

## USDOS – US Department of State

### 2021 Country Report on Human Rights Practices: Georgia

#### EXECUTIVE SUMMARY

Georgia's constitution provides for an executive branch that reports to the prime minister, a unicameral parliament, and a separate judiciary. The government is accountable to parliament. The president is the head of state and commander in chief. The president is elected by members of the electoral college, comprised of all members of parliament, members of the high councils of the autonomous republics, and city council representatives. The country held two rounds of parliamentary elections in October and November 2020. In its final report, the Organization for Security and Cooperation in Europe stated the first round of parliamentary elections was competitive and, overall, fundamental freedoms were respected, but "pervasive allegations of pressure on voters and blurring of the line between the ruling party and the state reduced public confidence in some aspects of the process." The Organization for Security and Cooperation in Europe deployed observers for local elections held in two rounds in October. In a preliminary assessment of the first round, the observers stated, "Contestants were able to campaign freely in a competitive environment that was, however, marred by widespread and consistent allegations of intimidation, vote-buying, pressure on candidates and voters, and an unlevel playing field." In a preliminary assessment of the second round, the observers stated, "Candidates were generally able to campaign freely, but allegations of intimidation and pressure on voters persisted. Sharp imbalances in resources and an undue advantage of incumbency further benefited the ruling party and tilted the playing field."

The Ministry of Internal Affairs and the State Security Service of Georgia have primary responsibility for law enforcement and the maintenance of public order. The ministry is the primary law enforcement organization and includes the national police force, the border security force, and the Georgian Coast Guard. The State Security Service is the internal intelligence service responsible for counterintelligence, counterterrorism, and anticorruption efforts. There were indications that at times civilian authorities did not maintain effective control of domestic security forces. There were credible reports that members of the security forces allegedly committed some abuses.

Significant human rights issues included credible reports of: serious problems with the independence of the judiciary along with arbitrary or selective detentions, investigations, and prosecutions widely considered to be politically motivated; unlawful interference with privacy; violence and threats of violence against journalists; limited respect for freedom of peaceful assembly and association; and crimes involving violence or threats targeting lesbian, gay, bisexual, transgender, queer, and intersex persons and activists.

The government took steps to investigate some officials for human rights abuses, but impunity remained a problem. The government's failure to credibly investigate and prosecute the organizers of violence on July 5-6 resulted in impunity for those abuses. Lack of accountability also continued for the inappropriate police use of force against journalists and protesters during June 2019 demonstrations and the 2017 abduction and rendition from Georgia of Azerbaijani journalist and activist Afgan Mukhtarli.

Russian-occupied regions of Abkhazia and South Ossetia remained outside central government control, and de facto authorities were supported by Russian forces. The cessation of hostilities from 2008 remained in effect, but Russian guards restricted the movement of local populations. Significant human rights issues in the regions included credible reports of unlawful detentions; restrictions on movement, especially of ethnic Georgians; restrictions on voting or otherwise participating in the political process; and restrictions on the ability of ethnic Georgians to own property or register businesses. While there was little official information on the human rights and humanitarian situation in South Ossetia, de facto authorities refused to permit most ethnic Georgians driven out by the 2008 conflict to return to their homes in South Ossetia. De facto authorities did not allow most international organizations regular access to South Ossetia to provide

humanitarian assistance. Russian “borderization” of the administrative boundary lines increased, further restricting movement and separating residents from their communities and livelihoods. Russian and de facto authorities in both regions committed abuses with impunity.

## Section 1. Respect for the Integrity of the Person

### a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports that the government or its agents committed arbitrary or unlawful killings. The State Inspector’s Service investigates whether security force killings were justifiable, and the Prosecutor General’s Office pursues prosecutions of these cases.

In 2019 the European Court of Human Rights (ECHR) began substantive consideration of the case involving the 2018 death of 18-year-old Temirlan Machalikashvili from gunshot wounds inflicted by security forces during a 2017 counterterrorism raid in the Pankisi Gorge. The Prosecutor General’s Office stated that it terminated its investigation in January 2020 due to the absence of a crime. The Public Defender’s Office responded by urging the Prosecutor General’s Office to reopen the investigation as “several important investigative actions” had not been conducted. Machalikashvili’s father, Malkhaz, alleged the killing was unjustified. Nongovernmental organizations (NGOs) criticized the investigation as lacking integrity.

The trial for the 2008 death of Badri Patarkatsishvili was pending assignment to a third judge as of August. After prosecutors presented their closing argument in 2019, the case was reassigned to a new judge. The new judge subsequently was moved to a different position. The trial followed an investigation begun in 2018 by the Prosecutor General’s Office (then known as the Chief Prosecutor’s Office) after the release of audio tapes dating back to 2007 in which former government officials were allegedly heard discussing methods of killing Patarkatsishvili that would make death appear natural. A former official of the Internal Affairs Ministry’s Constitutional Security Department, Giorgi Merebashvili, was charged with participating in planning the killing.

In 2019 the Prosecutor General’s Office charged former justice minister Zurab Adeishvili and the leader of opposition party Victorious Georgia, Irakli Okruashvili, with abuse of power in connection with the 2004 killing of Amiran (Buta) Robakidze. At year’s end the trial was in process at Tbilisi City Court.

During the year there was one report of a possible unlawful killing in occupied Abkhazia. On August 12, Anri Ateiba was found unconscious while in the custody of the de facto Abkhaz ministry of interior department of Gagra District and died a month later. On September 14, claims appeared in social media that Ateiba died as a result of a police beating, while Ateiba’s relatives reportedly claimed that police abuse drove him to suicide. On September 14, the de facto ombudsman of Abkhazia, Asida Shakir, called on the de facto prosecutor general’s office of Abkhazia to investigate Ateiba’s death. Media reported the de facto prosecutor general’s office opened a criminal case on October 13 against two district police leaders for “carelessness leading to severe injury or death.”

In early June South Ossetian de facto authorities released from pretrial detention four police officers suspected of involvement in the August 2020 death of Inal Jabiev. Two other officers remained in custody. Jabiev, who reportedly died in the custody of South Ossetian de facto police, was allegedly tortured to death. The release of the four officers followed the reported June 5 opening of a criminal case by local de facto authorities against the forensic medical expert whose preliminary examination attributed Jabiev’s death to acute heart failure that developed as a result of injury. According to a May report from the Democracy Research Institute, the South Ossetian de facto prosecutor’s office issued an arrest warrant for Inal Jabiev’s brother, Atsamaz Jabiev, in connection with obscene “antistate” remarks made at a rally and in front of the office. Jabiev’s reported death sparked widespread protests in occupied South Ossetia leading to the removal of the de facto minister of internal affairs, Igor Naniev, the resignation of the de facto prime minister, and the dissolution of the de facto government by the de facto president.

### b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

On April 7, Azerbaijani freelance journalist and activist Afghan Mukhtarli returned to the country to provide testimony to the Prosecutor General’s Office in connection with his reported 2017 abduction and forced rendition to Azerbaijan. The Prosecutor General’s Office acknowledged a crime had been committed against him and conferred “victim status” on him. In an April 22 interview with Meydan TV, Mukhtarli asserted that government bodies, including the Ministry of Internal Affairs and the State Security Service, had cooperated with Azerbaijan’s State Border Service and State Security Service in his abduction. Following Mukhtarli’s March 2020 release from Azerbaijani prison, he moved to Germany where he resided with his family. In the absence of accountability, concerns continued regarding impunity for government officials in connection with the Mukhtarli case.

More than 2,300 individuals remained missing following the 1992-93 war in Abkhazia and the 2008 Russian invasion, according to the International Committee of the Red Cross (ICRC). Despite some signs of progress on the investigation into the disappearances of ethnic Ossetians Alan Khachirov, Alan Khugaev, and Soltan Pliev, who disappeared in 2008, the cases remained unresolved.

After suspending sessions in 2020 due to COVID-19, the government resumed meetings of the Interagency Commission on Missing Persons in July.

### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

While the constitution and law prohibit such practices, there were reports government officials employed them. The public defender's report for 2020, published in April, noted that ineffective investigations continued to be a significant obstacle to fighting mistreatment by government officials. The report also noted isolated incidents of alleged physical violence against prisoners by the staff of closed prison facilities and some incidents of what the report termed "psychological violence," including verbal abuse of prisoners by prison staff in such facilities for going on a hunger strike, lodging complaints against the staff, or telephoning the Public Defender's Office. The report termed the incidents of physical and psychological violence by police against persons in custody to be mistreatment. According to the report, the total number of mistreatment allegations was 463. Bodily injuries inflicted either during or after arrest featured in 34.3 percent of the 463 allegations, up from 12.8 percent in 2016.

As of September the Public Defender's Office had sent letters, but not official referrals, for 194 cases of alleged human rights violations in government institutions to the State Inspector's Service (SIS) for investigation. Of the cases, 99 concerned alleged violations by Internal Affairs Ministry personnel and prosecutors, 93 involved alleged crimes by penitentiary department staff, one concerned an alleged crime by a Finance Ministry employee, and one involved a death in a state clinic. There were six cases of protracted investigation relating to mistreatment and 12 cases that involved general inhuman conditions in prison.

As of year's end, the SIS Investigative Department received 3,115 crime reports of alleged mistreatment committed by civil servants. According to the SIS, 55 of the reports were sent by the Public Defender's Office, compared with 44 in 2020; of those, 30 concerned alleged violations committed by Ministry of Internal Affairs personnel, and 25 involved crimes allegedly committed by Special Penitentiary Service staff. Of the 55 reports, the SIS opened investigations into 17. The SIS transferred 243 reports to the Prosecutor General's Office and 385 reports to other agencies, as they did not fall within the SIS' investigative scope. The service determined that 2,125 reports had no signs of a crime. In 365 cases, the SIS Investigative Department opened criminal investigations. Of these 365 criminal investigations, 49 concerned crimes allegedly committed by the staff of the Special Penitentiary Service. Of the above-mentioned 49 cases, the Prosecutor General's Office terminated the investigation of three criminal cases due to the absence of a criminal act under the law.

The Georgian Young Lawyers' Association (GYLA) reported it had consulted victims on 13 allegations of cruel, inhuman, or degrading treatment. GYLA filed a legal case involving one allegation with the SIS, prepared applications for the SIS in four cases, and participated in one case proceeding where the investigation was suspended. Additionally, GYLA was involved with cases connected to the July 5-6 violence (see section 2.b., Freedom of Assembly) and sent applications in the name of nine applicants to the Prosecutor General's Office to start an investigation into police actions. GYLA consulted victims on six such allegations in 2020.

On October 1, the government announced that former president Mikheil Saakashvili had returned to the country and been detained on various charges and convictions in absentia. The convictions in absentia included abuse of power for ordering the physical assault on a former member of parliament (see the 2018 *Country Report on Human Rights Practices* for Georgia). On November 11, the Public Defender's Office asked the SIS to initiate an investigation into alleged violations of former president Saakashvili's rights by the Ministry of Justice and Special Penitentiary Service (SPS) by forcibly transferring him from Prison N12 in Rustavi to Prison Hospital N18 in Gldani, after his prolonged hunger strike. The Public Defender's Office stated, "On November 11, 2021, the Ministry of Justice violated the prisoner's right to honor, dignity, and privacy by releasing video footage showing the placement of Mikheil Saakashvili in Medical Establishment N18 against his will, seminaked, and in a degrading condition." According to the SIS, the video recordings requested for the investigation had not been provided to SIS by the SPS but had been disclosed to the public. The Public Defender's Office further alleged that "SPS restricted the 3rd President of Georgia (Saakashvili) from participating in his own trial, which violated the right to a fair trial enshrined in the Constitution of Georgia, since Saakashvili had not been allowed to appear before court on three occasions since his arrest and imprisonment." On November 19, former president Saakashvili was transferred to the Ministry of Defense Gori Military Hospital for treatment of a critical health condition. Following his recovery, Saakashvili was returned to SPS Penitentiary Establishment N12 on December 30, where he remained.

On December 30, Georgian Dream members of parliament voted to abolish the SIS as of March 2022. In its place, two separate agencies to investigate abuse of power by law enforcement officials and to protect personal data were scheduled to be established. In contrast to the previous mandate to investigate all law enforcement equally, the law does not authorize the new investigative agency to investigate certain crimes committed by prosecutors, such as murder and bodily harm. As part of the reorganization, the State Inspector was scheduled to be removed from office in March 2022, despite the fact that she had three years remaining in her constitutionally mandated term. Ruling party members of parliament expedited the vote by introducing the legislation and holding all three readings on it in less than a week without consultation with key stakeholders and in the face of strong domestic and international criticism. In the days leading up to parliament's actions, the SIS had been investigating alleged inhuman treatment of former president Saakashvili during his forced November transfer from the Rustavi prison to the Gldani penitentiary clinic. The SIS had recently stated that the Justice Ministry and the Special Penitentiary Service violated the data protection law by releasing several controversial videos of Saakashvili's transfer.

Trials against three police officers stemming from the June 2019 antigovernment demonstrations continued during the year. The officers were charged with exceeding authority by using violence or weapons, which is punishable by up to eight years' imprisonment and deprivation of the right to hold public office for up to three years (see section 2.b., Freedom of Assembly). In September all three defendants were released from criminal responsibility under the Law on Amnesty passed on September 7.

During the year the trial of detective investigator Konstantine Kochishvili for allegedly physically assaulting a minor in 2019 by spitting in his face, beating him, and breaking his arm continued. Authorities arrested Kochishvili in 2019 and charged him with degrading and inhuman treatment. In February 2020 the Rustavi City Court released the defendant on bail. As of November the trial continued at Rustavi City Court. The next hearing was postponed, however, for an indefinite period.

Several former officials remained on trial in absentia at Tbilisi City Court in various cases of torture and other crimes allegedly committed under the former government. The officials included the former deputy chief of the general staff, Giorgi Kalandadze; the former deputy culture minister, Giorgi Udesiani; and the former director of the Gldani No. 8 Prison, Aleksandre Mukhadze. (Udesiani and Mukhadze's cases had a new judge appointed because the presiding judge was appointed to the Court of Appeals in 2019; the new judge ruled the case would be reheard based on a motion by the defense.) Kalandadze's case remained pending with a hearing scheduled for September. Mukhadze was convicted in absentia on another charge related to Sergo Tetradze in 2014 and received a nine-year prison sentence.

On April 7, de facto authorities in Russian-occupied Abkhazia detained Russian tourist Artyom Russkikh on suspicion of involvement in drug sales. De facto police repeatedly moved Russkikh, beat him, threatened to kill him, including by simulating executions of hanging with a garden hose and drowning in a mountain stream, and brandished a pistol. The beatings resulted in three broken ribs, multiple bruises, and internal injuries, including to his kidneys. Russkikh was ultimately released and deported to Russia. Following media attention, on September 15 Abkhaz de facto prosecutors initiated a criminal case for exceeding authority against the three de facto police officers implicated in the alleged criminal activity. The three were reportedly suspended from duty during the investigation.

## Prison and Detention Center Conditions

While overall prison and detention facility conditions were adequate, conditions in some older facilities lacked sufficient ventilation, natural light, minimum living space, and adequate health care. Prison conditions in Russian-occupied Abkhazia and South Ossetia were reported to be chronically substandard.

**Physical Conditions:** The public defender's 2020 report, released in April, noted overcrowding remained a problem in some prison facilities, especially Prisons Nos. 2, 8, 15, and 17. Overcrowding created additional health-care problems during the pandemic. In January parliament adopted an amnesty law to address overcrowding as a one-time, temporary, and special measure. Approximately 1,000 prisoners were expected to be amnestied under the law during the year.

As in previous years, the problem of long-term isolation of prisoners and their placement in de-escalation rooms and solitary confinement cells was highlighted in multiple "prison visit" reports as well as in the annual report of the public defender's National Preventive Mechanism (NPM), the Public Defender's Office's 2020 report, and the Council of Europe's Committee for the Prevention of Torture's (CPT) 2018 report. Inmates with mental health issues and juveniles were also confined on extended terms in de-escalation rooms; in some cases inmates claimed to have been handcuffed. According to the Public Defender's Office and the CPT, "de-escalation rooms" were used as punishment, and their use was considered mistreatment of inmates.

The Public Defender's Office reported an increase in inmate-on-inmate violence, which in most cases was underreported and never investigated. The Public Defender's Office also reported increased inmate violence against staff members.

During the year the NPM published a special report on the informal management of prisons by "influential inmates" ("watchers"), a problem that affected semiopen facilities in particular. The Public Defender's Office raised the problem at public hearings. The Special Penitentiary Service subsequently continued restricting the Public Defender's staff's access to prisons. According to the public defender and NGOs, the Ministry of Justice continued to refuse to acknowledge the "watchers" and the danger they presented to inmates. The Public Defender's Office reported that such informal control by influential inmates "often leads to inter-prisoner violence and bullying" and that "watchers" controlled prisoners' access to clothing, food, medicine, and packages sent from their families. Some prisoners victimized by "watchers" requested transfer to high-risk prisons or self-isolation to escape abuse, increasing risks of mental health problems among the prison population.

The Public Defender's Office annual report for 2020 stated that cell toilets for detainees generally were only partially screened, and criminal suspects had limited access to a shower and outdoor exercise as well as no family contacts or telephone calls. Lack of fresh air and activities were problems at closed institutions. Inmates in "closed" prisons (Prisons Nos. 2 and 8), high-risk institutions (Prison Nos. 3 and 6), and Prisons Nos. 7 and 9 were confined to their cells for 23 hours a day with limited or no access to rehabilitation and resocialization services. The problem was especially acute for inmates with mental health problems. Pretrial detainees and convicts, including juveniles, were reportedly mixed at Prisons Nos. 2 and 8, despite a ban on such practices in the penal code.

While the Ministry of Justice maintained a special medical unit for prisoners with disabilities, the Public Defender's Office reported that prisons and temporary detention centers did not take into account the needs of such persons, including for medical services. According to the public defender, doctors were unable to explain the importance and purpose of documenting injuries.

Mental health care remained inadequate within the penitentiary system. Initial screening of prisoners' mental health using a specialized instrument occurred only at Prisons Nos. 2 and 8 under a pilot project supported by the Council of Europe; multiple screenings did not happen at any institution. The system lacked qualified social workers, psychologists, psychiatrists, and ward-based staff. Timely referral of inmates for adequate medical care was lacking. Medical referrals were performed only in emergencies and for scheduled dialysis, chemotherapy, or repeated consultations or medical manipulations due to the postoperative period.

**Administration:** The Public Defender's Office noted there was only one ombudsperson authorized to respond to complaints by prisoners and reported that obstacles such as a lack of information on their rights, fear of intimidation, distrust of the outcome, and lack of confidentiality could deter prisoners from filing complaints with judicial authorities. According to the NPM's 2020 annual report, the Public Defender's Office received 57 complaints from inmates at semiopen prisons that held half of the country's prison population. The Public Defender's Office attributed this low number of complaints to intimidation via the informal "watcher" system. Instead of writing a complaint, inmates appealed to "influential prisoners" to solve their problems.

According to the SIS as of August, 34 of its 245 criminal investigations concerned crimes allegedly committed by the Special Penitentiary Service staff, compared with 49 of 270 criminal investigations in 2020. According to the SIS, as of November 1, the service had opened investigations in 10 of 34 cases submitted by the Public Defender's Office. Nine of the 10 cases were pending investigation, while the Prosecutor General's Office terminated the investigation of one criminal case due to the absence of a criminal act as provided by the criminal code. The Prosecutor General's Office terminated the investigation in five of the 49 criminal investigations initiated by the SIS in 2020 due to the absence of a criminal act as provided by the criminal code, while in two criminal cases, it initiated criminal prosecution against two persons. Both persons received conditional two-year sentences in prison, based on a plea agreement.

Ensuring confidentiality of medical records as well as the confidentiality of complaints remained problematic. Staffing levels of between one and four security officers to more than 100 inmates were inadequate at semiopen facilities and created an insecure environment for both inmates and administration. According to the Public Defender's Office, records on registering and distributing detainees in temporary detention centers were often incomplete or erroneous.

Due to the COVID-19 pandemic beginning in 2020 and continuing during the year, some penitentiary reform efforts were suspended. Prisoners' rights to long visits and family visits were suspended. Prisoners were instead given opportunities for short family visits in addition to free telephone calls.

**Independent Monitoring:** The government permitted independent monitoring of prison conditions by international prison monitoring organizations including the CPT and some local and international human rights groups. Due to persistent problems in the penitentiary system, the CPT conducted a random visit and held high-level meetings in May. The NPM had access to penitentiaries, conducted planned and unscheduled visits, and was allowed to take photographs during monitoring visits. NPM members, however, did not have unimpeded access to video recordings of developments in penitentiaries, to inmate medical files, nor to some disciplinary proceedings for inmates.

Some inmates intentionally interfered with the NPM's monitoring mandate, according to reports from the Public Defender's Office. In a January 20 statement, the Public Defender's Office claimed that in response to its 2020 report on the situation in penitentiary establishments, there were "public attacks on the public defender and illegal actions by the minister of justice and the Penitentiary Service, as a result of which, it has become not only difficult but also dangerous for the representatives of the Public Defender's Office to carry out visits and monitoring at the penitentiary establishments." In December 2020 an inmate threatened the representatives of the Public Defender's Office at Gldani Prison No. 8 and demanded they end the visit; the inmate was roaming freely even though this was a closed prison. On January 13, a group of inmates harassed Public Defender's Office representatives and demanded they stop visits because "everything is fine in prison."

International prison monitors had access to detention facilities under the Special Penitentiary Service in Tbilisi-administered territory. The monitors visited three detainees in South Ossetia and Abkhazia and facilitated links between their families through the exchange of Red Cross messages, delivery of parcels from families to detained persons, and a family visit for one detainee.

**Improvements:** During the year parliament adopted a law on amnesty, which began a prison population reduction process and could apply to 1,000 prisoners, depending on a judicial review of cases.

The Ministry of Justice continued to work through the new Vocational Education and Training Center for Inmates, which focused on broadening programs, creating "out of cell" activities for inmates, helping inmates develop skills to find jobs in prisons and outside, and working with the private sector to introduce prison industries into the penitentiary system. The number of social workers and psychologists increased and working conditions for prison staff improved through increased salaries and provision of new uniforms, health insurance, free meals, and access to new vehicles.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest or detention in court. The government's observance of these prohibitions was uneven, and reports of selective or arbitrary arrests continued.

#### Arrest Procedures and Treatment of Detainees

Law enforcement officers must have a warrant to make an arrest except in limited cases. The criminal procedure code provides that an arrest warrant may be obtained only where probable cause is shown that a person committed a crime for which conviction is punishable by imprisonment and that the individual may abscond or fail to appear in court, destroy evidence, or commit another crime. GYLA noted the law did not explicitly specify the role and powers of a judge in reviewing the lawfulness of arrests and that courts often failed to examine the factual circumstances of the detention.

Upon arrest a detainee must be advised of his or her legal rights. Any statement made after arrest but before a detainee is advised of his or her rights is inadmissible in court. The arresting officer must immediately take a detainee to the nearest police station and record the arrest, providing a copy to the detainee and his or her attorney. The Public Defender's Office reported, however, maintenance of police station logbooks was haphazard and that in a number of cases the logbooks did not establish the date and time of an arrest.

Detainees must be indicted within 48 hours and taken to court within 72 hours. Anyone taken into custody on administrative grounds has the right to be heard in court within 24 hours after detention. Violating these time limits results in the immediate release of the person.

On April 29, parliament amended the code of administrative violations to increase the legal requirement for first appearance in court from 12 hours to 24 hours, which can be extended for another 24 hours. The amendment was preceded by a December 2020 Constitutional Court decision that found the old provision unconstitutional because it allowed 12 hours of administrative detention before appearance in court but, if the arrest happened during nonworking hours (i.e., on a weekend), the maximum arrest time could be extended up to 48 hours.

Civil society and the international community expressed concern that the ruling Georgian Dream party rushed the passage of the administrative code amendments without consulting fully with stakeholders on the legislation. Civil society organizations also expressed concern that the amendments contained provisions lengthening the minimum administrative detention period and raising the fines for petty hooliganism and disobedience of police orders, the two charges most frequently used against protesters and others engaged in civil disobedience.

Critics of the administrative code amendments considered the Ministry of Internal Affairs' efforts to incarcerate Giorgi Tabagari an attempt to punish a government critic. Authorities charged Tabagari, the director of the Tbilisi Pride event, under the amended administrative violations code stemming from a telephone call in which he allegedly cursed at a police officer during violence directed against the event on July 5 (see section 2.b.). The Ministry of Internal Affairs asked for maximum punishment of 15 days in jail. On October 22, the Tbilisi City Court found Tabagari guilty but issued a warning rather than imposing a jail sentence.

The law permits alternatives to detention. NGOs and court observers reported the judiciary failed to use alternative measures adequately. The government also lacked a monitoring mechanism for defendants not in custody.

Detainees have the right to request immediate access to a lawyer of their choice and the right to refuse to make a statement in the absence of counsel. An indigent defendant charged with a crime has the right to counsel appointed at public expense. As a result of government income requirements, however, many low-income defendants were ineligible for government aid and could not afford counsel during critical stages of criminal proceedings.

Detainees facing possible criminal charges have the right to have their families notified by the prosecutor or the investigator within three hours of arrest; persons charged with administrative offenses have the right to notify family upon request. The public defender's 2020 report noted improvement in the observance of this right: families were notified within three hours of arrest in 84 percent of cases examined in 2020, compared with 82 percent of cases in 2018. The law requires the case prosecutor to approve requests by persons in pretrial detention to contact their family.

Witnesses have the right to refuse to be interviewed by law enforcement officials. In such instances, prosecutors and investigators may petition the court to compel a witness to be interviewed if they have proof that the witness has "necessary information." In its report for 2020, the Public Defender's Office stated that police continued to summon individuals as "witnesses" and later arrested them. According to the office, police used "involuntary interviews" of subjects, often in police cars or at police stations. The office also noted police regularly failed to advise interviewees of their rights prior to initiating interviews and failed to maintain records of individuals interviewed in police stations or vehicles.

Concerns persisted regarding authorities' use of administrative detention to hold individuals for up to 15 days without the right to an effective defense, defined evidentiary standard of guilt, or the right to a meaningful appeal.

**Arbitrary Arrest:** Reports of arbitrary detentions continued. In one example, Georgian Orthodox priest Father Jonas was arbitrarily detained by police in Dmanisi. Father Jonas alleged that his detention was at the request of Georgian Orthodox bishop Iob of the Ruis-Urbnisi eparchy and claimed that police threatened him with more serious charges if he did not go to jail for the fabricated charges. The pro-opposition television station Mtavari Arkhi published an audio recording in which the deputy chief of Dmanisi police, Shalva Zambakhidze, offered Father Jonas a choice of going to prison on either drugs, gun, or cattle theft charges. In the recording, Father Jonas chose to go to prison on gun charges and they agreed that he would come to Dmanisi. On April 8, Father Jonas was arrested as discussed on gun charges by Zambakhidze's subordinate officers. Following the report, several NGOs issued statements calling for accountability for the police officers involved. The Prosecutor's Office opened an investigation into the case and arrested Zambakhidze immediately after Mtavari Arkhi's broadcast. On April 12, Zambakhidze was charged with fabrication of evidence, illegal storage of firearms, abuse of power, and illegal detention. On November 8, Rustavi City Court partially acquitted the officer on the counts of illegal detention and abuse of power. The court found the defendant guilty of illegal storage of firearms and fabrication of evidence. He was sentenced to five years of imprisonment and deprivation of the right to hold public office for two years.

On February 23, police placed United National Movement (UNM) opposition party chairman Nika Melia in pretrial detention for failure to pay bail stemming from charges over the June 2019 protest. The decision to detain Melia was described by civil society, the Public Defender's Office, and the international community as unnecessary and politically motivated (see section 1.e., Political Prisoners). Melia was released from detention on May 10.

The trial in the “cartographers’ case” continued. In October 2020 authorities arrested two former members of the governmental Commission on Delimitation and Demarcation, Iveri Melashvili and Natalia Ilychova. The Prosecutor General’s Office charged them with attempting to violate the country’s territorial integrity during the commission’s work in 2005-07 on the state border with Azerbaijan. Both defendants were released on bail in January. In February the Public Defender’s Officer submitted an amicus brief on the case and concluded the case had “political or other motives.” Civil society representatives also said the case was politically motivated and suggested it was used to encourage nationalist sentiment in the lead-up to October 2020 elections and to demonize the opposition UNM party, which was in power at the time of the alleged incident.

The Public Defender’s Office and local NGOs issued reports describing unsubstantiated detentions of demonstrators in connection with a number of protests (see section 2.b.). For example in its annual report covering 2020, the Public Defender’s Office stated that most protesters who were arrested were charged with violations of the code of administrative offenses. The public defender described the contents of the violations and arrest reports as “mostly identical and ... formulaic.”

On January 20, former justice minister Zurab Adeishvili was convicted in absentia and sentenced to six years in prison on charges filed in 2016 by the Chief Prosecutor’s Office in connection with the illegal detention and kidnapping of a former opposition leader, Koba Davitashvili, in 2007.

There were frequent reports of detentions of Georgians along the administrative boundary lines (ABL) of both the Russian-occupied regions of Abkhazia and South Ossetia. Several individuals remained in detention, including those who were detained in previous years. For example Genadi Bestaev, detained in 2019, was released on humanitarian grounds to Tbilisi-administered territory in November after suffering a stroke that put him in a coma. In a second case, an ethnic Georgian resident of Gali in occupied Abkhazia was arrested by Abkhaz de facto authorities in September 2020 and sentenced in December 2020 to nine years in prison for burning a de facto Abkhaz flag. De facto authorities also claimed to have found a grenade at his home.

Persons released during the year by the de facto authorities of South Ossetia included Lasha Khetereli (on June 17), who had been detained since August 2020 and sentenced to one year in prison in November 2020, and Zaza Gakheladze (on July 14), who had been detained since July 2020.

**Pretrial Detention:** According to Supreme Court statistics, during the first 11 months of the year, trial courts applied pretrial detention in 42.2 percent of cases, compared with 47.5 percent of cases in 2020 and 47.2 percent in 2019.

**Detainee’s Ability to Challenge Lawfulness of Detention before a Court:** Under the law both administrative arrest (the 24 hours before a defendant is presented to the court) and administrative imprisonment (prison sentence defined after the guilty judgment) were problems because there were no effective mechanisms to appeal these types of detentions.

#### **e. Denial of Fair Public Trial**

Although the constitution and law provide for an independent judiciary, there remained indications of interference in judicial independence and impartiality. Judges were vulnerable to political pressure from within and outside the judiciary on cases involving politically sensitive subjects or individuals.

The Public Defender’s Office, the nongovernmental Coalition for an Independent and Transparent Judiciary, and the international community continued to raise concerns regarding a lack of judicial independence. During the year they highlighted problems, including the influence of a group of judges primarily consisting of High Council of Justice (HCOJ) members and court chairs that allegedly stifled critical opinions within the judiciary and obstructed proposals to strengthen judicial independence. NGOs referred to this group of influential and nonreformist judges as the “clan.” Other problems they highlighted included the impact of the High Council’s powers on the independence of individual judges, manipulation of the case distribution system, a lack of transparency in the High Council’s activities, and shortcomings in the High Council’s appointments of judges and court chairpersons. Civil society and opposition representatives suggested the respective prosecutions involving Lelo Party founders Mamuka Khazaradze and Badri Japaridze, UNM Chair Nika Melia, and Mtavari Arkhi General Director Nika Gvaramia, in particular, were politically motivated.

In analyzing four waves of judicial reform and other changes in the law since 2013, civil society stakeholders agreed that the reforms were ineffective due to the lack of political will to foster an independent judiciary, since a large majority of positive changes in the law remained unimplemented or were only partially implemented. As the Coalition for an Independent and Transparent Judiciary stated on June 21, “legislative changes of 2013-2021 can be characterized as an illusory and incomplete attempt at an institutional modernization of the judiciary, which ultimately created an imitation of a positive transformation instead of a real and systemic change. The change of government in 2012 was a good precondition for fundamental reforms, but the lack of political

will and fragmented legislative initiatives carried out in the last nine years have failed to meet the most important challenge pertinent to the Georgian context. In particular, the reform did not affect the role of real power and de facto influential groups in the judiciary. The result is a clan-based governance, where a small influential group of judges controls the judiciary, not in the interest of justice, but in its private interest.”

Under an April 19 agreement between the ruling and most opposition political parties, the parties committed to comprehensive reform of the justice system. While the ruling party withdrew from the agreement in July, it publicly stated it would follow through on the commitments on judicial reform in the agreement. Based on this document, the Coalition for an Independent and Transparent Judiciary and the public defender called on parliament to start working on fundamental justice sector reform through an inclusive process. The coalition stated that “despite four waves of reform, public trust towards the judiciary is still critically low, the High Council of Justice fails to ensure the system’s independence and efficiency. The lack of trust in the judiciary and the signs of selective and politicized justice also contribute to the aggravation of the political crisis and the escalation of the situation.” Both the public defender and the coalition stressed the importance of reforming the selection and appointment process for members of the High Council of Justice, so that nonjudge members of the High Council are appointed by the parliament based on consensus and judge members are elected without internal and external influence. On May 18, the coalition stressed the importance of selecting judge and nonjudge members of the High Council in a fair and transparent process and selecting candidates on merit. Despite these calls, parliament had not begun working on comprehensive judicial reform as of year’s end.

Following passage of the 2019 “fourth wave” of judicial reform, the authority to select individual court chairs remained with the High Council of Justice. NGOs warned this power would allow the High Council to continue to influence individual judges. NGOs reported one of the levers court chairs used to influence the outcomes of cases was creating narrowly specialized chambers in larger courts to manipulate the randomized case assignment process. At their sole discretion, court chairpersons assigned judges to narrowly specialized chambers without clear rules or pre-established criteria. A court chairperson could at any time reshuffle the composition of narrowly specialized chambers and change the specialization of a judge. Chairpersons were not legally required to substantiate such a decision.

The long-standing practice of transferring judges from one court to another also remained a problem. Decisions regarding transfers were made by the High Council of Justice, and these decisions were unsubstantiated.

Administrative chambers adjudicate election disputes. Most of the judges transferred to administrative chambers panels reportedly were affiliated with the “clan,” and almost all of them were associated with high-profile cases.

NGOs reported the courts did not serve as an effective check over election administration bodies following the October municipal elections while reviewing appeals against decisions made by the precinct and district election commissions. In a December 22 report, the International Society for Fair Elections and Democracy stated, “The court mainly followed the practice established by the election commissions and made decisions through narrow interpretation of the election legislation. Court decisions were as if copied from a template and failed to meet the minimum standard of justification.”

As of December there were 343 judges in all common courts (including the Supreme Court) and 92 judicial positions were vacant. At the same time court observers and lawyers agreed that delayed and lengthy judicial proceedings were one of the main obstacles for accessing justice. In its report *Judicial System Reform in Georgia 2013-2021*, GYLA said, “The workload must allow the judge to administer justice within the time limits prescribed by law so that their decent working conditions are secured;” however, “it is still unclear what the judicial authorities plan to compose the system with a sufficient number of judges.” As a result of the backlog, the vast majority of judges failed to comply with statutory terms for case review, which can be subject to judicial discipline. According to the Office of the Inspector for Judicial Discipline under the High Council of Justice, 60 of 118 complaints reported in the first three-quarters of the year (January-September) concerned case delays.

The amendment to the Law on Common Courts adopted on December 30 introduced a new type of judicial disciplinary misconduct under which the expression of opinion without “political neutrality” can result in the discipline and punishment of judges. This change imposed an additional restriction on the freedom of expression of judges. The existing law already restricted judges’ participation in political activities and provided an exhaustive list of political activities that could result in judicial discipline. The rationale for adding a new type of misconduct was not clear, and the explanatory note provided no evidence-based analysis that justified an additional restriction on the constitutional right of judges to freedom of expression.

On May 26, the Conference of Judges (an entity composed of all judges in the country's courts) held an extraordinary session and elected four new judge-members of the High Council of Justice for four-year terms. The international community, civil society, the Public Defender's Office, and opposition parties had urged parliament to pause High Council of Justice elections until rules were changed to ensure the transparency and fairness of the process. GYLA stated that the scheduled Conference of Judges session "takes place mainly in a noncompetitive environment, and the (High) Council usually has an intake of the leaders of an influential group of judges." In a postconference statement, GYLA asserted that judges did not know the identity of the candidates in advance and did not have an opportunity to hear the candidates' opinions regarding the judicial system. Despite this, a majority of judges supported the nominated candidates without asking any questions or showing deeper interest.

The leadership of the judiciary continued the practice of electing High Council members and members in other governing bodies in a nontransparent manner. On October 31, the Conference of Judges elected two new members of the High Council of Justice, as well as a member of the Independent Board of the High School of Justice and two members of the Disciplinary Collegium under the High Council. The appointments took place on the day after local elections and only four days after the publication of the Conference of Judges' agenda. The predecessors of the new appointees to the High Council, two women (replaced by two male candidates who allegedly were closely affiliated with the group of influential judges), had unexpectedly resigned from their mandates before their terms expired. No announcement of candidates was made in advance of the appointments. Local and international community criticized the judiciary for lack of transparency in this process.

On November 1, GYLA called the preterm elections "a manipulation of the clan government. Monitoring the election process of the High Council of Justice members manifests that only representatives of the influential group of judges or individuals trusted by the group have a chance to be elected in the High Council of Judges. The influential group fills all strategic, important positions with loyal judges, which contributes to strengthening the already deep-rooted informal hierarchy." According to a November 2 Georgian Democracy Initiative statement, the timing of the Conference of Judges session was chosen purposefully: "With the society consumed with other urgent matters, we believe the 'Clan' is trying to seize the opportunity to install loyal and trusted judges to the body. This will ensure their continued influence on the (High) Council for years to come."

In June the High Council nominated nine candidates for parliamentary appointment to the Supreme Court. Civil society criticized the selection process. For example, the Coalition for an Independent and Transparent Judiciary called it arbitrary, unfair, and problematic. Despite calls from the international community and civil society to refrain from Supreme Court appointments until after comprehensive judicial reforms called for in the April 19 agreement, parliament appointed six of nine nominated candidates to the Supreme Court on July 12. GYLA stated that despite questions regarding the competence and integrity of the candidates, parliament appointed judges who were loyal to the influential group of judges pejoratively referred to as the "clan." In its final assessment report, the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights (OSCE/ODIHR) stated that "appointment of new judges to Georgia's highest court lacked integrity and credibility, though the procedure was generally well run."

The HCOJ and parliament resumed the Supreme Court justice appointment process after the local elections. In December parliament appointed four more justices to the Supreme Court. On December 2, the Coalition for an Independent and Transparent Judiciary called the appointments "unjustified and damaging." According to the coalition, "The existing rules for the selection and appointment of judges are fundamentally problematic, as they do not sufficiently mitigate the risks of internal and external influences on the process. At the same time, the Parliament makes a final decision based on a single-party vote, in the absence of a broad political consensus. Consequently, in this context, the appointment of four Supreme Court judges further reduces the already deficient trust in the justice system." Despite civil society criticism, parliament rushed to fill the last (28th) vacant judicial position in the Supreme Court, and on December 29 during an extraordinary parliamentary session and through an expedited confirmation process, it appointed the candidate put forward by the HCOJ.

In February and March, the HCOJ announced an open competition to fill 88 vacant judicial positions in trial courts and the Court of Appeals. On June 17, the HCOJ concluded the competition by filling 47 judicial vacancies. As a result of the competition, 22 new judges, who were High School of Justice graduates, entered the system. In addition, the HCOJ reappointed for lifetime terms 24 sitting judges and one former judge. Seven candidates were appointed in appellate courts, and 40 candidates were appointed in trial courts. Under the "fourth wave" of judicial reform legislation, the HCOJ is required to provide reasoning for the appointment or rejection of judicial candidates. As in previous years, however, these "sufficient justifications" were not provided. NGOs highlighted the need for written justifications addressing integrity and competence in the appointments of judges.

Access to court decisions was restricted. Despite a 2019 constitutional ruling that obliged parliament to provide public access to court decisions by the standards established by the Constitutional Court, parliament failed to comply with the obligation. Courts stopped publishing decisions in May 2020.

In an October 26 report, the NGO Transparency International/Georgia evaluated the existing legal regulations and established practices for promotion in the country's courts. The study analyzed decisions made by the High Council of Judges on the promotion of judges in the 2015-20 period. The study found that the promotion system was used by the clan of influential judges as an important lever in maintaining their internal influence. According to the study, 35 judges were promoted without competition since 2015. The judges were transferred from various courts mainly to the Tbilisi Court of Appeals. There were only three cases where judges were transferred to the Kutaisi Court of Appeals. The trend of transferring judges mainly to the Tbilisi Court of Appeals raised questions, since district courts suffered more from the shortage of judges. The study noted that the judges who were promoted were usually ones loyal to the influential group.

On December 22, Georgian Dream members of parliament initiated draft amendments to the Organic Law on Common Courts and requested expedited adoption of the amendments. The draft changes affected disciplinary hearings, transfers of judges, and business travel of judges. They also allowed election to the same position on the High Council of Justice two times in a row.

Information on the draft amendments became public through the media on December 27, the day that parliament commenced expedited proceedings on the amendments. The text of the draft became available on parliament's website the same day. There were no public consultations or discussions regarding the proposed amendments with the participation of the legal community, civil society organizations (CSOs) or the ombudsman. It was not known whether consultations were conducted with the judiciary, including the HCOJ, the association of judges, individual judges, or the disciplinary inspector.

On December 28, the Coalition for an Independent and Transparent Judiciary expressed concern over the expedited review of the amendments and that the process was taking place in the pre-New Year's period without public involvement and consultations. CSOs urged parliament to suspend consideration of the draft amendments and establish a platform aimed at broad public participation and consensus to study the need for fundamental reforms of the justice system and develop corresponding changes.

In just three days, however, parliament went through all stages of proceedings, including two hearings, debates, and three rounds of voting. On December 30, parliament adopted the draft.

According to the Coalition for an Independent and Transparent Judiciary, "The changes clearly weaken individual judges and strengthen intra-corporatism and clan influences within the system. They contradict the government's commitment to fundamentally reform the justice system with an aim to create independent and accountable courts and to restore trust in the judiciary. The changes further strengthen the High Council of Justice and make individual judges more vulnerable to the power of this institution. It can be confidently said that all the above-mentioned will have a negative effect on critical and dissenting opinions in the judiciary, which are already deficient."

## Trial Procedures

The constitution and law provide for the right to a fair and public trial. The Public Defender's Office reported numerous violations of the right to a fair trial, and NGOs noted this right was not enforced in some high-profile, politically sensitive cases (see Political Prisoners and Detainees below). NGOs reported courts were inconsistent in their approaches to closing hearings to the public and at times did not provide an explanation for holding a closed hearing. The code on administrative offenses does not provide the necessary due process provisions, especially when dealing with violations that could result in a defendant's loss of liberty.

Defendants are presumed innocent and must be informed promptly and in detail of the charges against them, with free interpretation as necessary. Defendants have a right to be present at their trial and to have a public trial except where national security, privacy, or protection of a juvenile is involved.

The law allows for trial in absentia in certain cases where the defendant has left the country.

Defendants have the right to meet with an attorney of their choice without hindrance, supervision, or undue restriction. Defendants have the right to an attorney at public expense if they are indigent, but many defendants and their attorneys did not always have adequate time and facilities to prepare a defense. In April the Public Defender's Office reported positive changes made by the state continued in 2020 resulted in more frequent involvement of a lawyer in a case within the first 24 hours.

In criminal proceedings, defendants and their attorneys have the right of access to prosecution evidence relevant to their cases no later than five days before the pretrial hearing and may make copies. Defendants have the right to question and confront witnesses against them and to present witnesses and evidence on their own behalf at trial. Defendants have the right to refuse to testify or incriminate themselves.

Remote court hearings via electronic means of communication remained possible. The use of remote litigation was not consistently applied. Some judges and court users opposed any form of video conferencing in court proceedings. The low quality of voice and image transmission during video conferences, an insufficient number of properly equipped courtrooms, and the small number of video rooms in places of detention made remote proceedings difficult.

From June 2020 through March, GYLA monitored criminal cases remotely or physically observed hearings in the courtroom in six courts. On September 10, the organization reported the courts mostly allowed GYLA's monitors to attend trials, either remotely or physically in the courtroom. There were, however, some access problems. For example, monitors were sometimes not provided with the links required to attend remote sessions or were disconnected from the virtual hearings due to technical reasons. With regard to hearings in the courtroom, some judges unreasonably restricted individuals from attending hearings, and several others did not allow GYLA to monitor hearings on the pretext of preventing the spread of COVID-19. GYLA proposed to monitor such hearings remotely, but the court also denied virtual access. The cases created the impression that specific judges took advantage of the pandemic to deny access to unbiased observers.

In its September 10 *Criminal Trial Monitoring Report* covering the year that ended in March, GYLA found that the COVID-19 pandemic had a significant impact on the right to public scrutiny. Court trials were not always made public. This problem was especially evident at first appearance court sessions, when it was difficult to involve inmates from penitentiary facilities in virtual hearings. Insufficient technical capabilities and the lack of knowledgeable staff led to queues of prisoners, resulting in the frequent postponement or delay of sessions.

GYLA's monitors attended 396 first appearance court hearings with the participation of 464 defendants. The prosecution demanded pretrial detention as a measure of restraint against 333 (72 percent) of the accused, which the court refused to grant in the case of 93 (28 percent) defendants. In 16 (3 percent) cases, the court did not grant the motion of the prosecution and refused to impose any form of restraint measure on the accused. The prosecution presented 85 (43 percent) motions requesting bail as a measure of restraint. In 73 (86 percent) of these, the court did not deem the motion in the part of the requested amount to be reasonable and reduced the amount. During its reporting period, GYLA monitored only one case where the judge did not approve the prosecutor's motion for a plea agreement.

According to GYLA, delays in court trials remained a problem. Of 993 merits hearings attended by GYLA monitors, 42 percent were adjourned. Trials were frequently postponed due to the failure of the prosecutor to present witnesses or to negotiate a plea agreement. Court hearings were also postponed due to technical difficulties involving accused inmates in virtual trials at penitentiary facilities. The opening of court sessions was delayed by one hour or more in 37 percent of cases.

The law does not prescribe a maximum period for investigation of cases but stipulates a maximum period, nine months, for pretrial detention. If courts do not complete a case within this period, defendants must be released from pretrial detention pending completion of the trial. The criminal procedure code requires trial courts to issue a verdict within 24 months of completing a pretrial hearing.

According to GYLA's criminal court monitoring report covering the period from 2016 to February 2020, prolonged criminal court hearings were a significant shortcoming. GYLA's court monitors identified a number of cases that had been deliberated for years. In its September 10 report, GYLA noted, "Due to technical problems, court sessions were postponed or delayed more frequently than in the previous years. This further aggravated the situation with the deliberation of cases within reasonable timeframes." In its annual report for 2020, published in April, the Public Defender's Office highlighted consideration of criminal cases was often delayed, going unreasonably beyond the terms determined by legislation, particularly in appeals courts and in administrative cases appealed by prisoners. The office also highlighted unreasonable delays sometimes for five months in courts' handing decisions to parties and shortcomings in the examination of civil and administrative cases by appellate courts within the statutory time limit.

The cases of Temur Barabadze, founding Millennium Challenge Fund Georgia CEO Lasha Shanidze, and Shanidze's father, Shalva, were among those that had been deliberated for years. The Shanidzes were convicted of embezzlement in 2011 after Barabadze testified against them. Barabadze later recanted his testimony, but a judicial review of the Shanidzes' case awaited the resolution of Barabadze's case. Hearings for Barabadze's case, however, did not begin until 2017. In 2019 prosecutors appealed a Tbilisi Appeals Court decision on the case to the Supreme Court. In July the

Supreme Court upheld the appeals court's decision. The Shanidzes then asked the appeals court to reopen their case based upon the Supreme Court ruling; the court refused to do so in October. The Shanidzes appealed this decision to the Supreme Court in November.

The Public Defender's Office in its 2020 annual report, published in April, stated hearings to determine whether a case has enough merit for full consideration in criminal proceedings were often conducted unreasonably beyond the legally established timeframes. As for delays in reviewing civil and administrative cases, the Public Defender's Office report for 2020 noted that 65.4 percent of incoming complaints registered by the Civil Chamber of Tbilisi Court of Appeal and 34 percent of complaints in the Kutaisi Appeals Court in the first nine months of 2020 were not decided by the court within the legally required timeframes.

The Public Defender's Office, civil society, and the international community recognized the administrative code lacked some due process provisions, since the law allows for those found guilty of certain administrative offenses to be punished with imprisonment without the due process provisions afforded to defendants charged under the criminal code. NGOs noted that lack of due process guarantees and a low standard of proof for using administrative imprisonment created a risk of abuse of police discretion and selective use of administrative offenses. An NGO saw an increase in the use of administrative imprisonment between April and December, after parliament adopted amendments to the administrative code lengthening the permissible period of detention. The NGO also noted that civil society and legal assistance organizations were not notified when a protester was detained under the administrative code, creating an ad hoc system where some defendants received legal representation only by chance if a civil society representative happened to be in the court that day and could offer it.

On November 10, the Public Defender's Office released a statement describing the Ministry of Internal Affairs' detention and treatment of 46 individuals who were detained at a protest that day as "not in compliance with human rights." The statement noted that the ministry does "not inform family members or lawyers about the whereabouts of the detainees in a timely manner or do[es] not inform them at all." Consequently, the statement noted lawyers were unable to visit their clients in a timely manner, "talk to them, or agree on a defense strategy. Even when lawyers know the whereabouts of the detainees, they encounter hours of obstruction in meeting them."

The law provides that defendants have 30 days to file an appeal following a judgment. A judgment with substantiated reasoning must be issued within five days or within 14 days for complex cases. Administrative sentences that entail incarceration must be appealed within 48 hours and other penalties within 10 days.

The law provides that a court must certify that a plea bargain was reached without violence, intimidation, deception, or illegal promise and that the accused had the opportunity to obtain legal assistance. Plea bargaining provisions in the criminal procedure code provide safeguards for due process. The evidentiary standard for plea agreements stipulates that evidence must be sufficient to find a defendant guilty without a full trial of a case and must satisfy an objective person that the defendant committed the crime. A total of 65.9 percent of all criminal cases were resolved by a plea bargain, as compared with 63.5 percent in 2020.

According to the Social Justice Center's September 27 report on access to justice, a judge's determination of the lawfulness and fairness of plea bargaining was problematic. Judges usually unconditionally accepted the agreement reached between the accused and the prosecutor and did not try to assess the fairness of the sentence imposed.

The August 20 survey report, *Views of Businesses on the Court System in Georgia*, by the Caucasus Research Resource Center, explored corruption in the courts. Small and medium enterprises and microfinance institutions did not report corruption. Some large businesses in Tbilisi, however, raised influence-peddling in courts. They specifically mentioned the "clan" within the courts and their ties in business circles. They believed that resolution of a large commercial case in a very short time was an indicator of either corruption or lack of independence. In the survey, respondents frequently said judges were dependent on the ruling party. The next most common responses were dependence on the executive government and the "clan" in the court system.

Only 13 percent of the 1,300 business organizations that participated in the survey believed that judges were fully independent. A plurality (43 percent) of businesses assessed court performance as average. More than half of the respondents (56 percent) partially trusted the courts, while 17 percent reported they had full trust in them. They similarly assessed the competence and independence of judges.

## Political Prisoners and Detainees

NGOs and opposition parties stated the government held political prisoners and detainees. On February 23, GYLA condemned that day's arrest of UNM opposition party chair Melia, stating the February 17 court ruling against Melia and subsequent arrest were politically motivated. Melia was

arrested for failure to pay bail stemming from 2019 protest charges, after he removed his electronic monitoring device during a November 2020 rally opposing the conduct of the 2020 parliamentary elections. The Public Defender's Office said the court decision and arrest of Melia "was neither substantiated nor necessary" on the day of the arrest. After 11 weeks in detention, Melia was released from pretrial detention on May 10; an organization affiliated with the EU posted his bail in connection with the April 19 agreement between the ruling and most opposition parties at UNM party headquarters.

On April 27, President Salome Zourabichvili pardoned and released from incarceration Giorgi Rurua, a UNM figure and founder and shareholder of pro-opposition Mtavari Arkhi TV, as part of the April 19 agreement. Opposition party members had considered Rurua and Melia a political prisoner and detainee, respectively. They also considered former president Mikheil Saakashvili to be a political detainee (see section 1.c.).

The government permitted international and domestic organizations to visit persons claiming to be political prisoners or detainees, and several international organizations did so.

### Civil Judicial Procedures and Remedies

The constitution provides for an independent and impartial judiciary in civil matters, but there were concerns regarding the process of assigning civil judges to narrow specializations, based on their loyalty to certain influential judges or others, and transparency of rulings. The constitution and law stipulate that a person who suffers damages resulting from arbitrary detention or other unlawful or arbitrary acts, including human rights violations, is entitled to submit a civil action. Individuals have the right to appeal court decisions involving alleged violation of the European Convention on Human Rights by the state to the ECHR after they have exhausted domestic avenues of appeal.

As of November, 60 cases had been filed against the country during the year at the ECHR, compared with 130 cases in all of 2020. According to the Justice Ministry, since 2012 a total of 86 cases were resolved with a settlement between parties and 43 were resolved with the government's acknowledgement of a violation.

Courts continued to suffer from excessive caseload and failed to dispose of civil cases within the fixed statutory terms. According to the civil procedure code, courts are required to hear civil cases within two months after receiving an application. A court that hears a particularly complex case may extend this term by up to five months, except for claims involving alimony payments, compensation of damages incurred as a result of injury or other bodily harm or the death of a breadwinner, labor relations, and use of residences, which must be reviewed within one month.

In the survey report, *Views of Businesses on the Court System in Georgia*, business representatives named trial length and delays as the most common obstacles facing the court system. On average, court cases lasted three years; respondents remembered examples of cases that lasted nine or more years. According to many respondents, the delays made courts ineffective for business executives, who criticized the system for lacking an understanding of the way businesses operate and disregarding their interests.

According to the Social Justice Center's *Access to Justice* report, released in September, the reason for the excessive backlog was ineffective management: "[The] majority of the vacant positions of judges are not filled; the High Council of Justice has not shown willingness to fill the vacancies with judicial appointments. A smart case weighting system for effective determination of the best mechanisms for the optimal distribution of the existing number of judges between courts, is not implemented. The regulations regarding the composition of narrow specializations of judges reviewing cases in the common courts and the system of electronic case distribution is flawed, which prevents ensuring an equal workload of judges using the case weighting system."

Court backlogs continued to worsen during the year due to the COVID-19 pandemic.

Courts heard a small number of civil cases remotely. According to NGOs monitoring the courts, the fact that the respondent rarely agreed to electronic proceedings prevented systematic use of remote hearings in civil cases.

### Property Seizure and Restitution

In Russian-occupied Abkhazia, the de facto legal system prohibits property claims by ethnic Georgians who left Abkhazia before, during, or after the 1992-93 war, thereby depriving internally displaced persons of their property rights. In 2019 the de facto parliament of Abkhazia passed "legislation" that also deprived family members of those "who fought against the sovereignty of Abkhazia, participated in the hostilities against Abkhazia, or assisted occupational forces" of the right of inheritance.

In a 2010 decree, South Ossetian de facto authorities invalidated all real estate documents issued by the Georgian government between 1991 and 2008 relating to property in the Akhagori Region. The decree also declared all property in Akhagori belongs to the de facto authorities until a “citizen’s” right to that property is established in accordance with the de facto law, effectively stripping ethnic Georgians displaced in 2008 of their right to regain property in the region.

During the year the Georgian Democracy Research Institute reported that South Ossetian de facto authorities were using a “family reunification program” to relocate residents of South Ossetia to live with family members in Tbilisi-administered territory. Persons accepted to the “program” reportedly received “exit documents” from the de facto authorities, according to which they would not be allowed to return and reclaim property in South Ossetia. The research institute raised particular concerns regarding the long-term effects of the program on the residents of Akhagori. The program was less active during the year than in 2020, as fewer individuals wished to participate.

#### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions without court approval or legal necessity and prohibit police from searching a residence or conducting nonconsensual electronic surveillance or monitoring operations without a warrant. NGOs, media, and others asserted the government did not respect these prohibitions. For example, there were widespread reports that the government monitored the political opposition. Civil society, journalists, and the international community raised concerns regarding the State Security Service’s secret surveillance system and its lack of political neutrality and weak oversight.

On August 1, Nika Gvaramia, director general of the pro-opposition channel Mtavari Arkhi TV, accused the State Security Service in a broadcast of spying on opposition politicians, government officials, NGOs, journalists, foreign diplomats, clergy, and business leaders. During the segment Gvaramia read aloud what he claimed to be transcripts of documents reportedly obtained from the State Security Service that detailed illegally recorded telephone and face-to-face conversations. According to the recordings, the State Security Service conducted illegal surveillance relating to sexual orientation, personal relationships, and sexual partners. Some journalists and NGOs publicly or privately confirmed the authenticity of the private conversations in the transcripts read on the show. Ruling Georgian Dream leadership dismissed these reports as fabricated.

In response to the August 1 broadcast, nine NGOs issued a statement on August 2 that said in part, “The State Security Service has become a firmly politicized institution protecting the interests of influential political actors and trying to preserve political power of a specific group by means of surveillance, threats, and blackmail.”

On August 3, the Public Defender’s Office called for an investigation into and accountability for the alleged illegal wiretapping. She also called on parliament to exercise existing oversight mechanisms and strengthen legislative oversight.

On September 13, an individual claiming to have worked at the State Security Service released thousands of files containing private information and conversations allegedly gathered through surveillance of NGOs, journalists, foreign diplomats, and clergy. The Prosecutor’s Office announced an investigation on September 14. Officials including Prime Minister Irakli Garibashvili, Interior Minister Vakhtang Gomelauri, and State Security Service head Grigol Liluashvili continued to deny the alleged wiretapping occurred. On September 19, the Public Defender’s Council of Religions and Tolerance called for a full investigation of the surveillance, stating “released materials can only indicate that the Government, through the Security Service, committed the gravest crimes against its people, its own citizens, all religious associations, civil society, constitution, democratic and secular structure of the State.”

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The constitution and law provide for freedom of expression, including for the members of the press and other media, and citizens generally were free to exercise this right, although the government did not adequately safeguard that freedom. During the year journalists, NGOs, and the international community raised serious concerns regarding the environment for media pluralism. In addition, the Public Defender’s Office noted in its April parliamentary report covering 2020 that the country lacked proper statistics on offenses committed against journalists.

**Freedom of Expression:** On March 1, the Tbilisi Court of Appeals overturned a 2019 decision that the NGO Transparency International/Georgia’s report on corruption raising concerns over judicial independence was not libelous. Civil society saw the decision as unsubstantiated and an attempt to interfere with the NGO’s freedom of expression. Transparency International/Georgia appealed the case, which was pending at the Supreme Court. NGOs accused the justice minister of attempting to

restrict freedom of speech by suspending notary Bachana Shengelia from office in June 2020 for comments he posted on Facebook regarding the controversial 2018 death of his mother, school principal Ia Kerzaia (see the *Country Reports on Human Rights Practices* for Georgia for 2019, section 3). GYLA described the suspension as a restriction on freedom of expression and submitted a case on Shengelia's behalf to the Constitutional Court in July 2020. The case remained pending.

**Freedom of Expression for Members of the Press and Other Media, Including Online Media:**

Independent media were active and expressed a wide variety of views. NGOs continued to express concern regarding the close relationship between Georgian Public Broadcaster and Georgian National Communications Commission (GNCC) and the ruling party, GNCC bias against opposition-leaning outlets, the public broadcaster's editorial bias in favor of the ruling party, decreased media pluralism, criminal prosecutions against owners and directors of opposition-leaning outlets that appeared politically motivated, violence against journalists, impunity for attacks against journalists, the ruling party's boycott of media critical of the government, and alleged wiretaps specifically targeting journalists.

The GNCC was influenced by the ruling party. Civil society reported on several shortcomings during the year. For example, Transparency International/Georgia reported limited competition and preferential treatment of incumbent and former commissioners and employees in the selection of GNCC members on July 2. The NGO also reported that persons working in communications did not view the GNCC election process as independent from political influence.

On April 14, the GNCC announced a tender for an audit of independent television ratings companies, which media representatives and watchdogs said "exceeds the responsibilities of the body." Civil society organizations alleged that the audit would open the way for ratings companies owned by ruling-party supporters to begin to set the ratings, affecting what had been independent assessments. Later in the year, the GNCC announced a tender to audit the two rating companies used; Kantar, which was widely seen as being Georgian Dream-supported; and TV MR, which was seen to be more cooperative with outlets critical of the government. Kantar accepted the offer and was found to be within international standards. TV MR, however, did not accept and was not audited. The move to audit both firms was viewed by observers as an example of GNCC overstepping its mandate by initiating audits when it should be the responsibility of the companies to conduct such internal operations.

Statements by political leaders also degraded media plurality. For example, on February 16, Giorgi Volski, the first deputy speaker of parliament, said that "journalists in particular are involved in planning some kind of conspiracy, misinformation, sabotage." The next day Irakli Kobakhidze, chairman of the Georgian Dream party, said that "party televisions began to establish blasphemy in serials, thus accustoming the public to the insulting language." This sort of rhetoric was used extensively by the ruling party (as it was used when other parties were in power) to call into question any reporting critical of the government. On October 30, the day of municipal runoff elections, Prime Minister Gharibashvili called a Mtavari Arkhi journalist a "provocateur." Ruling party member of parliament Irakli "Dachi" Beraia referred to Formula TV as a "criminal thug of the [opposition United] National Movement."

A significant number of journalists reported during the year that they were either prevented from covering public events or did not receive key public information when requested. Although nationwide statistics were not kept, Information Centers Network, a regional consortium of independent media outlets, filed 14 administrative complaints with local authorities for not receiving responses to requests for public information between May 1 and August 30, and twice as many by the end of the year. Civil society representatives observed the problem was not the law, which very clearly provides the public with the right to access information. The problem was the failure of the ruling party, as well as local and regional authorities, to implement the law. This situation further exacerbated an already adversarial relationship between media and the ruling party.

Media outlets, watchdog groups, and NGOs continued to express concern regarding decreased media pluralism and continuing political influence in media. Concerns also persisted regarding government interference with some media outlets. Persistent allegations of political pressure on public broadcasters continued. On August 9, journalist Irakli Absandze was dismissed by the Georgian Public Broadcaster. According to the Media Advocacy Coalition, Absandze's dismissal was seen to be connected with his critical statements about the ruling party and the public broadcaster's management. Absandze had criticized the July 5-6 violence against journalists and the ruling party's ineffective response (see section 2.b.). Absandze subsequently filed a complaint to defend his rights, with Transparency International/Georgia providing legal support; however, no action was taken by the government to examine his case.

Following the July 5-6 violence against journalists (see section 2.b.), two key journalists from Rustavi 2 (a pro-Georgian Dream outlet) resigned, citing lack of editorial independence.

The Public Defender's Office, some media watchers, NGOs, and opposition parties expressed suspicion that a number of criminal prosecutions against critical media outlets or their owners were politically motivated.

In early September, a few weeks before the municipal elections, the court resumed the government's case against Mtavari Arkhi's general director, Nika Gvaramia. The trial remained underway at year's end. The opposition perceived this prosecution as the ruling party's retribution for Mtavari Arkhi's favorable coverage of the UNM. The case involved allegations that in 2015 Gvaramia exchanged advertising for vehicles from Porsche Center Tbilisi. In 2019 Gvaramia was charged with abuse of power, misappropriation of property, and commercial bribery. The public defender stated that holding a company director civilly liable for the company's decision should apply only in exceptional circumstances and that criminal liability should be even rarer. Gvaramia and a number of media advocacy groups disputed the charges, claiming they were politically motivated. In 2020 Gvaramia claimed that he was physically assaulted and his family surveilled.

The OSCE/ODIHR preliminary assessment of the first round of the October 2 local elections stated, "The deterioration of the media environment as seen by recent cases of intimidation and threats against journalists and the lack of swift and thorough investigation of these cases raised concerns about the ability of media to function in a safe and secure environment." In its preliminary assessment of the second round of the local elections, the mission reported that the regional public broadcaster Adjara TV provided mostly neutral coverage of the campaign. In contrast, while the country's public broadcaster allotted equal airtime to the ruling party and the largest opposition party, the tone in covering the ruling party "became more positive closer to election day."

On September 30, two days before the municipal elections, the Ministry of Defense filed a lawsuit with Tbilisi City Court against Davit Kezerashvili, former Saakashvili administration defense minister, who was the majority owner of the government-critical Formula TV. The lawsuit requested more than five million euros (\$5.8 million) in compensation for damage Kezerashvili allegedly caused during his tenure at the ministry. The first court session was scheduled for January 27, 2022. Opposition groups described the case as politically motivated.

Avtandil Tsereteli, the father of TV Pirveli's founder, was also charged in 2019 for his alleged involvement in a money laundering case along with the founder of TBC Bank and his deputy, who were both current leaders of the opposition party Lelo. A verdict was pending.

The law provides that media outlets are obligated to disclose information concerning their owners to the GNCC.

**Violence and Harassment:** According to Transparency International/Georgia, as of the end of September, 93 cases of violence had been recorded against media representatives since October 2020, along with 55 instances of covert wiretaps of journalists. The NGO Reporters Without Borders described the illegal surveillance of journalists (see section 1.f.) as "very disturbing" and called on authorities for an investigation. Journalists of Radio Tavisupleba (Radio Free Europe/Radio Liberty) and Formula, among others, confirmed that the wiretapping files reflected their respective conversations.

During the year there were also reports of harassment by security services. In March the opposition channel Pirveli released purported secret recordings of Bera Ivanishvili, son of the ruling party's benefactor (former prime minister and then party head, Bidzina Ivanishvili), allegedly asking Irakli Garibashvili (then minister of internal affairs, later defense minister, and during the year, prime minister) to punish his social media critics (he was 15 years old at the time). Some of the recordings discussed alleged calls made by security service personnel to intimidate social media users.

After the release, the Prosecutor General's Office received a court order to "raid" TV Pirveli's office to find the source of the "illegal" recordings. Civil society and the international community denounced the secret recordings and intimidation of journalists for the purposes of revealing their sources. Four months later government forensics officials claimed the recordings were pieced together and not authentic.

During the year there were a significant number of attacks on journalists by far-right groups and politically motivated actors. Civil society observers believed that the government did not adequately investigate and prosecute such violence. In addition to assaults of July 5-6 (see section 2.b., Freedoms of Peaceful Assembly and Association), there were numerous attacks on members of the media, notably on February 25 when Formula TV host Vakho Sanaia was physically attacked for being a journalist. On August 25, the three attackers were found guilty after having served six months of pretrial confinement, sentenced to 150 hours of community service, and fined. The perceived leniency of the sentence generated outrage by media rights defenders and vindication in more far-right circles on social media, where there were comments posted that Sanaia "had it coming." Formula TV experienced another attack in April, when two employees (identified by station markers

on their cars) were targeted, with one employee suffering a beating and both the cars involved badly damaged. No suspects were prosecuted. Other examples included Emma Gogokhia, a Mtavari Arkhi journalist, who reportedly was threatened with death by the mayor of Mestia on March 6.

On May 17, the television company GPB Channel 1 reported that protesters in Dmanisi physically assaulted a GPB camera crew, a journalist, a cameraman, and a photojournalist who were covering events. Representatives of other media outlets also were injured and their work disrupted.

The Coalition for Media Advocacy identified 20 cases of interference with the professional activities of journalists from outlets that were critical of the government during the October 30 municipal runoff elections in Tbilisi and the regions. The majority of the cases reportedly involved interference by ruling-party supporters. The coalition issued a statement that asserted that “law enforcement officials have failed to ensure media representatives’ physical safety and effective elimination of obstructive circumstances.”

On February 18, Russian citizen Magomed Gutsiev was convicted and sentenced to four years in prison by the Tbilisi City Court for a plot to kill Giorgi Gabunia, a Mtavari Arkhi journalist who in 2019 insulted Russian President Putin on a live program. Gutsiev appealed the conviction on March 17. On October 21, the Tbilisi Court of Appeals upheld the decision of the trial court.

On July 11, Lekso Lashkarava, a cameraman of TV Pirveli, was found dead in his home. During the July 5 attacks (see section 2.b.), he had been severely beaten. The statements by law enforcement agencies soon after his death appeared aimed at discrediting the journalist instead of determining the cause of death.

Following Lashkarava’s death, more than 70 media organizations issued a joint statement on July 11 that “cases of violation of the rights of media representatives” in the country had “reached a critical level.” The statement criticized authorities for failing to ensure the safety of journalists, insufficiently investigating violence against journalists, including the July 5 violence in which 53 members of the media were injured (see section 2.b.), and statements by ruling party officials that the statement said further encouraged such violence. On September 30, Transparency International/Georgia stated in part that physical security for journalists in the country had become “extremely dangerous” and that critical media representatives faced particular risk that was exacerbated by “aggressive rhetoric” from government officials and inadequate investigations of violent incidents.

Some watchdog groups such as Transparency International/Georgia expressed concern that law enforcement bodies summoned journalists for questioning and asked them to identify their sources. The law allows journalists to maintain the anonymity of their sources and not to be compelled to testify as a witness.

**Nongovernmental Impact:** Media observers, NGO representatives, and opposition politicians alleged Georgian Dream party chair and former prime minister Bidzina Ivanishvili continued to exert a powerful influence over the government and judiciary, including in government actions against the owner of TV Pirveli and the general director of Mtavari Arkhi, whose court cases remained open as of November.

On April 6, far-right group Georgian March had a number of Facebook pages removed for what Facebook called “inauthentic behavior.” After the July 5 violence against journalists and others (see section 2.b.), the Facebook page for the far-right media outlet *Alt-Info* was taken down in connection with the July 5 events. According the Mythdetectors.ge, “Programs of *Alt-Info* are being shared by the Facebook page *Alter-platform*.” On December 7, *Alt-Info*’s leaders registered the political party Conservative Movement of Georgia with the National Agency of Public Registry. As of year’s end, more than 30 individuals were in pretrial detention on charges of abusing journalists, although none were identified as organizers.

While there was a relatively greater diversity of media in Abkhazia than in South Ossetia, media in both Russian-occupied regions remained restricted by Russian and de facto authorities.

## Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, but concerns remained regarding unauthorized surveillance. Insufficient information was available regarding general internet freedom in Russian-occupied Abkhazia and South Ossetia.

## Academic Freedom and Cultural Events

On November 12, opposition-leaning Formula TV published a story alleging leaked documents from the State Security Service showing it was evaluating school principals for their loyalty to the ruling Georgian Dream party. The report alleged that principals who otherwise had received good evaluations were removed or demoted solely based on a negative evaluation by the State Security Service.

## b. Freedoms of Peaceful Assembly and Association

The constitution and law provide for the freedoms of peaceful assembly and association; government respect for these rights was uneven.

### Freedom of Peaceful Assembly

The constitution and law generally provide for freedom of assembly. Human rights organizations expressed concern, however, regarding provisions in the law, including the requirement that political parties and other organizations give five days' notice to local authorities to assemble in a public area, thereby precluding spontaneous demonstrations. The Public Defender's Office and NGOs reported that police sometimes restricted, ineffectively managed, or failed to protect freedom of assembly.

To combat the COVID-19 pandemic, on June 23, parliament extended for the third time amendments to the law giving the government power to restrict movement and gatherings and to implement other measures without a state of emergency to prevent the spread of COVID-19 until January 1, 2022.

While a number of protests took place during the year, there were reports that police at times restricted or failed to protect individuals' right to freedom of assembly. For example, on July 5, police failed to take appropriate action to protect the right to freedom of peaceful assembly for individuals who had planned to participate in a Pride event. Approximately 3,000 far-right demonstrators violently rioted through Tbilisi, destroying an opposition protest site at parliament, attacking NGO offices, and assaulting more than 50 journalists and others following statements from Prime Minister Garibashvili that called the planned Tbilisi Pride event, March for Dignity, inappropriate and described it as a plot by "Saakashvili and the radical opposition" aimed at sparking tension and destabilization in the country. The prime minister alleged that 95 percent of the population opposed the event as a justification for blaming Tbilisi Pride for the violence.

The Georgian Democracy Initiative reported that far-right counterdemonstrators were organized by Guram Palavandishvili, a member of the pro-Russian and nationalist group Georgian Idea and the head of the Society for the Protection of Children's Rights; Levan Vasadze, a businessman and the founder of the Unity, Essence, Hope political party; and Konstantin Morgoshia's online outlet *Alt-Info*. Protesters included a number of Georgian Orthodox priests, some of whom posted videos on social media that appeared to call for and endorse the violence.

Reports and videos showed that police failed to arrest far-right actors as they assaulted police, journalists, and others seen to be associated with the pride march or Western values. The group attempted to storm parliament but was unable to do so and tore down the EU flag flying in front of parliament. One Polish tourist was stabbed, allegedly for appearing to be associated with the lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) community. LGBTQI+ activists described feeling hunted as the locations where they sought refuge were discovered by far-right groups. Activists expressed concern that they were found due to government assistance. Throughout the day the Ministry of Internal Affairs failed to deploy riot control measures. Weeks in advance, ministry officials pressured organizers to cancel the March for Dignity, stating they could not protect the right to assembly because they expected between 20,000 and 50,000 counterdemonstrators.

The violence by far-right groups, comments by the government, and the inaction of security forces was widely condemned by NGOs, the Public Defender's Office (the ombudsperson), and the international community.

On July 6, a spontaneous protest against the July 5 violence occurred outside of parliament. Far-right groups mobilized approximately 500 counterprotesters, seemingly led by Guram Palavandishvili, who threw rocks, bottles, and fireworks at peaceful protesters and police. Once again police did not deploy sufficient riot control equipment and personnel. As the peaceful protesters were dispersing, far-right groups broke past police and chased peaceful protesters and again took down the EU flag and burned it.

A total of 31 individuals were charged in six separate criminal indictments as of year's end. The majority of those indicted, 27, were charged with participation in acts of group violence, prevention of journalistic duties, and unlawful entry and threats of violence. Three individuals were charged with raiding the Tbilisi Pride office, including participating in the use of violence and threats of violence as well as for violating private and public property as a group, while one person was charged with battering a civilian. The cases were in various stages of trial with two defendants pleading not guilty and one defendant pleading partially guilty, claiming he hit someone because he was provoked. All three defendants were released from pretrial detention. Authorities did not, however, make any formal arrests of individuals responsible for organizing the violence.

There were reports police continued to employ the administrative offenses code to restrict freedom of assembly. On April 13, police arrested six persons under the code during a protest against the planned Namakhvani Power Plant. This followed an April 12 statement by 13 Georgian civil society organizations that expressed solidarity with protesters against the project and stated “guaranteed rights to assembly and manifestation (were) gravely violated by the state.” Transparency International and the Open Society Foundation issued similar statements critical of government efforts to restrict the freedom of assembly of the Namakhvani protestors.

During the year the Tbilisi City Court continued to try three cases connected with the June 2019 events. The cases involved charges against one Internal Affairs Ministry Special Tasks Department officer for intentionally targeting nonviolent protesters and two criminal police officers for abuse of power; one officer was accused of beating a protester while arresting him, the other of beating a protester under arrest. The three defendants were charged with exceeding authority by using violence or weapons, a crime punishable by five to eight years’ imprisonment and deprivation of the right to hold public office for up to three years. All three defendants were released under the amnesty law passed on September 7.

## Freedom of Association

There were reports that some government representatives and supporters of the ruling party pressured political opposition figures and supporters (see sections 1.d. and 1.e.).

## c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

## d. Freedom of Movement and the Right to Leave the Country

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation of citizens, but de facto authorities and Russian occupying forces limited this freedom in Abkhazia and South Ossetia.

**In-country Movement:** There were substantial impediments to internal movement due to a lack of access to the Russian-occupied regions of Abkhazia and South Ossetia. International relief organizations reported that the majority of the approximately 290,000 internally displaced persons (IDPs) from Russian-occupied Abkhazia and South Ossetia wished to return to their areas of origin but lacked adequate security provisions and political, human, economic, and movement protections absent a political resolution to the conflicts.

Foreigners were restricted from moving in and out of South Ossetia, but some could access Abkhazia with approval from the de facto authorities. The law prohibits entry into and exit from the Russian-occupied regions through the territory of neighboring states (i.e., Russia). There were reports in 2018 that Russia prohibited citizens of Commonwealth of Independent States countries from entering Abkhazia except from Russia, which was against Georgian law. These citizens, however, were at times able to enter from Tbilisi-administered territory if they were staff members of international organizations or if there was a request from an international organization, such as the United Nations.

Russia and Abkhaz de facto authorities limited international organizations’ ability to operate in Abkhazia, although international organizations had greater ability to operate there than in South Ossetia. Russian and South Ossetian de facto authorities limited access of international organizations, including humanitarian organizations, to South Ossetia. Before COVID-19, the cochair of the Geneva International Discussions (GID) – representing the United Nations, the OSCE, and the EU – visited South Ossetia and Abkhazia approximately quarterly prior to most rounds of the discussions. The ICRC, with an office in Tskhinvali, was the only international organization represented in South Ossetia.

De facto authorities and Russian forces in the Russian-occupied territories also restricted the movement of the local population across the ABLs. Although they showed some flexibility for travel for medical care, pension services, religious services, and education, in several instances during the year de facto authorities, particularly in South Ossetia, hindered access to medical care in Tbilisi-administered territory for residents in the occupied territories. There was, however, some effective cooperation across the Abkhazia ABL to save lives during the COVID-19 pandemic.

All crossings with South Ossetia remained closed by de facto authorities. The GID cochair and other international actors continued to express concern that prolonged closures of crossings would undermine livelihoods; prevent local residents from getting the pensions, food, and medicine they needed; and potentially cause a new wave of displacement.

In February, Abkhaz de facto authorities eased requirements for passage through the Enguri crossing point along the Abkhazia ABL after closing it for nearly a year. The crossing was opened to all residents of Abkhazia in July. All other Abkhazia ABL crossing points remained closed by de facto authorities. According to sources, the closures particularly affected ethnic-Georgian residents of Gali, preventing them from collecting their pensions and allowances or receiving scheduled (nonemergency) medical treatment in Tbilisi-administered territory. Clinics in Gali were also said to be largely ignored by de facto authorities in terms of receiving international humanitarian medical assistance.

On April 7, four Georgians drowned while trying to cross the Enguri River from occupied Abkhazia into Tbilisi-administered territory. The Office of the UN High Commissioner for Refugees (UNHCR) continued to facilitate cooperation between Tbilisi and Abkhaz de facto authorities to establish a “humanitarian corridor” at the Enguri crossing point, which enabled ethnic-Georgian residents of Abkhazia to access life-saving medicines and pensions from the government. UNHCR temporarily ceased the program during the winter holidays but then experienced problems restarting it. The corridor resumed in February and was expanded to include pensioners, persons with disabilities, and mothers of three or more children.

Regarding travel documents, residents of Abkhazia who had Georgian citizenship could not use their Georgian passports to cross the Abkhazia ABL to or from Tbilisi-administered territory. Since 2018 de facto authorities prohibited older Soviet-era passports used by thousands of ethnic Georgians living in Abkhazia for crossing, threatening the livelihood of many residents. De facto authorities claimed residents without valid crossing documents were allowed to apply for residence permits (reserved for “foreign” residents) that would enable them to cross but would strip them of voting, property, and other rights. During the year only holders of new Abkhaz “passports,” permanent residence permits, and temporary identification documents known as Form No. 9 were allowed to cross. Form No. 9 identification was given to any resident who applied for a residence permit and was valid until that person received the permit or for a maximum of six months. There were still some residents of Abkhazia without valid documentation.

Georgian passport holders not resident in Abkhazia could cross a checkpoint if they possessed invitation letters cleared by the de facto “state security services” allowing them to enter Abkhazia. The latter did not consistently provide permission to cross and limited movement to specific areas. Crossing permits issued by South Ossetia de facto authorities were the only document that allowed movement across the South Ossetia ABL to or from Tbilisi-administered territory.

Abkhaz de facto authorities prohibited Georgian Orthodox Church clergy from entering the occupied territory.

Individuals who approached the ABLs or crossings risked detention by members of the Russian Federal Border Service (referred to hereinafter as Russian guards). Russian guards along the Abkhazia ABL typically enforced the boundary-crossing rules imposed by de facto authorities through detentions and fines. Along the South Ossetia ABL, Russian guards frequently transferred individuals to de facto authorities. The State Security Service of Georgia reported detentions by de facto authorities typically lasted two to three days until the detainee paid fines set by a de facto “court,” although some sentences for “violations of the state border” carried considerably longer terms.

The EU Monitoring Mission (EUMM) knew of 16 individuals detained along the ABL with Abkhazia and 58 detained along the ABL with South Ossetia. Local sources reported that on several occasions, de facto security actors or Russian guards crossed into Tbilisi-administered territory to detain an individual. Most often, the arrested individuals were accused of violating the “state border.” According to EUMM, many detainees were obliged to sign documents in Russian that they did not understand.

De facto authorities continued to expand and reinforce fencing and other physical barriers along the ABL between Tbilisi-administered territory and South Ossetia. This expansion of the Russian “borderization” policy further restricted movement, creating physical barriers and obstructing access to agricultural land, water supplies, and cemeteries. For example, in April the State Security Service told a media site that Russian security forces were conducting “borderization” activities in three Georgian villages, Takhtisdziri, Dirbi, and Ghogheti, along the South Ossetia ABL. Security forces reportedly placed wooden poles in the ground with the expectation that the forces would later lay barbed wire and fences.

#### **e. Status and Treatment of Internally Displaced Persons**

According to UNHCR, as of December there were approximately 290,000 IDPs from the 1992-93 and 2008 conflicts. UNHCR estimated 240,000 persons were IDPs, with the remaining 50,000 in “IDP-like” situations in need of protection and humanitarian assistance. This number included individuals who returned to Russian-occupied Abkhazia and South Ossetia as well as those displaced in the 2008

conflict, who subsequently were relocated or obtained housing or cash compensation. Governmental responsibilities for IDPs are divided among the Ministries of Internally Displaced Persons from the Occupied Territories, Labor, Health, and Social Affairs; the State Ministry for Reconciliation and Civic Equality; and the Ministry of Regional Development and Infrastructure.

Most persons displaced in 2008 received formal IDP status in accordance with national legislation, although some individuals who were not displaced by the 2008 conflict and lived close to the ABL were officially described as being in an “IDP-like situation.” The government provided monthly allowances to persons recognized as IDPs, promoted their socioeconomic integration, and sought to create conditions for their return in safety and dignity.

Despite their 1994 agreement with Georgia, Russia, and UNHCR that called for the safe, secure, and voluntary return of IDPs who fled during the 1992-93 war, Abkhaz de facto authorities continued to prevent the return of those displaced by the war. Between 45,000 and 60,000 IDPs had returned since that time to the Gali, Ochamchire, and Tkvarcheli regions of eastern Abkhazia, but de facto authorities refused to allow the return of IDPs to other regions. De facto authorities prevented IDPs living elsewhere in the country from reclaiming homes in Abkhazia based on a “law” that expropriated all “abandoned property” from the 1992-93 war. IDPs who returned and managed to obtain Abkhaz “passports” were allowed to buy and sell property.

Ethnic Georgians living in Russian-occupied Abkhazia lacked fundamental rights and confronted onerous registration requirements that threatened their continued status. De facto authorities continued to pressure ethnic Georgians to acquire a “foreign residency permit” that allows the holder to cross the ABL and remain in Abkhazia for a period of five years. An applicant must, however, accept the status of an alien (i.e., a Georgian living as a foreigner in Abkhazia), may not purchase property, may not transfer residency rights of property to children born in de facto controlled territory, may not vote, and must accept a lack of other basic rights. In 2019 Abkhaz de facto authorities required additional permits and threatened to discontinue ABL crossing with a Form No. 9 administrative pass. During 2020, before the pandemic closures, Form No. 9 was reportedly allowed sporadically for crossing after the new de facto president, Aslan Bzhania, came to power. Following the full opening of border crossing points for Abkhazia residents in July, de facto authorities allowed the use of Form No. 9, including for residents who were stranded in Tbilisi-administered territory and whose Form No. 9s had expired.

Since 2015 UNHCR reported a widening documentation gap in Russian-occupied Abkhazia, noting fewer residents of Gali district held valid documents due to the expiration and nonrenewal of documentation by de facto authorities there. The solution offered by de facto authorities, i.e., to issue permanent residence permits, did not provide the full scope of rights and was not welcomed by the majority of Gali district residents who did not wish to declare themselves foreigners living in their ancestral land.

## f. Protection of Refugees

The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

**Access to Asylum:** The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The Public Defender’s Office and NGOs, however, alleged executive and judicial authorities made politically motivated decisions in response to asylum requests by some Turkish citizens and a number of Azerbaijani citizens, although they reported the situation had improved since 2018. UNHCR reported concerns regarding applications from citizens of Afghanistan, Eritrea, Iran, Iraq, Syria, and Yemen being rejected automatically on national security grounds, without a thorough examination on a case-by-case basis of the threat posed by the individual applicants. Rejected asylum seekers from those countries were rarely deported, nor were they detained, which brought into question whether they posed a security threat.

The backlog of asylum cases led to significant delays. Since 2018 the average time for consideration of an asylum case increased from six months to two years. After the asylum authority’s decision, in case of appeal, an asylum seeker may have to wait for another two years to receive the final decision of the court.

The law distinguishes among three types of protection: refugee status (as per the 1951 Refugee Convention), protected humanitarian status (complementary protection), and temporary protection. The Ministry of Internal Affairs oversees the adjudication of all three.

In 2020 the number of asylum seekers decreased as the borders of the country were mostly closed due to the COVID-19 pandemic. By December 2020 the overall recognition rate had dropped to 7 percent, compared with 16 percent in 2019. The asylum system adapted to the COVID-19 situation

and guaranteed access to asylum through the introduction of online registration procedures for asylum seekers during lockdowns.

The overall protection situation became more complicated for persons in need of asylum or refuge due to the additional socioeconomic problems caused by the pandemic. Gaps remained between asylum seekers' access to the country's territory and the fairness and efficiency of the refugee status determination procedures; the provision of assistance by national authorities, including free legal aid at the administrative stage of the asylum procedure; the need to adjust the reception capacities to the needs of asylum seekers; and the effective engagement of the judiciary in the substantive review of asylum decisions.

**Refoulement:** During the year UNHCR learned of a few cases of asylum seekers who were denied access to the territory (and consequently the asylum procedure) at the border and whose return may have amounted to indirect refoulement. The penalization for irregular entry for individuals accepted into the asylum procedures remained a problem.

**Employment:** Persons under international protection have legal access to the labor market. Foreigners, including persons under international protection, could register in the Worknet state program for vocational training and skills development. The program, however, was available only in the Georgian language. Lacking formal contracts and frequently being ineligible for public employment programs, such persons often had nowhere to turn. UNHCR closely cooperated with the Employment Agency to enhance access to the labor market.

**Access to Basic Services:** The government provided limited assistance to persons with protected status. The government supported an integration center to provide structured integration programs for such persons and a reception center that had adequate services for asylum seekers and capacity for approximately 150 persons.

Access to education remained a problem due to the language barrier, notwithstanding the government's provision of Georgian language classes.

Asylum seekers received no financial support from the government, and the government-run reception center only assisted 10 percent of the asylum-seeking population. UNHCR provided financial support for vulnerable cases.

Persons with disabilities and mental or psychological needs also encountered problems in accessing various services and allowances. There was no state referral mechanism for persons with specific needs, and UNHCR was often approached for additional support.

**Durable Solutions:** The government offered a path to naturalization for refugees residing on its territory that included required language and history tests. Authorities purportedly denied naturalization to some applicants based on national security concerns. The law requires 10 years of residency for citizenship, further complicating the ability for refugees to receive Georgian citizenship.

**Temporary Protection:** The law on the legal status of aliens and stateless persons provides avenues for temporary stay permits for individuals who were rejected for international protection but cannot be returned to their countries of origin due to the reasons stated in the law. The Ministry of Internal Affairs may grant temporary stay permits to individuals who meet the criteria for refugee status or humanitarian protection but who were rejected on national security grounds.

### Section 3. Freedom to Participate in the Political Process

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage. In 2018 a new constitution went into effect that eliminated direct election of the president and established a fully proportional electoral system for the 2024 parliamentary elections, among other provisions.

#### Elections and Political Participation

**Recent Elections:** The country held parliamentary elections in October 2020 and second-round runoff elections in 17 of 30 electoral districts in November 2020. The OSCE deployed a limited number of observers for the October elections due to the COVID-19 pandemic. In its March 5 final report, the OSCE's Office of Democratic Institutions and Human Rights (ODIHR) assessed the October 2020 elections were competitive and, overall, fundamental freedoms were respected, but it stated "pervasive allegations of pressure on voters and blurring of the line between the ruling party and the state" reduced public confidence in some aspects of the process. ODIHR particularly highlighted concerns regarding ruling-party dominance in election commissions. Other problems included widespread reports of intimidation of party supporters and public-sector employees. ODIHR also reported continuing shortcomings in the complaints and appeals process, concluding that "the systemic rejection of the majority of complaints on formalistic grounds, significantly limited the opportunity to seek effective legal remedy."

Domestic civil society organizations deployed approximately 3,000 election observers across the country. They alleged misuse of administrative resources by the ruling party, voter intimidation, vote buying, violations of ballot secrecy, obstruction of journalists and domestic election observers, and inaccurate and altered vote tabulation at the precinct and district level. Domestic organizations submitted hundreds of electoral complaints and were highly critical of the Central Election Commission's management of the elections. In November 2020, 26 domestic NGOs issued a statement describing the conduct of the October 31 elections as the worst held under Georgian Dream. In addition, opposition parties alleged the number of missing ballots in certain precincts indicated there was widespread "carousel voting." Leading domestic nonpartisan election monitors reported most postelection complaints were rejected by the election administration and courts, undermining public confidence in the electoral process and the outcome of the election.

As a result of the alleged violations leading up to and on election day, opposition parties boycotted the runoff elections on November 21 and refused to take their seats in parliament. In December 2020 the new parliament was sworn in, but only the ruling Georgian Dream members of parliament took their seats (Georgian Dream won 90 of 150 seats). The OSCE did not observe the November 2020 runoff elections, and most domestic observer groups significantly scaled back their observation efforts or did not observe because of the boycott. Nevertheless, domestic election monitoring organizations raised concerns regarding electoral violations on election day.

The country held local government elections on October 2, 2021, and second-round runoff elections in five cities, including Tbilisi and 15 municipalities, and for 42 majoritarian seats in 24 local councils on October 30. The OSCE deployed an international election observation mission for both election rounds.

In its preliminary statement on the first-round of local elections, the OSCE mission stated, "Contestants were able to campaign freely in a competitive environment that was, however, marred by widespread and consistent allegations of intimidation, vote-buying, pressure on candidates and voters, and an unlevel playing field." The OSCE preliminary statement also expressed concern regarding "cases of intimidation and violence against journalists" (see section 2.a.) and noted that "significant imbalance in resources, insufficient oversight of campaign finances and an undue advantage of incumbency further benefited the ruling party...The pervasive misuse of citizen observers as party representatives, at times interfering with the process, and groups of individuals potentially influencing voters outside some polling stations were of concern."

Domestic civil society organizations deployed more than 1,000 election observers across the country for the first-round of local elections. The organizations identified violations of the secrecy of the ballot, tracking of voters by unauthorized persons, voting with improper voter identification documents, persons attempting to vote multiple times, and voters who were permitted to cast a ballot without checking for indelible ink. In its report on the October 2 elections, the International Society for Fair Elections and Democracy (ISFED) noted that "the environment outside of some polling stations was problematic, where cases of voter mobilization, tracking/noting of voters and alleged vote buying were observed." In a report issued prior to election day, Transparency International/Georgia highlighted significant campaign finance imbalances, noting that the ruling Georgian Dream party accounted for 70 percent of all electoral subjects' revenues and expenditures during the pre-election period.

The OSCE preliminary report on the October 30 second-round elections found that "candidates were generally able to campaign freely, but allegations of intimidation and pressure on voters persisted. Sharp imbalances in resources, and an undue advantage of incumbency further benefited the ruling party and tilted the playing field. The transparency and accountability of campaign finance were reduced by insufficient oversight." The law continued to lack "clear and objective criteria" for granting and conducting recounts and voting annulments. This lack of clarity provided district election commissions and courts "broad discretionary powers" in responding to such requests. At the same time, concerns persisted regarding the impartiality of lower-level election commissions. The tone toward the ruling party by the country's public broadcaster became more positive as election day approached (see section 2.a.). ISFED's report on the October 30 second-round elections suggested that "the instances of gatherings of persons outside of polling stations, alleged vote buying, voter mobilization and tracking of voters, negatively reflected on the expression of the free will of voters; in municipalities where the difference was minimal, this could have had an influence on the election results." Likewise, Transparency International/Georgia found that because "the elections in many precincts were concluded with a rather narrow margin, the violations and problematic tendencies, encountered both in the pre-election period and on election day, might have had a serious impact on the ability of voters to exercise their free choice, as well as on the final results of the elections. Therefore, the public could have legitimate questions with regards to the overall fairness of the elections."

**Political Parties and Political Participation:** Credible reports of political violence continued. Intimidation, pressure against voters and candidates, and abuse of administrative resources, further blurring the lines between the government and ruling party, persisted throughout the first and second rounds of the October municipal elections. Many interlocutors continued to report intimidation and pressure on voters, including threats of dismissals and of promises of employment and payments. This was particularly aimed at those reliant on the state for wages or social support, allegedly using the extensive system of ruling-party coordinators and involving law enforcement bodies. On September 21, opposition mayoral candidate Giorgi Tatuashvili was stabbed in the face at a political rally in Dmanisi. The assailants were reportedly the son and father, respectively, of two Georgian Dream candidates for city council. On September 25, the empty vehicle of a For Georgia party mayoral candidate in Tsageri was hit by gunshots the day after a public meeting between the candidate and the For Georgia party chairman, former prime minister Giorgi Gakharia.

**Participation of Women and Members of Minority Groups:** No laws limit the participation of women and members of minority groups in the political process, and they did participate. The law provides for a gender quota for candidates for seats in parliament and on city councils. The law aims to increase the number of women in the electoral process by 2024 and requires that every third candidate on a party list be a woman by 2028. In June parliament voted to soften the gender quota for the October municipal elections, which reduced the number of female candidates required for inclusion on proportional candidate lists. In its preliminary statement following its observation of the October 2 local government elections, the OSCE stated that “the underrepresentation of women in the campaign demonstrates a need for greater commitment to ensure adequate representation in politics.” Although awareness of inclusion issues was growing, the acceptance of women and minority communities including youth, persons with disabilities, and members of the LGBTQI+ community and ethnic minority groups remained incomplete within political parties. The ability of the LGBTQI+ community to exercise an active voice during the elections was suppressed by the July 5 attacks (see section 2.b., Freedom of Assembly). Political parties rarely engaged with ethnic minorities except during election cycles, and few political parties made their party programs available online in minority languages.

De facto authorities in Abkhazia stripped ethnic Georgians of their Abkhaz “citizenship” in 2014, preventing them from participating in de facto elections. Ethnic Georgians willing to apply for de facto Abkhaz passports generally did not receive them in time to participate in de facto elections due to extensive delays. Ethnic Georgians in South Ossetia were also required to accept a South Ossetian “passport” and “citizenship” to participate in political life. International actors, including the OSCE Group of Friends of Georgia, did not recognize the legitimacy of the de facto elections.

## Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for officials convicted of corruption. While the government implemented the law effectively against low-level corruption, NGOs continued to cite weak checks and balances and a lack of independence of law enforcement agencies among the factors contributing to allegations of high-level corruption. NGOs assessed there were no effective mechanisms for preventing corruption in state-owned enterprises and independent regulatory bodies. NGOs continued to call for an independent anticorruption agency outside the authority of the State Security Service, alleging its officials were abusing its functions.

On September 8, Transparency International/Georgia stated the country had “impressively low levels of petty corruption combined with near total impunity for high-level corruption.” The country also lacked an independent anticorruption agency to combat high-level corruption.

Several months after resigning, in a May 31 interview former prime minister Giorgi Gakharia noted that the country’s “biggest challenge is weak institutions. When institutions are weak, corruption and nepotism represent a problem.”

The Anticorruption Coordination Council included government officials, legal professionals, business representatives, civil society, and international organizations. In March amendments to the Law on Conflict of Interest in Public Service moved responsibility for assisting the work of the Anticorruption Council from the Justice Ministry to the Administration of the Government, headed by the prime minister but separate from the Prime Minister’s Office. Formation of the relevant secretariat was underway at year’s end. The last Anti-Corruption Strategy and Action Plan was developed by the council in 2019. The council has not met since it was moved under the government’s administration.

Transparency International/Georgia, in its October 2020 report *Corruption and Anti-Corruption Policy in Georgia: 2016-2020*, noted the government annually approves national action plans to combat corruption. It reported some shortcomings, however, including ineffective investigations of cases of alleged high-level corruption. Although the law restricts gifts to public officials to a maximum of 5 percent of their annual salary, a loophole allowing unlimited gifts to public officials from their family

members continued to be a source of concern for anticorruption watchdogs. In January, Transparency International/Georgia noted that the country's anticorruption reforms did not progress.

As of March, Transparency International/Georgia listed 50 uninvestigated high-profile cases of corruption involving high-ranking public officials or persons associated with the ruling party.

**Corruption:** As of year's end, 87 sitting or former public servants had been charged with corruption. This included 14 cases of fraud committed using official position, 10 cases of misappropriation or embezzlement using official position, eight cases of nonviolent misuse of official powers for personal gain, eight cases of nonviolent exceeding of official powers, one case of illegal participation in entrepreneurial activities while taking advantage of official position, 30 cases of bribery, and 16 cases of creating a fraudulent official document for personal gain.

Investigations remained open in two high-profile corruption cases involving two former ministers. Some observers considered the investigations politically motivated. The investigations lacked transparency, and authorities did not update the public on their progress.

As of December the Anticorruption Agency of the State Security Service detained 21 public servants at the local and central levels for taking bribes, including a member of Ambrolauri City Council from the Alliance of Patriots, Givi Kutsikidze, who, according to the State Security Service, demanded from a citizen a \$140,000 bribe and took \$30,000 as an advance payment for promised assistance in support of a construction permit in Tbilisi. The mayor of Borjomi, Levan Lipartia, and the chair of the City Council, Giorgi Gogichaishvili, were detained in February 2020 for taking bribes. In July, Lipartia was released from prison; Gogichaishvili continued to serve his term.

The trial of TBC Bank cofounders Mamuka Khazaradze and Badri Japaridze, which began in 2019, continued. The case stemmed from bank transactions from 2008. Charges against the two men came just weeks after Khazaradze announced his intention to establish a civil movement. Khazaradze established the movement, called Lelo, which later became the Lelo political party. Authorities brought charges against Avtandil Tsereteli in 2019 for providing support to Khazaradze and Japaridze in the alleged money-laundering scheme. In 2020 a group of 20 NGOs, including Transparency International/Georgia, the Open Society Fund Georgia, and ISFED, said they considered the charges against all three men to be politically motivated, given the amount of time that had transpired. In April 2020 the public defender reported there was no evidence in the case files for the 2019 charge of money laundering in 2008.

## Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human Rights

Domestic and international human rights groups in most instances operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat responsive to their views.

**The United Nations or Other International Bodies:** De facto authorities in the occupied territories continued to deny unimpeded access to the United Nations and other international bodies.

**Government Human Rights Bodies:** NGOs viewed the Public Defender's Office, which has a mandate to monitor human rights and examine allegations of abuse and discrimination, as the most objective of the government's human rights bodies. The constitution limits the public defender to one six-year term in office.

The Public Defender's Office lacks authority to initiate prosecutions or other legal actions, but it may recommend action, and the government must respond. While the office generally operated without government interference and was considered effective, the office reported that government offices at times responded partially or not at all to inquiries and recommendations, despite a requirement to respond to information requests within 10 days and initiate follow-up action within 20 days.

The Public Defender's Office retains the right to make nonbinding recommendations to law enforcement agencies to investigate individual human rights cases. The office must submit an annual report on the human rights situation for the calendar year but may also make periodic reports. The office may not report allegations of torture unless the victim gives clear consent or a monitor from the office witnessed the torture.

The Public Defender's Office was increasingly marginalized by the ruling party amid the extreme polarization growing in the country's political arena. Around the time of the fall 2020 parliamentary elections, high-ranking party leaders began attacking the public defender, claiming she was politically partial and unqualified. Frequent attacks continued during the year, in which ruling Georgian Dream party members criticized the public defender as biased. They threatened legal action against her for her statements on the treatment of jailed former president Saakashvili.

The Gali and Ergneti Incident Prevention and Response Mechanisms (IPRM) were designed to cover issues in Abkhazia and South Ossetia, respectively, including human rights abuses reported in the occupied territories. They are intended to include security actors from the government, Russia, and de facto authorities of the Russian-occupied regions and be cofacilitated by the EUMM and UN for Gali, and the EUMM and OSCE for Ergneti. Several Ergneti IPRM meetings took place during the year in Ergneti, covering abuses in South Ossetia. The Gali IPRM did not meet, continuing a pause in meetings since 2017. The government fully supported and participated actively in Ergneti IPRM meetings.

## Section 6. Discrimination and Societal Abuses

### Women

**Rape and Domestic Violence:** Rape is illegal if it is committed by use of force, threat of use of force, or with a victim of a “helpless condition,” a legal term generally applied to elderly individuals, persons with mental or physical disabilities, or others deemed unable to resist. Some expressed concern that the definition of rape did not conform to international standards to combat violence against women, and that the lack of a positive consent framework meant that some rapes went uninvestigated or unpunished. A convicted first-time offender may be imprisoned for up to eight years. The government did not enforce the law effectively.

Investigative authorities lacked training on effective procedures on case handling and evidence collection. Survivors were often told to focus on physical violence as proof of sexual violence. GYLA reported sexual violence was prevalent and underreported. In only a small number of reported cases were perpetrators convicted. Prosecutors applied overly burdensome evidence requirements for bringing charges against perpetrators of sexual violence, while overwhelmingly strict requirements for convictions of sexual violence crimes were applied by judges.

The Public Defender’s Office noted in its 2020 report, released in April, serious legislative shortcomings in the regulation of crimes involving sexual violence, as well as in investigation, criminal prosecution, and court hearing of such crimes, falling short of the standards of the Council of Europe Convention on preventing and combating violence against women and domestic violence and international human rights. The office’s analysis showed that in the cases of rape and other sexual violence, courts did not consider the absence of a survivor’s consent an integral part of the definition of crime. Furthermore, the legislation does not consider a broad spectrum of circumstances that may affect the survivor’s will and provides for a disproportionately lenient punishment for a crime committed in certain conditions.

The law criminalizes domestic violence. In cases that do not result in physical injury, penalties for conviction of domestic violence include 80 to 150 hours of community service or imprisonment for up to two years. Domestic and gender-based violence remained a significant problem that the government took several steps to combat. The Ministry of Internal Affairs had a risk assessment tool that enables a police officer to decide whether to issue a restraining order based on a questionnaire available in the restraining order protocol, the data assessment, and risk analysis. In addition, if there was a high risk of recurrence of violence, a system of electronic surveillance allowed the Ministry of Internal Affairs to monitor abusers 24 hours a day. The high rate of domestic violence showed reporting of incidents increased in the country and that police were responding. The 112 Emergency Center also deployed an app that allows survivors of domestic or other violence to communicate via text message with emergency operators, making it easier to report abuse without alerting the perpetrator who may still be nearby. Shortcomings, however, remained. In one example, in 2019 an employee of the Tbilisi City Council accused council member Ilia Jishkariani of sexual assault and beating. The Prosecutor’s Office charged Jishkariani with sexual and other violence; the trial at Tbilisi City Court, which started in 2019, continued as of year’s end.

In June parliament approved legislation on the introduction of witness and survivor advocates that sit within police units. The provisions, which took effect on June 24, allow survivor advocates to support witnesses and survivors during the legal proceedings by establishing effective communication between them and investigators, provide necessary information during the investigation, and offer state services and assist in the application of such services. As of November there were 13 such advocates assigned to major police departments. Previously, these positions existed only at the Prosecution Service.

Despite legislative changes, the Public Defender’s Office reported in its annual report for 2020 that authorities lacked a comprehensive approach to combating domestic violence and violence against women, and there was insufficient coordination among government agencies.

The Public Defender’s Office highlighted a shortage of measures to prevent violence against women and to empower survivors of domestic violence. The office analyzed gender-based killings (femicides) and concluded they demonstrated an absence of mechanisms to prevent violence against women in the country.

The law provides for measures to detect signs of domestic violence in minors by crisis and shelter staff and promotes a prevention-oriented approach. The Public Defender's Office and women's rights NGOs emphasized there remained a need for the government to improve coordination between government agencies working on the matter.

NGOs and the government expanded services provided to survivors of domestic violence in recent years. GYLA remained concerned that notwithstanding the COVID-19 pandemic, official statistics on domestic violence and violence against women did not change significantly, which indicated a possible underreporting of domestic violence incidents by victims.

Domestic violence laws mandate the provision of temporary protective measures, including shelter, protective orders, and restraining orders that prohibit an abuser from coming within 330 feet of the survivor and from using common property, such as a residence or vehicle, for up to nine months.

In 2020 authorities began using electronic surveillance bracelets for domestic violence abusers. The use of electronic surveillance is subject to a judicial decision. Police assess the risk of recurrence of violence and, in parallel with issuing the restraining order, are required to submit a report to the court for approval within 24 hours. Both the electronic surveillance period and the validity of a restraining order last for one month and require consent of the survivor.

Local NGOs and the government jointly operated a 24-hour hotline and shelters for abused women and their minor children, although space in the shelters was limited and only five of the country's 10 regions had facilities.

**Other Harmful Traditional Practices:** Kidnapping women for marriage occurred in remote areas and in ethnic minority communities but was rare. The Public Defender's Office reported some cases of kidnapping for forced marriage and early marriage in its 2020 report.

**Sexual Harassment:** Sexual harassment is illegal under the code of administrative offenses but is not criminalized; it remained a problem in the workplace. By law sexual harassment is considered a form of discrimination and is defined as an unwanted physical, verbal, or nonverbal action of a sexual nature that aims to degrade or results in the degradation of a person or creation of a hostile environment for that person. Based on laws on sexual harassment, the public defender analyzes the case and provides recommendations on the case to authorized persons at the institution where the violation took place. During the year the Ministry of Foreign Affairs, Ministry of Regional Development and Infrastructure, Civil Service Bureau, State Inspector's Service, and an office in the Ministry of Education, Science, Culture and Sport developed internal regulatory frameworks for responding to workplace sexual harassment incidents, according to UN Women.

Under the code of administrative offenses, sexual harassment victims may file complaints with police. If found guilty, a person can be punished with a token monetary fine; repeated violations result in an increased fine or correctional work for up to one month. Repeated violations in the case of a minor, a pregnant woman, a person unable to resist due to physical or mental helplessness, a person with a disability, or in the presence of a minor with prior knowledge leads to a more substantial fine. Through October the Public Defender's Office examined four cases of alleged sexual harassment and identified violations in two instances. Others were pending.

The public defender considered especially problematic a selective approach applied by authorities to instances of violence against women and domestic violence involving influential persons as abusers. In such cases authorities often delayed their response, leaving the impression that preference was given to the abuser's, rather than the victim's, interests. Victims often had to go public to prompt action by relevant authorities.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Authorities regulated the use of surrogacy services. A Ministry of Justice decree regulating civil acts restricts the right to surrogacy to heterosexual couples who have been married or living together for more than one year. Women and LGBTQI+ rights organizations considered the restriction an infringement on the ability of single women and LGBTQI+ persons to have a child.

The UN Fund for Population Activities (UNFPA) reported that women from minority communities, women from rural areas, and poor women faced barriers in accessing information related to their reproductive health and financial barriers limited access to customized contraceptive options for many women.

According to the Public Defender's Office, limited access to information about contraceptives remained a problem for girls and women of childbearing age. The office stated human sexuality education was not fully integrated into school curriculums. Programs in schools failed to provide

information to teenagers on safer sex. The lack of comprehensive education prevented girls from understanding the risks associated with early marriage and protecting themselves from early pregnancy.

The Public Defender's Office stated in its 2020 annual report that "women's sexual and reproductive health and rights, full integration of family planning services and contraceptives into primary care, as well as integration of comprehensive education on human sexuality into the formal education system remain challenging." Women in rural areas, especially remote mountain villages, lacked regular access to family planning services and clinics. Women often had to travel to larger towns for these services, causing additional financial burden.

While women have the ability to access skilled personal medical attention during pregnancy and childbirth, the use of maternal health services decreased during the year due to the COVID-19 pandemic and associated movement restrictions. The Public Defender's Office reported a lack of the postpartum care needed for the prevention of maternal mortality and for maintaining women's mental and physical well-being. Maternal health services were somewhat limited for women who did not speak Georgian.

The Agency for Social Care, under the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs, provided medical, psychological, legal, and additional assistance to survivors of sexual violence.

The UNFPA reported that the state funded services for survivors of sexual violence based on a decree that stipulates the state must fund certain services, including, but not limited to, emergency contraceptives and postexposure prophylaxis. Regulations, however, require survivors of sexual assault, who may hesitate to come forward, to notify police to receive these services. Victims of trafficking in persons and domestic violence do not need to cooperate with police to receive services.

**Discrimination:** The law provides for the same legal status and rights for women and men, including under family, religious, personal status and nationality laws, as well as laws related to labor, property, inheritance, employment, access to credit, and owning or managing business or property.

Civil society organizations continued to report discrimination against women in the workplace. The Public Defender's Office monitored gender equality complaints, in particular those involving domestic violence and workplace harassment, and stated that gender equality remained a problem. The office considered the small number of government projects, programs, and initiatives designed to empower women to be inadequate to achieve gender equality.

### Systemic Racial or Ethnic Violence and Discrimination

The law prohibits discrimination. According to the Public Defender's Office, the government "instead of tackling systemic inequality practices, largely was focused on eliminating individual cases of discrimination."

The Public Defender's Office and NGOs reported some instances of discrimination against minorities. As of year's end, the office had received 15 claims of discrimination based on nationality or ethnic origin. The Public Defender's Office reported it did not receive any complaints during the year alleging racial discrimination by law-enforcement officials.

There were multiple incidents of ethnic or religiously motivated violence during the year. For example, on May 16, a fight broke out in a store owned by an ethnic Azeri in the town of Dmanisi. The conflict occurred when Svans (a subgroup of ethnic Georgians) were denied credit for their attempted purchase. The fight quickly escalated into a riot between Svans and ethnic Azeris. Police arrested six Svans in connection to the riot, and hundreds of Svans who were residents of nearby villages protested for their release. Police released the six, the group returned to ethnic Azeri neighborhoods, and another clash between the two ethnic groups resulted in dozens of injuries on May 17. Interior Minister Vakhtang Gomelauri and State Security Service chief Grigol Liluashvili traveled to Dmanisi on May 17 to condemn the violence, stating that the ethnic Azeris were Georgian citizens and such violence would not be tolerated. After intervention from religious leaders from the Georgian Orthodox Church and the mufti of Eastern Georgia, the groups ended the conflict. No one involved was charged with any crimes.

During the year the Prosecutor General's Office charged nine individuals with committing a crime based on nationality, race, or ethnicity.

Media outlets reported numerous cases of hate speech targeting minority groups during the year.

In addition to political, civic, economic, and cultural obstacles, weak Georgian-language skills remained the main impediment to integration for members of the country's ethnic minorities. Some minorities asserted the law requiring "adequate command of the official language" to work as a civil

servant excluded them from participating in government. The Public Defender's Office reported that involving ethnic minorities in national decision-making processes remained a problem due to the small number of representatives of ethnic minorities in the central government.

The government continued its "1+4" program for ethnic minorities to study the Georgian language for one year prior to their university studies. Under a quota system, the government assigned 12 percent of all bachelor or higher certificate-level placements to students with ethnic minority backgrounds. Of these reserved slots, ethnic Armenian and Azeri communities each received 40 percent (5 percent of the total), while Ossetian and Abkhaz communities received 10 percent each (1 percent of the total).

Abkhaz de facto authorities continued policies that threatened the legal status of ethnic minorities, including Georgians, Armenians, Greeks, Roma, and Syrians, living in Abkhazia.

The government continued to report discrimination against ethnic Georgians in the Russian-occupied territories. The Public Defender's Office continued to note the case of Tamar Mearakishvili, an activist in South Ossetia who alleged persecution by the de facto authorities because of her Georgian ethnicity. In April the de facto prosecutor dropped a slander charge against Mearakishvili but was reportedly reviewing previous charges of illegal acquisition of citizenship and possession of Georgian citizenship. In 2019 de facto authorities in Akhalkgori had cleared Mearakishvili of charges and lifted all restrictions imposed on her, including the restriction on leaving South Ossetia. The de facto prosecutor appealed the decision, and the court dismissed all charges later that year. The de facto prosecutor appealed the decision; in January 2020 the de facto supreme court partly satisfied the appeal, returning one case to the trial court. At the same time, in February 2020 the de facto prosecutor filed the same charges against Mearakishvili in the other case in which the de facto supreme court had acquitted Mearakishvili. In September 2020 Mearakishvili reported she had been without electricity since the middle of the month in what she characterized as an act of retribution by Akhalkgori de facto prosecutor Alan Kulumbegov. Prior to the cut-off of her electricity, she reportedly complained to the de facto prosecutor general's office that Kulumbegov repeatedly sought to blackmail her.

## Children

**Birth Registration:** By law citizenship derives from parents at birth or from birth within the country's territory; children born to stateless parents in the country are citizens. According to UNICEF, 99 percent of children were registered before reaching the age of five.

While IDP returnees were in principle able to register their children's births with de facto authorities, they reportedly preferred to have their births registered with Georgian authorities.

**Education:** Children of noncitizens often lacked documentation to enroll in school. The level of school attendance was low for children belonging to disadvantaged and marginalized groups, such as street children and children with disabilities or in foster care.

According to a multiple indicator cluster survey conducted in 2018 by the national statistics office GEOstat and the National Center for Disease Control and Public Health with UNICEF support, total enrollment of preschool children between the ages of three and five was 82 percent. Enrollment rates were lower for children of ethnic minorities (the rate for Azeri children was 28.8 percent, while the rate for Armenian children was 68.8 percent) as well as children from socially vulnerable groups (poor or large families, single parent families, IDPs, families with persons with disabilities) (63.6 percent) and rural communities (70.2 percent).

According to a UNICEF study released in 2018, most street children did not have access to either education or medical services beyond emergency care. According to a public defender report, most street children were vulnerable to violence and had limited access to education or health care.

Abkhaz de facto authorities did not always provide ethnic Georgians opportunities for education in their native language. De facto authorities dismissed ethnic Georgian teachers in Abkhazia deemed to have insufficient knowledge of Russian. The language of instruction for students in first through fourth grades in Lower Gali was Russian. Russian was the only instructional language in the Tkvarcheli and Ochamchire zones, and de facto authorities prohibited Georgian-language instruction there.

The Public Defender's Office noted that in the Gali, Ochamchire, and Tkvarcheli districts, ethnic Georgian students and teachers had poor command of Russian, and therefore Russian-only instruction had significantly affected the quality of their education. Local communities had to either pay for teachers, arrange for teachers to cross from Tbilisi-administered territory to teach, or send their children across the ABL for Georgian-language lessons. According to the EUMM, some Gali students faced difficulties in crossing the ABL to take university entrance examinations.

De facto South Ossetian authorities also required ethnic Georgians of all ages to study in Russian.

**Child Abuse:** The law provides for the right to dignity, life, survival, and development, and prohibits discrimination. Conviction for various forms of child abuse, including trafficking, forced labor, or forced begging, is punishable by a spectrum of noncustodial sentences and prison terms. Conviction of domestic violence against minors is punishable by community service or imprisonment for one to three years, and conviction for trafficking minors is punishable by eight to 20 years' imprisonment, depending on the circumstance. The Public Defender's Office reported that general education institutions and preschools lacked qualified professionals who could detect and respond to signs of violence against children in a timely manner.

Authorities referred children who suffered abuse to the relevant community and government services in coordination with stakeholders, including police, schools, and social service agencies.

**Child, Early, and Forced Marriage:** The legal minimum age for marriage for both men and women is 18. Conviction for forced marriage of an individual younger than 18 is punishable by two to four years' imprisonment. The Public Defender's Office reported the practice of early marriage and engagement remained a problem. Law enforcement agencies, social services, and secondary education institutions did not coordinate their efforts to deal with the problem.

Home-based learning due to COVID-19 made it more difficult for social workers to detect cases of child marriage and intervene promptly.

The Public Defender's Office noted in its 2020 report that the social service agency did not have guidelines for managing child marriage cases and that its response to child marriages was often superficial and fragmented.

Reports of child marriages continued throughout the year. The public defender's annual report for 2020 indicated that child marriages occurred more frequently among certain ethnic and religious groups. Authorities had difficulty providing timely and effective responses to unlawful imprisonment and forced marriage. The public defender reported that inadequate official response to such incidents encouraged potential offenders, who believed they would not be held responsible.

**Sexual Exploitation of Children:** Conviction for commercial sexual exploitation of children or possession of child pornography is punishable by up to 20 years' imprisonment. Authorities enforced the law. Street children and children living in orphanages were reportedly particularly vulnerable to exploitation.

The minimum age for consensual sex is 16. The law considers sexual intercourse with a juvenile as rape, provided it is committed by use of force, threat of use of force, or with a victim of a "helpless condition." If these elements are not present, sexual intercourse with a minor can be charged as a crime of "penetration of a sexual nature into the body of a person younger than 16 years of age," which carries a lower sentence. The penalty for conviction for rape is from six years to life imprisonment, depending on circumstances; the government generally enforced the law. Conviction of other sexual crimes carried increased levels of punishment if the victim was a juvenile.

**Displaced Children:** The Public Defender's Office reported a lack of information regarding street children and noted the inadequacy of resources devoted to them. It was unclear how many children were geographically displaced, and a significant portion belonged to families that migrated seasonally to Georgia from Azerbaijan. In its annual report for 2020, the Public Defender's Office reported that despite improvement in identifying and establishing contact with children living in the streets, the identification process remained inadequate.

The Public Defender's Office 2021 report to the UN Committee on the Rights of the Child described children living and working on the street as a vulnerable social group that faced a high risk of labor exploitation. They lacked protections from forced labor and had limited access to health care and education. The government's detection, outreach, and actions to protect and assist street children were limited, and access to services for them and their families remained inadequate.

Due to their homelessness and lack of sanitation, street children had a higher risk of COVID-19 infection. The Public Defender's Office reported that, based on information from the Agency for State Care, a quarantine area for children was opened in Tbilisi in 2020. If necessary, mobile groups working under a state subprogram placed street children in the quarantine area as well. On April 1, the Public Defender's Office reported that in 2020, the psychosocial needs of homeless children were not being properly met in the quarantine area.

The population of street children consisted of ethnic Georgians, members of two Romani language groups, Kurds from Azerbaijan, children of Armenian refugees, and children of IDPs from South Ossetia and Abkhazia. Police and labor inspectors began to take enforcement action, but more work was needed to protect children from being trafficked or exploited through illicit work and forced labor.

While some shelters existed, the full spectrum of services needed did not exist outside of Tbilisi.

**Institutionalized Children:** The government continued replacing large-scale orphanages with alternative arrangements. The government provided grants for higher education for institutionalized and foster-care children, including full coverage of tuition and a stipend, and provided emergency assistance to foster families.

The government continued to transfer children, including those with disabilities, who were institutionalized in large-scale orphanages to family and family-type services (small group homes for specialized care). The government increased the pool of foster parents and specialized foster parents available to receive children from orphanages and avoid an inflow of new cases to orphanages.

In June the Public Defender's Office reported that protection of minors in state care and in some orphanages operated by the Georgian Orthodox Church remained a problem. The protection of children in state care from violence, care for their mental health, protection of right to education, preparation for independent life, improvement of care-taking personnel, and allocation of sufficient human and financial resources posed a problem. Teachers in small family-type homes as well as foster parents lacked the knowledge and skills to handle children with behavioral problems or child victims of violence. This resulted in children being moved between different types of care, creating additional stress and worsening their situation. Minors with disabilities presented a particular problem because assistance programs were not oriented to meeting their individual needs for protection, preparation for independent living, and education. The practice of placing children with behavioral or mental-health problems together was also problematic and aggravated their situation.

In May the Public Defender's Office reported that Ninotsminda Orphanage's principal, Bishop Spiridon, barred its representatives from monitoring the orphanage, which was operated by the Georgian Orthodox Church. The Public Defender's Office has a constitutional right to enter institutions to conduct monitoring. The Public Defender's Office reported there were allegations of physical and psychological abuse of children at the orphanage. Bishop Spiridon responded that he would never allow the office, which he claimed was propagating same-sex marriage, inside the institution. On June 2, the Public Defender's Office cited Ministry of Internal Affairs' reports that four criminal cases concerning the orphanage had been opened since 2016. Three of the cases involved allegations of violence against minors and one the alleged rape of a minor. The bishop's refusal to allow the office to enter the orphanage prompted the UN Committee on the Rights of the Child to call on authorities to ensure monitoring occurred.

On June 5, the Tbilisi City Court ruled in favor of the NGO Partnership for Human Rights that children with disabilities should be removed from the Ninotsminda Orphanage. The court stated that the State Care Agency, which is responsible for the protection of children in foster facilities, could apply to the court to extend the removal order to other children. The Georgian Orthodox Church announced its intention to appeal the court ruling on June 6. On June 13, the church replaced Bishop Spiridon with Archbishop Iakob as principal of the orphanage, and on June 17, Archbishop Iakob agreed to allow Public Defender Nino Lomjaria to visit. On June 28, the public defender visited the orphanage and said that the Archbishop Iakob agreed to work with the Public Defender's Office. Archbishop Iakob also dismissed 20 orphanage employees. As of November an investigation into alleged abuse was underway.

**International Child Abductions:** The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## Anti-Semitism

Observers estimated the Jewish community to be no more than 6,000 persons.

As of November an appeals court decision was pending regarding whether the 2018 killing in Tbilisi of human rights activist Vitali Safarov, who was of Jewish and Yezidi origin, constituted a hate crime. Human rights NGOs alleged the two men responsible for the killing were members of a neo-Nazi group, and a key witness at the trial testified that Safarov was killed because he was Jewish. In 2019 the Tbilisi City Court convicted the two men and imposed a 15-year prison sentence for the killing of Safarov but dismissed qualifying the killing as a hate crime; the prosecutor appealed the court's decision not to classify the killing as a hate crime.

On August 21, former Georgian Orthodox priest Basil Kobakhidze posted a critical statement on his Facebook page regarding a recording of Georgian Orthodox priest Archil Mindiashvili who made anti-Semitic statements about the COVID-19 vaccine and stated he would not be vaccinated.

On January 4, Archpriest Ilia Karkadze asserted that Jewish persons in the financial industry controlled Russia and Georgia today, conquering them with “offshore money.”

In response to Karkadze’s statement, the Tolerance and Diversity Institute and the Public Defender’s Office issued statements warning of the rise in anti-Semitism that statements like these could cause. The Georgian Orthodox Church’s metropolitan Ioane Gamrekeli issued a statement on Karkadze’s remarks that said, “[the remarks] represent completely groundless accusations against the Jewish people or its individual representatives. It is not based on the teachings of the Church and is inspired with the anti-Semitic pathos.”

## Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## Persons with Disabilities

While the constitution and law prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, transportation, access to health care, the judicial system and right to a fair trial, and the provision of other government or private-sector services, the government did not effectively enforce these provisions. The Public Defender’s Office reported persons with disabilities continued to encounter barriers to participating fully in public life. Many families with children with disabilities considered themselves stigmatized and kept their children from public view. The office reported that violence, especially sexual violence, was a significant problem for persons with disabilities. Discrimination in employment was also a problem. A new law on the rights of persons with disabilities came into force on January 1.

The country operated several orphanages for children with disabilities as well as specialized family-type services and foster parenting. The government continued operations of state-run institutions for adults with disabilities. Despite some improvements in these institutions, they lacked infrastructure, trained staff, psychosocial services, and opportunities for patients to have contact with the outside world and families. There was no plan for replacing the institutions with community-based services and other alternatives.

The Public Defender’s Office report for 2020 noted that the COVID-19 pandemic hurt the rights of persons with disabilities, as remote work and distance learning were not viable for many such persons. In addition, many remote services were ineffective because they could not ensure proper provision of services to individuals.

The law provides principles to guide the government’s implementation of the UN Convention on the Rights of Persons with Disabilities and clarifies the government’s roles and responsibilities to ensure persons with disabilities fully and effectively participate in society. The law mandates all agencies employ the principles of universal design, reasonable accommodation, and independent living; recognizes Georgian sign language as an official language for communication and education of deaf and hearing-impaired persons; authorizes special plaintiff organizations to represent persons with disabilities in court; requires municipalities to provide services to support independent living for persons with disabilities; and mandates that relevant state agencies ensure all new and old buildings and services will be accessible for persons with disabilities within 15 years. The law requires the education system to elevate the status of special education teachers and introduce social workers at schools to work on the inclusion of children with disabilities.

Approximately 1,250 persons with disabilities were registered on the Worknet public employment portal in 2020-21, leading to 37 persons with disabilities being hired in 2020 and 63 in 2021. The Labor, Health, and Social Affairs’ Employment Support Agency, under the Ministry of Internally Displaced Persons from the Occupied Territories, cooperated with a range of large companies to find employment for persons registered in the portal.

Provisions of the law that disqualify a person with disabilities working in the public sector from receiving state disability assistance were seen as a disincentive to such work, although in January the government passed legislation that would maintain social benefits for one year in cases in which a person with disabilities found public-sector employment. The Public Defender’s Office reported persons with disabilities employed in the public sector, unlike those in the private sector, cannot receive social benefits (except those with severe disabilities or visual impairments).

In a case litigated by the NGO Partnership for Human Rights, the court ordered state-funded 12-hour personal assistance for a child with severe disabilities who had to be institutionalized at a psychiatric hospital for one month since no community-based care options were available to him. As a result of the decision, in December 2020 the government approved the 2021 State Program of Social Rehabilitation, which provides that the needs for individual home-care service for children with disabilities would be identified by a multidisciplinary team and children would be able to receive personal assistant services at government expense.

## HIV and AIDS Social Stigma

Stigma and discrimination against persons with HIV/AIDS were major barriers to HIV/AIDS prevention and service utilization. NGOs reported that social stigma caused individuals to avoid testing and treatment for HIV/AIDS. Some health-care providers, particularly dentists, refused to provide services to HIV-positive persons. Individuals often concealed their HIV/AIDS status from employers due to fear of losing their jobs.

## Acts of Violence, Criminalization, and Other Abuses based on Sexual Orientation and Gender Identity

The law makes acting on the basis of prejudice because of a person's sexual orientation or gender identity an aggravating factor for all crimes. According to NGOs, however, the government rarely enforced the law. The Human Rights Department of the Ministry of Internal Affairs trained officers on hate crimes.

The Public Defender's Office reported LGBTQI+ individuals continued to experience systemic violence, oppression, abuse, intolerance, and discrimination. LGBTQI+ rights organizations reported several instances of violence against LGBTQI+ individuals during the year. Authorities opened investigations into several of the cases. According to the Prosecutor General's Office, in the first nine months of the year criminal prosecutions were initiated against 64 persons on the basis of intolerance on the grounds of sexual orientation and gender identity. The office reported that violence against LGBTQI+ individuals, whether in the family or in public spaces, was a serious problem and that the government's actions were insufficient to respond to this challenge.

LGBTQI+ organizations, NGOs, and the Public Defender's Office reported the government's ineffective antidiscrimination policy reduced the LGBTQI+ community's trust in state institutions, and they pointed to homophobic statements by politicians and public officials as furthering hatred and intolerance against the community. For example on July 5, regarding the planned Tbilisi Pride march, Prime Minister Garibashvili stated "the march scheduled today carries risks of civic confrontation because the march is unacceptable by the vast majority of the country's population. That is why I believe that the conduct of the march on Rustaveli Avenue is not reasonable." He added separately, "The opposition headed by Saakashvili is behind the pride march, which is aimed at provoking civil confrontation and turmoil."

During the year there was a rise in attacks against LGBTQI+ persons and those perceived to be associated with the LGBTQI+ community, most notably against transgender women. Violent protests and riots during Tbilisi Pride culminated in homophobic and anti-Western riots on July 5 (see section 2.b., Freedom of Peaceful Assembly and Association). Individual attacks were also on the rise. For example on April 30, a 17-year-old transgender girl was attacked by two unknown suspects who beat her, smashed her cell phone, and used transphobic rhetoric. On May 1, two individuals were charged for this crime and were released by the court on relatively low bail given the nature of the violent crime. On June 7, the case was referred for trial to the Tbilisi City Court; as of year's end, the trial continued.

On October 31, a man entered a massage parlor in Tbilisi and attacked two transgender women with a knife, killing one and wounding another. The suspect was arrested and faced a charge of premeditated murder. The Prosecutor General's Office said the suspect "wanted to kill transgender people on the grounds of intolerance of gender identity." As of year's end, the case was still pending.

On April 20, a man attacked a lesbian couple in front of their child outside their home in Tbilisi. The attacker, a neighbor, insulted them and demanded they move out of the building. The attacker then spat on them, continued with homophobic insults, and threatened the couple with a knife. Police arrested the man, who was released on bail on April 23 and was allowed to return to their shared apartment building. LGBTQI+ activists cited the case as an example of the government not taking LGBTQI+ hate crimes seriously. In June the case was referred for trial to Tbilisi City Court; as of year's end, the trial continued.

The Public Defender's Office received 10 complaints of discrimination based on sexual orientation and seven cases based on gender identity. Of these cases, 16 were being investigated by the Internal Affairs Ministry. In one of the cases, the claimant alleged refusal of service based on homophobic motives. On July 6, a private company refused to prepare a seal for the organization, The Network of a European Person's Rights. The claimant also said that an employee of the company, who was preparing the mold of the seal, used degrading and insulting language towards the LGBTQI+ community. When the claimant told the employee the name of the organization, the latter started insulting the Tbilisi Pride event, praising Levan Vasadze – a businessman and far-right political leader – and speaking about the July 5 violence. The Public Defender's Office was reviewing the case.

In a high profile case, in 2019 the Ministry of Internal Affairs charged one person for making death threats based on sexual orientation after he threatened an individual who made public statements against homophobia on May 17, the International Day against Homophobia, Biphobia, and

Transphobia. In July the case was referred for trial to Batumi City Court. As of December the trial had not commenced.

The law requires gender confirmation surgery for legal gender-identity change and does not provide options for transgender individuals who do not wish to undergo confirmation surgery to change their gender identity.

## Section 7. Worker Rights

### a. Freedom of Association and the Right to Collective Bargaining

The law generally provides for the right of most workers, including government employees, to form and join independent unions, to legally strike, and to bargain collectively. According to the law, if a trade union or a group of employees initiates negotiations for the conclusion of a collective agreement, employers shall negotiate in good faith. The parties should provide each other with information relevant to the issues being discussed during negotiations.

Although the law provides for the rights to freedom of association and collective bargaining, employers did not always negotiate in good faith. Employers' obligations to participate in mediation are not clearly defined by law or practice. This was illustrated by a collective bargaining process that deadlocked at the Rustavi Azot nitrogen plant. On April 28, approximately 2,000 workers walked out on indefinite strike after the company rejected demands for a 50 percent pay increase. After a few days of negotiations, employees settled for raises ranging between 8.7 percent and 25 percent, according to the Georgian Trade Union Confederation (GTUC). This caused a split in the striking workforce, as media outlets reported that many workers were dissatisfied because the increases were less than half of what they had demanded and were not indexed to inflation.

While strikes are not limited in length, the law limits lockouts to 90 days. A court may determine the legality of a strike, and violators of strike rules may face up to two years in prison. Although the law prohibits employers from discriminating against union members or union-organizing activities in general terms, it does not explicitly require reinstatement of workers dismissed for union activity.

Certain categories of workers involved in "critical services" or related to "human life and health," as defined by the government, were not allowed to strike. The International Labor Organization noted the government's list of such services included some it did not believe constituted essential businesses and services, such as municipal cleaning departments, natural gas transportation and distribution facilities, and oil and gas production, preparation, refining and processing facilities.

Due to continued concerns over the country's respect for freedom of association, collective bargaining, and the right to strike, labor unions called upon the government to take further steps to enhance worker protections and protect existing workers' rights during the year. The government, however, did not effectively enforce laws that protect freedom of association or prohibit antiunion discrimination. Penalties were not commensurate with those under other laws involving the denial of other civil rights. Remedies to address arbitrary dismissal and legal disputes regarding labor rights were subject to lengthy delays. Employees who believe they were wrongfully terminated must file a complaint in a local court within one month of their termination.

Labor organizations reported employers' obligations to participate in mediation were unclear, and some refused to participate.

Workers generally exercised their right to strike in accordance with the law but at times faced management retribution. On May 3, employees of the Guria Express mill began a 38-day strike, demanding wage increases and a safer work environment. During the strike the employer refused to engage in dialogue with trade unions and resorted to other means to end the strike. Employees ruled out any type of agreement with the employer without a trade union. During a parallel mediation process, the labor inspectorate found a number of safety violations. As a result of multilateral negotiations, large-scale rallies and marches occurred demanding the involvement of state officials in the processes. The strike was resolved with employees, trade unions, and employers signing an agreement on June 12. The management of Guria Express filed a lawsuit against 26 workers requesting to declare their strike as illegal. The court suspended the case, as GTUC proved that the employer did not have a legal basis for declaring the strike illegal.

Some employers interfered with unions. GTUC reported the influence of employer-sponsored "yellow" unions in the Georgian Post and Georgian Railways impeded the ability of independent unions to operate. GTUC also reported widespread instances of harassment in both the public and private sectors based on union affiliation, notably in the railway and postal services. For example, the Georgian Post Office does not have a union due to the employer's antiunion activities. The Georgian Post Office has a so-called foundation supporting workers that was created to replace the union in the company, according to GTUC. In the Georgian Railway, a "yellow" union still existed, but during the year management of the company began cooperating with the GTUC-affiliated Railway Workers Trade Union and was not interfering actively in its activities.

## b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. The government's enforcement of the laws was not always effective. Forced labor is a criminal offense with penalties commensurate with those for other serious crimes. The low number of investigations into forced or compulsory labor, however, offset the effect of strong penalties.

The Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health, and Social Affairs through the Labor Inspectorate reported it found no cases of forced or compulsory labor as of November, although GTUC claimed this was because the Labor Inspectorate lacked enough inspectors to cover the country effectively. The Public Defender's Office stated the number of inspectors remained a problem, as only 56 of 110 labor inspector positions had been filled as of June. The law permits the ministry's inspection department to make unannounced visits to businesses suspected of employing forced labor or human trafficking. The Ministries of Justice and Internal Affairs and the International Organization for Migration provided training on forced labor and human trafficking for inspectors.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits all of the worst forms of child labor such as employment in hazardous work, and forms of exploitation of children, including forced child labor and commercial sexual exploitation. The minimum legal age for employment is generally 16, although in exceptional cases, children may work with parental consent at 14. The minimum wage laws were not enforced to protect children working in the informal sector. Children younger than 18 may not engage in unhealthy, underground, or hazardous work; children who are 16 to 18 are also subject to reduced workhours and prohibited from working at night. Minors between the ages of 16 and 18 may not work more than 36 hours per week. Minors who are 14 or 15 may not work more than 24 hours per week. The law permits employment agreements with persons younger than 14 in sports, the arts, and cultural and advertising activities.

The Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health, and Social Affairs reported that it found one case of child labor law violations during the year and referred the case to the State Care Agency. The government effectively enforced the law, but some child labor persisted undetected. Experts reported minors were employed in the service, construction, agriculture, and tourism sectors. The penalties for violations of child labor laws were commensurate with those for other serious crimes.

According to *Child Labor During the New Coronavirus Pandemic and Beyond*, a report published during the year by the Public Defender's Office, approximately 8,800 children were involved in hazardous labor, which equated to 64 percent of working children. In addition to hazardous work, there were reports of unhealthy and violent conditions (constant screaming, physical abuse); harmful work environment (dust, smoke, high temperature, cold, etc.); contact with hazardous substances or devices; and working for long periods of time in the workplace. An estimated 52 percent of children involved in child labor were between the ages of five and 13.

Child labor was widespread in cities, and 88 percent of children involved in it worked in an environment that was harmful to their health. In older age groups, children became increasingly involved in other industries. In most cases authorities did not consider this work as abusive or categorize it as child labor. In some ethnic-minority areas, family farm obligations interfered with school attendance, and school participation by ethnic minority children was especially low. Some families in rural Kvemo Kartli (an ethnic Azeri region) and Kakheti (where there was also a significant ethnic Azeri population) worked in distant pastures for six to nine months a year, so their children seldom attended school. Estimates of the number of children affected were not available.

Street begging remained the most visible form of child labor, especially in Tbilisi. In 2018 UNICEF reported that children of street families and unaccompanied children moved following the agricultural and tourist seasons, including to tourist sites along the Black Sea during the summer. Such children were vulnerable to violence and did not have access to either education or medical services beyond emergency care.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

## d. Discrimination with Respect to Employment and Occupation

The labor code prohibits discrimination in employment due to race, skin color, language, ethnicity, or social status, nationality, origin, or position, place of residence, age, sex, sexual orientation, marital status, disability; religious, public, political or other affiliation, including affiliation with trade unions,

political or other opinions, or other reasons. It does not specifically prohibit discrimination based on HIV or other communicable disease status or social origin. The law further stipulates that discrimination be considered “direct or indirect oppression of a person that aims to or causes the creation of a frightening, hostile, disgraceful, dishonorable, and insulting environment.”

The law requires that the principle of equal treatment should apply to labor and precontractual relations. In 2019 parliament amended the law to define sexual harassment as a form of discrimination and strengthen regulations against it. By law a person may report sexual harassment in a public space to police for investigation. Cases of sexual harassment in the workplace are submitted to the public defender for investigation.

The law prohibits all forms of discrimination in the employment process unless the unequal treatment serves to equalize the employment opportunities for job seekers and is a proportionate and necessary means of achieving that goal.

The labor inspectorate’s new mandate to conduct inspections covering all aspects of labor law took effect on January 1. The inspectorate, however, did not have enough trained labor inspectors. Due to lack of a fully staffed and functioning labor inspectorate, the government only sometimes effectively enforced these laws. Penalties, when enforced, were not commensurate with those provided by similar laws related to civil rights.

Discrimination in the workplace was widespread. LGBTQI+ activists said that discrimination based on gender identity and sexual orientation remained widespread and underreported. GTUC reported cases of discrimination based on gender and union affiliation. At job interviews women often were asked specific questions on marital status, family planning, and household responsibilities. Women were frequently paid less than men for the same work and were less likely to receive promotion opportunities. In addition, vacancy announcements often included age requirements as preconditions to apply for a particular position, despite laws that prohibit discriminatory wording in job announcements. As of August the Public Defender’s Office had received one complaint of discrimination, specific to age discrimination, which was under review.

While the law provides for equality in the labor market, NGOs and the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health, and Social Affairs agreed that discrimination against women in the workplace existed and was underreported. Although some observers noted continuing improvement in women’s access to the labor market, women were overrepresented in low-paying, low-skilled positions, regardless of their professional and academic qualifications.

According to the World Economic Forum, women and men had almost the same level of educational attainment, especially regarding to literacy, primary education, and secondary education. The estimated earned income for women continued to lag behind that for men.

There was some evidence of discrimination in employment based on disability. There were also reports of informal discrimination against members of Romani, Azeri, and Kurdish populations in the labor market.

## **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The minimum wage for both state- and private-sector employees was below the official subsistence income level. Employers did not apply the official minimum wage, however, since the lowest-paid jobs in the private sector were typically significantly higher than the minimum wage.

The law provides for a 40-hour workweek and a weekly 24-hour rest period unless otherwise determined by a labor contract. Overtime is defined as work by an adult employee in excess of the regular 40-hour workweek, based on an agreement between the parties. An executive order establishes essential services in which overtime pay may not be approved until employees work more than 48 hours a week. Pregnant women or women who have recently given birth may not be required to work overtime without their consent. There is no explicit rate for overtime; the law states overtime “be reimbursed at an increased rate of the normal hourly wage...defined by agreement between the parties.” A May court ruling, however, found in one case that a 125 percent rate qualified as meaningful overtime pay. The law does not explicitly prohibit excessive overtime.

The Labor Inspectorate, which is part of the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health, and Social Affairs, is responsible for enforcement of wage and hour laws. The Labor Inspectorate has authority over all sectors of the economy and may make unannounced inspections and initiate sanctions. The government effectively enforced the law, and penalties for violations were commensurate with those for other similar crimes, but the number of inspectors was insufficient to enforce compliance fully.

**Occupational Safety and Health:** According to labor rights groups, occupational safety and health (OSH) standards were appropriate for the main industries and OSH experts actively identified unsafe conditions in addition to responding to complaints. Different inspectors within the Labor Inspectorate are responsible for covering OSH and other labor violations. During the year the inspectorate was responsible for reviewing and enforcing compliance with COVID-19 safety provisions, and most of its inspections were to enforce those regulations.

The COVID-19 pandemic significantly affected employment and labor relations. According to GTUC, pandemic restrictions had a significant economic impact on the tourism, retail, and transport sectors, and also affected the construction, real estate, leisure, and entertainment sectors, although the economic situation in the country improved significantly during the year.

Employer abuses of workers' rights persisted, and it was difficult for workers to remove themselves from hazardous situations without jeopardizing their employment. Workers hired on fixed-term contracts frequently feared that calling employers' attention to situations that endangered their health or safety would be cause for the employers not to renew their contracts. The Human Rights Education and Monitoring Center reported that, considering the difficulty of finding a new job as well as a lack of adequate social protection mechanisms in the country, workers were reluctant to be vocal concerning improper and even hazardous working conditions due to fear they would lose their jobs. This situation was particularly acute in some industrial towns where the local population was dependent on a single business operation. The COVID-19 pandemic aggravated the situation, putting employees in precarious positions due to their social insecurity and inability to demand adequate working conditions.

Conditions for migrant workers were generally unregulated. While the government did not keep specific statistics on migrant laborers in the country, the Public Services Development Agency issued up to 5,000 residence permits annually to migrant workers.

According to GTUC, 33 workers died and 252 were injured in work-related accidents through the end of the year, compared with 39 deaths and 249 injuries in 2020. The mining and construction sectors remained especially dangerous, with reports of injuries, sleep deprivation, and unregulated work hours.

**Informal Sector:** More than 35 percent of nonagricultural workers worked in the informal sector. Labor laws do not cover workers performing work outside of "organized labor conditions," as most informal employment arrangements do not include employment contracts and thus many informal workers were not protected by the law. NGOs reported informal-sector workers were vulnerable to exploitation. These workers also tended to be the most affected by COVID-19 pandemic restrictions.

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