

POLICY BRIEF

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# **EU ENLARGEMENT AND GEORGIA: INTERSECTIONAL FEMINIST PRIORITIES REGARDING FUNDAMENTAL RIGHTS AND RULE OF LAW**

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## **EU Enlargement and Georgia: Intersectional Feminist Priorities Regarding Fundamental Rights and Rule of Law**

*This briefing paper is written from the perspectives of a group of organisations from Georgia covering key intersectional feminist human rights issues which the European Union – and its member states – should pay close attention to in their dialogue with the Government of Georgia regarding accession and in the Georgia Country Report in the Enlargement Package. It is crucial that the current discussions about accession for Georgia – and any future formal negotiations – fully incorporate fundamental rights and rule of law issues affecting women, LGBTI+ people, people with disabilities, and conflict-affected people.*

*This brief is not fully comprehensive in terms of the very many fundamental rights and rule of law issues that should be addressed by the EU in its enlargement discussions with Georgia. It is a summary of priority intersectional feminist issues regarding fundamental rights and rule of law in Georgia for the delegation of organisations signed onto this brief.*

*In the last week, there have been extremely concerning developments in Georgia regarding:*

- *the re-introduction of the draft law on “Transparency of Foreign Influence”*
- *the introduction of anti-LGBTI constitutional amendments and legislation*
- *the abolition of gender quotas in the electoral lists*

*Our organisations are extremely concerned by these developments and what they mean for the work of civil society, and the lives and rights of women and minority groups.*

### **RECOMMENDATIONS**

- The EU and its member states should continue to **insist on the withdrawal of the “Transparency of Foreign Influence Law”** which would have a severe impact on the work of civil society, and freedom of assembly and expression.
- The EU and its member states should **re-include the step on gender equality to the priority steps that Georgia needs to take in order for accession negotiations to open.**

### **Priority 1: Anti-Discrimination**

The EU and its Member States should:

- Insist on the **withdrawal of draft anti-LGBTI constitutional amendments and legislation that have been submitted to Parliament.**
- Insist on the **re-implementation of the gender quotas** for election lists.
- Hold political parties in Georgia accountable for their **political homophobia and political transphobia** – which endangers the lives and rights of LGBTI+ people in Georgia – in the run-up to the elections.
- Provide **resources and spaces for the EU to strategise with experts and activists** – both international and from the context - about how to address increasing polarisation

regarding and instrumentalisation of LGBTI+ issues, and how to be most supportive to LGBTI+ people in Georgia in this context.

Through the enlargement process, the EU should push the government of Georgia to:

- **Implement existing anti-discrimination legislation**, and ensure the relevant capacities and resourcing of state institutions to this end.
- Initiate work with the **judicial system to sensitise judges to the issues of discrimination and hate crime**.
- **Ensure effective access to justice for persons with disabilities**, including through
  - facilitating the participation of persons with different types of disabilities in **legal proceedings**, through accessibility adaptations and respecting their fundamental rights.
  - ensuring **training for judges** about the rights of persons with disabilities.
- Update the **Human Rights Action Plan** so that it includes commitments realising and protecting the human rights of LGBTI+ people and ethnic minorities.
- Include affirmative measures addressing **minority social exclusion and poverty in the Action Plan on Civic Integration and Equality**.
- Establish a **multidisciplinary hate crime unit** under the Ministry of Internal Affairs to prevent, identify, document, and prosecute hate crime.
- Amend the **Law on Administrative Offences, to include a hate motive** as an aggravating circumstance for administrative offences.

### **Priority 2: Sexual and Gender-Based Violence**

Through the enlargement process, the EU should push the government of Georgia to:

- **Increase funding for prevention and response services for survivors of sexual and gender-based violence** in Georgia. This should include significantly increasing funding for **crisis centres and shelters**, as well as **increasing the number and level of sensitisation of social workers**.
- **Ensure that SGBV services can support minority groups** – including people with disabilities, LGBTI+ people, ethnic minorities, and conflict-affected people.
- **Amend the definition of rape in Georgian law, making it consent-based**, and therefore in line with the Istanbul Convention. The current definition of rape in Georgian law is not only not consent-based, but also requires the victim/survivor of rape to demonstrate physical signs of rape in order for it count as a crime.
- **Increase resources in order to prevent and respond to the issue of early and forced marriage in Georgia** – including through implementing awareness raising campaigns, increasing funding for social workers, and including in all relevant regions and languages for communities affected by this issue.

### **Priority 3: Human Rights and Human Security of Conflict-Affected Populations**

Through the enlargement process, the EU should push the government of Georgia to:

- Uphold the **human rights and human security of conflict-affected populations within the territory which it controls**.
- Guarantee **safe and equal access of women living along the Administrative Boundary Lines and in Gal/i to key services**: including sexual and reproductive health and rights services, abortion providers, and gender-based violence centres.

- **Improve the infrastructure for villages close to the Administrative Boundary Lines** - including access to public transport, medical facilities, pharmacies and markets - in order to enable people living in these areas to better realise their fundamental rights.

The EU Commission and Member States should:

- Hold **strategic discussions on how to best approach the fundamental rights and human security of people living in disputed territories and conflict-affected regions** of enlargement countries; in consultation with civil society from these areas.
- **Adjust the template for the Enlargement Country Reports** so that they are more suitable for contexts such as Georgia's where there are disputed territories and ongoing conflict dynamics, so that the human rights and human security of conflict-affected populations are reflected in the Country Report and in the ongoing dialogues.

#### **Priority 4: Access to Healthcare**

Through the enlargement process, the EU should push the government of Georgia to:

- **Ensure equal access to healthcare - including sexual and reproductive health and rights services - for people with disabilities, ethnic minorities, and LGBTI+ people** – including through
  - **promoting guidelines and increasing resources** to ensure healthcare services are accessible and inclusive for people with disabilities, LGBTI people - especially trans persons - and ethnic minorities
  - working with disability rights organisations to ensure the **monitoring and implementation of the National Accessibility Standards** and ensure safe and equal access of people with disabilities to healthcare - including sexual and reproductive health and rights services.
  - supporting the **employment of ethnic minorities** in the healthcare sector
  - **translating medical and social documents and services** in minority languages
  - providing **training of healthcare workers** to ensure sensitisation to issues affecting people with disabilities, LGBTI+ people and ethnic minorities.

## CONTEXT

### 1. Anti-Discrimination

Discrimination is a key challenge in Georgia through the lens of both fundamental rights and rule of law. While Georgia has had an anti-discrimination law in place since 2015, implementation is lacking, both on the level of institutional capacity and awareness.

The recent reintroduction of the ‘**foreign agents law**’, as well as a set of draconian **anti-LGBTI constitutional amendments** severely limiting the freedom of expression and the rights of the LGBTI community, and the **repeal of the political gender quota** has further contributed to shrinking democratic space and thwarted Georgia’s progress towards EU integration, including through the potential to increase instances of discrimination, especially against marginalised groups. The increased mobilisation of **anti-gender groups**, and a lack of a state strategy to prevent and address it has also contributed to increased cases of discrimination and hate speech.

The **judicial system** remains non-transparent, inaccessible and ineffective as persons representing marginalised groups, such as persons with disabilities, ethnic minority and LGBTI community members continuously face barriers in terms of access to justice. When having to interact with the judicial system, people with disabilities are frequently deprived of assistive equipment or mobility aids, or being interrogated in common spaces in the presence of external parties, which compromises their personal information.

Civil society has criticised the closed system of appointment of Supreme Court justices. Moreover, overall, the number of judges to cover rights-based cases is insufficient and hence caseloads are disproportionately high, delaying proceedings by several years. **Judges are also not sensitised** or aware of the nuances in relation to handling cases that require identifying and responding to discrimination and hate crime cases based on sexual orientation and gender identity (SOGI), disability, and/or ethnic minority rights.

Despite the fact that hate motive was introduced to the Georgian Criminal Code as an aggravating circumstance, there are still significant problems associated with identifying, classifying, documenting and responding to **hate crimes**. Moreover, there are no similar provisions in the Administrative Code. Thus, the establishment of a **multidisciplinary hate-crime unit** under the auspices of the Human Rights Department of the Ministry of Internal Affairs of Georgia is seen as a sustainable solution to enable an effective and efficient prevention, identification, documentation, and response to hate crimes and incidents. In addition, **sexist and homophobic hate speech** presents a key challenge, especially for politically and socially active women, and in terms of LGBTI rights and their instrumentalisation, particularly around politically turbulent periods. **Political homophobia and the instrumentalisation of LGBTI rights** is a tried-and-true tactic applied by state forces to mobilise ultraconservative voters and turn their attention to an artificial threat by scapegoating the LGBTI community. The expansion of the role and mandate of existing institutions, such as the Public Defender’s Office and the Gender Equality Council at the Parliament of Georgia should serve as effective means to address this issue.

Last, but not least, the lack of **systemic and structural focus** on LGBTI, disability and ethnic minority rights is also a considerable problem. Gaps in existing legislation or absence of appropriate monitoring and enforcement mechanisms present a challenge. The Georgian Government’s **Human Rights Strategy** and the associated **Action Plan** do not contain any specific provisions regarding LGBTI persons or ethnic minorities. Moreover, the **Action Plan on Civic Integration and Equality** does not adequately reflect the needs and priorities of ethnic minority communities in Georgia, and the **National Accessibility Standards** for

persons with disabilities are not implemented to an extent that would afford persons with disabilities dignified and non-discriminatory access to services, as currently these standards are seen mainly as providing physical access (ramps, etc.) and in many cases, even this is missing.

### **Sexual and Gender-Based Violence**

Sexual and gender-based violence (SGBV) continues to be a crucial challenge across the South Caucasus, including in Georgia, an issue which should be discussed and addressed in the context of the EU enlargement discussions and through the lens of fundamental rights and rule of law.

Services to prevent and respond to SGBV are primarily provided and funded by civil society organisations and international actors, which is currently under threat after the reintroduction of the Law on the “Transparency of Foreign Influence”.

It is crucial that the Government of Georgia increases funding for the prevention of SGBV, response services, and survivor-support services – including crisis centres and shelters, as well as **increase the number and level of sensitisation of social workers**, who are key to address the complex and multi-layered causes of gender-based violence. In addition, SGBV crisis centres and shelters often are not equipped with accessible infrastructure for persons with disabilities.

The accessibility of SGBV services to marginalised groups in Georgia - including people with disabilities, LGBTI+ people, ethnic minorities, and people affected by conflict - is currently poor. Despite existing legislation and regulations on paper, there are **little to no specialised SGBV services** or redress mechanisms for people with disabilities, or LGBTI+ people. SGBV services are mostly available in the Georgian language, which makes them inaccessible to women and girls from ethnic minority communities. Thus, the Social Service Agency should receive additional resources to retrain social workers to provide services in minority and sign languages. There is also a lack of provision of or access to SGBV services in conflict-affected areas.

A key issue in terms of SGBV, as mentioned in the 2023 Georgia Country Report in the context of EU enlargement, as well as the 12 priorities towards the EU candidate status, is the **redefinition of rape in Georgian legislation** to articulate the absence of consent and bring the definition in line with Georgia’s obligations under the Istanbul Convention. The current definition of rape in Georgian law is not only not consent-based, but also requires a survivor to demonstrate physical signs of rape in order for it to be considered a crime. In its most recent assessment, the EU judged that sufficient progress had been achieved on gender equality in Georgia, however progress has not been made on the legislation regarding rape.

Lastly, the issue of **early and forced marriage** is a key problem in Georgia. Statistics are scarce, but as per a 2018 study by UNICEF, 14% of women aged 20-24 stated that they had been married before the age of 18, this indicator increases to over 20% in rural areas. Poverty and economic hardship remain key factors and thus a complex look at guaranteeing the socioeconomic conditions for marginalised populations and providing education to women and girls is a crucial response.

### **Human Rights and Human Security of Conflict-Affected Populations**

Addressing issues relating to conflict can sometimes be a challenge as part of the EU

enlargement process, however for the trio of new accession countries – Georgia, Moldova and Ukraine – as with some of the Western Balkan countries – this is a very important issue through the lens of human rights and security.

It is important that the EU and its member states strategise about how to **incorporate fundamental rights and rule of law issues affecting conflict-affected populations into the country reports** and dialogues regarding accession. It is noteworthy that the government of Georgia does not have a specific strategy on addressing the human rights and human security of conflict-affected populations, looking at the multidimensional ways conflict impacts communities and what can be done to address this.

The living conditions of conflict-affected populations in Georgia also have a gendered aspect. Many women living along the Administrative Boundary Line (ABL) with Abkhazia, in Gal/i (ethnically Georgian population), and in Akhgori **do not have access to key social services** – including SRHR services, abortion providers, and sexual and gender-based violence centres. Due to the total abortion ban in Abkhazia, women have to travel to Georgia or Russia in order to access abortion care, which subjects them to additional security risks, since **freedom of movement** is also not guaranteed.

Finally, the **infrastructure in the villages close to the ABL with Abkhazia is very poor**, including road conditions, public transport services, medical facilities, pharmacies, and markets, which has a very detrimental impact on people being able to realise their fundamental rights and uphold their human security.

Moreover women displaced from Ukraine and Belarus, especially those with disabilities, are unable to access specialised services due to a lack of status.

### **Access to Healthcare, including Sexual and Reproductive Health and Rights Services (SRHR)**

Equal and non-discriminatory access to healthcare, including sexual and reproductive health (SRH) services and rights is a key issue which is not always considered in fundamental rights discussion, but which is of crucial importance to women and minorities' realisation of their rights on a day-to-day basis.

Currently, people with disabilities, LGBTI people - especially trans people, ethnic minorities, and conflict-affected women experience **significant barriers when trying to access healthcare and SRH services** in Georgia.

Due to societal stigma, women with disabilities are deemed not to require SRH services, unless they are married, thus, there are significant numbers of women with disabilities who have never had a gynecological screening or consultation.

The **low level of awareness and sensitisation** among healthcare professionals in terms of the specific needs and priorities of women with disabilities, LGBTI people and ethnic minority women, including in the SRHR field, contributes to an often uncomfortable and discriminatory environment for patients from these marginalised groups.

As mentioned above, women from the Gal/i region - in limbo between Georgia and Abkhazia - frequently experience **security risks when attempting to access SRH services**, including abortion.

South Caucasus, including Georgia, demonstrates very **high rates of sex-selective abortions** and a skewed ratio at birth. This should be addressed through awareness raising campaigns around son preference and enhancing access to education.

A key strategy towards improving this issue is for the government of Georgia to support the **development of guidelines for ensuring the accessibility of healthcare**, including SRH services, to people with disabilities (including through the National Accessibility Standards), trans people, and ethnic minorities. The Government of Georgia should also enhance the training of healthcare workers to ensure sensitisation and responsiveness to issues affecting patients with intersecting needs.

Many representatives of ethnic minority groups face barriers to accessing healthcare because of issues like the lack of availability of services in minority languages and the lack of healthcare professionals and service providers who represent ethnic minority groups. To address this, the Government of Georgia should support the employment of ethnic minorities in the healthcare sector, and translate medical and social services into minority languages – including Armenian, and Azerbaijani. Services should also be available in sign language and accessibility should be ensured for persons with different types of disabilities.