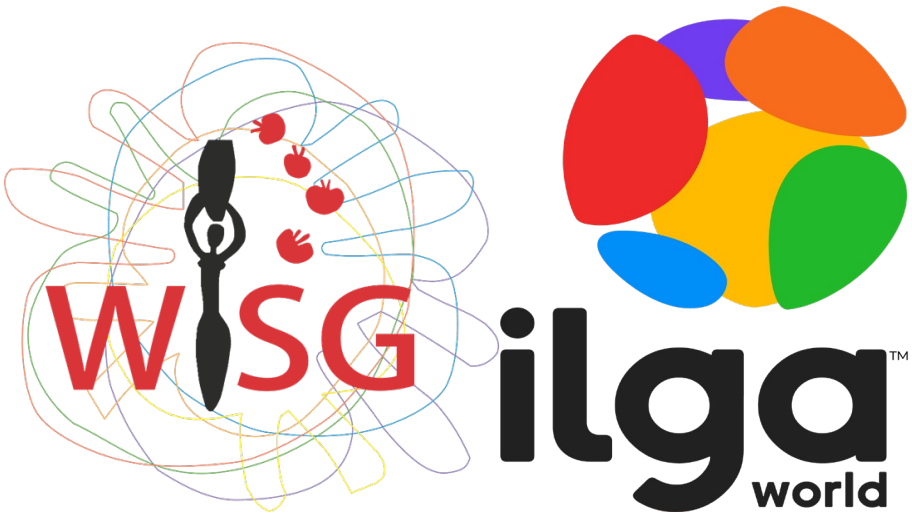

Joint Submission of Women's Initiatives Supporting Group (WISG) and ILGA World to the Committee on Economic, Social and Cultural Rights

regarding 74th pre-sessional Working Group of CESCR

Realization of Economic, Social and Cultural rights for LGBTQI persons in Georgia

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I. Introduction

1. ILGA World stands as a global advocate and platform for advancing the rights and equality of lesbian, gay, bisexual, trans, and intersex individuals worldwide. Established in 1978, ILGA World champions the cause of LGBTQI rights, striving to eradicate discrimination, promote inclusivity, and foster social justice for diverse sexual orientations, gender identities, and expressions across nations and cultures. Through collaboration, advocacy, and research, ILGA World remains dedicated to creating a world where every individual, irrespective of sexual orientation or gender identity, can live free from prejudice and enjoy fundamental human rights.

2. The Women's Initiatives Supporting Group (WISG) was founded on June 29, 2000, by eight women with different professional backgrounds, in order to support women's equal participation in various spheres of life and activities aimed at social change.
   WISG believes, that in a patriarchal society, women are unable to enjoy equal opportunities and public goods. Women's labor and contributions to social development go unnoticed and misrecognized; a woman is perceived as an object, rather than a subject, of culture and politics. Thus, since their inception, the Group's activities and efforts strive to improve existing conditions and achieve equal rights.

3. The Women's Initiatives Supporting Group was and remains the first organization in Georgia focused on the empowerment of lesbian and bisexual women and trans* persons. WISG has authored all basic research and policy analyses on sexual orientation and gender identity (SOGI) in Georgia. Today, the organization is a leading expert in LGBTI issues and enjoys a high level of credibility among both local and international state and non-state actors. WISG's mission is to promote feminist ideas and support the development of women's activism and the establishment of safe spaces where sexism and homo/bi/transphobia are recognized as a social problem on cultural, social, legal, and political levels.

II. Enjoyment of the highest attainable standard of physical and mental health for LGBTQI persons in Georgia

4. The fundamental right to the highest achievable standard of physical and mental health holds crucial significance in the lives of all individuals. Since 2013, the Georgian government has implemented notable reforms within the healthcare sector, notably the Universal Healthcare programme, markedly enhancing healthcare accessibility for all citizens. However, despite these advancements, persistent challenges persist, particularly impacting marginalized groups like

LGBTQI persons who continue to face constrained access to healthcare in Georgia. These challenges encompass various issues concerning the availability, financial affordability, and societal acceptance of medical services.

a) Accessibility:

5. Due to high rate of homo/bi/transphobia in Georgian society, LGBTQI persons have challenges in numerous aspects of their lives. Systemic discriminatory practices and homo/bi/transphobic attitudes of society, hinders LGBTQI community members to receive education in safe, discrimination free spaces, get employed in high paid jobs, affording quality housing, etc. All this circumstances lead to economic vulnerability of LGBTQI group. According to a research conducted in 2020 in Georgia, among LGBTQI community members, only 20.90% are insured privately, when 57.80% are included in universal health insurance and 15.60% stated that they have no insurance at all.[1] This data needs to be analyzed in conjunction with the fact that persons involved in private health insurance programmes report to be more satisfied with received services than people who are involved in public healthcare programmes.[2] According to the same study, 22,5% of LGBTQI respondents have stated that they cannot afford medical services[3], which, according to the Public Defender of Georgia "shall be assessed as an alarming result".[4]

6. It also needs to be noted that **trans specific healthcare services**, like gender reassignment surgical procedures, hormone therapies, vocal cord therapies, etc, are not being covered in Georgia under any private or public health insurance packages. This fact needs to be read in conjunction with the fact that according to studies, because of high rate of transphobia, trans persons in Georgia, are most vulnerable under LGBTQI group. According to a representative survey conducted in Georgia in 2021, that studied attitudes of Georgian society towards LGBTQI group and the legal equality, the scale of transphobia is visibly higher than homo/biphobia[5] and according to another study conducted in 2020 among LGBTQI community members, the number of trans persons reporting to have had

[1] Jalagania L. "Social Exclusion of LGBTQ Group in Georgia", 2020, Social Justice Center, page 135, chart 81. See the report at: https://socialjustice.org.ge/uploads/products/pdf/Social_Exclusion_of_LGBTQ_Group_1612128635.pdf source last visited: 21.12.2023.
[2] Ibid. page 135.
[3] Ibid, page 132, Chart N75.
[4] Jalagania L, *The Rights of LGBT+ People in Georgia*, Special Report of Public Defender of Georgia, 2021, Page 40. https://www.ombudsman.ge/res/docs/20220511153800325.pdf source last visited: 24.12.2023.
[5] Aghdgomelashvili E, Mchedlishvili N, Laperadze T, *From Prejudice to Equality Vol.2: Study on Public Knowledge, Awareness and Attitudes towards LGBT(Q)I Community and Legal Equality,* WISG, 2023. Diagramme N 28, Page 89. Report is available at: https://wisg.org/Data/docs/publications/research-study/WISG-From-Projudice-to-Equality-2022-EN.pdf source last visited: 24.12.2023.

discriminatory experiences while receiving services is also visibly higher than those of cisgender community members[6]. According to the study, 52% of trans respondents stated that they have become victims of discrimination in employment sector, while for cisgender respondents, the number is 30%.[7] Because of the abovementioned factors, economic vulnerability of trans persons in Georgia needs to be taken into account while excluding trans specific healthcare services from state funded AND private health insurance programmes.

b) **Availability**:

7. In Georgia, there is no medical facility specializing particularly in trans healthcare, and WISG has identified only 12 medical facilities across Georgia, who sporadically provide different trans specific medical services (endocrinological, mental, sexual and plastic surgeries).[8]

8. While trans specific medical services, like gender reassignment procedures are not prohibited in Georgia, they are not regulated as well. Georgia has no national guidelines and protocols for trans specific medical services. It means that medical service providers have no nationally approved document, on which they would rely while administering trans specific health care, it also means that the government has no instrument which will be used to evaluate the quality of services provided and that doctors might refrain from providing trans persons with services they need, because of lack of clear and approved guidelines and protocols.

9. In 2020, the Public Defender of Georgia addressed this issue and made a recommendation towards the Ministry of Internally Displaced Persons from the Occupied territories, Labour, Health and Social Affairs (The Ministry) with general proposal to develop recommendations (guidelines) on trans specific clinical practice and national standards (protocols) on management of clinical conditions. In its general proposal, the Public Defender states: "*In the absence of relevant standards, guidelines and protocols, medical professionals will not be able to refer to any document/standard when obtaining informed consent. A patient's informed consent, in particular prior to an irreversible medical procedure, is an essential condition for receiving medical care. The legitimacy of such consent can be called into question when there is no national standard that health professionals can rely*

[6] Aghdgomelashvili E. "Impact of Covid-19 Pandemic on LGBT(Q)I Community in Georgia, 2022, Page.120. Diagram N 64. Report available at: https://wisg.org/Data/docs/publications/research-study/WISG_Covid-impact-on-LGBTQI-community-EN.pdf source last visited: 21.12.2023.
[7] Ibid. Diagram N64.
[8] Bakhtadze K, *Trans Specific Health care services,* WISG, 2022. Policy paper available at: https://wisg.org/Data/docs/publications/policy-paper/WISG-TAtH-in-Georgia-2022-GE.pdf

on when informing and obtaining consent from a patient. It is thus unclear based on which treatment method or experience the health professional has obtained consent".[9] In the proposal, it is also highlighted, that medical professionals, who provide services to trans persons "are forced to rely on guiding principles that has been elaborated considering medical, social or other relevant context of other countries and respectively it does not provide the needs that can be specific to Georgian context".[10]

10. Public Defender of Georgia called on the Ministry to create a multidisciplinary working group with the aim to elaborate medical guidelines and protocols for trans specific medical services in 2020. Such recommendation was also made by the UN Independent Expert on protection against violence and discrimination based on Sexual Orientation and Gender Identity in 2018 after his visit in Georgia[11] and by the European Commission against Racism and Intolerance (ECRI) in its fifth monitoring cycle of Georgia.[12]

11. Despite the fact that the Ministry agreed to the recommendation proposed by the Public Defender of Georgia, to this day, the multidisciplinary group has not been formed and there are still no national medical guidelines and protocols in place for trans specific health care.

c) Acceptability:

12. Despite the anti-discrimination law and relevant mechanisms being in place, homo/bi/transphobic attitudes of society are mirrored in medical service provision as well. LGBTQI persons report discriminatory experiences while receiving medical services. According to a study conducted among LGBTQI persons in Georgia in 2020, where 211 respondents participated, 29% gender nonconforming persons, 24% gender neutral persons and 22% of cisgender community members stated that they have experienced discrimination during receiving medical services.[13] According to another study, 14% of respondents (LGBTQI persons) have stated that they have experienced discrimination while receiving medical services and 78.3% have not reported this case anywhere,

[9] more details regarding the general proposal of Public Defender of Georgia can be seen at: https://wisg.org/en/news/detail/287/ Source last visited: 20.12.2023.
[10] Jalagania L, *The Rights of LGBT+ People in Georgia*, Special Report of Public Defender of Georgia, 2021, Page 42. https://www.ombudsman.ge/res/docs/2022051115380032325.pdf source last visited: 24.12.2023.
[11] See the Country report of the Independent expert about visit in Georgia at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/139/35/PDF/G1913935.pdf?OpenElement Paras: 78; 119.
[12] ECRI Report on Georgia (fifth monitoring cycle), Adopted on 8 December 2015, report available at: https://rm.coe.int/fourth-report-on-georgia/16808b5773 para: 111
[13] Aghdgomelashvili E. "Impact of Covid-19 Pandemic on LGBT(Q)I Community in Georgia, 2022, Page.120. Diagram N 64.

because of perceiving the case less seriously (25%) and because of the risk of breaking the confidentiality (19.4%).[14]

13. The same study identified three SOGI related barriers that LGBTQI persons face while accessing medical services, these are: Low sensitivity of medical staff (36.50%), Risk of disseminating personal information (39.60%) and the expectancy of discrimination (due to which one is not able to share full information) (37.60%).[15] It needs to be noted, that even when LGBTQI persons don't have negative experiences in context of receiving medical services, they still expect ill treatment from medical personnel and avoid visiting a doctor until it's absolutely necessary.[16]

d) Mental Health:

14. According to latest qualitative study conducted among LGBTQI community members in Georgia, community members experience practices from mental health professionals that may qualify as conversion therapy.[17][18] According to the study, community members have experienced attempts of "changing one's Sexual orientation and/or gender identity" through mental health therapies. Study identified such experiences from mental health professionals, priests, sexologists and endocrinologists (undergoing hormonal therapies with aim. to change one's gender identity).[19] For context analysis, it needs to be noted, that in Georgia, conversion therapy is not criminalized, the profession of psychologist is not licensed.

15. Such conversion therapy practices can be attributed to the fact that formal education (including high education) including medical/psychological field educations are empty from SOGI related issues and in contrary, in some syllabus books, homo/bi/transphobic statements have been identified. This is the reason, why according to a study conducted in 2021: *"The level of formal education does not show a linear connection with the spread of knowledge, myths, and stereotypes, which indicates that the education system is not the basis for*

[14] Jalagania L. "Social Exclusion of LGBTQ Group in Georgia", 2020, Social Justice Center, page 132.
[15] Ibid, page 136.
[16] Ibid.
[17] Conversion therapies mean practice, which aims to change one's sexual orientation and /or gender identity.
[18] Malaghuri M, Shiukashvili S, *Queer Community and Mental Health: Professional Practice and Lived Experiences,* 2022, WISG.
[19] Ibid.

reproducing knowledge about gender and sexuality, nor is it focused on cultivating tolerant attitudes."[20]

Proposed list of questions:

1) **LGBTQI Economic Vulnerability:** What measures are in place or planned to address the economic vulnerability faced by LGBTQI individuals due to societal discrimination impacting their education, employment, and housing opportunities?

2) **Exclusion of Trans-specific Healthcare:** What steps are being taken to include trans-specific healthcare services, such as gender reassignment procedures and hormone therapies, within both state-funded and private health insurance packages?

3) **Availability of Trans Healthcare Services:** What efforts are being made to expand the availability of specialized healthcare facilities for trans individuals, considering the limited number of medical facilities offering trans-specific services across the country?

4) **Regulation and Guidelines for Trans Healthcare:** What progress has been made towards establishing national guidelines and protocols for trans-specific healthcare services, as recommended by the Public Defender and international bodies like the UN Independent Expert and ECRI?

5) **Discriminatory Experiences in Healthcare:** How is the state addressing the reported discriminatory experiences faced by LGBTQI individuals while accessing medical services, particularly considering the prevalence of discrimination and the low reporting rates due to confidentiality concerns?

6) **Sensitivity Training and Acceptability:** What initiatives or training programs are being implemented to enhance the sensitivity of medical staff towards LGBTQI individuals and reduce the perceived expectancy of discrimination, as highlighted in studies?

7) **Mental Health and Conversion Therapy:** What actions are being taken to address the reported instances of conversion therapy practices experienced by LGBTQI community members from mental health professionals, priests, and other practitioners, considering the absence of regulations against such practices and the lack of inclusion of SOGI-related education in formal training?

8) **Educational Reform:** What steps are being taken within the education system to incorporate SOGI-related issues, promote tolerant attitudes, and rectify the absence of comprehensive education on gender and sexuality to prevent the perpetuation of stereotypes and discrimination?

[20] Aghdgomelashvili E, Mchedlishvili N, Laperadze T, *From Prejudice to Equality Vol.2: Study on Public Knowledge, Awareness and Attitudes towards LGBT(Q)I Community and Legal Equality,* WISG, 2023. Page 59.

III. Lack of Legal Gender Recognition Mechanism as barrier to accessing services for trans persons

16. Legal gender recognition entails establishing the legal framework that is necessary for an individual to live according to their preferred gender.[21] This framework should establish a mechanism, which will be used by trans persons to change gender markers in their identification documents in order to be able to live according to gender that they identify with. Without such legal possibility, trans persons face risk of being "outed" without their consent (forced outing) every time they need to present their identification documentation. Without such possibility, trans persons face forced outing while signing contracts for rent, during employment processes, during crossing State borders, during receiving bank services, etc. Lack of legal gender recognition leaves trans persons, the most marginalized persons within the LGBTQI group without protection. As highlighted by the Public Defender of Georgia in its special report: *Trans people face a unique set of obstacles as a result of the absence of legal gender recognition, which reinforces discriminatory practices and prevents the trans community from exercising their constitutional rights equally. As a result, discriminatory attitudes and practices pervade all spheres of life, subjecting individuals to persistent and systematic inequity.*[22]

17. Because of lack of Legal gender recognition mechanism (which will be discussed further in this chapter) trans persons are hindered from receiving vital state funded services in place for victims of violence against women. When transgender women decide to address police or the courts because of gender based violence against them, they are faced to legal barriers. In a case, when the transgender woman asked for the restraining order against the perpetrator, the court did not accept the application, stating: 'The case included ID of the appellant and according to that document she was a man; Hence, she was not the subject of the protection under the Georgian Law on Violence against Women and/or Domestic Violence Prevention and the Protection of the Victims of Violence; thus cannot ask for the restraining order.'[23]

18. Because of the same challenge, trans women will not be able to benefit from the newly established rule of compensation of women who become victims of

[21] Jalagania L, *The Rights of LGBT+ People in Georgia*, Special Report of Public Defender of Georgia, 2021, Page 17.
[22] Ibid.
[23] Shadow Report of the Coalition for Equality and other NGO's to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), 2021, Page 34. Report available at: https://wisg.org/Data/docs/publications/report/Coalition_For_Equality_Report_Georgia.pdf source last visited: 24.12.2023.

violence against women.[24] According to the Law of Georgia On Violence Against Women and/or Elimination of Domestic Violence, Protection and Support of Victims of Violence, a victim is "a woman, ... whose constitutional rights and freedoms have been violated by way of negligence and/or physical, psychological, economic and sexual violence or coercion".[25]

19. in Georgia, Legal Gender Recognition (LGR) is obscurely regulated. The only regulation in Georgian legislation regarding LGR is article 78 of the Law on Civil Status Acts, according to which, condition that is the basis for gender marker in identification document is "Sex change, provided a person desires to change his/her first name and/or surname because of sex change".[26][27] It also needs to be noted that nowhere in Georgian legislation exists a definition of what exactly "sex change" means, nor has any public entity defined it.

20. According to an established practice, trans persons in Georgia, who wish their gender to be legally recognized, are required to provide a proof of having undergone gender-reassignment surgical procedures to the Public Service Development Agency under the Ministry of Justice. According to an established practice, "a trans person, who undergoes sex-reassignment surgery and submits a respective health certificate to the Public Service Development Agency, easily changes the record of sex in their birth certificate, without any additional assessment.[28] The law limits the right to legal gender recognition for trans persons who do not wish to undergo sex-reassignment surgery, are not eligible for the surgery due to health conditions, or do not possess the financial means needed for this expensive medical procedure".[29] This practice needs to be analyzed in connection with the circumstance, that Georgia has no national medical guidelines and protocols on place for trans-specific medical services. It means, that the State requires trans persons to undergo intrusive medical procedures in order for their gender to be legally recognized without establishing standards for these medical procedures.

21. This established practice has been criticized numerous times by the Public Defender of Georgia in its annual parliamentary as well as special reports.

[24] See more details regarding this issue at: https://wisg.org/en/news/detail/361

[25] Article 4 (e^1) Law of Georgia On Violence Against Women and/or Elimination of Domestic Violence, Protection and Support of Victims of Violence.

[26] Law of Georgia o Civil Status Acts, Article 78(f^1).

[27] Bakhtadze K, *Legal Gender Recognition in Georgia,* Policy Paper, WISG, 2022. Policy paper available at: https://wisg.org/Data/docs/publications/policy-paper/WISG-LGR-in-Georgia-2022-EN.pdf source last visited: 24.12.2023.

[28] See details of a case of trans woman documented by WISG at: https://wisg.org/en/news/detail/324/ source last visited: 24.12.2023.

[29] Ibid. page 14.

22. The Independent Expert on Protection Against Violence and Discrimination on the Basis of Sexual Orientation and Gender Identity (SOGI) Report, written after his visit to Georgia in 2019, analyzes the issue of legal gender recognition and highlights the barriers mentioned above, and finds established practices to be inconsistent with international human rights standards.[30] According to the report, such practices can result in severe and permanent physical and psychological suffering and pain, particularly if they are forced. Coercion may constitute a violation of the right to be free of torture and other inhuman or degrading treatment or punishment. Additionally, coerced sterilization violates a person's right to bodily integrity, self-determination, and dignity, and may serve as justification for continued discrimination against transgender people.[31]

23. On December 1, 2022, the European Court of Human Rights found a violation of Article 8 of the European Convention on Human Rights (the right to protection of private and family life) in a case *A.D. and others v. Georgia* in the case of three transgender men. The applicants appealed to the European Court because they were unable to obtain legal recognition of their gender in Georgia and to change the gender entry in their identity documents in accordance with their gender identity.[32] In this judgment, the European Court emphasized that Article 8 of the European Convention on Human Rights obliges the state to provide fast, transparent, and accessible procedures through which it will be possible to change the registered gender marker. The Court emphasized that Article 8 of the European Convention on Human Rights obliges the state to provide **fast, transparent, and accessible procedures** through which it will be possible to change the registered gender marker.[33]

24. Despite the judgment of the ECtHR in AD and Others, there has been no legislative amendments, and the situation for trans persons attempting to amend their gender markers remains unchanged. Due to the lack of clarity in the legislation, trans persons continue to face arbitrary decisions rejecting their applications to amend their gender markers. They are also subject to an ad-hoc requirement to undergo genital plastic surgery, in violation of Article 8 of the Convention.[34]

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[30] Jalagania L, *The Rights of LGBT+ People in Georgia*, Special Report of Public Defender of Georgia, 2021, Page 18.

[31] Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, 15 May, 2019, par. 67, see: https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/139/35/PDF/G1913935.pdf?OpenElement

[32] See more details regarding this judgement at: https://wisg.org/en/news/detail/363/The-European-Court-of-Human-Rights-found-a-violation-of-Article-8-in-cases-of-legal-gender-recognition

[33] Ibid.

[34] Rule 9 (1) and Rule 9 (2) submission to the Committee on Ministers of the Council of Europe concerning the Implementation A.D and others v. Georgia, by EHRAC, WISG and GYLA. Page 5. See the submission at:

Proposed list of questions:

1. Legal Gender Recognition Framework:

1.1. What steps have been taken to establish a legal mechanism for trans individuals to change gender markers in identification documents, ensuring their right to live according to their identified gender?

1.2 How does the current requirement for gender-reassignment surgeries for legal gender recognition align with the absence of national medical guidelines and protocols for trans-specific medical services?

2. Criticism and International Observations:

2.1. How has the criticism from the Public Defender of Georgia regarding the legal gender recognition process been addressed or considered by governmental bodies?

2.2 In light of international observations, specifically the findings of the European Court of Human Rights in the A.D. and Others v. Georgia case, what steps are being taken to align Georgia's legislation with international human rights standards regarding legal gender recognition?

2.3. What specific legislative amendments or actions have been initiated following the European Court's ruling in A.D. and Others v. Georgia to ensure compliance and provide transparent and accessible procedures for changing registered gender markers?

IV. State Funded Services for Victims of Hate Crimes

25. Because of homo/bi/transphobic attitudes I majority of Georgian society, LGBTQI persons frequently become victims of hate motivated crimes and/or incidents. According to a study conducted in 2020 among LGBTQI persons, During the last two years, 7 out of 10 respondents have been a victim of hate crime (N=155, 73.5%) at least once.[35]

26. Almost three out of five respondents (58.3%, N=123) say that he/she needed help from a psychologist to cope with the consequences of the violence. Thirty-seven out of 123 knew where to get this service, but did not ask for help; 14 did not have access to it; four respondents did not know about the service. More than half of the respondents in need used this service (55%, N=68); 52 of them received it from

https://wisg.org/Data/docs/news/JointRule9submission-to-CoM-LGRcasesGeoegia-2023.pdf source last visited: 24.12.2023.

[35] Aghdgomelashvili E. "Impact of Covid-19 Pandemic on LGBT(Q)I Community in Georgia, 2022, Page.100.

a community organization.[36] A fifth of the victims of the violence needed help from a doctor (21.3%, N=45). Four out of five were able to use the service (N=35).

27. It needs to be noted, that while there are no state-funded services available for victims of hate crimes, LGBTQI community-based organizations, working locally in Georgia have practically overtaken this responsibility from the State and became providers of services, like psychological support, shelter, social worker. Local LGBTQI community based CSO's try to satisfy the needs of community members in need but this support cannot replace state funded services. LGBTQI community-based organizations in Georgia are mostly located and provide services in the capital city. Also, provision of these services are not sustainable. They are being financed from donor organizations and cannot cover whole territory of Georgia and all needs of LGBTQI persons who become victims of hate crimes.

Proposed formulation of list of issues:

1. **Victimization and Psychological Support:**

1.1. How does the government plan to address the prevalent rate of hate crimes against LGBTQI individuals, as reported in the 2020 study?
1.2. What initiatives or services are being considered or developed to provide accessible psychological support specifically tailored for LGBTQI individuals affected by hate-motivated violence?
1.3. How does the government aim to increase awareness and accessibility to mental health services for victims of hate crimes within the LGBTQI community?

2. **Role of LGBTQI Community-Based Organizations:**

2.1. How does the government collaborate or support local LGBTQI community-based organizations in providing services such as psychological support, shelter, and social worker assistance to victims of hate crimes?
2.2. What strategies are being planned or implemented to ensure the sustainability and wider coverage of support services for LGBTQI individuals beyond the capital city, considering the limitations faced by community-based organizations reliant on donor funding?
2.3. In what ways is the government planning to supplement or complement the efforts of community-based organizations to ensure comprehensive and state-funded support for LGBTQI individuals affected by hate crimes throughout the territory of Georgia?

[36] Ibid.