



# ANNUAL REPORT

STATE OF HUMAN RIGHTS IN GEORGIA. 2016

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## STATE OF HUMAN RIGHTS IN GEORGIA, 2016



### HUMAN RIGHTS CENTER'S 20<sup>TH</sup> ANNIVERSARY

On December 10, 2016, Human Rights Center had its 20<sup>th</sup> anniversary. On December 9, the organization marked its 20<sup>th</sup> birthday in the National Library. The Representatives of the international and local nongovernmental organizations, diplomatic community, state institutions and media attended the event.

The representatives of Human Rights Center commemorated the past experiences of organization and assessed the state of human rights in Georgia.

Human Right Center was founded on December 10, 1996, on International Human Rights Day. Ucha Nanuashili who currently serves as a Public Defender of Georgia was one of the founders and heads of the organization<sup>1</sup>.

Tbilisi, 2017

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<sup>1</sup> <http://humanrights.ge/index.php?a=main&pid=19044&lang=eng>

## **The Report was prepared by Human Rights Center**

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Non-governmental organization the Human Rights Center, formerly Human Rights Information and Documentation Center (HRIDC) was founded on December 10, 1996 in Tbilisi, Georgia. The HRIDC aims to increase respect for human rights, fundamental freedoms and facilitate peacebuilding process in Georgia. To achieve this goal it is essential to ensure that authorities respect the rule of law and principles of transparency and separation of powers, to eliminate discrimination at all levels, increase awareness and respect for human rights among the people in Georgia

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### **Photos on the cover:**

**Roma child** – photo by Tamar Luakva. The winning photo of the photo-competition “Our Diverse Homeland” organized by the office of the State Ministry for Reconciliation and Civic Equality of Georgia.

**Person with disabilities tries to enter unadapted polling station** photo by – Rati Varsimashvili

**Protest demonstration of the Women’s Movement** photo by Union Sapari

**Disputed building in Mokhe** photo by Samkhretis Karibtche

**New chairman of the Constitutional Court - Zaza Tavadze** photo by - Ipress.ge



*The Report was prepared by the financial support of National Endowment for Democracy (NED). The report does not necessarily reflect the views of the donor. Human Rights Center bears sole responsibility for the content of the report.*

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## 1. INTRODUCTION

This report demonstrates the state of human rights in Georgia for 2016. The report is based on the data and evaluations of Human Rights Center, other NGOs working in Georgia, Office of Public Defender of Georgia and international organizations. The report covers main tendencies in different areas of human rights, such as legislative amendments, excessive use of force by police, issues of freedom of media, state of persons with disabilities (PwDs), rights of LGBT individuals, violence against women, including the domestic violence. The report also reviews the successful litigation cases undertaken by Human Rights Center during the year, issues of strategic litigation and advocacy in front of the Parliament of Georgia.

The law enforcement bodies of Georgia continued to inadequately address the human right violations of vulnerable groups, including religious minorities and LGBT individuals, as well as violence against women during 2016. The different facts of violence committed against these groups are left unpunished that goes contrary to the positive obligation of state of Georgia to ensure adequate protection and security of minorities and women who are victims of violence. Ensuring rights of persons with disabilities still remains to be one of the most challenging issues for the government. Different obstacles hinder the integration of PwDs in society, including the inadequate and ineffective legislative framework, environmental barriers, stereotypes and prejudices and lack of access to education and rehabilitation.

The several instances of pressure against the media outlets allegedly exercised by the representatives of government continued during 2016. Creation of effective independent investigative mechanism, unbiased and effective investigation of crimes committed by the law-enforcement officials, protection of right to privacy, restoration of rights, rehabilitation and re-socialization of prisoners who have been victims of torture represent significant challenges inadequately addressed by the Georgian government. Human Rights Center observed alleged facts of police violence against the citizens during 2016.

## 2. LEGISLATIVE CHANGES

On June 24, 2016, the amendments were made to the Criminal Procedural Code of Georgia (CPCG). According to the new amendments, the decree of prosecutor regarding the substantial violations of rights of the convicted individual can be considered to be a newly revealed circumstance, giving ground to the revision of the verdict. The prosecutor is given new procedural mechanism to address the Appellate Court and request the revision of the verdict<sup>2</sup>.

On June 24, 2016, Parliament of Georgia adopted amendments to CPCG for the reform of institution of jury in an accelerated manner. According to the amendments, the jury trial is open for public besides concrete exceptions. The form of the jury verdict remains the same. The jury will not have to answer the legal and content-related questions about the verdict<sup>3</sup>. According to the assessment of Human Rights Center, these changes will promote the flexibility of the institution of jury and effective work of the jurors.

On February 20, 2016, the new rules regarding the witness interrogation took effect. The new rules envision obligatory interrogation of witness by the Magistrate Judge. However, the possibility of witness interrogation in front of the Magistrate Judge is given only to the prosecution side. The defense side does not have a right to attend this proceeding. The defense side does not have an opportunity to examine the credibility of the witness. The witness, who has been interrogated once, is restricted by the content of the

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<sup>2</sup> Criminal Procedural Code of Georgia: <https://matsne.gov.ge/ka/document/view/90034> (available in Georgian)

<sup>3</sup> Criminal Procedural Code of Georgia: <https://matsne.gov.ge/ka/document/view/90034> (available in Georgian)



given testimony. The changing of testimony gives rise to the criminal prosecution due to giving false or substantially contradictory testimony<sup>4</sup>.

- **Researching witness interrogation rule in Georgia**

According to the assessment of the Coalition for Independent and Transparent Judiciary<sup>5</sup>, the current rules regarding witness interrogation contradict the principles of adversarial hearing and immediacy, as well as ignore the role of voluntary interviewing. Granting the right to witness interrogation in front of the judge to the prosecution side only significantly violates the principles of adversarial hearing and party equality<sup>6</sup>. Despite the critical assessments of NGOs, the new rules on witness interrogation were still adopted.

Since August 10, 2016, Human Rights Center has been implementing project – Researching Witness Interrogation Rule in Georgia. The project aims to promote the transparent and effective functioning of new regulations regarding the witness interrogation. The research will reveal the positive and negative aspects of the new rules of witness interrogation. Human Rights Center will study following issues within the frameworks of this project: how are the new rules implemented in practice; whether the rights of witnesses are protected during the interrogation in front of the Magistrate Judge; in how many cases did the Office of Prosecutor request the witness interrogation in front of the Magistrate Judge – how many cases regarded the juveniles and what was the basis for the request; whether the prosecutors provide sufficient reasoning for the request in this regard; whether the court decisions are well grounded; whether the new rules regarding witness interrogation ensure the security of the witnesses; whether the witnesses are aware of their rights, etc<sup>7</sup>.

On November 3, 2016, Human Rights Center signed the memorandum of cooperation with the Public Defender of Georgia within the frameworks of the research<sup>8</sup> and on December 29, 2016 with the State Legal Service. The representatives of Human Rights Center also met with the head of the Georgian Bar Association and representatives of the Georgian Association of Law Companies and planned some joint activities<sup>9</sup>.

### 3. DEVELOPMENTS AROUND JUDICIAL SYSTEM

Appointment of judges in non-transparent regulations by the High Council of Justice still represents a systemic problem. The unfair procedure of selection and appointment of judges gives possibility to the High Council of Justice to appoint the judges according to subjective views, without providing any reasoning. The judges are appointed by the High Council of Justice not according to the objective, reasonably foreseeable criteria, but according to the interests of different groups holding high authority.

On February 16, 2016, various NGOs addressed the High Council of Justice and requested to immediately halt the unconstitutional, non-transparent appointment of judges. The NGOs also addressed the executive and legislative branches of government to start working for the creation of transparent, fair and well-grounded system of appointment of judges without delay<sup>10</sup>.

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<sup>4</sup> Criminal Procedural Code: <https://matsne.gov.ge/ka/document/view/90034> (available in Georgian)

<sup>5</sup> Coalition for Independent and Transparent Judiciary unites approximately 35 NGOs. Human Rights Center is a member of its Steering Committee.

<sup>6</sup> See assessment: [http://www.osgf.ge/index.php?lang\\_id=ENG&sec\\_id=23&info\\_id=4336](http://www.osgf.ge/index.php?lang_id=ENG&sec_id=23&info_id=4336)

<sup>7</sup> <http://www.humanrights.ge/index.php?a=main&pid=18857&lang=eng>

<sup>8</sup> <http://www.humanrights.ge/index.php?a=main&pid=18991&lang=eng>

<sup>9</sup> <http://www.humanrights.ge/index.php?a=main&pid=19018&lang=eng>

<sup>10</sup> See petition: <http://www.humanrights.ge/index.php?a=main&pid=18654&lang=eng>

On February 12, 2016, the head of Tbilisi City Court publicly announced that some participants of judicial qualification examination had been revealed the content of the tests and correct answers prior to the exam. The alleged violation contains the signs of a crime according to Criminal Code of Georgia<sup>11</sup>. Different NGOs called on the Chief Prosecutor of Georgia “to immediately start investigation regarding the alleged unlawful revelation of tests for the judicial qualification examination and the alleged crime committed by the members of High Council of Justice”<sup>12</sup>. The investigation is still ongoing in the Office of Prosecutor.

During 2016, the crisis existing in the system of judiciary was further deepened. On February 22, 2016, the High Council of Justice dismissed the head of Tbilisi City Court, Mamuka Akhvlediani from his position<sup>13</sup>. 12 members of High Council of Justice supported this decision. Only one member, Vakhtang Mchedlishvili did not<sup>14</sup>. Vakhtang Mchedlishvili was appointed as a member of High Council of Justice by the President of Georgia. The members of High Council explained that the reason for the dismissal of Mamuka Akhvlediani was related to the mistakes he made in the management<sup>15</sup>.

Public Defender of Georgia considered the decision of High Council of Justice to be violating Georgian legislation and expressed the hope that this kind of practice will not take place in future<sup>16</sup>.

According to the assessment of Coalition for Independent and Transparent Judiciary, the decision of High Council to dismiss the head of Tbilisi City Court gravely violates the requirements of Georgian legislation and comes contrary to the clear procedures regarding the dismissal of the head of City Court. The decision lacks any legal logic and points out the arbitrary and unlawful interpretation by the High Council of Justice<sup>17</sup>.

Unreasoned decision by High Council of Justice and ignoring the opinion of civil sector caused the NGOs to turn their activities into the campaign. The member organizations of Independent and Transparent Judiciary started campaign titled *Justice Demands*. The main demands of the campaign are: halting appointment of judges through unfair, non-transparent and unconstitutional way; creation of transparent, fair and well-grounded system for the appointment of judges. The campaign also demanded abolishment of the usage of disciplinary charges against the critical judges, accelerating reform of judiciary and launching electronic system of random-distribution of cases between the judges without groundless delay<sup>18</sup>.

On July 6, 2016, the NGOs negatively assessed the judicial selection competition announced by the High Council of Justice to fill 65 vacant positions. According to the statement of the Coalition, the interviews with the judicial candidates once again revealed the gaps and problems in the system of selection and appointment of judges that exists not only on legislative level, but in practice as well<sup>19</sup>.

NGO sector negatively assessed the nomination of several candidates by the President of Georgia to fill in the vacant positions in the Supreme Court. It should be taken into account that there is especially high public interest towards the selection of judicial candidates in the court of final and highest instance. Therefore, this process should be open and transparent, as well as held in especially careful manner<sup>20</sup>. NGOs

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<sup>11</sup> <http://1tv.ge/ge/news/view/116855.html> (available in Georgian)

<sup>12</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18654&lang=eng>

<sup>13</sup> <http://www.interpressnews.ge/en/justice/76207-mamuka-akhvlediani-dismissed-as-city-court-head.html?ar=A>

<sup>14</sup> <http://www.civil.ge/eng/article.php?id=28993>

<sup>15</sup> See assessment: <http://www.interpressnews.ge/ge/samartali/367423-shotha-getsadze-mamuka-akhvledianis-thanamdebobidan-gathavisufleba-mis-sajaro-ganckhadebebtan-kavshirshi-ar-aris.html?ar=A> (available in Georgian)

<sup>16</sup> See statement: <http://www.ombudsman.ge/en/news/public-defender-submits-report-to-high-council-of-justice.page>

<sup>17</sup> See statement: [http://coalition.ge/index.php?article\\_id=74&clang=1](http://coalition.ge/index.php?article_id=74&clang=1)

<sup>18</sup> <http://www.humanrights.ge/index.php?a=main&pid=18726&lang=eng>

<sup>19</sup> See statement: <http://www.humanrights.ge/index.php?a=main&pid=18810&lang=eng>

<sup>20</sup> See statement: <http://www.humanrights.ge/index.php?a=main&pid=18715&lang=eng>



paid special attention regarding the homophobic statements made by one of the candidates - Nona Todua - that included the hate speech towards the LGBT individuals.

#### 4. SELECTION OF JUDGES TO EUROPEAN COURT OF HUMAN RIGHTS

The process of selection of judges for the positions in the European Court of Human Rights (ECtHR) unfolded in the light of strong criticism from the side of NGO sector. On February 29, 2016, the interviews were held with the candidates by the special government commission. The commission selected 5 candidates out of 12<sup>21</sup>.

On July 28, 2016, the decision was made at the session of Government of Georgia according to which Nana Mchedlidze who was one of the three candidate judges to be nominated to ECtHR was replaced by the member of High Council of Justice, Eva Gotsiridze<sup>22</sup>.

According to the assessment of Coalition for Independent and Transparent Judiciary, the government did not consider the opinions of the representatives of civil society organizations involved in the selection process that demonstrated that the process was entirely formalistic, while the actual decisions were based on political considerations<sup>23</sup>.

*Committee on the Election of Judges to the European Court of Human Rights of Parliamentary Assembly of Council of Europe (PACE)* held interviews with the three nominees<sup>24</sup>. However it has not yet selected the successful candidate<sup>25</sup>.

#### 5. DEVELOPMENTS AROUND CONSTITUTIONAL COURT OF GEORGIA

The confrontations within the Constitutional Court of Georgia during 2016 posed a threat to constitutional justice in the country.

On February 29, 2016, the head of the Constitutional Court of Georgia, Giorgi Papuashvili stated that the Minister of Justice offered him a deal in exchange of cooperation with the government. Specifically, according to Giorgi Papuashvili, if he continued the cooperation with the government, his term of service in the Venice Commission would be prolonged by the state. Besides, the head of the Constitutional Court criticized the developments around the selection of judicial nominees to ECtHR, describing it as a politicized process<sup>26</sup>. It should be noted that the head of the Constitutional Court participated in the competition. However, he did not meet the necessary threshold to pass to the next stage.

Since the end of February 2016, the relationship between the head of the Constitutional Court and the representatives of government became tense that was assessed to be posing a threat for the constitutional justice by the NGO sector.

According to the assessment of Coalition for Independent and Transparent Judiciary, “independence and safety of all judges are particularly important factors for real independence of the judiciary, as well as

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<sup>21</sup> See statement: <http://justice.gov.ge/News/Detail?newsId=5114>

<sup>22</sup> See statement: <http://www.justice.gov.ge/News/Detail?newsId=5247>

<sup>23</sup> See statement: [http://coalition.ge/index.php?article\\_id=135&clang=1](http://coalition.ge/index.php?article_id=135&clang=1)

<sup>24</sup> Eva Gotsiridze, Giorgi Badashvili, Aleksandre Baramidze.

<sup>25</sup> <http://website-pace.net/documents/1653355/1653736/TableForthcomingJudgesElections-EN.pdf/775de55c-67b8-4f46-befd-1063dca1b5e0>

<sup>26</sup> <http://netgazeti.ge/law/98192/> (available in Georgian).

creation of safeguards against interference with their activity, and respect for court decisions. This does not rule out healthy and well-argued discussions or even criticism regarding problems in the justice system. However, it is important to ensure that the judiciary and its individual members feel protected from threats and/or unlawful activities”<sup>27</sup>.

In March of 2016, by the initiative of Human Rights and Civil Integration Committee of Parliament of Georgia, the draft amendments to the *Organic Law* on the *Constitutional Court* and to the *Law on Constitutional Legal Proceedings* were developed. The draft law was adopted by the Parliament in an accelerated manner. The first hearing was held on April 27, 2016. The second hearing was held on May 13 and the third and final hearing was held on May 14, on Saturday, at extraordinary session of Parliament.

The draft law was sent to the Venice Commission after the third hearing. The Commission expressed its regret at the hasty adoption of the amendments. They furthermore regretted that these amendments had not been sent to the Venice Commission for opinion prior to their adoption<sup>28</sup>.

Following issues raised strong criticism of NGO sector: requesting two-third majority of plenum for making decision, inadequately high quorum and etc.<sup>29</sup>.

According to the statement of NGOs, “the legislative amendments were aimed not only against the current panel and/or concrete judges of Constitutional Court, rather, they aimed to paralyze the entire system of Constitutional Court and diminish its utmost importance that poses threat to fundamental values of democratic society, such as rule of law, respect and protection of human rights and realization of constitutional justice duly, effectively and in unbiased manner”<sup>30</sup>.

Parliamentary opposition described the draft amendments made to the Organic Law on Constitutional Court as a punishing move against the Constitutional Court<sup>31</sup>.

On May 31, 2016, President of Georgia vetoed the amendment made to the Organic Law on Constitutional Court of Georgia and sent it back to the Parliament for further discussion with his motivated remarks<sup>32</sup>.

On June 3, 2016, the Parliament fully accepted the motivated remarks of the President of Georgia and sent the bill back to the President for the promulgation. The President signed the bill.

On June 13, 2016, Coalition for Independent and Transparent Judiciary appealed to Constitutional Court of Georgia and requested to find the above-discussed constitutional amendments unconstitutional<sup>33</sup>.

The hearings started in Constitutional Court regarding the high profile cases (case of Rustavi 2 and the so-called “Cable Case”) contributed to the intensification of political pressure against the Constitutional Court and caused confrontation within the judiciary.

The part of the judges of the Constitutional Court did not attend the hearings over the high profile cases. Therefore, the Court had to postpone the hearings several times due to the absence of quorum.

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<sup>27</sup> See statement: <http://www.humanrights.ge/index.php?a=main&pid=18678&lang=eng>

<sup>28</sup> Opinion of Venice Commission: [http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2016\)017-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2016)017-e)

<sup>29</sup> See statement: <http://www.humanrights.ge/index.php?a=main&pid=18704&lang=eng>

<sup>30</sup> <http://rustavi2.com/ka/news/46723> (available in Georgian)

<sup>31</sup> See statement: <http://www.interpressnews.ge/ge/samartali/373448-saparlamento-opoziciis-azrith-kanonshi-dagegmili-cvilebebi-miznad-sakonstitucio-sasamarthlos-dasjas-isakhavs.html?ar=A> (available in Georgian)

<sup>32</sup> <http://www.civil.ge/eng/article.php?id=29188>

<sup>33</sup> [http://coalition.ge/index.php?article\\_id=81&clang=1](http://coalition.ge/index.php?article_id=81&clang=1)

On September 1, 2016, due to the absence of quorum, the hearings were postponed in the so-called Ugulava-cable case.

At the end of September 2016, some high government officials made statements regarding the changing of complaints in the cases of Rustavi 2 and the so-called “cable case”<sup>34</sup>. The investigation started over the allegations is still ongoing.

On September 30, 2016, the term of service of four judges of the Constitutional Court ended and they were replaced by the new members<sup>35</sup>.

On October 20, 2016, the Constitutional Court elected a new head, Zaza Tavadze who served as a deputy head before<sup>36</sup>.

## 6. CAMPAIGN “THIS AFFECTS YOU – THEY ARE STILL LISTENING”<sup>37</sup>

During 2016, multiple facts of illegal surveillance and violation of right to privacy were observed. These issues represent the interest of the campaign “*This Affects You – They Are Still Listening*”. The civil society organizations which participate in the campaign once again condemned the dissemination of materials which depict the facts of private life, as well as the intentional acts of blackmailing not only the concrete individuals, but the whole society. The members of the campaign have repeatedly addressed the government and called on the authorities to take concrete steps to fight against illegal secret surveillance and eavesdropping<sup>38</sup>.

According to the assessment of the executive director of Human Rights Center, considering that there is still no control over the actions of the investigative bodies in Georgia and the ultimate power over the illegal surveillance and eavesdropping belongs to the law enforcement bodies, the threat of abuse of authority remains high. This threat can be realized, on the one hand, through exercising secret surveillance and eavesdropping illegally and on the other hand, through keeping the illegal recordings for the purposes of blackmailing<sup>39</sup>.

On March 19, 2016, the organizers and participants of the campaign “*This Affects You – They Are Still Listening*” protested against the dissemination of the secret recordings depicting private lives<sup>40</sup>.

On September 15, the campaign “*This Affects You*” responded to the content of phone conversation between the CEO of Rustavi 2 and the leader of the one of the political parties which was disseminated through the social network and various media outlets. The campaign called on the government to take concrete steps in order to fight against illegal secret surveillance and eavesdropping<sup>41</sup>. Human Rights Center

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<sup>34</sup> <http://www.interpressnews.ge/ge/samartali/391430-eka-beselia-thu-dadasturda-rom-sakonstitucio-sarchelebis-shecvla-khdeboda-nacionaluri-modzraobis-gegmis-gansakhorcieblad-damnashavem-pasukhi-unda-agos.html?ar=A> (available in Georgian)

<sup>35</sup> <http://www.humanrights.ge/index.php?a=main&pid=18882&lang=eng>

<sup>36</sup> [http://www.civil.ge/eng\\_old/article.php?id=29554](http://www.civil.ge/eng_old/article.php?id=29554)

<sup>37</sup> Human Rights Center is the member of the campaign. The members of the campaign protest against the illegal surveillance and the violations of private life.

<sup>38</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18772&lang=eng>

<sup>39</sup> See assessment: <http://www.humanrights.ge/index.php?a=main&pid=18707&lang=eng>

<sup>40</sup> <http://www.humanrights.ge/index.php?a=main&pid=18696&lang=eng>

<sup>41</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18883&lang=eng>

is alarmed by the fact of the dissemination of the private telephone conversation and calls on the relevant authorities to take effective steps in order to fight against the illegal secret surveillance<sup>42</sup>.

On September 27, 2016, campaign “*This Affects You*” condemned the dissemination of the recordings of conversations between the former President of Georgia, Mikheil Saakashvili and the members of the United National Movement (UNM) in the internet. According to the statement of the Campaign, the illegal secret surveillance/eavesdropping and dissemination of material depicting private lives have gained systematic nature<sup>43</sup>.

The Public Defender of Georgia has repeatedly addressed the dissemination of the recordings depicting the private lives and called on the law enforcement bodies to timely and effectively investigate the illegal conduct.<sup>44</sup>

Since March 28, 2016, the Public Defender of Georgia launched information campaign against the dissemination of the illegal recordings depicting private life – “*Self-Timer is Turned On*”. Considering the special interest of society and legitimate necessity, the Public Defender started to measure the exact time since the crime occurrence on March 11, 2016<sup>45</sup>, including the seconds, minutes, hours and days, until the finding individuals responsible for the crime<sup>46</sup>.

## 7. CONSTITUTIONAL COURT RULING ON SECRET SURVEILLANCE

On April 14, 2016, the Constitutional Court of Georgia satisfied the constitutional complaints of Public Defender and citizens of Georgia – Giorgi Burjanadze, Lika Sajaia, Giorgi Gotsiridze, Tatia Kinkladze, Giorgi Chitidze, Lasha Tughushi, Zviad Koridze, Open Society Georgia Foundation (OSGF), Transparency International Georgia (TI Georgia), Georgian Young Lawyers Association (GYLA), International Society for Fair Elections and Democracy (ISFED) and Human Rights Center (HRIDC) against the Parliament of Georgia. Constitutional Court ruled on April 14 that legislation allowing state security agency to have direct, unrestricted access to telecom operators’ networks to monitor communications is unconstitutional.

The Constitutional complaints disputed the legislative norms which granted authority to the State Security Service of Georgia to obtain information from the networks of telecom operators and to install and maintain the relevant devices for this purpose. The State Security Service was also equipped with the authority to collect the communications metadata and retain it for two years<sup>47</sup>.

According to the assessment of Constitutional Court, although the disputed norms serve the legitimate purposes, they do not represent the proportionate interference into the human rights, as they grant the State Security Service right to obtain personal information about the indefinite number of people<sup>48</sup>.

At the same time, the Constitutional Court considered that the implementation of its decision required fundamental legislative changes, as well as creation of new system and ensuring its institutional and

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<sup>42</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18884&lang=eng>

<sup>43</sup> See statement: <http://www.humanrights.ge/index.php?a=main&pid=18898&lang=eng>

<sup>44</sup> See statement: <http://www.ombudsman.ge/en/news/public-defenders-statement-on-release-of-video-footage-showing-private-life.page>

<sup>45</sup> <https://www.youtube.com/watch?v=PWC5NGmcirs>

<sup>46</sup> <http://www.ombudsman.ge/en/news/public-defender-launches-campaign-against-release-of-video-footage-showing-private-life.page>

<sup>47</sup> <http://www.constcourt.ge/ge/news/sakonstitucio-sasamartlom-arakonstituciurad-cno-piradi-xasiatis-informaciis-realur-droshi-mopovebis-da-maidentificirebeli-monacemebis-kopirebis-da-shenaxvis-wesebi.page> (available in Georgian)

<sup>48</sup> <http://www.humanrights.ge/index.php?a=main&pid=18723&lang=eng>

technical capacities. Therefore, the Court set 31, 2017 as the deadline for the implementation of its decision<sup>49</sup>.

## 8. INEFFECTIVE WORK OF GENERAL INSPECTIONS

During 2016, the citizens addressed the Human Rights Center with the complaints about the work of the General Inspection Department of Ministry of Internal Affairs (MIA). During 2016, Human Rights Center processed the cases where the General Inspection Department ineffectively and inadequately addressed and showed bias when investigating the violations allegedly committed by the employees of MIA. During 2016, the lawyers of Human Rights Center addressed the General Inspection Department regarding the alleged facts of neglect of official duty by the policemen in cases of violence against women and femicide. The General Inspection Department either failed to start the investigation and invoke disciplinary proceedings against the policemen or replied to Human Rights Center in just few days that the conduct of the policemen did not show the signs of disciplinary violations. (Cases of K.I.; L.B.; M.B.)<sup>50</sup>.

## 9. POLICE VIOLENCE AGAINST CITIZENS

During 2016, Human Rights Center defended the interests of many citizens who had become the victims of the violence, including physical and verbal abuse from the side of policemen.

Approximately 20 alleged victims of police misconduct addressed the Human Rights Center for legal assistance during the reporting year<sup>51</sup>.

On January 23, 2016, Pankisi Gorge resident, Aslan Tsutsashvili was brutally beaten by Akhmeta police<sup>52</sup>. Office of Prosecutor of Kakheti District conducted the investigation into the alleged fact of the ill-treatment. Due to the ineffective investigation, Human Rights Center submitted complaint on behalf of Aslan Tsutsashvili to European Court of Human Rights on October 7, 2016. The case is still ongoing.

According to information of M.O. and D.P., on June 5, 2016, The Regional Police of Didube-Chugureti assaulted and exercised psychological pressure on M.O. and D.P. in order to force them to confess the crimes that they have not committed.

On February 10, 2016, Public Defender of Georgia addressed the Chief Prosecutor with a proposal regarding the alleged facts of ill-treatment and other violations committed by the law-enforcement officers against the juveniles<sup>53</sup>.

On May 19, 2016, Public Defender presented report regarding the issues of human rights protection within the bodies under the control of MIA to the representatives of government institutions, international

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<sup>49</sup> See statement: <http://www.constcourt.ge/ge/news/sakonstitucio-sasamartlom-arakonstituciurad-cno-piradi-xasiatis-informaciis-realur-droshi-mopovebis-da-maidenticirebeli-monacemebis-kopirebis-da-shenaxvis-wesebi.page>

<sup>50</sup> <http://www.hridc.tv/index.php?a=view&id=1210&lang=eng>;  
<http://liberali.ge/articles/view/23996/politsiis-gulgriloba-ojakhshi-dzaladobis-faqtebze--ras-hyvebian-iuristebi> (available in Georgian)

<sup>51</sup> <http://www.humanrights.ge/index.php?a=main&pid=18946&lang=eng>;  
<http://www.humanrights.ge/index.php?a=main&pid=18645&lang=eng>;  
<http://www.humanrights.ge/index.php?a=main&pid=19028&lang=eng>;  
[http://imedi.ge/index.php?pg=shs&id\\_pr=9877&id=63&tp=0&l=1](http://imedi.ge/index.php?pg=shs&id_pr=9877&id=63&tp=0&l=1) (available in Georgian)

<sup>52</sup> <http://humanrights.ge/index.php?a=main&pid=18645&lang=eng>  
<sup>53</sup> See statement: <http://www.ombudsman.ge/en/recommendations-Proposal/winadadebebi/proposal-to-chief-prosecutor-about-alleged-ill-treatment-of-minors-by-police.page>

organizations and NGO sector. The Public Defender also touched upon the issues existing in the temporary detention isolators.

In most cases, the explanations given by the victims demonstrate that the policemen applied physical and psychological violence with a premeditated intent to gain the confessions from the victims that constitutes one of the elements of the crime of torture<sup>54</sup>.

## 10. INDEPENDENT INVESTIGATIVE MECHANISM

The creation of independent investigative mechanism still represents a relevant topic for 2016. NGOs and Public Defender of Georgia highlight the importance of creation of institutionally independent mechanism which will investigate the violations committed by the law-enforcement officers<sup>55</sup>. The government still objects the creation of independent investigation mechanisms, claiming that it is unacceptable to have a parallel prosecution.

## 11. FACTS OF ASSAULT AND HINDRANCE TO PROFESSIONAL ACTIVITIES OF HUMAN RIGHTS DEFENDERS

- Case of Zviad Kuprava

NGOs expressed alarm regarding the physical assault of Zviad Kuprava, the head of NGO Reform Center of Law Enforcement Officers by Sandro Bregadze, the head of movement “Nationhood” and his supporters. The NGOs called on the law enforcement bodies, including the MIA to immediately take relevant measures, launch investigation in transparent and effective manner and prosecute the offenders<sup>56</sup>. According to the assessment of the NGOs, the statements made during the assault raise a reasonable doubt that Zviad Kuprava was assaulted under discriminatory grounds due to his civil and political views<sup>57</sup>.

- Trials into Case of Giorgi Mdinardze

The trials are still ongoing into the alleged fact of assault of lawyer Giorgi Mdinardze in the N5 Department of Vake-Saburtalo Regional Agency of MIA at the time of writing this report. In 2015, the head of this agency, Lasha Kvirkvaia was charged with the offense of beating of Giorgi Mdinardze. Lasha Kvirkvaia was detained under the charge of exceeding official authority in November of 2015. In December 29, 2015, he was released under 10 000 GEL bail.

Human Rights Center defends the interests of Giorgi Mdinardze<sup>58</sup>. The lawyer and journalist of Human Rights Center permanently attend the trials and evaluate the developments around the proceedings<sup>59</sup>.

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<sup>54</sup> See report: <http://www.ombudsman.ge/en/reports/specialuri-angarishebi/public-defender-assesses-human-rights-situation-at-facilities-subordinated-to-ministry-of-internal-affairs1.page>

<sup>55</sup> <http://www.ombudsman.ge/en/news/public-defender-discusses-creation-of-independent-investigative-mechanism-with-journalists.page>;

<http://www.ombudsman.ge/en/news/public-defender-meets-mps-concerning-creation-of-independent-investigative-mechanism.page>;

<http://www.humanrights.ge/index.php?a=main&pid=18772&lang=eng>

<sup>56</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18840&lang=eng>

<sup>57</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18840&lang=eng>

<sup>58</sup> <http://www.humanrights.ge/index.php?a=main&pid=19000&lang=eng>

<sup>59</sup> <http://www.humanrights.ge/index.php?a=main&pid=19007&lang=eng>;

<http://www.humanrights.ge/index.php?a=main&pid=18889&lang=eng>



Currently, the witnesses from the side of prosecution are questioned at the trials. According to the assessment of Human Rights Center's lawyer, "The prosecutor's witnesses are acting police officers. Their testimonies are not trustworthy, because they try to verify the testimonies they gave during the investigation, when the defendant Lasha Kvirkvaia was still in charge of their office and they could not give the testimonies against him. If they now give true testimonies to the court, they will be criminally punished for giving false testimonies at the stage of investigation"<sup>60</sup>.

- **Hindrance to Lawyers' Professional Activity**

During 2016, in several instances, when leaving N7 penitentiary establishment the lawyers of Human Rights Center were requested to show the confidential notes made during the visit with the prisoners for providing the legal assistance. The unlawful hindrance to the lawyers' professional activity from the side of the prison administration represents a systemic problem. The representatives of prison administration tell the lawyers of Human Rights Center that other lawyers obey their requests<sup>61</sup>. The practice existing inside the penitentiary establishment represents a hindrance to the professional activity of lawyers and violates the principle of confidentiality.

On July 5, 2016, Georgian Bar Association and Human Rights Center disseminated joint address regarding the instances of hindrance to the lawyers' professional activities. The organizations called on the Minister of Corrections to show interest in the existing situation and take effective measures in order to end this illegal practice inside penitentiary establishments<sup>62</sup>. The administration of Ministry of Corrections imposed the administrative fines against the responsible employees of the prison establishment and apologized to the lawyers of Human Rights Center.

## **12. PENITENTIARY SYSTEM**

During 2016, Human Rights Center has been implementing project - Legal Aid and Human Rights Monitoring – financially supported by National Endowment for Democracy. Within the frameworks of this project, the lawyers of Human Rights Center have defended interests of beneficiaries on different issues of human rights.

During 2016, Human Rights Center provided 6000 consultations to its beneficiaries on different legal issues that included convicts, as well as defendants.

Approximately 550 prisoners from various penitentiary establishments addressed Human Rights Center for legal assistance during 2016. During first 6 months of 2016, the most complaints were made from the N3 penitentiary establishment. Approximately 150 prisoners addressed Human Rights Center from this establishment in total. In the second half of 2016, the appeals increased from N6 penitentiary establishment. Approximately 80 prisoners addressed Human Rights Center from this establishment. Approximately 50 prisoners appealed to Human Rights Center for legal assistance from N17 penitentiary establishment during 2016. Approximately 200 prisoners addressed Human Rights Center from the penitentiary establishments N18 and N8. Approximately 10 prisoners addressed Human Rights Center for legal assistance from N7 penitentiary establishment. Approximately 60 prisoners appealed to Human Rights Center for legal assistance from N5 penitentiary establishment.

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<sup>60</sup> <http://www.humanrights.ge/index.php?a=main&pid=18889&lang=eng>

<sup>61</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18802&lang=eng>

<sup>62</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18807&lang=eng>

Majority of complaints touched upon the issues of access to health and the grave conditions inside the prisons. The prisoners often underline the problem of late medical treatment and examination and blame the prison doctors and the staff of Medical Department of Ministry of Corrections. The prisoners state that the necessary surgeries and medical examinations are performed late. According to the explanation of prisoners, they are not given the adequate medicines and proper surgical and post-surgical medical treatment<sup>63</sup>.

The prisoners with disabilities live in especially grave conditions. The environment inside the penitentiary establishments is not adapted to the needs of PwDs. The establishments do not have a specialist who would address the needs of prisoners with disabilities and ensure the relevant services for them. The prisoners with disabilities are assisted by other prisoners.

The Ministry of Corrections sometimes groundlessly suspends the process of relocation of prisoners with acute disabilities to the medical department and does not provide the wheelchairs. There are cases when the prisoners with disabilities are not given the adequate medical treatment and service.

Human Rights Center has processed multiple cases when the medical treatment was given late, the treatment was inadequate and/or even refused in certain cases and the transportation to medical department was halted. These problems are especially grave in cases of prisoners with disabilities.

Human Rights Center considers that when the life and health of prisoners with grave health conditions are seriously endangered by the inadequate treatment in the penitentiary establishment, it should be possible to release him/her<sup>64</sup>.

The prisoners who have been victims of torture and inhuman treatment have been waiting for rehabilitation for years. Through the legal assistance of Human Rights Center they have appealed to courts against the Ministry of Corrections in order to receive the compensation for moral and material losses<sup>65</sup>.

During 2016, the National Preventive Mechanism (NPM) existing under the Office of Public Defender of Georgia continued its active work in terms of the monitoring of the penitentiary establishments.

According to NPM report of July 12, 2016, the visit of Special Preventive Group to the N6 penitentiary establishment demonstrated that the relationship among the prisoners and administration is tense and confrontational. The representatives of administration showed the derogatory and aggressive treatment towards the prisoners. An alleged instance of ill-treatment of a prisoner by the employees of administration was revealed to the NPM representatives during the visit<sup>66</sup>.

On September 8, 2016, the Public Defender of Georgia addressed the Chief Prosecutor with a proposal to open investigation into the alleged case of ill-treatment of the prisoner G.B. in N6 penitentiary establishment. G.B. stated to the representatives of Public Defender of Georgia that on September 3, 2016, after he finished phone conversation in a special room, several prison staff assaulted him verbally and physically<sup>67</sup>.

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<sup>63</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18653&lang=eng>

<sup>64</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18653&lang=eng>;  
<http://hridc.tv/index.php?a=view&id=1153&lang=eng>

<sup>65</sup> <http://www.humanrights.ge/index.php?a=main&pid=18785&lang=eng>;  
<http://hridc.tv/index.php?a=view&id=1193&lang=eng>; <http://hridc.tv/index.php?a=view&id=1182&lang=eng>;  
<http://hridc.tv/index.php?a=view&id=1167&lang=eng>

<sup>66</sup> See report: <http://www.ombudsman.ge/en/reports/specialuri-angarishebi/the-report-of-the-national-preventive-mechanism-2015.page>

<sup>67</sup> See statement: <http://www.ombudsman.ge/en/recommendations-Proposal/winadadebebi/proposal-concerning-alleged-ill-treatment-of-convict.page>

On December 15, 2016, Human Rights Center held a press conference regarding the rights of prisoners. The organization protested the restriction of usage of means of communication for prisoners that represents hindrance to the lawyers' professional activities and violation of rights of prisoners<sup>68</sup>.

- Case of Convict D.G.

The defendant David G. who serves in N6 penitentiary department has been diagnosed with grave illnesses. The relevant documentation is presented to the medical department of the Ministry of Corrections. However, the prisoner has not been transferred to the N18 medical department. The prisoner can hardly move. He has several grave illnesses, including cirrhosis of liver, B and D hepatitis and HIV<sup>69</sup>.

- Case of Convict L.M.

The convict L.M. is serving penalty in N17 penitentiary establishment. For years, L.M. has been a wheelchair user due to the injuries he suffered as a result of torture and inhuman treatment inside the prison. The prisoner requires second surgery on spine, as well as other medical examinations. On July 8, the prisoner should have been transferred to the medical department by the ambulance that would have prevented the physical pain that he experiences as a result of using wheelchair. The chief doctor of N17 penitentiary establishment decided to provide inappropriate transportation for the transfer. Therefore, the prisoner was forced to refuse the transfer<sup>70</sup>.

- Case of Convict Z.K.

Human Rights Center is providing legal assistance to the convict Z.K. who is serving a sentence in N18 penitentiary establishment.

In 2014, the prisoner went through the partial amputation of both legs. He received the status of person with disability. In 2015, he went through the prosthetic surgery. However, due to the low quality of prosthetics, his lower limbs rejected them. As a result, gangrene developed and the lower limbs of prisoner went through the second amputation. The prisoner suffers intolerable pain. The pain-killers do not work anymore. He also has serious problems with his stomach as a result. The medical department does not address the needs of this prisoner adequately; his condition is not examined properly and comprehensively and the relevant medical treatment is not provided. Despite numerous promises of providing silicone prosthetics, no progress is made. According to the medical note, he has been needing prosthetics for a year and a half. The provision of the relevant prosthetics is suspended for indefinite time.

- Case of Convict L.Sh.

Convict L.Sh. serves his term in N8 penitentiary establishment. The prisoner is unable to walk independently. He has polyneuropathy, lumbodinia, paralytic ischias and atrophy of lower left limb. The prisoner is unable to take care of his needs independently. Despite numerous requests and the physical

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<sup>68</sup> <http://www.humanrights.ge/index.php?a=main&pid=19046&lang=eng>;  
<http://www.maestro.ge/kontakti/siakhleebi/article/44729-vithareba-penitencionalur-sistemashi>;  
<http://www.obieqtivi.net/news.php?id=62650>;

<http://www.humanrights.ge/index.php?a=main&pid=19047&lang=eng>

<sup>69</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18827&lang=eng>

<sup>70</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18827&lang=eng>

necessity, the prisoner has not been given the wheelchair. He has not been transferred to N18 medical department either where he could have been given the relevant service<sup>71</sup>.

### 13. CONSTITUTIONAL COMPLAINT OF HUMAN RIGHTS CENTER REGARDING SYSTEM OF MEDICAL REFERRAL INSIDE THE PENITENTIARY

Convicted N.D, with legal assistance of Human Rights Center, lodged constitutional lawsuit to the Constitutional Court of Georgia to declare the April 10, 2014 Decree N55 of the Minister of Corrections unconstitutional.

The constitutional lawsuit prepared by the HRC claims that the Decree #55 of the Minister of Corrections which is the only legal act regulating the scheduled medical service for convicts/defendants and which envisages the rule of placing the defendants/convicts in public hospitals, in medical establishments for defendants/convicts and medical clinics/rehabilitation centers for the patients with tuberculosis, is unconstitutional.

According to the disputed decree, convicted/accused patients are taken to the hospitals/medical clinics in accordance to their queue number, which is granted to them in medical program. The men and women prisoners are registered in the common electronic queue for the medical referrals. This comes in contrary to the principle of gender-specific health care envisioned by the Bangkok Rules and violates that Article 14 (Equality) and Article 17 (prohibition of inhuman treatment) of the Constitution of Georgia<sup>72</sup>.

### 14. RIGHTS OF RELIGIOUS MINORITIES

- Cases of Persecution of Jehovah's Witnesses and Destruction of Their Property

The facts of religious intolerance and lack of timely and effective investigation into the cases of hate crimes committed against the religious minorities continued to persist during 2016. The Jehovah's witnesses and the representatives of the Muslim community were most often targeted with religious discrimination and intolerance. The different kind of violence took place against the Jehovah's witnesses, including the beating, persecution and destruction of property. The windows of the places of worship of Jehovah's witnesses were often smashed by the throwing of stones. The worship material and cars of the Jehovah's witnesses were often damaged and the information stands where the Jehovah's witnesses performed religious services were often destroyed. These actions demonstrate that they aim to violate the religious freedom of Jehovah's witnesses, intrude in their religious service and assault them physically and verbally. The investigative bodies and the police show subjective attitude when investigating the hate crimes committed against the religious minorities (For instance, cases of G.T.; E.K.; J.Ch; L.Z.).

In this regard, the issues of practical usage of Article 187 of Criminal Code of Georgia (damaging or destruction of property) should be highlighted. This article is used in the cases of destruction of property of Jehovah's witnesses. According to Criminal Code of Georgia, criminal responsibility can be raised when the value of the destroyed property exceeds 150 GEL<sup>73</sup>. In cases of hate crimes against the religious

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<sup>71</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18827&lang=eng>

<sup>72</sup> <http://www.humanrights.ge/index.php?a=main&pid=19036&lang=eng>;  
<http://www.hridc.tv/index.php?a=view&id=1218&lang=eng>

<sup>73</sup> Criminal Code of Georgia: <https://matsne.gov.ge/ka/document/view/16426>

minorities committed in the form of destruction of their property, the criminal investigation is either not opened or suspended as the inflicted damage often does not exceed 150 GEL.

During 2016, Human Rights Center processed approximately 20 cases of hate crimes committed against the Jehovah's witnesses. The crimes included the beatings, persecution and destruction of property. Despite numerous addresses of lawyers of Human Rights Center, the investigative and prosecution bodies did not open the investigation in accordance with the Article 156 of Criminal Code of Georgia (Persecution for speech, opinion, conscience, religious denomination, faith or creed). The investigation was mostly started under the general clauses, such as Assault or Battery (Article 125), Intentional Light Damage to Health (Article 120) and etc. (For instance, cases of G.T.; E.K.; J.Ch.; L.Z.).

- **Violation of Rights of Muslim Community**

The violations of rights of representatives of Muslim community, as well as problems of investigation into such facts continued during 2016.

The Muslim community actively requested from the state a land in Batumi in order to build a new mosque. The Orta Jame mosque which currently operates in Batumi is not enough and cannot contain the worshippers. Due to this, hundreds of worshippers have to hold the traditional Friday prayers on streets, under inappropriate conditions. Many Muslim women do not have opportunity to pray in the mosque.

NGO sector called on the state to ensure the freedom of religion, as well as principles of secularism and equality; not to create unjustified barriers in the process of building mosque and ensure the granting of building permit in lawful manner, free of any kind of discrimination<sup>74</sup>.

During 2016, Human Rights Center implemented project "Preserving Cultural Heritage of Religious Minorities in Georgia" which aimed to promote protection and preservation of cultural heritage in Georgia. As a result of advocacy of Human Rights Center, the National Agency for Cultural Heritage Preservation of Georgia granted the status of cultural heritage to the mosques in the villages of Plate and Adigeni<sup>75</sup>.

- **Religious Confrontation in Adigeni**

The locals allegedly influenced by the Orthodox spiritual leaders stated that the Muslims should not have a mosque in the village Adigeni. As for the historic mosque in the village center, they insisted that it should be transformed into a church because, as they claimed, it was constructed with the church stones in the past<sup>76</sup>.

In 2016, Human Rights Center addressed the escalation of religious confrontation in the village Adigeni in the region of Samtskhe-Javakheti with a statement and called on the government to take immediate measures for the investigation of hates crimes<sup>77</sup>.

On February 29, 2016, there was a confrontation between the local Christian and Muslim residents regarding the issue of allocating territory for graveyard for the local Muslims in the village Adigeni of Adigeni municipality. The verbal disagreement turned into a physical assault.

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<sup>74</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18698&lang=eng>

<sup>75</sup> <http://humanrights.ge/index.php?a=main&pid=18666&lang=eng>

<sup>76</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18676&lang=eng>

<sup>77</sup> See address: <http://www.humanrights.ge/index.php?a=main&pid=18676&lang=eng>

The Muslim community living in the village Adigeni does not have a graveyard. The Muslim residents bury the deceased in their yards or in other villages. In order to solve this problem, the State Agency for Religious Issues gave a recommendation to allocate a territory in the village Adigeni for arranging graveyard for the Muslim community. However, the local Christians objected this decision. The objection turned into a verbal and physical confrontation<sup>78</sup>.

Unfortunately, persecution of religious minorities and hindrance to their religious services represents widespread problem in the region of Adigeni. The Public Defender of Georgia has repeatedly addressed this problem. When making statement on Adigeni confrontation, he noted following: “Unfortunately, this is not the first case of persecution of people of different beliefs and hindrance to the observing of their religious rituals. Those violations have not been investigated properly and the impunity encouraged a new incident on religious grounds, which poses a threat to the co-existence of people of different faiths in a democratic society”<sup>79</sup>.

- Hindrance to Holding of Muslim Prayers

In October of 2016, the law enforcement officers blocked the entrance to a building where the local Muslims started holding prayers in the village of Mokhe, Adigeni. This building belongs to Adigeni municipality. The Public Defender of Georgia addressed this incident and noted that “one of the expressions of freedom of religion is access to a place of worship and opportunity to pray together with others, but the Muslim community cannot enjoy this right. Hindrance to the realization of freedom of religion by certain religious communities or individuals leads to an unequal situation and, in some cases, constitutes discrimination on grounds of religion”<sup>80</sup>.

On December 1, 2016, Mokhe Commission established by the State Agency for Religious Issues determined that the Mokhe mosque shall remain in the state ownership and should not be transferred to any religious organization. For many years, Muslims of Mokhe village have been requesting from the government to return the building to the community<sup>81</sup>.

## 15. PROJECT OF HUMAN RIGHTS CENTER - SUPPORT TO THE DEFENSE OF RIGHTS OF WOMEN, RELIGIOUS AND ETHNIC MINORITIES IN THE REGIONS OF GEORGIA

Since January 1, 2016, Human Rights Center started new project - Support to the defense of rights of women, religious and ethnic minorities in the regions of Georgia. The project aims to promote access of vulnerable groups of society, women, religious and ethnic minorities to the justice in the regions of Georgia namely in Kvemo Kartli and Kakheti regions. The project was financially supported by the East West Management Institute (EWMI) in the frame of the Program Promoting Rule of Law in Georgia (PROLoG)<sup>82</sup>.

Within the frameworks of the project, Human Rights Center litigates cases in order to assist the Muslim communities to obtain the permissions for the construction of the mosques.

There is no mosque in the village Beitrapchi in Marneuli Municipality. The nearest mosque is located in 15 km from the village which is too far for the local population (approximately 800 people). The local

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<sup>78</sup> See address: <http://ombudsman.ge/en/news/public-defenders-statement-on-adigeni-confrontation.page>

<sup>79</sup> See address: <http://ombudsman.ge/en/news/public-defenders-statement-on-adigeni-confrontation.page>

<sup>80</sup> See address: <http://ombudsman.ge/en/news/public-defenders-statement-on-muslims-right-to-pray-in-mokhe.page>

<sup>81</sup> <http://tdi.ge/en/news/393-tdi-decision-mokhe-commission>

<sup>82</sup> see information about the project at <http://www.humanrights.ge/index.php?a=main&pid=18638&lang=eng>



population has been requesting the permission from the state and local government bodies to build the mosque in their village to no avail. They must be given the land for the long-term possession in order to build the mosque through their own funds. Human Rights Center defends interests of Beitrapchi population in the State Agency for Religious Issues, Muslim Agency and other bodies.

Human Rights Center defends the interests of the Muslim Community in the village Tivi of Kvareli municipality. The local Muslim women in the village Tivi do not have a chance to pray in the mosque located in the graveyard due to a Muslim tradition. The women have to hold a religious ritual separately from the men before the prayer. They can't do it in the mosque in the graveyard as it consists of only one room. Thus, the Muslim women in the village Tivi are deprived chance to pray in the mosque that violates their constitutional rights. They are in discriminated position, as they are deprived opportunity to pray, unlike the men. Human Rights Center defends interests of Beitrapchi population in the State Agency for Religious Issues, Muslim Agency and other bodies<sup>83</sup>.

On November 16, 2016, on International Day for Tolerance, the Office of the State Minister for Reconciliation and Civil Equality held official reception which was attended by the representatives of legislative and executive government of Georgia, diplomatic community, international organizations and NGOs. The winning photos of the contest titled "Our Diverse Homeland" were exhibited at the event. The State Minister and the head of the Tolerance, Public Awareness and Integration Program of the UN Association of Georgia (UNAG), Ramaz Aptsiauri, awarded the authors of the winning photos with the award certificate and 500 GEL gift vouchers by the financial support of the USAID and UNAG Program. The administration of the State Ministry plans to publish the 2017 calendars with the photos. Lawyer of Human Right Center is one of the winners of the photo contest<sup>84</sup>.

## 16. LGBT RIGHTS

In 2016, violation of the rights of the LGBT community members in Georgia still was a challenge; apart to that, problematic was homophobic attitude towards and ineffective investigation of the hate-crimes.

The Public Defender of Georgia reacted on the detention of the LGBT activists in front of the metro-station Liberty Square and near the building of the Patriarchate of Georgia at 10 am on May 17, 2016. As the LGBT activists reported, their detention was carried out rudely, without any explanation and with the use of homophobic language. According to the evaluation of the Public Defender of Georgia, "it should be immediately investigated by law enforcement agencies whether police officers used excessive force and homophobic language while detention, as well as the violation of the obligation to explain rights to the detainees. The responses should be immediately reported to the public."<sup>85</sup>

On October 14, 2016, transgender woman was beaten in Ortachala, Tbilisi. She was badly wounded by two persons.<sup>86</sup> On November 23, 2016, the transgender woman died in hospital.<sup>87</sup> The Public Defender of Georgia called on the Prosecutor's Office to carry out a comprehensive, complete and objective investigation into the case and to focus on the alleged hate motive.<sup>88</sup> The Center of Transgender Women

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<sup>83</sup> <http://humanrights.ge/index.php?a=main&pid=18402&lang=eng>

<sup>84</sup> <http://humanrights.ge/index.php?a=main&pid=19008&lang=eng>

<sup>85</sup> See the statement: <http://www.ombudsman.ge/en/news/public-defenders-statement-on-arrest-of-lgbt-activists.page>

<sup>86</sup> See the information by Liberali (available in Georgian) <http://liberali.ge/news/view/25323/tbilisshi-transgenderi-gali-stemes-dazaralebuli-reanimatsiashia>

<sup>87</sup> See the information at (available in Georgian) <https://www.youtube.com/watch?v=8y8cvjI7L6s>

<sup>88</sup> See the statement <http://www.ombudsman.ge/en/news/public-defenders-statement-on-violence-against-transgender-women.page>

requested unbiased and impartial investigation into the gender-related murder of October 14.<sup>89</sup> The court hearings are carried out about the murder of the transgender woman. A suspect person was arrested for the attempted murder of the transgender woman.<sup>90</sup>

## 17. VIOLENCE AGAINST WOMEN AND FEMICIDE

Violence against women, femicide and their effective investigation was still a challenge in 2016. In the report period, Human Rights Center processed up to 30 cases of the violence against women and domestic violence.<sup>91</sup> Professional negligence of police officers, ineffective work of investigative bodies and incorrect criminal law qualification of the domestic violence facts were major problems in the processed cases. The police officers do not adequately evaluate the violence fact and do not take relevant preventive measures to combat the expected crimes.

Human Rights Center works on the defense of women's rights in the frame of the project - *Support to the defense of rights of women, religious and ethnic minorities in the regions of Georgia*, which is implemented with financial support of the East West Management Institute (EWMI) in the frame of the Program Promoting Rule of Law in Georgia (PROLoG).

The lawyers of Human Rights Center participated in various TV and radio programs, where they spoke about the ways to resolve the problem of violence against women. They spoke about those challenges, which they encounter when working on the defense of domestic violence victim women. The lawyers of Human Rights Center believe, ineffective investigation by the law enforcement bodies and law public awareness about the violence against women is reason of the unresolved problem.<sup>92</sup> As NGOs evaluate, the violence against women has acquired alarming scope in Georgia. Absolute majority of the violence facts happen in the families and sometimes they end with tragedy – murder or bad injury of the woman. The number of facts is increasing yearly that is caused by ineffective response to them by law enforcement officers, liberal and faulty legislation, lack of shelters, etc. The state fails to offer effective defense guarantees to the victims of violence.<sup>93</sup>

The UN Special Rapporteur on violence against women, its causes and consequences presented a report on Georgia at the 32th session of the UN Human Rights Council in Geneva on June 17, 2016. The UN Special Rapporteur spoke about Georgia's achievements and challenges in fight against domestic violence. She paid particular attention to the importance of definition of the term of violence against women and

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<sup>89</sup> See the information at <https://www.youtube.com/watch?v=8y8cvjI7L6s>

<sup>90</sup> See information at <https://www.youtube.com/watch?v=pzdDbLqnFac>

<sup>91</sup> See information at: <http://www.humanrights.ge/index.php?a=main&pid=18833&lang=eng>  
<http://www.humanrights.ge/index.php?a=main&pid=18887&lang=eng>  
<http://www.humanrights.ge/index.php?a=main&pid=18832&lang=eng>  
<http://www.hridc.tv/index.php?a=view&id=1206&lang=eng> <https://www.youtube.com/watch?v=oxAIDzP-PkA;>  
<https://www.youtube.com/watch?v=oxAIDzP-PkA;> <https://www.youtube.com/watch?v=hW3WMje-D3U;>  
<http://liberali.ge/articles/view/23996/politsiis-gulgriloba-ojakhshi-dzaladobis-faqtebze-ras-hyvebian-iuristebi>

<sup>92</sup> See the programs at (available in Georgian) <http://www.radiotavisupleba.ge/a/28065692.html>;  
<http://www.radiotavisupleba.ge/a/genderuli-ambebi/27888715.htm>; <http://www.radiotavisupleba.ge/a/genderuli-ambebi/27640050.htm>; <http://www.radiotavisupleba.ge/a/genderuli-ambebi/27534419.htm>;  
<http://www.radiotavisupleba.ge/a/gender-stories-02-12-2016/28152660.html>;  
[https://www.youtube.com/watch?v=tYbnIe6s2\\_E](https://www.youtube.com/watch?v=tYbnIe6s2_E); <https://www.youtube.com/watch?v=zaH2mVGq2i0>

<sup>93</sup> see evaluations at <http://www.humanrights.ge/index.php?a=main&pid=18831&lang=eng>  
<http://www.hridc.tv/index.php?a=view&id=1203&lang=eng>

improvement of legislative framework, as well as the importance of monitoring and studying the cases of femicide. In addition, she praised the monitoring carried out by Georgia's Public Defender's Office.<sup>94</sup>

On November 3, 2016 the Public Defender of Georgia submitted an interim report to the United Nations Committee on the Elimination of Discrimination against Women.<sup>95</sup> The report reviews challenges relating to domestic violence and violence against women, including legislative regulations and the problem of effective implementation of national action plans, non-implementation of legislative initiatives aimed at improving women's rights situation, and inefficient exchange of information and coordination between the agencies responsible for the prevention of domestic violence.<sup>96</sup>

- **Female Genital Mutilation Practice in Kvareli Municipality**

On November 12, 2016, the Public Defender of Georgia published a statement<sup>97</sup> to request immediate response of the state to the practice of female genital mutilation in Kvareli Municipality. According to the evaluation of the Public Defender, female genital mutilation is an extreme form of violation of rights, which infringes the woman's right to health, safety, physical integrity and prohibition of torture. Such a practice is mainly carried out in order to control the woman and her body. Female genital mutilation, especially done at home, may lead to many complications.

Human Rights Center believes justification of the torture with religious traditions is in conflict with the Convention on the Rights of the Child and the international standards of human rights. In accordance to the case law of the European Convention of Human Rights no religious ritual can justify absolute principle of the torture prohibition.<sup>98</sup>

Human Rights Center addressed the Ministry of Internal Affairs and Prosecutor's Office of Georgia to investigate and adequately respond to the facts of FGM in Georgia. The Center also called on the Parliament of Georgia to timely ratify the 2011 Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence, which includes separate article on the Female Genital Mutilation (Article 38).<sup>99</sup> As a result, the facts of FMG will be punished under the Criminal Code of Georgia.

- **Case of Rape of Underage Girl**

In July 2016, parents of 16-year-old girl from Marneuli municipality applied to Human Rights Center for legal aid. They reported that, on July 8, the underage pregnant girl was raped by 47-year-old man, the relative of her husband.

Human Rights Center addressed the Ministry of Internal Affairs and Chief Prosecutor's Office and requested to take adequate measures to effectively and timely investigate the sexual violence fact against the underage pregnant girl. The lawyer of Human Rights Center addressed the Levan Samkharauli National Forensic Expertise Bureau to prepare the conclusion in short time. The complex expertise conducted on the

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<sup>94</sup> See the information at <http://www.ombudsman.ge/en/news/un-special-rapporteur-on-violence-against-women-its-causes-and-consequences-presents-report-on-georgia.page>

<sup>95</sup> See the report at <http://www.ombudsman.ge/uploads/other/4/4020.pdf>  
<http://www.ombudsman.ge/en/news/public-defender-submits-interim-report-to-un-committee-on-elimination-of-discrimination-against-women.page>

<sup>96</sup> see information at <http://www.ombudsman.ge/en/news/public-defender-submits-interim-report-to-un-committee-on-elimination-of-discrimination-against-women.page>

<sup>97</sup> See the statement at <http://ombudsman.ge/en/news/public-defenders-statement-on-female-genital-mutilation.page>

<sup>98</sup> See the statement at <http://humanrights.ge/index.php?a=main&pid=19019&lang=eng>

<sup>99</sup> Ibid

victim girl proved that the crime was committed by the relative of her husband.<sup>100</sup> Regardless the expertise conclusion, the girl still does not have victim status and the harasser was not yet accused.

Human Rights Center held several press-conferences about the case and requested the prosecutor's office to punish the harasser.<sup>101</sup> The prosecutor's office states they are investigating the case. With the advocacy of the lawyer of Human Rights Center, disciplinary sanction was imposed on the police officers for the fact.

- **Violence against a Woman in Tetrtskaro**

On July 10, 2016, in Tetrtskaro, a husband ruthlessly beat his wife and then cut off an ear because of jealousy. He also killed the man, who was a guest in the family.<sup>102</sup> Lawyer of Human Rights Center defends interests of the victim woman.<sup>103</sup> With the legal aid of Human Rights Center, the woman received the victim status and the harasser was accused of the crime. The Rustavi City Court is discussing the case in accordance to the article about domestic crime and torture.

- **Femicide Case**

In the end of July 2016, parents of K.Y, 20-years-old killed girl in Ponitchala settlement, applied to Human Rights Center for legal aid. On July 12, 2016, husband killed K.Y in the presence of her little brother. Several hours before the murder, the harasser arrived at the house of the victim's grandmother and physically abused her and her grandmother. He threatened them with murder and physical assault. The victim and grandmother called police and informed them about the threat. Instead timely and effective response, the police just warned the harasser to stay away from the women. Several hours later, the man killed his 20-years-old wife with knife.<sup>104</sup> The murderer was arrested soon after the accident.

Human Rights Center several times addressed the Chief Prosecutor's Office and the MIA to start investigation against the police officer's negligence, which resulted into the murder of the young girl.<sup>105</sup> The General Inspection of the MIA did not start investigation against the police officer. The prosecutor's office is carrying out the investigation into the fact of professional negligence of the police officer.

## **18. PARLIAMENTARY ELECTIONS OF OCTOBER 8, 2016**

In 2016, Human Rights Center implemented the project - Monitoring of 2016 Parliamentary Elections and the International Criminal Court's Investigation in Georgia. Within framework of the project, Human Rights Center monitored the October 8, 2016 Parliamentary Elections.

Human Rights Center's monitoring revealed<sup>106</sup> that in comparison to the 2012 Parliamentary Elections, fewer facts of violations were observed, that made the election environment more stable. The opposition

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<sup>100</sup> See the statement at <http://www.humanrights.ge/index.php?a=main&pid=18887&lang=eng>

<sup>101</sup> See information at <http://www.hridc.tv/index.php?a=view&id=1206&lang=eng>  
<https://www.youtube.com/watch?v=oxAIDzP-PkA>;

<sup>102</sup> See information at (Georgian) <https://www.youtube.com/watch?v=hW3WMje-D3U>

<sup>103</sup> See the information by Liberali (available only in Georgian) <http://liberali.ge/articles/view/23996/politsiis-gulgriloba-ojakhshi-dzaladobis-faqtebze--ras-hyvebian-iuristebi>

<sup>104</sup> See news item about the accident (available in Georgian) <http://imedi.ge/index.php?pg=nws&id=77532&l=1>

<sup>105</sup> See information at <http://hridc.tv/index.php?a=view&id=1210&lang=eng>

<sup>106</sup> See the monitoring report of Human Rights Center at <http://www.humanrights.ge/admin/editor/uploads/pdf/angarishebi/hridc/report%20of%20the%20parliamentary%20election%202016.pdf>

political parties had more opportunities to compete with the ruling party, what made the elections more pluralistic and transparent. Despite that, numerous violations were observed and the report will emphasize them. Despite the improved election environment, the 2016 Parliamentary Elections could not be evaluated as perfect. Systemic reforms are still needed. In order to improve the environment and harmonize the process with international standards, the governmental or non-governmental sector shall work harder to make the legislation more coherent.

The 2016 Parliamentary Election was the first elections after Georgia signed the Association Agreement with the European Union. Therefore, the underlined special expectations and interests prevailed towards it. The fair elections had to play huge role in further democratic development of Georgia and Euro-Atlantic integration.

During the 2016 Parliamentary Elections facts of hindering the activities of observers and journalists were observed<sup>107</sup>. As for the violations in the second round of the elections, the problems of same character were observed as in the first round of the elections. Among them was violation of procedural requirements of the election legislation; agitators of the political parties were very active in the vicinities of the polling stations, which directly or indirectly influenced the free choice of voters; like in the first round of the elections, the low competence of the PEC members created particular problems; in some precincts, more than one representatives of one election subject were observed in precincts.<sup>108</sup>

According to the preliminary conclusions of the OSCE/ODHIR, “The October 8 elections were competitive, well-administered and fundamental freedoms were generally respected. The calm and open campaign atmosphere was, however, impacted by allegations of unlawful campaigning and some incidents of violence. The election administration and management of voter lists enjoyed confidence. The media is pluralistic, but some monitored broadcasters, lacked balance in their campaign coverage. Debates offered a useful platform for contestants to present their views. Voting proceeded in an orderly manner, but counting was assessed more negatively due to procedural problems and increased tensions.”<sup>109</sup>

The Public Defender of Georgia, within his legal mandate, first time supervised the protection of citizens' right to vote. According to his evaluation, “big part of procedural violations was caused by low competence of the PEC members.”<sup>110</sup>

- **Facts of Interference in the Activities of Election Observers**

The observer of Human Rights Center Giorgi Tkebuchava was monitoring October 8, 2016 Parliamentary Elections in Keshalo village precinct #37 in Marneuli DEC #35, where he was verbally and physically assaulted by the PEC chairman Payaz Veliyev and his deputy Saamed Gajyev.

The observer from the Multinational Georgia video-recorded the incident. The footage shows how Saamed Gajyev, the deputy chairman was shouting at the observer of Human Rights Center and pushes him with hands.

Human Rights Center called police to the precinct #37. Afterwards the witnesses were interrogated in Algeti police office. According to the police statement, the investigation started under article 1621 of the Criminal

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<sup>107</sup> See information here <http://www.humanrights.ge/index.php?a=main&pid=18968&lang=eng>

<sup>108</sup> See the report of Human Rights Center at <http://www.humanrights.ge/admin/editor/uploads/pdf/angarishebi/hrdc/report%20of%20the%20parliamentary%20election%202016.pdf>

<sup>109</sup> See the OSCE/ODHIR conclusion at <http://www.osce.org/odihr/elections/georgia/273221?download=true>

<sup>110</sup> See the evaluation at <http://www.ombudsman.ge/en/news/public-defender-summarizes-election-day.page>

Code of Georgia, which implies: “violence or threat of violence in the polling station, in or near the location of the commission members, during pre-election propaganda or campaign”.

On the second day expertise was conducted on Giorgi Tkebuchava’s injuries. Despite that the observer still does not have victim status and the alleged perpetrators are not held responsible<sup>111</sup>.

Unidentified persons raided Zugdidi precinct # 79 and verbally and physically assaulted three representatives of the international observation organization Norwegian Helsinki Committee, who tried to video-record the incident by mobile phones. Georgian Young Lawyers’ Association defends the rights of the victimized observers. Police failed to adequately respond to the violence facts in Zugdidi municipality precincts # 79 and 108. Additional police forces were deployed on the sites only after the incidents.<sup>112</sup>

- Kortskheli Incident

Georgian nongovernmental organizations and Public Defender of Georgia condemned violence against citizens and members of the United National Movement near the polling station # 53 in Kortskheli village, Zugdidi municipality on May 22, 2016. The NGOs called on the law enforcement bodies to timely investigate the violence fact and apply legal measures envisioned by law to be used against the organizers and perpetrators of violent acts.<sup>113</sup> According to the evaluation of the OSCE/ODHIR observers, “The political tension between the GD and the UNM, including a violent confrontation in Kortskheli during the May 2016 local by-election, also negatively affects the atmosphere for the elections.”<sup>114</sup>

- Political Parties in Post-Election Period

The internal confrontations were observed inside the United National Movement (UNM) in the second half of 2016. Since the Parliamentary Elections on October 8, 2016, the internal confrontation grew stronger. Some UNM representatives made statements regarding the role of the former President – Mikheil Saakashvili – in the confrontation<sup>115</sup>.

After the public statements made by the UNM members, it was revealed that there are two camps inside the party: on the one side – Giga Bokeria and his supporters and on the other side – former President Mikheil Saakashvili and his allies. The situation escalated after the disagreement regarding the participation in the second round of the Parliamentary Elections. The status of Mikheil Saakashvili inside the party and the selection of the head of UNM were some other issues of disagreement. The legitimacy of upcoming UNM Congress has also become an issue of disagreement recently<sup>116</sup>.

The political party - State for People – which claimed to have a pro-western stance and was headed by the famous Georgian singer Paata Burchuladze failed to pass 5% threshold on October 8, 2016 Parliamentary Elections. Paata Burchuladze stated at the party congress held on December 14, 2016, that he is quitting the politics<sup>117</sup>. The pro-western parties – Republican Party of Georgia and Free Democrats – did not receive the necessary votes to pass the threshold either. After the announcement of the election results, the

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<sup>111</sup> See information at <http://www.humanrights.ge/index.php?a=main&pid=18968&lang=eng>

<sup>112</sup> Ibid

<sup>113</sup> See the statements at <http://www.humanrights.ge/index.php?a=main&pid=18769&lang=eng>  
<http://www.ombudsman.ge/en/news/public-defender-calls-for-adequate-response-to-kortskheli-incident.page>

<sup>114</sup> See the interim report of OSCE/ODHIR at <http://www.osce.org/odihr/267321?download=true>

<sup>115</sup> See statement: <http://www.interpressnews.ge/ge/politika/409584?ar=A> (available in Georgian)

<sup>116</sup> <http://www.civil.ge/eng/article.php?id=29745>

<sup>117</sup> <http://www.civil.ge/eng/article.php?id=29694>



leader of Free Democrats, Irakli Alasania also quit politics temporarily<sup>118</sup>; chairman Davit Usufashvili and several leaders of the Republic Party also quitted the party, who before the elections were members of the government and the ruling party.

## 19. RIGHTS OF THE VICTIMS OF ARMED CONFLICTS

On May 3, 2016, Georgian nongovernmental organizations expressed concern about the situation in the Gali region, where ethnic Georgian children have their fundamental right to get education in their native language violated. Prior to Georgian-Abkhaz conflict, there were 58 schools in Gali region. In 53 of the 58 schools teaching was conducted in Georgian. After the conflict, 31 schools were restored. In all but one school, teaching was conducted in Georgian.<sup>119</sup> The Georgian state speaks about the illegal detention of the citizens of Georgia for the illegal crossing of the so-called border towards Abkhazia and Tskhinvali region and evaluates it as restriction of freedom of movement.<sup>120</sup>

- **Murder of Giga Otkhozoria**

On May 19, 2016, Giga Otkhozoria, resident of Gali district, was trying to transport products at so called border checkpoint of Khurcha-Nabakevi village, when he had a quarrel with so-called border-guard. Following the quarrel the so-called border-guard shot him several times. Giga Otkhozoria died the same day as a result of multiple gunshot wounds.<sup>121</sup> At the same time, video footage was released later that day that shows how so-called border-guards cross the Georgian-controlled territory, at first physically abuse G. Otkhozoria and then shoot him.<sup>122</sup>

On May 21, 2016, General Prosecutors Office of Georgia made a statement regarding launching criminal case against so-called border-guard Rashid Kanjioghli for the premeditated murder of G. Otkhozoria and illegal carrying and transportation of firearms<sup>123</sup>.

## 20. FREEDOM OF EXPRESSION AND ASSEMBLY

Human Rights House Tbilisi member organizations<sup>124</sup> expressed concern about the developments that took place and arrest of civil activists in Tbilisi on May 17, 2016. The NGOs stated that the government of Georgia could not ensure peaceful environment for the demonstration dedicated to the International Day against Homophobia and Transphobia and could not give security guarantees to the organizers.

HRHT member organizations addressed the relevant state institutions and requested to commence immediate and impartial investigation into the fact and to identify whether law enforcement officers had abused their power or not. The state institutions shall take all appropriate measures to combat hate crimes in the country.<sup>125</sup>

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<sup>118</sup> <https://www.youtube.com/watch?v=dGuYhd6qKUc>

<sup>119</sup> See the statement at <http://humanrights.ge/index.php?a=main&pid=18774&lang=eng>

<sup>120</sup> See information at <http://humanrights.ge/index.php?a=main&pid=18631&lang=eng>

<sup>121</sup> See information at (available in Georgian) <https://www.youtube.com/watch?v=Fzo5e4UgAGU>

<sup>122</sup> See the video at [https://www.youtube.com/watch?v=XW\\_gwJ95d3c](https://www.youtube.com/watch?v=XW_gwJ95d3c)

<sup>123</sup> See information at (available in Georgian) <http://rustavi2.com/ka/news/47381>

<sup>124</sup> Article 42 of the Constitution, Georgian Center for the Psycho-Social and Medical Rehabilitation of Torture Victims (GCRT), Human Rights Center, Media Institute, Human Rights and Conflict Study Center – Kavkasia and Union Safari

<sup>125</sup> See the statement at <http://humanrights.ge/index.php?a=main&pid=18755&lang=eng>

On June 22, 2016, Gonio residents held protest rally in front of the Batumi City Council. Protesters were demanding restoration of their land property rights, which were revoked in 2010. The police arrested some participants of the rally and dispersed the rally. According to the evaluation of the Public Defender of Georgia “the activities of the law enforcement officers went beyond the legal regulations. The police violated the right to assembly and manifestation, freedom of expression of the protesters. The dispersal of the peaceful rally of Gonio residents by law enforcement officers did not have legitimate grounds. The protesters did not violate any applicable normative act, did not block a road, did not obstruct movement of vehicles or pedestrians. Police did not have grounds to protect public order.”<sup>126</sup>

On April 15, 2016, the Public Defender held public debate about the freedom of assembly and manifestation. The United Nation’s Special Rapporteur Maina Kiai, who was invited to the event, noted that “it would be an important step forward if the Government canceled the use of administrative detention in relation to the realization of the right of freedom of association and of assembly.”<sup>127</sup>

## 21. INVESTIGATION OF THE HAGUE INTERNATIONAL CRIMINAL COURT

On January 27, 2016, the International Criminal Court (ICC) authorized the Prosecutor’s Office to open investigation into alleged war crimes committed in Georgia in 2008. Based on the January 27, 2016 decision of the pre-trial chamber of the Court, the Prosecutor’s Office of the ICC will investigate the alleged crimes against humanity committed during the 2008 August War in Georgia. The investigation will cover the period from July 1 to October 10, 2008.<sup>128</sup>

On June 6-10, 2016, the 21st Strategic Meeting of the International Criminal Court and nongovernmental organizations from different countries took place in The Hague. Cooperation fields between the NGO sector and the Court as well as the ongoing investigations in different states were discussed in the forum. Representatives of the Prosecutor’s Office, Registry and different branches of the Court participated in the meetings. The representative of Human Rights Center spoke about the necessity to investigate the crimes committed during 2008 August Russian-Georgian War and about the significance of restoration of justice.<sup>129</sup>

On November 15-19, representatives of the Georgian NGOs participated in the fifteenth Assembly of State Parties (ASP) in The Hague. Representatives of Human Rights Center, Georgian Young Lawyers’ Association, Article 42 of the Constitution and Open Society Georgia – Foundation met representatives of the Prosecutor’s Office of the International Criminal Court, the Prosecutor, representatives of the registration and outreach offices. The NGO representatives underlined necessity of the comprehensive investigation into the August 2008 War, of the engagement of the victims and the Georgian NGOs in the investigation and awareness raising of the victims about the ongoing process.<sup>130</sup>

On November 16, 2016, the Russian government declared that it is not going to ratify the Rome Statute and commenced the procedure to withdraw its signature from the Statute.

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<sup>126</sup> See the statement of the Ombudsman at <http://www.ombudsman.ge/en/news/public-defenders-statement-on-dispersal-of-rally-by-police-in-batumi-on-22-june-2016.page>

<sup>127</sup> See information at <http://www.ombudsman.ge/en/sadjaro-debatebi/public-debate-freedom-of-assembly-and-freedom-of-association-achievements-and-challenges.page>

<sup>128</sup> See the January 27, 2016 decision of the pre-trial chamber at [https://www.icc-cpi.int/CourtRecords/CR2016\\_00608.PDF](https://www.icc-cpi.int/CourtRecords/CR2016_00608.PDF)

<sup>129</sup> See information at <http://humanrights.ge/index.php?a=main&pid=18780&lang=eng>

<sup>130</sup> See information at <http://www.humanrights.ge/index.php?a=main&pid=19013&lang=eng>

According to the evaluation of Human Rights Center and the Norwegian Helsinki Committee, with the recent action, Russian side demonstrated its reluctance to cooperate with the Court for any matter, including the investigation of 2008 August War. The November 16, 2016 decision leaves little possibility that the Russian Federation will cooperate with the Court, which would entail a serious obstacle for the investigation into the alleged war crimes committed during 2008 August War. However, notwithstanding the obstacles presented by Russia, Human Rights Center and Norwegian Helsinki Committee consider that the Court should anyway pursue the investigation and look for the ways for accessing relevant sites, evidence and witnesses.<sup>131</sup>

In 2016, Human Rights Center commenced the project - Monitoring of 2016 Parliamentary Elections and the International Criminal Court's Investigation in Georgia. Within framework of the project, Human Rights Center meets victims of the 2008 August War. Also, the Center communicates with Chief Prosecutor's Office of Georgia and ICC about the persons, who still do not have victim status.

## 22. HIGH-PROFILE CASES

- Case of Magda Papidze

On July 6, 2016, the Criminal Law Collegium at the Tbilisi City Court sentenced Magda Papidze, accused of the premeditated murder of her husband and son, to life-term imprisonment. The jury court considered the case of the young woman, whose 12 members unanimously passed guilty verdict on her for the premeditated murder of the husband and son.<sup>132</sup> Magda Papidze's case was discussed through substantial violation of her right to privacy.

As Georgian nongovernmental organizations evaluated, the media coverage of the case often breached the standards of ethical journalism, satisfying the public curiosity rather than legitimate public interest. The Papidze hearings were partially closed twice to interrogate witnesses who were to discuss the defendant's private and sexual details. Despite the closure of the hearings, both the prosecution and defense sides, and in one instance a witness, publicly disclosed details to the media that were discussed at a closed hearing. Additionally, at one hearing Papidze requested the Court to partially close the hearing because the Prosecution asked several questions of a private nature when interrogating a witness. In that instance the Judge did not correctly assess the legitimate grounds for closing the hearing and did not satisfy the defendant's request.<sup>133</sup>

Magda Papidze claimed that several police officers initially verbally and then physically abused her when brought to the police unit. Monitors of the Public Defender's Office visited her in the penitentiary establishment, who confirmed that the woman had injuries on the body.<sup>134</sup> Prosecutor's office opened investigation based on Papidze's statement.

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<sup>131</sup> See information (available in Georgian) <http://www.interpressnews.ge/ge/politika/408518-adamianis-uflebatha-centri-da-norvegiis-helsinkis-komiteti-rusethis-mier-romis-statutze-khelfmotseris-gamothkhovaze-ganckhadebas-avrceleben.html?ar=A>

<sup>132</sup> See information at (available in Georgian) <http://www.imedi.ge/index.php?pg=nws&id=72279&ct=17&tp=2&l=1>

<sup>133</sup> See the evaluation of NGOs at <http://www.humanrights.ge/index.php?a=main&pid=18795&lang=eng>

<sup>134</sup> See information (available in Georgian) <http://rustavi2.com/ka/news/35127>

- Demur Sturua's Case

On August 8, 2016, in Dapnari village, Samtredia municipality, 22-years-old Demur Sturua committed suicide allegedly because of the oppression from police officers. Before the suicide, he left a letter, where he wrote that the police officer G.T was demanding him to report about the people who had planted marihuana in the three villages of Samtredia municipality: Dapnari, Kulashi and Sajavakho. According to Demur Sturua's letter, on August 7, 2016 the police officer had beaten and intimidated him.<sup>135</sup>

Prosecutor's Office of Georgia charged the inspector-investigator G.T for bringing the person to the point of suicide and abuse of professional power under the Article 115 and Article 333 Part 3 "b" (respectively) of the Criminal Code of Georgia.<sup>136</sup> The accused police officer absconded.

On August 29, 2016, the Public Defender of Georgia called on the Chief Prosecutor's Office of Georgia to use all available legal means to establish the truth in the case and to provide convincing answers to all questions regarding the case, including how it happened that the police officer, who was accused by the person who committed suicide of pushing him to the suicide, has absconded; or what did the Prosecutor's Office do to prevent the escape of the person. It is important to find out who helped the defendant to abscond.<sup>137</sup> Also, the Public Defender of Georgia called on the responsible bodies to deny the current repressive drug-policy and replace it by more humane policy."<sup>138</sup>

On August 30, 2016, the Kutaisi City Court sentenced the police officer G.T to pre-trial arrest for bringing D.S to the point of suicide in absentia.

On August 31, 2015, the nongovernmental organizations criticized the prosecutor's office for the late response that enabled G.T. to hide from prosecution. After the suicide of D.S the issue of adequate response to the crimes from the side of law enforcement bodies again became main topic of consideration that was several times raised by civil society actors.<sup>139</sup>

On September 13, 2016, the police officer G.T, accused of bringing D.S to the point of suicide, surrendered to the police.<sup>140</sup>

- Case of "Cables"

In 2016, Criminal Law collegium of the Tbilisi City Court continued hearing into the so-called "case of cables". On May 16, 2016, the Tbilisi City Court found the former senior officials of the Ministry of Defense guilty in the waste of state funds in the amount of 4 102 000 GEL and imposed 7 years imprisonment on each of them. The convicted persons were also deprived of the right to work in public agency for 2 years.<sup>141</sup> A leader of the Free Democrats Irakli Alasania said the judge found innocent people guilty and blamed the government in the oppression on the court.<sup>142</sup>

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<sup>135</sup> See information (available in Georgian) <http://netgazeti.ge/news/133967/>

<sup>136</sup> See information at [http://pog.gov.ge/eng/news?info\\_id=995](http://pog.gov.ge/eng/news?info_id=995)

<sup>137</sup> See the statement at <http://www.ombudsman.ge/en/news/public-defender-appeals-to-chief-prosecutors-office-and-ministry-of-internal-affairs-regarding-pushing-ds-to-committing-suicide.page>

<sup>138</sup> See the statement at <http://www.ombudsman.ge/en/news/public-defenders-statement-on-georgias-drug-policy.page>

<sup>139</sup> See information at (available in Georgian) <http://www.radiotavisupleba.ge/a/demur-sturuas-tvitmkvlelobis-saqme/27957796.html>

<sup>140</sup> See information at (available in Georgian) <http://www.interpressnews.ge/ge/samartali/396755-demur-sturuas-thvithmkvlelobamde-miyvanashi-braldebuli-goderdzi-thevzadze-policias-chabarda.html?ar=A>

<sup>141</sup> See statement of the court at (available in Georgian) <http://www.tcc.gov.ge/index.php?m=443&newsid=841&lng=geo>

<sup>142</sup> See information at (available in Georgian) <http://www.radiotavisupleba.ge/a/kabelebis-saqme/27738524.html>

According to the evaluation of NGOs, that both the indictment and the events that developed during the trials raised questions among the public regarding the substantiation of the charges, the legal grounds for the preventative measure, the existence of reliable evidence in the case, and fair consideration of the case. Ultimately, these circumstances created a feeling that the administration of justice was deficient and the process was politicized.<sup>143</sup> Georgian Young Lawyers' Association stated that the verdict of the Tbilisi City Court was unfair, unlawful, and unsubstantiated.<sup>144</sup>

On September 21, 2016, the Tbilisi Appeal Court started hearings in the so-called cable case.<sup>145</sup> The hearings are still ongoing.

On August 31, 2016, the Public Defender of Georgia filed amicus curiae brief with the Constitutional Court with regard to the so-called cable case. The Public Defender considers that embezzlement – a crime envisaged by the Criminal Code of Georgia – can be widely interpreted. The norm does not clearly establish whether or not the motive of covetousness is necessary to commit embezzlement.<sup>146</sup>

- Case of Photo-Reporters

On December 6, 2016, the Chief Prosecutor's Office of Georgia arrested former Deputy Head of Tbilisi Territorial Division of the Department of Counter-intelligence of MIA of Georgia, in the so-called photo reporters' case into exceeding official power under violence and by insulting personal dignity of victim. As for Alexander Mukhadze, former director of N8 Penitentiary Establishment, an indictment has been issued against him. As it was stated at the special briefing of the prosecutor's office, the photo-reporters Giorgi Abdaladze, Zurab Kurtsikidze, Irakli Gedenidze and Natela Gedenidze, who were convicted for espionage, were innocent and the government of the United National Movement had punished them for the dissemination of the photo-materials of the dispersal of May 26, 2011 protest demonstration.<sup>147</sup> The breached rights of the photo-reporters were restored only 5 years later.

More than 5 years was needed to remove the top-secret status from the case of the photo-reporters that was very late decision according to the evaluation of Human Rights Center. It was possible to resume the restoration of the breached rights and legal rehabilitation of the photo-reporters long ago.<sup>148</sup> Human Rights Center was unsuccessfully requesting to remove top-secret status from the case of photo-reporters as well as their legal rehabilitation for years.<sup>149</sup>

On December 8, 2016, the former Deputy Head of Tbilisi Territorial Division of the Department of Counter-intelligence of MIA of Georgia Davit Devnozashvili was sentenced to preliminary imprisonment into the case of photo-reporters.<sup>150</sup>

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<sup>143</sup> See the statement at <http://www.transparency.ge/en/post/general-announcement/joint-statement-ngos-regarding-%E2%80%9Ccable-case%E2%80%9D>

<sup>144</sup> See the evaluation at <https://gvla.ge/en/post/saia-ets-kabelebis-saqmeze-sasamartlom-ukanono-usamartlo-dausabutebeli-ganachen-gamoitana>

<sup>145</sup> See information at (available in Georgian) <https://www.youtube.com/watch?v=rroUCwOjTVM>

<sup>146</sup> See information at <http://ombudsman.ge/en/recommendations-Proposal/amicus-curiae2/public-defenders-amicus-curiae-brief-in-the-cables-case.page>

<sup>147</sup> See information at [http://pog.gov.ge/eng/news?info\\_id=1070](http://pog.gov.ge/eng/news?info_id=1070)

<sup>148</sup> See the evaluation at (available in Georgian) <http://www.radiotavisupleba.ge/a/interview-with-tamar-avaliani/28161031.html>

<sup>149</sup> See the statements at <http://www.humanrights.ge/index.php?a=main&pid=18625&lang=eng>  
<http://www.humanrights.ge/index.php?a=main&pid=17876&lang=eng>

<sup>150</sup> See information at (available in Georgian) <http://tcc.gov.ge/index.php?m=443&newsid=909>

## 23. SUCCESSFUL LITIGATION CASES OF HUMAN RIGHTS CENTER

- Case of T.R

On May 5, 2016, the Criminal Law Collegium of the Tbilisi City Court satisfied the appeal of Human Rights Center to postpone imprisonment term of T. R. based on the article 283 of the Criminal Code of Georgia, which implies postpone of the prison term due to grave health condition of the convicted. T. R. was released from the courtroom.

Human Rights Center appealed the Court and requested financial compensation for the former convict T. R, who was granted status of torture victim by prison personnel.

On October 7, the Ministry of Corrections took obligation to pay 20 000 GEL as compensation for moral and material damage to T. R no later than 15 working days after the enforced court judgment is accepted for moral and material damage in the penitentiary establishment.<sup>151</sup>

- Case of L.Tch

In November, 2016, the Tbilisi City Court satisfied the lawsuit of Human Rights Center and ordered the Ministry of Corrections of Georgia to pay 60 000 GEL as a compensation for moral damage only to L.Tch, who became victim of torture in prison in 2008.<sup>152</sup>

- Refugee Status Was Granted to the Citizen of Azerbaijan

In June, 2016, with the legal aid of Human Rights Center, the Administrative Law Collegium at the Tbilisi City Court granted refugee status to the citizens of Azerbaijan Dashgin and Orkhan Agalarlis. The Tbilisi City Court fully shared the position of the applicants, which claimed that the Agalaralis faced real threat of being killed, tortured and politically persecuted in Azerbaijan.<sup>153</sup>

- Case of Ioseb Abuladze

On June 27, the Tbilisi Appeal Court did not satisfy the lawsuit of the Ministry of Internal Affairs and Patrol Police Department of the MIA, where they requested to annul the January 28, 2016 judgment of the Tbilisi City Court.

With its January 28, 2016 decision, the Tbilisi City Court satisfied the lawsuit of the illegally sacked patrol inspector Ioseb Abuladze. Ministry of Internal Affairs is ordered to restore him to the previous working place and to reimburse salaries of the missed months. The hearing of the case at the Tbilisi City Court lasted almost one and half year.

In April 2016, the MIA and Patrol Police Department appealed the decision of the Tbilisi City Court at the Appeal Court. Having discussed the lawsuit, the Tbilisi Appeal Court upheld the decision of the first instance court. Head of the Legal Aid Service at Human Rights Center Tamar Avaliani and Lawyer Mikheil Jakhua of the Georgian Young Lawyers' Association (GYLA) represented Ioseb Abuladze's interests at the Tbilisi City and Appeal Courts<sup>154</sup>.

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<sup>151</sup> See information at <http://www.humanrights.ge/index.php?a=main&pid=18962&lang=eng>  
<http://www.hridc.tv/index.php?a=view&id=1182&lang=eng>

<sup>152</sup> See information at <http://www.humanrights.ge/index.php?a=main&pid=19003&lang=eng>

<sup>153</sup> See information at <http://www.humanrights.ge/index.php?a=main&pid=18791&lang=eng>

<sup>154</sup> See information at <http://www.humanrights.ge/index.php?a=main&pid=18792&lang=eng>



- Discrimination in the JSC TELASI

With legal assistance of Human Rights Center the Tbilisi Appeal Court ruled labor discrimination against the former employees of TELASI (Tbilisi Electricity Distribution Company).

On July 22, 2016, the Tbilisi Appeal Court upheld the July 22, 2015 decision of the Tbilisi City Court based on which the claim of Davit Nadirashvili and Kakha Simonidze was satisfied.

A year ago, on July 22, 2015 the court deemed that dismissal of Davit Nadirashvili and Kakha Simonidze from work was unlawful and annulled the orders of their dismissal. Kakha Simonidze and Davit Nadirashvili were restored to their positions and JSC “Telasi” was imposed to pay a compensatory award in amount of 100 000 lari. At the same time, the Court estimated the labor discrimination and ruled that the applicants were subjects of purposeful persecution and intimidation from the TELASI administration.<sup>155</sup>

- Convicted vs MIA

On July 29, 2016, the Administrative Collegium of the Tbilisi City Court ordered the Georgian Ministry of Internal Affairs to convey to the convicted Sh. P. the documents, in particular, the registration card of the commencement of the investigation into the criminal case (the exact time, year, month and date when the investigation started) and the exact time of when the report on the crime was registered (year, month and date) from the online data base of criminal cases.

With the documents, Sh. P. will be able to appeal the court and request revision of the guilty judgment. The MIA’s refusal on issuing the documents substantially harassed Sh.P’s right to have access to justice. Sh.P. could not address the court without the documents.<sup>156</sup>

## 24. LEGISLATIVE PROPOSALS OF HUMAN RIGHTS CENTER

In 2016, Human Rights Center submitted three legislative proposals to the Parliament of Georgia.

On July 15, 2016, Human Rights Center submitted legislative proposal to the Parliament of Georgia on suspending allocation of fines for unpaid taxes on prisoners. The Parliamentary fraction “National Forum” supported the initiative and registered it as a legislative proposal in the Parliament.

The authors of the initiative believe that during imprisonment terms prisoners shall not be fined for unpaid income taxes.

The proposed legislative amendments aim to promote rehabilitation and re-socialization of the prisoners and defense their rights. With those changes in the Tax Code, the state will not encourage prisoners to commit a new crime and will give him/her opportunity of rehabilitation<sup>157</sup>.

On March 4, 2016, Human Rights Center submitted the legislative proposal to the Parliament of Georgia and requested to make relevant amendments to the criminal law of Georgia, based on which the status of a political prisoner will be considered as a newly revealed circumstance in the criminal law. Thus, the former political prisoners will have opportunity to appeal the court with the request to review past judgments on

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<sup>155</sup> See information at <http://www.humanrights.ge/index.php?a=main&pid=18829&lang=eng>

<sup>156</sup> See information at <http://www.humanrights.ge/index.php?a=main&pid=18865&lang=eng>

<sup>157</sup> See information at <http://humanrights.ge/index.php?a=main&pid=18837&lang=eng>

their cases<sup>158</sup>. The Parliament of Georgia partly took the proposal of the Center into consideration and the status of a political prisoner became additional basis for the revision of the court judgment.<sup>159</sup>

On July 9, 2016, Human Rights Center submitted legislative proposal to the Parliament of Georgia and requested to amnesty the women convicted to inadequately high imprisonment terms under the Article 262 of the Criminal Code of Georgia before 2012.<sup>160</sup>

## 25. PEOPLE WITH DISABILITIES

On June 13, 2016, the Public Defender of Georgia presented a chapter on the rights situation of persons with disabilities of the parliamentary report 2015 to the state agencies, international and non-governmental organizations.<sup>161</sup>

According to the report of the Public Defender, significant challenges in the realization of the rights and freedoms of persons with disabilities were related to the limited opportunities of education and employment, availability, independent living, health and social care.<sup>162</sup> Nongovernmental organizations also speak about the breached right of the persons with disabilities to freedom of self-development and about unadapt environment for the wheelchair users.<sup>163</sup>

On April 22, 2016, the Public Defender of Georgia made a statement about the realization of the right to employment of the persons with disabilities. Despite the declared will of the state - to ensure employment of persons with disabilities, the labor rights cannot be properly implemented due to lack of appropriate legal safeguards, practical promotion and effective enforcement mechanisms.<sup>164</sup>

In 2016, Human Rights Center processed the cases of about 20 persons with disabilities; they mostly referred to the breached social rights, unadapt environment and facts of violence against the persons with disabilities.

Human Rights Center defended rights of underage R.I with disabilities. He has problems to get education and is victim of bullying from his class-mates, that is encouraged by the inactivity of the class-mentor, school director and other responsible persons.<sup>165</sup> Based on the application of Human Rights Center, the Ministry of education and Science has started survey into the case of the underage disabled person.

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<sup>158</sup> See information at <http://humanrights.ge/index.php?a=main&pid=18656&lang=eng>

<sup>159</sup> See Article 332<sup>1</sup> of the Criminal Procedural Code of Georgia

<sup>160</sup> See information at <http://humanrights.ge/index.php?a=main&pid=18364&lang=eng>

<sup>161</sup> See information at <http://ombudsman.ge/en/news/rights-situation-of-persons-with-disabilities.page>

<sup>162</sup> See report of the Public Defender at <http://ombudsman.ge/uploads/other/3/3728.pdf>

<sup>163</sup> See information at <http://humanrights.ge/index.php?a=main&pid=18826&lang=eng>

<sup>164</sup> See the evaluation at <http://ombudsman.ge/en/news/public-defender-describes-situation-of-employment-of-persons-with-disabilities-as-alarming.page>

<sup>165</sup> Watch reportage here (available in Georgian) <http://rustavi2.com/ka/news/61703>

## 26. FREEDOM OF MEDIA

- Case of Rustavi 2

In 2016, the Tbilisi Appeal Court continued discussion of the Rustavi 2's case with three judges. The trials were mostly live-broadcasted by the Rustavi 2. During the hearings, the judges and the representatives of the TV-Company had verbal controversies, the attorneys of the company were fined and expelled from the courtroom.<sup>166</sup>

At the Tbilisi Appeal Court, the attorneys of the Rustavi 2 requested dismissal of the judges claiming that they were under control and influence of the government.<sup>167</sup>

On May 31, 2016, the judges expelled the Director General of the Rustavi 2 from the courtroom because of disrespect to the court and banned him to attend future trials too.<sup>168</sup>

On June 1, 2016, the director of the Rustavi 2 blamed Natia Gujabidze, one of the three judges of the Tbilisi Appeal Court, in the swindle and requested her dismissal. The court did not satisfy the solicitation of the Rustavi 2's attorneys.<sup>169</sup>

On June 3, 2016, Judge Natia Gujabidze clarified at the court hearing that the false accusations against her could not influence her decision.<sup>170</sup>

According to the evaluation of the nongovernmental organizations, the trials into Rustavi 2's cases were politicized. The government wished to change the editorial policy of the Rustavi 2 before the parliamentary election.<sup>171</sup>

On June 10, 2016, the Tbilisi Appeal Court passed verdict and did not satisfy the appeal of the Rustavi 2.<sup>172</sup> On June 22, 2016, 12 days later, the Tbilisi Appeal Court sent the judgment about the Rustavi 2's case to the parties.<sup>173</sup>

As the director of Rustavi 2 clarified, the early-notice about the delivery of the Tbilisi Appeal Court's judgment violates their interests, which is related with the decision of the Constitutional Court of Georgia about their constitutional lawsuit before their civil dispute is settled.<sup>174</sup>

The Public Defender of Georgia negatively evaluated the fact of sending the decision by the Appeal Court in the shortest term on June 22, 2016 and expressed hope that the Supreme Court will be guided by law during review of the cassation suit and will duly assess the abovementioned action of the Court of Appeal of Tbilisi.<sup>175</sup>

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<sup>166</sup> See information at (available in Georgian) <https://www.youtube.com/watch?v=fTWIyruvyew>; <https://www.youtube.com/watch?v=I20BbAvunYs>

<sup>167</sup> See information at (available in Georgian) <https://www.youtube.com/watch?v=TK8OqLnuiZo>

<sup>168</sup> See information at (available in Georgian) <https://www.youtube.com/watch?v=HAd18FPUGN0>

<sup>169</sup> See information at (available in Georgian) <https://www.youtube.com/watch?v=GpLMm3tsX7E>; <https://www.youtube.com/watch?v=Qj1B3g55qUY>; <https://www.youtube.com/watch?v=I20BbAvunYs>

<sup>170</sup> See information at (available in Georgian) <https://www.youtube.com/watch?v=I20BbAvunYs>

<sup>171</sup> See information at (available in Georgian) <http://rustavi2.com/ka/news/48181>

<sup>172</sup> See information at (available in Georgian) <http://netgazeti.ge/news/122398/>

<sup>173</sup> See information at (available in Georgian) <http://www.tbappeal.court.ge/?news=517&mc>

<sup>174</sup> See information at (available in Georgian) <http://2030.news/?newsid=8919>

<sup>175</sup> See information at <http://ombudsman.ge/en/news/public-defenders-statement-on-rustavi-2-case.page>

On September 9, 2016, the Supreme Court of Georgia admitted the cassation lawsuit of the Rustavi 2 for further consideration.<sup>176</sup>

On November 22, 2016, the Panel of the Supreme Court of Georgia made decision to hand the case for further consideration to the Grand Chamber of the Supreme Court.<sup>177</sup>

- Case of Maestro

Throughout 2016, the controversy between the shareholders in the TV-Company Maestro developed and finally it ended up in the Tbilisi City Court.

As the nongovernmental organizations evaluated, though this is a private dispute, these unexpected developments in the third most watched channel in Georgia only a few months before the Parliamentary elections in Georgia are alarming. The case of Maestro intensifies doubts of civil society that the government wants to establish control over media prior to elections. They called on parties in the dispute to negotiate while ensuring transparency.<sup>178</sup>

- Physical Assault of the Journalist Giorgi Gasviani

On December 19, 2016, journalist of the TV-Company Iberia Giorgi Gasviani stated that at night of December 18, a police officer and his two friends ruthlessly beat him in Borjomi. As the journalist stated, the conflict started after his car slipped on the icy road in the town of Borjomi. According to Gasviani, the police officer and his friends yelled that he wanted to kill them in the car crash and did not allow him to clarify the situation. The police officer and his friends took the journalist out of the car and beat in the head, face and shoulder.<sup>179</sup>

On December 19, 2016, the Samtskhe-Javakheti regional prosecutor's office started investigation into the violence and abuse of power by police officer against the journalist Giorgi Gasviani.<sup>180</sup>

On December 21, the Public Defender of Georgia called on the Chief Prosecutor's Office to conduct a comprehensive, thorough and objective investigation and to strictly punish the offenders that are hiding behind the uniform of law enforcement officers and thus commit violence, violate human dignity and verbally and physically abuse individuals.<sup>181</sup> The investigation is still ongoing into the case.

- Elections of the Director General of the Georgian Public Broadcaster

On November 21, 2016, the director general of the GPB Giorgi Baratashvili resigned.<sup>182</sup>

On November 28, 2016, the Board of Trustees at the GPB announced competition for the vacant position of the director general.<sup>183</sup> Deadline for the submission of applications was December 28, 2016. 14 candidates participated in the competition.<sup>184</sup> Finally, the Board of Trustees elected Vasil Maglaperidze to the position of the director general at the GPB.

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<sup>176</sup> See information at <http://rustavi2.com/ka/news/56212>

<sup>177</sup> See information at <http://rustavi2.com/en/news/61861>

<sup>178</sup> See the evaluation at <http://www.transparency.ge/en/post/general-announcement/statement-ngos-tv-company-maestro>

<sup>179</sup> See information at <http://netgazeti.ge/news/162787/> (available in Georgian)

<sup>180</sup> See information at [http://pog.gov.ge/eng/news?info\\_id=1083](http://pog.gov.ge/eng/news?info_id=1083)

<sup>181</sup> See the statement at <http://www.ombudsman.ge/en/news/statement-on-alleged-abuse-of-journalist-giorgi-gasviani.page>

<sup>182</sup> See information at <http://ltv.ge/ge/news/view/141989.html> (available in Georgian)

<sup>183</sup> See information at <http://www.media.ge/en/portal/events/151827/>

<sup>184</sup> See information at <http://gpb.ge/ge/news/view/146225> (available in Georgian)

- Unification of the Imedi, Maestro and GDS

On December 27, 2016, the media reported that TV-Company Imedi planned to purchase TV-Companies Maestro and GDS. Supposedly, a joint media holding is about to establish, which will case further reorganization in each of the TV-channels.<sup>185</sup> It Imedi, Maestro and GDS are unified in one media holding, two out of three media-companies will have to close news programs.<sup>186</sup> On December 27, 2016, the owner of the control packet in the TV-Company Maestro Gia Gachechiladze said, in fact they have reached agreement to establish a media holding, which will unify the TV-companies: Imedi, Maestro and GDS.<sup>187</sup>

## 27. PUBLIC DEFENDER OF GEORGIA ABOUT THE STATE OF HUMAN RIGHTS IN GEORGIA

Throughout 2016, the Public Defender of Georgia actively responded to the facts of human rights violations in different fields and called on the investigative bodies to timely and impartially investigate them. The Public Defender published several special reports and responded various urgent issues.<sup>188</sup> The Public Defender made statements about the judiciary reform, institutional reforms, about the penitentiary system, the policy of granting refugee and humanitarian status to aliens, children's and women's rights, accessibility of the persons with disabilities, labor rights, facts of ill-treatment by law enforcement officers, ineffective investigation, facts of religious intolerance, violence against women, media freedom, and other.<sup>189</sup>

## 28. INTERNATIONAL ORGANIZATIONS ABOUT THE STATE OF HUMAN RIGHTS IN GEORGIA

International organizations still focus on the abuse of power by law enforcement bodies in their reports on Georgia; they also reported about the elections, miscarriages in the judiciary system, violence against women and other human rights issues.

**OSCE/ODHIR observers** evaluated the October 8, 2016 Parliamentary Election as competitive and well-administered though reported about miscarriages too which were mostly related with procedural issues and increased tension in some polling stations.<sup>190</sup>

**UN Committee on the Elimination of Racial Discrimination** concluded in its report that proper implementation of the anti-discrimination law is still a challenge in Georgia. According to the recommendation of the Committee, like public agencies, private entities and individuals shall also be obliged to provide relevant information to the Public Defender to identify the facts of discrimination. At the same time, the Committee is concerned about the crimes committed based on ethnic and religious hate and about the use of hate speech by public servants in general.<sup>191</sup>

**UN Special Rapporteur on Violence against Women** noted in her report that Georgia shall accelerate ratification of the Istanbul Convention on preventing and combating violence against women and domestic violence. Also, the investigative bodies shall effectively investigate the cases of violence against woman and domestic violence facts.<sup>192</sup>

<sup>185</sup> See information at <http://civil.ge/eng/article.php?id=29726>

<sup>186</sup> See information at <http://rustavi2.com/ka/news/64355> (available in Georgian)

<sup>187</sup> See information at <http://rustavi2.com/en/news/64351>

<sup>188</sup> See the special reports of the Public Defender of Georgia at <http://www.ombudsman.ge/en/reports/specialuri-angarishebi>

<sup>189</sup> See the reports at <http://www.ombudsman.ge/en/reports/specialuri-angarishebi>

<sup>190</sup> See the preliminary report at <http://www.osce.org/odihr/elections/georgia/273221?download=true>

<sup>191</sup> See the report at [http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GEO/CERD\\_C\\_GEO\\_CO\\_6-8\\_23906\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/GEO/CERD_C_GEO_CO_6-8_23906_E.pdf)

<sup>192</sup> See the report at <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/GIndex.aspx>

*Council of Europe Commissioner for Human Rights* called on the Government of Georgia to implement the reforms to ensure transparency and accessibility of the judiciary system and to take respective measures against discrimination.<sup>193</sup>

*According to the evaluation of the Freedom House*, oppression on the opposition media outlet is of particular concern. The organization expressed concern about the prosecution and breached freedom of expression of the Rustavi 2 by the ruling power.<sup>194</sup>

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<sup>193</sup> See the report at

<https://wcd.coe.int/com.intranet.InstraServlet?command=com.intranet.CmdBlobGet&IntranetImage=2903587&SecMode=1&DocId=2367686&Usage=2>

<sup>194</sup> See the report at <https://freedomhouse.org/report/nations-transit/2016/georgia>