



Queer Association - TEMIDA

Economic and Social Exclusion of Transgender, Gay, Bisexual and Queer People in Georgia

A "list of Issues"

For Committee on Economic, Social and Cultural Rights

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Queer Association "TEMIDA"

www.temida.org.ge

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Contact: Beka Gabadadze

Beka.civic@yahoo.com

Vulnerability of LGBTQI persons in context of homelessness

Due to the high level of homo/bi/transphobic attitudes in Georgian society, systemic discrimination in every field of life and economic vulnerability, LGBTQI persons in Georgia are at high risk of homelessness. According to qualitative studies and surveys conducted among LGBTQI community members in Georgia, for some LGBTQI persons, the issue of homelessness starts when they “come out” with their family members. For some, its homo/bi/transphobic attitudes of family members that forces them to leave their place/be kicked out or threatened to be kicked out from their residence at an early age. For some LGBTQI persons its cases of violence from family members.¹

According to a study conducted in 2020, 59% (N=120) respondents have stated that they have been victims of some form of domestic violence at least once during last two years.² According to a same study, 14.2% of the respondents are threatened by family members with kicking out of house or they are forced to move out. Out of 30 respondents, who have had this experience a third mentions that they are pressured regularly.³ According to the same study, LGBTQI persons younger than 24 years old (youngest age group of the research) are the ones experiencing more cases of domestic violence⁴, which indicates vulnerability of LGBTQI persons in a young age. It also needs to be noted that trans persons, who even within the LGBTQI community are considered to be the most vulnerable subgroup under LGBTQI umbrella, are at higher risk of becoming victims of domestic violence and therefore, have a higher risk of homelessness. According to a study, 59% of gender nonconforming respondents stated that they have become victims of psychological violence when for cisgender community members, it was the experience of 46%, 27% of gender nonconforming persons stated social isolation as form of domestic violence when for cisgender respondents it was 37%, 27% of gender nonconforming respondents stated to have undergone physical domestic violence and for cisgender respondents, the number is 22%.⁵ The tendency is same for all forms of domestic violence other than forced marriage, which, according to the study is experienced more by cisgender community members.

¹ See more details in Policy Brief prepared by Temida at: <https://drive.google.com/file/d/1JvVZhJu6wb-DjoSplVktWJZ4qcd5UuwH/view> Source last visited: 19.12.2023.

² Impact Assessment of Covid Pandemicon LGBT(Q)I community, 2022, WISG Page. 90 https://wisg.org/Data/docs/publications/research-study/WISG_Covid-impact-on-LGBTQI-community-EN.pdf

³ Ibid.

⁴ Ibid, page 93 (diagram N52).

⁵ Ibid. Page 94 (diagram N53).

To avoid conflict attitudes and constant control over personal space and behavior, it becomes vitally import for a number of the community members to live separately, independently from their family members.⁶

The issue of employment and high rate of discrimination at workplace is another source of vulnerability of LGBTQI persons, that puts them at high risk of homelessness. Study conducted in 2020 identified that average salary of LGBTQI respondents of the study didn't exceed 1000 Georgian Lari (GEL)⁷ for majority of respondents (60.5%) and for 36.1% of respondents, the salary was in range of 600-1000 GEL.⁸ This amount of salary makes it impossible to rent accommodation that would meet the criteria set by the Committee on Economic, Social and Cultural Rights by its General Comment N 4 AND afford other essential goods and services.

It is hard for LGBTQI persons to even get employed. According to study conducted in 2020, third of respondents (32.7%, N=69) have experienced discrimination in the employment sector and 30% of respondents with this experience stated that they were not hired on grounds of their SOGI.⁹ It also needs to be noted that according to the same study, 52% of gender nonconforming respondents had this experience in comparison with 30% cisgender respondents¹⁰, which makes the vulnerability of trans persons (who are often forced to engage themselves in sex-work in young age) in this regard even more visible.

Data regarding the right to housing for LGBTQI persons in Georgia

According to another study, conducted in 2021, only 6.1% of respondents stated that they own a house, only 45.3% of respondents indicated that they would be able to purchase a privately owned apartment within the next 10 years, 30.7% of respondents stated that they change place of residence less often than once a year, 12.6% - change place of residence at least once a year, 9,9% have to change place of residence several times every 6 months.¹¹ According to the same study, respondents have to change their place of residence mostly due to the (unstable) salary factor (28.6%). 10.5% of respondents cited homo/transphobic attitude of the homeowner as the main reason for the change of residence and 9.5% –homo/transphobic attitude of the neighbors, 70.1% of respondents with experience of homelessness (N=63) lived with a friend, 35.8% - with a relative, and 26.1% had to live on the street. According to the same study, 58.1% of respondents with experience of

⁶ Aghdgomelashvili E. "Impact of Covid-19 Pandemic on LGBT(Q)I Community in Georgia, 2022, WISG Page. 93 https://wisg.org/Data/docs/publications/research-study/WISG_Covid-impact-on-LGBTQI-community-EN.pdf

⁷ According to the UN operational rates of exchange for December 2023, 1 USD equals 2,67 GEL.

⁸ Jalaghania L. „A Study of Social Exclusion of the LGBTQ Group in Georgia”, 2020, Social Justice Center, page 49. source available at: <https://socialjustice.org.ge/en/products/lgbtk-jgufis-sotsialuri-ekskluziis-kvleva-sakartveloshi>

⁹ Aghdgomelashvili E. "Impact of Covid-19 Pandemic on LGBT(Q)I Community in Georgia, 2022, WISG Page. 118.

¹⁰ Ibid, page 120, diagram N 64.

¹¹ Jalaghania L. „A Study of Social Exclusion of the LGBTQ Group in Georgia”, 2020, Social Justice Center, page 148. source available at: <https://socialjustice.org.ge/en/products/lgbtk-jgufis-sotsialuri-ekskluziis-kvleva-sakartveloshi>

homelessness (N63) indicated both lack of financial income and low income as the cause of homelessness. 43.5% of respondents named coming out to family members as the reason for homelessness. 41.9% cited identity-based violence by family members as the cause of homelessness.¹²

LGBTQI persons in Georgia, especially those under age of 18, who become homeless, are hindered from using public housing programmes, which are close to non-existent.¹³ These housing options, including shelters for victims of violence are not safe for community members, especially, for trans persons, because of transphobic attitudes of staff members of the facility and restrictive rules regarding expressing one's gender identity.¹⁴

Government response to homelessness of LGBTQI persons

Vulnerability of LGBTQI persons who are left without the support of their families, which affects not only their right to housing, but also, accessibility of healthcare and education, deepens in context of homelessness by the fact that there are poor state funded programmes of housing, there is no comprehensive strategy document regarding housing, which would identify risk factors and indicators of homelessness and Georgian legislation lacks a definition of “a homeless person” itself.

According to the annual parliamentary report of the Public Defender of Georgia, “*The state does not have a governmental strategy for homeless persons and a corresponding action plan, a full-fledged legal definition of a homeless person, and the necessary framework legislation for the realization of the right to adequate housing. The state does not process information to study the factors causing homelessness and the extent of homelessness in the country, as a result, the government does not have the necessary policies for the prevention of homelessness based on the results of the research*”.¹⁵

Other than the abovementioned, the limited view that the government has on the right to housing does NOT include any services that are relevant for persons who experience some form of housing, it doesn't include all forms of homelessness experiences and the problematic assessment criteria's that some municipalities have regarding homelessness leave a lot of persons in need without benefitting from the limited resources the government has allocated for this issue. ¹⁶

¹² Ibid.

¹³ See more details in Policy Brief prepared by Temida at: <https://drive.google.com/file/d/1JvVZhJu6wb-DjoSpIVkTWJZ4qcd5UuwH/view> Source last visited: 19.12.2023.

¹⁴ Jalagania L, *The Rights of LGBT+ People in Georgia*, Public Defender of Georgia, 2021, page 44. Report available at: <https://www.ombudsman.ge/res/docs/2022051115380032325.pdf>

¹⁵ Report of Public Defender of Georgia On the Situation of Protection of Human Rights and Freedoms in Georgia, 2022. Report accessible at: <https://www.ombudsman.ge/res/docs/2023120411211781277.pdf> page 189.

¹⁶ „Ensuring the right to adequate housing for members of the LGBTQ community living in Georgia: Current situation and challenges”, Queer Association TEMIDA, 2023. Policy Brief available at: <https://drive.google.com/file/d/1G45Fvjnc7FmCgBSGsf4hVyhbl3ifyV/view>

It is also worth noting, that the renewed 2022-2030 National Strategy for Human Rights protection, which was approved by the Parliament of Georgia in 2023, does NOT include issues related with the realization of the right to proper housing for everyone.¹⁷

As mentioned above, the shelters and other housing opportunities that are state funded, are usually not safe for community members to benefit from. This led to civil society sector (local LGBTQI community based CSO's) to overtake this service from the government and Temida has opened a community shelter for LGBTQI community members, which is the only community shelter that exists especially, for LGBTQI community. But it is needless to state, that this one initiative cannot substitute for the government funded housing programme, cannot be sustainable and cannot meet needs of all LGBTQI community members who have housing issues, since its capacity is limited to just one shelter and therefore, limited people can be placed there.

We recommend the Committee to include the following in their list of issues towards the government of Georgia:

- What measures are being taken by the government to elaborate a comprehensive strategy on homelessness, that would include evidence based data regarding the risk-factors and indicators of homelessness, including a person's sexual orientation and gender identity?
- What measures are being taken by the government to sensitize already existing service providers on SOGI issues, for LGBTQI community members to be safe to benefit from them?
- What measures are being taken to develop state funded services for homeless persons, including tailored services for LGBTQI members to address issues that arise in context of homelessness?

The right of LGBTQI persons of the enjoyment of the highest attainable standard of physical and mental health

Since 2013, access to health care in Georgia has improved significantly, since the universal healthcare programme was introduced. But according to surveys, the quality of services received in frames of universal healthcare in comparison to services received in frames of private insurance programmes is not fully dissatisfactory, namely, only 26% of respondents have indicated that they were satisfied with the universal insurance, while, 29.7% indicated that they were dissatisfied, 23.6% gave a neutral answer.¹⁸ Because of economic vulnerability of LGBTQI persons in Georgia, private insurance benefits are not accessible for many of them. According to the same study, only 20.90% are insured privately, when 57.80% are included in universal health insurance and 15.60%

¹⁷ Ibid.

¹⁸ Jalagania L. "Social Exclusion of LGBTQ Group in Georgia", 2020, Social Justice Center, page 135. See the report at: https://socialjustice.org.ge/uploads/products/pdf/Social_Exclusion_of_LGBTQ_Group_1612128635.pdf source last visited: 21.12.2023.

stated that they have no insurance at all.¹⁹ According to a survey conducted in 2020 among LGBTQI members, where they assessed their accessibility to health care, only 36,9% of respondents stated that healthcare is accessible for them, 9.10% chose “no accessibility”, 13,40% stated “more lacking than having access”, 23.10% stated “partially accessible, partially inaccessible” and 17.20% - “more accessible, than inaccessible”.²⁰

According to the same study (conducted among 320 LGBTQI persons in Georgia), 41.40% of respondents identified “financial inaccessibility of medicine” as a barrier to health care services and 32.70% - “financial inaccessibility of healthcare services”.²¹ Financial inaccessibility of medicine/services is relevant for all vulnerable groups in Georgia and especially LGBTQI persons, since queer community is economically vulnerable in Georgia due to high rate of homo/bi/transphobia and lack of employment opportunities/discrimination at workplace.

High rate of homo/bi/transphobic attitudes in Georgian society translates in health sector as well. It is demonstrated sometimes in **discriminatory attitudes towards LGBTQI community members** in context of service provision, in **lack of relevant knowledge specific to SOGI issues** among health professionals and on the policy level, in **lack of coverage and national protocols and guidelines for trans specific health care**. According to the same survey, SOGI related barriers to accessing health services were: Low sensitivity of medical staff (35.5%; N=285), Risk of disseminating personal information (39.60%; N=293) and the expectation of discrimination (due to which, one is not able to share full information) (37.60%;).²²

Due to experiences of discriminatory attitudes towards LGBTQI persons in health care service provision, and also, due to expectations of such attitudes from service providers, 51% of respondents of as survey have stated that they are open with their doctor about their sexual orientation/gender identity when it comes to certain health issues, while 21.6% have stated that they are not open.²³ 34% of the respondents who answered that even in case of necessity, do not provide the doctor with information regarding their SOGI, stated that the reason was the risk of breaching confidentiality, fear of expected lack of acceptance (28.3%) and threat of expected refusal to service (7.5%; N=53). It needs to be noted, that in certain cases, non-disclosure of one’s SOGI related information might hinder provision of individually tailored medical service that may be essential for LGBTQI person’s health needs. This data needs to be analyzed in context of that fact that 14.4% respondents (N=46) stated that they have become victims of discrimination while receiving healthcare services and according to another study, conducted in 2020 (211 LGBTQI persons participated), 29% of gender nonconforming respondents stated that they have become victims of

¹⁹ Ibid, Page 135, Chart N 81.

²⁰ Ibid. page132, Chart N75.

²¹ Ibid, Page 136, Chart N82.

²² Ibid. page 136, Chart N 83.

²³ Ibid, Page 137.

discrimination while receiving medical services (in comparison, with 22% of cis gender respondents).²⁴

On the policy level, it needs to be noted, that while trans-specific healthcare services, including gender reassignment surgeries and other relevant procedures/services (hormonal therapies, vocal cord therapies, etc) are not prohibited, they are not regulated or being financed under any public or private health insurance policy in Georgia. Lack of financial accessibility, in conjunction with economic vulnerability of trans persons in Georgia (they are the most vulnerable group under the LGBTQI umbrella) leaves this group even more vulnerable and under risk of being exploited, since number of trans persons report that they engage and stay in sex work (and other risky and underpaid jobs) with the purpose to accumulate enough financial resources for trans specific healthcare services.

Another important issue in regards with trans specific healthcare is the fact that Georgia has no national medical protocols and guidelines for trans specific health-care. National guidelines and protocols and tools for the government to not only set standards and guidelines for particular medical services, but also a tool to assess and evaluate the quality and correctness of services provided. Lack of such protocols and guidelines also leaves medical service providers in dark regarding exact guidelines of service provision, which makes some of them refrain from providing trans specific services, which even further limits this possibility for trans persons in Georgia.

Despite the fact that recommendations regarding elaboration of medical protocols and guidelines have been made by the Public Defender's Office towards the Ministry of health in 2020, in its recommendation, Public Defender stated the following: *"In the absence of relevant standards, guidelines and protocols, medical professionals will not be able to refer to any document/standard when obtaining informed consent. A patient's informed consent, in particular prior to an irreversible medical procedure, is an essential condition for receiving medical care. The legitimacy of such consent can be called into question when there is no national standard that health professionals can rely on when informing and obtaining consent from a patient. It is thus unclear based on which treatment method or experience the health professional has obtained consent,"*²⁵

Same recommendation has been made by the Gender Equality Council of the Parliament in 2018.²⁶

Same recommendation has been made by the UN Independent Expert on protection against violence and discrimination based on Sexual Orientation and Gender Identity in 2018 after his visit

²⁴ Aghdgomelashvili E. "Impact of Covid-19 Pandemic on LGBT(Q)I Community in Georgia, 2022, Page.120. Diagram N 64. Report available at: https://wisg.org/Data/docs/publications/research-study/WISG_Covid-impact-on-LGBTQI-community-EN.pdf source last visited: 21.12.2023.

²⁵ More details regarding the recommendation of the Public Defender of Georgia can be found here: <https://wisg.org/en/news/detail/287/> source last visited: 21.12.2023.

²⁶ Gender Equality Council of the Parliament, Gender Equality in Georgia: Barriers and Recommendations, vol. 2 (January 2018), p. 51. See the report at: https://www.undp.org/sites/g/files/zskgke326/files/migration/ge/UNDP_GE_DG_Gender_Equality_in_Georgia_VOL2_ENG.pdf source last visited: 21.12.2023.

in Georgia. Particularly, the Independent expert stated: “*Access to appropriate gender affirmation services, including psychological, endocrinological and surgical expertise, is unregulated. To date, there are no clinical guidelines with regard to gender affirmation procedures, despite a recommendation to that effect by the parliament’s Gender Equality Council, and such procedures are not covered by private health insurance schemes or under the national universal health care or other programmes, making them unaffordable and therefore inaccessible to the vast majority of trans persons.*”²⁷

European Commission against Racism and Intolerance (ECRI) made the same recommendation, stating, that: “*the authorities develop clear guidelines for gender reassignment procedures and their official recognition*”.²⁸

Despite these recommendations, up till December 2023, Georgia still has no guidelines and protocols for trans specific healthcare and no working group established to start working on these documents.

As list of Issues, we recommend to ask the government of Georgia the following:

- What steps/measures are being taken to elaborate national medical guidelines and protocols for trans specific medical services in Georgia and what’s the timeline of this process;
- What measures are being taken to make trans specific healthcare more financially accessible in Georgia;

Access to public/private services for Trans persons in Georgia

According to all surveys conducted in Georgia, trans persons are the most vulnerable group under the LGBTQI umbrella. According to a study conducted in 2021 on the Attitudes, of Georgian society towards LGBTQI persons, the level of transphobia is still higher than homo/biphobia in Georgian society.²⁹ It is also important to mention that according to studies, trans persons have more experiences of discrimination than LGBTQI community members, who are cisgender.

²⁷ See the Country report of the Independent expert about visit in Georgia at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/139/35/PDF/G1913935.pdf?OpenElement> Paras: 78; 119.

²⁸ ECRI Report on Georgia (fifth monitoring cycle), Adopted on 8 December 2015, report available at: <https://rm.coe.int/fourth-report-on-georgia/16808b5773> para: 111

²⁹ Aghdgomelashvili E, Mchedlishvili N, Laperadze T, *From Prejudice to Equality Vol.2: Study on Public Knowledge, Awareness and Attitudes towards LGBT(Q)I Community and Legal Equality*, WISG, 2023. Diagramme N 28, Page 89. Report is available at: <https://wisg.org/Data/docs/publications/research-study/WISG-From-Projudice-to-Equality-2022-EN.pdf> source last visited: 24.12.2023.

The issue of high rate of transphobia in society and frequent facts of discrimination in every field of life, including employment sector, deepens because of the fact that Legal Gender Recognition (LGR) is not clearly and transparently regulated in Georgia. This is an opportunity that some trans persons want to have access to, since having a document with gender related information, that is not in conformity with a person's gender identity results in forced "outing" of a person in context of every service provision process. Lacking an opportunity to change one's gender marker hinders trans persons to rent accommodation without being outed and discriminated against, it also lacks them being able to get employed without outing. Practically, every service that is connected with presenting one's identification document (bank services, housing, education, employment, crossing States borders, state funded services, etc.) is connected with forced outing for trans persons.

In its special report on the rights of LGBTQI persons, the public Defender of Georgia outlines the following:

*"In Georgia, the issue of Legal Gender Recognition is not judicially regulated, and the general procedures for considering this process are also obscure. Georgia's only regulatory statute dealing with this subject is the Law on Civil Status Acts. Gender reassignment is one of the grounds for amending the civil status acts, according to Article 78 of the law. The law, however, does not define "gender reassignment" or outline any procedures associated with it. As a result, legal gender recognition is entirely dependent on the practice of local courts and administrative agencies, which, according to the practical experiences of community organizations, impose unjustified preconditions on legal gender recognition. Individuals undergoing this administrative procedure, in particular, are subjected to unnecessary, coercive, and, in some cases, life-threatening medical/surgical procedures in order to use this administrative procedure and legally live with the preferred gender."*³⁰

According to the practice that is established in Georgia, described by the Public Defender of Georgia, trans persons are required to undergo gender reassignment surgeries in order for their gender to be legally recognized. This practice leaves trans persons who have no desire to undergo medical procedures, who have no finances to undergo these expensive procedures and who's health is not in state that would allow them to undergo these procedures without the opportunity to change their gender marker in their identification documents. This practice leaves trans persons without social protection they need to exercise their rights and receive services without forced outing and risk of discrimination.

There are state funded services available for women who become victims of violence against women. One such is example is that recently, in 2022, a rule was approved by the government of Georgia, according to which, women who become victims of violence against women, will be able to receive compensation. Unfortunately, due to the definition, of who may be eligible for this claim

³⁰ Public Defender of Georgia: *The Rights of LGBT+ People in Georgia*, 2021, Page: 17. Report available at: <https://www.ombudsman.ge/res/docs/2022051115380032325.pdf> source last visited: 23.12.2023.

(a woman) and due to the fact that Legal Gender Recognition mechanism is very vague and practically, unregulated, trans persons will not be able to benefit from this important regulation,³¹ like they are unable to benefit from any defence and support services available for cis gender women who become victims of gender based violence in Georgia.³²

Despite numerous recommendations made by the public Defender of Georgia, also, recommendation made by the UN independent Expert on protection against violence and discrimination based on Sexual Orientation and Gender Identity³³, also, made by the European Commission against Racism and Intolerance (ECRI)³⁴, and despite the judgement of the European Court of Human Rights of December 2022, finding violation of article 8 of the convention because of lack of clear and transparent legal gender recognition mechanism, to this day, measures have not been taken from the side of the government of Georgia, to elaborate such mechanism.³⁵

We recommend that the Commission asks the government of Georgia:

- What measures are being taken in context of the decision of ECtHR on case of *A.D. and others v. Georgia*, to elaborate clear, transparent mechanism for legal gender recognition?

³¹ See more details at: <https://wisg.org/ka/news/detail/361/> source last visited: 24.12.2023.

³² Ibid.

³³ UN Independent Expert on protection against violence based on Sexual Orientation and Gender Identity, paragraph 97, report accessible at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/139/35/PDF/G1913935.pdf?OpenElement>

³⁴ ECRI report on Georgia (fifth monitoring cycle), 2015, paragraph 111. Report available at: <https://rm.coe.int/fourth-report-on-georgia/16808b5773>

³⁵ More details regarding the judgment can be found here: <https://wisg.org/en/news/detail/363/> source last visited: 24.12.2023.