

CORONAVIRUS PANDEMIC FREE LEGAL ADVOCACY AND HUMAN RIGHTS MONITORING



HUMAN RIGHTS CENTER(HRC)
2021

CORONAVIRUS PANDEMIC - Free Legal Advocacy and Human Rights Monitoring

Report



Kingdom of the Netherlands

The project Free Legal Advocacy and Human Rights Monitoring after the Covid-19 Pandemic is funded by the Embassy of the Netherlands in Georgia. The contents of this publication are those of the Human Rights Center and do not necessarily represent the views of the Embassy.

2021

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Non-governmental organization the **HUMAN RIGHTS CENTER**, formerly the Human Rights Information and Documentation Center (HRC) was founded on December 10, 1996 in Tbilisi, Georgia. The HRIDC aims to increase respect for human rights, fundamental freedoms and facilitate the peace-building process in Georgia. To achieve this goal, it is essential to ensure that authorities respect the rule of law and principles of transparency and separation of powers, to eliminate discrimination at all levels, and increase awareness and respect for human rights among the people in Georgia.

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INTRODUCTION

A large-scale spread of the new coronavirus (COVID-19) has posed unprecedented global challenges and affected all areas of public life. The new coronavirus, at first declared a global threat by the World Health Organization and then a pandemic, has led to the introduction of a state of emergency almost all over the world. Georgia officially joined the list of such countries on March 21, 2020, when the President of the country following the preliminary proposal of the Prime Minister, issued Order N1 regarding the Measures to be Taken in Relation to Declaring the State of Emergency throughout Georgia which was approved by the Parliament of Georgia on the same day¹.

History has shown that in the event of natural disasters or armed conflicts, human rights become the first victim of a crisis. Most of the rights and freedoms that are not absolute may be restricted even when the crisis is not of a large-scale one, provided there are some legal grounds for such restrictions and they serve a legitimate purpose, including that of the public health, and they pass the test of necessity and proportionality. Each restriction additionally becomes the subject of examination of the principle of equality before the law, and that of the prohibition of discrimination.

While in ordinary situations, human rights restrictions are permissible and normal for public life, subject to the above conditions, in times of large-scale crisis, the derogation from the obligation to protect individual human rights is an emergency measure which *inter alia* is provided by the United Nations International Covenant on Civil and Political Rights (ICCPR). According to Article 4(1) of the Covenant, the derogation from the protection of human rights and freedoms are allowed under such conditions². Moreover, Article 15 of the European Convention on Human Rights and Fundamental Freedoms allows the contracting parties to derogate from the obligations to protect the rights and freedoms envisaged by the ECHR during the states of emergency. By all means, COVID-19 pandemic belongs to the category of 'the state of emergency'.

Before the creation of the vaccine, in parallel with the declaration of the state of emergency and other kinds of restrictions, social distancing was most

¹ See "Human Rights in the State of Emergency", Human Rights Center 2020, p.2. <https://bit.ly/3clf07O>

² See UN Doc. A/56/40, Vol. I, 202 (2001), General Comment 29 [hereinafter GC 29], suggests that in practice no human rights provision can be entirely inapplicable to a state party.

frequently applied against the spread of the virus and for slowing down the process of getting infected that posed challenges for the liberal-democratic values and the standards of human rights protection. From the outset of the crisis, the reality of the threat in Georgia soon became clear to HRC through the analysis of its own advocacy activities, which was responded by HRC with a number of appeals and analytical documents related to various kinds of problems³.

In order to react to the large-scale problems caused by COVID-19, HRC began to plan various kinds of events since March 2020. Following the analysis of applications of citizens and that of the existing situation, especially taking into account the measures taken to fight the pandemic, it became clear that HRC would need to strengthen the programs of free legal aid and enlarge the scope of target audience. With this purpose, the project prepared by HRC titled Free Legal Advocacy and Human Rights Monitoring after the Coronavirus Pandemic was supported by the Embassy of the Kingdom of Netherlands in Georgia and thanks to the financial support of the Embassy it became possible to implement the project from July 1, 2020 through June 30, 2021.

ABOUT THE PROJECT

The objective of the Project Free Legal Advocacy and Human Rights Monitoring during the Coronavirus Pandemic was to identify and eliminate the facts of human rights violations stemming from the measures to fight the pandemic, including during the state of emergency and afterwards, further to provide legal aid to the beneficiaries and advocacy on different levels. Furthermore, the project aimed at awareness raising among the public about the restrictions related to the pandemic and the human rights situation.

The main area of the project implementation included Tbilisi and five regions of Georgia (Shida Kartli, Kakheti, Kvemo Kartli, Imereti and Samegrelo) which were preliminarily selected according to the geographic locations, ethnic and religious diversity and economic factors.

The project further envisaged the assistance to the state and non-state actors to develop such a strategy and policy that would facilitate effective fight against

³ See: 1) "Human Rights in the State of Emergency", Human Rights Center, 2020. <https://bit.ly/3clf07O>; 2) "COVID 19 Pandemic and Human Rights", Human Rights Center, 2020. <https://bit.ly/2TM0gZ8>; 3) "State of Human Rights in Georgia, 2020", Human Rights Center, 2021. p. 14. <https://bit.ly/2T8Wt7C>

the pandemic with a mechanism of the least 'chilling effects' without the violations of human rights.

The primary objective of the Project during the state of emergency and afterwards was to prevent the facts of human rights violations. With this purpose, 4 lawyers were involved in the project, taking into account the geographic area, continuously monitoring the human rights situation and the challenges in this regard. Through processing the information obtained and documented by the regional lawyers, the legal analyst of the project, in coordination with the Tbilisi Office, determined the ways for solving the problem and planned the process of respective advocacy.

POLITICAL CONTEXT

HRC began the Project Free Legal Advocacy and Human Rights Monitoring after the Coronavirus Pandemic on July 1, 2020. By this time, Georgian authorities already had implemented a set of measures to counter the pandemic *inter alia* by means of large-scale restrictions of human rights.

At the initial stage of the fight against the pandemic, the President of Georgia declared the state of emergency on the whole territory of Georgia. The Order and Decree by the President co-signed by the Prime Minister were approved by the Parliament of Georgia on March 21, 2020 that was valid until April 22 and later was extended until May 22⁴. The Presidential Decree restricted the human rights and freedoms provided for by the Constitution of Georgia the restriction of which is allowed during the state of emergency. The restrictions were not applicable to the freedom of speech allowing the media representatives to report on the current events. Further, the Presidential Decree authorised the Government to additionally restrict the number of rights in the manner that the scope of the restrictions was not determined by the Decree.

According to the Presidential Decree, the respective sanctions were determined for violations of the rules of the state of emergency. In particular, the administrative liability for natural persons resulted in a fine of GEL 3000. The same action committed by the legal persons were fined with GEL 15 000. The Decree also laid down the sanctions for the repeated acts, resulting in a criminal liability

⁴ See Order N2 of the President of Georgia – Announcement State of Emergency in the Entire Territory of Georgia <https://matsne.gov.ge/ka/document/view/4853172?publication=0>

for natural persons with 3 years of imprisonment, and for legal persons, in fines, revocation of the right to operate or liquidation. HRC reacted number of times to the disproportionality of the fines envisaged for natural persons, manifested in the amount of the sanctions, by releasing public statements and appeals.

On May 22, 2020, the amendments were made to the Law of Georgia on Public Health authorizing the Government to regulate the operation of the administrative bodies, movement of persons, professional and economic activities, illegal migration/international protection, gatherings at public events in a manner deviating from other normative acts of Georgia, including by means of introducing respective temporary restrictions⁵. Following the protests from civil society organisations and different groups of the public, the initial term of the validity of the mentioned norms was July 15, 2021⁶.

Therefore, among the problems identified at the initial stage of the project, acute issue was the constitutionality of the measures adopted by the Georgian authorities in response to the crisis and in some cases - the necessity and proportionality of the measures. Besides, the implementation of the legislative amendments in circumvention of principles of a democratic state, as well as weakening of the Parliamentary control in some cases remain to be acute problems. Moreover, the amount of the fines adopted for violations of the quarantine measures and the rules of self-isolation did not take into account grave social and economic problems existing in the country, even more exacerbating the social and economic situation of the population under the pandemic.

At the initial stage of the Project, some of the restrictions were lifted or eased, because of the 2020 October Parliamentary Elections. After the end of the second round of the Elections, taking into account the rapid increase in the number of the persons infected with the coronavirus⁷, on November 28, 2020, the Government of Georgia introduced following broader restrictions based on the Law of Georgia on Public Health⁸: Restrictions to move and be in the public space on the whole

⁵ See: COVID-19, Emergency Measures and Civic Freedoms in Georgia, Human Rights Center; p. 2 see. <http://hrc.ge/files/reports/17Analytical%20brief%20final%20ECNL-eng.pdf>

⁶ See, the Law of Georgia N 5972-ss About the Amendments to the Law of Georgia on Public Healthcare, 22/05/2020. Article 45⁴. (available only in Georgian) <https://matsne.gov.ge/ka/document/view/4876537?publication=0>

⁷ By that time, daily number of new COVID-positive cases reached about 3 800 patients

⁸ See more at http://gov.ge/print.php?gg=1&sec_id=541&info_id=77898&lang_id=GEO

territory of Georgia from 21:00 to 05:00, banning the intercity transport (railway, buses, minibuses), banning the municipal transport in big cities, ordering the closure of restaurants and food stations, restricting conferences, trainings, cultural and entertainment events, sports, artistic and cultural activities etc. Under the new regulations, the right to peaceful assemblies and demonstrations was not formally restricted, however still there were some facts of fining individuals using their right to peaceful assembly and demonstration. Furthermore, the restrictions imposed on the movement during the night hours, as well as the suspension of operation of public transport were seriously hindering the practical exercise of this right during the entire period.

Afterwards, despite the easing of various restrictions or their reintroduction, the restriction on free movement which is not much different from a curfew in its essence, has been in force almost for 6 months (by this date for more than 170 days). This is the only restriction which has not been lifted after its second imposition neither by the former or current governmental team, allowing its revocation only for 4 nights.

CHECKS AND BALANCES

The coronavirus pandemic has exposed the whole world, especially the democratic societies to unprecedented problems. The fight against the pandemic and the necessary and prompt reactions to tackle the crisis became a significant challenge for democratic states, concerning *inter alia* the check and balance mechanisms. In this regard Georgia was not an exception.

From the outset, the subject of criticism from the civil society organisations was the Presidential Decree N1 from March 21, 2020 which in addition to the restrictions of the rights directly enshrined in the Constitution, authorised the Government of Georgia to further restrict some of the rights the scope of restriction of which was not provided by the Presidential Decree. Thus, the problems stem from the increased authorities of the Government and weakening the Parliamentary supervision over the Government, following the amendments made to the Law of Georgia on Public Health from May 22, 2020. Further problems stem from introducing the sanctions for not wearing a mask outdoors without making adequate amendments to the legal acts.

After the Constitutional Court rejected the constitutional claim of the citizens regarding the unconstitutionality of some of the articles of the Law of Georgia on Public Health⁹, the strategy of HRC was entirely directed to the assistance of the fined individuals, and towards appealing the individual cases with the administrative bodies and with various instances of courts. During the implementation of the project, following the identified trends and the analysis of the statements of some of the civil servants, it became clear that the repressive policy of the authorities would not be changed. Under these circumstances, the judicial authority became the only institution which in addition to rectifying the cases of illegal fining of individuals, could provide a judgment of the social and economic situation of the fined individuals, serving as a single means to mitigate the outcomes of disproportionately high fines. Judging from the cases processed by HRC that already have been heard by various municipal courts, the trend is positive as the judges mostly take into account the social and economic situation of the individuals. Nevertheless, most of the cases have not been heard and are still pending, that is why, on this stage, it is difficult to speak about the general trend. In general, the judicial authority will not be able to fully eliminate the negative outcomes of the disproportional amounts of the sanctions, but it may ease their effect, that may have positive impact on the human rights protection. In its turn, humanistic and human rights oriented approach of the judiciary may take a positive role in increasing the confidence of the population in the court institution. Therefore, in the coming months, along with the court hearings of the relevant cases, it would be possible to identify and analyze the existing trends in this regard.

Within the framework of the Project, the HRC lawyers, from August 1, 2020 through May 2021, processed 125 cases from which 48 cases ended successfully. Seven beneficiaries refused to carry on the proceedings referring to various reasons. In one case, the court rejected the claim of HRC. Other 69 cases are still pending with HRC lawyers working on them. From these cases, 54 (43%) cases concerned the fines due to the Covid-19 regulations, out of which 5 cases ended

⁹ See the February 11, 2021 ruling of the Constitutional Court of Georgia on the case: "Paata Diasamidze, Giorgi Chitidze, Eduard Marikashvili and Lika Sajaia vs the Parliament of Georgia and Government of Georgia"
https://constcourt.ge/ka/judicial-acts?legal=10658&fbclid=IwAR36UVFbVJCD9BvCDOVjLb439J_mzX_CpYX6OsebzD3ZbBRWSmaNXr3tDo

successfully, six individuals refused to carry on the proceedings, and other cases are pending.

During the reporting period, HRC lawyers gave 1842 free legal consultations. Among them 960 were given face to face, 669 over the phone and 213 online. Divided by gender, 53 % of consultations were given to women (978 consultations), and other 47% to men (864 consultations).

MEDICAL CRISIS

One of the main challenges, in addition to the spread of the infection, is delivering the medical services from the State to the infected individuals. In this regard, the situation particularly worsened in the light of the eased regulations, under the conditions of historically high increase in infected individuals and that of the second wave of the virus.

In September-October 2020, the applications to HRC particularly increased from those individuals who could not access the medical services despite of being in urgent need to receive the services. Under the existing conditions, HRC representatives were working in emergency mode and were trying to assist the individuals in such needs. Based on the request of the representatives of HRC, it became possible to hospitalize the persons to whom despite the deteriorated health conditions the respective authorities were not providing the aid.

Considering the existing crisis, in October 2020, HRC released a special appeal¹⁰ relating mainly to an elderly citizen residing in Kutaisi who was infected with the coronavirus and was not hospitalized despite a number of requests of HRC to respective agencies. After the release of the appeal, the patient was transferred to the hospital but unfortunately her life could not be saved.

INFORMATION AND AWARENESS-RAISING CAMPAIGN

The information campaign related to the Covid-19 pandemic was led from the outset incomprehensively and with gaps. At the initial stage, the problems stemmed from the lack of awareness of the ethnic minorities residing in Georgia caused by the non-inclusive information campaign conducted by the authorities¹¹.

¹⁰ See: Appeal of the Human Rights Center on Systemic Crisis accompanying the Spread of New Coronavirus Pandemic, November 9, 2020 <http://www.humanrights.ge/index.php?a=main&pid=20272&lang=eng>

¹¹ See: "COVID 19 Pandemic and Human Rights", Human Rights Center, 2020; p 2-3; <https://bit.ly/3fWpBlk>

Further, in the beginning of the crisis, judging from the applications of the citizens to HRC, the problem of lack of awareness regarding the new regulations and mechanisms for protection of their rights were identified. Due to this fact, one of the goals that we set within this project was to raise the awareness of the public during the state of emergency and afterwards about the human rights violations, the mechanisms of protecting own rights and free legal aid envisaged by the Project. For attaining this goal, HRC used different platforms, including the official website of HRC where in addition to the information about the Project, the activities of HRC were actively covered. Further, during the whole period of the Project, the information about the existing problems have been covered, through the close cooperation of HRC with TV and radio media; moreover, with a help of media, different advocacy campaigns of the Project were implemented. The social media pages (Facebook, Twitter) of HRC were actively used.

Due to the problems existing in the regions in terms of access to information, special attention was paid to providing information to the population residing in the regions. With this purpose, HRC representatives carried out in total 116 visits to five regions of Georgia (more than 20 municipalities) and various districts of the capital as envisaged by the Project. The meetings were held in various public places of municipal centers and village administration centers during the entire project. Within the frames of the meetings, HRC representatives were informing the residents about free legal aid envisaged by the Project, providing general information about their rights and were answering the questions from the population mostly concerning legal and socio-economic problems. During the meetings, the information leaflets about the Project were distributed among the population including the contact information. In the end, the majority of the beneficiaries were the individuals who received information through the awareness-raising campaign of HRC at the various meetings.

Furthermore, with a purpose to raise the awareness of the public, 24 articles were prepared within the Project published in HRC online newspaper humanrights.ge. In addition to the topics of public interest, the content of the articles included the experiences of the beneficiaries of HRC and the information about the human rights situation in the country.

STATE ALLOWANCES

As a measure to fight the consequences of the pandemic, Georgian authorities provided allowances and social support to the affected population in several stages¹². Due to the gaps in the Anti-Crisis Plan presented by then Prime Minister, Giorgi Gakharia¹³, HRC from the very beginning appealed to the authorities with respective recommendations to eradicate the problems¹⁴. Nevertheless, the authorities did not take into account the recommendations of the civil society organisations. As a result, various groups of the public were not included in the state aid, and in some instances the allowances could not respond to the existing challenges.

For those beneficiaries of HRC who live in rural areas, the part of the Anti-Crisis Plan of May 12, 2020, envisaging the aid to farmers appeared to be particularly problematic. The program included both the assistance program existing by that time and also the additional resources allocated by the State the total value of which was GEL 300 million.

The new state program, entitled *Providing Incentives to Agricultural Landowners* envisaged several clauses among which HRC monitors identified the most problems with the program concerning the aid to the small landowner farmers with a total budget of GEL 37 million.

Unfortunately, the Anti-Crisis Plan of the Government applied to the agricultural sector failed to eliminate the existing problems and the Plan left behind the individuals and farmers involved in agricultural activities who needed the state support the most. Within the Project, HRC released a special appeal¹⁵ and called on the Government of Georgia to take into account the recommendations that would make possible to assist the small landowner farmers and protect the rights of those whose plots were not registered in the Public Registry because of various reasons. Despite the calls, the systemic eradication of the gaps never took place. With a help of HRC lawyers, several farmers were able to receive the due assistance.

¹² See: About the amendments to the May 23, 2020 Ordinance # 322 of the Government of Georgia "On the Approval of Isolation and Quarantine Rules," <https://bit.ly/3ygHGbs>.

¹³ See full information (available only in Georgian): <https://netgazeti.ge/news/446340/>

¹⁴ See "Human Rights in the State of Emergency", Human Rights Center 2020, p.18-19. <https://bit.ly/3w09T4F>

¹⁵ See Statement of Human Rights Center State subsidies and related problem issues 08.10.2020 <http://www.humanrights.ge/index.php?a=main&pid=20238&lang=eng>

FINANCIAL ORGANISATIONS AND CONSUMER RIGHTS PROTECTION

On the background of the economic crisis caused by the pandemic, the number of the persons left unemployed, businesses closed and suspended and the citizens burdened with financial obligations particularly increased. Therefore, during the Project, the large part of the applications of the beneficiaries filed with HRC was connected to the financial liabilities of the citizens with banks and other financial organizations bearing particularly painful effects on the background of the pandemic crisis and the depreciation of Georgian *lari*.

Taking into account the existing crisis and with mediation of the authorities, some of the commercial banks operating in Georgia offered three-month grace period to the customers in March 2020. The loans had to be deferred without the capitalization of interests payable. Three months later, the commercial banks allowed for the suspension of repayments on debts for another three-month period. However, considering the existing situation, this process did not run smoothly and number of problems were identified. The grievance of the beneficiaries mostly concerned the deferrals of the loans without their permission, and in some cases to non-deferrals of the loans, inadequately increased interests or the principal amounts, and the penalties because of the overdue payments etc.

In parallel with processing particular cases, with a purpose to protect the rights of the consumers, in October 2020, HRC released a public appeal calling on commercial banks and other financial organisations to enhance the protection of the rights of their own consumers¹⁶. Later on, the situation has relatively improved of which speak the decrease in applications and some other cases successfully finalized by HRC¹⁷.

In January-February 2021, HRC was approached with requests by the citizens affected from coronavirus epidemic/pandemic who were eligible for the state allowances of GEL 200 from January 2021 in accordance with Ordinance N286 of

¹⁶ See: HRC's Appeal to the Banks to Strengthen the Consumer Protection, October 8, 2020 <http://www.humanrights.ge/index.php?a=main&pid=20239&lang=eng>

¹⁷ See: Article "Thanks to the legal aid provided by HRC, a Citizen shall no longer pay a loan increased by disproportional amount" 02.10.2020 ; <http://www.humanrights.ge/index.php?a=main&pid=20235&lang=eng>

the Government of Georgia from May 4, 2020. The above Governmental Ordinance specifies that the allowances paid under the State Program may not be subject to seizure (in accordance with Article 45(1)(f) of the Law of Georgia on Enforcement Proceedings) and measures to ensure the payment of tax debts under the Tax Code of Georgia (collection order/seizure applied to bank accounts). Nevertheless, some sums were deducted from the amounts that were credited to the bank accounts of the individuals as the targeted state allowances.

To this regard, on February 3, 2021, HRC released a public appeal¹⁸ which in addition to describing the problem, called on the authorities and commercial banks to take measures. After releasing the appeal and in parallel with the interest of media, Georgian Bank Association and representatives of other commercial banks soon got interested in the issue. Following their request, an online session was held with the participation of HRC representatives, on one hand, and the representatives of the Banks Association and the commercial banks concerned, on the other. After providing the detailed information regarding the existing problems, the HRC was promised that the issue would be resolved in the shortest term. Later on, it became known that beside the HRC beneficiaries, the similar problem was resolved for all other consumers¹⁹.

PANDEMIC AND THE RIGHT TO EDUCATION

Under the conditions of the crisis caused by the pandemic, online learning became the only means to maintain the continuity of the education process. Like nearly all countries in the world, the inclusion of the students in online education process was a significant challenge in Georgia. In most cases, the problem was due to the lack of conditions necessary for online learning, unavailability of the Internet and needed technical devices. The problem was particularly acute for the children living in the regions.

According to the research conducted by Education Management Information System (EMIS) in March 2020, 528,426 students were registered in general education system by that time, from them 12% (63,272 students) had no access to

¹⁸ See: HRC's February 3, 2021 Appeal to the Government of Georgia with regard to the compensations to the citizens affected by the COVID Pandemic <https://bit.ly/3co1NLb>

¹⁹ See: Article „Banks returned State Allowances to Persons affected by the Pandemic“, 21.02.2021 <https://bit.ly/34RZrjP>

the Internet from homes and 14% (71,796 students) did not have computer devices²⁰.

The similar research was conducted in November 2020 which described the situation existing only in the big cities, considering that distance learning was ongoing only in the big cities at that time. According to the results of this research, the statistics reveal different picture in the big cities - 3.4% of the students residing in big cities do not have the Internet and 2.4% students do not have necessary devices.

Like in the rest of the world, the most unprotected layer of the society during the existing crisis due to the pandemic were the socially vulnerable persons and those with small income. From this group, one of the most vulnerable categories are the children in such families, especially when there are several minors living together.

During the project, HRC paid particular attention to the most vulnerable groups. Because of the deterioration of the conditions for enjoying the right to education for children, HRC constantly tried to acquire public information in the coverage area of the Project, and also during the meetings in the regions the issue was one of the priority.

HRC was approached in the regions by number of individuals for the legal aid whose children were not able to receive education because of the tough social conditions. During the whole period, in addition to using the legal mechanisms, HRC lawyers actively appealed to the local and central authorities in order to provide the children in need with the Internet and/or respective devices. Consequently, with an aid and mediation of HRC a number of children were provided with respective assistance and received a chance to continue the education in the online mode²¹.

²⁰See "Pandemic and General Education in Georgia", Ministry of Education and Science of Georgia, 2020 (available in Georgian) http://mes.gov.ge/mesgifs/1609239131_2020_Angarishi.pdf

²¹ See Article "Children left without Education", December 22, 2020 <http://www.humanrights.ge/index.php?a=main&pid=20302&lang=eng>

PANDEMIC AND THE RIGHTS OF PERSONS AFFECTED BY THE CONFLICTS

According to a number of international human rights organisations, the information about grave violations of human rights in Abkhazia and South Ossetia occupied by Russia was permanently disseminated even before the spread of the coronavirus. However, the crisis of the pandemic revealed more clearly the severe human rights conditions of the individuals living in the occupied territories. Since the Georgian authorities cannot exercise the state jurisdiction over the occupied territories, in order to receive the respective medical services and social benefits, the citizens residing in the occupied territories had to cross the administrative boundary lines and come to the territories controlled by Georgia.

Under the pandemic, the freedom of movement was particularly restricted.

From the initial stage of the spread of the virus, for almost a year now, residents of Gali district lacked the possibility to move freely in the area controlled by the central authorities. According to the statement of the Security Service of Georgia made on February 11, 2021, the movement in the direction of occupied Abkhazia from the first half of the day of February 12, 2021 would be open for the elderly, retired persons, persons with special needs and other groups of people. However, within hours of this announcement, the State Minister for Reconciliation and Civic Equality, Tea Akhvlediani, clarified that the quarantine period was 12 days before February 1, 2021, and from February 11, it would be 5 days for those coming from the occupied territories and they would leave the facility after the expiration of the quarantine term and in case of negative PCR test.

The main reason during the crisis to come to the territories controlled by Georgia from the occupied territories was to receive the medical services and often the people needed first aid services. Therefore, such policies of the authorities were for a long time the subject of protests from civil society organisations and different groups of the public.

On March 16, 2021, a nurse from Gali fell a victim of the coercive quarantine measures. As it turned out, the deceased nurse came to the territory controlled by the central authorities of Georgia exactly for medical treatment. According to the available information, the nurse had the signs of a heart attack, however due to the regulations of that time she was placed in quarantine, instead of a hospital. And this happened despite the fact that she was carried from Gali district with a

reanimobile. Due to the deterioration of her health condition, despite the attempts of the ambulance crew, she could not be rescued.

Regarding the fact, HRC released a special appeal concerning the disproportional practice of placing the people in quarantine arriving from the occupied territories. HRC called on the Georgian authorities: To alter the practice of obligatory quarantine and individualize the approach towards the persons coming from the occupied territories for treatment; to strengthen the medical supervision in quarantine areas and to carry out prompt and adequate measures in cases of respective complaints of the patients; to enhance the attention to the people residing in the occupied territories and to include them in the process of the universal vaccination campaign²².

Despite the number of appeals, the Georgian authorities changed the practice only after it became known on April 7, 2021 that 4 citizens had drowned in River Enguri when coming from the occupied Abkhazia to the territories controlled by Tbilisi²³.

In parallel to the rigid measures imposed on movements by Abkhazian de facto authorities, Apsnypress, a Sokhumi based media agency was informing²⁴ that during the first three months of 2021 Abkhazian occupation authorities detained 3,000 persons for an 'illegal' attempt to come to the rest of Georgia. On this background, the policy of official Tbilisi to place the persons in 12-day compulsory quarantine after crossing the de facto border was further complicating the situation of the people residing there.

The situation is especially hard in the territory of occupied South Ossetia where the de facto regime closed the crossing point for more than a year and 7 months. Because of the grave situation, there is an acute humanitarian crisis in the region. According to the State Minister for Reconciliation and Civic Equality, 16 persons fell victims to the abolishment of the crossing point in Akhlagori.

²² See: "Human Rights Center responds to Death of Galilean Nurse moved from Gali District to Anaklia Quarantine Facility" <http://www.hrc.ge/171/eng/>

²³ See more at: <https://civil.ge/archives/411042>

²⁴ See the article of the ApsnyPress: <https://bit.ly/2RrdauH>

According to the unofficial data, the number of persons dead because of unavailability of the medical services is 25²⁵.

In accordance with the procedure established by the de facto President, Anatoly Bibilov, every patient shall obtain a special permit in order to be treated in the medical facilities in the territories controlled by Georgia. For this reason, the patient has to approach Akhlagori hospital, and following the observation and consent from the medical commission, has to undergo series of treatment in Tskhinvali, and once it is impossible to be cured there either, only afterwards the permit may be issued allowing to be transferred to Tbilisi. Such a bureaucracy requires at least 10-20 days that in case of the serious patient would lead to fatal outcomes.

RESTRICTIONS AND DISCRIMINATORY POLICIES

A number of the measures carried out and the restrictions imposed due to the COVID-19 pandemic concerned nearly all spheres of public life. The restrictions have impacted also the unhindered exercise of the freedom of religion. Through the regulations adopted in relation to movement and gatherings, the *forum externum* of the freedom of religion was indirectly limited. Despite the fact that such restrictions more or less created inconveniences to the representatives and the followers of all confessions, in the same period, Georgian authorities showed non-secular and differentiated attitudes towards the Georgian Orthodox Apostolic Church and other religious organisations. During the years, along with the non-efficiency of the state policy regarding the freedom of religion, an overt loyalty on the part of the authorities towards the dominant religious institution and the ideology of the mainstream ethnoreligious nationality becomes even more evident.

On March 21, 2020, under the conditions of the state of emergency declared because of the spread of the pandemic, the authorities had not developed additional regulations for the religious organisations, but had only taken into account the interests of the Orthodox Church and its respective worshipers. During the whole period, almost no restrictions were applied towards the

²⁵ See the November 15, 2020 statement of the Office of the State Minister of Georgia for Reconciliation and Civic Equality, "Indifferent Attitude of the Occupation Regime Claim the Life of Another Person"; <https://bit.ly/3z5TygB>

clergymen of the Orthodox Church in terms of gatherings and movements, while for the non-dominant religious groups and their representatives such privileges were not available, except for a couple of car passes issued for implementing social services. Despite the numerous requests from the non-dominant religious organisations and some civil society groups²⁶, the authorities have not made any reciprocal steps. Furthermore, during the Christian holidays of the last and current years, by granting privileges to the Orthodox Church and its parish, while ignoring important holidays of other religions, the authorities carried on their discriminatory policies.

HRC appealed to the Georgian authorities and called on to be loyal to the liberal and democratic principles and carry out the policies based on equality that would exclude the discrimination of individuals on the grounds of religion²⁷. Unfortunately, the above described approach has not been changed even after the governmental changes of 2021 and under the new administration.

CASE OF V.T. IN THE ECTHR

Under the pandemic, HRC works in various directions including in terms of the strategic legal proceedings. HRC was approached by V.T. asking for a legal aid; according to him, he was subjected to a humiliating and inhuman treatment from the police officers during his arrest and detention in the police station.

According to V.T., under the state of emergency, when the applicant was riding a bicycle near his house, the police officers without any grounds have insulted him and then using physical force deprived him of his phone through which he was depicting their unlawful actions. After seizing the phone, although V.T. expressed readiness to follow them to the police station, he was still demonstratively arrested and put into a car where he was beaten. In one of the rooms of the police station he was mercilessly beaten and was locked in the room for about 4 hours. Despite the fact that he had acute physical pain and asked for medical aid, the police neither called a doctor nor gave him a painkiller. Further, the detained was not given the right to call home or a defense counsel. According

²⁶ See NGO's Statement on the Restriction of Freedom of Religion and Discriminatory State Policy, 17.01.2021
<http://www.humanrights.ge/index.php?a=main&pid=20309&lang=eng>

²⁷ See the HRC's Appeal to the GoG regarding the discriminatory Policies of the Government
<http://www.hrc.ge/177/eng/>

to V.T., the police officers were entering the room, laughing at him, swearing at him and threatening him with deprivation of life. The verbal and physical assaults exceeded the minimum limits after which the actions of the police officers could be considered as humiliating, inhuman and degrading treatment especially considering that the case concerns a detained person.

HRC has exhausted all legal mechanisms on the national level to defend the interests of V.T., after which he still is not recognized as a victim. As it is evident from the case proceedings, there is no will on the part of the State to effectively investigate the case and punish the police officers. Therefore, it is impossible to regard the ongoing investigation into the offenses committed against V.T. as an effective one. Therefore, HRC has prepared an application to be sent to the ECtHR requesting the recognition that the State could not ensure the protection of V.T.'s rights guaranteed by articles 3 and 5 of the ECHR with effective legal remedies.

LEGISLATIVE INITIATIVES

During COVID-19 the number of the cases of administrative offenses where the persons were found administratively liable and detained, increased. In which the persons made liable for the offenses were detained. However, when establishing the fact of administrative offense, the court does not review the legality of the detention of the person found liable for the offense, unless an additional complaint is lodged to the court regarding this issue. In such cases, the plaintiffs may be released from the administrative liability, however, this does not by itself mean the recognition of the illegality of their detentions. Therefore, HRC prepared a legislative initiative according to which the amendments have to be made to Article 267 of the Law of Georgia - the Code of Administrative Offenses and "in those cases of administrative offenses where the detention of the person found administratively liable took place, the court hearing the case, in addition to the case of the administrative offense, shall also adjudicate on the matter of legality of the detention".

The above described problems stem from the fact that the Code of Administrative Offenses of Georgia is one of the most repressive legal acts operating from the Soviet times, failing to meet the main principles of human rights protections. The Code fails to adequately protect the individuals against the

arbitrariness of law enforcement officers and during the legal proceedings the citizens are not equipped with sufficient means of protection.

In accordance with the current Code of Administrative Offenses, along with the cases of administrative offenses, the courts do not hear the issues of legality of the detentions. In accordance with Article 251 of the Code, the persons concerned may appeal against the administrative detentions to the superior bodies (officials) or prosecutors. In the cases where there are no appeals lodged, the legality of the detention shall not be reviewed. Such a provision deprives the court hearing the case of the administrative offense a possibility to assess the legality of the detention of the person found administratively liable, on one hand, and the provision also contradicts the principle of rapid and effective justice, on the other hand, as several judges have to hear the facts of the same case.

Taking into account the existing practice, the issue of strengthening of the standard of human rights protection through the amendments into the relevant legislative acts regulating the underlined matter became an agenda item. With this purpose, the legislative initiative prepared by HRC will be submitted to the Parliament of Georgia in the manner provided for by the Rules of Procedure of the Parliament. At the same time, within the advocacy process, the work meetings are being planned with various political actors in the Parliament in order to gain the support and increase the sensitivity towards the problem.

CONCLUSION

As a result of various actions directed towards the containment measures of the pandemic, Georgia, like other countries of the world has faced great challenges. The number of persons deceased and infected with coronavirus, as well as the large-scale restrictions of human rights and deterioration of the standards of human rights protection in many directions speak of the grave consequences of the crisis. The results of the pandemic are visible in economic indicators and worsened social and economic conditions.

On this background, it is especially important to maintain strict observance of human rights while carrying out the state policies fighting the crisis and later during the recovery. The pandemic and its scales showed that the fight against it is possible only with the united efforts of the world. The virus does not discriminate persons on any grounds. Unfortunately, the persons themselves are

discriminating - in some cases, the rich countries against the poor countries and often authorities against own citizens. The crisis of the pandemic showed once again not only the function of solidarity and its significance but also its necessity. The issue becomes even more significant in the process of vaccination of the population, in terms of access to the vaccines, proper information and other issues.

The Project Free Legal Advocacy and Human Rights Monitoring after the Coronavirus Pandemic was directed exactly towards the empowerment of the people and protection of their rights in Tbilisi and various regions of Georgia. The HRC continues its work for the protection of the rights of individuals affected by the Pandemic and the efforts shall be actively carried on after the end of the crisis, in the post-pandemic reality.