the Law on State Property of Georgia. The challenged norms limit the right of religious organizations to purchase or exchange state-owned property, with the exception of the Georgian Orthodox Church.⁹

1.2. COMPULSORY MILITARY SERVICE

At the end of 2022, the Government of Georgia submitted draft bills to the Parliament of Georgia,¹⁰ including the draft of the new Defense Code of Georgia. Among other things, the legislative changes apply to the issues of exempting the clergy from the obligation of military service or considering alternative ways for them. The adoption and enforcement of the amendment is planned for the Parliamentary session in spring 2023.

According to the present legislation, conscription for compulsory military service is deferred if a person “is a clergyman or a student attending a theological school.”¹¹ According to the legislative amendment initiated by the Government of Georgia, it is planned to revoke the right to defer mil-

4 The interests of plaintiff religious associations are defended in the Constitutional Court by the Tolerance and Diversity Institute (TDI).

5 Constitutional lawsuit of seven religious associations N 1640, available in Georgian at: <https://constcourt.ge/ka/judicial-acts?legal=12279>

6 Article 7 of the Constitutional Agreement “between the State of Georgia and the Apostolic Autocephalous Orthodox Church of Georgia” approved by Resolution No. 1697 of the Parliament of Georgia dated October 22, 2002.

7 Record of the minutes of the Constitutional Court of Georgia No. 1/16/1640 of December 16, 2021, available in Georgian at: <https://constcourt.ge/ka/judicial-acts?legal=12946>

8 Constitutional lawsuit of nine religious associations N 1440, available in Georgian at: <https://constcourt.ge/ka/judicial-acts?legal=1410>

9 The interests of the plaintiffs are defended by the Tolerance and Diversity Institute (TDI) and the Constitutional Law Clinic of Free University of Tbilisi.

10 Defense Code, Parliament of Georgia, 28.12.2022, available in Georgian at: <https://parliament.ge/legislation/25591>

11 Law on Military Obligation and Military Service, Article 30.

itary service for clergy and to replace it with an offer of a non-military, alternative labor service, which is reflected in the initiated Defense Code and the current law on non-military/alternative labor service.

In terms of the principle prohibiting discrimination on the grounds of religion, the most important question that arose within the framework of the presented reform is how equally the amendment is going to affect all religious organizations, including the Georgian Orthodox Church. It is noteworthy that according to the existing constitutional agreement between the state and the Orthodox Church (which has a hierarchically superior legal power in relation to the Organic Law of Georgia and the Georgian Law), the clergyman of the Orthodox Church is exempt from military obligation.¹² In addition, according to the current legislation, alternative labor service is considered as another form of military obligation.

Based on all of the above, the words used in Article 4 of the Constitutional Agreement – “military obligation” include both military and non-military, alternative labor service for conscripts. Accordingly, unlike all other religious organizations, the clergy of the Georgian Orthodox Church will be exempt from the obligation to join the alternative labor service stipulated by the law on Non-military Alternative Labor Service, which will create yet another discrimination.¹³

1.3. THE RIGHT TO OBTAIN FOREST PROPERTY BY THE PATRIARCHATE

Through the legislative amendments adopted by the Parliament of Georgia in 2020, which entered into force on January 1, 2021, a new privilege was granted to the Patriarchate of the Georgian Orthodox Church. The amendments made the Patriarchate the only institution that is allowed to take ownership of state forests.¹⁴ It should be noted that a similar right has not been granted to any other party since the privatization of forests is generally not allowed by legislation.¹⁵

In July 2021, the Public Defender of Georgia submitted to the Constitutional Court a claim to recognize the above-mentioned amendment as unconstitutional.¹⁶ On September 29, 2022, the Constitutional Court held a regulatory session regarding the acceptance of the lawsuit on the merits. During the reporting period, the court did not make a decision to accept the claim for consideration.

¹² Constitutional Agreement, Article 4.

¹³ see the Tolerance and Diversity Institute’s assessment of February 17, 2023: <https://tdi.ge/en/news/1057-legislative-amendments-military-service-clergy>

¹⁴ In particular, “areas of forests around churches and monasteries – no more than 20 hectares each, also the areas defined by the Forest Code of Georgia”. Paragraph 6 of Article 3 of the Law on State Property.

¹⁵ For further details, see: Tolerance and Diversity Institute (TDI) – “Freedom of Religion and Belief in Georgia during the Pandemic and Beyond”, Report 2020-2021 (May), p.18: http://tdi.ge/sites/default/files/forb_in_georgia_amid_and_beyond_pandemic.pdf

¹⁶ July 22, 2021 N1627 constitutional complaint of the Public Defender of Georgia, available in Georgian at: <https://www.constcourt.ge/ka/judicial-acts?legal=11963>

In order to observe how many units of forest lands have been transferred to the Georgian Orthodox Church since the enforcement of the law to the end of 2022 (indicating the location of the lands, their area and status), TDI wrote to both the Ministry of Environmental Protection and Agriculture of Georgia¹⁷ and LEPL National Agency of State Property.¹⁸ However, as of April 2023, no definite information has been provided to TDI.¹⁹

1.4. RELIGIOUS HOLIDAYS AND DAYS OF REST

In the reporting period, the issue of eliminating existing discriminatory legislation against non-dominant religious organizations remained unresolved. According to the legislation, enjoying their own religious holidays or rest days is problematic for religious minorities employed in any sector, as well as pupils and students. In order to identify these problems and solutions, TDI launched an active work in 2022.

According to the Labor Code of Georgia, 13 holidays are defined as public holidays (counting 17 days off), of which only 6 are related to public events of secular nature, while the rest are exclusively Orthodox Christian holidays²⁰. The cultural and religious holidays of other religious and ethnic communities living in Georgia are neglected.

According to the Labor Code, an employee can request alternative days off instead of the established holidays only if it is allowed by the contract.²¹ This is the only general rule that religious minorities can benefit from. In this case, the request for different days off instead of the existing ones depends on the labor contract and the goodwill of the employer, which does not provide appropriate guarantees for the employee. The Public Defender of Georgia also points to the solution of the mentioned problem in the 2022 report and submits to the Parliament a proposal to guarantee the possibility of the use of alternative days off.²²

¹⁷ Letter N-843/01/2023 of Tolerance and Diversity Institute dated to February 2, 2023.

¹⁸ Letters N-842/01/2023 and N-846/02/2023 of Tolerance and Diversity Institute dated to February 2, 2023 and February 17, 2023.

¹⁹ It should be noted that according to Article 40 of the General Administrative Code of Georgia, “a public institution is obliged to provide public information, including the one requested in electronic form, immediately or in no later than 10 days”, and that only if any of the conditions established by the first paragraph of Article 40 is met.

²⁰ The Organic Law of Georgia – Labor Code of Georgia, Article 30.

²¹ Ibid, paragraph 2 of Article 30.

²² See 2022 Report of the Public Defender, p. 185, available in Georgian at:

https://ombudsman.ge/res/docs/2023033120380187763.pdf?fbclid=IwAR0c0xK3hLuMN95Czlr0HOyc53RMUfAGuT1jyZv_8BkCt6eELFGNSDJU4u4

2. PROPERTY RIGHTS OF MINORITY RELIGIOUS ORGANIZATIONS

Issues related to religious property and prayer houses remain one of the pressing problems for non-dominant religious organizations. Religious communities face obstacles both in the process of regaining religious property confiscated during the Soviet period and in the process of building new places of worship. The legislation itself is also discriminatory, which restricts the right of religious organizations, other than the Patriarchate of the Georgian Orthodox Church, to reclaim and purchase state property. The case of the Evangelical Church of Georgia is also related to the issue of the property and independence of the religious community, which in 2022, due to an unjustified court decision, faced the danger of losing its only prayer house.

2.1. RETURN OF HISTORIC PROPERTIES

As in previous years, the issue of restitution of historical religious property of minority religious communities continued to be unresolved during the reporting period. The issue of property restitution has been on the agenda since the collapse of the Soviet Union and the restoration of Georgia's independence. Only the Georgian Orthodox Church has been able to regain the property to the present day.

Unlike the Orthodox Church, other religious communities could not reclaim a large part of their property confiscated during the Soviet Union. Part of that kind of property is owned by the state, and part of it moved into the hands of the Patriarchate of the Georgian Orthodox Church. For example, the Patriarchate has appropriated seven buildings of the Catholic Church.²³ In 2017, the state handed over to the Patriarchate the ownership of the historically Armenian Tandoyants Church in Tbilisi.²⁴ In 2019, a part of the Evangelical Lutheran Church located in Asureti village in Tetrtskaro municipality, which is also an immovable cultural monument of national significance, was given to the Patriarchate of Georgia with the right to use.²⁵

²³ For detailed information on the issue of restitution of religious property in Georgia, see TDI's report "The Restitution Policy in Georgia", available at: http://tdi.ge/sites/default/files/restitution_policy_in_georgia.pdf

²⁴ Ibid. p.14.

²⁵ For more details see the 2020 Parliamentary Report of the Public Defender of Georgia, p.169, available at: <https://ombudsman.ge/res/docs/2021070814020446986.pdf>

The only news we have is about the old synagogue. The former synagogue standing on Abesadze Street in Tbilisi functions today as the Royal District Theater. In the 1930s, the Soviet government confiscated the synagogue from the Jewish community and altered its function. In 1995, the Georgian authorities handed the building over to the Jewish religious community with the right of ownership.²⁶ However, since 1988, the building belonged to the State Drama Theater with the right of ownership and use. According to the decision of the Supreme Court in 2001,²⁷ the Jewish religious community has been given the right of ownership over part of the disputed building. Despite the court's decision, the theater has been refusing to give up the building for years. Based on the 2001 decision of the court, only in 2022 the Jewish community managed to register part of the building as their property in the public registry.

2.2. THE CASE OF BUILDING A NEW MOSQUE IN BATUMI

In the reporting period, the issue of the construction of a new mosque by Muslims in Batumi remained a problem. The court case, which started in 2017 on the basis of the claim of the New Mosque Construction Fund in Batumi appealing against the illegal decision of the Batumi City Hall on issuing a construction permit, is pending in the Supreme Court.

On July 20, 2021, in response to the Batumi City Hall's appeal of the decision of the Court of Appeals to the Supreme Court of Georgia, the New Mosque Construction Fund in Batumi also lodged a cassation appeal to the Supreme Court.²⁸ Consideration of the case at this stage was also delayed. On January 13, 2022, the Supreme Court recognized the cassation appeal of both parties as admissible to be reviewed without the parties' presence, however, as of April 2023, the date of case review is still unknown (even though the formal deadlines have already passed²⁹).

As is well known, The New Mosque Construction Fund in Batumi bought land with its own funds and on February 8, 2017, it applied to Batumi Municipality City Hall for permission to build a mosque. The refusal of the Batumi City Hall for the construction permit was based on the following ungrounded arguments: the land where the construction of the new mosque is planned is located in the intensive residential development area, at the same time, it is not advisable to build a religious building there considering the specific needs of the place of worship.

On April 13, 2021, the Kutaisi Court of Appeals shared and left unchanged the decision of the Batumi City Court of September 30, 2019. Both courts determined that the refusal of the Batumi City

²⁶ Resolution of the Cabinet of Tbilisi City Hall, dated June 22, 1995.

²⁷ Decision of the Chamber of Administrative and Other Cases of the Supreme Court of Georgia No. 3b/ad132, April 10, 2001.

²⁸ See the news section of the Tolerance and Diversity Institute:

<https://tdi.ge/en/news/1030-case-construction-new-mosque-batumi-has-been-appealed-supreme-court>

²⁹ According to article 34 of the Administrative Procedural Code of Georgia, the total period for receiving and deciding on the cassation appeal is six months. This period also includes the process of examining the case admissibility of no more than three months.

Hall to issue the first stage permit for the construction of a new mosque was illegal and included discriminatory treatment towards the plaintiffs on the grounds of religion.³⁰

Despite the well-founded decisions of the court, Batumi City Hall, from 2017 until now, chooses the strategy of appealing to higher courts and delaying the fulfillment of its own obligations. Since 2017, hundreds of Muslim citizens regularly gather and pray under the open air on the land purchased for the construction of the mosque. Due to the illegal decision of the government, the violation of the fundamental rights of Muslims has a systematic and continuous character.

2.3. THE CASE OF THE EVANGELICAL CHURCH OF GEORGIA

The Tolerance and Diversity Institute (TDI) defends the interests of the Evangelical Church of Georgia and its pastor, Zaal Tkeshelashvili.³¹

The gross violation of the freedom of religion and belief, along with other fundamental rights of the congregation of the Evangelical Church, is masked under a controversial civil dispute. On November 9, 2022, the Tbilisi Court of Appeals ordered Pastor Zaal Tkeshelashvili (the defendant) to pay the plaintiff money from the church donations received over the years, which was intended to complete the construction of the church's first and only prayer house.

The plaintiffs in the case are US citizen Byung Chan Park and his US-registered organization Twelve Baskets. In 2019, Park filed a complaint against Zaal Tkeshelashvili with the Tbilisi City Court, demanding that the defendant must pay in his favor the donations that the plaintiff, on behalf of the church, collected from Christian believers abroad over the years.

The city court did not satisfy any of the four claims of the plaintiff Park. However, in November 2022, the Tbilisi Court of Appeals reversed the decision of the Tbilisi City Court and ordered the church to pay \$90,000 to the plaintiff. Pastor Zaal Tkeshelashvili appealed the decision of the Court of Appeals to the Supreme Court on January 30, 2023.

Based on a detailed study and analysis of the case file, one can reasonably suspect that Plaintiff Park acted maliciously and used the religious community for his own suspicious financial and business activities. The case is accompanied by copies of allegedly forged documents submitted by the plaintiff and certified with a US notary stamp. Not only that the judicial system of Georgia ignored the allegedly forged content of the documents, but it also used them to make decisions

³⁰ In court, the interests of the New Mosque Construction Fund in Batumi are defended by the Tolerance and Diversity Institute (TDI) and the Social Justice Center.

³¹ Report of the case against the Evangelical Church of Georgia, Tolerance and Diversity Institute (TDI), February 9, 2023: http://tdi.ge/sites/default/files/the_case_against_the_evangelical_church_of_georgia.pdf

that harmed the Church and its pastor. In November 2019, Zaal Tkeshelashvili applied to the Prosecutor's Office of Georgia with a request to start an investigation into the alleged falsification of documents. More than three years have passed since this appeal, with no result so far.

As for the organization of plaintiff Park, Twelve Baskets, it is noteworthy that it is closed in the registration system of US corporations and charitable organizations due to years of failure to submit annual reports to the government.

The current conflicting and unsubstantiated civil dispute and the reversal of the decision by the Court of Appeals raises the reasonable assumption that there is a deliberate campaign against the Evangelical Church of Georgia and Pastor Zaal Tkeshelashvili in order to silence them and take away the Church's property and independence.

3. THE STATE FUNDING FOR RELIGIOUS ORGANIZATIONS

As in previous years, the state continued to fund the Georgian Orthodox Church in 2022. The Patriarchate again received 25 million GEL from the central budget of the state. Although both the state and the patriarchate justify the transfer of this money and other material resources by claiming that it is compensation for the damages caused to the church during the Soviet regime. Obviously, by its nature, such a transaction does not look like compensation for damages but more like subsidizing the Patriarchate by the state.

Since 2014, four other religious communities (Muslim, Jewish, Catholic and Armenian Apostolic Church) also receive annual state funding to symbolically compensate for the damages done to them during the Soviet Union. The State Agency for Religious Issues ensures the distribution of funds allocated from the state budget. In 2022, the state increased the funding by 1 million GEL. As a result, the total annual funding for all four religious communities amounted to 5.5 million GEL³². Recognizing only four religious organizations as victims of Soviet repression should be considered as a discriminatory approach of the state, since many other religious communities were subject to repression under the Soviet regime. Nevertheless, the state did not expand the list of beneficiaries even in 2022.

It should be noted that in addition to the central budget, the Georgian Orthodox Church also receives funding from local self-governments, which amounts annually to approximately 5 million GEL. The mentioned funding is also non-transparent and non-secular. In most cases, the purpose of funding and a record of how they are spent are unknown.

In 2022, 43 municipal governments donated a total of 4.3 million GEL to the Orthodox Church. The funds allocated for the Patriarchate is particularly abundant in separate municipalities.³³ For example, for the last few years, the authorities of Marneuli municipality have been handing over 400,000 GEL annually to the Marneuli and Hujabi diocese of the Orthodox Church.³⁴ It should be noted that the majority of the population of Marneuli is ethnically Azerbaijani and Muslim. In addition, the Orthodox Christian leader of the Marneuli and Hujabi Diocese of the Patriarchate of Georgia –

³² State funding of four religious organizations in 2022: Administration of Muslims of All Georgia – 3,350,000 GEL, Catholic Church – 650,000 GEL, Armenian Apostolic Church – 1,000,000 GEL, Jewish Union of Georgia – 500,000 GEL.

³³ Public information about the funding received by the Patriarchate of Georgia from the budgets of local self-governments during 2022 was collected and processed by the Union of Investigative Journalists [iFact](#).

³⁴ Decision of Bolnisi District Court of July 1, 2022, case N3/23-2.

Bishop Giorgi Jamdeliani stands out for his discriminatory attitude towards the local Azerbaijani/Muslim community, which often manifests in the encouragement of hatred and provocations on ethnic and religious grounds.³⁵ Considering all this, the unconditional and non-transparent funding of the diocese provided by the local government causes special concern.

3.1. LITIGATION OVER DISCRIMINATORY MUNICIPAL FUNDING

On July 1, 2022, the Bolnisi District Court made an important decision, which made it possible to eliminate the discriminatory practice established among local self-governmental units, meaning the transfer of budget funds to a particular religious organization. Shortly, this decision was declared void by the Court of Appeals.

The case refers to a dispute that started in 2019, the plaintiffs of which are the Supreme Administration of Muslims of All Georgia and Samira Bayramova. The Bolnisi District Court partially granted the claim. The court established as a fact of discriminatory treatment on religious grounds and invalidated the norm of the resolution of the Marneuli municipality council, which “allocated the sum of 400,000 GEL for the Diocese of Marneuli and Hujabi in the amount of 100,000 GEL per quarter, with the purpose of providing full support”.³⁶

The court noted that the “historical standing of the Church” cannot legitimize granting a privilege to one single religious organization when it comes to state funding. It pointed to the principle of secularism and neutrality based on respect for pluralism and diversity, which implies impartiality to any religious belief. The court considered that the disputed norm imposes biased treatment on religious grounds, which has no “sufficient, objective, and reasonable justification”. According to the court’s assessment, such prejudiced treatment of religious organizations is contrary to the requirements of Article 11 of the Constitution of Georgia and limits the right to equality.³⁷

Marneuli City Hall appealed the decision to the Tbilisi Court of Appeals, which, on December 8, 2022, annulled the decision of the court of first instance. According to the Social Justice Center, the Court of Appeals, with a formal and hasty consideration of the case, “ignored the importance, context, anti-discrimination legislation and constitutional principles of the dispute”, it summed up “a vast and complex administrative dispute” into one hearing, and canceled the decision as a result. The dispute now continues in the Supreme Court of Georgia.³⁸

35 Soviet-era Monument steals the show in Georgia’s covid-hit Marneuli, 30.05.2020, civil.ge <https://civil.ge/archives/354407>; “Protest rally against the erection of the monument of Nariman Narimanov in Marneuli”, Netgazeti, 16.07.2020, available in Georgian at: <https://netgazeti.ge/news/468188/>; Tabula, January 27, 2021, available in Georgian at: <https://tabula.ge/ge/news/661177-babuashenamde-chemi-mama-papa-iqo-ak-meupe-giorgi>

36 Decision of Bolnisi District Court of July 1, 2022, case N3/23-2.

37 Ibid. &7.31, 7.32

38 See the statement of the Social Justice Center, available in Georgian: <https://socialjustice.org.ge/ka/products/tbilisis-saapelatsio-sasamartlom-gaaukma-pirveli-instantsiis-sasamartlos-gadatsqveteleba-romelits-marneulis-biujetidan-sakartvelos-sapatriarkos-dafinansebis-diskriminatsiulobas-adgenda>

4. CRIMES COMMITTED ON RELIGIOUS GROUNDS

The present chapter presents both the statistics of crimes motivated by religious intolerance and the tendency of the state to respond to them, as well as the alleged crimes committed by the authorities, which manifest in the control and pressure on various religious communities.

4.1. CRIMES MOTIVATED BY RELIGIOUS INTOLERANCE

Inadequate state response to crimes motivated by religious intolerance remains a challenge. According to the 2022 joint report of the Ministry of Internal Affairs of Georgia, the Prosecutor's Office and the Supreme Court of Georgia titled "Statistics of crimes committed on the grounds of discrimination and intolerance",³⁹ the Ministry of Internal Affairs initiated criminal investigations into 8 cases motivated by religious intolerance during the reporting period.⁴⁰ As for the Prosecutor's Office of Georgia, criminal prosecution started in 2 cases of the alleged crime committed on religious grounds, and 13 persons were recognized as victims.⁴¹ One person was declared guilty of the crime of religious intolerance.

The improved tendency towards identifying the motive of hatred in the process of investigation of alleged hate crimes is worth appreciating, however, the delay in the recognition of victims and pressing charges by the prosecutor's office during the investigation remains a significant challenge. The Public Defender of Georgia also points out the ineffectiveness of investigating hate crimes.⁴²

In the case of Mikeladze and others v. Georgia, in the part of the execution of the decision made by the European Court of Human Rights,⁴³ according to the assessment of the Committee of Ministers of the Council of Europe, additional measures should be taken in order to develop a uniform

³⁹ Ministry of Internal Affairs of Georgia, Prosecutor's Office of Georgia, Supreme Court of Georgia, – "Joint report on statistics of crimes motivated by intolerance on grounds of discrimination, 2022", see at: https://www.geostat.ge/media/51738/Hate_2022.pdf

⁴⁰ In 6 cases among them, only religion was identified as a sign of discrimination, in one case, religion and race, and in another case, religion and gender.

⁴¹ Out of these, 12 persons were identified as victims in the criminal cases, in which only religion was identified as a sign of discrimination, and 1 person in the case in which race was identified as a sign of discrimination along with religion.

⁴² Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2022, p. 181.

⁴³ The decision of the European Court of Human Rights on November 16, 2021 in the case Mikeladze and Others v. Georgia, (Application no. 54217/16).

judicial practice regarding hate crimes, which, among them, includes the part of applying sanctions. In addition, considering the repeating nature of hate crimes, the Committee called on state authorities to consider the creation of a specialized investigative unit and take other institutional measures that would make it possible to increase the effectiveness of investigations and apply sanctions.⁴⁴

■ Violence Against Jehovah's Witnesses and Their Persecution

Statistics demonstrate that Jehovah's Witnesses are most often the victims of religious intolerance. Among the offenses committed against them are physical violence, hindering the performance of their religious rituals, and damage to their premises, property and religious literature. In this regard, 2022 was no exception. According to the account of the religious organization of Jehovah's Witnesses, during the reporting period, Jehovah's Witnesses again became victims of alleged crimes motivated by intolerance, including cases of damage to the places of worship (Kingdom Hall), or theft of property from the Kingdom Hall, as well as violent attacks on religious grounds and threats of physical violence. More specifically, nine criminal cases motivated by alleged intolerance were recorded:⁴⁵

- On three occasions, religious services were disrupted and the Kingdom Hall was damaged – the Ministry of Internal Affairs has started an investigation, although with no outcome so far⁴⁶;
- Intrusion into a religious service and making a threat of violence – the investigation was launched under Article 156 of the Criminal Code, however, shortly after the charge was presented, according to the ruling of the Tbilisi City Court, the legal prosecution against the convict was terminated, the preventive measure was annulled and he was transferred to a mental institution for two years for the purpose of forced psychiatric treatment;
- Intrusion into a religious service and issuing a threat of violence – the case reveals an alleged improper response on the part of law enforcement officers and the investigator, including inaction, destruction of the video footage of the incident, and incomplete recording in the report of important factual evidence necessary for the investigation;
- Intrusion into a religious service and issuing a threat of violence – the investigation was launched, although with no outcomes so far;
- Theft at the Kingdom Hall and damage done to religious literature – the investigation is ongoing under Article 177 of the Criminal Code (theft) with no outcome so far;
- Theft at a place of worship – the results of the investigation are unknown;

⁴⁴ Decisions of the 1451st meeting of the Committee of Ministers of the Council of Europe on December 6-8, 2022 – CM / Del / Dec (2022) 1451 / H46-13. See: https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680a9376b

⁴⁵ The information is based on the 2022 report of Jehovah's Witnesses in Georgia.

⁴⁶ It is also worth noting that an investigation began on one of the cases under Article 187 of the Criminal Code, concerning the damage or destruction of someone else's property.

- Violent disruption of religious service – the investigation is launched, however, the results are still unknown.

■ The Murder Case of Vitaly Safarov

According to the decision of the Tbilisi Court of Appeals of February 16, 2023, the issue of qualifying the crime committed on the grounds of ethnic intolerance and anti-Semitism, as in the case of the murder of Vitaly Safarov, remained a problem. As is known, on September 30, 2018, Georgian citizen 25-year-old human rights defender Vitali Safarov was murdered. The conflict began in a bar at the Freedom Square in Tbilisi. Vitaly Safarov died instantly of multiple stab wounds.

According to the factual and legal circumstances of the case, two people were involved in the murder, and the openly anti-Semitic and xenophobic language of the attackers indicated that the crime was committed on the grounds of intolerance. At the same time, the perpetrators' connection with neo-Nazi groups was obvious.⁴⁷

Nevertheless, the verdict of the Tbilisi City Court of June 22, 2019, removed racial, religious, national or ethnic intolerance from the list of possible motives for murder, declared the defendants guilty of group murder only and sentenced each of them to 15 years in prison. All parties appealed the decision to the Tbilisi Court of Appeals. The prosecutor and Vitaly Safarov's family demanded that the action be qualified as a deliberate, group crime committed precisely on the grounds of ethnic/religious intolerance.⁴⁸

On February 16, 2023, the Tbilisi Court of Appeals announced the verdict at the last trial and upheld the decision of the court of the first instance. The mentioned case is now taken to the Supreme Court of Georgia.

4.2. TOTAL STATE CONTROL OVER RELIGIOUS COMMUNITIES

Illegal surveillance and monitoring, pressurizing and blackmailing religious representatives, intervention in the autonomy of religious organizations, looking at the religious sphere not from the perspective of human rights but bringing it under the control of the security services – this is what the state's religious policy looks like and contains signs of alleged systemic crime.

⁴⁷ "Details and Legal Assessment of the Murder Case of Human Rights Defender Vitaly Safarov", humanrights.ge, September 5, 2019, available at: <http://www.humanrights.ge/index.php?a=main&pid=19945&lang=eng>

⁴⁸ "The Court of Appeals upheld the verdict in the case of Vitaly Safarov – the Supreme One has the final say", Radio Liberty, February 16, 2023, available in Georgian: <http://bit.ly/3Z2YheK>

■ Illegal Surveillance, Monitoring, and Pressure

The secret materials published in 2021 revealing the suspected large-scale illegal wiretapping and surveillance by the State Security Service seemed particularly alarming, for which a full investigation and identification of those responsible have not yet taken place.

On September 13, 2021, thousands of leaked documents appeared on online platforms containing personal data, private communications and personal information about certain individuals. According to the media that had access to the mentioned documents and that processed the materials, most of the published documents were concerned with the topic of religion and religious organizations.

The materials make clear that the government illegally listens to and monitors the representatives of the Georgian Orthodox Church and other religious organizations. In addition to religious leaders, among the victims of the state's illegal actions are human rights defenders, journalists, politicians, diplomats and others related to religious affairs in one way or the other or even had brief contact with religious organizations.

According to the announcement of the Prosecutor's Office of Georgia in 2021, the investigation started under the first and second parts of Article 158 of the Criminal Code of Georgia, also under the signs of crime provided in subsection "A" of Part 4 (violation of discretion of private communication).⁴⁹ The Social Justice Center, an organization that protects the rights of some of the clergy affected by the above-mentioned actions, reports that the investigation is ineffective. The prosecutor's office granted the clergy the status of victims only a year later, in October 2022. No one has been charged in connection with the mentioned case, and the authorities have not taken responsibility for the large-scale illegal surveillance and monitoring.⁵⁰ It should be noted that the exact number of the clergypersons recognized by the prosecutor's office as victims is unknown, however, according to TDI, the number of the clergypersons who have been recognized as victims is more than the abovementioned four people.

In a letter sent to the prosecutor's office in January 2023, TDI asked for information related to the investigation of the case. In particular, it requested information on the confirmation of the authenticity of the published records, the separate proceedings of individual cases, as well as the number of the accused and victims in the case;⁵¹ the request was denied by the prosecutor's office.⁵² It is also worth noting that, due to great public interest, the Public Defender applied to the Prosecutor

⁴⁹ Statement of the Prosecutor's Office of Georgia dated to September 18, 2021. available at: <https://pog.gov.ge/en/news/https-pog-gov-ge-1-2>

⁵⁰ "Evaluation of ongoing investigation into the leaked files from SSSG", Social Justice Center, October 2022, available at: <https://socialjustice.org.ge/en/products/sakmis-masalebis-gatsnobis-shemdeg-sus-is-krebsebe-mimdinare-gamodziebas-vafasebt>

⁵¹ Letter N-840/01/2023 of the Tolerance and Diversity Institute dated to January 31, 2023.

⁵² Letter N-13/9634 of the General Prosecutor's Office of Georgia dated to February 14, 2023.

General of Georgia and requested to let her exclusively become familiarized with the materials of the ongoing investigation, although the prosecutor's office denied this request as well.⁵³

■ The Case of Muslim Religious Leader Vagif Akperov

The case of Vagif Akperov, the former Sheikh of the Administration of Muslims of All-Georgia, is a clear example of the government's non-secular and discriminatory religious policy. The case of the alleged duress and pressure exerted on him by the State Security Service in 2013 has not been investigated to the present day.

Vagif Akperov has been a Muslim religious leader since 1996. He participated in various formats of interreligious dialogue and was actively involved in civic life. Since 2011, Vagif Akperov has held the position of sheikh (one of the highest religious titles in Shia Islam) of the Administration of Muslims of All-Georgia and served in the Juma Mosque in Old Tbilisi.

On December 27, 2013, he was summoned to the Ministry of Internal Affairs of Georgia (the so-called Module building), where, according to Akperov, the employees of the Ministry of Internal Affairs threatened him that they would spread information about his personal life and damage his reputation, also hinting at the possibility of creating various obstacles for his family members. They forced him to write a resignation letter, stop going to the mosque and cease relations with human rights organizations and the media. After so much pressure, the representatives of the Ministry of Internal Affairs dictated to him the text of the letter of his resignation from the position of Sheikh and forced him to write it down.

The illegal actions of the authorities are also confirmed by the information spread in the program Post-Factum on the Mtavari TV channel on March 21, 2021,⁵⁴ where Ivane Gulashvili, a former employee of the State Security Service, tells how he followed the instructions of his leadership and loaded a virus file on the computer of Sheikh Vagif Akperov in order to secretly obtain information about his personal life (via audio-video surveillance).

On April 27, 2016, after the appeal of the Public Defender of Georgia and Vagif Akperov, the Prosecutor's Office of Georgia started an investigation into the criminal case of possible abuse of official authority, with the signs of the crime according to Article 333, Part 3, Subparagraph "C" of the Criminal Code. Nevertheless, for seven years, in order to effectively conduct the investigation, no appropriate measures were taken and no legal result was found. Up to the present day, Vagif Akperov has not been recognized as a victim, no criminal prosecution has been initiated against particular persons, and the investigation is still ongoing although with no results.⁵⁵

⁵³ 2022 Report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia, p. 139.

⁵⁴ Post Factum, SSSG Secret Files, March 21, 2021 Mtavari TV Channel, available in Georgian: <https://mtavari.tv/post-factum/36779>

⁵⁵ The interests of Sheikh Vagif Akperov are defended by TDI.

■ The Case of the Leader of Episcopal Anglican Church

In 2022, several facts of alleged persecution and violations of the rights of the Episcopal-Anglican Church in Georgia were revealed. The Anglican Church has been functioning in Georgia since 2018.

According to the leader of the church, Thoma Lipartiani, on July 17, 2022, a representative of the State Agency for Religious Issues contacted him to inform that the chairman of the agency, Zaza Vashakmadze, was “summoning him to an introductory meeting”. Lipartiani expressed his wish to bring another clergyperson to the meeting, to which, according to him, he received the answer: “Mr. Zaza said to leave the priest behind at home and come to the office on his own”. As the clergyman notes, the representative of the agency also insulted him verbally.⁵⁶ Thoma Lipartiani believes that the purpose of calling him to the agency was not to get to know his church, but to pressurize him.

The second case is related to threats. In particular, a Facebook post of the pastor of the Anglican Church on August 5, 2022, was followed by threatening phone calls and comments. According to Thoma Lipartiani, three people made phone calls and issued violent threats against the church and the lives of the parishioners. The investigation into the case was delayed and the pastor was recognized as a victim only on March 14, 2023; one person was charged under the first part of Article 151 of the Criminal Code (threat). According to the organization Equality Movement, the accused person is a member of the violent extremist group Alt-Info.⁵⁷

⁵⁶ “They summoned me and swore at me – The Spiritual leader of the Anglican Church in Georgia blames the representative of the Agency for Religious Issues”, Radio Liberty, July 28, 2022, available in Georgian: <https://www.radiotavisupleba.ge/a/31963703.html>

⁵⁷ “The Prosecutor’s Office charged the member of Alt-Info who carried out the threats”, Equality Movement, available in Georgian: <https://equality.ge/8675>

5. FREEDOM OF BELIEF IN PENITENTIARY INSTITUTIONS

According to the 2022 report on the state of protection of human rights and freedoms published by the Public Defender, the Special Penitentiary Service ensured the publication of information on the official website about the beginning of the process of receiving parcels in penitentiary institutions over the holidays of religious minorities, as they do for Orthodox holidays.⁵⁸ The issue addressed the fact that the list of edible products permitted during religious holidays was unavailable, while the same practice was commonly accepted in regard to Orthodox holidays.

In addition, according to the Public Defender, a prayer room was allocated for religious minorities in penitentiary institution No. 15. Earlier, in the 2021 report, the Public Defender indicated that Orthodox chapels were functioning in all penitentiary institutions and for convicts of other religious confessions, spaces for prayer were allocated only in two (No. 3 and No. 5) penitentiary institutions. In the rest of the prisons, convicts had to perform religious rituals in their own residential cells.

Despite the fact that the above-mentioned recommendations were fulfilled, the Public Defender's report indicates a number of recommendations that the state did not respond to, including the Public Defender's recommendation to consider the needs of representatives of different faiths in the process of cooking.⁵⁹

⁵⁸ "On the State of Protection of Human Rights and Freedoms in Georgia" (Report of the Public Defender, 2022), p.177: <https://ombudsman.ge/res/docs/2023033120380187763.pdf>

⁵⁹ "On the State of Protection of Human Rights and Freedoms in Georgia" (Report of the Public Defender, 2022), p.178.

6. THE CASE OF JEHOVAH'S WITNESSES BLOOD TRANSFUSION

During the reporting period, the decision of the Tbilisi Court of Appeals set a precedent regarding the legality of a blood transfusion for a Jehovah's Witness patient by a medical facility and, as a result, the violation of the patient's rights.⁶⁰

In this particular case, the patient filed a complaint against the medical institution (defendant) and the doctor and demanded compensation for moral damages caused as a result of the medical action that violated his rights during his treatment; to be more precise, he asked for compensation for using the method of blood transfusion, which is unacceptable to his faith, which he had declared in writing in advance. Therefore, the use of this method of treatment caused him moral damage and inflicted emotional distress on him.

The patient's admission to the hospital was preceded by a car accident, as a result of which the plaintiff was injured and lost consciousness. He was immediately transported to one of the regional clinics, and later, the same evening, he was transferred to Tbilisi. The patient remained unconscious throughout this period. According to the defendant, the patient's life could not be saved without a blood transfusion, therefore, their decision – to give blood to the patient – was determined by this very condition.

On May 25, 2022, the Court of Appeals partially satisfied the claim of the Jehovah's Witness, by which the defendant was demanding compensation for moral damages and suspension of the validity of the doctor's state certificate confirming the right to independent medical activity for a period of three years.

In its decision, the Court of Appeals drew attention to Article 11 of the Law of Georgia On Health Care, according to which performing a medical intervention on minors or those patients who are unable to make a conscious decision shall only be admissible taking into consideration their will expressed in the past (when they had the ability to make a conscious decision). It is interesting that the case presents a handwritten document in which the patient's will is declared clearly and

⁶⁰ Decision of the Tbilisi Court of Appeals on the case № 330210020004008136 (№2B/691-22) on May 25, 2022.

unambiguously, saying that he is against blood transfusion and that this request applies even to those cases when the medical service provider considers his life to be in critical danger. At the same time, the Appeals Court drew attention to the fact that the declared refusal was so unambiguously recorded by the plaintiff that it did not give anyone the right to consent to the treatment against his will. Moreover, in the document, the patient indicated that his family members or relatives may have a different opinion, but this could not influence his decision. The court pointed out that the document was drawn up in a simple written form, and the manifestation of will is confirmed by the plaintiff himself. Accordingly, the court considered that the medical institution is not allowed to request the confirmation of its authenticity in any other way, including a notarized form.

The Court of Appeals pointed out that the manifestation of the patient's will by the signature was conditioned by his belief, and the freedom of religion and belief is a right protected by the Constitution. In the decision, the Court of Appeals evaluated both the evidence in the case and the relevant practice of the Georgian Constitutional and European Court of Human Rights in terms of freedom of religion, physical integrity, dignity and the right to free development of the individual. As a result, the court considered that the plaintiff's consent was fully informed, including its scope regarding the specific method of medical treatment, while blood transfusion clearly exceeded the scope, violated the person's freedom of religion and his dignity, which is why, according to the court's assessment, the claim was reasonable.⁶¹

Taking into account all of the above, the Court of Appeals considered that by performing the blood transfusion against the clearly expressed will of the patient (even under the conditions where his life could be in danger), the rights of the patient were violated by the medical institution, therefore, the clinic and the doctor were charged to pay 1,000 GEL for moral damages in favor of the patient.

61 Ibid.

7. RELIGION AND EDUCATION

7.1. THE PROBLEM OF PRESERVING RELIGIOUS NEUTRALITY IN PUBLIC SCHOOLS

Indoctrination, proselytism and violation of religious neutrality in public schools remain a significant challenge to the present day. As the representatives of minority religious communities mentioned to TDI, in public schools, both the facts of displaying religious symbols for non-academic purposes and the differentiation of students representing a specific religious community on the basis of religion are still common.

The Law of Georgia On General Education defines religious neutrality and non-discrimination as one of the main principles of the public school, which includes the creation of a secular and egalitarian educational environment for all students. However, despite the existence of the problem, the Ministry of Education does not proactively detect and prevent similar facts. The rate of filing complaints by the students/parents themselves is still low, which is probably conditioned by a general lack of trust and even more fear of being stigmatized.

According to the information of the Ministry of Education and Science of Georgia,⁶² in 2022, the internal audit department prepared a conclusion about the violation of religious neutrality in schools, which was based on the letter sent by the Tolerance and Diversity Institute (TDI) to the internal audit department of the Ministry of Education.⁶³ The letter was concerned with the fact that happened on October 4, 2021, at the beginning of the school year, the administration of one of the public schools in Tbilisi publicly played an audio recording of an Orthodox prayer, which lasted about 20-25 minutes. As a result of the examination conducted by the Internal Audit Department of the Ministry, a violation of Article 13, Paragraph 2 of the Law of Georgia On General Education was revealed, according to which “The use of the study process in general education institutions for the purpose of religious indoctrination, proselytism or forced assimilation shall be inadmissible”. A written warning was issued against the school.⁶⁴

⁶² Letter of the Ministry of Education and Science of Georgia dated to February 6, 2023 N: MES 8 23 0000131166.

⁶³ Letter N-790/10/2021 of the Tolerance and Diversity Institute (TDI) dated to October 5, 2021.

⁶⁴ Report N-0902221625 of the Internal Audit Department of the Ministry of Education and Science of Georgia dated to February 9, 2022.

According to the information of the Ministry of Education, in addition to religion, from January 1 to December 31, 2022, the Internal Audit Department also received correspondence about five facts of alleged ethnic intolerance in public educational institutions. “Out of the five mentioned cases, information about two facts was sent to the relevant school for further response, a written response was sent to the applicant of one case, and the proceedings are ongoing about the other two cases”.

Similar to the environment of public schools, school textbooks are mostly written from the perspective of the ethnic and religious majority. It is admirable that since 2019, the Ministry of Education, in cooperation with the Public Defender of Georgia, has included human rights experts in the process of examining new school textbooks for all subjects. The criteria for human rights and non-discrimination envisage the evaluation of the content of the textbooks in terms of the reflection of the culture of tolerance and diversity. During the reporting period, the process of evaluation and revision of textbooks continued. In particular, with the involvement of experts, in 2022, the process of grading was underway for the tenth-grade textbooks.

7.2. DISCRIMINATION ON GROUNDS OF RELIGION AT UNIFIED NATIONAL EXAMINATIONS

Since 2020, the Tolerance and Diversity Institute has been defending the interests of two applicants who are members of the Seventh-day Adventist Church and applied to the National Examination Center on June 30, 2020, with a request to postpone the exam scheduled for July 18, because due to their religious beliefs, they could not participate in exams on Saturdays. The Center unlawfully and unjustifiably rejected the applicants’ request, thus violating their freedom of religion and belief, education and equality rights. TDI applied to the Tbilisi City Court on July 15, 2020, with an injunction application to secure the claim.⁶⁵ The application demanded that the National Assessment and Examinations Center be instructed to allow the applicants to take the exam on July 17th or 19th or any other day except Saturday, which the court approved. As a result, applicants were able to take the exam on a different day.

Later, on July 24, 2020, TDI submitted to the Tbilisi City Court the complaint of university applicants, requesting the identification of discrimination on the grounds of religion, the elimination of the consequences of discrimination by invalidating the disputed act of refusal, and a symbolic compensation of 1 GEL for moral damages caused by discrimination.

On April 20, 2022, the Tbilisi City Court partially satisfied the applicants’ request. The court recognized the controversial act issued by the National Examinations Center as invalid, which limited the possibility for applicants to change the date of the examination. However, the court refused to find discrimination on grounds of religion and impose on the center the symbolic compensation for moral damages. In August 2022, TDI appealed the City Court’s decision to the Tbilisi Court of Appeals. The Court of Appeals has not considered the case during the reporting period.

⁶⁵ The July 20, 2022 statement of TDI, available at:

<http://tdi.ge/en/news/842-tdi-appeals-court-against-national-assessment-and-examinations-center>

8. ANTISEMITISM AND HATE SPEECH

Along with Russia's full-scale invasion of Ukraine, the activation of pro-Russian, violent, extremist groups in Georgia have become particularly alarming. At the same time, some extremely disturbing facts of anti-Semitism became known. This is compounded by Russian disinformation and propaganda, hateful and anti-Semitic sentiments spread by individual Orthodox clergymen, aligned with the ideology of the Moscow Patriarchate.

8.1. A NEW WAVE OF ANTI-SEMITISM AGAINST THE MURDERED VITALY SAFAROV

According to widespread reports,⁶⁶ unknown fascist groups have launched an alarming anti-Semitic campaign against the young human rights defender Vitaly Safarov who was murdered in 2018 and his family. On March 4, 2022, unidentified persons sent messages containing anti-Semitic and hate speech content to Vitaly Safarov's mother on the social network. The mother of Vitaly Safarov, who was assassinated on grounds of his ethnic/religious background, suddenly received several messages of fascist and xenophobic content on her phone. At the same time, several anti-Semitic Facebook profiles and pages appeared, using photos of the deceased Safarov and spreading fascist, anti-Semitic messages, including calls for the extermination of Jews. It is worth noting that the hate campaign took place simultaneously with the trial of those convicted of Safarov's murder. The family immediately called the police and requested an investigation. According to the family's lawyer, the Ministry of Internal Affairs began to study the case, collected evidence, interviewed witnesses, but could not identify the ones who spread those messages, nor could they identify the signs of crime. Accordingly, the investigation was not launched.

8.2. NAZI SYMBOL ON THE WALL OF A JEWISH CEMETERY

According to the information of the non-governmental organization Israeli House, on February 28, 2022, the organization became informed that unidentified persons painted a Nazi swastika on the wall of the Jewish cemetery in the Samgori district of Tbilisi (the exact time of the act of vandalism is unknown). Representatives of the Israeli House immediately arrived at the scene, called the

⁶⁶ "They are spreading violent calls using Vitaly's photos", – when will the Ministry of Internal Affairs become interested in what happened?", Radio Liberty, April 14, 2022, available in Georgian: <http://bit.ly/3JH9SMb>

police and officially reported the incident to the Isani-Samgori police headquarters on the same day. After the police arrived at the scene and the act was recorded, the representatives of the Jewish community painted the wall of the cemetery and removed the Nazi symbols.

According to the response of the Ministry of Internal Affairs on April 20, 2022,⁶⁷ proceedings were initiated in the case of the swastika on the cemetery wall based on Article 150² of the Code of Administrative Offenses (distorting the image of Tbilisi City Municipality). The Ministry of Internal Affairs announced that “all appropriate measures have been taken to identify the offender”. The results of the investigation are unknown.

8.3. ANTI-SEMITIC MESSAGES SPREAD BY THE CLERGY OF THE ORTHODOX CHURCH

Since 2020, the anti-Semitic statements of high-ranking clergymen of the Orthodox Church in Georgia have acquired an alarming nature.⁶⁸ Despite this, neither the Patriarchate nor the authorities have evaluated and condemned the recurrent anti-Semitic statements. This trend also continued in 2022.

Along with the alarming military aggression against Ukraine, the propagandist messages of the Kremlin, the Moscow Patriarchate and the clergymen representing the Orthodox Church of Georgia often coincide. The Jewish roots of the Ukrainian President Zelensky is emphasized in a derogatory context, he is often referred to as a “gay activist”, while the Russian war is described as a battle between the West and Russian “Orthodox values” in Ukraine.

Bishop Spiridon (Abuladze) of the Diocese of Skhalta spoke in his sermon in August 2022 about how terribly the Russian tourists are treated in Georgia, which reminds him of the way Hitler treated the Jewish people, “It was a terrible persecution of the Jewish people and now you are doing the same to the Russians”. He refers to “the President and the leadership of Ukraine” as a source of inspiration for the “mistreatment” of Russian tourists.⁶⁹ Besides, he compares Ukrainian President Zelensky with Hitler and considers Russian military aggression to be the wrath for “the sins committed”: “What is happening in Ukraine? Because of this man’s sins and his satanic ideology, you see what is happening in Ukraine now”.⁷⁰

⁶⁷ Letter MIA 4 22 01055590 of the Ministry of Internal Affairs of Georgia dated to April 20, 2022.

⁶⁸ See the chronology of the statements made by the clergy, 2020–2021. <https://tdi.ge/en/statement/antisemitism-church-updated-summary>

⁶⁹ “Bishop Spyridon: they tell us to mistreat Russian tourists – that’s what Hitler did”, Tabula, August 17, 2022 available in Georgian: <https://tabula.ge/ge/news/690379-meupe-spiridoni-rus-turistebz-ukheshad-moepqarito>

⁷⁰ “The way Hitler persecuted the Jewish people was awful, now you are doing the same to the Russians” – Bishop Spyridon calls Zelensky a Satanist, and compares the Russians to “poor Jews”, ambebi.ge, August 17, 2022 available in Georgian: <http://bit.ly/3zldpE1>; video URL of the sermon of August 14, 2022: <https://www.facebook.com/mamulimamulishvilebi/videos/1072378643396030>

On March 6, 2022, the priest of the Orthodox Church, Khareba Chikovani, shared a post on Facebook in which the post author writes in the context of the ongoing war in Ukraine that President Zelensky is a Jew and he is purposefully murdering Ukrainians as part of a conspiracy theory: “Many of you must have seen the 2017 interview of a Ukrainian Jew, a multimillionaire politician Igor Berkut, in which he talks about the “New Israel” project. According to the project, it is necessary to reduce the Ukrainian population to 5 million. YouTube is full of discussions about this theory (those are old videos). What a coincidence! Zelensky is also a Jew who has an active relationship with the Freemasons”⁷¹.

On February 27, 2022, a priest of Mtskheta–Tbilisi Diocese, Giorgi Samsonidze, shared somebody’s anti-Semitic post on his personal Facebook page, where the author of the post blames Russia’s aggression against Ukraine on the “kikinebiani” (ponytailed) Jews in an anti-Semitic, humiliating, insulting way and shares a conspiracy theory about the world domination of the Jews⁷².

71 See: Tolerance and Diversity Institute (TDI) – New Alarming Incidents of Antisemitism in Georgia, March 2022: <http://tdi.ge/en/news/1021-new-alarming-incidents-antisemitism-georgia>

72 Ibid.

