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**REPORT ON PROGRESS IN THE IMPLEMENTATION OF THE NATIONAL  
STRATEGY FOR THE PROTECTION OF HUMAN RIGHTS IN GEORGIA,  
2014-2020, AND RECOMMENDATIONS AS TO FUTURE APPROACHES**

**PREPARED BY: MAGGIE NICHOLSON**

Independent Human Rights Consultant, Deputy Director, New York Office of the UN High Commissioner for Human Rights (2010-2012) and Chief, Europe and Central Asia Section (2006-2010); this followed earlier experience in the Council of Europe, Human Rights First and Amnesty International.

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## Executive Summary

The National Strategy for the Protection of Human Rights 2014-2020 was adopted by the Georgian Parliament in 2014. Mid-way through its course, the USAID-supported activity Promoting Rule of Law in Georgia and the United Nations Development Programme invited an international expert to make an external assessment of the status of its implementation, identifying progress to date, together with any shortcomings, and recommending approaches for improving the implementation process.

This report, which covers the period from the adoption of the National Strategy up to the end of March 2017, draws on interviews conducted by the expert in Tbilisi in November 2016 with key government departments, parliamentarians, the Public Defender's Office and other public entities, non-governmental organisations, representatives of the donor community and international organisations, as well as on a wealth of materials made available.

The report does not focus on the institutional machinery established to coordinate work under the National Strategy, on which a separate study was prepared in November 2015. For reasons of time and logistics, it was not practicable to cover all 23 of the National Strategy's specific subject areas, but the report addresses a considerable number of them.

Findings and Recommendations are both General and Specific. Primary among these is that this landmark text remains one of the Government's top strategic documents. This is, in itself, a most encouraging signal, confirming the understanding that the protection of human rights is a continuing process in Georgia.

Much of the focus of work to date has been on legislative and policy reform and substantial strides have been made in this respect, most notably as regards anti-discrimination, juvenile justice and the protection of migrants and asylum seekers. In the next period, emphasis needs to be increasingly placed on **monitoring implementation in practice of these laws and policies and assessing their impact on the protection and enjoyment of human rights.**

Considerable effort has been invested over the past three years in translating the National Strategy into concrete action through the development of Action Plans, often highly detailed and technical in nature. In order to keep to the original vision of the National Strategy, it would at this point be useful for the Government, at every level, as well as the Parliament, **to reaffirm its commitment to applying a human rights based approach in the formulation, implementation, monitoring and assessment of policies and programmes.**

**Among other general findings and recommendations** in the report:

- The development of a culture of transparent, democratic law-making, involving consultations with stakeholders, in particular the Public Defender and representatives of civil society, should be continued and strengthened.
- Incentives towards respecting human rights should be built into the professional career systems of public servants, at recruitment and promotion stages.
- The independence of judges and prosecutors in practice needs to be addressed even more vigorously.
- In the spirit of institutional democracy as set out in the National Strategy, all efforts should be made to protect media pluralism in the country and to maintain Georgia's rise in the ranks of world press freedom.
- If systemic change is to be sustainable, further effort needs to be put into costing and budgeting of Action Plans to implement the National Strategy.
- The private sector should be addressed in future legislative and policy approaches in all spheres.
- Further consideration should be given to the role to be played by local government in giving effect to the National Strategy.
- Additional creative and innovative information programmes, especially in the regions, should be developed under future Action Plans.
- All leading figures should be persistently vocal on the point that all human rights are for all. This is a message that should percolate down to all levels of public service.

The report welcomes the significant progress made, to greater and lesser degrees, in almost all of the specific subject areas addressed in the Strategy. It goes on to identify priorities for further action.

In respect of the **justice system, penitentiaries and the prevention of torture and ill-treatment**, a considerable number of highly positive changes were noted, most particularly as regards the penitentiary system. Among the areas highlighted for further attention:

- The principle of equality of arms should be central in further reforms in the criminal justice system.
- For public trust in the judiciary to be restored, there must be concrete evidence that any political interference in judicial appointments or in the conduct of the courts is dealt with appropriately.
- There is a need for continuing enhancement of the professional qualifications of all involved in the justice system. Respect for human rights should figure prominently in criteria for recruitment and promotion.

- Establishment as a matter of priority of an independent investigation mechanism to look into cases of misconduct by law enforcement officers would be the best indication of the government's resolve to fight impunity.
- Efforts to improve conditions in the penitentiary system should continue, particularly as regards rehabilitation among higher risk categories of prisoners and health care, in particular psychiatric needs.

The **right to privacy** remains a critical issue in Georgia. The **introduction of the Law on Personal Data Protection and appointment of a Personal Data Protection Inspector went some way towards addressing concerns**. More recent practice and legislative changes indicate a need to review radically further reforms against the aims of the National Strategy, and to ensure the prompt and effective investigation and prosecution of violations.

The adoption in 2014 of the **Law on the Elimination of All Forms of Discrimination represented a major achievement**, providing the possibility for any person to defend his or her right to equality. For the full impact of the legislation to be achieved:

- The Prosecutor's Office should be trained on consideration of domestic violence, attacks on LGBT persons and other minorities as discrimination-based crimes.
- The courts should be required to collect data on cases of discrimination.
- In the absence of an Equality Inspector to monitor compliance with the law, the powers of the Public Defender to deal with complaints should be reinforced.
- A specific strategy and guidelines, accompanied by sanctions, should be drawn up on the protection of the rights of LGBT persons.

**One of the most important human rights advances since the launch of the National Strategy was undoubtedly the adoption in June 2015 of the Juvenile Justice Code**. One leading cause for concern remains the capacity of those responsible for its implementation; in this regard, the specialization of all agencies involved in the administration of juvenile justice, especially the police, needs to be strengthened and institutionalized. More attention needs to be directed to discouraging juvenile delinquency and deterring children from becoming street children. National capacity in respect of **social workers**, identified in the National Strategy as a key element in protecting the right of the child, needs to be strengthened.

In respect of **gender equality**, stronger mechanisms need to be introduced to promote greater involvement of women in political life at national and local level. Legislation is needed to combat sexual harassment effectively. **Special attention has been paid to measures to combat violence against women and domestic**

**violence and awareness of this issue has risen**, but much remains to be done. In particular, a special unit should be set up within the Ministry of Internal Affairs to work on gender-motivated crimes and the crime of femicide addressed appropriately. The recommendations of the UN Special Rapporteur on violence against women should be comprehensively incorporated into future Action Plans.

**The ratification by Georgia in 2013 of the UN Convention on the Rights of Persons with Disabilities was a most welcome step.** There still needs to be an effective focal point clearly designated to coordinate the action of all public bodies in relation to the rights under the Convention. National legislation requires further review as to its compatibility with the Convention and disaggregated statistical data needs to be collected on persons with disabilities in Georgia. Efforts should be intensified in terms of adequate housing, employment and educational opportunities, as well as in relation to public perceptions of persons with disabilities.

**The new Labour Code of 2013 introduced substantial changes in terms of labour regulation.** Further related amendments should be given due consideration, as well as ratification/acceptance of corresponding Conventions of the ILO. Safety in the workplace remains a critical cause for concern and the adoption of a Law on Occupational Health and Safety is now long overdue. Following the approval in 2016 of a new State Programme for Inspecting Labour Conditions, further thought needs to be given to the establishment of an effective mechanism with power to enforce compliance.

**A number of programmes have been under way since 2013 to provide durable housing for Internally Displaced Persons (IDPs).** There still remains an urgent need to relocate those continuing to live in collective centres, often in wretched conditions. The Communication Strategy and Action Plan of the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (MRA) should ensure that IDPs are informed adequately and in a timely manner of the choices available to them in terms of housing and under the Livelihood Support Programmes, as well as the implications of the move to needs-based assistance. Gender equality also needs to be mainstreamed into the MRA Livelihood policy, procedures and guidelines. Concrete actions should be identified to translate provisions in the MRA's 2016 Gender Equality Strategy and Action Plan into tangible results.

Efforts to resolve particular difficulties of those living near the dividing line, in particular issues of land and property ownership, as well as education and health care, must continue.

**Substantial efforts made since 2015 were successful in reducing the backlog in the handling of asylum cases. A new Law on International Protection was adopted in December 2016 and came into force on 1 February 2017, bringing national legislation further into line with international standards in relation to asylum-seekers, refugees, humanitarian status holders and persons under temporary protection. Both of these are most welcome developments, while of course calling for continuing vigilance.**

Of remaining concern is the distressing situation of **eco-migrants**. Discussions as to whether to draft a new law to afford them protection or have them included under existing legislation should be speeded up.

Further findings and recommendations can be found in the full text of the report which follows. It is hoped that these might assist the respective state agencies in assessing their own progress and refocusing on how to achieve the central goals of mainstreaming human rights in all government policies and promoting a human rights culture in the country as a whole

Three years on, the National Strategy for the Protection of Human Rights 2014-2020 remains a valuable lodestone and should be on the desk and in the heart of every public servant in Georgia.

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I should like to take this opportunity to express my thanks for the kind assistance and cooperation afforded me in carrying out this work, first to colleagues in the USAID-supported activity Promoting Rule of Law in Georgia, in the United Nations Development Programme, and in the Human Rights Secretariat under the Government Administration; to all those in the government and parliament, to the Personal Data Protection Inspector, to the Office of the Public Defender, non-governmental-organizations, and international organizations, for the materials they provided and most especially their time, in particular as regards my endless follow-up questions. The opinions presented in this report are mine alone and should not be ascribed to any other individual or institution except where explicitly stated otherwise.

Maggie Nicholson

## Introduction

Since the Revolution of November 2003, Georgia has undertaken an impressive range of reforms aimed at establishing a fair and democratic society respectful of human rights. After some harsh setbacks experienced under the previous government, in 2012 the Georgian Dream party and its coalition partners came to power pledging to give a new impetus to such efforts. The following year, the new government set up an Interagency Council for Human Rights and tasked it with developing a national human rights strategy.

The National Strategy for the Protection of Human Rights for 2014-2020 was adopted by the Georgian Parliament in April 2014. This landmark text envisaged “a systematic approach to the realization of human rights by all Georgian citizens and the timely rendering of the duties related to these rights by state authorities.” Particular attention had been given to formulating a strategy that would allow “the consistent and effective application of appropriate measures, independent of external forces, such as changes in government administration and order.” 23 priority areas were identified for action.

To give effect to the objectives of the Strategy, the Government adopted a first Human Rights Action Plan for 2014-2015, detailing concrete actions, timeframes, indicators and bodies responsible for implementation. This was followed by a second, enhanced two-year Plan for 2016-2017.

The (Interagency) Human Rights Council, chaired by the Prime Minister, was charged with coordinating and monitoring implementation of the Strategy and Plans. In this work, the Council is supported by a five-person Human Rights Secretariat, which is part of the Government Administration and funded by the state budget. The line ministries and other bodies responsible for the different elements in the Plan prepare annual reports on progress made in implementation. On the basis of these, the Human Rights Secretariat draws up a report for consideration by the Georgian Parliament.

After parliamentary elections in October 2016 returned the Georgian Dream to power with a constitutional majority, it was considered opportune to call for an external assessment of the status of implementation of the Human Rights Strategy since its adoption. Such assessment should identify progress to date, along with any shortcomings, and recommend approaches for improving the implementation process.

In this context, the human rights expert was invited by the USAID-supported activity Promoting Rule of Law in Georgia and the United Nations Development Programme to visit Tbilisi from 29 October to 7 November 2016, to consult with the Human Rights Secretariat and other stakeholders before developing this report.

The expert had the opportunity to meet with the Head of the Government Administration and the Human Rights Secretariat, with senior officials in each of the ministries involved in implementation of the National Human Rights Strategy and Action Plans, representatives of the Prosecutor's Office, the High Council of Justice and the High School of Justice, parliamentarians from the Georgian Dream and from the United National Movement, the Prime Minister's Assistant on Human Rights and Gender Equality, the Parliamentary Secretary in the President's Office, the Personal Data Protection Inspector, the Deputy Public Defender, the Legal Aid Service Director and leaders of national non-governmental organisations as well as representatives of the donor community and international organisations.

A considerable amount of material was also available for consultation in the preparation of this report (A bibliography is available in a separate Annex).

This report does not focus on the institutional machinery established to coordinate work under the National Strategy. A separate study was prepared in November 2015 on this issue<sup>1</sup> and is currently under consideration. Nor was it possible, for reasons of time and logistics, to cover all 23 subject areas addressed in the Strategy. In particular, in relation to the territories of Abkhazia and South Ossetia, it would not have been practicable to report on progress achieved.

The report covers the period from adoption of the National Human Rights Strategy in 2014 up to the end of March 2017.

### **General findings and recommendations**

It is important to note at the outset the readiness of those encountered to engage in discussion and their determined support for and pride in the National Human Rights Strategy (hereinafter the National Strategy). At the highest level, reassurance was given that the National Strategy is, and will remain, one of the Government's top strategic documents. That in itself is a most encouraging signal, confirming the understanding that the protection of human rights is a continuing process in Georgia.

One consequence of this determined approach has been the development of increasingly detailed national Action Plans, accompanied by a plethora of detailed, individual plans across ministries. While these are understandably necessary, the focus of many of them on technical indicators risks detracting from the broader objectives of the National Strategy as set out in the introductory chapters. As can be seen in the individual chapters below, piecemeal, technical, even legislative

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<sup>1</sup> *Institutional strengthening and organizational development of the Human Rights Council of Georgia*, Marc Limon, November 2015

initiatives will rarely be sufficient in themselves to achieve the overall objectives of the Strategy.

At this mid-way stage, and with a new government recently installed, it would be useful for **the Human Rights Council to take a step back and, together with the various inter-agency councils and other structures, re-focus on how to achieve the central goals of mainstreaming human rights in all government policies and developing a human rights culture in the country as a whole.** Such reflections should revisit the clearly articulated objectives in the National Strategy, realistically identify challenges to their realisation and attempt to find solutions. It is hoped that elements in this report may contribute to this discussion.

**Parliament, for its part, when considering new legislative proposals, should examine how they measure up against the principles set out in the National Strategy. Such an exercise should permeate the actions of all levels of government.** Of invaluable help in such exercises are the findings of United Nations human rights treaty bodies and special procedures, as well as regional human rights bodies, which give guidance on steps to be taken.

One underlying element that appears to have met with a certain degree of success is the culture of democratic law-making. Notwithstanding the rapid pace of legislative developments, draft laws have generally gone forward following broad consultation with stakeholders – in particular, the Public Defender’s Office and civil society organisations – as well as taking into account decisions of international human rights bodies and opinions of international experts. The National Strategy and Action Plans themselves were developed in this manner.

That said, there have been some notable exceptions where the consultative process has been left to one side when important last-minute changes are made,<sup>2</sup> and at times it is not clear why certain texts are ultimately adopted that do not heed the expert advice, leading to frustration and suspicion among engaged stakeholders. Nonetheless, **a spirit of consultation generally appears now to be the normal institutional culture and should continue and be strengthened.** This seems all the more important in the context of a government with a constitutional majority, and where there is an absorption of non-governmental actors into government.

In such circumstances also, the composition of the Constitutional Reform Commission, to include civil society organisations and experts as well as political party representatives, is most welcome, as is the Georgian Parliament’s

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<sup>2</sup> For example, the May 2016 legislative amendments on the functioning of the Constitutional Court and amendments made to the proposals for the third wave of judicial reform, and, most recently, the legislative package on covert investigative actions.

commitment that it will not approve any norm negatively assessed by the Venice Commission<sup>3</sup>.

The justice system is at the root of the protection of human rights in any country. Yet, despite the substantial number of institutional reforms that have been introduced, its operation continues to be regarded with mistrust by Georgian society.<sup>4</sup> If the aim of the National Strategy to ensure a “sustained, continuing and absolute defence of human rights within the country” is to be achieved, **the independence of judges and prosecutors in practice is an issue that needs to be addressed even more vigorously in the coming period.**

The pace of legislative change in Georgia has been rapid and its reach extensive. Training programmes have been undertaken to equip institutions to implement these changes, yet there are still indications of weakness in application in practice. Alongside continuing training, **further incentives towards respecting human rights need to be built into professional career systems, at recruitment and promotion stages, including where necessary, sanctions in case of non-enforcement.** This applies not only to those involved in the administration of justice, but equally to others with a duty of professional care, such as teachers and social workers.

A number of the issues addressed in the National Strategy have implications for the private sector whereas legislative and policy developments have focused for the most part on the public sector. The inclusion in the Action Plan for 2016-2017 of a separate chapter on business and human rights is an excellent starting point but it should not be seen merely in isolation. It would be **important not to overlook the private sector in future legislative and policy approaches in all spheres, especially in regard to application of the Law on the Elimination of All Forms of Discrimination.**

To date it appears that the Government has struggled with **costing and budgeting of Action Plans to implement the National Strategy.** No future Action Plans should go forward without a budget. It is crucial for the sustainability of systemic change that such matters be resolved before international support diminishes. Equally of concern in terms of future sustainability are the increasing responsibilities placed on the Office of the Public Defender. The number of mandates that the Office can continue to carry out efficiently and effectively are not infinite. Care

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<sup>3</sup> Irakli Kobakhidze, Chairperson of the Parliament of Georgia, 9 December 2016, as quoted in Civil Georgia, Daily News Online.

<sup>4</sup> This was a commonly heard reproach from a number of interlocutors in Tbilisi and reflected most recently in, for example, the Report on the Fourth Evaluation Round of GRECO (Council of Europe Group of States against Corruption), GrecoEval4Rep(2016)3, January 2017, at paras 85-86 et seq.

should be taken not to add to the already considerable burden on it, nor to give the impression that there is one institution in Georgia responsible for overseeing the protection of human rights.

The National Strategy is clear in calling for “a clear and resounding acknowledgement, by all representatives of both central and local government of their constitutional duty to ensure respect for human rights.” In the second half of the operation of the National Strategy, **further consideration should be given to the role to be played by local government, to ensure that it too mainstreams human rights in its policies and practices.**

The National Strategy also placed emphasis on effectively informing the general public on the essence of their rights and the ways in which to realise these rights. **Additional, creative information programmes, especially in the regions, should be developed under future Action Plans.**

My first point alluded to the enthusiasm across government for the National Strategy for the Protection of Human Rights. Care needs to be taken that this is not a selective, à la carte approach to human rights, but that it embraces **all human rights for all. The President, the Prime Minister, Parliament and all leading public figures should be persistently vocal on this point.**

## **Specific chapters of the National Human Rights Strategy**

### **1. The justice system:**

#### **1.1 Criminal justice reform**

The (continuing) *improvement of criminal legislation and promotion of the principle of “equality of arms”* is the first specific objective set out in the Strategy for 2014-2020. To this end, further *changes to the Criminal Code and Criminal Procedure Code, taking into account international standards and best practices*, were envisaged. *Ensuring adequacy and proportionality of proposed sanctions in response to criminal actions* were among the elements called for.

A number of positive changes have been noted, including re-introduction of trial by jury, initiation of reform of the Code of Administrative Offences, a measure of greater caution with regard to pre-trial detention and revisions in the legislation regarding plea-bargaining. Still more remains to be completed in relation to these developments, as well as in their application in practice. For example, at the end of

December 2016, jury trials were still only available for aggravated homicide committed only in Tbilisi and Kutaisi, and not all judges and advocates appeared to be adequately trained in their conduct. Additional amendments to the Criminal Procedural Code that came into force in January 2017 introduced a number of further improvements, and five more city courts were added to those allowing for jury trials, but restrictions on both geographical and subject-matter remit for jury trials, as well as real capacity remain of concern.

Amendments to the long-discredited Code of Administrative Offences were introduced in 2014 to ensure that an individual facing administrative detention would have many of the same guarantees as a defendant in criminal proceedings (right to be represented by a lawyer, right to inform next of kin, and so on), decreasing the maximum length of administrative detention from 90 to 15 days and making clear that detention should be considered an “exceptional” measure. These changes were very welcome, but it is hoped that such **administrative offences that call for detention can be subsumed in the revised Criminal Code**, as the Government had previously proposed.

Yet other areas of reform appeared to have been put on hold, or were challenged following their introduction. These included the new witness interrogation rules that came into force in January 2016. The subject of much protracted debate, some of the rules have been challenged in the Constitutional Court. The Court has already declared unconstitutional the provisions which do not provide to the defence an equal right in relation to accessing electronic data. The integration of discrimination as an aggravating circumstance in respective articles of the Criminal Code also remains to be addressed.

The Government should take advantage of the constitutional majority it won in the 2016 elections to ensure that further draft legislative packages duly take into account international standards and best practices in these respects and are developed with due regard given to the importance ascribed in the National Strategy to the principle of equality of arms.

However many positive legislative changes are made, meaningful reform of the justice system will ultimately depend on the actions of advocates, judges and investigative personnel. The need to enhance the professional qualifications of each of these is also identified in the Strategy. Judges and investigative personnel are covered in the Action Plan 2016-17 (see below). Advocates are not. As their role has become more important in the context of recent reforms, **more training and capacity building programmes – for example, on issues such as plea-bargaining and the conduct of jury trials - need to be made available for advocates too.**

The Action Plan for 2016-17 could have defined its targets in relation to criminal justice reform more clearly. **As “equality of arms” is a principal aim of the Strategy, these are issues that should continue to be included in future Action Plans and monitored in respect of their implementation in practice.**

## 1.2 Judicial reform

In order to ensure *greater protection of the right to fair trial*, the Strategy envisaged a *complete overhaul of the judiciary*, aimed at *guaranteeing its independence and ensuring the impartiality of individual judges*. Specifically, it called for a *revision of the rules relating to the appointment and promotion of judges and the allocation of cases; ensuring greater transparency and accountability of the judiciary through the protection of its independence*. It stressed that *the reforms of the judicial system should be conducted in an effective and transparent manner, with the active participation of the judiciary and civil society*.

The first steps were taken in May 2013, when representatives of civil society and academia replaced members of Parliament on the High Council of Justice, with the aim of making it more democratic, open and transparent, and cameras were allowed into courtrooms. A second wave of reform in 2014 introduced life tenure for judges after a probationary period and improvements in the method of their appraisal.

The third phase of reforms, launched in 2015, and regarded as critical to ensuring a genuinely impartial justice system, was unfortunately stalled for more than a year, but was finally adopted by Parliament at the end of December 2016. The reforms introduced included: clear selection criteria for judges, as well as changes in the disciplinary system to make it more transparent and predictable; greater internal independence for judges in the management of their courts; random, electronic allocation of cases; publication of court judgments and a broadening of the admissibility criteria for appeals to the Supreme Court, including non-conformity with the case law of the European Court of Human Rights.

The delays in adoption of this third set of reforms provided the opportunity for further amendments to be made to the package. These included the exclusion of incumbent and former members of Constitutional and Supreme Courts from the requirement of a three-year probationary period before life tenure is given. Questions were raised in Parliament in this regard, but no answer was given, prompting concerns about the reasons for the lack of transparency, on which the Strategy places so much emphasis. The President of Georgia returned the third wave package to Parliament with comments, but Parliament overrode the presidential veto without amending the legislation. Although further reforms

appear necessary, the third set of reforms represents a considerable advance in efforts to strengthen judicial independence.

Parallel to the reforms process, the Strategy identifies the need to enhance the professional qualifications of judges. With strong support from the international community, **extensive training has been conducted and in-service training programmes developed by the High School of Justice in which different elements of human rights figure prominently. These should certainly continue.**

For the moment, there remains significant scepticism in society as to the independence and impartiality of the judiciary. In May 2016 the hasty and non-transparent adoption by the Parliament of amendments to the laws governing the functioning of the Constitutional Court was a source of dismay, largely perceived as an undisguised attempt by the Government to interfere with the independence of the court. The appointments made by the High Council of Justice of judges for life did little to allay concern, but rather cast doubts on the effective independence of that body, despite the reforms that had been put in place.

To change this perception, and to develop a human rights-based judiciary, will take time and concerted effort. As a starting point, the Government needs to send out a **clear message to everyone that they will leave the courts and judicial appointments without interference and that any instances of unlawful interference with the work of judges should be dealt with appropriately.** Monitoring of the National Strategy and Action Plan should follow closely **not only decision-making by the courts, but also by the High Council of Justice, as concrete indicators of progress in this area.** The High School of Justice plays a key role in producing the judges of the future and its contribution to implementation of the Strategy is also deserving of greater engagement.

### **1.3 Reform of the Prosecutor's Office**

With the objective of *developing a criminal prosecution that is independent, objective, effective and transparent, as well as oriented on human rights protection*, the National Strategy first called for an *improved control mechanism of the prosecution service in accordance with international standards*. It also pinpointed the need to *ensure independence of criminal prosecutions*.

Legislation was adopted in 2015 aimed at developing greater independence of the prosecution service. A Prosecutorial Council was first created, following which in November 2015 the Chief Prosecutor was elected for the first time, rather than appointed, with his authority more clearly defined. The Chief Prosecutor must report annually to the Council. A system of evaluation of prosecutors, for purposes

of promotion or dismissal, was introduced, based on specific criteria and guided by a Collegial Board.

Nonetheless, civil society organisations have contended that, despite certain positive changes, the legislation was incomplete and did not get to the heart of the basic goal of depoliticizing the system. They point in particular to the role of the Minister of Justice at the head of the Prosecutorial Council and the ruling party's ability to nominate candidates for appointment with only minimal qualifications and experience<sup>5</sup>. Furthermore, dismissal procedures remained excessively politicized, a concern that has also been addressed by the Council of Europe's Group of States against Corruption (GRECO) in its Fourth Evaluation Report<sup>6</sup>. GRECO also recommended that the disciplinary regime applicable to prosecutors needed to be further reviewed, disciplinary offences being defined more precisely and the proportionality of sanctions ensured.

In February 2017, the Chief Prosecutor approved the Strategy and Action Plan of the Prosecution Service of Georgia for 2017-2021 and a system of Evaluation of Prosecutors. This, inter alia, aims to create a transparent system of recruitment and promotion of prosecutors, improve the quality of the prosecution service and investigation processes, and raise the qualifications of employees and society's trust in the service. Criteria began to be introduced for the evaluation of prosecutors with promotion henceforth based on evaluation results. **It will be important to follow the implementation in practice of the Action Plan.**

A Code of Ethics is also soon to be introduced, which it is hoped will better clarify disciplinary action, which in the past has not been transparent. **The Code of Ethics should be kept up to date, widely disseminated among prosecutors and accompanied by practical measures to ensure its implementation.**

One specific cause for concern has been the tendency of prosecutors to call for imprisonment of suspects awaiting trial, rather than a presumption that they be released except in cases where there are compelling factors against this. The courts themselves began to apply greater caution in this regard, not acceding to the prosecution's demands quite so readily, and more recently the Prosecutor's Office has also begun to address the issue. Guidelines have been prepared on the use of pre-trial detention in a manner consistent with the European Convention on Human Rights and alternatives to imprisonment have been introduced, yet trial monitoring<sup>7</sup> has shown them to be little used. **Further training on alternative preventive**

<sup>5</sup> See, for example, the statement of the Coalition for an Independent and Transparent Judiciary "On the Adoption of Amendments to the Law on the Prosecutor's Office," Tbilisi, 28 September 2015.

<sup>6</sup> GrecoEval4Rep(2016)3, January 2017, at para 191.

<sup>7</sup> See, for example, Georgian Young Lawyers' Association, Monitoring Criminal Trials in Tbilisi and Kutaisi City and Appellate Court, Monitoring Report No. 9, February-July 2016.

**measures is clearly needed to encourage prosecutors to have greater recourse to them.**

A major and longstanding source of grievance are the cases of ill-treatment and other abuses by law enforcement and other officials that are not pursued, severely delayed or not pursued effectively by the prosecution service. The Public Defender details a number of these in his annual report for 2015. Of the cases forwarded by his Office to the Prosecutor since 2013, not one has resulted in a conviction. The European Committee for the Prevention of Torture (CPT) in the report of its 5<sup>th</sup> periodic visit<sup>8</sup> noted the considerable number of ways in which the Prosecutor's Office remains ineffective in terms of the investigation and prosecution of such offences.

An additional cause for particular concern has been the apparent reluctance of the prosecution service to pursue hate crimes as such, which both underestimates their gravity and serves against preventing them in future. It is understood that new recommendations have recently been introduced in this regard. **Prosecutors must make clear when offences constitute hate crimes and the Prosecutor's Office and the courts should keep statistics on their incidence.**

Training on all these matters, as well as on investigative techniques, has been intensive and is continuing. The new transparency of the Prosecutor's Office should enable a **close monitoring of the impact of such training in future.**

#### **1.4 Law enforcement agencies**

*In terms of improved standards of crime prevention, investigations and human rights protection by law enforcement agencies, the first major objective in the National Strategy was defined as stamping out cases of misconduct occurring within law enforcement agencies and to this end, creating a control mechanism that would ensure the imposition of effective and impartial regulatory measures upon the activities of law enforcement agents.*

The Action Plan for 2016-2017 gives priority to reform of the existing control mechanism within the Ministry of Internal Affairs with a view to ensuring its effectiveness and systemic independence. The European Committee for the Prevention of Torture (CPT) in 2014 conveyed a "generally positive impression" as regards treatment of persons detained by the police in Georgia, but reported several allegations of excessive use of force and physical ill-treatment ostensibly with the purpose of forcing confessions. The Public Defender in his 2015 report

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<sup>8</sup> Report to the Georgian Government on the visit to Georgia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 1 to 11 December, CPT/Inf (2015) 42.

expresses concern that “ill-treatment of detainees by police officers was critical in 2015” and that in most cases this appeared to be aimed at obtaining a guilty plea<sup>9</sup>. Observers continue to report that adequate and effective response to offences allegedly committed by law enforcement officers remains a critical challenge<sup>10</sup>.

Disciplinary proceedings are now centralized by the Ministry of Internal Affairs’ General Inspection, which, while nominally independent, reports directly to the Minister. Although the Ministry of Internal Affairs reports that the numbers of those submitting complaints through the General Inspection’s 24-hour hotline has been rising, it was not clear what consequent action has been taken and how complaints have been resolved. Where the General Inspection finds a possible offence, it can refer the case to the Prosecutor’s Office. As indicated in the foregoing section, in those select cases where this does happen, such referral has not provided effective resolution.

Since it was called for by successive UN Special Rapporteurs, Thomas Hammarberg in his 2013 report<sup>11</sup>, and the UN High Commissioner for Human Rights, among others, the establishment of an independent investigation mechanism to look into cases of misconduct by law enforcement officers has been the subject of extensive, protracted debate in the country, expert opinions have been sought and different models proposed. **Establishment of such a mechanism as a matter of priority now would indicate to all the Government’s resolve to fight impunity and would go a long way to encouraging public confidence in law enforcement.**

One troubling issue, raised by the Public Defender and a number of NGOs, is that of persons “invited for interview” by the police, only to be detained the next day as suspects. Unlike those who are detained, persons invited for interview are not registered and thus the usual safeguards against the possibility of ill-treatment are not applicable. **This practice of “inviting for interview” should not be allowed to continue.**

The National Strategy calls for continual enhancement of the professional qualifications of law enforcement agents. In order to be effective, **the human rights trainings that are now under way throughout the country for new recruits and existing employees should be linked to career advancement.**

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<sup>9</sup> The Report of the Public Defender of Georgia, 2015. See also the Public Defender’s 10 December 2016 Report on the Situation of the Protection of Human Rights and Freedoms in Georgia, section 2.

<sup>10</sup> See, for example, Georgian Young Lawyers’ Association, Crimes Allegedly Committed by Law Enforcement Officers and the State’s response to them, 2016. See also National Preventive Mechanism (NPM) Report on the Situation in Agencies subordinated to the Ministry of Internal Affairs of Georgia, 2015, in particular at page 8.

<sup>11</sup> Georgia in Transition, Assessment and recommendations by Thomas Hammarberg in his capacity as EU Special Adviser on Constitutional and Legal Reform and Human Rights in Georgia, September 2013.

For its part, the Ministry has made several efforts to increase the transparency of the police service, and is enthusiastically pursuing the idea of community policing.

In 2015 the State Security Service was separated from the Ministry of Internal Affairs and developed as a separate institution. It would be important to learn of corresponding reforms in the Service and to this end to **include the State Security Service in forthcoming discussions of implementation of the National Strategy.**

## 2. The penitentiary system

The National Strategy envisages the *establishment of a penitentiary and probationary system in line with international standards* as well as the *development of rehabilitative programmes for probationers and former prisoners.*

The significant progress made since 2012 toward solving the problem of overcrowding and unacceptable living conditions in Georgia's prisons has been noted by many. In the report of its 5<sup>th</sup> periodic visit, the CPT congratulated the Georgian authorities for having succeeded in maintaining the prison population at the level dramatically reduced following the large-scale amnesty and series of Presidential pardons at the end of 2012 (from 24,000 in 2012 to 10,372 in 2014). Through legislative amendments, investment in new and better prisons, liberalisation of sentencing policy and more efficient work of the parole boards, the sustainable number of prisoners has been maintained (9,534 in 2016). The reduced population has resulted in a significant improvement in living conditions, including meeting the European standard as regards minimum space for both convicts and pre-trial detainees.

However, conditions still need improvement. In particular, **the legal framework for placing prisoners in solitary confinement and in de-escalation or safe rooms, sometimes for long periods of time, still needs to be effectively addressed.**

A system of classification of prisoners, according to an assessment of individual risks and needs, became operational in 2016. On this basis a prisoner is assigned to one of four levels of institution: low risk, semi-open, closed or high risk. The assessment, which is conducted by a multi-disciplinary team, must take place at least once a year. In addition to facilitating prison management, including addressing problems associated with "thieves in law" (individuals connected to organised crime who exercised control within the prisons), the intention is to allow a more goal-oriented approach to imprisonment.

The Ministry of Corrections' vision for rehabilitation of prisoners is beginning to take shape, offering specialized training and education programmes as well as limited employment opportunities, but is thus far centred on semi-open and low-risk

establishments. **It would be important now to look further into the possibilities for those in higher risk categories, who are often in greater need of rehabilitation.**

Mandatory trainings for prison staff regularly address human rights issues and staff will be required to pass tests every three years, on which their continuing employment will depend. **As with the staff of the Ministry of Interior and the Prosecutor's Office, respect for human rights in their daily work should figure prominently in the criteria for promotion of prison officers.**

External monitoring of prisons is ensured by the Public Defender and the members of the National Preventive Mechanism/Special Preventive Group. Amendments made to the Imprisonment Code of May 2015, which came into effect in September 2016, gave them the right to take photos of prisoners and their conditions of detention. The Public Defender still regrets that his representatives are not given the possibility to consult surveillance videos and that the prison administration retains the right to observe (though not listen to) meetings between prisoners and the Special Preventive Group.

The National Strategy included a call for an effective public monitoring mechanism. This would be in addition to the external monitoring carried out by the National Preventive Mechanism. A Systemic Monitoring Unit was set up within the General Inspection Department to review complaints filed by inmates, and a Special Consultative Board created to discuss on-going reforms. Having in mind the consistent and effective application of appropriate measures, stressed by the National Strategy, it would be important to revisit this objective.

Following initial steps for reform of the prison health care system 2013-2014, a new strategy and action plan was developed for 2015-2017 and the budget for this was increased substantially. Primary health care units, renovated and equipped, now operate in every penitentiary establishment; and medical personnel have been retrained. The results in relation to the treatment of tuberculosis and hepatitis C have been impressive, and consultation, testing and treatment for HIV/AIDS is now accessible to all prisoners. A suicide prevention programme was developed and the prison mortality rate has decreased considerably.

The Public Defender stresses the **importance of continuing efforts to improve the health care system even further and ensuring the number of doctors and nurses is adequate. The health needs of female prisoners were especially highlighted by civil society. The area of psychiatric treatment is singled out as being in need of urgent attention.**

**Future strategies and plans should also take a much closer look at the protection of human rights of those confined in mental health institutions**, which are for the most part private entities. The Public Defender and the CPT have identified a substantial number of concerns with respect to treatment in these institutions. It is understood that the Ministry of Health, with support from international organisations, has just begun discussion on this issue with civil society organisations.

### **3. Prevention of torture and ill-treatment**

The National Strategy calls for the *development of a system of defence against torture and ill-treatment, the conduct of effective investigations into any reported cases of such treatment, as well as the protection and rehabilitation of victims.*

Following his visit to Georgia in March 2015, the United Nations Special Rapporteur on Torture expressed himself “greatly encouraged by the visible and quantifiable effects of the implementation of reforms made to prevent and to punish torture.” The Public Defender was able to report in 2015 that “cases of torture and ill-treatment is no longer the major challenge.”

In January 2017, the “Procedure for the Registration of Injuries sustained by Convicts/Accused Persons in Penitentiary Facilities as a Result of Possible Torture and Other Cruel, Inhuman or Degrading Treatment,” was introduced by the Ministry of Corrections, in line with the provisions of the Istanbul Protocol on the effective investigation and documentation of torture and other cruel, inhuman or degrading treatment or punishment. Medical personnel in penitentiary institutions are currently being trained in its application.

Notwithstanding, impunity remains a serious problem in Georgia, and there continues to be a lack of effective investigation of alleged ill-treatment committed in police stations and penitentiary facilities. When cases are referred to the Prosecutor’s Office, there are delays or failures in gathering evidence and a general reluctance to initiate prosecutions, as well as a tendency to initiate investigations on the basis of the lesser offence of abuse of official power. Initial investigations are almost always carried out within the respective ministries, which raises questions as to their impartiality. Little appears to have been done in respect of the rehabilitation or compensation of victims of torture.

It is difficult to follow with any certainty what happens to cases referred to the Prosecutor’s Office. The National Strategy additionally identifies the need to *keep the public fully informed about ongoing measures to prohibit, prevent and investigate acts of torture and other forms of ill-treatment in the country.* With regard to the Prosecutor’s Office, the National Strategy calls for *transparency of the prosecution*

*service and its accountability vis a vis society.* In this spirit, the **Prosecutor's Office should publish statistics in relation to the investigation and prosecution of all such cases brought to its attention.**

As recalled earlier in this report, the **establishment of an independent investigation mechanism to look into cases of misconduct by law enforcement officers remains a matter of the highest priority and would serve as a strong indicator of the Government's earnest commitment to fighting impunity.**

#### **4. The right to privacy**

*Establishment of high standards of protection of the right to privacy under the National Strategy includes, inter alia, the task of creating an effective monitoring/supervisory mechanism to guarantee a high standard of protection of the personal data of all citizens by all relevant institutions.*

Despite the right to privacy being enshrined in the Constitution, illegal surveillance was a systematic practice in Georgia in recent years, with video recordings being made of politicians, journalists and activists for the purposes of blackmail. A Law on Personal Data Protection, adopted in 2011, was not accompanied by any related implementing regulations and remained ineffectual. Following a particularly shocking incident in 2013<sup>12</sup>, a Special Commission was set up to guide the authorities and monitor compliance with the Law. A Personal Data Protection Inspector was appointed<sup>13</sup> to deal with citizens' complaints and to monitor the lawfulness of data collecting and processing in the country, reporting annually to Parliament.

The Law on Personal Data Protection was amended in 2014 to expand its remit to the private sphere and to the area of law enforcement. Only with a court order, with a clearly identified scope, method and time-frame and limited to certain kinds of crimes, could law enforcement officers intercept telecommunications. However, the two-key system introduced to ensure this (requiring the engagement of the Personal Data Protection Inspector) was considered by many to be an inadequate safeguard, and the Constitutional Court agreed and called for a new system to be adopted by the end of March 2017.

As this report was being finalized, a new legislative package was introduced in Parliament, providing for the creation of an Operative Technical Agency of Georgia, which will be responsible for covert surveillance and eavesdropping, with powers to exercise control over electronic communications companies. The Agency will fall under the control of the State Security Services. While in principle the role is a

<sup>12</sup> On this issue, see the September 2013 report of Thomas Hammarberg, op. cit., at page 21.

<sup>13</sup> and re-elected by Parliament for a second term in 2016.

technical one, and oversight should continue to be exercised by the Personal Data Protection Inspector, the legislation has raised serious concerns among civil society, who doubt that it conforms to the judgment of the Constitutional Court in terms of providing adequate “safeguards” or to the “high standard of protection” called for by the National Strategy. **This legislation needs to be revisited with regard to its conformity with the judgment of the Constitutional Court and with the principles set out in the National Strategy.**

According to the Personal Data Protection Inspector, at least 14 cases were identified in 2015 in which the Prosecutor’s Office had obtained data without a court order. Moreover, the security services continued to have direct access to telecommunications servers. During 2015 and in the 2016 pre-election period, audio and video recordings of the private lives of opposition figures were widely publicized. The Public Defender in December 2016<sup>14</sup> reported an “abundance” of violations of the right to respect for private and family life in the course of 2016. Given these continuing gross abuses, it is **imperative to secure greater accountability in this area and to ensure that such offences are effectively investigated and prosecuted, as provided for in amendments to the Criminal Code in 2014. It would be important for future Action Plans to incorporate indicators for action taken in this respect.**

Monitoring conducted by the Georgian Young Lawyers’ Association (GYLA) in 2016 also revealed an overwhelming number of searches and seizures carried out by the Prosecutor’s Office on the ground of “urgent necessity” to be later validated by the courts<sup>15</sup>, indicating a lack of understanding of respect for the right to privacy. This indicates that **further practical training in the legitimacy of search and seizure is needed by both prosecutors and judges.**

The Inspector, with a staff of 43, works with different ministries, the Prosecutor’s Office, the High School of Justice and academia to spread understanding about personal data protection, what it implies and what it does not imply, and ultimately to change practices. **Local data protection officers should be obligatory in each ministry and public entity, as well as designated in private companies handling substantial amounts of sensitive data.**

**Public awareness levels also need to be raised – on issues from reading the small print in contracts to the use by young people of social media.**

This is clearly an area that requires continuing and intensified vigilance and should continue to figure prominently in future strategies and plans.

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<sup>14</sup> Report of 10 December 2016.

<sup>15</sup> GYLA, Monitoring Criminal Trials in Tbilisi and Kutaisi City and Appellate Court, Monitoring Report No. 9.

## 5. Freedom of expression, assembly and demonstration

*Ensuring a high level of protection for the freedoms of expression, association and peaceful assembly in the National Strategy encompasses preventing limitations on these rights and ensuring an appropriate legal response in case of any violation.*

In the 2016 World Press Freedom Index produced by Reporters without Borders, Georgia was placed 64<sup>th</sup> out of 180 countries, representing a significant rise from its 100<sup>th</sup> position in 2013. Recent reforms, including media ownership transparency, satellite TV pluralism, the overhaul of the broadcasting regulatory authority and a reduction in violence against journalists were cited as contributing to this improved ranking. However, it was pointed out that the media continue to be extremely polarized and, despite some progress, media owners often dictate editorial content. **The battle for ownership of the main TV channels is a source of concern about the future of pluralism in the country.**

At the heart of misgivings since 2015 has been the dispute over the legitimate ownership of the leading opposition media outlet, the television station Rustavi 2. The conduct of court proceedings in this case have been the subject of much criticism, especially insofar as they have interfered with the management and editorial policy of the broadcaster. They have also been accompanied by numerous allegations of pressures brought to bear by supporters of the ruling coalition on actors involved in the case at all stages of the proceedings, including by the release of secret video and audio recordings.

On 2 March 2017 the Supreme Court finally awarded ownership of the channel back to its previous co-owner, a government-linked businessman. The following day, the European Court of Human Rights issued an interim measure<sup>16</sup> directing that the enforcement of the Supreme Court's decision should be suspended, and that the authorities should abstain from interfering with the applicant company's editorial policy in any manner. Initially granted temporarily until 8 March, on 7 March this interim measure was confirmed "until further notice" and the case placed on the list for priority consideration by the Court.

Many international as well as national observers have raised serious questions about the pursuit of the Rustavi 2 case and there is profound concern as to its implications for media diversity in Georgia.

Threats against journalists are often reported. **More accurate accounting of actions taken in response to such threats is called for as a concrete indicator of the effective protection of the right to freedom of expression.**

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<sup>16</sup> Under Rule 39 of the Rules of Court.

*Access to and freedom of information* is also highlighted in the National Strategy. A new bill on freedom of information, under preparation since 2014, is still eagerly awaited. **For the legislation to be meaningful, it must foresee an independent supervisory mechanism or appropriate sanctions that would ensure its effectiveness.**

While a number of training courses have been conducted for law enforcement officers, and Standard Operating Procedures drawn up, **Georgian legislation with respect to freedom of assembly and demonstrations still needs to be harmonized with international standards.** This objective was set down in the National Action Plan for 2014-2015 and again for 2016-2017. Meanwhile, there continue to be reports of interference with the right of peaceful assembly and demonstration, particularly where the opposition is concerned and in relation to LGBT events. It will be interesting to read the statistics called for under the 2016-2017 Action Plan on **the investigation and criminal prosecution of violations of the rights to peaceful assembly and demonstration.**

## 6. Minority rights

With the aim of *guaranteeing equal rights and the protection of the rights of minorities*, the National Strategy calls for the *prevention and condemnation of all forms of discrimination, effective investigations into all report cases of discrimination and ensuring greater participation and integration of minorities in civil society and public administration.*

Undoubtedly, the adoption in 2014 of the Law on the Elimination of All Forms of Discrimination represented a major achievement in this area, providing the possibility for any person to defend his or her right to equality against public as well as private persons. While the list of grounds for possible discrimination is not exhaustive, the Law explicitly specifies disability, sexual orientation and gender identity, grounds for protection that cannot be found in any other laws. The Civil Procedure Code was amended to provide for applications to a court in discrimination-related cases. Initial drafts of the Law had envisaged a powerful Equality Inspector to monitor compliance; in the event, this task was assigned to the Public Defender.

In its Concluding Observations on the 6<sup>th</sup>-8<sup>th</sup> periodic reports of Georgia in May 2016<sup>17</sup>, the UN Committee on the Elimination of Racial Discrimination expressed concern at the low number of court cases invoking the provisions of the Law. The Public Defender's Special Report of September 2016 documents a continuing low

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<sup>17</sup> CERD/C/GEO/CO/6-8

level of complaints, with discrimination being found in only two cases<sup>18</sup>. **In order for it to be possible to assess the impact of the legislation, all courts will have to collect data on cases of discrimination, which to date has not been happening.**

The Public Defender can also receive complaints in relation to discrimination and mediate a dispute, make a recommendation or take the matter to court. However, only public agencies are obliged to provide information to the Public Defender, which undermines his ability to examine effectively cases of discrimination committed by private entities and individuals.<sup>19</sup> Additionally, the Public Defender lacks powers of enforcement and can only issue recommendations. Furthermore, the time-limits for filing of cases are exceedingly restrictive. **Parliament has before it a legislative proposal to remedy such shortcomings, which should be adopted without delay.**

Meanwhile, the number of complaints received by the Public Defender's Equality Department is relatively high and knowledge of the Law is spreading. Moreover, there is a growing number of successful cases where public authorities have enforced the Public Defender's recommendations, which in turn encourages others. **The adoption of general anti-discriminatory policies within each public body would serve as a useful further indicator of the effectiveness of the Law.**

A particular cause for concern already alluded to in section 1.3 above, is the continued reluctance of prosecutors to take the motive of hate into consideration in the investigation of crimes. There is no doubt that doing so could serve as the most effective deterrent against crimes committed on the basis of religious, ethnic, or sexual orientation hatred. Statistics of such cases will be important to follow in future reporting. **It is to be hoped that the new Guiding Principles and a new training programme for prosecutors (PAHCT) and the Ministry of Internal Affairs' establishment of a special unit to investigate hate crimes as recommended by the European Commission against Racism and Intolerance, will have a positive impact in this regard.**

Regrettably, the generally homophobic environment within the country persists. 2016 sadly witnessed a number of physical assaults on transgender people resulting in one case in November in the tragic death of the victim. **Leading political and religious figures, and all those in a position of authority, including law enforcement officers, need to be making it clear that they oppose any form of**

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<sup>18</sup> Special Report on Combating and Preventing Discrimination and the Situation of Equality, elaborated pursuant to article 7 of the Law of Georgia on the Elimination of All Forms of Discrimination, Public Defender of Georgia, September 2016, at page 55.

<sup>19</sup> In his December 2016 Report, the Public Defender points out that of all discrimination-related cases submitted to his office, 55% concern the private sector.

**violence against LGBT persons. A strategy from the Government in this respect, with guidelines and accompanied by sanctions, would be a welcome initiative.**

The second largest number (17%) of complaints about discrimination considered by the Public Defender between 1 September 2015 and 31 August 2016 involved discrimination on grounds of religion, representing an increase of 6% over the previous year. Concern increased, particularly in the pre-election period in 2016, about the tendency of political leaders to visibly demonstrate loyalty to the dominant church to the detriment of others. A similar violation of the principle of secularism obtaining in some schools is generally overlooked. **Greater vigilance is called for by all State officials on this issue. Teachers should be regularly reminded of the principle of secularism and action taken in cases where it is flouted.**

The Agency for Religious Affairs was established in 2014 as the main actor responsible for freedom of religion, but enjoys little confidence in this role among the populace. Its disbursement of funds to a select few religious groups is viewed with mistrust. **Future Action Plans should revisit the mandate and operation of the Agency for Religious Affairs.**

Efforts have been made in terms of promoting the study of the Georgian language for members of national and ethnic minorities and the 1+4 system gives a more equal opportunity to access higher education. The national curriculum has been translated into minority languages and, following a recommendation by the Public Defender, since 2015 it is also possible to teach minority languages in certain schools.

A new National Strategy for Civil Equality and Integration was adopted in August 2015 and an Action Plan drawn up for the period 2015-2020. As indicated in the Action Plan for 2016-2017, various programmes are conducted aimed at informing members of minorities of their rights, supporting language learning and cultural heritage. While the Action Plan looks at the number of activities undertaken and participants in them, **it would be more informative to have indicators of the impact of these initiatives.**

As the Public Defender stated in his most recent annual report, "the effectiveness of programmes in the sphere of civil integration and proper protection of the rights of national minorities still remains an important challenge in Georgia." Dialogue remains particularly critical in areas such as upper Adjara, which Government officials confessed represents a challenge in terms of integration and on which they would appreciate the aid of the international community.

Not least, the Anti-Discrimination Law also tasks the Public Defender with raising public awareness on matters of equality and training programmes have been conducted with schools and teachers, among others. Still considerably more work needs to be done here by a range of actors.

## 7. Rights of the child

The focus on the rights of the child in the National Strategy centres on *improvements to the system of child protection and assistance, especially social services, reduction of child poverty and mortality, and the provision of a high level of education for all children.*

Without doubt one of the most important human rights advances in Georgia since the launch of the National Strategy was the adoption in June 2015 of the Juvenile Justice Code. Designed to address the best interests of the child and incorporating principles enshrined in the Convention on the Rights of the Child and other international instruments, the Code focuses on alternatives to criminal prosecution, such as diversion and mediation, with detention and imprisonment used only as a last resort. The diversion and mediation programme is generally considered to be a model of its kind. While all agencies involved in the administration of juvenile justice have specialized professionals to handle children's cases, it was pointed out that this **specialization needs to be strengthened and institutionalized, especially within the police service.**

The alternative of house arrest was also introduced in 2016, accompanied by electronic monitoring overseen by the National Probation Agency.

As of 31 December 2016, only 17 male juveniles and one female were held in penitentiary establishments, compared with a figure for 2014 of 83. Work has begun on a new establishment to house juveniles and young offenders and this should be completed in 2018. Meanwhile, it would be important to develop a comprehensive conceptual vision as to the functioning of the new establishment, with consideration being given in particular to access to education and rehabilitation programmes.

Preventive measures have not met with so much success. **There is little evidence of measures taken to discourage juvenile delinquency or to deter children from becoming street children.** New legislation in relation to children already living on the streets came into force in August 2016. This foresees issuing children with temporary identification documents, which enables them to benefit from health care and education services. In Tbilisi, Rustavi and Kutaisi, mobile teams of social workers with a peer educator try to convince the children to come to a shelter or care centre. The authority of social workers was also strengthened to allow them to

remove a child from a situation of violence, even where this involves the child's own family.

The Public Defender in 2015 had voiced concern about the high level of violence, including sexual violence, against children. In September 2016 a new Child Protection Referral Mechanism (CPRM) was introduced, obliging all government bodies and related agencies, schools, kindergartens, medical institutions and local authorities to refer suspected cases of child violence to the Social Service Agency as well as to the police. This now needs to be followed by a **corresponding building of capacity among all agencies involved.**

The sustainability of many of these programmes, it was emphasized by UNICEF, depends to a large extent on social workers, who are small in number and overburdened by paperwork. **Programmes need to be developed to strengthen national capacity in respect of social workers, who are identified in the National Strategy as a key element in protecting the rights of the child.**

The Public Defender reported in 2015 that the problem of child poverty and mortality is urgent. In 2015 the infant mortality rate was 8.6 per 1,000 new-borns, and 10.2 for those under the age of 5. An important step forward was the initiation in 2015 of a perinatal regionalization process aimed at reducing maternal and child mortality and complications. Home visits to rural families with children under the age of 3, for early detection of developmental delays, are being piloted in a limited number of areas; these need to be extended throughout the country.

Many of these initiatives are in their early stages and their impact remains to be seen. **Their success will also depend to a great extent on the development of programmes and provision of adequate resources in the national budget aimed at alleviating poverty.** Progress in the provision of free health care is one contribution toward this.

A special report by the Public Defender in 2015 identified a number of challenges existing in the pre-school sector: violence against children, low qualifications and skills of educators, inappropriate curriculum and teaching methodology not focused on children's individual needs and limited access to pre-school especially in rural areas and among ethnic minorities. In response to the existing gaps, a new Law on Early and Pre-School Education and Care was adopted in June 2016. The Law guarantees free pre-school education for all children from age 2 to 6 years. However, implementation of the Law will require increasing investment, in particular as regards the current lack of infrastructure and inequities in access to pre-school education.

The Child's Rights Centre, part of the Office of the Public Defender since 2001, monitors national implementation of the UN Convention on the Rights of the Child, receives complaints on alleged violations of children's rights, draws up recommendations and proposals for legislative and administrative bodies and conducts educational and public awareness activities for the promotion of child rights. The Committee on the Rights of the Child, in its Concluding Observations on the 4<sup>th</sup> periodic report of Georgia<sup>20</sup>, called for **sufficient human, technical and financial resources to be allocated to the Centre to enable it to execute its mandate throughout the country adequately.**

Following the demise of the Inter-Agency Commission on the Issues of Implementation of the Rights of the Child, a special task force coordinated by the Human Rights Secretariat coordinates activities of government departments and agencies in this area. The Committee on the Rights of the Child recommended that **principal responsibility for coordination and evaluation of the implementation of the Convention be allocated to a single body at a high inter-ministerial level.**

In 2016 Georgia ratified the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

## **8. Gender equality and combating domestic violence**

*Encouraging greater involvement of women in political life, as well as decision-making process, is one of the first tasks set out for the promotion of gender equality in the National Strategy.* Representation of women in political life, especially at the highest level, remains low in Georgia. Two separate initiatives were put before Parliament before the 2016 general election, aimed at imposing mandatory quotas for women candidates, but no agreement could be reached. Of the 150 members of parliament elected in October 2016, 24 are women. Of 18 ministers appointed in the new Government, two are women. The situation in respect of local government, especially in municipalities settled by ethnic minorities, is even poorer. Further efforts are called for with **stronger mechanisms in place to promote, at national and local level, the greater involvement of women in political life as called for by the National Strategy.**

Further priorities set out in the National Strategy include the need to *ensure prompt and effective response to all reported cases of gender discrimination and the full compliance of existing mechanisms with international standards for the protection and assistance of victims of domestic violence.*

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<sup>20</sup> UN document CRC/C/GEO/CO/4, 9 March 2017

Discrimination against women in the workplace, according to the Public Defender and NGOs, is widespread, though underreported, with women earning on average just 63% of what men earn<sup>21</sup> and gender stereotyping rife. An improvement in the situation might be hoped for with a more rigorous application of the Anti-Discrimination Law. Despite amendments to the Labour Code introduced in 2013, maternity protection, especially the right to return to work after maternity leave, and the issue of parental leave remain of concern. **The Tripartite Social Partnership Commission – made up of the Government, employers’ and employees’ associations – should speedily address these and related issues. The ILO Convention No 183 on Protection of Maternity should be ratified without delay.**

Sexual harassment is a sensitive issue in the country and one about which there is relatively little understanding, a lack of clear regulations and an absence of sanctions. Four government ministries have recently been working on a pilot online training programme for their employees aimed at explaining the issue, promoting prevention and creating the conditions for victims to file complaints and access support. **Still more measures are called for to combat sexual harassment effectively, including legislation backed up by appropriate sanctions.**

A major focus for the work under this heading has been on measures to combat violence against women and domestic violence. The Inter-Agency Council on Domestic Violence was established within the Government Administration, tasked with coordinating and monitoring work in this area. (Discussions on respective responsibilities are on-going with the Gender Equality Council, which is currently situated within the Parliament.)

Though this may be ascribed to a greater awareness and willingness to come forward, reported instances of gender-based violence have in fact risen. In November 2016 the Public Defender pointed to an increased rate of detention and response to domestic violence cases from state agencies, but insisted that **more efforts are needed to react appropriately to each case of gender-based violence “due to the size and severity of the issue.”**

Non-governmental organisations consider that too much discretion is given to the police in dealing with cases of violence against women and they are critical of the Law on Domestic Violence as being insufficiently sensitive to the victim. Unduly lenient preventive measures and sentences are imposed by the courts, which do not serve to deter further violence.

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<sup>21</sup> Geostat (National Statistics Office of Georgia), 2015

Cases of femicide in Georgia remain alarming, the Public Defender reporting 13 such cases in 2016 (as of 25 November 2016). A study carried out by the Georgian Young Lawyers' Association (GYLA) in 2014 revealed that in no case of femicide was the gender-biased motivation of the perpetrator raised by the prosecution or given due examination by the court. In some cases the act was qualified as a crime less serious than premeditated murder and the sentence unreasonably lenient.<sup>22</sup> (A study released by women's rights group Sapari in January 2017<sup>23</sup> showed that 75% of women murdered in Georgia were stalked by the murderer for 12 months prior to their death and 40% of femicides take place after a divorce.

**The recommendations of the UN Special Rapporteur on violence against women, following her visit to Georgia in February 2016<sup>24</sup>, should be comprehensively incorporated into future Action Plans.**

**A special unit should be set up within the Ministry of Internal Affairs with the competence and knowledge to work on gender-motivated crimes, as called for by the Public Defender. A system of monitoring instances of femicide, the investigations into them and consequent judgments should serve to strengthen responses to such incidents and ultimately prevent these crimes.**

A second National Action Plan for 2016-2017 on Measures to be Implemented for Combating Violence against Women and Domestic Violence and Protection of Victims/Survivors was adopted in July 2016. Its purpose is to enhance domestic protection mechanisms and harmonize current legislation with the Istanbul Convention. It is encouraging to note the approval in January 2017 of a package of legislative amendments paving the way to ratification by Georgia of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention).

An additional Action Plan on the Implementation of UN Security Council Resolution 1325 on Women, Peace and Security addresses the particular difficulties that women living near the occupied villages and IDP settlements have to overcome.

A further particular cause for concern has been the incidence of child marriage in certain regions. The Criminal Code forbids forced marriages and hitherto, the Criminal Procedure Code allowed marriage under 18 with permission from the courts. From 2017 no marriages will be allowed of children under 18 years of age.

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<sup>22</sup> GYLA, Alternative Report to the Committee on the Elimination of Discrimination against Women: Implementation of the Concluding Observations on the combined 4<sup>th</sup> and 5<sup>th</sup> periodic reports of Georgia, 19 August 2016

<sup>23</sup> dfwatch.net

<sup>24</sup> Report of the Special Rapporteur on violence against women, its causes and consequences on her mission to Georgia, A/HRC/32/42/Add.3

However, due to the difficulties of proof, the crime often remains hidden. Since 2015, civil society organisations and the Ministry of Education and the Ministry of Internal Affairs, along with local social workers and law enforcement agents, have been conducting an information campaign aimed at familiarizing families, especially in the Azeri regions, with the health risks associated with early marriage. In April 2016, religious leaders in the Pankisi Gorge declared publicly that they will no longer endorse marriage for those under the age of 18. In the meantime, schools have special programmes to allow girls to re-continue their education if they so wish. **Strong support should be given to those working in the regions to discourage early marriage.**

## 9. Rights of persons with disabilities

The National Strategy envisages the *provision of equal opportunities to persons with disabilities and promotion of their full and active participation in all social spheres.*

Georgia ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) in December 2013, and it entered into force in March 2014, providing the country with a comprehensive framework for action. The Coordinating Council on the Rights of Persons with Disabilities, established in 2009 and chaired by the Prime Minister, was designated the body responsible for overseeing implementation of the provisions of the Convention, in accordance with article 33.1. However, the Council is generally considered to be neither an efficient nor effective mechanism for the realisation of these rights in practice, and consideration is currently being given to alternative arrangements. In many States parties this focal role is given to the ministry with greatest responsibility in the area of persons with disabilities – which, in the case of Georgia, would be the Ministry of Labour, Health and Social Affairs. Whatever is decided, there **needs to be a clearly designated and effective focal point to coordinate the action of all public bodies in relation to the rights of persons with disabilities** and this matter needs to be resolved without delay.

Meanwhile, in 2015 the Public Defender's Office created a department, advisory board and monitoring group to provide the independent monitoring mechanism required under article 33.2 of the Convention.

Following the rights-based approach of the Convention, the definition of persons with disabilities in Georgian law was changed to one based on a social, rather than medical, model. Not all national legislation has yet been brought up to date in this respect and **laws need further review as to their compatibility with the provisions of the Convention as well as subsequent monitoring as to their implementation in practice.**

The Ministry of Labour, Health and Social Affairs has drafted a model of how to assess persons with disabilities. Records are held on children with severe or

moderate disabilities on the basis of the family's application for cash benefits. No records are kept of those with mild disabilities, nor is there a database indicating types of disability. **In order that future strategies and plans can be tailored to meet their needs, disaggregated statistical data needs to be collected on persons with disabilities in Georgia.**

The Government has continued to pursue a programme of deinstitutionalization of children with disabilities, replacing large institutions with smaller, family-type settings, encouraging fostering and providing support to ensure a child stays within the family. Some 40 institutions have been closed; two remain (Tbilisi and Kodjori), housing 80 children with severe disabilities.

A Special Report by the Public Defender's Office<sup>25</sup>, following monitoring visits carried out in March 2016 under the Office's responsibilities in relation to the CRPD and as the National Preventive Mechanism, found that these and three other residential institutions for persons with disabilities were still not equipped to deliver needs-based services to their residents, lacked adequate professional staff and too often violated the rights of the residents. **The recommendations of the Public Defender in this respect should be taken on board in future Action Plans.**

The right to adequate housing for persons with disabilities remains an important challenge. This is particularly critical for those leaving state care at the age of 18, without accommodation or employment. Work is under way on providing small community homes for the over 18s, although these are unable to cater for persons with severe or mental disabilities. Managed by non-governmental organisations, they put in place a development programme for each individual, including work and/or study. **It will be important to track the success of such initiatives and the numbers who are able to benefit from them.**

Employment remains a difficult hurdle. According to the Ministry of Labour, Health and Social Affairs, as of February 2016, out of 1,689 persons with disabilities registered in the labour market management information system, just 21 were employed. Of 53,109 people employed by the public sector in 2015, 122 were people with a disability. **A legislative framework is now needed to foster inclusion.**

**Still more needs to be done to challenge public perceptions of people with disabilities.** A UNICEF-supported national campaign launching in January 2017, led by children and young adults with disabilities, aims to raise awareness and understanding of disability in order to combat the widespread stigmatization that

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<sup>25</sup> Legal Situation of Persons with Disabilities in State Care Institutions, Public Defender of Georgia, 2016

persists. Non-governmental organisations/organisations of persons with disabilities could usefully monitor the media and public statements by leading political figures, which are of critical importance in shaping perceptions. Effective implementation of the Anti-Discrimination Law is another way to tackle this.

Other major challenges identified by the Public Defender's Office include the continuing inadequacy of physical environment, infrastructure and transport for people with disabilities, as well as the low level and quality of inclusive education. A lack of information about programmes and services available is particularly acute in the regions. **Efforts need to be intensified in this respect.**

#### **10. Rights of Internally displaced persons (IDPs) and of people living near the dividing lines of occupied territories**

The National Strategy aims at *improvements in the living conditions, social provisions and integration of IDPs and residents living near borders of occupied territories, and the application of all possible measures to return IDPs to their permanent places of residence.*

As of March 2017, there are over 274,041 IDPs registered in Georgia, and while negotiations to enable the return to their permanent place of residence continue, this number continues to rise. Before IDPs can return to their permanent places of residence, the priority for the Government remains the provision of durable housing and assistance to integration of IDPs into socio-economic life, and these aspects are the main focus of the National Action Plan for 2016-2017.

Under a procedure adopted by the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia (MRA) in 2013, there are a number of programmes aimed at providing durable housing for IDPs: rehabilitation of collective centres, rehabilitation of buildings in carcass condition, newly constructed buildings, purchase of individual houses in rural areas, purchase of flats on newly constructed buildings, monetary assistance for purchase of housing, newly constructed cottages, granting of property title to IDPs for the living spaces in which they are currently living via privatization process, and a mortgage loans payment programme. The Study Commission on the Issues of IDPs reviews and decides on applications. In 2016, 39% of IDPs were recorded as having been accorded durable housing solutions, benefiting from the right to privatize the facilities where they had been settled or being moved from collapsing collective centres or otherwise benefiting from one of the aforementioned types of durable housing solutions.

The number of IDPs is so considerable that, despite these programmes, and with donor funds coming to an end, almost half of IDPs still live in collective centres, in

very often wretched conditions – as documented by the Public Defender in his report of 2015<sup>26</sup>. **Priority needs to be given to the urgent relocation of those IDPs still living in collective centres.**

Access to sources of livelihood has improved little for IDPs and government allowances remain their main source of income. An IDP Livelihood Strategy was adopted in February 2014, to provide an opportunity for IDPs and their host communities to fulfil their potential by gaining independence from the State, and Action Plans thereunder are updated annually. Informed by continuing consultations with stakeholders and beneficiaries, the Action Plan for 2016-17 aims to ensure better access of IDPs to the labour market, and includes programmes of support towards employment, vocational education trainings, agriculture and self-employment, including revisions of the legislative framework where appropriate. Responsibility for implementation of the Livelihood Action Plan is shouldered by a number of line ministries, with input from local authorities and non-governmental organisations, and is monitored by the Livelihood Inter-Ministerial Committee.

**IDPs are not always informed adequately, or in a timely manner,** of the choices available to them with respect to accommodation and the selection criteria pertaining thereto, or to the Livelihood Support programmes. It will be important to **observe how far implementation of the recently developed Communication Strategy and Action Plan of the Ministry goes towards resolving such problems.**

Women IDPs are seen as especially vulnerable and for this reason, a Gender Equality Strategy and Action Plan was adopted by the MRA in October 2016, intended to support Government efforts inter alia to combat violence against women and domestic violence and implementation of Security Council resolution 1325. Still, **concrete actions need to be specified in order to translate provisions in the Strategy into tangible results.** In addition, **future reports under the Action Plan should also indicate how gender equality has been mainstreamed into the MRA Livelihood policy document, procedure and guidelines addressing the social and economic needs of IDPs.**

On a follow-up visit in October 2016, the UN Special Rapporteur on the Human Rights of Displaced Persons commended the Georgian Government for its on-going commitment and the considerable progress it has made to address the situation of IDPs. At the same time, he highlighted a number of issues that still need to be addressed. Chief among these, he stressed that while important first steps had been taken on this path, **there is a need to intensify efforts to move to a needs-**

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<sup>26</sup> Human Rights Situation of Internally Displaced Persons in Georgia, Public Defender (Ombudsman) of Georgia, 2015.

**based approach and away from the compensation regime and assistance based solely on IDP status.**

To this end, in December 2016 the MRA initiated a concept of reform foreseeing such a move. Formal launch of the reform will depend on the allocation of appropriate human and financial resources and a large-scale information campaign for IDPs planned to minimize misinterpretation of the concept and clarifying its consequences.

As political deadlock on Abkhazia and South Ossetia continued, concern as to the living conditions and socio-economic status of those living near the dividing line has presented undiminishing challenges. A programme of supplying gas, electricity, irrigation wells and drinking water reservoirs and improving roads was conducted in 2015. However, the installation of barbed wire fences across people's lands, in particular in the Tskhinvali Region/South Ossetia, has hampered access to parts of their land and their ability to continue agricultural activity. **The issue of land and property ownership in rural villages near the dividing line is particularly problematic and efforts to resolve such questions, as well as that of assistance with damaged homes, must continue.**

In March 2017, the Abkhazian *de facto* authorities closed all checkpoints except one, resulting in persons residing in adjacent areas facing even more serious problems in accessing their basic rights to health, education and freedom of movement.

In addition to the threats posed by continuing military operations, instances of persons being arrested for crossing the dividing line have persisted, even in places where it is difficult to see where the line is. Particularly troubling have been reports of women and children detained and released late at night to find their way back alone, and of fines being extorted. Georgia continues its participation in the Incident Prevention and Response Mechanism as the EUMM continues to monitor the situation.

Education is a major challenge in the affected areas as several of the schools are located on the other side of the dividing line. Through a special programme of the Ministry of Education, schools and kindergartens were opened, over 13 schools began to offer teaching in Abkhaz and Ossetian language, and higher education has been offered free of charge, including overseas scholarships.

Health care has been a further major issue. Ambulance and paediatric services have been developed near settlements and a new hospital built on the dividing line with Abkhazia. Special services are available for the treatment of Hepatitis C, HIV and tuberculosis. A considerable number of people in the occupied territories now take advantage of the free of charge medical services.

## 11. National labour legislation and the right to work

With regard to the right to work, the National Strategy envisages *full compliance of existing labour legislation with international standards, effective implementation of that legislation in practice and creation of special institutional mechanisms for the protection of labour rights.*

The new Labour Code of 2013 introduced substantial changes in terms of labour regulation, including in relation to grounds for dismissal, and the right of appeal against unfair dismissal, the right to organize and collective bargaining. However, the amended Code failed to address a number of significant issues – for example, in respect of minimum wage, parental leave and pay differentials and in relation to the application of certain other provisions. **In the context of its Strategic Plan for 2016-17, it will be important for the Tripartite Social Partnership Commission (TSPC)<sup>27</sup> to give due consideration to further related amendments to the Code, as well as ratification/acceptance of corresponding Conventions of the ILO and articles/paragraphs in the European Social Charter.** To this end, it would be useful for the TSPC to schedule more regular meetings.

**Reforms to the Law on Public Service, determining the status of a public servant, conditions for recruitment and performance, are now long overdue.** Of particular concern are the precise methods of recruitment, performance appraisal and dismissal procedures, which need to be clearly spelled out in order to preclude the possibility of undue pressure being applied. It should be made clear that protections provided by the general Labour Code of Georgia will also apply to public servants.

A major source of worry has been the lack of regulations in respect of safety in the workplace, especially the construction industry, where injuries and deaths are all too common. A number of relevant EU Directives are in the process of being transposed into Georgian legislation, but it has become **critical that the draft law on Occupational Health and Safety, which has been under discussion with stakeholders, is adopted without undue delay.**

The Labour Conditions Inspecting Department, located within the Ministry of Labour, Health and Social Affairs, is responsible for monitoring implementation of labour-related legislation, including the Anti-Discrimination Law as it applies in the workplace. The Department is authorized, inter alia, to inspect labour conditions with the aim of identifying and responding to any violations. A schedule of visits is drawn up and around 300 companies have been inspected thus far (83 in the year to

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<sup>27</sup> Led by the Ministry of Labour, Health and Social Affairs, the Tripartite Social Partnership Commission (TSPC) is made up of representatives of the Government of Georgia, employers' and employees' organizations.

date) and reports and recommendations have been submitted to the companies concerned. Recent amendments also provide for inspections, sometimes unscheduled, to identify forced labour and exploitation; 95 companies have been visited in this respect, with no cases of forced labour or exploitation revealed.

While a new State Programme for Inspecting Labour Conditions was approved in 2016, it is difficult to see the Inspecting Department, whose recommendations are not binding, as an effective enforcement mechanism. For the objectives of the National Strategy to be met, further thought should be given to the **establishment of an effective mechanism with power to enforce compliance with labour laws**. In the meantime, **a close watch needs to be kept on follow-up to the findings and recommendations of the Department, and its reports should be published with a view to encouraging best practices in other establishments**.

**Georgia should prepare and submit a report to the Committee on Economic, Social and Cultural Rights**, the last discussion with the Committee having taken place in 2002.

## **12. Rights of migrants, asylum seekers and asylum status holders, eco-migrants and repatriates**

The National Strategy aims to *ensure the rights of migrants and others in need of shelter and to protect the rights guaranteed under the 1951 Geneva Convention in relation to the Status of Refugees*.

As of January 2017, there were 1,513 refugees and humanitarian status holders in Georgia and 312 asylum-seekers. The legislative framework was amended to include asylum seekers as a category of persons who could qualify for a visa on humanitarian grounds. Considerable efforts were made in 2015 to reduce the backlog in the handling of asylum cases, resulting in a normal workload of approximately 200 cases being reached by October 2015, with a contingency plan put in place to deal with any massive new influx of asylum seekers.

In December 2016 a new Law on International Protection was adopted. This came into effect on 1 February 2017, bringing the national legislation further into line with international standards.

In order to address the high number of rejections based on undisclosed security concerns, the refugee legislation was amended to oblige the State Security Agency to provide the MRA with minimum information about the asylum seekers' potential threat to state security. The time limit for each court instance to deliver judgment was shortened to two months, while the deadline for appealing a negative decision

was extended from 10 days to one month. At the same time, the overall time frame for the first instance administrative authority to issue a decision was extended to a maximum period of 21 months (under specified circumstances). The national system of free legal aid was also extended to asylum seekers as of January 2016 to ensure that the right to appeal against a negative decision can be effectively used. It remains to be seen whether these amendments have in fact assisted in ensuring the rights of those seeking asylum.

**Two areas that may need careful attention in the coming period are the conduct of border guards and their treatment of arriving migrants, and the mechanisms and procedures for monitoring the protection of the rights of persons placed in the Temporary Accommodation Centre.** The inclusion in the Migration Action Plan 2016-17 of the latter, as well as human rights based approaches to victims of trafficking, is most welcome.

The 2016-2020 Migration Strategy has set ambitious objectives in respect of integrating foreign citizens, including intensive programmes in Georgian language and culture, vocational and professional training, and so on. A considerable number of refugees have indicated a wish to remain in Georgia and a special educational programme has been developed for refugees to help them to access the naturalisation procedure in practice.

The protection of persons subject to forced displacement as a result of natural or technological disasters – referred to as “eco-migrants” – has long been a source of concern. While there is no legal definition of such persons, NGOs estimate that up to 35,000 people within Georgia are affected. In 2015, the MRA created a department to deal with the issue and began to compile an eco-migrants database.

In November 2015 the Council of Europe Commissioner for Human Rights visited a semi-formal settlement on the outskirts of Batumi, reportedly inhabited by 90 families who moved there from the high mountainous areas of Adjara because of poverty, difficult living conditions and natural disasters. He described substandard conditions with no running water or sewage and lack of adequate health care, social assistance, and children’s access to education.

Despite recommendations from national and international organisations, including UNHCR, eco-migrants do not benefit from laws protecting IDPs and, due to budgetary constraints, there are still families needing accommodation in a safer place and access to social assistance. The Georgian Government has, however, begun transfer of ownership of houses provided to eco-migrant families following their relocation from the regions affected by natural disasters. **Discussions as to**

**whether to draft a new law to afford protection to eco-migrants or have them included under existing legislation should be speeded up.**

A series of procedures developed following adoption of the Law on Repatriation of Persons forcefully sent into exile from the Soviet Socialist Republic of Georgia by the former USSR in the 1940s did little to encourage their return. In June 2013, procedures were simplified and conditions, such as the obligatory use of Georgian or English, were relaxed. In September 2014 a State Strategy was adopted and an Action Plan drawn up.

Between June 2011 and December 2014, 1,533 were granted repatriate status. The number granted citizenship – which involves renouncing current citizenship – is 494, all former citizens of Azerbaijan. Currently, 5,841 applications, covering 8,900 persons (3,059 of whom are minors) have been submitted, the majority from Azerbaijan.

**The Communication Strategy of the MRA should ensure that all of these programmes are known and understood by those who are entitled to benefit from them.**

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