

A. Right to Adequate Housing: Homelessness

FOLLOW UP TO THE PREVIOUS REVIEW

1. Georgia instantly accepted the recommendation made by Japan during the first Universal Periodic Review in 2011 concerning the protection and promotion of the rights of the socially vulnerable.¹ In its interim report the Government of Georgia asserted that it had taken steps in order to implement this recommendation through introducing amendments to the methodology of socio-economic conditions of families.²
2. Human Rights Education and Monitoring Center (EMC) is concerned that the Government of Georgia has not thoroughly implemented this recommendation, in particular, with regard to people who are homeless due to their socio-economic vulnerability or as a result of natural disasters. In fact, some of the amendments introduced in the methodology of evaluation of the socio-economic condition of families are repressive in nature and adversely affect the enjoyment of rights of socially vulnerable (explained in further detail below).

NATIONAL HUMAN RIGHTS FRAMEWORK

3. Save for the special regime applicable exclusively to persons displaced internally as a result of armed conflicts, Georgian legislation does not prescribe safeguards for persons displaced due to other grounds in terms of adequate housing.

LACK OF LEGISLATIVE SAFEGUARDS FOR PERSONS WHO HAVE BECOME HOMELESS AS A RESULT OF THEIR SOCIO-ECONOMIC VULNERABILITY

4. Definition of homelessness in Georgian legislation, *inter alia* the Law of Georgia 'On Social Assistance' does not cover the different forms of homelessness that exist in Georgian reality. Article 4 of the Law provides that 'A homeless person is a person without a permanent place of residence which is registered as homeless by the local self-governing body as a homeless person'. Both, material and procedural preconditions are problematic. The definition does not extend to persons who do not have their own homes and live with their relatives, friends, specialized institutions (medical institution, prison), who have occupied empty buildings or those who live in places that do not comply even with the minimal standards of living.³ As to the procedural requirement, Georgian legislation is ambiguous and it does not designate body(ies) responsible for collecting data and registering homeless persons.⁴
5. Amendments of May 17, 2013 to Governmental Decree #126 'Regarding the Measures Aimed at Reduction of Poverty Level in the Country and Social Protection of Population' that were adopted with the purpose of preventing homeless persons from taking refuge in public buildings, aggravated their situation. According to the amended procedures, homeless persons who took refuge in state-owned buildings are no longer entitled to even the most basic social benefits.⁵
6. Georgian legislation does not entitle homeless persons living in streets to social assistance for vulnerable persons. Due to the functional complexity related to the registration of homeless persons (described in para. 3) and the technical requirements provided in Governmental Decree of July 28, 2006 #145 'On Targeted Social Assistance', the most vulnerable homeless persons living in the streets are left without social benefits.

LACK OF LEGISLATIVE GUARANTEES FOR PERSONS AFFECTED BY NATURAL DISASTERS

7. **Persons Still Living in Areas Affected by Natural Disasters.** Georgian legislation does not provide a uniform definition of persons affected by natural disasters. Nor does it provide for any specific safeguards for these persons that would ensure their social protection in addition to the mainstream programs, which do not adequately address the needs of this group. The draft law 'On Ecomigrants' elaborated by the Government in 2013, which envisaged the definition of ecomigrant and material benefits for this group of persons, was never adopted as a law.

8. **Persons Displaced as a Result of Natural Disasters** are not considered as internally displaced persons (IDPs) and thus, they are not entitled to the safeguards and benefits for IDPs. The definition of an IDP enshrined in Article 6(1) of the 'Law of Georgia on Persons Displaced from Occupied Georgian Territories' does not include ecomigrants. In this regard, they are discriminated against another group of persons who have similarly been forced to flee their homes, simply for other reasons.

HUMAN RIGHTS SITUATION ON THE GROUND

HOMELESSNESS AS A RESULT OF SOCIO-ECONOMIC VULNERABILITY

9. Factors contributing to homelessness of various vulnerable groups are systematic. It can be explained *inter alia* through the ineffectiveness of social protection programs and the healthcare system, as well as economic hardship in the country. This is demonstrated by the diversity of vulnerable persons among homeless people, including persons with disabilities, single mothers, elderly people and female victims of domestic violence.⁶ The government does not analyze the reasons and scale of homelessness in the country or the needs of this group of persons. Neither does it register homeless persons, who would enable determining the number of such persons and thus, enable addressing the problem of homelessness in an effective and systematic manner.
10. During the past few years homeless persons have taken refuge in empty buildings. Despite the fact that the government does not maintain a registry, while publicly commenting on this topic central and local government officials have admitted this is a widespread practice. According to the official information of Tbilisi City Hall, there are 401 buildings occupied by 9 805 families only in the capital city, out of which 28% are socially vulnerable.⁷ Such statistical data is not available from other local municipalities. Nonetheless, there are large settlements in Kobuleti and in other parts of Georgia.
11. The government does not admit the problem of homelessness on the level of state policy.⁸ Thus, there is no governmental policy or strategy to address the needs of these persons. At the same time, there are no sufficient (or none at all) financial resources in the budget of the central government or local municipalities designated to the protection of homeless people.⁹
12. In 2014 the National Human Rights Strategy (for 2014-2020) adopted by the Parliament of Georgia included some of the activities to be undertaken for the right to adequate housing to be enjoyed by different segments of the population. However, these measures were not subsequently integrated in the Governmental Human Rights Action Plan (for 2014-2015).¹⁰
13. **Persons Living in Tents.** In 2013, in response to the fact that homeless people were freezing to death in the streets, the government created a provisional inter-agency commission, which brought together representatives from different ministries and Tbilisi City Hall. As a result of this initiative, a temporary emergency shelter (a tent) was opened for homeless people in Tbilisi.¹¹ The abovementioned inter-agency commission no longer exists and the tent, which was meant to only be a temporary solution during the emergency situation, is still being used. The conditions in these tents do not conform to even the most minimal standards of living.¹² The representatives of Tbilisi City Hall continuously stress that they are working on a plan to build a shelter for homeless persons. However, no information has been made public as to the progress of this project.
14. **Persons Taking Refuge in Empty Buildings** are living in harsh conditions. In most cases they are occupying establishments that were originally built for non-residential purposes.¹³ Thus, they do not comply with elementary standards of the right to adequate housing; water, electricity or sewerage systems are not in place.¹⁴ Various rights are continuously violated, namely: right to adequate housing, right to health, right to education, right to social protection, right to privacy, etc.¹⁵ It all results in the marginalization and self-victimization of these people.
15. In addition to the harsh living conditions, homeless persons taking refuge in empty buildings face constant threat of eviction.¹⁶ In most cases the authorities do not analyze individual situations or needs of the persons subjected to forced evictions and carry out the process without providing them with alternative housing options.¹⁷ Unlike the process of evictions of persons displaced

internally due to armed conflicts (which is governed by instructions prescribed in the Decree of 24 May 2007 #747 of the Minister of Internal Affairs of Georgia), there is no general national framework regulating the process of evictions of persons, *inter alia* of homeless persons occupying empty buildings.¹⁸ Consequently, the process is usually carried out contrary to international standards.

PERSONS AFFECTED BY NATURAL DISASTERS

16. Tens of thousands of families are affected by natural disasters in Georgia and the number is increasing.¹⁹ The Public Defender's Office of Georgia has underlined that the problems that these people are facing are of a systematic nature.²⁰ The measures that are being used (the most urgent assistance) on *ad hoc* basis in relation to specific situations of natural disasters are not translated into the legal framework, which would make it possible for them to be coherently applicable to other cases as well.²¹ In addition, the financial resources allocated in the budget of the central government and local municipalities for these families are not sufficient. In some cases, even these limited funds are not used by local municipalities for the needs of the persons affected by natural disasters.
17. The Commission Charged with Coordinating the Provision of Alternative Houses for the Victims of Natural Disasters established under the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees of Georgia does not have clear and consistent standards that would enable it to address the needs of the beneficiaries in a uniform manner. In addition, the Commission has limited financial resources and at this point it is not in a position to provide alternative housing for those whose houses have been destroyed as a result of natural disasters.²²
18. Even persons who were provided with alternative housing by the government still face various problems. To this date, there is no program in place that would contribute to the adaptation and integration of ecomigrants in their new environment.²³ Problems remain in terms of registering their new houses as private property.²⁴ These integration difficulties and inadequate living conditions in their new places of residence force them to move to other parts of the country and become socially vulnerable. In some cases they even prefer to return to their homes and live in life threatening conditions where they do not face the problem of integration.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

19. Human Rights Education and Monitoring Center (EMC) calls upon Georgia to:

National Human Rights Framework:

- Amend the legislation and prescribe national standards for adequate housing that extends to various groups of persons;
- Improve the national legal framework in order to improve the situation of socially vulnerable homeless persons and remove legislative obstacles that ban them from receiving social benefits and enjoying their basic human rights;
- Adopt legislation that includes the definition of a person affected by natural disasters and provides them with adequate social protection.

Human Rights Situation on the Ground:

- Develop and implement a state strategy that includes both central and local governments to analyze the factors leading to homelessness, assessing its scale, preventing it, studying the needs of homeless persons and addressing them;
- Elaborate national standards that obliges the respective authorities to refrain from forced eviction of homeless persons and in cases when it is strictly unavoidable, deploy measures that comply with international human rights standards;
- Develop and implement a state strategy for the protection of persons affected by natural disasters through ensuring alternative housing and integration in their new environment.

B. Labor Rights

FOLLOW UP TO THE PREVIOUS REVIEW

20. Georgia accepted recommendations regarding the elaboration of guarantees that would ensure full realization of the labor rights by different vulnerable groups.²⁵ However, it has not made considerable effort in creating the necessary material and procedural mechanisms in this direction.
21. Despite the fact that Georgia rejected the recommendation of Bulgaria on strengthening the labor inspection,²⁶ Georgia undertook the obligation to create a labor inspection within the frameworks of the 2014-2015 Governmental Human Rights Action plan.²⁷ The Department that was created to this end does not comply with relevant standards and needs.

NATIONAL HUMAN RIGHTS FRAMEWORK

22. The amendments of 2013 to the Labor Code of Georgia were a positive development as it demonstrated the willingness of the state to improve the safeguards for the protection of labor rights.²⁸ However, the analyses of the final outcome of the reform demonstrate that the existing framework is still problematic.²⁹ One of the major shortcomings of the reform was the fact that it did not introduce a body responsible for monitoring and enforcement of the protection of labor rights.
23. The existing legal framework and practice highlights the need for special protection for vulnerable groups, such as women, persons with disabilities and children. However, save for the few provisions regarding women the amendments of 2013 did not address this issue. Despite the fact that the Government of Georgia has announced a forthcoming wave of amendments,³⁰ no progress has been made in this direction.
24. In its 2014-2015 Governmental Human Rights Action Plan Georgia undertook certain obligations regarding labor rights. However, this document is still incomplete and does not thoroughly address the current challenges in the country. Among others, the Action Plan does not address the need to ratify and implement many important international agreements on labor rights, *inter alia* relevant provisions of the European Social Charter, as well as various Conventions of the International Labor Organization (ILO).

HUMAN RIGHTS SITUATION ON THE GROUND

25. The existing practice demonstrates that the amendments of 2013 did not ensure a significant reduction in scale and severity of labor rights violations or the improvement of working conditions.³¹ Despite the fact that these issues were the main focus of the amendments, the cases of unlawful termination of labor contracts (namely without relevant grounds, without prior notification, warning or justification), as well as the practices of work during holidays, night shifts and overtime without additional payment and allowances, is still very high.³² In addition, the Public Defender's Office of Georgia continuously stresses the problem regarding the high rate of illegal dismissals from employment in the public sector.³³
26. The ineffectiveness of the reform is largely caused by to the absence of specific enforcement mechanisms. Over the years, there was no institution in the country that would be responsible for monitoring the working conditions and safety protection/implementation and, in case of violation, deploying effective measures.³⁴ As a result the conditions and safety in the enterprises and facilities, is extremely harsh.³⁵
27. The Public Defender's Office of Georgia continuously underlines the drastically growing tendencies of fatalities and injuries at workplaces.³⁶ In 2013, 111 persons were injured and 23 died, while in 2014 (data of nine months) – 61 were injured and 41 died.³⁷
28. The Department of Labor Inspections created by the Government of Georgia in 2013 and the "State Program on Monitoring Labor Conditions" does not imply the creation of effective monitoring mechanisms; it fails to respond to the existing challenges and cannot be considered a significant

step towards the better protection of labor conditions.³⁸ The creation of such ineffective instrument proves the lack of willingness to take significant steps in this direction.

29. The trilateral commission for dialogue among social partners created in 2013 is not effective. Since the adoption of the Statute of the Commission it only held one meeting and it did not have a significant impact on the existing situation. Similarly, the institute of mediation of labor disputes cannot be seen as an effective mechanism as in most of the cases the outcome of the process and respective agreements are not executed.³⁹

30. The protection of the labor rights of women remains a significant challenge in practice also. The findings of recent researches reveal discriminatory practices towards women during pre and post-contractual relationships, as well as during dismissal, maternity leave, etc.⁴⁰

31. In addition to the lack of normative framework for the protection of labor rights of persons with disabilities, there is no adequate state policy and institutional mechanisms in place that would ensure access to employment or a decent and equal working environment for them.⁴¹

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

32. Human Rights Education and Monitoring Center (EMC) calls upon Georgia to:

National Human Rights Framework:

- Review and amend the legal framework to introduce material and instrumental safeguards to ensure decent and safe employment for everyone, particularly for vulnerable groups;
- Accede the relevant international instruments, *inter alia* ILO's #81, #129, #155, #C176, #183 Conventions and recognize the binding relevant provisions of European Social Charter *inter alia* articles 2.3, 2.4, 3, 8.1, 8.2, 13, 15.1, 15.2, 23, 24, 30 and 31;

Human Rights Situation on the Ground:

- Replace the existing Department of Inspections with a strong body mandated to ensure safe and adequate work conditions;
- Strengthen the mechanisms for dialogue among social partners and refine the existing instrument of mediation of labor disputes by introducing safeguards for the execution of the agreement reached by the parties and providing adequate resources.

¹Report of the Working Group on the Universal Periodic Review of Georgia, 16 March 2011 (A/HRC/17/11), recommendation 105.12.

² Universal Periodic Review (UPR), Mid-Term Progress Report of Georgia on its Implementation of Recommendations, Elaborated in January 2011, Ministry of Foreign Affairs of Georgia, 2013.

³ 'Non-Recognition, inactivity and Repression Substituting a Home – Analysis of State Policy and Human Rights Situation of Vulnerable Homeless Families Occupying State-Owned Property', Human Rights Education and Monitoring Center (EMC), 2014, available at: <http://emc.org.ge/2014/08/27/non-recognition-inactivity-and-repression-substituting-a-home/>, last visited on 6 March, 2015, p. 46.

⁴*Ibid.*, p. 47.

⁵*Ibid.*, p. 50.

⁶*Ibid.*, p. 6.

⁷ 'Special Report 'Right to Adequate Housing'', Public Defender's Office of Georgia, 2015, p. 19.

⁸ 'Report of the Public Defender of Georgia 2013', Public Defender's Office of Georgia, 2014, p. 559.

⁹*Ibid.*

¹⁰*Supra note 3*, p. 57.

¹¹*Ibid.*

¹²*Ibid.*

¹³*Ibid.*, p. 6.

¹⁴*Ibid.*

¹⁵*Ibid.*

¹⁶ 'EMC Calls upon the Government to Cease the Process of Forced Evictions of Socially Vulnerable Persons', EMC Statement, 29 July 2013, available at: <http://emc.org.ge/2013/07/29/emc>, last visited on 12 March 2015.

¹⁷*Ibid.*

¹⁸*Supra note 7*, p. 23.

¹⁹ 'Situations of Persons Affected by Natural Disasters and Forcefully Displaced/Ecomigrants' - Special Report, Public Defender's Office of Georgia, 2013, p. 6.

²⁰*Ibid.*, p.5.

²¹*Ibid.*, p. 17.

²²*Ibid.*, p. 21.

²³*Ibid.*, p. 29.

²⁴*Ibid.*, pp 29-30.

²⁵*Supra note 1*, recommendations 105.13; 105.25; 105.44; 105.80.

²⁶*Ibid.* recommendation 107.4.

²⁷ Decree #445 'On the Approval of the Governmental Action Plan for Human Rights Protection of Georgia (2014-2015) and on the Creation of the Inter-Agency Coordinating Council for the Implementation of the Governmental Action Plan of Human Rights Protection of Georgia (2014-2015)', Government of Georgia, 9 July 2014, Chapter 21: Labor Rights.

²⁸ 'Organic Law of Georgia on the Amendments to the "Labor Code of Georgia"', Parliament of Georgia, 4 July 2013.

²⁹ 'Legal Conclusions on the Amendments of the Labor Code of Georgia', Georgian Young Lawyers' Association, 2013.

³⁰*Supra note 2*, recommendation 105.25 [measures undertaken].

³¹ 'Right of Workers in Georgia: Research, Statistics and Report', Georgian Trade Unions' Confederation, 2014, available at:http://gtuc.ge/?page_id=1309, last visited on 15 March 2015, pp 6-15.

³²*Ibid.*

³³*Supra note 8*, pp 222-227.

³⁴ EMC Statement, 25 September 2013, available at: <http://emc.org.ge/2013/09/25/>, last visited on 15 March 2015.

³⁵ 'Georgia – Labor protection and safety at the workplaces', Georgian Trade Unions' Confederation Tbilisi, 2013.

³⁶*Supra note 8*, p. 228.

³⁷ Public Information Issued by the Ministry of Internal Affairs of Georgia, letter #2376888 of 24 November 2014.

³⁸ Decree #38, 'On the Approval of State Program on Monitoring Labor Conditions', Government of Georgia, 5 February 2015; Decree #81, 'On the amendments to the Decree #249 of 31 December 2005 "On the Approval of the Charter of the Ministry of Labor, Health and Social Affairs Ministry of Georgia"', Government of Georgia, 2 March 2015.

³⁹ "Company RMG does not Perform the Terms of Agreement Signed with the Trade Union", statement of Georgian Trade Unions' Confederation, available at: <http://gtuc.ge/?p=3039>, last visited on 15 March 2015; 'New Trade Union of Railway Workers Announces the Next Rallies', Netgazeti, <http://www.netgazeti.ge/GE/105/News/41070/#>, last visited on 15 March 2015.

⁴⁰ 'Gender Discrimination in Labor Relations', 42nd Article of Constitution, Tbilisi, 2014, available at:<http://tanastoroba.ge/system/publications/3/>, last visited on 15 March 2015;

⁴¹ 'Guidelines on the Implementation of the UN Convention on the Rights of Persons with Disabilities (UNCPRD) (Concept-Based Recommendation on the Amendment of the Legislation and Major Policy Directions)', Human Rights Education and Monitoring Center(EMC), Tbilisi, 2014, available at:<http://emc.org.ge/2014/08/18/uncprd-is-implementacis-gaidlaini/>, last visited on 15 March 2015, pp 99-103.