

**GYLA's
assessment
of the
human rights
situation
in Georgia
in 2021**



**GEORGIAN
YOUNG
LAWYERS'
ASSOCIATION**

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December 10th marks International Human Rights Day. This date is related to an event that took place 73 years ago, when the United Nations General Assembly adopted the Universal Declaration of Human Rights. The Declaration is a document based on the shared value that all human beings are born free and equal in dignity and rights; protecting and respecting human rights is an obligation and goal of every state that democratic societies should strive for.

The following are the key human rights challenges identified by GYLA in 2021:

Legal Status of Different Groups

Violence against women

In 2021, women and girls continued to experience serious forms of violence, such as domestic violence, sexual harassment, sexual violence, femicide, forced marriage, forced abortion.¹ Despite the steps taken by the state, the timely and effective investigation of sex crimes is especially problematic for women.² Judication of Sexual Offenses is often based on outdated methodology, which is one of the main barriers to accessing justice for sexual violence.³

Another challenge is the lack of female experts at the Levan Samkharauli National Forensics Bureau. As a result, women victims of sexual violence face a gender stereotype in several cases when conducting forensic examinations, which undermines their participation in the judicial process.⁴ A forensic examination which a victim of sexual violence has to undergo is a traumatic procedure, and victims often refuse to have an examination because of the sex of the experts.

To receive adequate services from the state is still problematic for women victims of violence.⁵ Victims of domestic violence, especially in the regions, consistently indicate a lack of psychological assistance. Lack of proper services for victims, especially at the local level, forces women to either return to the abuser or stay in a shelter for some time, after which

¹ “Assessment of the Rights of Women”, website of the Georgian Young Lawyers Association, 08.03.2021. Available at: <https://bit.ly/3dgi09z>, Updated: 04.12.2021.

² “Civil society organizations” Civil society organizations are responding to the most serious case of suicide of a 14-year-old teenager in Kobuleti”, website of the Georgian Young Lawyers Association, 12.02.2021, available at: <https://bit.ly/3puPWRA>, Updated: 04.12.2021.

³ Report of the member organizations of the Equality Coalition “To be presented at the 81st Session of the Committee on the Elimination of Discrimination against Women (CEDAW) in 2021”, 2021. Available at: <https://bit.ly/3psrQa5>, Updated: 04.12.2021.

⁴ “The Public Defender considered the absence of a female expert in the branch of the Samkharauli Expertise Bureau as discrimination against a woman victim of violence,” website of the Public Defender of Georgia, 25.12.2020. Available at: <https://bit.ly/3lrGJlr>, Updated: 04.12.2021.

⁵ Report of the Equality Coalition member organizations for submission to the Committee on the Elimination of Discrimination against Women (CEDAW) at its 81st Session in 2021. Available at: <https://bit.ly/3psrQa5>, Updated: 04.12.2021.

they may have to live on the streets due to economic problems.

Internally Displaced Persons/IDPs

IDPs who have been living in difficult conditions for years have been particularly affected by the Covid-19 pandemic.⁶ As IDPs do not have access to essential housing services, decent income, hygiene, and protection from the virus, they face new challenges in this crisis.⁷

In 2021, the European Court of Human Rights delivered an important Judgment. The Grand Chamber of the European Court of Human Rights has rendered the decision in the inter-state case Georgia v. Russia (II) (no. 38263/08), which concerns violations committed by the Russian Federation during the August 2008 war.⁸ The Court held that killing civilians, burning houses in Georgian villages, and looting had been an administrative practice that involved the repetition of similar acts and the official tolerance of Russia for these acts. According to the Court, the acts committed against the victims, given their seriousness, are qualified as inhuman and degrading treatment and the said persons were subjected to these acts because of their ethnicity.

The Court found a violation of the right to life, the prohibition of torture, the protection of private and family life, and the right to property in the light of the factual circumstances.⁹ Concerning just satisfaction, it clarified that the matter was not ready to be resolved. Accordingly, it called on the parties - Georgia and Russia - to submit written comments on the matter within 12 months from the date of notification of this Judgment and to inform the Court of any agreement reached between the parties. If the parties fail to reach an agreement within 12 months, based on their written submissions, the Court itself will consider and decide on the award of just satisfaction.¹⁰

GYLA is representing more than 350 victims of the August 2008 war before the European Court of Human Rights.¹¹

Persons living in and around the occupied territories

The plight of people living in the vicinity of the occupation line is further complicated by the

⁶ Sakanelashvili G., Georgian Young Lawyers Association, "IDPs Facing Covid-19", 2021, available at: <https://bit.ly/3Gb9TmV>, Updated: 04.12.2021.

⁷ *Ibid.*

⁸ Georgian Young Lawyers Association, "Review of the European Court of Human Rights Judgment of 21 January 2021 and Frequently Asked Questions", 2021, available at: <https://bit.ly/3EoX2gq>, Updated: 04.12.2021.

⁹ „What the Strasburg Court has Established on the August 2008 War Case”, Website of the Georgian Young Lawyers Association, 21.01.2021. Available at: <https://bit.ly/3okpOcv>, Updated: 04.12.2021.

¹⁰ *Ibid.*

¹¹ *Ibid.*

difficulties associated with movement along the occupation line. While freedom of movement, especially in pandemic conditions, is critical, closing the Enguri checkpoint without warning and indefinitely restricting access to all basic and vital services plunges it into a full humanitarian crisis.¹²

The vicious practice of illegal and arbitrary detention of people in the Tskhinvali region/ South Ossetia near the occupation line continued this year as in previous years.¹³ The abductees were mostly detained administratively and released in exchange for fines.

Ethnic Minorities

Positive changes have not affected those systemic challenges which existed in the protection and integration of ethnic minorities in Georgia. In 2020 and 2021, the pandemic further exacerbated the dire socio-economic situation of minority groups, lack of access to information, language barriers, and lack of access to quality education.

In 2021, the Scientific Advisory Council for National Minorities was established based on the Committee on Diaspora and Caucasus Issues of the Parliament of Georgia. In general, the primary function of the Diaspora Committee is to have close ties with the Georgian Diaspora and to support compatriots living abroad. Against this background, it is even more incomprehensible to set up a council within the Diaspora Committee to address the problems of ethnic minorities and facilitate integration processes, while the fact that this council was set up without consulting minority groups should be viewed negatively.¹⁴

In 2021, the Salam Platform developed a bill aimed at removing non-authentic endings (OV, EV, etc.) from Georgian citizens' surnames and giving them the right to return their authentic surnames.¹⁵ GYLA supported this initiative and was involved with other NGOs in the drafting process.

¹² "IDP Rights Organizations Respond to Shamgona Tragedy", Website of the Georgian Young Lawyers Association, 08.04.2021. available at: <https://bit.ly/3dhpiWD>, Updated: 04.12.2021.

¹³ „According to the State Security Service Alan Japaridze, illegally detained by occupation regime has been released”, Radio Liberty website, 14.05.2021, available at: <https://bit.ly/3BV03T>, Updated: 04.12.2021; „Tskhinvali court sentences another Georgian citizen to one year in prison”, Radio Liberty website, 19.11.2021, available at: <https://bit.ly/3Eqm3I6>, Updated: 04.12.2021; „The process of release of Malkhaz Janelidze detained in the Tskhinvali region is underway – State Security Service”, Radio Liberty website, 03.12.2021. Available at: <https://bit.ly/3rABDgI>, Updated: 04.12.2021.

¹⁴ "NGOs Condemn the Decision of the Parliament to Consider Ethnic Minorities as the Diaspora", 17.03.2021, Website of the Georgian Young Lawyers Association, Available at: <https://bit.ly/3Ih30Hv>, Updated: 04.12.2021.

¹⁵ "Platform" Salam "will submit a legislative initiative to the Parliament on the return of surnames", Radio Liberty website, available at: <https://www.radiotavisupleba.ge/a/31479086.html>, Updated: 01.01.12.2021.

Persons with disabilities

People with disabilities are still one of the most vulnerable groups in Georgia. They face obstacles daily in almost every area of public life. In the conditions of the pandemic, the existing problems were further aggravated.

It shall be noted that in 2021, the Parliament of Georgia ratified the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities,¹⁶ which is an important international mechanism for the protection of the rights of these persons.

Despite some progress made this year, the legal status of people with disabilities has not changed significantly in either direction. Again, there has been no transition to the social model of granting disability status. At the same time, the challenges remain for these individuals in terms of access to the physical environment, information, means of communication, and various services,¹⁷ weak socio-economic guarantees, degrading practices in closed institutions, and more. Given all this and in the absence of uniform standards at the state level in the field of protection of the rights of persons with disabilities, instead of proactive work, a significant part of state agencies and municipalities developed and approved in a delayed manner and without the participation of the disabled community, Action Plans defined by the Law on the Rights of Persons with Disabilities.¹⁸

However, at the municipal level, social programs that often do not meet the needs and are poorly planned are problematic. This challenge became especially apparent during the pandemic period. Despite the requirement of the law, local self-government bodies do not study the needs of children with disabilities.¹⁹ As a result, measures taken by local authorities are mainly short-term and insufficient to improve the situation of children with disabilities.²⁰

Children

In 2021, effective protection of children's rights still remains a challenge. In the pandemic conditions, due to socio-economic problems, the risks of poverty and inadequate living

¹⁶ Resolution of the Parliament of Georgia of 3 May 2021 on the ratification of the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities; available at: <https://bit.ly/3rSf2cb>, Updated: 07.12.2021.

¹⁷ "Statement of the Public Defender of Georgia on the International Day of Persons with Disabilities", Website of the Public Defender of Georgia, 03.12.2021, available at: <https://bit.ly/3dsnfPr>, updated: 7.12.2021.

¹⁸ "A significant part of the obligations under the law on the rights of persons with disabilities is still unfulfilled", website of the Georgian Young Lawyers Association, 14.06.2021, is available at: <https://bit.ly/3dxmhkM>, Updated: 07.12.2021.

¹⁹ Abuladze M., Georgian Young Lawyers Association, "Programs tailored to the individual needs of children", 2021, 2, available at: <https://bit.ly/3DBmgH7>, Updated: 07.12.2021.

²⁰ *Ibid.*

standards increased even more, which especially affected the children living on the streets and the socially vulnerable.²¹ The pandemic caused by the coronavirus has posed significant problems globally in realizing the right to education. Online learning, to some extent, continues even now. However, for some time, the learning in the country was only remotely conducted. Lack of internet and computer equipment restricts access to education for children.²²

Complete replacement of large institutions with alternative forms of care remains a challenge in the country.²³ There are religious boarding schools where full state monitoring is not carried out.²⁴ The situation was particularly alarming in 2021 - in the NNLE Boarding School of St. Nino Orphanage for Orphaned, Abandoned and Homeless Children in Ninotsminda, Javakheti, of the Georgian Orthodox Church Patriarchate, where, by the unilateral decision of Reverend Bishop Spiridon, the Public Defender was not allowed to enter and study the legal status of children. The exact number of children there was also not publicly known, and after requesting public information, it was revealed that four cases of alleged violence against minors had been investigated in 2016-2021.²⁵

LGBTQ Persons

Even in 2021, there were no positive changes in improving the legal status of LGBTQ people, on the contrary, several serious setbacks have been observed.

Despite the relatively improved legislative framework in previous years, shortcomings in practice are not being remedied. LGBTQ people face barriers to accessing labor rights, access to medical and social services, and in terms of full use of the right to education.²⁶ LGBTQ individuals are particularly vulnerable to stigma and violence. In addition, due to the growing number and influence of homophobic and transphobic groups, LGBTQ individuals continue to experience oppression, violence, and discrimination. Attacks on LGBTQ individuals by radical groups have a systematic character.²⁷

²¹ Report of the Public Defender on the Situation of Human Rights and Freedoms in Georgia, 2021. 357. Available at: <https://bit.ly/3wtteEc>, Updated: 01.12.2021.

²² *Ibid*, 349.

²³ *Ibid*, 366.

²⁴ "Statement of the Public Defender of Georgia on the International Children's Day", website of the Public Defender of Georgia, 01.06.2021, available at: <https://bit.ly/3pw8yQS>, Updated: 01.12.2021.

²⁵ "Coalition for Equality responds to the fact of continuous violation of children's rights in Ninotsminda boarding school", Coalition for Equality website, 20.05.2021, available at: <http://equalitycoalition.ge/article/69>, Updated: 01.12.2021. "Current events in Ninotsminda boarding school require immediate intervention of the state", Coalition for Equality website, 03.06.2021, available at: <http://equalitycoalition.ge/article/71>, Updated: 01.12.2021.

²⁶ Document submitted by the Public Defender of Georgia (Ombudsman) at the 37th session of the Universal Periodic Review (January-February 2021). Available at: <https://bit.ly/3llLxiA>, Updated: 01.12.2021.

²⁷ For example, see "Mtavari Channel: Another Attack on Lesbian Couples", Mtavari channel website, 24.04.2021 Available at: <https://bit.ly/3EbfLft>, Updated: 01.12.2021.

In 2021, there were numerous cases of violence and discrimination based on sexual orientation and gender identity against several members of the group.²⁸ The most vulnerable among the LGBTQ community are transgender people. Violence against transgender women is most common, and the state response is ineffective in preventing, investigating, and punishing such incidents.²⁹

Homeless Persons

The state has not developed a Government Strategy and Action Plan for Homeless Persons in 2021, has not introduced a full legislative term of the homeless, and the legislation necessary for the realization of the right to adequate housing.³⁰ In addition, the causes of homelessness have not been studied in the country and to date, there is no unified database of homeless people.³¹ In addition, the measures taken by the self-government bodies against the homeless are incomplete and do not meet the existing challenges.³²

It shall be underlined that during the pandemic, the situation of these individuals, like other vulnerable groups, exacerbated. Despite the obvious need to provide housing in a pandemic, the government does not make homelessness a criterion for assistance in this crisis relief program.³³ Moreover, Tbilisi City Hall has shown no sensitivity to those living in unauthorized built premises in Tbilisi and put them at risk of homelessness.³⁴ The municipal inspectorate dismantled several buildings without considering neither the condition of the people living there nor publicly offering alternative housing.³⁵

Social policy

Labor Rights

As a result of the reform of the Labor Code in the autumn of 2020, the legal framework for

²⁸ "LGBTQ community members attacked in Tbilisi", Equality Movement website, Available at: <https://bit.ly/2Rf6XCd>, Updated: 01.12.2021.

²⁹ Georgian Young Lawyers Association, "Alternative Opinions on Identoba and Others v. Georgia", 2021, available at: <https://bit.ly/3yU2k1i>, Updated: 01.12.2021.

³⁰ "International Day of the Homeless", Website of the Public Defender of Georgia, 10.10.2021, Available at: <https://bit.ly/3GqEhKg>, Updated: 01.12.2021.

³¹ *Ibid.*

³² *Ibid.*

³³ Open Society Foundations, "Assessment of State Policy on the Homeless during the Pandemic", 2021, 2, available at: <https://bit.ly/3ynE5ZD>, Updated: 01.12.2021.

³⁴ "Assessment of State Policy towards the Homeless during the Pandemic" Tbilisi Municipal Inspection has started dismantling several illegally constructed buildings in an African settlement." The First Channel website, 15.12.2020, available at: <https://bit.ly/3DG0u3r>, Updated: 01.12.2021.

³⁵ "GYLA calls on the City Hall to stop the dismantling process and pursue a support policy", website of the Georgian Young Lawyers Association, 15.12.2020, available at: <https://bit.ly/31AUE8r>, Updated: 01.12.2021.

the protection of labor rights was partially improved by 2021, which was reflected in the tightening of labor discrimination norms; In the new regulation of form, terms, and content of the labor contract; Setting standards for work and leisure time; In the regulation of internships, etc. However, labor law reform has not considered several important issues.³⁶

On January 1, 2021, the extended mandate of the Labor Inspectorate came into force, giving the Inspectorate the power to respond to labor rights violations. However, the proper and complete performance of the function assigned during 2021 was problematic, as the Labor Inspectorate is also tasked with monitoring the enforcement of restrictions and regulations imposed due to the pandemic, which requires additional human and financial resources.³⁷

The impact and negative consequences of the Covid-19 pandemic in 2021 still continue to pose a significant challenge in the field of labor relations. During the pandemic, persons employed in the medical sector (doctors, nurses, paramedics)³⁸ face special difficulties; Social workers³⁹ and service workers,⁴⁰ with both severe working conditions and low pay. Moreover, other rights of workers were neglected; in particular, the practice of unjustified dismissal has become more frequent, lack of adequate remuneration for overtime work, and so on.⁴¹

In 2021, gig economics workers/ couriers staged several protests demanding minimum labor guarantees and decent pay. In response, couriers were blocked from applications, which effectively meant their dismissal. Such was the case with Bolt Food, where GYLA represented the interests of 5 couriers in the Public Defender's Office. On June 14, 2021, the Public Defender of Georgia established discrimination against Bolt Food on the grounds of differing views of couriers, for which the Public Defender extended the standards of compliance of the Labor Code of Georgia to the service contract concluded by Bolt Food.⁴²

Loan and Credit Liabilities

To prevent the spread of the coronavirus, several economic activities were restricted in the country, as a result of which quite many people lost their income. This jeopardized the proper

³⁶ "GYLA has submitted opinions to the Parliament of Georgia on the bil of amendments to the Labor Code", website of the Georgian Young Lawyers Association, 01.06.2021, available at: <https://bit.ly/31m1tup>, Updated: 01.12.2021.

³⁷ "Pandemic and International Workers' Day", Website of the Georgian Young Lawyers Association, 01.05.2021, available at: <https://gyla.ge/ge/post/pandemia-da-mshromelta-saertashoriso-dghe>, Updated: 01.12.2021.

³⁸ "Alarming working conditions for nurses require emergency responses from the state", website of the Georgian Young Lawyers Association, 13.09.2021, available at: <https://bit.ly/3doCARc>; Updated: 01.12.2021.

³⁹ "Social workers work in pandemics without transportation", website of the Georgian Young Lawyers Association, 30.12.2020, available at: <https://bit.ly/3pxiObT>, Updated: 01.12.2021.

⁴⁰ "Supports the demands of the Glovo couriers", website of the Georgian Young Lawyers Association, 05.02.2021, available at: <https://bit.ly/3lCaW7v>, Updated: 01.12.2021.

⁴¹ Pandemic and International Workers' Day, Website of the Georgian Young Lawyers Association, 01.05.2021.

⁴² "The Public Defender of Georgia has established discrimination by the "BOLT FOOD" on the grounds of different views on couriers", website of the Georgian Young Lawyers Association, 15.06.2021, available at: <https://bit.ly/3lB4mOT>, Updated: 01.12.2021.

fulfillment of their loan and credit obligations. To deal with this challenge, individuals in the early stages of the pandemic had the option of deferring loan servicing to commercial banks for 3 months.⁴³ Banking institutions have extended the loan period for individuals to take advantage of the 3-month grace period, leading to an increase of accrued interest. As a result, they have to pay more each month than they did before the pandemic. Some of the unemployed borrowers are subject to enforcement and in several cases when families are at risk of losing their last residential home.

Environmental Protection

In terms of environmental protection, the country still faces significant challenges. Particularly shall be highlighted the human rights abuses and violations during the implementation of large infrastructure projects, including large energy projects. In addition, the country does not yet have an energy development plan according to which similar projects should be planned and implemented. Furthermore, the issue of fair compensation for the damage caused to the local population as a result of the activities of the mining companies, the improper supervision of the activities of these companies by the state, and the study of their compliance with the license conditions are still a problem.

Namokhvani HPP Cascade

In terms of human rights, significant violations were identified during the planning and implementation stages of the Namokhvani HPP Cascade project, in particular during the project's public hearings, the process of rallies conducted against the Project, environmental decision-making and issuance of construction permits.⁴⁴

Nevertheless, the Ministry still issued a positive environmental decision and instructed the company to submit these studies post-factum, which is a substantial violation of the requirements of the law. At the same time, the company did not further comply with the conditions set by the environmental decision, which is confirmed by the Judgment of the Tskaltubo Magistrate Court on April 28, 2021, which fined the company GEL 5,000 for non-compliance with these conditions.⁴⁵

Significant human rights violations were identified during the rallies related to the Namokhvani HPP Cascade project. The right of assembly and demonstration of protesters

⁴³ Loladze Sh., Svimonishvili M., Georgian Young Lawyers Association, "Severe social situation in the country as a result of the impact of the pandemic on credit and loan relations." Available at: <https://bit.ly/3lyqR76>, updated: 01.12.2021.

⁴⁴ "Statement on the dissolution of the protest rally of the Namokhvani HPP project and the resumption of construction works by "Enka", Georgia Updated: 01.12.2021.

⁴⁵ Namokhvani HPP Construction Company Fined for Violation of Conditions ", Website of the Georgian Young Lawyers Association, 28.04.2021, Available at: <https://bit.ly/32PHZP6>, Updated: 01.12.2021.

was repeatedly violated.⁴⁶ Especially, between April 3-11 the restriction of rights was large scale. Tents were removed, the police forces erected iron barricades on both sides of the road before the full lock of the road, by which the other persons who wanted to join the protest in the original place of protest were limited.⁴⁷ Movement of the human rights defenders of the protesters also were not allowed. In addition, two protesters were detained and those who were unable to join the rally due to roadblocks were fined GEL 2,000 for violating the curfew.⁴⁸ It should also be mentioned that a slandering campaign was used against the protesters throughout the process.⁴⁹

On May 30, 2021, GYLA sent a communication on the above violations to the UN Special Rapporteur on the Right to Peaceful Assembly and Association.⁵⁰

Mediation Process

Since June 12, 2021, GYLA has been involved in the pre-mediation process between the Government of Georgia, the local population, and non-governmental organizations. The mediator was a representative of the EU Energy Community and the aim of this process was to de-escalate the situation in the Rioni Gorge, environmental and commercial assessment of the Namokhvani HPP Cascade project by independent experts, and the development of Georgia's energy development plan.⁵¹ As part of this process, iron barricades were removed from the road in the Rioni Valley,⁵² nevertheless, the police forces mobilized on the spot still did not allow the protesters to move freely on the road, which means that the illegal restriction of the protesters' rights has been continued.⁵³

At this stage, the Namokhvani HPP Cascade project has been suspended and it is still unclear whether the company withdrew from the contract, however, in case of project renewal, to protect human rights independent human rights experts need to evaluate the project environmental documents and make its commercial assessment. At the same time, in compliance with the requirements of the law and with the participation of stakeholders, Georgia should develop an energy development plan.

⁴⁶ "NGOs Respond to Current Events in Rioni Gorge", Website of Georgian Young Lawyers Association, 12.04.2021, Available at: <https://bit.ly/3rqbhbm>, Updated: 01.12.2021.

⁴⁷ "The police should leave the Rioni gorge immediately and stop the construction of the Namokhvani HPP", the website of the Georgian Young Lawyers' Association, 03.04.2021, available at: <https://bit.ly/3IdjTOC>, updated: 01.12.2021.

⁴⁸ *Ibid.*

⁴⁹ "Namakhvani HPP Organizations Respond to Defamation Campaign by Company and State", Georgian Young Lawyers Association Website, 04.08.2021, Available at: <https://bit.ly/31gxCDg>, Updated: 01.12.2021.

⁵⁰ GYLA's Submission to the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, available at: <https://bit.ly/3IkQ3Yq>, Updated: 01.12.2021.

⁵¹ "NGOs Respond to the Negotiation Process Related to Namokhvani", Website of the Georgian Young Lawyers Association, 30.07.2021, Available at: <https://bit.ly/3o5ZF0Z>, Updated: 01.12.2021.

⁵² "Namakhvani mediation – the Government of Georgia follows up on the agreements made on Saturday", European Energy Community, 17.06.2021, available at: <https://bit.ly/3xG1QLS>, Updated: 01.12.2021.

⁵³ *Ibid.*

Protest of the residents of the village Shukruti

The population of the village of Shukruti in Chiatura Municipality has been demanding fair compensation for the damage caused to their living environment and property by the Georgian manganese mining company for the last three years. However, the rights of the locals are completely ignored by the state and they are left alone in the face of a mining company, which avoids its responsibility and for years refuses to meet the legitimate and fair demands of the affected population.⁵⁴

In 2021, the residents of Shukruti also protested for more than three months about the irreversible damage to the natural and social environment of the village as a result of manganese mining by Georgian Manganese.⁵⁵ Due to ignoring the demands of the protesters by the state and the company, the locals resorted to an extreme form of protest and sewed their mouths. According to the residents of Shukruti, as a result of the activities of the company "Georgian Manganese", the environmental pollution has become irreversible. Their homes have become uninhabitable as a result of damage caused by the company's activities, and they can no longer use the land they own for agricultural purposes, leaving them without income. Protesters were also restricted in their freedom of expression because local authorities and police did not allow them to set up a protest tent in front of the Chiatura Municipality administrative building.

As a result of the protest, an agreement was reached between the population of Shukruti and "Georgian Manganese", however, this problem does not only concern Shukruti, the company also carries out mining works in other villages of the municipality, where, as a result of activities that do not comply with environmental standards and are socially irresponsible, a similar crisis is created and the constitutional right of the people living there to live in a healthy and safe environment is violated.

According to GYLA's assessment, to overcome the difficult situation caused by the activities of "Georgian Manganese" in Chiatura Municipality, it is necessary for the state to strictly control and constantly monitor the compliance of the company with the license conditions, as well as assess the damage to the natural and social environment, creating a fair compensation model for the affected population and putting it into practice.

Bill on Amendments to the Environmental Assessment Code

On June 6, 2021, the draft law "On Amendments to the Environmental Assessment Code" was published (07-3/86/10; 23.06.2021). For the purposes of human rights protection, it is

⁵⁴ "GYLA Responds to Developments in the Village of Shukruti", Website of the Georgian Young Lawyers Associatio , 14.05.2021, Available at: <https://bit.ly/3Eef3hp>, Updated: 01.12.2021.

⁵⁵ *Ibid.*

important not to accept it in this form and to consult with stakeholders.⁵⁶ According to the bill, it is unreasonably planned to transfer the Department of Environmental Assessment within the Ministry of Environment and Agriculture to the National Environment Agency and full delegation of powers in the field of enforcement of the Environmental Assessment Code, which may negatively affect the current situation in Georgia in this regard.⁵⁷ The bill also unjustifiably expands the circle of entities that should have been applied to the Ministry to continue the current activities until June 1, 2019, and at the same time unreasonably extends the deadline for fulfilling this obligation until January 1, 2022.⁵⁸ The amendments also concern the activity screening procedure, amendments to the environmental decision, and the requirements set out in the Annexes to the Code, in which case, several significant problems need to be corrected and relevant legislative changes/clarifications to be made.⁵⁹

The Right of Assembly and Demonstration

In 2021, severe cases of interference with freedom of assembly were reported. This fundamental right has been violated by the active intervention of the state, the arrest of demonstrators, and the use of disproportionate force against them, as well as the inaction of law enforcement to ensure the gathering of certain persons.

For years, the state has not ensured the proper protection and realization of freedom of expression and assembly of LGBTQ people. A clear example of the culmination of this challenge is the events of July 5, 2021, in Tbilisi, when these individuals were effectively deprived of the opportunity to exercise their freedom of assembly.

A March for Dignity week was planned by Tbilisi Pride organization,⁶⁰ but the events were threatened by homophobic groups. In a July 5 protest against the March of Dignity, members of the ultra-right group attacked dozens of media representatives, physically and verbally assaulted them, damaged other people's private property, and had an aggressive attitude towards LGBT people and their supporters.⁶¹ Nevertheless, the state has not provided an effective response to and suppressed cases of violence.⁶² As a result, Tbilisi Pride was forced to

⁵⁶ "NGOs call on the Parliament not to support the delegation of the environmental decision-making process to the LEPL National Environment Agency", website of the Georgian Young Lawyers Association, 13.08.2021, available at: <https://bit.ly/3lqI0PP>, Updated: 01.12.2021.

⁵⁷ "GYLA Submitted Opinions to the Parliament of Georgia on the amendments to the Environmental Assessment Code", GYLA, 06.08.2021, Available at: <https://bit.ly/3xG3pci>, Updated: 01.12.2021.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ "Tbilisi Pride" will hold a "March of Dignity" on Rustaveli on July 5", Netgazeti website, 04.06.2021, Available at: <https://netgazeti.ge/news/546305/>, Updated: 09.11.2021.

⁶¹ Georgian Young Lawyers Association, "Chronology and Legal Assessment of the July 5-6 Events", 2021, 13-17, available at: <https://bit.ly/3IRIqyX>, Updated: 08.12.2021.

⁶² *Ibid.*

cancel the event.⁶³

In addition, the incident that took place in front of the Parliament building on Rustaveli Avenue in Tbilisi on February 19, 2021, shall be noted.⁶⁴ The police did not allow the protesters to set up a tent and detained 20 activists gathered in front of the Parliament buildings, who were trying to set up tents.⁶⁵ It should be underlined, that the footage showed that the protesters were planning to set up a tent, not on the carriageway, but on the sidewalk, where this action is not prohibited. Thus, there was no need for the police to restrict the gathering by banning the placement of the tent.⁶⁶

On November 10 of this year, opposition parties held protest rallies in front of various administrative buildings in Tbilisi. During the processes of assembly, law enforcement officials arrested a total of 46 citizens on the grounds of petty hooliganism and disobedience to a lawful request of a police officer.⁶⁷

The events of November 10 show signs of unwarranted and disproportionate use of police coercion.⁶⁸ Moreover, a particular problem was the restriction of access to a lawyer and family members' information about their whereabouts after their detention.⁶⁹

Administrative Offenses, Legislation, and Practice

On April 26, 2021, two bills on amendments to the Code of Administrative Offenses were registered in the Parliament of Georgia,⁷⁰ in connection with which GYLA submitted opinions⁷¹ to the Parliament of Georgia and negatively assessed the draft amendments. As a result of the bill, sanctions were tightened under Articles 166 (petty hooliganism) and 173 (disobedience to a lawful request of the police) of the Code of Administrative Offenses of

⁶³ Tbilisi Pride [Facebook-page], 05.07.2021, "Declared war on civil society, Against Democratic Values and the Country's European Course", available at: <https://bit.ly/3yPHWNE>, Updated: 09.11.2021.

⁶⁴ "Activists who were setting up a tent near the Parliament were arrested by the police", Radio Liberty website, 19.02.2021, available at: <https://bit.ly/3Ileo0m>, Updated: 07.12.2021.

⁶⁵ "GYLA Calls on the Ministry of Internal Affairs to Respect the Right of Assembly through setting up the Tents on the Sidewalk", website of the Georgian Young Lawyers' Association, 19.02.2021, Available at: <https://bit.ly/31CkQiC>, Updated: 07.12.2021.

⁶⁶ *Ibid.*

⁶⁷ "Police detained 46 people during protests in Tbilisi," Reginfo website, 10.11.2021, available at: <https://bit.ly/3pyopyy>, Updated: 07.12.2021.

⁶⁸ "Police violated the rights of citizens arrested on November 10", website of the Georgian Young Lawyers Association, 11.11.2021, available at: <https://bit.ly/3DAvn1a>, Updated: 07.01.2021.

⁶⁹ *Ibid.*

⁷⁰ Bill on Amendments to the Code of Administrative Offenses of Georgia, web-page of the Parliament of Georgia, 26.04.2021, available at: <https://bit.ly/3rl6cHg>; Bill on Amendments to the Code of Administrative Offenses of Georgia, web-page of the Parliament of Georgia, 26.04.2021, available at: <https://bit.ly/32FjbsU>. Updated: 01.12.2021.

⁷¹ "GYLA negatively assesses the amendments to the Code of Administrative Offenses", website of the Georgian Young Lawyers' Association, 27.04.2021, available at: <https://bit.ly/3ljfDmw>. Updated: 01.12.2021.

Georgia, reducing the role of the judge - to take into account the factual circumstances of the case and determine the size of the sanction or use verbal warning.

Tightening sanctions at a time when the procedural part of a case under administrative law is not in line with its obligations under the Constitution of Georgia and international treaties is unjustified and increases the chances of unlawful interference with human rights.

To enforce the Judgment of the Constitutional Court of Georgia, the package of amendments was registered concerning Article 247 of the Code of Administrative Offenses of Georgia, which provided for the appearance of a detainee in court at the earliest opportunity, but no later than 48 hours. The bill underwent minor changes, although a total of 48 hours was still allowed to be used by law enforcement. With these changes, the Parliament of Georgia ignored the reasoning part of the Constitutional Court Judgment, according to which the 24-hour detention period is fully sufficient for a person to appear in court regardless of the time of their arrest.

In practice, it has already been shown that the Ministry of Internal Affairs is abusing the amendment to the law. It can extend the 24-hour detention period to 24 hours one-time, resulting in a total of 48 hours of detention for an administratively detained person.⁷²

Media Freedom

Georgian legislation and international acts guarantee freedom of expression, media, and the creation of a free and safe environment for journalistic activities. It is noteworthy that 2021 was full of many challenges in terms of realizing this right.

Developments in 2021 have shown that media safety in the country is problematic. Cases of verbal or physical assault on journalists and unlawful interference with their professional activities have increased in the past year.⁷³ The state does not respond to such facts and doesn't prevent it in a timely manner, as well as leaves crimes committed without proper response through ineffective investigations. At the same time, authorities respond to the media with discriminatory treatment⁷⁴ and hate speech.⁷⁵ All of this was particularly

⁷² "Police violated the rights of citizens arrested on November 10", website of the Georgian Young Lawyers Association, 11.11.2021, available at: <https://bit.ly/3d5l986>. Updated: 01.12.2021.

⁷³ See Coalition for Media Advocacy [Facebook Page], 25.02.2021, "Media Coalition Responds to Attack on Journalist Vakho Sanaia and His Family", available at: <https://bit.ly/3GhMz74>, Updated: 07.01.2021; Coalition for Media Advocacy [Facebook Page], 09.04.2021, "Coalition for Media Advocacy Responds to Attack on Formula Employees", Available at: <https://bit.ly/3ovTFyI>, Updated: 07.12.2021; Georgian Young Lawyers Association, [Facebook page], 09.05.2021, "Media Coalition Condemns Attacks on Journalists by Clergy", Available at: <https://bit.ly/3rlkX76>, Updated: 07.12.2021; Coalition for Media Advocacy [Facebook page], 19.11.2021, "Coalition for Media Advocacy considers the restriction of the right of another Ukrainian journalist in Georgia to be alarming", available at: <https://bit.ly/31FBiyG>, Updated: 07.12.2021;

⁷⁴ See Georgian Young Lawyers Association, [Facebook page], 11.11.2021, "Coalition for Media Advocacy Calls on Ministry of Justice to Stop Discrimination against Journalists", Available at: <https://bit.ly/3rKf5du>, Updated: 07.12.2021.

evident on July 5-6, when radical and homophobic groups used violence against more than 50 media representatives, which was also encouraged by the aggressive rhetoric of the high-ranking officials.⁷⁶ However, the state's response to the facts of the violence was still inadequate as the July 5 cases are ineffectively investigated.⁷⁷ The cases of journalists injured during the dispersal of the June 20-21 protest rally are still uninvestigated.⁷⁸

Inviolability of Private Life

Another important problem is illegal eavesdropping - the practice of illegally interfering in the privacy of persons.⁷⁹ Allegations of covert surveillance and eavesdropping by the State Security Service have been reported in the media several times this year.⁸⁰

The Prosecution Service of Georgia needs to investigate in a timely, impartial, and effective manner. Numerous uninvestigated cases of interference with the right to respect for private life in the past are further encouraged and magnified by illegally interfering in the privacy of people.⁸¹

⁷⁵ See Coalition for Media Advocacy [Facebook Page], 17.07.2021, "Coalition for Media Advocacy Partner Organizations expresses their Concern over the discrediting of the Mtavari Channel, TV Pirveli and Formula by the Prime Minister and also against Nika Gvaramia in connection with the threat reported", available at: <https://bit.ly/3dtG9Wb>, Updated: 07.12.2021; Coalition for Media Advocacy [Facebook page], 23.07.2021, "We call on all public figures to stop stirring up hostile attitudes and discrediting the media in the society", available at: <https://bit.ly/3EKpoSo>, Updated: 07.12.2021; Radio Liberty [Facebook page], 22.07.2021, "Tea Tsulukiani took away the microphone to the journalist of the" Mtavari Channel "at the opening ceremony of the theatre rehabilitated by" Cartu", available at: <https://bit.ly/2Y5R7gc>, Updated: 07.12.2021; "You are ordinary abusers - Gharibashvili to journalists", "Reginfo" website, 23.07.2021, available at: <https://bit.ly/3kYbAN0>, Updated: 07.12.2021;

⁷⁶ Svimonishvili M. and others, Georgian Young Lawyers Association, "Chronology and Legal Assessment of the July 5-6 Events", 2021, 13-21, available at: <https://bit.ly/3lRIqyX>, Updated: 08.12.2021.

⁷⁷ *Ibid.*

⁷⁸ The investigation into the cases of demonstrators and journalists affected by the dispersal of the anti-occupation rally on June 20-21, 2019, is flawed, incomplete, and, as a result, does not meet the standard of an effective investigation. See "GYLA Appeals to the European Court on behalf of the Demonstrators and Journalists Affected on June 20", Website of the Georgian Young Lawyers Association, 07.04.2021, Available at: <https://bit.ly/3obRnn5>, Updated: 07.12.2021.

⁷⁹ "Civil society organizations: the government uses State Security Service as a total control mechanism", website of the Georgian Young Lawyers Association, 02.08.2021, available at: <https://bit.ly/3d9npLm>. Updated: 01.12.2021.

⁸⁰ "Personal life reports for Bidzina Ivanishvili from State Security Service, Facebook page of the Mtavari channel, 01.08.2021, available at: <https://bit.ly/3EhvNV6>; "Scandal: Special operation against the Patriarchate - priests under the surveillance of State Security Service which collects compromising information about them," TV Pirveli website, 13.09.2021, available at: <https://bit.ly/39baQNC>; "They even surveilled the teachers, they find out whom you have an affair with so that they can blackmail you later", the website of TV Pirveli, 11.09.2021, is available at: <https://bit.ly/3kcAibZ>. Updated: 01.12.2021.

⁸¹ GYLA's assessment of the recent illegal eavesdropping can be found on website of the Georgian Young Lawyers Association, 16.09.2021, available at: <https://bit.ly/3l8N7xS>. Updated: 01.12.2021.

In addition, for years, the Constitutional Court has been considering №1231 claim⁸² of 1 June 2017 concerning the constitutionality of several norms related to covert investigative actions, computer data, data bank, and supervision. The Constitutional Court of Georgia needs to ensure promptly the issue of conformity of the legislation regulating covert investigative actions with the Constitution, facilitate the refinement of the legislation regulating covert investigative actions, and create strong human rights safeguards in the legislation.

Justice

Low credibility of the judiciary, signs of selective and politicized justice contribute to the aggravation of the political crisis and the escalation of the situation.⁸³ The rule of the clan remains a major challenge in the judiciary. The main lever of clan power is the Council of Justice and the Presidents (Chairpersons) of the Court. Against this background, the reform of the Council of Justice is crucial. It is essential that the selection of judicial and non-judicial members of the council be the result of a fair, consensus-based process in order for the system to have public confidence.

One of the main issues of the April 19 agreement between the political parties was the judiciary.⁸⁴ According to the document, in the course of large-scale, inclusive, and cross-party reforms, Parliament should have embarked on ambitious judicial reform.⁸⁵ However, this did not happen. The ruling party tried to present the fragmentary changes made before the signing of the document as a full implementation of the agreement,⁸⁶ thus practically refusing to fulfill its obligations.

Against this background, the Conference of Judges elected 6 new members of the Council, 4 of whom had their terms of office expired, and two of whom had their terms terminated prematurely. GYLA considers the appointment of two new members to the Council of Justice by the Conference of Judges as another manipulation of clan governance.

The election of judge-members of the Council has drawn sharp criticism from international partners. The partners demanded the suspension of the election of the members of the Council and reminded the Speaker of Parliament of the commitments made under the Charles

⁸² Constitutional claim N1231 of June 1, 2017, available at: <https://constcourt.ge/ka/judicial-acts?legal=1962>, Updated: 01.12.2021.

⁸³ "Coalition Calls on Parliament to Work on Justice Reform", Coalition for Independent and Transparent Judiciary Web, 18.05.2021, Available at: <https://cutt.ly/gTVVi3s>.

⁸⁴ "President of the European Council Charles Michel publishes new proposal made today to Georgian political parties", EU website, 18.04.2021, available at: <https://cutt.ly/8TPJOAq>, Updated: 21.11.2021.

⁸⁵ *Ibid.*

⁸⁶ "Irakli Kobakhidze, Archil Talakvadze, and Shalva Papuashvili - It is disturbing that due to the unscrupulous actions of certain officials, the strategic countries are provided with distorted information on the implementation of the agreement", information portal "IPN" website, available at: 16.07.20p: / nmmcapjs, Updated: 22.11.2021.

Michel agreement.⁸⁷ Nevertheless, on July 12, 2021, Parliament appointed 6 judges.⁸⁸ The appointments were met with sharp criticism from the EU⁸⁹ and US⁹⁰ embassies. According to the OSCE/ODHIR report, the nomination of judges took place in the deficiency of the public trust.⁹¹ The ruling power ignored context, calls from partners, and expert assessments, thereby significantly undermining the independence of the judiciary, consolidating the position of an influential group of judges the clan in the Supreme Court.

Procedures for the appointment of Supreme Court justices were resumed in Parliament in November 2021, and after committee hearings, four more justices were appointed for life on the recommendation of the Legal Committee.⁹² Despite criticism following the July appointment of judges,⁹³ by the decision of the Parliament, persons loyal to the influential group of judges - the clan - were re-appointed. The decision was not based on a broad consensus between the parties and deserved sharp criticism from international partners.⁹⁴

Parliament has not yet announced a competition for 5 non-judge members, which is a violation of the statutory deadline.⁹⁵ Although there are currently 10 instead of 15 members in the collegial body, the Council and Parliament have continued to appoint Supreme Court justices.

Observations of the Supreme Court appointment process have again revealed that an influential group appoints judges loyal to it in strategic, important positions, which further strengthens the informal hierarchy already entrenched in the judiciary. Against this background, substantial and crucial reforms in the judiciary are becoming even clearer. Consensus-based reforms will eliminate clan governance and restore the credibility of the judiciary.

⁸⁷ “Diplomats remind Georgian Dream of responsibilities and call for suspension of appointment of judges”, information portal “on.ge” website, 22.05.2021, available at: <https://tinyurl.com/dfddb5x4>, Updated: 22.11.2021.

⁸⁸ “Parliament has appointed 6 justices to the Supreme Court for life”, Radio Liberty website, 12.07.2021, available at: <https://cutt.ly/pTPJMCP>, Updated: 21.11.2021.

⁸⁹ “Appointment of Judges and Statement of the European Commission”, Channel 1 web-page, 14.07.2021, Available at: <https://cutt.ly/TTPKyWA>, Updated: 21.11.2021.

⁹⁰ *Ibid.*

⁹¹ OSCE Office for Democratic Institutions and Human Rights, “Third Report on the Nomination and Appointment of Supreme Court Judges in Georgia”, 2021, available at: <https://cutt.ly/5TPLIGc>, Updated: 21.11.2021.

⁹² “Parliament elects four justices of the Supreme Court”, Parliament website, 1 December 2021, Available at: <https://cutt.ly/OYq559K>, Updated: 01.12.2021.

⁹³ “Judges appointed in the Supreme Court as a result of a deal between the clan and the government”, website of Georgian Young Lawyers’ Association, July 14, 2021, available at: <https://cutt.ly/vYqKJ0F>, Updated: 01.12.2021.

⁹⁴ “EU on Judges: EU assistance to Georgia depends on the progress of reforms”, December 2, 2021, the website of the information portal “Tabula”, available at: <https://cutt.ly/1YgHh6J>, Updated: 05.12.2021; “Degnan: Now 4 more judges have been appointed for life by non-transparent process”, December 2, 2021, web portal of the information portal “Tabula”, available at: <https://cutt.ly/HYgHMDZ>, Updated: 05.12.2021.

⁹⁵ Paragraph 1 of Article 208 of the Rules of Procedure of the Parliament.

Criminal Justice

The impact of the pandemic on criminal proceedings

In remote litigation, it is problematic to involve prisoners from penitentiary institutions in remote hearings. Insufficient technical means and lack of knowledgeable staff lead to queues of prisoners, which is why there are frequent cases of postponement and delayed start of sessions. The biggest challenge for remote sessions is technical glitches, most of which relate to the software required for remote connection.⁹⁶

GYLA court monitoring shows,⁹⁷ that in remote hearings it is difficult to identify facts of ill-treatment. While the accused is not directly present in the courtroom, judges need to make more efforts to determine whether they have been subjected to ill-treatment by law enforcement. Engagement from penitentiary institutions and police departments increases the likelihood that the accused may refrain from providing such information to the court for fear of psychological pressure or further physical violence from the same and/or other staff.⁹⁸

The pandemic exacerbated the problem of effective communication between lawyer and defendant. Confidential communication between the lawyer and their client has not been protected during the remote session engagement.⁹⁹

Opinions on Bills

June 20 Amnesty

On May 17, 2021, the Georgian Young Lawyers' Association submitted its opinions¹⁰⁰ to the Parliament of Georgia on the amnesty bills initiated by the Georgian Dream faction¹⁰¹ and by the members¹⁰² of the Georgian Parliament. GYLA reviewed the legal provisions prohibiting

⁹⁶ *Ibid*, 94.

⁹⁷ Bochorishvili T., Chapichadze F., Georgian Young Lawyers Association, "Criminal Procedure Monitoring Report N15", 2021, available at: <https://gyla.ge/files/2020/GetFileAttachment-10.pdf>. Updated: 22.11.2021.

⁹⁸ *Ibid*, 46.

⁹⁹ *Ibid*, 33-37.

¹⁰⁰ "GYLA has submitted opinions on the amnesty bills to the Parliament of Georgia", website of the Georgian Young Lawyers Association, 18.05.2021, available at: <https://gyla.ge/ge/post/saiam-saqartvelos-parlaments-amnistiis-kanonproeqtebis-shesakheb-mosazrebebi-tsarudgina>, Updated: 22.11.2021.

¹⁰¹ The draft law on amnesty (07-3 / 46/10, 27.04.2021), initiated by the faction "Georgian Dream", available at: <https://info.parliament.ge/#law-drafting/21993>, Updated: 22.11.2021.

¹⁰² Draft Law on Amnesty (07-3 / 48/10, 28.04.2021), initiated by the Members of Parliament of Georgia (Armaz Akhvlediani, Teona Akubardia, Davit Bakradze, Giorgi Vashadze, Paata Manjgaladze, Ana Natsvlishvili, Salome Samadashvili, Khatuna Samnidze, Davit Usupashvili, Shalva Shavgulidze, Mamuka Khazaradze, Badri Japaridze, Zurab Girchi Japaridze), available at: <https://info.parliament.ge/#law-drafting/21985>, Updated: 22.11.2021.

amnesty under international law and it considered that together with the complete exclusion of the possibility of extending amnesty under Articles 144¹⁻³ of the Criminal Code in connection with the June 20-21 events, the amnesty should not have been extended to Article 333 part 3 subparagraphs (b) and (c) of the Criminal Code (abuse of office by using violence or weapons, degrading treatment of the victim). In the absence of a shared opinion on the non-extension of amnesty under Article 333, the law must have provided for the consent of the victim as a mandatory precondition on extending the amnesty under sub-paragraphs "b" and "c" of paragraph 3 of Article 333 of the Amnesty Criminal Code. However, the Parliament did not share GYLA's opinions on Article 333 and did not reflect them in the adopted law.¹⁰³

Search-Seizure Bill

GYLA was involved in the committee discussion of the draft law on search and seizure in the Parliament of Georgia, which was aimed at enforcing the judgment of the Constitutional Court of Georgia in the case "Giorgi Keburia v. Parliament of Georgia" and thus bringing the criminal procedure legislation in line with the Constitution of Georgia.

In GYLA's view, the draft law to address the structural and systemic shortcomings should have been more specific and provided more legal guarantees for the accused, giving law enforcement agencies real opportunities to obtain "neutral evidence", including videotaping capabilities.¹⁰⁴ In contrast, the last change does not reflect the spirit of the judgment delivered by the Constitutional Court and is, for the most part, performed technically.

The case of Nika Melia

Several uncommon and novel approaches were revealed by the court concerning Nika Melia, for example, during GYLA's 10-year monitoring: it was first observed as an additional measure for the accused - the so-called use of house arrest (electronic monitoring), as well as restriction of the right to speak in public. Following the demonstrative breach of these measures, the court increased the bail of the previously imposed measure of restraint by a larger amount and overturned the additional measures.¹⁰⁵ On February 17, 2021, the Tbilisi City Court imposed imprisonment to Nika Melia for the demonstrative non-payment of the increased bail, however, none of the grounds provided for in the Code of Criminal Procedure for the use of imprisonment were properly substantiated at trial.¹⁰⁶

¹⁰³ Law of Georgia on Amnesty, 07.09.2021, Available at:

<https://www.matsne.gov.ge/ka/document/view/5199308?publication=0>, Updated: 22.11.2021.

¹⁰⁴ "GYLA responds to the draft law "On Amendments to the Criminal Procedure Code of Georgia", website of the Georgian Young Lawyers Association, 04.06.2021, available at: <https://bit.ly/3iejlXX>. Updated: 22.11.2021.

¹⁰⁵ "The first alleged practices used in Melia's case", Netgazeti website, 15.02.2021. Available at: <https://netgazeti.ge/news/519196/>. Updated: 22.11.2021.

¹⁰⁶ "GYLA and EMC Respond to the imposition of Detention of Nika Melia", Website of the Georgian Young

The execution of the Ruling delivered by the court against Nika Melia by the law enforcers was preceded by political processes. On February 18 of this year, the Ministry of Internal Affairs of Georgia issued a statement on the execution of the Ruling.¹⁰⁷ On the same day, Prime Minister Giorgi Gakharia resigned.¹⁰⁸ The Ministry of Internal Affairs temporarily postponed the planned event due to the current political situation.¹⁰⁹ Following the declaration of a confidence vote in the new Prime Ministerial candidate, Irakli Gharibashvili, by the Parliament,¹¹⁰ Nika Melia was arrested the next day,¹¹¹ and arrest operations were conducted in a problematic manner, in particular, the use of special chemicals by the police had been carried out in violation of the law and international standards.¹¹²

Such actions by the state agencies suggest that the above decisions, in this case, were made not for legal but for political purposes.

Current processes related to Mikheil Saakashvili

Mikheil Saakashvili was arrested on October 1, 2021, and placed in the N12 penitentiary institution. Mikheil Saakashvili has been on hunger strike since the day of his arrest in protest, as he believes his arrest is politically motivated. Mikheil Saakashvili was transferred to N18 Penitentiary on November 8 to prevent deterioration of his health condition.¹¹³ The Public Defender stated that N18 Medical Facility did not meet the requirements for a multidisciplinary clinic.¹¹⁴ Mikheil Saakashvili's stay in the N18 medical facility would pose a real threat of his ill-treatment from other prisoners, both physically and psychologically. The existence of these threats was confirmed by footage released by the media¹¹⁵ on the evening of November 8, 2021, which clearly shows the aggressive shouts of some prisoners of the N18

Lawyers Association, 18.02.2021, available at: <https://bit.ly/3pBjRaD>, Updated: 22.11.2021.

¹⁰⁷ "Statement of the Ministry of Internal Affairs", website of the Ministry of Internal Affairs, 18.02.2021, Available at: <http://bit.ly/2OVViGC>. Updated: 22.11.2021.

¹⁰⁸ "Giorgi Gakharia has resigned from the Prime Minister", Radio Liberty website, 18.02.2021, available at: <https://www.radiotavisupleba.ge/a/31108927.html>. Updated: 22.11.2021.

¹⁰⁹ "Statement of the Ministry of Internal Affairs", website of the Ministry of Internal Affairs, 18.02.2021, Available at: <https://police.ge/ge/shinagan-saqmeta-saministros-gantskhadeba/14411>. Updated: 22.11.2021.

¹¹⁰ "Parliament has expressed confidence vote in the government of Irakli Gharibashvili", the website of the Government of Georgia, 22.02.2021, is available at: http://gov.ge/index.php?lang_id=GEO&sec_id=556&info_id=78664. Updated: 22.11.2021.

¹¹¹ "Nika Melia is arrested", Radio Liberty website, 23.02.2021, available at: <https://www.radiotavisupleba.ge/a/31116776.html>. Updated: 01.12.2021.

¹¹² "GYLA Assessment in Relation to the Events of February 23", website of the Georgian Young Lawyers Association, 24.02.2021, available at: <https://gyla.ge/ge/post/saias-shefaseba-23-tebervals-ganvitarebul-movlenebtan-dakavshirebit>, Updated: 01.12.2021.

¹¹³ "Saakashvili was taken to Gldani Prison Hospital", Netgazeti website, 08.11.2021, available at: <https://netgazeti.ge/life/574496/>. Updated: 01.12.2021.

¹¹⁴ "The Public Defender of Georgia once again checked the readiness of the N18 medical institution for the admission of Mikheil Saakashvili", the website of the Public Defender of Georgia, 04.11.2021, available at: <https://bit.ly/3CZvldl>. Updated: 01.12.2021.

¹¹⁵ "Aggression of Prisoners of the Gldani Prison against Mikheil Saakashvili [Video]", Mtavari Channel Website, 08.11.2021. Available at: <https://bit.ly/3qlyW1S>. Updated: 01.12.2021.

facility towards Saakashvili. Consequently, the events that took place during the transfer of Mikheil Saakashvili to the Gldani N18 medical facility conflicted with the principles of protection of fundamental human rights - health and personal safety.¹¹⁶

On November 18, members of a panel of experts set up by the Public Defender reaffirmed the need to immediately transfer Mikheil Saakashvili to a multi-profile, high-tech hospital.¹¹⁷ Only 50 days after the hunger strike, Saakashvili was taken to a hospital in Gori,¹¹⁸ where he stopped his hunger strike.

In addition, the Special Penitentiary Service released four video recordings of Mikheil Saakashvili. Office of the State Inspector Service investigated the legality of obtaining and disclosing Mikheil Saakashvili's personal data by the Special Penitentiary Service and the Ministry of Justice of Georgia and found violations of the Georgian Law on Personal Data Protection in several episodes, while the agencies were recognized as administrative offenders.¹¹⁹ It should be noted that the inspector considered the publication of a video recording of the enforced placement to be data processing in a manner degrading to the dignity of the data subject.¹²⁰

Furthermore, at the initial stage, Mikheil Saakashvili was not allowed to attend the ongoing court hearings against him. The Special Penitentiary Service did not provide for Mikheil Saakashvili to be brought to the courtroom, citing safety risks and an ongoing investigation by the State Security Service.¹²¹ The above was a violation of the right, in particular, the accused has the right to participate personally and directly in the oral, public hearing of the case, ensuring the principles of equality and adversarial proceedings.

Elections

Pre-election environment

The 2021 election campaign period was marked by violence, politically motivated verbal and

¹¹⁶ "Saakashvili's hospitalization in the penitentiary system does not ensure the risks to his health and inviolability," GYLA website, 09.11.2021, available at: <https://bit.ly/3xYalSx>. Updated: 01.12.2021.

¹¹⁷ "A group of specialists/experts created by the Public Defender paid an additional visit to the N18 facility due to the aggravation of Mikheil Saakashvili's health condition", the website of the Public Defender of Georgia, available at: <https://bit.ly/3Eh2u56>, 19.11.2021 Updated: 01.12.2021.

¹¹⁸ "Mikheil Saakashvili was taken to Gori hospital", the website of the First Channel, 20.11.2021, is available at: <https://bit.ly/3lsOJbZ>. Updated: 01.12.2021.

¹¹⁹ "Decision of the State Inspector on the legality of obtaining and disclosing personal data of the third President of Georgia Mikheil Saakashvili", website of the State Inspector, available at: <https://bit.ly/31FVQai>, Updated: 01.12.2021.

¹²⁰ *Ibid.*

¹²¹ November 10 statement from the Special Penitentiary Service. Available at: <https://www.facebook.com/moc.gov.ge/photos/a.381689191907118/4501208136621849/>, Updated: 01.12.2021.

physical confrontations.¹²² These incidents were creating a negative background and exacerbating the existing political polarization.

GYLA also became aware of alleged cases of pressure and threats against the opposition.¹²³ It includes businessmen, candidates of opposition parties, and their supporters.¹²⁴ Most of these cases contained signs/elements of criminal offenses.

A significant challenge was the use of administrative resources during the pre-election period, to which GYLA has, on several occasions, applied to the election administration with the complaints.¹²⁵ Most of them concerning the Georgian Dream party.¹²⁶ At the same time, the ruling party's personification of government projects and their affiliation with themselves remained a challenge.¹²⁷ Overall, it blurred the line between state and party and gave the majority an unwarranted advantage.

During the reporting period, there were several cases of vote-buying by both the Georgian Dream and opposition parties.¹²⁸ The increasing number of cases of damage to banners and posters of election candidates should also be highlighted, that have repeatedly occurred on both sides the ruling party and the opposition.¹²⁹ This has further aggravated the already tense election environment.

During the reporting period, several cases of dismissal from a public institution on political grounds were identified.¹³⁰ All of them had links with the Party for Georgia, a party founded by the former Prime Minister.

¹²² See. Latsabidze M. and Others, II Interim Report of the 2021 Local Self-Government Election Observation Mission, p. 26-28; Latsabidze M. and Others, III Interim Report of the 2021 Local Self-Government Election Observation Mission, pp. 5-6.

¹²³ See. Latsabidze M. and Others, II Interim Report of the 2021 Local Self-Government Election Observation Mission, p. 23-25.

¹²⁴ *Ibid.*

¹²⁵ See. Latsabidze M. and Others, II Interim Report of the 2021 Local Self-Government Election Observation Mission, p. 14-18.

¹²⁶ *Ibid.*

¹²⁷ See Latsabidze M. and Others, I Interim Report of the 2021 Local Self-Government Election Observation Mission, p. 8-10; See. Latsabidze M. and Others, II Interim Report of the 2021 Local Self-Government Election Observation Mission, p. 12-13.

¹²⁸ See. Latsabidze M. and Others, II Interim Report of the 2021 Local Self-Government Election Observation Mission, p. 20-22.

¹²⁹ *Ibid.*

¹³⁰ See. Latsabidze M. and Others., I Interim Report of the 2021 Local Self-Government Election Observation Mission, p. 11-12; See. Latsabidze M. and Others., II Interim Report of the 2021 Local Self-Government Election Observation Mission, p. 33-37; See. Latsabidze M. and others, III Interim Report of the 2021 Local Self-Government Election Observation Mission, p. 13.

Election Day

The tense environment created on the day of the 2021 local self-government elections affected voter behavior and, in some cases, hindered the free exercise of suffrage; Throughout the day, in a number of precincts adjacent to the polling stations, GYLA's representatives recorded facts of verbal and physical confrontation, which ultimately led to delays in the voting process in some places; Violence, interference in the activities for observers and journalists was a key feature of Election Day; GYLA had limited access to some polling stations; Facts of threats, physical and verbal abuse against the representatives of the organization were revealed; In some cases, they were not allowed to take photos/videos, as well as register a complaint; During the voting process, members of an unidentified observer organization registered at the polling station observed the facts of voter registration and influencing their will, which was a problem throughout Georgia; Such cases were detected within a 100-meter radius of the precinct, which is a violation of the law; Law enforcement officials called to respond to such cases did not take appropriate measures to eliminate the violation, and in some cases the patrol police did not even appear to the scene of the call.¹³¹

Women's Political Participation

The 2021 reform changed the sex ratio in the proportional lists of local self-government elections. The amendments stipulated that at least one in three candidates on the party list must be of the opposite sex.¹³² This worsened the existing regulation in the Electoral Code, which required parties to have every second candidate on the party list of the opposite sex.

On the positive side, the amendments regulated the issue of revoking the mandate granted by the gender quota. In particular, if a member of the City Council elected by the proportional electoral system is terminated before the expiration of their term, their position in the relevant City Council shall be replaced within 2 weeks by the next same-sex council candidate on the same party list, if they consented to become a member of the City Council within 10 days after receiving the notification of the relevant district election commission.¹³³ If there are no same-sex council candidates on the nominated party list, the mandate is revoked.¹³⁴ This rule became necessary as some parties took advantage of the gap left in the law and ignored the gender quota requirement.

¹³¹ "Assessment of 2021 Self-Government Election Observation of the Polling and Vote Counting Process, website of the Georgian Young Lawyers Association, 03.10.2021, available at: <https://bit.ly/3E2386w>, Updated: 26.11.2021; "Assessment of the Polling Day and Counting Process of the Second Round of 2021 Local Self-Government Elections", website of the Georgian Young Lawyers Association, 31.10.2021, available at: <https://bit.ly/3FOdTJV>, Updated: 26.11.2021.

¹³² Paragraph 8 of Article 203 of the Election Code of Georgia.

¹³³ *Ibid*, paragraph 10.

¹³⁴ *Ibid*.

A few months before the 2021 elections, the political party European Georgia - Movement for Freedom appealed the gender quota system in the Constitutional Court. The party also challenged the anti-deadlock mechanism, which provides for the abolition of the mandate in the absence of a same-sex replacement candidate.¹³⁵ The court did not uphold the claim.¹³⁶ It thus took an important step in reducing structural inequality.

¹³⁵ The constitutional claim of August 17, 2021 N1647 of the Political Union of citizens “European Georgia - Movement for Freedom”, Nino Todria, Martha Kardava, Nino Ordenidze, and others (12 plaintiffs in total) against the Parliament of Georgia.

¹³⁶ The Ruling of the Constitutional Court of Georgia N3 / 2/1647 of 21 October 2021 on the case of the Political Union of Citizens “European Georgia-Movement for Freedom”, Nino Todria, Martha Kardava, Nino Ordenidze, and others (12 plaintiffs in total) against the Parliament of Georgia.