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Country Report on Human Rights Practices 2017 - Georgia

EXECUTIVE SUMMARY

The 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. In September, a controversial constitutional amendments package that abolished direct election of the president and delayed a move to a fully proportional parliamentary election system until 2024 became law. Organization for Security and Cooperation in Europe (OSCE) observers termed the October local elections as generally respecting fundamental freedoms and reported candidates were able to campaign freely, while highlighting flaws in the election grievance process between the first and second rounds that undermined the right to effective remedy. They noted, too, that the entire context of the elections was shaped by the dominance of the ruling party and that there were cases of pressure on voters and candidates as well as a few violent incidents. OSCE observers termed the October 2016 parliamentary elections competitive and administered in a manner that respected the rights of candidates and voters but stated that the campaign atmosphere was affected by allegations of unlawful campaigning and incidents of violence. According to the observers, election commissions and courts often did not respect the principle of transparency and the right to effective redress between the first and second rounds, which weakened confidence in the election administration. In the 2013 presidential election, OSCE observers concluded the vote "was efficiently administered, transparent and took place in an amicable and constructive environment" but noted several problems, including allegations of political pressure at the local level, inconsistent application of the election code, and limited oversight of alleged campaign finance violations.

While civilian authorities maintained effective control of the Ministry of Defense, there were indications that at times they did not maintain effective control of domestic security forces.

The most significant human rights issues included: alleged participation by government officials in the reported kidnapping and forced rendition to Azerbaijan of an Azerbaijani journalist; arbitrary detentions and deprivation of life by Russian and de facto authorities of the country's citizens along the administrative boundary lines (ABL) with

the Russian-occupied Georgian territories of Abkhazia and South Ossetia; interference in judicial independence and impartiality; interference with privacy; and violence against LGBTI persons.

The government took steps to investigate some allegations of human rights abuses, but shortcomings remained.

De facto authorities in the separatist regions of Abkhazia and South Ossetia remained outside central government control and were supported by several thousand Russian troops and border guards occupying the areas since the 2008 conflict with Russia. A cease-fire remained in effect in both Abkhazia and South Ossetia. Russian border guards restricted the movement of local populations. While there was little official information on the human rights and humanitarian situation in South Ossetia due to limited access, allegations of abuse persisted.

De facto authorities in the separatist regions of Abkhazia and South Ossetia restricted the rights, primarily of ethnic Georgians, to vote or otherwise participate in the political process, own property, register businesses, and travel. Although de facto South Ossetian authorities refused to permit most ethnic Georgians driven out due to the 2008 conflict to return to South Ossetia, a special crossing arrangement existed for those from Akhalgori district. De facto authorities did not allow most international organizations regular access to South Ossetia to provide humanitarian assistance. Russian "borderization" of the ABL of the occupied territories continued, separating residents from their communities and livelihoods.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

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 government continued to conduct investigations into several killings allegedly committed in prior years by former government officials.

In May de facto Abkhaz authorities announced they had suspended the prosecution of the prime suspect in the May 2016 killing of a Georgian IDP in Khurcha on Tbilisi-administered territory near the ABL with Abkhazia. The suspect, Rashid Kanji Ogli, remained the subject of an Interpol red notice.

The International Criminal Court investigation into alleged war crimes and crimes against humanity committed during the 2008 war in breakaway South Ossetia continued.

b. Disappearance

Azerbaijani journalist Afgan Mukhtarli accused government officials in May of kidnapping him in Tbilisi and facilitating his rendition to Azerbaijan (see section 1.d., Role of the Police and Security Apparatus).

There were also frequent reports of detentions of Georgians along the ABL of both the occupied regions of Abkhazia and South Ossetia.

More than 2,300 individuals were still missing following the 1992-93 war in Abkhazia and the 2008 Russia-Georgia conflict, according to the International Committee of the Red Cross (ICRC). The organization continued to work with all sides, including de facto authorities in South Ossetia and Abkhazia, to identify remains.

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 Office reported an increase in complaints regarding mistreatment by police and considered investigations into alleged mistreatment as not effective, independent, prompt, or impartial. NGOs and the Public Defender's Office continued to recommend the creation of an independent mechanism to investigate allegations of misconduct by law enforcement officials. They also called for greater oversight of security officials.

The Georgian Young Lawyers' Association (GYLA) reported it submitted seven complaints of cruel, inhuman, or degrading treatment or punishment from those in penitentiary facilities to the Chief Prosecutor's Office for investigation. GYLA also reported it submitted five complaints of such treatment by law enforcement officers, one of which it identified as torture, involving forced testimony for an alleged crime in February. The investigation continued as of December. The Chief Prosecutor's Office reported it received 11 complaints from GYLA of mistreatment by police and four complaints of mistreatment by penitentiary staff during the year. According to the Chief Prosecutor's Office, it opened eight investigations into the complaints of police abuse, six of which were underway at year's end, and was examining the four complaints of penitentiary abuse within other ongoing investigations.

As of October the Public Defender's Office submitted 10 cases of alleged mistreatment by police officers to the Chief Prosecutor's Office, but did not submit cases of alleged violence against prisoners by penitentiary officials.

Authorities conducted investigations into allegations of cruel, inhuman, or degrading treatment or punishment reported during the year. The Public Defender's Office commended the government for investigating four incidents of alleged mistreatment in accordance with the articles of torture, inhuman, and degrading treatment.

An investigation into the alleged 2015 assault on lawyer Giorgi Mdinaradze by police officers in Vake-Saburtalo Police Department No. 5 continued. The Public Defender's Office reported the prosecution did not submit charges against any additional police officers who allegedly participated in the assault and noted the court hearings had been postponed a number of times because the police officers called as witnesses did not show up in court. The Prosecution Service charged one officer involved in the incident with abusing official power with violence. In October the Tbilisi City Court found him guilty of abuse of authority, but without the aggravating circumstance of violence, and fined him 12,000 lari ($4,870), reduced to 10,000 lari ($4,000) because of time served in pretrial detention. The Prosecution Service appealed the decision in the Tbilisi Appellate Court and this appeal was pending.

As of December, several former officials remained on trial at Tbilisi City Court in various cases of alleged torture and other crimes during the former government. They included former deputy defense minister Davit Akhalaia, former deputy chief of the general staff Giorgi Kalandadze, former deputy culture minister Giorgi Udesiani, former director of Gldani No. 8 prison Aleksandre Mukhadze, and former defense minister Bacho Akhalaia.

Unlike the previous year, individuals detained in Russian-occupied South Ossetia and Abkhazia who later returned to Georgian government-controlled territory did not report incidents of physical abuse.

Prison and Detention Center Conditions

While overall prison and detention facility conditions improved, conditions in some old facilities were inhuman and lacked sufficient ventilation, natural light, minimum living space, and adequate health care.

Physical Conditions: While persons in pretrial detention were required by law to be held separately from convicted prisoners, the Public Defender's Office reported convicts and accused persons were still placed together in several facilities, especially Gldani # 8 and Kutaisi # 2 due to constant overcrowding.

According to the Ministry of Corrections, 27 prisoners died in the penitentiary system in 2016, 10 in prisons and 17 in civil hospitals. As of July, 11 inmates died, eight in prisons and three in civil hospitals.

While the Ministry of Corrections maintained a special medical unit for prisoners with disabilities, in 2015 the Public Defender's Office reported the needs of persons with disabilities, including for medical services, were not taken into account in prisons and temporary detention centers. The Public Defender's Office also noted the majority of institutions failed to compile data on and register the needs of persons with disabilities.

Prison conditions in Abkhazia and South Ossetia were reported to be chronically substandard.

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 Public Defender's Office, records on registering and distributing detainees in temporary detention centers were often incomplete or erroneous.

Independent Monitoring: The government permitted independent monitoring of prison conditions by international prison monitoring organizations and some local and international human rights groups. The national preventive mechanism operating under the Public Defender's Office had access to penitentiaries, conducted planned and unscheduled visits, and was allowed to take photographs during monitoring visits. National preventive mechanism members, however, did not have unimpeded access to video recordings of developments in penitentiaries.

The ICRC had full access to prisons and detention facilities in undisputed Georgian territory and some access to prison and detention facilities in South Ossetia. The ICRC did not have access to prisons and detention facilities in Abkhazia.

Improvements: Based on the recommendation of the Public Defender's Office, the Ministry of Corrections developed a list of authorized documents inmates may retain in cells, including an indictment, detailed court judgment, a receipt for personal property held upon intake, and any documents from their case file up to 100 pages. Parliament passed legislative amendments that allow low-risk inmates and inmates serving sentences in juvenile rehabilitation institutions to acquire higher education. The Public Defender's Office commended the reduction of the maximum term for holding detainees in administrative detention de-escalation rooms to 72 hours, and the increase to five days as the minimum term for storing video recordings in the penitentiary system, while advocating that the former be reduced to 24 hours, and the latter be extended to at least 10 days. The Ministry of Internal Affairs reported it trained its Temporary Detention Department staff on recording detainees' injuries, including by photograph, renovated nine temporary detention facilities, and installed ventilation systems in 10 facilities.

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/her arrest or detention in court. The government's observance of these prohibitions was inconsistent.

In July the Chief Prosecutor's Office charged former justice minister Zurab Adeishvili in absentia in connection with the allegedly illegal detention and kidnapping of a former opposition leader, Koba Davitashvili, in 2007. Adeishvili also ordered the deputy head of the Revenue Office in the Ministry of Finance, Davit Karseladze, to use a special unit to prevent opposition leaders from appearing in crowds or addressing the public as well as to attack protesters. As of December, Adeishvili's trial was underway in the Tbilisi City Court.

On July 20, the Tbilisi City Court found former senior Ministry of Internal Affairs official David Devnozashvili and former director of Prison # 8, Aleksandre Mukhadze, guilty of misuse of power in the 2011"photographers" case in which the previous government arrested four photographers and charged them with espionage. Devnozashvili and Mukhadze reportedly forced the photographers, using threats against them and their children, to confess to spying. The photographers were targeted for having documented and supplied media sources with evidence of human rights abuses during authorities' dispersal of a demonstration in 2011. The Tbilisi Appellate Court was reviewing a judgment against the photographers based on the motion of the Prosecution Service.

Role of the Police and Security Apparatus

The Ministry of Internal Affairs and the State Security Service have primary responsibility for law enforcement and the maintenance of public order. The Ministry of Internal Affairs is the primary law enforcement organization in the country 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. The Ministry of Finance and the Prosecution Service have investigative services with police powers in financial investigations, and the Prosecution Service is required to investigate high-profile cases and other criminal offenses. The Prosecution Service may take control of any investigation if it determines doing so is in the best interest of justice (e.g., in cases of conflict of interest and police abuse cases). In certain politically sensitive cases investigated by the Prosecution Service, impunity remained a problem. The Ministry of Defense is responsible for external security, although the government may call on it during times of internal disorder.

Senior civilian authorities reportedly did not always maintain effective control over the Ministry of Internal Affairs and the State Security Service. Civilian authorities maintained effective control over the Ministry of Defense. The effectiveness of government mechanisms to investigate and punish abuse by law enforcement and security forces was limited, and domestic and international attention to impunity increased.

The president, the public defender, local and international NGOs, and the international community expressed concerns about impunity for government officials in the reported late-May abduction and forced rendition of Azerbaijani freelance journalist and activist Afgan Mukhtarli from Georgia to Azerbaijan. Immediately following the incident, the heads of Georgia's and Azerbaijan's security services claimed Mukhtarli had voluntarily crossed the border into Azerbaijan. According to Mukhtarli's lawyer, Mukhtarli believed Georgian security services personnel abducted him in Tbilisi. Mukhtarli reported Georgian-speaking men dressed in Georgian criminal police uniforms abducted him in Tbilisi, beat him in a Georgian criminal police vehicle, resulting in bruising and a broken nose, and transported him to the Azerbaijani border where he was turned over to Azerbaijani security service representatives. Senior Georgian government officials, including the prime minister and several cabinet members, ruled out that Georgian authorities played any part in the incident. Georgian government officials, including the prime minister, later stated the government needed to complete its investigation before drawing conclusions.

The Ministry of Internal Affairs opened an investigation, but Mukhtarli's wife Leyla Mustafayeva (see section 2.d.), other Azerbaijani activists and journalists, the Public Defender's Office, local and international NGOs, and media outlets questioned the investigation's integrity. NGOs and local news outlet *Rustavi 2* separately conducted a private investigation that focused on searching for available closed-circuit television footage from private business along the presumed route of Mukhtarli's alleged rendition. The NGOs and *Rustavi 2* reported their investigations discovered widespread government tampering with evidence, including editing and removal of closed-circuit television footage from private businesses. In July the government suspended the head of the Border Security Service and the head of the Counterintelligence Service for the duration of the investigation. On July 20, the Prosecutor's Office took over the investigation after the public defender noted that the Ministry of Internal Affairs had a conflict of interest when investigating its own employees. As of December, the Chief Prosecutor's Office continued to investigate the incident.

There were reports that abuses of state resources included politically motivated interference by State Security Service officials (see section 3).

In November the Parliamentary Assembly of the Council of Europe monitoring corapporteurs for Georgia called on authorities to strengthen checks and balances, in view of the reported increasing prominence of the security services in governance, and to provide for proper parliamentary control and oversight of the security services. The corapporteurs called on the Chief Prosecutor's Office to continue its investigation into Mukhtarli's reported abduction in a fully transparent manner.

In September 2016 the former head of the Constitutional Security Department, Davit Akhalaia, and three additional former officials of the Ministry of Internal Affairs were charged in connection with the violent dispersal of a protest in 2011 that allegedly was ordered by then internal affairs minister Vano Merabishvili, who remained in prison. The trial in the Tbilisi City Court remained underway at year's end.

Arrest Procedures and Treatment of Detainees

Law enforcement officers must have a warrant to make an arrest except in limited cases where destruction of evidence or a perpetrator is in the process of committing a crime. 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 the detainee to the nearest police station and record the arrest, providing a copy to the detainee and his or her attorney. The Public Defender reported, however, that maintenance of police station logbooks was haphazard and 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. Violating the time limit results in the immediate release of the person. Anyone taken into custody on administrative grounds has the right to be heard in court within 12 hours after detention, and violating the time limit results in the immediate release of the person.

The law permits alternatives to detention. NGOs and court observers reported that the judiciary failed to use alternative measures adequately.

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.

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 law requires the case prosecutor to approve requests by detainees in pretrial detention to contact their family.

In February 2016 a law came into force that provides the right for witnesses to refuse to be interviewed by law enforcement officials for certain criminal offenses. 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."

Concerns persisted regarding the use of administrative detention that authorities applied to detain an individual for up to 15 days without the right to an effective defense, defined standards of proof, and the right to appeal. The Public Defender criticized the enforcement of an amendment that began on November 1 that permitted administrative arrest during nonworking hours for 48 hours without a hearing, despite a statutory 12-hour limit for administrative arrest. According to the Ministry of Internal Affairs, 549 persons served terms of administrative detention in temporary detention isolation cells during the year, compared with 701 in 2016 and 998 in 2015.

In March the Prosecution Service issued guidelines for prosecutors regarding investigation of cases of alleged mistreatment by public officials. Ninety-nine investigations were initiated. Eight public officials and seven employees of the penitentiary department were charged with inhuman and degrading treatment and a one police officer was charged with misuse of power.

Arbitrary Arrest: NGOs did not report any instances of arbitrary arrest.

Pretrial Detention: NGOs noted inconsistent application of the standards to grant bail or order detention and reported prosecutors and judges at times did not articulate a reasoned and specific justification for requesting or ordering detention, and did not discuss the lawfulness of the detention. According to Supreme Court statistics, as of September pretrial detention was used in 33.5 percent of cases compared with 28.2 percent for the same period in 2016. Noncustodial preventive measures were used in 66.5 percent of cases (bail was the most frequently used noncustodial preventive measure applied by the courts in 61.6 percent of cases).

On November 28, the European Court of Human Rights' (ECHR) Grand Chamber ruled, on appeal, that the government and court violated former Prime Minister Vano Merabishvili's rights during his pretrial detention in 2013 but that the initial decision to detain him had not violated ECHR standards. This ruling was consistent with the June 2016 ECHR judgment. The court ordered the government to pay 4,000 euros ($4,800) in damages.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The criminal procedure code provides that in exigent circumstances, a person can be arrested without a court warrant. A person must be released immediately if the substantial breach of an arrest procedure has been identified. This decision can be made by a prosecutor or a judge at the first appearance hearing within 72 hours from the arrest. The law provides that the arrested person shall be fully reimbursed from the state budget for the damage incurred as a result of an unlawful and unjustified arrest. The legality of administrative arrest--which is not to exceed 12 hours--may be appealed with a prosecutor. There is no meaningful judicial review provided by the code of administrative violations for an administrative arrest.

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 of the judiciary.

In February a legislative package informally known as the "third wave of judicial reform" went into effect, after parliament overrode a January presidential veto driven by concerns that some of the provisions undermined judicial impartiality and independence. The laws created rules and standards designed to improve the objectivity and transparency of the administration of justice and the judicial profession. The president, the public defender, and the Coalition for an Independent and Transparent Judiciary raised concerns about the laws' implementation and highlighted challenges to judicial independence. Such challenges included flawed processes for selecting judges at all court levels--many to lifetime appointments--that left the judiciary vulnerable to political influence in politically sensitive cases.

In the *Judicial System: Past Reforms and Future Perspectives* released in May, the Coalition for an Independent and Transparent Judiciary asserted that the High Council of Justice, a judiciary oversight body, "failed to protect the judicial system from external or internal influences, while its decisions often posed a threat to independence of the judiciary." Similarly, a May report by two leading members of the Coalition--GYLA and Transparency International Georgia--on their monitoring of the High Council of Justice during 2016 criticized council operations and accused the council of using its authority against the interests of justice, especially what the coalition members described as willful and arbitrary decisions on judicial appointment and discipline. Both reports identified a lack of pluralism of opinions in the High Council of Justice, a lack of transparency and efficiency in its logistical activities, and shortcomings in the appointment of judges and chairpersons and in the admission of trainees to the High School of Justice as major concerns. NGOs, the public defender, and the president called on parliament to take the lead on further judicial reforms by elaborating a comprehensive package to create a court system capable of gaining public trust.

In another development potentially affecting the right to a fair trial, in September parliament amended the constitution to remove the Prosecution Service of Georgia from the Ministry of Justice and establish it as an independent agency. The amendments also contained a provision that authorized parliament to appoint the chief prosecutor.

In December 2016 the Constitutional Court ruled some of the changes made to the Constitutional Court in 2016 unconstitutional. In particular it found that a new requirement that Constitutional Court judges be immediately removed from the bench upon expiration of their tenure may have adverse impact on a speedy trial.

Trial Procedures

The constitution and law provide for the right to a fair and public trial. The Public Defender 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. Although the constitution and law provide for the right to a public trial, 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.

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 have a public trial except where national security, privacy, or protection of a juvenile is involved.

The Public Defender's Office and NGOs repeatedly raised concerns regarding the investigation of and court proceedings involving Giorgi Mamaladze, an Orthodox Church priest detained in February on charges of "attempting to murder a high ranking church official." The Public Defender's Office and NGOs reported a violation of the presumption of innocence due to government officials' (including the prime minister's) statements on the case; inappropriate grounds to make the trial closed to the public; questionable evidence; and other violations that deprived the defendant and his lawyers of a chance for proper defense and a fair trial. Prior to trial the court reviewed the violations and found them to be unsubstantiated and found no violation by the Prosecution Service. In September the court sentenced the defendant to nine years' imprisonment on charges of "preparing premeditated murder." In November government officials widely criticized the Public Defender's statements accusing the government of mishandling the case (see section 5).

The law allows for trial in absentia in certain cases where the defendant has left the country. The code on administrative offenses does not provide the necessary due process provisions including the presumption of innocence, especially when dealing with violations that can result in a defendant's deprivation of liberty.

The law does not prescribe a maximum period for investigation of cases but stipulates a maximum period for trial if a suspect is arrested. The criminal procedure code requires trial courts to issue a verdict within 24 months of completing a pretrial hearing.

GYLA noted that unreasonable delays in cases and court hearings were a serious factor in limiting the right to timely justice. GYLA also reported that judges were unable to maintain order in many cases. The Public Defender's Office highlighted weak reasoning in court judgments.

Examples of delayed proceedings included the related cases of Temur Barabadze and founding Millennium Challenge Fund Georgia Chief Executive Officer Lasha Shanidze and his father Shalva. According to court documents, Barabadze was forced to testify against the Shanidzes under duress in 2009, but subsequently recanted his testimony.

Pending for more than seven years, court hearings in Barabadze's case began in the spring. Completion of judicial review of the Shanidzes' convictions based on Barabadze's coerced testimony was awaiting resolution of Barabadze's case at year's end.

In another case involving delays, the Tbilisi Appellate Court first rejected the Prosecution Service's request to review the 2008 conviction of Temur Basilia, a former advisor to former president Eduard Shevardnadze. The Prosecution Service's request was based on its findings of substantial violations in the criminal process against Basilia by former administration officials. When the Supreme Court ordered the Appellate Court to review the case, the Court began its review in July but subsequently postponed hearings.

Defendants have the right to meet with an attorney of their choice without hindrance, supervision, or undue restriction. Defendants enjoy the right to have an attorney provided at public expense if they are indigent, but many did not always have adequate time and facilities to prepare a defense. The Public Defender's Office noted that while a state appointed lawyer generally was available for those in need, state-appointed attorneys often were not present until submitting charges or plea bargaining.

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, during criminal proceedings, and could make copies. Defendants have the right to question and confront witnesses against them and present witnesses and evidence on their own behalf at trial. Defendants have the right to refuse to testify or incriminate themselves. While a defendant generally has the right to appeal a conviction, making an effective appeal under the administrative code was difficult. By law defendants have 30 days to file an appeal once they receive the court's written and reasoned judgment. Administrative sentences that entail incarceration must be appealed within 48 hours and other sentences within 10 days.

By law 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, including the removal of a no contest plea and allowing charge bargaining. 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 crime was committed by the defendant. GYLA reported that unlike the previous reporting periods, courts were more thorough in determining the voluntariness of a defendant's plea agreement and the fairness of criminal sentence agreed to by the parties.

Political Prisoners and Detainees

The United National Movement opposition party and family members of prisoners stated the government held political prisoners. 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 about the professionalism of civil judges and transparency in their adjudication. 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.

Property Restitution

There were reports of lack of due process and respect for rule of law in a number of property rights cases. The Public Defender and Chief Prosecutor's Offices stated that after the 2012 parliamentary elections, numerous former business owners and individuals claimed former government officials illegally deprived them of property. NGOs also reported several cases in which groups claimed the former government improperly used eminent domain or coercion to seize property at unfairly low prices.

Under the Chief Prosecutor's Office, the Investigation Department of Crimes Committed in the Course of Legal Proceedings investigated allegations of illegal deprivation of property by the previous government. Three public officials were found guilty of illegally depriving citizens of property, and courts identified a total of 20 deprivations. Claimants received property worth approximately 15 million lari ($6 million). The Public Defender's Office noted hundreds of persons were still waiting for redress.

In 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 IDPs of their property rights in Abkhazia.

In a 2010 decree, South Ossetian de facto authorities invalidated all real estate documents issued by the country's government between 1991 and 2008 relating to property in the Akhalgori Region. The decree also declared all property in Akhalgori 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 property rights in the region.

Between September and October, de facto South Ossetian officials demolished 268 damaged homes belonging to Georgian IDPs in the village of Eredvi without due process.

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 that the government did not respect these prohibitions. For example, there were widespread reports that the government monitored the political opposition. Local and international NGOs also reported that government officials monitored independent Azerbaijani journalists and activists residing in the country.

In April, NGOs and the Public Defender's Office submitted separate cases to the Constitutional Court challenging a law on electronic surveillance. The plaintiffs asserted that the new law did not satisfy the requirements of a 2016 ruling from the Constitutional Court requiring an independent body to oversee electronic surveillance.

The government's investigation into a September 2016 audio tape released on the internet that allegedly recorded a former president and other opposition leaders discussing the feasibility and logistics of organizing a revolution continued. Some opposition politicians raised concerns that the government was delaying the investigation in order to justify monitoring of political opponents allegedly involved in the recording.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

The constitution and law provide for freedom of expression, including for the press, and citizens generally were free to exercise this right, although there were allegations the government at times did not adequately protect them. During the year journalists, NGOs, and the international community raised concerns about the environment for media pluralism.

Freedom of Expression: While individuals were usually free to criticize the government without reprisal, the June 10 arrest of two rap singers generated a public outcry, as the arrests on alleged drug charges occurred within days of their release of an online video critical of police. The Public Defender and NGOs considered the video fully protected by freedom of expression. NGOs expressed concern that government and former government officials' public criticism of civil society and media, including calls for investigations of individual NGO leaders and the political affiliations of media owners, led to self-censorship by journalists and civil society actors.

Press and Media Freedom: Independent media were very active and expressed a wide variety of views. The merger, however, of three television stations, Imedi, Maestro TV, and GDS TV, coupled with a change of leadership at Georgian Public Broadcasting (GPB),

decreased media pluralism and increased public perception of a media environment increasingly concentrated in favor of the ruling party. In a November 4 statement, 29 NGOs expressed concern about the growing influence of the government and of individuals affiliated with a former prime minister regarding the publicly funded GPB management. Parliament filled three vacant seats on the reconfigured nine-member board of the GPB, a move media advocates and civil society commended. Controversial amendments to the Law on Broadcasting submitted to Parliament by the GPB management, however, raised concerns about a lack of transparency in the station's restructuring process and the consolidation of power within the GPB's top leadership. The proposed amendments, adopted by parliament December 22 and awaiting presidential approval at year's end, were expected to increase the power of GPB's management, weaken the board, increase the risks of corruption, and weaken the mechanism for protecting employees.

Following the 2011 amendments to the Law on Broadcasting, which obligate media outlets to disclose information about their owners, media ownership became more transparent. Transparency of media ownership allowed consumers to judge the objectivity of news, but media experts acknowledged transparency was not absolute. The 2013 amendments obliging broadcasters to disclose information about their financial sources were not fully enforced.

Some media outlets, watchdog groups, and NGOs expressed concern regarding a restrictive environment for media pluralism and about political meddling in the media, especially those critical of the government. In particular concerns persisted concerning government interference with and criticism of alleged pro-opposition bias in some media outlets, in particular in the country's most widely viewed television station, Rustavi 2. NGOs also criticized a lack of judicial independence when, on March 2, the Supreme Court ruled to transfer Rustavi 2's ownership to a former owner, Kibar Khalvashi. On March 3, the ECHR suspended the decision, pending its own review of the case. *Rustavi 2* struggled financially as a result of frozen assets and an overdue tax bill.

In June the Georgian Charter of Journalistic Ethics expressed concern regarding the termination of certain programs on GPB and called on GPB management to revise the decision. Transparency International Georgia criticized the GPB for "violating its obligation to provide timely and complete information to the public about important events in Georgia, its regions and the world" in the lead up to the October local elections, including stopping broadcast news, sociopolitical programs in prime time, and election campaign debates.

Violence and Harassment: Crimes against media professionals, citizen reporters, and media outlets were rare. In 2016 there was one report of police physically and verbally assaulting journalist Davit Mchedlidze, editor in chief of the online media outlet *media.ge*, in Rustavi. As of September the investigation continued.

In July, Kamila Mamedova, the director of Marneuli Community Radio, appealed to the Marneuli police to investigate pressure "from the government and its affiliated persons on the grounds of critical reports broadcasted on the radio," according to Transparency International Georgia. Mamedova said she and her staff were threatened and a fake Facebook account was established in her name. The Marneuli police responded later that month that there were insufficient grounds for police investigation.

Nongovernmental Impact: Media observers, NGO representatives, and opposition politicians alleged that a former prime minister exerted a powerful influence over the government and judiciary, including in the lower and appellate court decision against owners of the Rustavi 2 television station.

While there was a relatively greater diversity of media in Abkhazia, media in the separatist regions of South Ossetia and Abkhazia remained restricted by de facto authorities and Russian occupying forces.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, but concerns remained about unauthorized surveillance.

According to International Telecommunication Union statistics, approximately two-thirds of the population used the internet. High prices for services and inadequate infrastructure limited access, particularly for individuals in rural areas or with low incomes.

Insufficient information was available about internet freedom in Abkhazia and South Ossetia.

Academic Freedom and Cultural Events

During the year the government revoked one license and did not renew another for two Turkish secondary schools that the Turkish government alleged were linked to the Gulen movement. The Public Defender's Office and NGOs raised concerns the closures were politically motivated and illegal. Authorities denied the school network's General Director, Mustafa Emre Cabuk, and his family's asylum requests after arresting Cabuk in May on a Turkish government extradition request (see section 2.d.).

In February the government revoked the license for prominent secondary school *S*ahin in the coastal city Batumi, close to the Turkish border. The Ministry of Education stated it closed the school because of the improper transfer of six Turkish citizen students from the school's Turkish program to its Georgian language program. In 2016 the Turkish consul general in Batumi had publicly accused the school of "fostering terrorism." The school's director and students' parents protested the Ministry's ruling,

claiming the decision was politically motivated. The public defender called on the government to make sure its decision was well grounded, adding "developments in our neighboring country should not affect Georgian educational institutions."

In August the Ministry of Education stated it would not renew the license for a prominent secondary school in Tbilisi, Demirel College. Demirel was part of the same education network as *S*ahin. The Ministry stated the decision not to renew Demirel's license was based on errors in its application, including not following correct procedures, and fraudulent paperwork. Students' parents accused the government of closing the school in response to Turkish government demands. In November the Public Defender's Office released a statement calling the decision illegal, and requested the Ministry conduct a new examination and annul its decision to revoke the license. At year's end there was no response from the Ministry of Education to this request.

b. Freedoms of Peaceful Assembly and Association

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

Freedom of Peaceful Assembly

The constitution and law generally provide for freedom of assembly. While authorities routinely granted permits for assemblies, police on occasion arrested or failed to protect participants in peaceful assemblies from counterdemonstrators. In addition human rights organizations expressed concern about 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.

Activists noted that freedom of assembly for members of the lesbian, gay, bisexual, transgender, and intersex community remained restricted (see section 6, Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity).

Freedom of Association

There were reports that some government representatives and supporters of the ruling party pressured political opposition figures and supporters, central and local government employees, teachers, and union members, including by surveillance and actual or threatened job loss (see section 7). Throughout the year, and especially during the campaign prior to the October local elections, there were reports of violence, intimidation, and harassment against opposition party figures and dismissal or the threat of dismissal from work for supporting opposition parties.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/religiousfreedomreport/ (http://www.state.gov/religiousfreedomreport/).

d. Freedom of Movement

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.

The government cooperated with the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to IDPs, refugees, returning refugees, asylum seekers, stateless persons, and most other persons of concern. The Public Defender's Office and NGOs, however, alleged that authorities made politically motivated decisions in asylum and other requests affecting selected Turkish and Azerbaijani citizens.

In-country Movement: There were substantial impediments to freedom of internal movement due to a lack of access to the breakaway regions of Abkhazia and South Ossetia. The majority of the approximately 300,000 IDPs from Abkhazia and South Ossetia wished to return to their areas of origin but lacked adequate security provisions absent a political resolution to the conflicts.

Foreigners were restricted from moving in and out of South Ossetia but could access Abkhazia with approval from the de facto authorities. Crossing permits introduced by de facto South Ossetian authorities were the only document that allowed movement across the South Ossetia-Georgia ABL.

Some Abkhaz residents who used their Georgian passports had to obtain permission from district de facto security services to cross the Georgia-Abkhaz boundary. Georgian passport holders residing in government-administered territory could also cross the checkpoint if they possessed invitation letters cleared by the de facto state security services allowing them to enter Abkhazia.

The Georgian Law on Occupied Territories prohibits entry into and exit from the breakaway regions through the territory of neighboring states (i.e., Russia).

Russian and Abkhaz de facto authorities limited international organizations' ability to operate in Abkhazia. Russian and South Ossetian de facto authorities limited international organizations, including humanitarian organizations, regular access to South Ossetia, although the Geneva International Discussion cochairs representing the United Nations, OSCE, and EU Special Representative for the South Caucasus and the

crisis in Georgia visited South Ossetia quarterly prior to each round of the meetings, accompanied by UNHCR. The ICRC office in Tskhinvali was the only international organization presence in South Ossetia.

De facto authorities and Russian forces in the Russian-occupied territories also restricted the movement of the local population across the ABL, although they showed flexibility for travel for medical care, pension services, religious services, and education. Villagers who approached the line or crossings risked detention by Russian Federation Border Guards. Russian border guards along the ABL with Abkhazia typically enforced the boundary-crossing rules imposed by de facto authorities by fining and eventually releasing detained individuals. Along the South Ossetia ABL, Russian border guards frequently transferred individuals to de facto authorities. The State Security Service reported detentions by de facto authorities typically lasted two to three days until the detainee paid "fines" set by the de facto "court," although some sentences for "violations of the state border" carried considerably longer terms.

The EU Monitoring Mission (EUMM) was aware of 39 individuals detained along the ABL with Abkhazia and 116 residents detained along the line with South Ossetia. There were credible reports based on local sources that, on several occasions, local South Ossetian "border guards" crossed into government-controlled territory to detain an individual. There were also reports of arbitrary arrests of ethnic Georgians by de facto authorities, particularly in the Tskhinvali and Gali regions of South Ossetia and Abkhazia, respectively. Most often, the arrested individuals were accused of violating the "state border." According to the EUMM, there were many cases of detainees being obliged to sign documents in Russian, a language that they did not understand.

De facto authorities expanded fencing and other physical barriers along the ABL between the government-administered area and South Ossetia. The restrictions tightened the Russian "borderization" of administrative boundary lines and further restricted movement, creating physical barriers and obstructing access to agricultural land, water supplies, and cemeteries.

In March, Abkhaz de facto authorities closed two additional crossing points across the ABL, leaving crossing points open at the Enguri Bridge and Saberio-Pakhulani. As access to government-administered territory became more restricted and visits to family and friends living across the ABL much more difficult to arrange, the closure of crossing points further impoverished and isolated the population in lower Gali and a growing sense of isolation. Moreover, the closure also prevented children from attending classes in their native Georgian language across the ABL.

The de facto Abkhaz authorities and the Georgian government allowed UNHCR to operate a shuttle bus free of charge to transport vulnerable persons across the main crossing point at the Enguri Bridge. UNHCR also was authorized to conduct a visit to the isolated ethnic Georgian population in Upper Kodori Valley, the first such visit since 2009.

Internally Displaced Persons

Based on Ministry for Internally Displaced Persons data on the Occupied Territories, Refugees, and Accommodations, as of August there were 278,155 IDPs from the 1992-93 and 2008 conflicts. UNHCR estimated 167,861 persons were in an "IDP-like" situation, some 60,000 of whom are in need of protection and humanitarian assistance. This number included individuals who have returned to Abkhazia and South Ossetia, as well as those displaced in the 2008 conflict who subsequently were relocated, or have obtained housing or cash compensation.

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 Ministry for Internally Displaced Persons provided monthly allowances to persons recognized as IDPs, promoted their socioeconomic integration, and created conditions for their return in safety and dignity.

The government prioritized finding durable housing for the 55,732 IDP families in the country. The government provided durable housing solutions to 35,322 households. In total 39 percent of IDPs were provided with durable housing solutions with 61 percent, or 53,206 households, still in need. Approximately 54 percent of IDPs in the government-administered territory did not have living quarters that could be considered habitable, with many living in collapsing communal facilities that lacked basic services, including potable water, adequate sanitation, and sewage systems. Many IDP households--primarily those displaced in conflicts in the 1990s--continued to live in substandard conditions with insufficient access to services and economic opportunities.

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 have returned to the Gali, Ochamchire, and Tkvarcheli regions of lower Abkhazia, but Abkhaz 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 2008 "law" that expropriated all "abandoned property" from the 1992-93 war. IDPs who return are allowed to sell but are barred from buying property.

In December 2016 the "Law on the Legal Status of Aliens" in Abkhazia was amended allowing for the introduction of a "foreign residence permit" meant to regulate the continued stay of Georgian IDP returnees in the three districts of eastern Abkhazia. On March 30, the de facto cabinet of Ministers adopted a decree regulating the issuance of the "foreign residence permit." While the document offers some rights, the holder has to accept the status of an alien (i.e., a Georgian living as a foreigner in Abkhazia), and must comply with a number of restrictions. The "permit" does not provide political and voting rights or rights related to housing, land, or property.

Protection of Refugees

Access to Asylum: In February a new law guaranteeing access to international protection, including access to asylum or refugee status, went into effect. NGOs, however, alleged executive and judicial authorities made politically motivated decisions in response to asylum requests by some Turkish and a number of Azerbaijani citizens.

The law distinguishes among three types of protection: a) refugee status (as per the 1951 Refugee Convention), b) protected humanitarian status (complementary protection), and c) temporary protection. In 2016 the government granted 48 persons refugee status and 203 persons protected humanitarian status. During the first six months of the year, the overall acceptance rate was 26 percent.

In July the government denied asylum to a Turkish citizen, Mustafa Emre Cabuk, and his family. Cabuk worked in secondary school education. In May the government detained him due to a Turkish government extradition request, which accused him of being a member of a terrorist organization. The Public Defender's Office, local and international NGOs, and international organizations raised concerns about the potential extradition of Cabuk and his family back to Turkey, where they warned he and his family would likely face persecution and torture. Cabuk appealed the government's denial of asylum and his extended pre-extradition detention. The government placed his family in witness protection due to threats of violence and fear for their safety. In November the Tbilisi City Court ruled in favor of the government and denied Cabuk's asylum request, and separately extended Cabuk's pre-extradition detention to February 2018.

In November the Parliamentary Assembly of the Council of Europe's corapporteurs for Georgia responded to the Tbilisi City Court's decision to uphold the government's ruling, saying that any decisions with regard to asylum requests or possible extradition "should be based only on humanitarian and human rights law, including the European Convention on Human Rights, whose requirements should be fully applied." The statement also "questioned the use of pretrial detention for asylum seekers and refugees while their cases are being heard, and asked authorities to provide for such measures to be taken only in exceptional circumstances."

The Public Defender's Office and local and international NGOs also raised concerns about the government's refusal to grant asylum, other protected status, or residency permits to a number of Azerbaijani journalists and activists. The NGOs claimed the individuals were politically persecuted in Azerbaijan, and accused the government of rejecting the asylum and residence permit requests in parallel with increasing government pressure against activists in Azerbaijan. The NGOs reported the government based its refusal of the asylum and residence permit requests on national security interests without giving clear reasons or citing relevant legislation. In March the Tbilisi Appeals Court overturned a Tbilisi City Court's ruling against the government and reinstated the earlier decision to reject asylum requests from Azerbaijani citizens Dashgin and Orkhan Agharlali. In December the Public Defender's Office stated it

reviewed the government's denial of a residency permit to Azerbaijani citizen Leyla Mustafayeva's (see section 1.d.) and found the government did not base its decision on legal factors, but rather relied on arguments by the State Security Service.

The Public Defender's Office reported it found several unreasonable instances of refusal to grant Georgian citizenship, asylum/refugee status, and residency permits to foreigners on national security grounds after reviewing the government's confidential considerations in some cases. The Public Defender's Office also reported the State Security Service had failed to provide confidential information to the Public Defender's Office for review in these cases, and subsequently filed a court case on the denial of information. The court case continued at year's end.

In a September report titled *Repression Beyond Borders: Exiled Azerbaijanis in Georgia*, three NGOs wrote that many Azerbaijani human rights defenders, journalists, and dissidents fleeing persecution no longer viewed Georgia as a safe haven following a number of incidents and events during the prior year. In November the Parliamentary Assembly of the Council of Europe's corapporteurs for Georgia expressed concern about reports of harassment of some Azerbaijani residents and asylum seekers in Georgia by persons allegedly connected to Azerbaijani authorities. The corapporteurs called on Georgian authorities to investigate these allegations fully and to put a stop "resolutely and promptly" to any harassment of Azerbaijani citizens in Georgia "irrespective of who the victims or perpetrators may be."

Employment: Asylum-seekers (from the start of the asylum procedure) and persons under international protection have legal access to the labor market. Foreigners, including persons under international protection, could register at the "Worknet" state program for vocational training and skills development.

Access to Basic Services: The government provided limited assistance to persons with protected status. In May the government opened an integration center to provide structured integration programs for such persons. The country's reception center had adequate services for asylum seekers and increased its capacity from 60 to approximately 150 persons.

The law enables refugees and asylum seekers to receive a temporary residence permit during the entirety of their asylum procedure as well as documentation necessary to open a bank account and register a business or property. Refugees receive a renewable temporary residence permit for three years, while protected humanitarian status holders receive a permit for one year, renewable upon a positive assessment of the need for continued protection. Access to education remained a problem due to the language barrier, notwithstanding the government's provision of Georgian language classes.

Durable Solutions: As of 2016, the most recent year for which data were available, the government had naturalized 471 Chechen refugees during the prior five years. Additionally, as of 2016 UNHCR reported approximately 200 Chechen refugees had yet to be naturalized, including several whose applications were rejected because they failed to pass the required language and history tests. Others were purportedly denied naturalization based on national security concerns.

Temporary Protection: The government provided temporary protection to individuals who may not qualify for refugee status. As of August, 162 persons were granted protected humanitarian status.

Stateless Persons

According to UNHCR statistics, as of August there were 595 stateless persons in the country under UNHCR's statelessness mandate.

The law defines a stateless person in line with the 1954 UN Convention relating to the Status of Stateless Persons and lists specific rights and responsibilities of stateless persons. The law provides stateless persons with a pathway to naturalization.

The law provides that an adult can be granted citizenship if he or she has permanently resided on the country's territory during the previous five years; knows the state language; is familiar with the country's history and laws and able to pass the relevant tests; and has a job or owns real estate on the country's territory, conducts business, or owns shares in a Georgian company or industry. In exceptional cases, the president may grant citizenship to individuals who did not satisfy these requirements.

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.

Following the 2016 parliamentary elections, the ruling Georgian Dream (GD) party began a process of constitutional change that was the subject of intense national debate. In September, despite an emphasis by local NGOs and the international community on the importance of achieving broad consensus, parliament adopted constitutional amendments with only ruling party support. Amendments that would postpone a change in the country's parliamentary electoral system and eliminate direct election of the president were particularly controversial. The European Commission for Democracy through Law ("Venice Commission") assessed the amendments as a positive step toward transformation of the country's political system to a parliamentary system, but regretted the failure of the ruling party to achieve a consensus through meaningful negotiations. NGOs and international organizations raised concerns the package facilitated a consolidation of power for the ruling party and warned of a one-party state.

NGOs and the Public Defender's Office criticized the process of developing and passing the amendments as too hasty for such fundamental changes to the country's political system. They also criticized the ruling party's failure to incorporate input from opposition parties and civil society. At year's end additional amendments recommended by the Venice Commission awaited parliamentary approval.

Elections and Political Participation

Recent Elections: In 2016 the country held two rounds of parliamentary elections. An OSCE Office for Democratic Institutions and Human Rights (ODIHR) election observation mission described the elections as "competitive and administered in a manner that respected the rights of candidates and voters" but noted that the open campaign atmosphere was affected by "allegations of unlawful campaigning and some incidents of violence." Election observers, including the International Society for Fair Elections and Democracy that conducted a parallel vote tabulation that was consistent with official results, expressed concerns about the qualifications, neutrality, and competence of some polling station commissioners. NGOs and opposition parties reported politically motivated intimidation throughout the electoral process. According to ODIHR's statement, confidence in election administration between the first and second rounds was weakened because election commissions and courts often did not respect the principle of transparency and the right to effective redress.

In its final statement, the ODIHR election observation mission characterized the 2013 presidential election as efficiently administered and transparent and considered that the legal framework provided a sound basis for the conduct of democratic elections. Shortcomings included allegations of political pressure during the campaign, including on United National Movement (UNM) party representatives in local government; unclear and unevenly applied election code provisions; and insufficient campaign finance monitoring.

In October and November 2017, the country held two rounds of local elections. An ODIHR election observation mission found the elections generally respected fundamental freedoms and candidates were able to campaign freely, while highlighting that between the first and second rounds, "the high number of complaints dismissed on procedural or formalistic grounds undermined candidates' and voters' right to an effective remedy and public confidence in dispute resolution." ODHIR observers noted the entire context of the elections was shaped by the dominance of the ruling party and that there were cases of pressure on voters and candidates, as well as a few violent incidents. In September a ruling party candidate physically assaulted a minority party candidate. In October minority party demonstrations in front of the Tbilisi City Hall turned violent, and, separately, a GD municipality office was attacked by gunfire, injuring four persons, including a majoritarian candidate.

ODIHR observers also reported instances of pressure on public sector employees to support the ruling party in the local elections, cases of misuse of administrative resources, the lack of a level playing field in campaign donations, and vote tracking.

The National Democratic Institute (NDI) reported the local elections were largely in line with international standards but noted, "The period following the first round of elections, particularly the handling of complaints, reinforced the need for further improvements in the legal framework as well as for broader dialogue to address lack of trust in the election process." NDI also noted that allegations of abuse of administrative resources, pressure and intimidation of voters and candidates, and campaign finance remained problematic.

Political Parties and Political Participation: On July 21, NDI released a pre-election delegation statement on preparations for local elections that highlighted several problems, including "uneven and political application of the law;" the lack of a level playing field for parties and candidates; pressure on potential funding sources; legal and constitutional reforms designed to politically benefit the ruling party; shrinking media space for alternative views; and abuses of state resources, including interference by the state security services. NDI's December 4 postelection statement concluded by noting the need for political will to resolve the significant problems of "disparity of resources, visibility, and access for parties, alleged abuse of the state resources and employees to benefit one party, reported intimidation of voters and candidates, and eroding trust in democratic institutions, such as the Central Election Commission."

A local NGO reported 23 cases of intimidation or harassment in the four weeks before the election, mostly against opposition or independent candidates and their supporters, but also against public servants and teachers.

Accountability for political violence remained a problem, including the May 2016 beatings of multiple leading UNM politicians and activists at a polling station in Kortskheli, a village in the Zugdidi municipality, during a by-election for a seat in the local council. UNM leaders accused the head of GD's election headquarters of organizing the assault, while the GD contended that UNM provoked GD supporters. In June 2016 the Ministry of Internal Affairs filed criminal charges against six men involved in the incident. In December 2016 the case went to trial, but as of December 2017 the trial had not concluded.

Participation of Women and Minorities: No laws limit the participation of women and members of minorities in the political process, and women and minorities did participate.

De facto authorities in Abkhazia stripped ethnic Georgians of their Abkhaz "citizenship" in 2014, preventing them from participating in elections. Ethnic Georgians willing to apply for Abkhaz "passports" generally did not receive them in time to participate in 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.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for conviction of corruption by officials. While the government implemented the law effectively against low-level corruption, NGOs cited weak checks and balances and a lack of independence of law enforcement agencies as among the factors contributing to high-level corruption. There were no effective mechanisms for preventing corruption in state-owned enterprises and independent regulatory bodies.

While noting that petty bribery was extremely rare, on December 9, Transparency International/Georgia described corruption as a "serious problem." It recommended a number of measures to combat corruption, including strengthening parliamentary and judicial oversight; establishing an electoral environment more conducive to political pluralism; respecting the independence of key oversight institutions such as the State Audit Office and Prosecutor's Office; effectively enforcing anticorruption legislation; taking effective steps toward the establishment of an independent, depoliticized, professional civil service; and adopting a stronger freedom of information law.

Corruption: In August the courts convicted two municipal officials on charges brought by the anticorruption unit in the Chief Prosecutor's Office. The city hall employees were convicted of conspiring on a fraudulent land sale that would have diverted $38,000 in public money to them.

Financial Disclosure: The law requires public officials to submit annual declarations of their income and property for tax inspection; these were posted online. Declarations were not subject to verification. The Bureau of Declarations receives financial declarations.

Section 5. Governmental Attitude Regarding 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. Some NGOs, however, reported efforts to discredit them publicly by the government, judiciary, political opposition, or opposition-affiliated media sources. Various NGOs issued statements expressing concern that comments by existing and former government officials against NGOs and the activities of the Public Defender's Office could negatively influence the attitudes of government officials and politicians toward democratic institutions and cooperation with NGOs and the public defender. NGO concerns about and criticism of the proposed constitutional amendments, the narrowing space for open political dialogue in the period leading up to the country's local elections, and the selection and appointment of judges in the High Council of Justice and the selection of the country's three nominees for election to the ECHR also resulted in tension between authorities and human rights NGOs.

Senior ruling party officials pressured and criticized the public defender throughout the year, culminating in public verbal attacks on the public defender by leading members of the executive, legislative, and judicial branches in November. NGOs and the Council of Europe's Human Rights Commissioner condemned the attacks as "unacceptable" and urged officials to refrain from making statements that could damage the reputation of the public defender or the Public Defender's Office.

The United Nations or Other International Bodies: While there was little official information on the human rights and humanitarian situation in South Ossetia and Abkhazia due to limited access, allegations of abuse persisted. In March the UN Human Rights Council adopted a resolution calling for immediate access for the Office of the High Commissioner for Human Rights (OHCHR) and international and regional human rights mechanisms to Abkhazia and South Ossetia. In June the OHCHR reported that de facto authorities in Abkhazia and South Ossetia had not granted the requested access and expressed concern that, despite repeated requests since 2011, de facto authorities in Abkhazia and South Ossetia had never granted it access. The OHCHR stated that the lack of access raised legitimate questions and concerns about the conditions of human rights of the populations in Abkhazia and South Ossetia.

Government Human Rights Bodies: NGOs viewed the Public Defender's Office, which has a mandate to monitor human rights and investigate allegations of abuse and discrimination, as the most objective of the government's human rights bodies. The ruling party's package of constitutional amendments (see Section 3) includes limiting the public defender to one six-year term in office. The amendment is scheduled to come into force after the next presidential inauguration in 2018. Parliament in November selected a new public defender for a five-year term upon the expiration of the incumbent's term.

The public defender's authority does not include the power to initiate prosecutions or other legal actions, but he can recommend action, and the government must respond. While the office generally operated without government interference and was considered effective, the public defender reported that the government often responded partially or not at all to inquiries and recommendations, despite a requirement to respond to information requests within 20 days. The Human Rights Division of the Ministry of Internal Affairs and the Chief Prosecutor's Office also have mandates to monitor and investigate allegations of abuse and discrimination. The Incident Prevention and Response Mechanism, designed to cover Abkhazia and South Ossetia and including security actors from the government, Russia, and de facto authorities of the breakaway regions, often considered human rights abuses reported in the occupied territories and along the ABL.

The public defender retains the right to make nonbinding recommendations to law enforcement agencies to investigate particular human rights cases. The public defender must submit an annual report on the human rights situation for the calendar year but can also make periodic reports. The office may not report allegations of torture unless

the victim gives clear consent or a monitor from the office witnesses the torture. De facto authorities in the occupied territories did not grant representatives of the Public Defender's Office access.

By law the chief prosecutor is responsible for protection of human rights and fundamental freedoms. The human rights unit of the Chief Prosecutor's Office monitored overall prosecution and supervised compliance with national and international human rights standards. The unit reviews statistical and analytical activities within the prosecution system and is responsible for examining and responding to recommendations of national and international institutions involving human rights.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: Rape is illegal, but criminal law does not specifically address spousal rape. A convicted first-time offender may be imprisoned for up to seven years. Through September the Prosecutor's Office initiated investigations in seven rape cases. The government enforced the law effectively.

In cases that do not result in injury, penalties for conviction of domestic violence include 80 to 150 hours of community service or imprisonment for up to one year.

Domestic and other violence against women remained a significant problem. According to the Ministry of Internal Affairs, 12 women died as a result of domestic violence. NGOs reported law enforcement officials and prosecutors in Tbilisi showed improved professionalism in handling domestic violence crimes.

The Ministry reported it opened 2,248 cases of domestic violence through December.

NGOs reported instances of law enforcement officials failing to take action against perpetrators of rape and domestic violence and failing to grant victim status to survivors The Public Defender's Office noted that low public awareness of domestic violence, violence against women, and women's rights in general resulted in victims not seeking assistance from authorities.

The Public Defender's Office blamed the high number of killings of women on the lack of monitoring and risk assessment systems for cases of violence against women and domestic violence. The office called on the government to create an effective system to record and analyze cases of femicide.

Domestic violence laws mandate the provision of temporary protective measures, including shelter and restraining orders that prohibit an abuser from coming within 330 feet of the victim and from using common property, such as a residence or vehicle, for six months. The Public Defender's Office stated victims often reported receiving inadequate responses from law enforcement officers to restraining order violations.

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 four of the country's 10 regions had facilities.

Other Harmful Traditional Practices: Kidnapping women for marriage occurred in remote areas and ethnic minority communities but was very rare. Police rarely took action in these cases, because there was usually no way to distinguish whether the event was a kidnapping or an arranged elopement.

Sexual Harassment: Sexual harassment in the workplace was a problem. The law provides a general definition of harassment, but it does not provide a legal sanction for it. The Public Defender's Office reported it received three sexual harassment complaints in 2016 and in each case the victim did not want to go to court. The government initiated a sexual harassment training course for all civil servants to raise awareness of the problem.

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/ (http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: The equal legal status and rights of women and men was not always respected. Discrimination against women in employment was reported. The law provides for the establishment of a gender equality council in Parliament, enhancement of women's security, and strengthening of women's political participation. It stipulates that the government should engage in gender-responsive planning and budgeting. In March parliament passed an action plan to address gender equality reforms. The Public Defender's Office monitored gender equality cases.

Children

Birth Registration: By law citizenship derives from parents at birth or from birth within the country's territory. It applies to children of stateless individuals. According to the UNICEF, 99 percent of births were registered before the child reached age five.

Since 2015 UNHCR reported a widening documentation gap in Abkhazia, noting that fewer residents of Gali District held valid documents due to the expiration and nonrenewal of documentation by de facto authorities. It reported that more than 400 returnee children born after 2013 were not given birth certificates because their parents lacked valid documents required for registration.

Education: Children of noncitizens often lacked the 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. The Public Defender's Office reported that violence, negligence, and other forms of mistreatment were still acute in educational institutions.

Child Abuse: According to the Ministry of Internal Affairs, as of December authorities opened investigations into 460 cases involving different kinds of crimes against children.

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

Early and Forced Marriage: The legal minimum age for marriage for both men and women is 18. Conviction of forced marriage of an individual under age 18 is punishable by two to four years' imprisonment. As of September the Public Defender's Office was reviewing 22 instances of alleged early marriage and the Ministry of Interior launched investigations into six cases. Reports of child marriages continued throughout the year, although there were no official statistics. Child marriages reportedly occurred more frequently among certain ethnic and religious groups.

Sexual Exploitation of Children: Conviction of commercial sexual exploitation of children and child pornography are punishable by up to five years' imprisonment. Street children and children living in orphanages were reportedly particularly vulnerable to exploitation.

The minimum age for consensual sex is 16. The law classifies sexual intercourse with a juvenile as rape, provided the perpetrator is proven to be aware of the victim's age. The penalty is up to nine years' imprisonment; the government generally enforced the law. Conviction of other sexual crimes carry increased levels of punishment if the victim was a juvenile.

Displaced Children: Difficult economic conditions contributed to the problem of street children, although it was unclear how many were geographically displaced. The Public Defender's Office reported a lack of information about street children and noted the inadequacy of resources devoted to them.

According to the Ministry of Labor, Health, and Social Affairs, mobile teams established contacts with 908 children working or living on the streets. As of July 204 of these children were enrolled in day care services, 24 were provided shelter services, 73 were enrolled in the education system, and 110 were provided with personal documentation.

Institutionalized Children: The government continued replacing large-scale orphanages with smaller foster-parenting arrangements. According to the Social Service Agency, 302 children were housed in 46 small-group homes and 1,440 children were placed in different forms of foster care. 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.

UNICEF and a foreign development agency supported the government in developing small-scale facilities for children with severe and profound disabilities with the view to closing the Tbilisi infant home.

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 travel.state.gov/content/childabduction/en/legal/compliance.html (http://www.travel.state.gov/content/childabduction/en/legal/compliance.html).

Anti-Semitism

Observers estimated the Jewish community to be no more than 6,000 persons. There were no reliable reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/ (http://www.state.gov/j/tip/rls/tiprpt/).

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 that 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. Discrimination in employment was also a problem.

The law mandates access to buildings for persons with disabilities and stipulates fines for noncompliance. Very few public facilities or buildings, however, were accessible. Public and private transportation generally did not accommodate persons with disabilities, and sidewalk and street-crossing access was poor.

The Public Defender's Office stated that inclusive education remained a major challenge. Despite the introduction of inclusive education in professional and general educational institutions, preschool and higher education were not part of the system. Only a limited number of preschools among the 165 monitored by the Public Defender's Office in Tbilisi in 2016 were accessible to children with disabilities.

The Public Defender's Office reported that state-run institutions caring for persons with disabilities lacked the infrastructure, trained staff, psychosocial services, and contact with the outside world and families needed to provide for the delivery of services. It raised concerns about a high number of deaths of residents in regional facilities. The Ministry of Internal Affairs opened investigations into several deaths at state-run institutions, but the Public Defender's Office reported its study of these investigations revealed the investigations were ineffective.

In April parents of children with disabilities protested the unequal distribution of government assistance for persons with disabilities and claimed that only children in some regions received government funding. The parents requested an increased budget for rehabilitation programs for children with disabilities.

A report on the privatization of psychiatric facilities in the country by the Foundation Global Initiative on Psychiatry--Tbilisi, the Federation Global Initiative on Psychiatry, and the Public Defender of Georgia described overcrowding at the Naneishvili Psychiatric Health Center (Kutiri hospital), where some patients slept in halls. The physical and sanitary conditions were poor, and the hospital offered little therapeutic treatment.

National/Racial/Ethnic Minorities

The Public Defender's Office and NGOs reported some instances of discrimination against minority communities. The Public Defender's Office noted that from September 2015 to August 2016, it received more than a dozen claims of discrimination based on national/ethnic origin. Minority rights NGOs reported that victims rarely registered claims due to a lack of knowledge about their rights and criticized authorities for not raising greater awareness in minority communities.

According to the Ministry of Internal Affairs, there were no reports of crimes committed on the basis of race, nationality, or ethnicity in recent years.

The media reported numerous cases of hate speech targeting minority groups.

Weak Georgian-language skills were the main impediment to integration for members of the country's ethnic minorities, although political, civic, economic, and cultural obstacles to integration also remained. Ethnic Armenians, Azerbaijanis, Abkhaz, Ossetians, and Russians usually communicated in their native languages or Russian in the areas where they were the dominant groups. Some minorities asserted that 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 a year prior to their university studies. According to a quota system, the government assigned 12 percent of all bachelor or higher certificate-level placements to students with ethnic minority backgrounds. Ethnic Armenian and Azerbaijani communities each received 5 percent of the slots, while Ossetian and Abkhaz communities received 1 percent each.

The law permits the repatriation of Muslim Meskhetians deported in 1944. According to the Ministry for Internally Displaced Persons from the Occupied Territories, Refugees, and Accommodations, 1,998 of more than 5,841 applications were approved by August. Of this number, 494 applicants received "conditional citizenship," which, according to a presidential decree, grants them "full Georgian citizenship" upon renouncing their foreign citizenship within five years.

The legal status of ethnic Georgians living in the Gali District of Abkhazia was unclear. The community faced problems receiving education in the Georgian language. According to the EUMM, unlike in 2016, some Gali students seeking to attend school in Georgian government-administered territory faced difficulties at the start of the school year crossing the administrative boundary to attend school. In 2015 de facto authorities shifted the language of instruction for students in first through fourth grades in Lower Gali to Russian. According to the Abkhaz government-in-exile, in the Tkvarcheli and Ochamchire zones, Russian was the only instructional language and, since the 2008 conflict, the de facto government prohibited Georgian language instruction. Teachers who did not speak Russian had to memorize lessons in Russian, although some continued to instruct students informally in Georgian. 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 either to pay for teachers, arrange for teachers to cross from undisputed government territory to teach, or send their children across the ABL for Georgian-language lessons. Secondary school graduates had to cross the ABL to take university entrance examinations. De facto Abkhaz authorities closed a school in Tagiloni in Lower Gali in November ostensibly due to low numbers of students, disrupting the education of 23 students who were either transferred to another school in Tagiloni or had to commute to a school in Nabakevi.

In early September, South Ossetian de facto authorities began transitioning all six Georgian curriculum schools and two kindergartens in Akhalgori District to Russian, for the majority of subject teaching, starting with the first through fourth grades.

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

The constitution provides for fundamental equality before the law, and a variety of laws or regulations contain antidiscrimination provisions. The criminal code makes acting on the basis of prejudice because of a person's sexual orientation an aggravating factor for all crimes.

The Public Defender's Office reported that lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals continued to experience systemic violence, oppression, abuse, intolerance, and discrimination in every sphere of life. According to NGOs, the government rarely enforced the law, and law enforcement authorities lacked robust training on hate crimes.

LGBTI organizations, NGOs, and the Public Defender's Office reported societal prejudices against LGBTI individuals remained strong. The organizations reported that the government's ineffective antidiscrimination policy reduced the LGBTI community's trust in state institutions and pointed to some homophobic statements by politicians and public officials as furthering hatred and intolerance against the LGBTI community.

In August, two LGBTI organization leaders accused police officers from Batumi's sixth precinct of inhuman and degrading treatment, including physical abuse. The individuals alleged that police failed to intervene when several persons physically assaulted them on the street. The law enforcement officials subsequently arrested the two LGBTI individuals, who reported that the officials mistreated them in detention. The courts fined the LGBTI individuals 300 lari ($120) each for disobeying police. None of the alleged attackers was detained. The Ministry of Internal Affairs' Office of the Inspector General and the Chief Prosecutor's Office opened investigations into the incident. As of September the investigations continued.

In February the Tbilisi City Court of Appeals' upheld a Tbilisi City Court's 2015 ruling that the Ministry of Internal Affairs did not provide for the safety of activists in the 2013 rally to mark the International Day Against Homophobia (IDAHOT). The Tbilisi City Court had also ruled that the Ministry of Internal Affairs should compensate participants 12,500 lari ($5,000) for the moral damage they suffered. On September 17, the Ministry of Internal Affairs appealed the appellate court's decision to the Supreme Court; the Supreme Court ruled the ministry's appeal inadmissible.

According to the LGBTI community, the law provides for gender recognition for transgender persons. NGOs reported, however, that the Civil Registry Office and Service Development Agency standard requires applicants to present proof of gender reassignment surgery in order to change their gender status in official documents.

On May 17, LGBTI organizations were able to hold an IDAHOT rally without incident. All of the approximately 200 participants arrived in government-provided, secure transportation, and law enforcement agencies restricted pedestrian and vehicle traffic for several blocks around the rally location. Some NGOs considered the rally a step forward but noted the tight security controls restricted freedom of assembly.

HIV and AIDS Social Stigma

Stigma and discrimination against persons with HIV/AIDS were major barriers to HIV/AIDS prevention and service utilization. Negative social attitudes and low public awareness also remained obstacles. 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.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The labor code and its related regulations and statutes generally provide for the right of most workers, including government employees, to form and join independent unions, to legally strike, and to bargain collectively. Employers are not obliged to engage in collective bargaining, even if a trade union or a group of employees wishes to do so. The law permits strikes only in cases of disputes where a collective agreement is already in place. 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 can 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. The law stipulates the rights of migrant workers and regulates issues concerning migrant labor, including relationships between employers, laborers, and the state bodies authorized to address issues concerning migrant labor.

The Georgian Trade Union Confederation (GTUC) reported certain categories of workers related to "human life and health," as defined by the government, were not allowed to strike and noted the government provided no compensation mechanisms for this restriction. According to GTUC, the prohibition on strikes by some professions was contrary to International Labor Organization standards.

The government did not effectively enforce laws that provide for workers' freedom of assembly and prohibit antiunion discrimination, and violations of worker rights persisted. There were no effective penalties or remedies for arbitrarily dismissed employees, and legal disputes regarding labor rights were subject to lengthy delays. Without a fully functioning labor inspectorate and mediation services in the Ministry of Health, Labor, and Social Affairs, the government was not able to enforce all collective bargaining agreements (as required by law) or provide government oversight of employers' compliance with labor laws. Employees who believed they were wrongfully terminated must file a complaint in a local court within one month of their termination.

The prime minister authorized the minister of health, labor, and social affairs to chair the Tripartite Commission, which facilitates social dialogue among representatives from industry and organized labor.

Workers generally exercised their right to strike in accordance with the law but at times faced management retribution. GTUC reported that the influence of employer-sponsored "yellow" unions in the Georgian Post and Georgian Railways continued and impeded the ability for independent unions to operate. NGOs promoting worker rights did not report government restrictions on their work.

In August the members of the four Georgian Trade Union Confederation (GTUC) railway workers' unions went on hunger strike to protest what they claimed was unfair treatment by railway management. An additional 11 railway workers later joined the hunger strike. Some of the hunger strikers accused the railway management of pressuring their families and targeting the strikers due to their GTUC affiliation. After the railway management and the Tbilisi City Court ruled to deny the strikers' request to erect a tent at the demonstration site outside the railway management headquarters, some demonstrators attempted to enter the headquarters, and police detained several of the individuals. The demonstrators accused police of physical and verbal abuse and asserted the detentions and the denial of a permit to erect a tent violated their freedoms of expression and assembly. Some ruling GD party politicians accused union leaders of being affiliated with a former president and politically motivated. GTUC's president said he would suspend GTUC's participation in the Tripartite Commission pending resolution of the disagreement. On September 3, the hunger strike ended. As of December, however, the labor dispute remained pending in court.

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 for conviction that would be sufficient to deter violations, but the low number of investigations into forced or compulsory labor, particularly involving human trafficking for sexual exploitation, offset the effect of strong penalties and encouraged the use of forced and compulsory labor.

The Ministry of Labor, Health, and Social Affairs reported that it found no cases of forced or compulsory labor. There were reports, however, that forced labor occurred, and GTUC claimed there were no improvements in the government's efforts to combat it. The law permits the ministry's inspection department to make unannounced visits to businesses suspected of employing forced labor or human trafficking. The ministry reported that as of September it inspected 106 companies on suspicions of human trafficking and forced labor.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip/rls/tiprpt/ (http://www.state.gov/j/tip/rls/tiprpt/).

c. Prohibition of Child Labor and Minimum Age for Employment

The minimum legal age for employment is generally 16, although in exceptional cases children may work with parental consent at age 14. Children under age 18 may not engage in unhealthy, underground, or hazardous work; children who are ages 16 to 18 are also subject to reduced workhours and prohibited from working at night. The law permits employment agreements with persons under age 14 in sports, the arts, and cultural and advertising activities.

The Ministry of Labor, Health, and Social Affairs reported that it found no cases of child labor law violations during the year. Depending on the offense, conviction of child labor is punishable by fine, removal of operating permits, community service, probation, or imprisonment. The low number of investigations into child labor made it unclear how effectively the government enforced the law. The lack of a labor inspectorate with the authority to levy fines seriously undermined enforcement efforts. Many children younger than 16 worked on small, family-owned farms. In most cases authorities did not consider this work as abusive or categorized 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 on 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.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/reports/child-labor/findings/ (http://www.dol.gov/ilab/reports/child-labor/findings/).

d. Discrimination with Respect to Employment and Occupation

The law prohibits discrimination in employment but it does not specifically prohibit discrimination based on HIV-positive status or other communicable diseases or social origin. The law further stipulates that discrimination is considered to be "direct or indirect oppression of a person that aims to or causes the creation of a frightening, hostile, disgraceful, dishonorable, and insulting environment."

As there was no legal basis for labor inspection or a labor inspectorate with the authority to impose fines, the government did not effectively enforce the law.

Discrimination in the workplace was widespread. GTUC reported cases of discrimination based on age, sexual orientation, and union affiliation. Companies and public workplaces frequently reorganized staff to dismiss employees who had reached the qualifying age to receive a pension. In addition, vacancy announcements often included age requirements as preconditions to apply for a particular position. GTUC reported widespread instances of harassment in both the public and private sectors based on union affiliation, notably in the Georgian Railway and the Postal Service.

While the law provides for equality in the labor market, NGOs stated, and the Ministry of 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 largely confined to low-paying, low-skilled positions, regardless of their professional and academic qualifications, and salaries for women lagged behind those for men.

There was some evidence of discrimination in employment based on disability. While the government was unable to provide statistics on employment of persons with disabilities, the Ministry of Labor, Health, and Social Affairs reported that questionnaires used during its inspection process included a question on whether persons with disabilities were employed at the company.

e. Acceptable Conditions of Work

The monthly minimum wage does not meet the official subsistence income level.

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. Shifts must be at least 12 hours apart. Employees are entitled to 24 calendar days of paid leave and 15 calendar days of unpaid leave per year. Pregnant women or women who have recently given birth may not be required to work overtime without their consent. Minors who are 16 to 18 years old may not work in excess of 36 hours per week. Minors who are 14 or 15 may not work in excess of 24 hours per week. Overtime is only required to "be

reimbursed at an increased rate of the normal hourly wage…defined by agreement between the parties." The law does not explicitly prohibit excessive overtime. No occupational, safety, and health standards were established.

Parliament voted on new occupational, safety, and health legislation for "hard, harmful, and hazardous" industries this year and held the second hearing for the legislation in December. The legislation requires businesses in a to-be-determined list of industries to allow unannounced occupational, safety, and health inspections; establish occupational, safety, and health standards for these industries; and authorize labor inspectors to issue fines for lack of compliance. GTUC and NGOs criticized the legislation for being limited to occupational, safety, and health, and for limiting the standards to only "hard, harmful, and hazardous" industries.

Without a legal framework for labor inspection, the government did not effectively enforce minimum wage, hours of work, occupational safety, or health standards in any sector. Inspection remained voluntary, and employers received five days' notice before labor inspectors visited worksites. Inspectors did not have the ability to levy fines or other penalties on employers for substandard working conditions, in part because the law does not stipulate acceptable conditions of work. Penalties were inadequate to deter violations. As of September, the Ministry of Labor, Health, and Social Affairs reported it had 24 inspectors and 25 reserve inspectors. The ministry also reported it inspected 137 companies as of September. The number of inspectors was insufficient to enforce compliance. A law governing entrepreneurial activity also inhibited labor inspectors' access to enterprises by disallowing unannounced visits by inspectors except in cases of suspected trafficking in persons.

Violations of worker 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 health or safety would be cause for employers not to renew their contract.

Conditions for migrant workers were generally unregulated. While the government did not keep specific statistics of migrant laborers in the country, the Public Services Development Agency issued 9,551 residence permits to migrant workers. According to the International Organization for Migration, a significant number of migrant workers come to Georgia to work on foreign-financed projects, where they lived at the worksite. It also reported other labor migrants found employment in the growing tourism industry or arrived in the country without previously secured employment and were unable to find concrete employment opportunities and had insufficient resources to sustain their stay in Georgia or finance their return home.

A significant number of workers was employed in the informal economy. Because of the frequent lack of employment contracts in the informal economy, exploitative conditions occurred. Such conditions were common among those working as street vendors or in unregulated bazaars.

According to GTUC, 41 persons were killed and 63 were injured in workplace and industrial accidents during the year. The mining and construction sectors remained especially dangerous, and in May, four mineworkers in Tkibuli were killed in an elevator collapse.

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Austrian Red Cross
Austrian Centre for Country of Origin and Asylum Research and Documentation (ACCORD)

Wiedner Hauptstraße 32, 1041 Wien
T (Telefon) +43 1 589 00 583
F (Fax) +43 1 589 00 589
info@ecoi.net

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