



European Network of  
National Human Rights Institutions

# Implementing the Council of Europe Recommendation on National Human Rights Institutions: The State of Play

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**The situation in Georgia**



# Georgia Country Report

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## Overview

### Name of NHRI and mandate:

- The Public Defender of Georgia (OPD)
- NHRI, and also: Equality Body, NPM and NMM

### Sources:

- NHRI: [ENNHRI, State of the Rule of Law in Georgia in 2022, Georgia Country Report](#)
- Sub-Committee on Accreditation (SCA): [SCA Country Report October 2018](#)
- CoE Independent Bodies : [CoE Commissioner for Human Rights Statement on Georgia \(2019\)](#) ; [CoE Commissioner for Human Rights Statement on Georgia \(2021\)](#), [CPT Report on Georgia \(2018\)](#) ; [CPT Report on Georgia \(2021\)](#)

### Good practices and improvements:

- **CM Principle 1:** The Public Defender of Georgia is an A-Status Institution.
- **CM Principle 3§6: mandate to contribute to an effective justice system:** the OPD has a strong mandate to contribute to access to justice for individuals, including through complaints handling, strategic litigations before courts and awareness raising. For example, the OPD has the authority to apply to the courts as a plaintiff (exceptionally in discrimination cases. Article 14<sup>1</sup>(2)(h) and Article 14<sup>1</sup>(2)(i) of the Organic Law on the Public Defender of Georgia entitles the OPD to refer the case to the court if the administrative body or private

entity did not respond to its recommendation and there is sufficient evidence proving discrimination), and to provide amicus curiae briefs both to the common and the constitutional courts.

- **CM Principle 13:** As the OPD reports, **measures necessary to protect and support the NHRI, heads of institution and staff against threats and harassment and any other forms of intimidation** are in place, including functional immunity. As reported on by the Council of Europe Commissioner for Human Rights (2021 and 2019) the OPD does faces challenges and threats while carrying out its mandate. However, the OPD confirms relevant authorities have followed-up such instances and should continue doing so.

### Key areas where improvement is needed:

- **CM Principle 3&4 and 8: access to information, policy-makers and legislators:** the OPD advocates to be mandated to examine casefiles in ongoing investigations into ill-treatment and or/or deprivation of life. Additionally, the OPD highlights hindrances in the full exercise of its monitoring powers. The NHRI also reports not having adequate access to information and to policy makers and is not involved in all stages of legislation and policy making with human rights implications.
- **CM Principle 4: selection and appointment of NHRI leadership:** In line with the SCA's findings (2019), the current selection process for the NHRI leadership is not sufficiently broad and transparent. Proposals for amendments of the regulation by the OPD were reported to not be taken up by the relevant state authority. Moreover, the NHRI reports that rather than establishing institutionalized criteria for the election of the Public Defender, the Parliament of Georgia has adopted a temporary procedure.
- **CM Principle 11 and 13: a climate of impartiality, integrity, transparency and fairness for the NHRI:** in line with 2021 findings of the CoE Commissioner for Human Rights, aggression against the DPO indicates that state authorities should further facilitate a climate that is conducive to the DPO carrying out its mandate independently, effectively and safely.

## Specific findings per Principle

The tables below include data on the assessment of the implementation of each Principle (i.e. the individual parts) within the Recommendation from three sources: the National Human Rights Institutions, the Sub-Committee on Accreditation of GANHRI and the Council of Europe independent bodies. Overall, the findings are considered in four overall groups: the establishment of NHRIs; the strengthening of NHRIs; a safe and enabling environment for NHRIs; and cooperation with and support for NHRIs.

### I. Establishment of NHRIs

<b>Principle 1</b>	Member States should ensure that NHRIs are in place and that they are established, accredited and function in full compliance with the Paris Principles
<b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b>	<i>SCA report October 2018, p. 9</i>  The SCA recommends that the OPD be re-accredited with A status.'
<b>Principle 2</b>	Member States should provide a firm legal basis for NHRIs, preferably at the constitutional level, and/or in a law which defines the mandates and functions of such institutions, guarantees their independence and provides them with the means necessary to accomplish their functions effectively, both at national and international levels, bearing in mind existing standards and recommendations on NHRIs, in particular the Paris Principles and their interpretation developed by GANHRI's Sub-Committee on Accreditation.

<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.5</i></p> <p>'The Institution functions on a constitutional basis. [...] The national regulatory framework applicable to the Institution has not changed since the last report but needs to be strengthened with a view to ensuring access to casefiles of ongoing investigations into ill-treatment and/or deprivation of life.</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>According to the Organic Law of Georgia on the Public Defender of Georgia and the Law of Georgia on the Elimination of All Forms of Discrimination, the Public Defender's Office (hereinafter PDO or OPD) exercises the functions of National Human Rights Institution as well as Ombudsman Institution, the National Preventive Mechanism and also acts as an Equality Body. PDO was first accredited with an "A" status by the Global Alliance of National Human Rights Institutions (GANHRI) in 2007 and is regularly re-accredited in accordance with the GANHRI procedure. Last cycle of accreditation was in 2018 when PDO was re-accredited with "A" status.</p>
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## II. Strengthening of NHRIs

<p><b>Principle 3.1</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is <b>as broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>monitor and analyse</b> the human rights situation in the country, <b>publish reports</b> on these findings and <b>address recommendations</b> to public authorities at national, regional and local levels and, when applicable, to private entities, and present an <b>annual report</b> to the relevant authorities, including before parliament, for its consideration.</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>According to article 35.1 of the Constitution of Georgia and article 2 of the Organic Law of Georgia on the Public Defender of Georgia, the Public Defender's Office is an NHRI, a constitutional body mandated to supervise, monitor the protection of human rights and freedoms in the territory and under the jurisdiction of Georgia. Article 22.1 of the aforesaid Law stipulates that, in March of each calendar year, the Public Defender shall submit to the Parliament of Georgia an annual report on the situation of human rights and freedoms in the country. Article 21.g of the aforementioned Law also envisages preparation of special reports and inclusion of decisions of the Public Defender therein. Thus, the OPD prepares and publishes annual parliamentary reports as well as special reports on various human rights topics. The Public Defender of Georgia shall independently examine the situation with regard to the protection of human rights and freedoms, and the facts of their violation, based on both received statements and appeals and on his/her own initiative (article 12 of the Organic Law of Georgia on the Public Defender of Georgia). The aforesaid Organic Law empowers the Public Defender to: study facts of direct and indirect discrimination based on statements or</p>

	<p>appeals or on his/her own initiative, and produce appropriate recommendations (article 14<sup>1</sup>.2.b); submit recommendations to relevant institutions or persons to restore the rights of victims of discrimination, if it is impossible to settle the case by mutual agreement and there is sufficient evidence of discrimination (article 14<sup>1</sup>.2.g); issue appropriate recommendations when finding non-compliance of activities of state bodies, relevant municipal bodies and legal entities under private law with Georgian legislation in cases determined under the Code of Rights of Child (article 14<sup>2</sup>.2); issue a recommendation based on the circumstances of the case when the examination of a statement/appeal confirms the fact of discrimination and thereby offer the discriminating person, state or local self-government authorities to take measures to eliminate discrimination and restore the equality violated by the discrimination without impairing legitimate interests of third parties (article 20<sup>1</sup>); submit proposals, observations and recommendations related to the legislation of Georgia and draft laws to the Parliament of Georgia or other relevant bodies in order to protect human rights and freedoms, improve conditions and treatment of detainees, prisoners, persons whose liberty is otherwise restricted and of convicts, as well as to prevent torture and other cruel, inhuman or degrading treatment or punishment (article 21.a); in order to restore violated human rights and freedoms, send proposals and recommendations to state and local self-government authorities, public institutions and officials and, with regards to discrimination cases, to those natural person, legal person, other organizational entity, an union of individuals without establishing a legal person/entity and an entrepreneurial entity, whose actions caused a violation of rights and freedoms guaranteed by the State (article 21.b).</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA report October 2018, p. 10</i></p> <p>‘Annual, special, and thematic reports of NHRIs serve to highlight key national human rights concerns and provide the means by which these bodies can make recommendations to, and monitor respect for, human rights by public authorities. The SCA acknowledges that the OPD has produced and made publicly available such reports. It encourages the OPD to continue to do so.’</p>

<p><b>Principle 3.2</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>freely address public opinion, raise public awareness</b> on human rights and <b>carry out education and training</b> programmes;</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Based on the Organic Law of Georgia on the Public Defender of Georgia, the Public Defender is empowered to: carry out educational activities with regard to (in the field of) human rights and freedoms (article 3.3), perform activities intended for raising public awareness on discrimination (article 14<sup>1</sup>.2.j), inform the mass-media about the results of inspections related to violations of human rights and freedoms (article 21.f).</p> <p>In practice, the OPD has free access to media and freely disseminates information. As to educational activities, representatives of the Public Defender of Georgia conducted 660 awareness-raising activities with various target groups between June - December 2022 and 83 awareness-raising activities between January - March 2023. Children’s rights, women’s rights, equality, and non-discrimination were topics of particular emphasis in the context of human rights promotion. In addition, the OPD proactively targeted the population in the regions of the country. Notably, OPD conducted training on various human rights-related topics for the experts involved in the process of approval of schoolbooks. The OPD office created and launched an online training course about anti-discrimination legislation and equality throughout the same period. The course is aimed at the general public and those employed in governmental, non-governmental, and private sectors.</p>



<p><b>Principle 3.3</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <p>- <b>fully address all alleged human rights violations</b> by all administrative authorities, other relevant State entities and, when applicable, private entities</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>The general power of the Public Defender to address alleged human rights violations is envisaged under article 3.2 of the Organic Law of Georgia on the Public Defender of Georgia. This provision stipulates that the Public Defender of Georgia shall detect violations of human rights and freedoms and promote restoration of violated human rights and freedoms.</p> <p>According to article 13 of the Organic Law of Georgia on the Public Defender of Georgia, Public Defender of Georgia shall examine statements and appeals of citizens of Georgia, foreign citizens and stateless persons, as well as legal entities under private law, and political and religious associations, regarding actions or acts of state and local self-government authorities, public institutions and officials violating the rights and freedoms defined in the Constitution and laws of Georgia, and in treaties and international agreements to which Georgia is a party. Article 14 of the same Organic Law stipulates that Public Defender of Georgia shall examine statements and appeals on violations of human rights and freedoms if the author of the statement/appeal is contesting: a) a decision of a public institution; b) infringement or violation of rights and freedoms granted by the legislation of Georgia during court proceedings; c) violation of rights provided for by the legislation of Georgia for detained and arrested persons or persons whose liberty is otherwise restricted; d) conformity of normative acts with the Second Chapter of the Constitution of Georgia; e)</p>

constitutionality of norms regulating referendum and elections and of elections (referendums) held or to be held according to those norms. According to article 17 of the same Organic Law, the Public Defender independently decides whether to start an inspection after he/she receives a statement or an appeal. Article 21 determines the Public Defender's Powers with respect to results of inspection carried out. Based on the results of an inspection, the Public Defender may: a) submit proposals, observations and recommendations related to the legislation of Georgia and draft laws to the Parliament of Georgia or other relevant bodies in order to protect human rights and freedoms, improve conditions and treatment of detainees, prisoners, persons whose liberty is otherwise restricted and of convicts, as well as to prevent torture and other cruel, inhuman or degrading treatment or punishment; b) in order to restore violated human rights and freedoms, send proposals and recommendations to state and local self-government authorities, public institutions and officials and, with regards to discrimination cases, to those natural person, legal person, other organizational entity, an union of individuals without establishing a legal person/entity and an entrepreneurial entity, whose actions caused a violation of rights and freedoms guaranteed by the State; c) request relevant investigating authorities to start an investigation and/or criminal prosecution, if, after examining the case, he/she comes to the conclusion that there are elements of crime in the case; d) make proposals to relevant bodies on disciplinary or administrative liability of persons whose actions caused a violation of human rights and freedoms; e) in certain cases, act as a friend of the court (*amicus curiae*) in common courts and the Constitutional Court of Georgia; f) inform the mass-media about the results of inspections related to violations of human rights and freedoms; g) include the decisions made by him/her into annual and special reports; h) apply in writing to the President of Georgia, the Prime-Minister of Georgia, if the Public Defender of Georgia considers that the means of response at the disposal of the Public Defender of Georgia are not sufficient; i) apply to the Constitutional Court of Georgia with a constitutional appeal related to the constitutionality of norms regulating referendums and elections and of the elections (referenda) held or to be held based on these norms, or when a normative act or some of its norms violate human rights and freedoms recognised by the Second Chapter of the Constitution of Georgia; j) in special cases, request the Parliament of Georgia

to set up a temporary investigation commission in relation to the facts of violation of human rights and freedoms and discuss those issues.

In terms of protection of rights of specific groups, article 14<sup>2</sup> of the Organic Law on Public Defender determines the obligations and powers of the Public Defender in the field of rights of children, In particular, it obliges the Public Defender to reveal violations on her/his own initiative or at the request of another person in cases determined under the Code of Rights of Child and authorizes the Public Defender to issue appropriate recommendations when finding non-compliance of activities of state bodies, relevant municipal bodies and legal entities under private law with Georgian legislation in cases determined under the Code of Rights of Child. In addition, the Public Defender also has powers in the field of the rights of persons with disabilities. Article 3.1<sup>2</sup> of the Organic Law reads that the Public Defender oversees the activities of administrative, state and municipal bodies, public bodies, officials, legal and natural persons; ensures monitoring of fulfillment of their obligations under the Law of Georgia on Rights of Persons with Disabilities and reacting according to the rules determined by Georgian legislation, with an aim to promote realization of the rights of persons with disabilities.

Furthermore, article 3<sup>1</sup> of the aforesaid Organic Law designates Public Defender as the National Preventive Mechanism stipulated under the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this connection, article 19.1 of the aforesaid Organic Law stipulates that Public Defender or a member of the Special Preventive Group examines the situation with respect to human rights and freedoms in penitentiary institutions, and other places of detention and restriction of liberty, as well as psychiatric facilities, old people's homes and children's homes. Article 19.2 authorizes the Public Defender/a member of the Special Preventive Group to meet and talk personally or with assistance of an interpreter, without witnesses, with detainees, prisoners or persons whose liberty is otherwise restricted, convicted persons, persons in psychiatric facilities, old people's and children's homes, as well as with persons who may provide information about violations of the rights of those persons.

The Public Defender is also designated as an Equality Body under the Organic Law on the Public Defender and Law of Georgia on the Elimination of All Forms of Discrimination. Article 14<sup>1</sup> of the Organic Law authorizes the Public Defender to a) examine statements and appeals of physical or legal persons or groups of persons who consider themselves to be victims of discrimination; b) study facts of direct and indirect discrimination based on statements or appeals or on his/her own initiative, and produce appropriate recommendations; c) prepare and submit to relevant institutions or persons, general proposals on preventing or combating discrimination; d) for the purpose of this Law, develop opinions on necessary legislative changes and submit them to the Parliament of Georgia in the form of a legislative proposal; e) record and analyse statistical data on facts of discrimination; f) invite victims of discrimination and alleged discriminators and attempt to settle a case by mutual agreement of the parties; g) submit recommendations to relevant institutions or persons to restore the rights of victims of discrimination, if it is impossible to settle the case by mutual agreement and there is sufficient evidence of discrimination; h) apply to the court as an interested person, according to the Administrative Procedure Code of Georgia and request issuance of an administrative legal act or taking measures if the administrative body does not respond to or adopt his/her recommendation and there is sufficient evidence of discrimination; h<sup>1</sup>) apply, as a plaintiff, with a claim to the court in accordance with the Civil Procedure Code of Georgia if a legal person, another organizational entity, a union of individuals without establishing a legal person or entrepreneurial entity does not respond to or adopt his/her recommendation and there is sufficient evidence of discrimination.

<p><b>Principle 3.4</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- have <b>unfettered access to all relevant premises</b>, including places of deprivation of liberty, and to all relevant individuals, in order to be able to carry out a credible examination of all issues covered by their mandate and to all relevant information, subject to possible restrictions stemming from the protection of other rights and legitimate interests and with due respect for the confidentiality of information obtained;</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.6</i></p> <p>The Public Defender’s Office of Georgia faces considerable obstacles concerning the examination of casefiles of criminal cases in a timely and effective manner. Under the legislation in force, the Public Defender does not have access to the casefiles in ongoing investigations (the Organic Law of Georgia on the Public Defender of Georgia, Article 18.e). On 29 November 2018, the Public Defender made a proposal to the Parliament of Georgia and requested to extend the mandate under Article 18.e of the Organic Law of Georgia on the Public Defender of Georgia with a view to grant access to casefiles of ongoing investigations into ill-treatment and/or deprivation of life. The Parliament of Georgia rejected this legislative proposal. The Public Defender maintained this request in her Parliamentary reports of 2019 and 2020.</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>The Public Defender also maintains the aforesaid proposal/recommendation in the parliamentary reports of 2021 and 2022.</p>

As to unfettered access to all relevant premises, article 18.a of the Organic Law of Georgia on the Public Defender of Georgia empowers the Public Defender to: freely enter any state or local self-government body, enterprise, organisation, institution, including military unit, penitentiary institution and other places of detention and restriction of liberty when conducting an inspection.

Based on article 19.1 of the aforesaid Law, Public Defender or a member of the Special Preventive Group examines the situation with respect to human rights and freedoms in penitentiary institutions, and other places of detention and restriction of liberty, as well as psychiatric facilities, old people's homes and children's homes and personally meets and talk. with detainees, prisoners and convicted persons. Moreover, article 19.2.a of the same Law stipulates that, in order to conduct regular inspections of the behaviour of persons in penitentiary institutions, and other places of detention and restriction of liberty, as well as in psychiatric facilities, old people's and children's homes, also, to protect them from torture and other cruel, inhuman or degrading treatment, the Public Defender/a member of the Special Preventive Group shall meet and talk personally or with assistance of an interpreter, without witnesses, with detainees, prisoners or persons whose liberty is otherwise restricted, convicted persons, persons in psychiatric facilities, old people's and children's homes, as well as with persons who may provide information about violations of the rights of those persons.

Despite the aforesaid guarantees, there have been cases of hinderance to full exercise of the powers described above. In particular, representatives of the Office of the Public Defender (hereinafter OPD or PDO) were not allowed to monitor Ninotsminda Boarding School on April 15 and May 19, 2021 in spite of the Public Defender's statutory authorization (for more information, please view the [special report](#), pages 9-10). Moreover, in early 2021, representatives of the Public Defender became the target of verbal attacks on the premises of various penitentiary institutions, which were organized directly or indirectly by the prison administrations (for more information please views [the report of the National Preventive Mechanism](#) (page 12).

<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>CPT Report on Georgia 2018, p. 14 (Para.12)</i></p> <p>'The delegation was told that the current tendency was to increase the number of visits to police and psychiatric establishments.'</p> <p><i>CPT Report on Georgia 2018, p. 24 (Para.41)</i></p> <p>'Further, the Centre received frequent visits by a range of bodies including the Public Defender/NPM and the relevant international and non-governmental organisations.'</p> <p><i>CPT Report on Georgia 2018, p. 66 (Para.147)</i></p> <p>'As regards external supervision, the three psychiatric establishments received regular visits from staff of the Public Defender's Office and/or the NPM and were also visited by a number of NGOs.'</p> <p><i>CPT Report on Georgia 2021, p.15 (Para.29)</i></p> <p>In the months preceding the 2021 ad hoc visit, the Public Defender repeatedly, officially and openly denounced the de facto impossibility to carry out proper monitoring work inside the "zonas" due to threats and intimidation by members of the prisoner hierarchy and the reportedly inexistent response by prison management and staff.</p>
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<p><b>Principle 3.5</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>monitor existing and draft policies and legislation</b> with human rights implications before, during and after their adoption in order to <b>advise</b> the State about the impact of such policies and legislation on human rights and on the activities of human rights defenders, including by <b>making relevant and concrete recommendations</b>.</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>With regards to monitoring existing and draft legislation with human rights implications and making relevant recommendations, the Public Defender is authorized to submit proposals, observations and recommendations related to the legislation of Georgia and draft laws to the Parliament of Georgia or other relevant bodies in order to protect human rights and freedoms. The Public Defender may also apply to the Constitutional Court of Georgia with a constitutional appeal when a normative act or some of its norms violate human rights and freedoms recognised by the Second Chapter of the Constitution of Georgia (article 21.i of the Organic Law of Georgia on the Public Defender of Georgia).</p> <p>However, in practice, the authorities do not always properly ensure the involvement of the OPD in law and policy making. For example, the preparation (drafting process) by the Parliament of the draft Law on the Special Investigation Service <u><a href="#">did not involve the OPD</a></u>.</p>



<p><b>Principle 3.6</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <p>- <b>contribute to an effective justice system</b> for all, through awareness-raising measures and facilitating access to rights and remedies and, as applicable, by providing legal assistance, being a party before the courts or, when applicable, receiving individual complaints;</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.5</i></p> <p>The NHRI has the mandate to contribute to access to justice for individuals, including through complaints handling, strategic litigation before courts and awareness-raising.</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.7</i></p> <p>'The Public Defender of Georgia is authorised to apply to the court as an interested person, according to the Administrative Procedure Code of Georgia and request the issuance of an administrative legal act or performance of an action. The Organic Law on the Public Defender of Georgia entitles the Public Defender to apply to the court as a plaintiff according to the Civil Procedure Code of Georgia, if the private entity did not respond to its recommendation and there is sufficient evidence proving discrimination. These two procedures are of the same nature. The first provides for the Public Defender to have an impact on public units, and the second - on the private sector.'</p> <p><i>[...]p.17</i></p>

	<p>'With the aim of eliminating systemic shortcomings, the Public Defender' Office responded within its mandate to alleged violations of the right to a fair trial, appealed to the courts, and provided amicus curiae briefs both to the Common and the Constitutional Courts, also issued recommendations in its special reports.' [...]</p> <p>'According to the Constitution of Georgia, the Public Defender of Georgia has the authority to apply to the Constitutional Court when the basic constitutional rights of certain persons are violated.'</p>
<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>CPT Report on Georgia 2018, p. 66 (Para.147)</i></p> <p>As regards external supervision, the three psychiatric establishments received regular visits from staff of the Public Defender's Office and/or the NPM and were also visited by a number of NGOs. Patients could meet the Public Defender's/NPM representatives in private and some had indeed lodged complaints with the Public Defender. The Committee welcomes this.'</p>
<p><b>Principle 3.7</b></p>	<p>Member States should ensure that the <b>mandate</b> given to NHRIs to protect and promote human rights is as <b>broad as possible and in full compliance</b> with the Paris Principles and that it allows them, inter alia, to:</p> <ul style="list-style-type: none"> <li>- <b>encourage the signature, ratification of and accession</b> to international human rights treaties and <b>contribute to the effective implementation</b> of such treaties, as well as related judgments, decisions and recommendations as well as to <b>monitor States' compliance with them.</b></li> </ul>

<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>According to article 8.2 of the Law of Georgia on International Treaties of Georgia, the Public Defender of Georgia may submit recommendations for concluding an international treaty on issues falling within their competence.</p> <p>With regards to monitoring State’s compliance with international human rights treaties and contributing to effective implementation of such treaties, the OPD prepares and provides written submissions to international human rights treaty bodies, such as alternative/shadow reports to UN human rights bodies/mechanisms, the European Committee of Social Rights and the rule 9 communications to the Committee of Ministers of Council of Europe. The authority to monitor compliance with international human rights treaties can be derived from article 3.1 of the Organic Law of Georgia on the Public Defender of Georgia. This provision stipulates that, in order to provide state guarantees for protecting human rights and freedoms, the Public Defender of Georgia shall monitor to determine that state and local self-government authorities, public institutions and officials protect and respect the rights and freedoms recognised by the State for every person in the territory of Georgia and under its jurisdiction, irrespective of race, skin colour, sex, language, religion, political or other opinions, national, ethnic and social affiliation, origin, property and social status, place of residence or other characteristics. Since Georgia as a State Party to international human rights treaties recognizes the rights guaranteed therein, the Public Defender is authorized to monitor compliance with those rights based on article 3.1 of the Organic Law of Georgia on the Public Defender of Georgia.</p>
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<p><b>Principle 4</b></p>	<p>The process of <b>selection and appointment of the leadership of a NHRI</b> should be competence based, transparent and participatory, in order to guarantee the independence and pluralist representation of these institutions. It should also be based on clear, predetermined, objective and publicly accessible criteria.</p> <p>The duration of the appointment should be clearly set out in the founding legislation, so that the leadership posts of the NHRI do not stay vacant for any significant period of time.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 8-9</i></p> <p>The importance of the implementation of this Recommendation has been raised by the Public Defender and First Deputy on numerous occasions during meetings with CoE high level representatives, specifically with regards to the standards on the selection and appointment of the Public Defender.</p> <p>[...]However, the PDO’s proposal to increase the transparency of Ombudsman’s election process was not reflected in the document as the Open Governance Permanent Parliamentary Council alleged that it went beyond the Council’s functions to address this matter.’</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>According to article 35.1 of the Constitution of Georgia, the Public Defender shall be elected for a term of 6 years by a majority of at least three fifths of the total number of the Members of Parliament and the same person shall not be elected as a Public Defender consecutively.</p> <p>In September 2022 the POD issued <a href="#">a statement</a> about the draft law on selection of the Public Defender and recommended that 1) the important procedural issues and guarantees related to the</p>

	<p>election process be regulated by the law instead of an order of the Chairman of the Parliament and that 2) the rules of election be firmly determined instead of establishing a temporary procedure. The Parliament fulfilled the first recommendation. However, it did not take into account the second. Contrary to the second recommendation, the Parliament of Georgia adopted a temporary procedure for the election of the Public Defender. This procedure envisaged publication of vacancies, creation of working group consisting of the members of civil society and academia, which evaluated candidates based on merit (however, their evaluations were advisory in nature) and public interviews with the candidates in the Human Rights and Civil Integration Committee. Indeed, the article added by the Parliament to its Rules of Procedure is called “the temporary rule of election of the Public Defender of Georgia” (article 228<sup>3</sup>). The first paragraph of this article reads that “the candidates for the Public Defender’s position will be presented to the Parliament in 2022 according to the rules established in this article and the order of the Parliament Chairperson”. As this provision explicitly refers to 2022, the rules of election mentioned therein are now inapplicable and the Parliament did not manage to elect the Public Defender (out of 19 participating candidates) while those rules were applicable.</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA report October 2018, p. 10-11</i></p> <p>In accordance with Article 6(1) of the Law, a person elected as Public Defender must be a citizen of Georgia. The Law is otherwise silent on the criteria to be used in identifying and evaluating candidates. Further, in accordance with Article 6(2) of the Law, the Public Defender is elected by a majority of the members of the Parliament, and may be nominated by a Parliamentary faction or by a group of at least six (6) members of Parliament who do not belong to any faction. The SCA is of the view that the process currently enshrined in the Law is not sufficiently broad and transparent. [...]The SCA encourages the OPD to continue to advocate for amendments for the formalization and application of a process that includes requirements to:</p> <p>a) Publicize vacancies broadly; b) Maximize the number of potential candidates from a wide range of societal groups and educational qualifications; c) Promote broad consultation and/or participation in</p>

	<p>the application, screening, selection and appointment process; d) Assess applicants on the basis of pre-determined, objective and publicly-available criteria; and e) Select members to serve in their individual capacity rather than on behalf of the organization they represent.'</p>
<p><b>Principle 5</b></p>	<p>To ensure <b>independence</b>, the enabling legislation of a NHRI should contain an <b>objective dismissal process for the NHRI leadership</b>, with clearly defined terms in a constitutional or legislative text. The dismissal process should be fair and ensure objectivity and impartiality and should be confined to only those actions which impact adversely on the capacity of the leaders of NHRIs to fulfil their mandate.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>According to article 10.1 of the Organic Law of Georgia on the Public Defender of Georgia, the powers of the Public Defender of Georgia shall be terminated prematurely if:</p> <ul style="list-style-type: none"> <li>a) he/she loses Georgian citizenship;</li> <li>b) he/she fails to perform his/her duties for four consecutive months;</li> <li>c) a judgement of guilty has come into force against him/her;</li> <li>d) a court declares him/her as missing or dead, or recognises him/her as a beneficiary of support, unless otherwise determined under court decision;</li> <li>e) he/she took or holds a position, or carries out activities incompatible with the status of the Public Defender of Georgia;</li> <li>f) he/she has resigned voluntarily;</li> <li>g) he/she dies.</li> </ul> <p>Article 10.2 of the aforesaid Law read that in the cases provided for in the first paragraph of this article, the powers of the Public Defender of Georgia shall be deemed terminated from the moment when the occurrence of the above circumstances is determined, in which case the Parliament of</p>

	<p>Georgia shall be notified immediately. Moreover, article 10.3 stipulates that in the cases provided for in paragraph 1(b) and (e) of this article, the powers of the Public Defender of Georgia shall be terminated by the decision of a majority of votes of the total number of members of the Parliament of Georgia.</p>
<p><b>Principle 6</b></p>	<p>Member States should provide NHRIs with <b>adequate, sufficient and sustainable resources</b> to allow them to <b>carry out their mandate</b>, including to engage with all relevant stakeholders in a fully independent manner and freely determine their priorities and activities.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Under article 25.2 of the Organic Law of Georgia on the Public Defender of Georgia, the Public Defender’s Office is financed from the State Budget of Georgia to the extent necessary for effective functioning of the Public Defender. The Public Defender of Georgia enjoys considerable budgetary security. In this regard, article 25.3 of the Organic Law is noteworthy, under which “the amount of labour remuneration provided in the relevant article of the State Budget of Georgia for the Public Defender’s Office of Georgia may be reduced compared to the corresponding amount of the previous year only with the prior consent of the Public Defender of Georgia.”</p> <p>The OPD ensures through its structural organisation and appropriate budgetary funding that the powers within the Public Defender’s mandate are carried out. Moreover, the experience of the past years shows that the state increased funding commensurate with the extension of the mandate.</p> <p>Ensuring that the OPD has requisite human resources for its proper functioning is guaranteed by appropriate regulation. Legislation determines the number of persons permanently employed in the Office. For instance, under the Law of Georgia on the State Budget of Georgia in 2023 there are 123</p>

	<p>permanent positions in the OPD. In addition, by March 2023 there are 38 contracted employees in the Office.</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA report October 2018, p. 11</i></p> <p>‘The OPD reports that the funds allocated for its work have gradually increased since 2012, and it is able to use these funds freely, according to its own priorities. It also reports receiving additional funds from external donor sources. To function effectively, an NHRI must be provided with an appropriate level of funding in order to guarantee its independence and its ability to freely determine its priorities and activities. Where an NHRI has been mandated with additional responsibilities by the State, additional financial resources should be provided to enable it to assume the responsibilities of discharging these functions. The SCA encourages the OPD to continue to advocate for the funding necessary to ensure that it can effectively carry out its mandate, including its newly-mandated responsibilities.’</p>
<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>CPT Report on Georgia 2018, p. 14 (Para.12)</i></p> <p>‘The delegation was told, among other things, that since the Committee’s last visit (in 2014) the NPM had been given more financial and human resources, which had enabled it to increase its fast-reaction capacity and carry out more analytical and research work. In addition to the core staff, the NPM could rely on the assistance of 36 experts (members of the Special Preventive Group) including doctors specialised in somatic medicine and psychiatry, psychologists and social workers.’</p> <p><i>CPT Report on Georgia 2018, p. 14 (Para.12)</i></p> <p>‘One issue of concern was that the NPM’s budget was still not separate from the overall budget of the Public Defender’s Office (contrary to the SPT Guidelines, as openly acknowledged by the delegation’s interlocutors).’</p>



<p><b>Principle 7</b></p>	<p>NHRIs should have the <b>authority</b> to <b>determine their staffing profile and recruit their own staff</b>, as well as <b>sufficient resources</b> available, in order to fulfil their mandate, so as to permit the employment and retention of staff and to ensure that they receive adequate training.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Article 26.1 of the Organic Law of Georgia on the Public Defender of Georgia stipulates that the Public Defender determines structure, rules of operation and organisation of the Public Defender’s Office by the Statute of the Office. Moreover, article 26.2 reads that the number and powers of the Deputies Public Defender are also determined by the Statute of the Public Defender’s Office.</p> <p>Recruitment of employees of the OPD is regulated by the Law of Georgia on Public Service and the N204 Ordinance of the Government of Georgia on the Rules of Conducting a Competition in Public Service. The recruitment process is based on legality, equality before law, effectiveness and economy, impartiality, access to public service for all citizens of Georgia, accountability, political neutrality, transparency, openness and other principles recognized by law. Based on the aforesaid regulatory framework, 4 types of competitions may be announced: open, closed, internal and simplified. Open, closed and internal competitions are announced for positions of the I, II, III and IV ranks of public service and decisions are made by a specialized competition commission established by the chairperson of the committee for each competition. A simplified competition is announced for employment based on employment contract. Decisions in a simplified competition are made by the head of the organization or an authorized person determined by the head. The aforesaid regulatory framework establishes guarantees for the competition participants, such as the opportunity to appeal the results or the stages of the competition to the OPD as well as a court.</p> <p>As mentioned above, ensuring that the OPD has requisite human resources for its proper functioning is guaranteed by appropriate regulation. Legislation determines the number of persons permanently</p>

	<p>employed in the Office. For instance, under the Law of Georgia on the State Budget of Georgia in 2023 there are 123 permanent positions in the OPD. In addition, by March 2023 there are 38 contracted employees in the Office.</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA report October 2018, p. 10</i></p> <p>‘The OPD is a single member NHRI. In such institutions, the SCA considers that there are diverse models for ensuring pluralism in its composition, such as by ensuring a diverse staff complement or by cooperating with diverse societal groups. Pluralism and diversity in the membership and staff of an NHRI facilitates its appreciation of, and capacity to engage on, all human rights issues affecting the society in which it operates. In addition, it promotes the accessibility of the NHRI for all people in Georgia. The SCA encourages the OPD to continue to ensure pluralism and diversity through its staff complement and cooperation with civil society.’</p>
<p><b>Principle 8</b></p>	<p>Member States should ensure that NHRIs enjoy <b>adequate access to information and to policy makers and legislators</b>, including timely consultations on the human rights implications of draft legislation and policy strategies.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>See also further in Recommendation 3§4.</i></p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.6</i></p> <p>‘The NHRI does not have adequate access to information and to policy makers and is not involved in all stages of legislation and policy making with human rights implications.’</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.6</i></p>

	<p>'However, the Public Defender faces challenges in accessing information within the scope of its activities.'</p> <p><i>Information Provided by the NHRI in 2023</i></p> <p>In practice, the authorities do not always properly ensure the involvement of the OPD in law and policy making. For example, the preparation (drafting process) by the Parliament of the draft Law on the Special Investigation Service <a href="#">did not involve the OPD</a>.</p> <p>In addition, the Public Defender faces challenges in accessing information within the scope of her activities. One clear example is that, due to a lack of relevant information by public institutions, the assessment of the fulfillment of a number of recommendations issued in the Public Defender's parliamentary report is sometimes impossible.</p> <p>Under Article 6(2)(b) of the Law of Georgia on the Elimination of All Forms of Discrimination and Article 14<sup>1</sup>(2)(b) of the Organic Law of Georgia on the Public Defender of Georgia, the Public Defender makes inquiries into the facts of discrimination. Article 18 (b, c) of the Organic Law authorises the Public Defender to request and receive from state, local self-government authorities, officials, private entities or individuals all certificates, documents and materials necessary for conducting an inspection, as well as written explanations.</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA report October 2018, p. 9</i></p> <p>'The SCA notes, however, that the Anti-discrimination Law obliges public agencies to provide information to the Public Defender while private entities and individuals provide information to the Public Defender only on voluntary basis, and that the UN Committee on the Elimination of Racial Discrimination expressed concern that this may impact the ability of the OPD to effectively examine cases of discrimination (CERD/C/GEO/CO/6-8). The SCA encourages the OPD to continue to</p>

	<p>advocate for appropriate amendments to the Antidiscrimination Law to make mandatory the provision of information by private entities and individuals.'</p>
<p><b>Principle 9</b></p>	<p>Member States should <b>implement the recommendations of NHRIs</b> and are encouraged:</p> <ul style="list-style-type: none"> <li>- to make it a legal obligation for all addressees of NHRI recommendations to provide a reasoned reply within an appropriate time frame,</li> <li>- to develop processes to facilitate effective follow-up of NHRI recommendations, in a timely fashion and</li> <li>- include information thereon in their relevant documents and reports.</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.6</i></p> <p>'The addressees of the NHRI's recommendations are legally obliged to provide a timely and reasoned reply. According to the Organic Law on the Public Defender of Georgia, State and local self-government authorities, public institutions and officials that receive recommendations or proposals of the Public Defender of Georgia are obliged to examine them and report in writing on the results of the examination to the Institution within 20 days. The recommendations of the Public Defender do not have binding force, except in the case of recommendations related to discrimination. The binding nature can be decided by a court, particularly in cases of non-compliance.' (see further under Principle 3§6)</p> <p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.7</i></p> <p>The Parliament of Georgia adopts a resolution on the basis of the Annual Report of the Public</p>

	<p>Defender of Georgia. With this resolution, the Parliament evaluates the Report of the Public Defender of Georgia on the Situation of Human Rights and Freedoms and instructs state agencies to implement the recommendations offered in the report, thus putting the implementation of the recommendations issued under parliamentary supervision. To this end, the Parliamentary Committee on Human Rights and Civil Integration monitors the implementation of tasks to be performed by the public agencies.'</p>
<p><b>Assessment of implementation by Sub-Committee on Accreditation (SCA) of GANHRI</b></p>	<p><i>SCA report October 2018, p. 10</i></p> <p>'Public authorities are encouraged to respond to recommendations from NHRIs in a timely manner, and to provide detailed information on practical and systematic follow up action, as appropriate, to the NHRI's recommendations. The SCA acknowledges that the OPD conducts follow up activities to monitor the extent to which their recommendations have been implemented. It encourages the OPD to continue to do so.'</p>
<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>CPT Report on Georgia 2018, p. 14 (Para.12)</i></p> <p>'The delegation was also told of persisting lack of enthusiasm from the Prosecutor's Office, especially as regards the Public Defender's recommendations for steps to address the impunity problem'</p> <p><i>CPT Report on Georgia 2018, p. 15 (Para.13)</i></p> <p>'The delegation's attention was also drawn to the fact that, despite reports about possible cases of ill-treatment being regularly submitted to the Prosecutor's Office by the Public Defender and NGOs, there were relatively few investigations (especially as regards alleged ill-treatment said to have occurred after October 2012) and virtually no sanctions vis-à-vis police and prison officers.'</p>

<p><b>Principle 10</b></p>	<p>When member States grant NHRIs <b>additional competences</b> to perform functions foreseen by international conventions in the field of human rights, such as the United Nations Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Convention on the Rights of Persons with Disabilities, the NHRI should <b>have access to sufficient resources to develop the capacity to effectively discharge its functions</b>, including having appropriately qualified and trained staff.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>In the past years, when the PDO was empowered with new functions (such as those of the NPM, the Equality Body, the mechanism for monitoring children’s rights and monitoring implementation of the CRPD), allocation of additional financial resources was considered in such cases, when this was needed.</p>

### III. Safe and Enabling Environment

<p><b>Principle 11</b></p>	<p>Member States should ensure that NHRIs can <b>operate independently</b>, in an environment which is conducive to them carrying out their mandate in an effective manner and in a climate of <b>impartiality, integrity, transparency and fairness</b>.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p.4</i></p> <p>‘The Institution believes that the situation in terms of the independence and effectiveness of the Institution remains worrying’ [...]</p> <p>‘While such attacks have fortunately not occurred since January 2021, there were particularly frequent instances of various politicians questioning the functions and duties of the Public Defender in 2021. Some also showed disrespect for the Public Defender's mandate. For example, the leader of the parliamentary majority, Irakli Kobakhidze, has repeatedly accused the Public Defender of lying and political bias. Several other politicians have also spoken out about the Public Defender's "politically motivated" activities. Tbilisi Mayor Kakha Kaladze's cynical reaction to the Public Defender's statement was also noteworthy. The situation became especially tense after the Public Defender made statements about the legal status of the President of Georgia, Mikheil Saakashvili. Following the publication of the conclusion on Mikheil Saakashvili's health condition, Irakli Kobakhidze even raised the possibility of the Public Defender being held liable for spreading false information, which does not have legal ground.’</p> <p><i>Information provided by the NHRI in 2023</i></p> <p>In 2022, The government representatives continued <a href="#">discreditation and verbal attacks</a> against the (now former) Public Defender Nino Lomjaria. When talking about the (now former) Public Defender</p>

	<p>Nino Lomjaria, for example, the ruling party Chairperson Irakli Kobakhidze <a href="#">said</a> that “she was not engaged in supervising the protection of human rights but in the pursuit of political interests”. Such verbal aggression is the opposite of ensuring an enabling and conducive environment for the PDO’s work.</p> <p>The Public Defender is independent in his/her activities. The Public Defender does not belong to any branches of government. Under article 4 of the Organic Law on the Public Defender of Georgia, “the Public Defender of Georgia shall act independently and carry out his/her activities in accordance with the Constitution of Georgia, treaties and international agreements of Georgia, universally recognised principles and norms of international law, the Organic Law and other legislative acts.”</p>
<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>Statement of CoE Commissioner for Human Rights, 2021</i></p> <p>Under states the Venice Principles, member are obliged to effectively protect their Ombudsman institutions from any threats or action aiming at or resulting in any hurdles to their effective functioning. I call on the Georgian authorities to ensure that the Public Defender, her office and associated experts can operate in a climate that is conducive to them carrying out their mandate independently, effectively and safely, in line with the <a href="#">Recommendation (2021)1</a> of the Committee of Ministers of the Council of Europe on the development and strengthening of effective, pluralist and independent national human rights institutions.</p>



<p><b>Principle 12</b></p>	<p>Member States should <b>foster awareness</b> and the co-operation of all relevant public authorities in relation to the mandate, independence and role of NHRIs, including through training and awareness-raising activities.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 6</i></p> <p>‘The relevant state authorities have good awareness of the NHRIs’ mandate, independence and role.’</p>
<p><b>Principle 13</b></p>	<p>Member States should take all measures necessary <b>to protect and support NHRIs</b> against threats and harassment and any other forms of intimidation, including through ensuring <b>functional immunity</b>. Any cases of alleged reprisals or intimidation against NHRIs, their membership and staff, or against those who co-operate or seek to co-operate with them, should be promptly and thoroughly investigated and the perpetrators brought to justice.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>ENNHRI, State of the Rule of Law in Europe in 2022, p. 7</i></p> <p>Measures necessary to protect and support the NHRI, heads of institution and staff against threats and harassment and any other forms of intimidation (including SLAPP actions) are in place. Following the attacks in semi-open establishments[...], the European Committee for the Prevention of Torture paid a special visit to Georgia to inspect the situation. Following the visit, it was publicly announced by the Minister of Justice that representatives of the Public Defender's Office would not face any problems in carrying out their activities.’</p>

*Information Provided by the NHRI in 2023*

Under article 5.6 of the Organic Law on the Public Defender of Georgia, “the Public Defender of Georgia shall be provided with conditions necessary to exercise his/her powers without impediment. Based on the statement of the Public Defender of Georgia, the relevant state bodies shall provide for his/her and his/her family's security.”

Under Article 4.2 of the same law, any influence on or interference in the activity of the Public Defender of Georgia is prohibited and shall be punishable by law. It is also noteworthy that the Criminal Code of Georgia (Article 352) provides for various types of criminal sanctions for exerting pressure on the Public Defender of Georgia.

Both the Constitution of Georgia and the Organic Law on the Public Defender of Georgia determine official immunity of the Public Defender, thus ensuring the independence of the institution. Namely, under article 35.2 of the Constitution, “creating impediments to the activities of the Public Defender are punishable by law.” Under article 35.3, “arrest or detention of the Public Defender, search of his/her place of residence or workplace, vehicle, or any personal search shall be permissible only with the consent of the parliament, except when the Public Defender is caught at the scene of crime, in which case the Parliament shall be notified immediately. Unless the parliament gives its consent, the arrested or detained Public Defender shall be released immediately.”

According to article 352.1 of the Criminal Code of Georgia, Influencing the Public Defender of Georgia in any form in order to prevent him/her from conducting his/her official activities shall be punished by a fine or corrective labour for a term of one to two years, or by house arrest for a term of six months to two years. According to paragraph 2 of the same article, the same act committed using the official position shall be punished by imprisonment for up to two years, with or without deprivation of the right to hold an office or carry out activities for up to three years.

In terms of functional immunity, article 35.3 of the Constitution of Georgia reads that arrest or detention of the Public Defender, or searches of his/her place of residence, place of work, vehicle or person, shall be permitted only with the consent of Parliament, except if the Public Defender is caught at the crime scene, in which case Parliament shall be notified immediately. In such cases, the Public Defender shall be released immediately unless Parliament consents to the detention. Moreover, article 5 of the Organic Law of Georgia on the Public Defender of Georgia provides the following guarantees:

- The Public Defender of Georgia shall enjoy personal immunity. He/she may not be prosecuted, detained or arrested; he/she or his/her apartment, car, workplace may not be searched without the consent of the Parliament of Georgia, unless he/she is caught at the scene of crime, in which case the Parliament of Georgia shall immediately be notified. If the Parliament of Georgia does not give its consent, the detained or arrested Public Defender of Georgia shall be released immediately. The Parliament of Georgia shall make a decision on this issue not later than 14 days after application of the Chief Prosecutor of Georgia.
- If there is consent to prosecute, detain or arrest the Public Defender of Georgia, his/her powers shall be suspended until the final court decision is issued. The powers of the Public Defender of Georgia shall be restored if he/she is found not guilty or if the proceedings are terminated on exonerative grounds.
- The Public Defender of Georgia may not be prosecuted for opinions and views expressed in the exercise of his/her duties.
- The Public Defender of Georgia shall be provided with conditions necessary to exercise his/her powers without impediment. Based on the statement of the Public Defender of Georgia, the relevant state bodies shall provide his/her and his/her family's security.
- Impediment of the activity of the Public Defender of Georgia shall be punishable by law.

	<p>As to investigation of cases of alleged reprisals or intimidation against the OPD and its staff, the Prosecutor’s Office of Georgia has not yet finished investigation launched in February 2021 into the illegal actions committed intentionally and (likely) in an organized manner by a small group of prisoners against representatives of the Public Defender in penitentiary establishments in 2020 and early 2021. The Prosecutor’s Office has provided unclear answers about whether all the individuals connected to the case have been questioned or not and what circumstances hinder the investigation from adopting a final decision.</p>
<p><b>Assessment of implementation by CoE independent bodies</b></p>	<p><i>Statement of CoE Commissioner for Human Rights, 2019</i></p> <p>The Commissioner also expressed concerns about the death threats made against the Georgian Public Defender, Nino Lomjaria, after a statement she issued in connection with the Tbilisi Pride events. She welcomes the opening by the Ministry of Internal Affairs of an investigation into the threats against the Public Defender and hopes that their perpetrator will be promptly identified.</p>
<p><b>Principle 14</b></p>	<p>Member States should ensure that <b>confidential information collected</b> by NHRIs in the context of their mandate is <b>privileged and is not unduly made public</b>.</p>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>Article 5.4 of the Organic Law of Georgia on the Public Defender of Georgia stipulates that the Public Defender of Georgia shall have the right not to testify on information that has been confided to him/her as the Public Defender of Georgia. He/she shall retain this right after termination of his/her power. Written materials intended for the Public Defender of Georgia may not be seized.</p>

## IV. Co-operation and Support

<p><b>Principle 15</b></p>	<p>Member States should <b>take effective measures to enable NHRIs to communicate and co-operate</b> with, in addition to the various levels of administration in the member States, in particular:</p> <ul style="list-style-type: none"> <li>a. counterpart institutions, where appropriate through networking and exchange of information and practices, as well as through regular meetings such as those taking place within the framework of ENNHRI and GANHRI;</li> <li>b. civil society stakeholders, in particular non-governmental organisations and human rights defenders, who should enjoy easy and safe access to NHRIs as part of an enabling environment;</li> <li>c. other human rights structures, including regional, local and/or specialised institutions, notably Ombudsman institutions and equality bodies and their respective networks, where appropriate through jointly organised activities;</li> <li>d. international and regional organisations working in related or similar fields.</li> </ul>
<p><b>Assessment of implementation by the NHRI</b></p>	<p><i>Information provided by the NHRI in 2023</i></p> <p>In terms of communication with the authorities, the OPD engages in various forms of communication including emails, the special electronic system of correspondence “eDocument”, in-person meetings, telephone calls, trainings, work groups, written submissions (such as recommendations or proposals), etc. Departments/structural units of the OPD use different forms of communication and have closer communication with certain bodies/authorities according to their needs and specifics of their work.</p>

	<p>To name an example, the Gender Equality Department mostly communicates with the Human Rights Protection and Monitoring Department of the Ministry of Internal Affairs, the Human Rights Protection Department of the Prosecutor’s Office and LEPL State Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking.</p> <p>As to cooperation with the NGOs, the OPD engages NGOs/CSOs in various work formats. In this connection, the Tolerance Center operating under the Public Defender is worth mentioning. The Tolerance Center has been functioning and actively working since 2005 to develop the culture of tolerance and establish an equal environment in Georgia. It facilitates multilateral dialogue between majority and minority groups, carries out educational activities, identifies cases of discrimination and xenophobia on religious and ethnic grounds, studies trends and systemic issues in this area. The Tolerance Center coordinates the Councils of Religious and Ethnic Minorities established under the Public Defender of Georgia.</p> <p>The Council of Ethnic Minorities brings together about 100 organizations working on ethnic minority issues. The Council encourages dialogue and consultations between ethnic minorities and the government, prepares recommendations for development of policy and programmes concerning minorities, ensures timely reaction to violations of rights of minorities and conflict situations, prepares recommendations for the Public Defender and other officials.</p> <p>The Council of Religions unites more than 30 religious associations. The Council strives for protection of freedom of religion, encouragement of dialogue between religious groups, development of a tolerant, equal and peaceful environment, equal division of social responsibility and civic integration of religious minorities.</p> <p>The OPD also involves NGOs/CSOs in its advisory councils.</p>
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The NPM Advisory Council aims to ensure effective functioning and transparency of the National Preventive Mechanism. It consists of the representatives of the OPD, members of academia and representatives of international and local non-governmental organizations working in the field of torture prevention and criminal justice.

The Consultative Council of Monitoring and Protection of Child’s Rights supports the OPD in monitoring the implementation of the Convention on the Rights of the Child. The Council consists of the OPD representatives, professionals working on children’s rights, experts and representatives of international and local NGOs working on protection of children’s rights.

The Consultative Council for Promoting, Protecting and Monitoring Implementation of the CRPD reviews the implementation, protection and promotion of the CRPD and determines priorities and strategies for effective monitoring the implementation for the CRPD. It consists of representatives of the OPD, persons with disabilities, representative organizations of persons with disabilities, local and international organizations working on issues concerning persons with disabilities.

The Consultative Council of Femicide Monitoring Mechanism facilitates effective monitoring of cases of femicide by the OPD. The Council consists of representatives of the OPD and of local and international organizations working on violence against women and domestic violence.

As to cooperation with international organizations, the OPD is a member of the International Conference of Ombuds Institutions for Armed Forces, European Network of Equality Bodies, Asian Ombudsman Association, the Association of Mediterranean Ombudsmen, International Ombudsman Institute, European Network of Ombudspersons for Children, European Network of National Human Rights Institutions and Global Alliance of National Human Rights Institutions. Moreover, the OPD has a Division of International Relations which works on raising the reputation of the OPD in the international arena and establishing relations with various international organizations and ombudsmen/national human rights institutions of other countries. Moreover, the Analytical

	<p>Department of the OPD is responsible for preparation of various items of communication and submissions for relevant international organizations (such as shadow reports, questionnaires, etc.).</p>
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