



Georgia – Researched and compiled by the Refugee Documentation Centre of Ireland on 22 January 2019

Is homosexuality legal in Georgia? Is it culturally accepted? Is the law enforced?

An End of Mission statement from an United Nations Independent Expert, in a section titled “Legal framework”, states:

“The fundamental norm for protection from violence and discrimination in the Georgian legal framework is Article 14 of the Constitution (right to equality), which implicitly includes sexual orientation and gender identity, as has been declared by the Constitutional Court of Georgia.

Significant legislative reforms implemented in recent years include:

- a. the Law on the Elimination of all Forms of Discrimination, which explicitly list sexual orientation, gender identity and gender expression as grounds of discrimination. The law applies to all public institutions, organizations, individuals and legal entities in all fields of activities. The Public Defender’s Office has been identified as the monitoring body and it annually reports to the Parliament on the implementation of the law;
- b. Article 53.31 of the Criminal Code, which since 2012 provides for aggravated sentencing when a crime is committed based on sexual orientation or gender identity and which was complemented in 2016 by a recommendation to prosecutors to identify and qualify hate motivated crimes issued by the Division of Human Rights Protection at the Prosecutor’s Office of Georgia; and
- c. Article 142 of the Criminal Code, which since 2014 typifies violation of human equality on the basis of sexual orientation and gender identity or expression; (Office of the United Nations High Commissioner for Human Rights (OHCHR) (5 October 2018) *Mandate of the United Nations Independent Expert on Violence and Discrimination based on Sexual Orientation and Gender Identity, Country visit to Georgia – 25 September to 5 October 2018*)

The 2017 US Department of State country report for Georgia, in a section titled “Acts of Violence, Discrimination, and Other Abuses based on Sexual Orientation and Gender Identity”, states:

“The constitution provides for fundamental equality before the law, and a variety of laws or regulations contain antidiscrimination provisions. The criminal code makes acting on the basis of prejudice because of a person’s sexual orientation an aggravating factor for all crimes.

The Public Defender's Office reported that lesbian, gay, bisexual, transgender, and intersex (LGBTI) individuals continued to experience systemic violence, oppression, abuse, intolerance, and discrimination in every sphere of life. According to NGOs, the government rarely enforced the law, and law enforcement authorities lacked robust training on hate crimes.

LGBTI organizations, NGOs, and the Public Defender's Office reported societal prejudices against LGBTI individuals remained strong. The organizations reported that the government's ineffective antidiscrimination policy reduced the LGBTI community's trust in state institutions and pointed to some homophobic statements by politicians and public officials as furthering hatred and intolerance against the LGBTI community.

In August, two LGBTI organization leaders accused police officers from Batumi's sixth precinct of inhuman and degrading treatment, including physical abuse. The individuals alleged that police failed to intervene when several persons physically assaulted them on the street. The law enforcement officials subsequently arrested the two LGBTI individuals, who reported that the officials mistreated them in detention. The courts fined the LGBTI individuals 300 lari (\$120) each for disobeying police. None of the alleged attackers was detained. The Ministry of Internal Affairs' Office of the Inspector General and the Chief Prosecutor's Office opened investigations into the incident. As of September the investigations continued." (US Department of State (20 April 2018) *2017 Country Reports on Human Rights Practices – Georgia*, pp.39-40)

The 2019 Human Rights Watch report for Georgia, in a paragraph headed "Sexual Orientation and Gender Identity", states:

"According to the ombudsman, LGBT individuals often experience abuse, intolerance, and discrimination in every sphere of life. Homophobic statements by public officials feed widespread homophobia in society." (Human Rights Watch (17 January 2019) *World Report 2019 – Georgia*)

A report from ILGA-Europe states:

"LGBTI activists working on the ground in Georgia had to face several challenges in 2017 – not only when community members required their support, but because the activists themselves were the targets of bias-motivated attacks.

Several LGBTI activists were subjected to a hate campaign instigated by ultranationalist opponents, with violent threats being spread through social media posts and newspaper articles. Five members of the LGBTI community, including activists who worked with LGBTI NGOs, were physically attacked in Batumi city, but received no support from law enforcement officials." (ILGA-Europe (13 May 2018) *Annual Review of the Human Rights Situation of Lesbian, Gay, Bisexual, Trans and Intersex People in Europe 2018 – Georgia*)

A report from the UN Human Rights Council, in a section titled "Combating discrimination" (paragraph 24), states:

“As in 2017, at the invitation of the Government of Georgia, OHCHR observed a rally held on 17 May 2018 in Tbilisi by the lesbian, gay, bisexual, transgender and intersex community on the occasion of the International Day against Homophobia, Transphobia and Biphobia. While some lesbian, gay, bisexual, transgender and intersex organizations decided not to participate due to concerns over potential counter-demonstrations and threats of violence, significant protection ensured by the police made the rally possible. The presence of high-level officials at the site of the rally was perceived as a strong signal of the Government’s commitment to ensure the right to peaceful assembly of all individuals.” (UN Human Rights Council (15 August 2018) *Report of the United Nations High Commissioner for Human Rights on cooperation with Georgia*, p.6

A report from EurasiaNet, a news website focussing on the Caucasus region, states:

“Over the last several years, a cultural gap has been widening among Georgians. In a relatively short period of time, pockets of the country have dramatically changed: Tbilisi’s rapidly developing center is now a playground for liberal young people, with attitudes on sexuality, gender roles, and even diet that are far different than that of the mainstream. Immigrants, including many darker-skinned people from the Middle East, South Asia, or Africa, are now a common sight in Tbilisi. And a growing movement seeks the liberalization of drug laws, albeit focused on marijuana rather than harder club drugs.

This has made some conservative Georgians uneasy, and has led to a backlash, including from a growing militant far-right movement.” (EurasiaNet (14 May 2018) *Georgia Protests: Nightlife against Nationalists*)

A report from the German broadcaster Deutsche Welle states:

“Georgian society is becoming increasingly polarized. A poll found that 80 percent of Georgians described themselves as highly religious and conservative. But that identity can also wear the ugly face of right-wing extremism. In 2013, priests led a violent mob to attack an LGBTQ rally. And at Tbilisi’s recent techno festival turned protest rally, far-right counter-protesters showed the Hitler salute.

The other 20 percent of Georgians are predominantly young and well-educated. Over the past five years, many have joined activist groups pushing for Georgia to become a more liberal country. They’re well connected to the country’s club and electronic music scene. Which means that nowadays, partying at a night club is tantamount to taking a political stand.” (Deutsche Welle (26 May 2018) *Partying and protesting for a more liberal Georgia*)

A report from the Tbilisi-based news website Civil Georgia states:

“A group of several radical conservative and religious groups, including the March of the Georgians and the Georgian Idea, held a demonstration in Tbilisi yesterday against what they see as ‘drug use promotion’ and ‘gay propaganda.’

The demonstration was called in the early hours of May 13, shortly after several hundred clubbers and their supporters rallied against police raids on Tbilisi's top music clubs. The groups were also active at a counterdemonstration in the evening of May 13.

Around 2,000 demonstrators gathered outside the Tbilisi Concert Hall at 6 pm yesterday and marched towards the Parliament building, chanting 'glory to orthodox Georgia' and 'Georgia without pederasts,' a slur used for homosexuals.

Sandro Bregadze, one of the leaders of the March of the Georgians, told journalists that they were against 'decadent ideas imposed from abroad, with which they occupied the Rustaveli avenue in the last two days.'" (Civil Georgia (15 May 2018) *Religious, Conservative Groups Rally, Demand Tightening of Drug Policy*)

A report from EurasiaNet states:

"Gay rights groups in Georgia called off a planned rally on May 17 after threats of violence and continued tensions following riots in Tbilisi over the weekend, effectively ceding the city to religious conservatives and small neo-Nazi groups. But individual activists, defying the LGBT groups' decision, still came out to rally.

May 17 is International Day against Homophobia, Transphobia and Biphobia (IDAHOT), and Georgia's embattled gay community and activists often try to hold various public events on the occasion. This year several advocacy groups and activists announced that they were planning to gather in front of the prime minister's office to 'remind the community of the destructive consequences of hate.'

But after watching police barely contain far-right mobs from attacking liberal protesters a few days earlier, LGBT rights activists said the city's downtown would not be a safe place to demonstrate. 'We decided to concede our constitutional right of the freedom of expression this time [...] not to let these forces create tension,' LGBT rights activist Giorgi Kikonishvili said on a Facebook live broadcast on the eve of the rally." (EurasiaNet (17 May 2018) *Small gay rights rally held in Tbilisi amid fears of violence*)

See also EurasiaNet report which states:

"A pro-LGBTQ armband has earned Georgian soccer star Guram Kashia an award in Europe, but also harassment and ostracism at home.

Kashia, the captain of Georgia's national team, was the first-ever recipient of the #EqualGames award from Europe's football association, UEFA. He was given the honor on August 22, after wearing a rainbow armband last year at a game for his pro team in Holland as part of a league-wide anti-homophobia campaign.

The move was viewed as an act of heroism by Georgia's embattled LGBTQ community, but subjected him to the full rage of Georgian right-wing groups, who heckled him online and called for his ouster from Georgian football.

The UEFA award has only exacerbated the threats against Kashia, further demonstrating the award was well deserved and that it took courage to take such a stand in the largely homophobic edge of Europe.

A deluge of social media vitriol labeled Kashia a 'disgrace' and 'a shame to our country.' The Georgian March, an alliance of ultra-conservative groups, condemned the captain for 'peddling LGBT propaganda' and launched a 'No to Kashia' online campaign.

While much of the harassment took place on Facebook — the main arena for the nation's political and culture debate — right-wing activists also staged rallies and burned rainbow flags in front of the Georgian Football Federation offices in Tbilisi." (EurasiaNet (30 August 2018) *One for the team: Georgian footballer's pro-gay rights gesture earns him abuse*)

A Civil Georgia report states:

"*Equality Movement*, a local LGBT rights organization, said that its activists can no longer come to their office for fear of their neighbors.

Levan Berianidze, executive director of Equality Movement told Civil.ge on Wednesday that they have moved to Egnate Ninoshvili Street in Tbilisi in February 2018, where some members of the neighboring family often made homophobic and aggressive remarks, trying to provoke a conflict.

Berianidze also said that on September 28, at about 10pm, the activists were conversing in the backyard, when one of these neighbors has rushed out hurling insults. To avoid escalation, the employees, according to Berianidze, have left the backyard and decided to leave. But as they were locking the doors, several of their neighbors have reportedly assaulted them, 'trying to beat them and grabbing one of them by the throat.' Berianidze said one of the neighbors had pulled out a firearm, but was restrained by another.

Berianidze said that police have launched investigation on charges of violence, hoping for a thorough and unbiased inquest, but noting that so far the police did not detain any of the assailants, and neither have they given any assurances of security to the activists.

He noted that about 17 activists who work at this office, no longer feel safe. 'We have no guarantees that [the neighbors] won't burst into the office again or ambush and beat our employees,' Berianidze added." (Civil Georgia (3 October 2018) *Equality Movement Reports Threats from Neighbor*)

This response was prepared after researching publicly accessible information currently available to the Research and Information Unit within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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