



SOCIETY
WITHOUT
VIOLENCE



Declaration

On the Elimination of Discrimination Based on Sexual Orientation and Gender Identity (SOGI) and Achievement of Equal Rights for LGBTI Persons

Introduction

All persons are born free and equal in their dignity and rights. All rights and freedoms are universal, interrelated, inseparable, inalienable and interdependent. Sexual orientation, gender identity and gender self-expression constitute integral elements of every person's dignity and any form of discrimination or other restriction of human rights on these grounds is unacceptable.

Relying on the principle of universality of human rights, we underscore the state's positive obligation to ensure full enjoyment of all human rights and freedoms for any person, without any discrimination, including on the basis of sexual orientation and gender identity (SOGI);

Given that universally recognised principles and norms of human rights constitute an integral part of Georgia's legal and political environment, and the country is party to almost all major international and regional human rights treaties;

Recognising that the application of consistent anti-discrimination policies, including effective positive measures to eliminate discrimination on any grounds, constitutes a crucial aspect of national and international systems of the protection of human rights and fundamental freedoms;

Acknowledging that the recognition of the rights of select discriminated-against groups and their explicit reflection in international legal instruments occurred at a relatively late stage; lesbian, gay, bisexual, transgender and intersex (LGBTI) persons have been, and in numerous countries still continue to be, subject to homophobia, transphobia, and other forms of intolerance and discrimination in both public and private spaces. The criminalisation of homosexuality and the marginalisation and social exclusion of, and violence against LGBTI persons constitute common practice in many countries.

At the same time, **acknowledging** the progress achieved by Georgia over the recent years on the legislative and institutional levels in terms of the prevention and eradication of SOGI-based discrimination; including the introduction of major amendments in Georgian legislation and policy documents, adoption of the National Strategy and Action Plan on Human Rights, which have defined specific mechanisms for the implementation of legislative guarantees, and the improvement of self-regulation mechanisms, such as the Codes of Professional Ethics and Conduct. Although, this process does not take into account a joint vision and approaches based on recently conducted studies that would consider the local context, and is not of a complex nature. As a result, it has of yet been impossible to establish a secure environment for LGBTI persons in our society, free from hate speech and discrimination, which would allow community members to enjoy all rights and freedoms on a par with other groups and citizens;

Considering that LGBTI persons in Georgia frequently become victims of systemic violence, harassment, persecution, intolerance and discrimination in all spheres of life; violence against and unequal treatment of LGBTI persons often manifests in physical and psychological violence, marginalisation, bullying and social exclusion from the family, public spaces or various institutions;

Realising that the LGBTI community is not a homogeneous group and the community comprises persons with different experiences, needs and levels of vulnerability, who require approaches specific to their respective needs.

The failure to recognise the diversity and differences within the LGBTI community precludes the identification and mitigation of the needs of those persons, who suffer intersectional oppression on the basis of intersecting identities, in particular, their social status, disability, gender, age, religious beliefs, ethnic origin and other grounds.

Acknowledging that the violent and homo/bi/transphobic environment effectively transforms the LGBTI community into an invisible social group and has a direct impact not only on the well-being and health of these persons, but also prevents them from self-realisation on the individual, interpersonal and political levels;

Understanding that due to the inefficient application of legal mechanisms for the prevention, response and tackling of SOGI-based hate crime and discrimination, as well as low sensitivity of select public officials towards LGBTI issues, the level of trust held by LGBTI persons towards law enforcement agencies and the justice system is reduced, owing to which they are less likely to resort to legal remedies and are frequently remain fully exposed to violence and unequal treatment;

Understanding that the negative effect of hate crimes motivated by homo/bi/transphobia poses a serious threat both to the development of a pluralistic society based on equality, as well as a democratic and safe environment in the country, the provision of which is the prerogative of the state. Such violence bears a systemic nature and calls for a comprehensive approach by the state, which implies institutional reforms based on trust and the unwavering respect for human rights, regular reporting, constructive dialogue and continuous efforts to eliminate SOGI-based human rights violations;

Acknowledging that on the path to achieving equal rights for the LGBTI community in Georgia, there are numerous challenges associated with the existing social, political and cultural context. In particular, gender and sexuality issues are still seen as a private and tabooed subject, examined only through the "moralistic" and "traditional" lens while ignoring its legal or rights-related aspects; the current system of formal education and even civil society fail to effect positive change in this regard;

Observing that, in the present reality, LGBTI human rights issues are frequently used to achieve narrow political goals and for political speculation (especially, during pre-election periods); moreover, political and social anti-gender groups conduct deliberate campaigns against the equality and emancipation of women and LGBTI community members. LGBTI issues are largely viewed in the framework of public morals and traditions and are entirely removed from the legal and human rights context;

Acknowledging that overcoming the present challenges calls for solid political will on the part of the government and other key actors, as well as for the implementation of efficient, systemic and consistent policies, which would be recognised and reinforced at the institutional level, ensuring respect towards LGBTI human rights, and contributing to the establishment of a tolerant environment;

Agreeing that it is inadmissible to refer to cultural, traditional and religious values, as well as "dominant culture" rules and the "will of the majority" in order to justify SOGI-based violence, discrimination and hate speech;

Recognising that the problematisation of homo/bi/transphobia primarily implies the acknowledgement of its complex nature and the fact that in order to overcome it, it is essential to comprehend the issue within a general context. Interventions required in certain areas constantly intersect and, consequently, tackling the issue requires coordinated collaboration and agreement on common principles among various state and other actors. For this purpose, it is essential the development of state policy be based on the needs of LGBTI persons and be implemented with active participation of community-based organisations, activist groups and other actors working on LGBTI rights.

In acknowledgment of the above, the signatories of the Declaration agree on the essentiality of following measures:

The Parliament of Georgia shall:

- Promote the depoliticisation and secularisation of sexual orientation and gender identity issues as well as their consideration in the human rights context
- Implement adequate changes in the Law on the Elimination of All Forms of Discrimination, as well as other relevant legislative acts for the purposes of enhancing anti-discrimination mechanisms via, *inter*

alia, empowering the Public Defender to apply efficient legislative tools to enforce the implementation of recommendations, and instituting efficient and fair court proceedings on cases of discrimination;

- Develop a Code of Ethics for the parliament and appropriate response mechanisms in cases of the use of hate speech by MPs;
- Strengthen parliamentary control over the government's activities in the area of ensuring equality, including promoting the rights of LGBTI people.

The President of Georgia shall:

- Develop policies based on the protection of and respect for LGBTI rights and promote the transformation of sexual orientation and gender identity issues into the human rights and secular dimensions of current policies.

The Government of Georgia shall:

- Ensure the implementation of commitments imposed by national legislation and international obligations, *inter alia*, Council of Europe conventions, resolutions (PACE 2048 (2015)) and recommendations (CM/Rec(2010)5), rulings of the European Court of Human Rights, UN conventions (CEDAW) and resolutions, and contribute to the elimination of discrimination, marginalisation, unequal treatment and violence on the basis of sexual orientation, gender identity, sex characteristics and gender self-expression; develop and implement consistent and efficient state anti-discrimination policy, which, among other things, implies the proper reflection of standards for the prohibition of discrimination and hate speech, as well as the promotion of religious neutrality in the Law on Civil Service and the Codes of Ethics for public agencies, the implementation of special positive measures to promote equality, and the development of efficient internal monitoring and accountability mechanisms;
- Provide for secular and human rights-based policies to counteract the homo/bi/transphobic agenda advanced by various political, social and religious groups;
- Adequately reflect sexual orientation and gender equality issues in national strategies and action plans, which will outline efficient and comprehensive measures to eliminate violence, discrimination and unequal treatment based on sexual orientation and gender identity (including but not limited to current repressive practices for legal gender recognition for transgender individuals, discrimination against LGBTI persons and MSM at penitentiary institutions, SOGI-based bullying in schools);
- Ensure the regulation of hate speech and the maintenance of religious neutrality, including in the Law of Georgia on Public Service, and adopt relevant efficient monitoring mechanisms and accountability systems;
- Increase the awareness of the representatives of the government and public institutions at all levels of their responsibility in order to encourage them to refrain from statements, including statements made via mass media, which may be interpreted as legitimising hatred or discrimination;
- Encourage officials at all levels to publicly condemn, especially in mass media, any unlawful interference in the freedom of expression or right to peaceful assembly of individuals or groups, especially with regard to LGBTI persons;
- Provide for the planning and implementation of educational campaigns in order to promote the introduction and reinforcement of the principles of tolerance and equality in society;
- Promote and ensure the increasing of awareness and knowledge of professionals and introduce relevant issues into basic human rights courses aimed at public servants, including in the areas of health and medicine, education, law enforcement, and the judiciary.

The Ministry of Internal Affairs shall:

- Assist law enforcement agencies in the development of an efficient strategy and operational guidelines on combating and prevention of homo/bi/transphobic crime, which, among other things, shall include the following: instructions for maintaining a comprehensive methodology and statistical data for the adequate analysis of the scale and nature of such crime; the principles of efficient, independent and

timely investigation of SOGI-based hate crime; and clear criteria for adequate qualification of hate crime and the identification of a discriminatory motive in an offense; ethics standards for law enforcement officers;

- Ensure the establishment of specialised units, which shall focus on hate crimes and shall be staffed with competent professionals equipped with relevant knowledge and sensitivity;
- Establish and maintain permanent contact with LGBTI organisations and other non-governmental entities or initiative groups working on these issues for the purposes of experience sharing, crime prevention and development of trust towards the law enforcement system;
- Provide for the inclusion of issues related to sexual orientation, gender identity, and sex characteristics into the educational curriculum of police officers and prosecutors, to enable them to promptly and efficiently identify and classify homo/bi/transphobic hate crimes and adequately assist the victims;
- Ensure sustained protection of the personal information and confidentiality of victims of homo/bi/transphobic crime, especially minors, in order to prevent intentional or negligent disclosure of information about their identity;
- Take all measures necessary to properly reflect and implement human rights protection and equality standards in the codes of conduct of MIA personnel, including requirements on the prohibition of hate speech; towards that end, independent and efficient mechanisms for internal and external monitoring should be developed, providing for the procedural participation of the applicant/victim and relevant accountability;
- Ensure the reflection of disaggregated statistical data on hate-motivated crime on the website of the Ministry and promote its publicity;
- Design and implement an information and awareness-raising campaign aimed at the prevention of hate crime, including a media campaign which would promote the elimination of prejudices and stereotypes against the LGBTI community, the eradication of the culture of impunity in society, and clearly declare the state policy against homo/bi/transphobic hate crime.

The Prosecutor’s Office of Georgia shall:

- Develop and efficiently implement a strategy to combat hate crime and ensure its effective implementation in close cooperation with the Ministry of Internal Affairs;
- Provide prosecutorial supervision of hate crime investigations led by the Ministry of Internal Affairs;
- Ensure the ongoing training of the prosecutors on hate crimes in accordance with international standards;
- Explicitly indicate hate motive in resolutions on charges, which will enable the Court to adequately determine hate motive in sentencing and render due retribution;
- Establish and maintain a regular working format with LGBTI organisations and other groups or organisations working on these issues for the purposes of efficient crime prevention and enhancing trust in law enforcement agencies;
- For the purposes of efficient prevention of hate crimes, maintain adequate and constantly updated statistical data on hate crime cases and conduct associated analyses, which would assist the Prosecutor’s Office and other responsible agencies to properly realise the scope, dynamics, and the enabling political and social causes of such crimes.

The Ministry of Justice of Georgia shall:

- Work in coordination with the Ministry of Labour, Health, and Social Affairs in order to establish efficient, transparent and accessible administrative practices allowing transgender persons to change their gender markers in all documents issued by state and private institutions, a procedure that shall be clearly separated from the process of medical transition.

The High Council of Justice of Georgia shall:

- When selecting justices, take into account the candidates' attitudes towards human rights and equality notions and design a relevant assessment methodology/instrument.

The High School of Justice of Georgia shall:

- Ensure that the training module for the trainees and justices of the School covering the specifics and peculiarities of discrimination and hate crime cases adequately encompasses issues pertaining to sexual orientation and gender identity.

The Ministry of Labour, Health and Social Affairs of Georgia shall:

- Coordinate its work with the Ministry of Education and Science in order to provide the revision of medical textbooks containing stigmatising and discriminatory terminology;
- Include basic information on sexual orientation, gender identity and sex characteristics in the qualification/requalification or certification programmes and curricula for personnel working in the healthcare sector;
- Study the social needs of LGBTI (especially, transgender and intersex) people and reflect them adequately in state action plans and healthcare strategies;
- Regulate the medical transition process in a way that would ensure efficient access for transgender and intersex persons to relevant services at universally recognised international standards and provide public health care coverage of all related costs;
- Adopt and introduce international clinical guidelines focused on the needs of transgender, transsexual, intersex and gender non-conforming persons in order to secure their adequate access to quality health care;
- Ensure the accessibility and efficiency of relevant psychological and other services in order to provide for account the needs of LGBTI victims of domestic violence housed at state shelters;
- Ensure adequate training of personnel employed at state shelters on sexual orientation, gender identity and sex characteristics in order to foster an environment free from discrimination and stigma.

The Ministry of Education and Science of Georgia shall:

- Conduct a study in cooperation with civil society, in particular those CSOs specifically working on LGBTI rights and relevant issues, to assess the degree to which textbooks promote tolerance and open-mindedness or homo/bi/transphobia among students. It is essential that the Ministry conduct this process in close cooperation with representatives of civil society, particularly those working on LGBTI rights and related issues;
- Introduce programmes, in cooperation with relevant state agencies and civil society, to ensure a truly inclusive educational system and to overcome discrimination and bullying in schools, by including topics such as SOGI in school curricula and by organising training programmes for educational staff, counselling of LGBTI students, etc.
- Develop complex, consistent and proactive methodologies and mechanisms to monitor the human rights situation in schools.

The Ministry of Foreign Affairs of Georgia shall:

- Ensure the initiation of the accession process to international instruments aimed at human rights protection on the basis of sexual orientation, gender identity and sex characteristics and the enhancement of accountability for the proper implementation of adopted documents;
- Coordinate the drafting of reports to international organisations, their distribution among and presentation to civil society, and ensure that they include key LGBTI issues on an intersectional level.

The Ministry of Corrections of Georgia shall:

- Ensure the systemic training of personnel employed in the penitentiary system on issues related to sexual orientation, gender identity and sex characteristics;
- Take effective measures to ensure the adequate and comprehensive protection of the personal data of persons placed in detention facilities;
- Take effective measures to eradicate the hierarchical and sub-cultural structures prevalent in penitentiary institutions;
- Ensure adequate protection of the security of LGBTI persons held at penitentiary institutions and preclude their undue segregation.

The Ministry of Defence of Georgia shall:

- Promote an environment free from discrimination on the basis of sexual orientation and gender identity during mandatory military conscription and service in the Georgian Army, and ensure a high level of protection of the security of LGBTI persons serving in the military.

The Ministry of Sport and Youth Affairs of Georgia shall:

- Take efficient measures in order to eliminate discrimination based on sexual orientation and gender identity during and in relation to sporting events; as well as ensure adequate response in cases of such discrimination.

The Judiciary shall:

- Ensure fair deliberation of homo/bi/transphobic crime and cases of discrimination against LGBTI persons in light of international human rights standards;
- Promote the training of the judicial corps on issues related to LGBTI rights, including the specifics of proceedings on cases of discrimination, as well as the application of aggravating circumstances in the consideration of and sentencing during SOGI-motivated hate crime cases;
- Ensure the maintenance and accessibility of relevant statistics on cases of discrimination and hate crimes committed on the grounds of sexual orientation and gender identity.

The Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees shall:

- Clearly state that a well-founded threat of persecution on the grounds of sexual orientation/gender identity constitutes a valid basis for granting refugee and asylum seeker status;
- Ensure that SOGI-based asylum seekers are not sent to a country where their life or freedom will not be endangered due to their sexual orientation/gender identity, or where they may be subject to torture, inhuman treatment or punishment;
- Ensure that asylum-seekers are protected from all forms of discriminatory treatment and practices on the grounds of sexual orientation/gender identity while seeking shelter at Temporary Accommodation Centres.

Political parties shall:

- Take into account discriminatory experiences on the basis of sexual orientation and gender identity and expression and outline ways in their programmes to eliminate violence, discrimination and intolerant environments;
- Clearly define in their statutes and codes of ethics relevant norms against the propagation of discrimination and hate speech;

- Contribute to the popularisation of sexual orientation and gender identity issues and discuss them in the human rights context.

The media shall:

- Promote the non-discriminatory and positive coverage of issues related to sexual orientation and gender identity in keeping with the standards of journalistic ethics;
- Improve and update existing self-regulation mechanisms, which would be LGBTI-sensitive, efficient and results-oriented and aimed against the propagation of discrimination and prejudices;
- Contribute to awareness- and sensitivity-raising for journalists on codes of ethics and anti-discriminatory approaches;
- In order to preclude homo/bi/transphobia and promote academic and human rights-based discourse on LGBTI issues, the priorities and programming of the Georgian Public Broadcaster shall properly reflect the challenges and problems faced by LGBTI persons.

The Public Defender of Georgia shall:

- Continue to make steady progress by supervising the documentation and elimination of human rights violations on the grounds of sexual orientation, gender identity and sex characteristics, including in particular subtle forms;
- Step up efforts to advocate the protection of LGBTI persons' rights at national and international institutions.

The Personal Data Protection Inspector shall:

- Develop recommendations and guidelines relating to the processing of data (special categories of data) on a person's sexual orientation, gender identity and sex characteristics, for public institutions, as well as private legal entities;
- Ensure public awareness raising on the protection of personal data on sexual orientation, gender identity and sex characteristics and provide citizens with information on their rights, current legislation, the significance of personal data protection, and relevant legal redress mechanisms available in cases of violation;
- Conduct a comprehensive investigation of violations in terms of processing/disclosure of personal data on sexual orientation, gender identity and sex characteristics, and ensure that the public is duly informed about said violations and measures taken towards its eradication;
- Work closely with relevant public agencies in order to raise awareness of the legal requirements for personal data processing via targeted trainings.

Non-governmental organisations shall:

- Implement the proper integration of LGBTI rights protection into their agendas and promote their mainstreaming;
- LGBTI organisations shall enhance community-based efforts, including the provision of social, psychological and legal services based on the needs and interests of community members, the establishment of safe spaces for communication, raising community members' civic awareness, and promoting democratic, authentic and knowledge-based LGBTI activism.

The document is open for signature and any political party, media outlet, religious, civil society and professional and other groups/associations, who share the views expressed herein, may accede to this Declaration.