

**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF GEORGIA
SUBJECT TO INTERIM FOLLOW-UP**

Adopted on 5 December 2018¹

Published on 5 March 2019

¹ Except where specifically indicated, any developments which occurred after 31 May 2018, the date on which the response of the Georgian authorities to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, have not been taken into account in this analysis.

ECRI Secretariat
Directorate General II - Democracy
Council of Europe
F-67075 STRASBOURG Cedex
Tel.: +33 (0) 390 21 46 62
E-mail: ecri@coe.int

www.coe.int/ecri

FOREWORD

As part of its fifth round of monitoring work, ECRI has renewed its process of interim follow-up with respect to two specific recommendations made in each of its country reports.

In line with the Information Document on ECRI's fifth monitoring cycle brought to the attention of the Ministers' Deputies on 14 November 2012¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2012)1154/4.2.

1) *In its report on Georgia (fifth monitoring cycle) published on 1 March 2016, ECRI recommended that the Georgian authorities set up a specialised unit within the police to deal specifically with racist and homo-/transphobic hate crime. When establishing this unit, the authorities should seek expert advice from the Public Defender, relevant NGOs and international organisations.*

ECRI has been informed by the Georgian authorities that a human rights department was established in the Ministry of Internal Affairs in January 2018. The new department is tasked, inter alia, with monitoring the process of investigating hate crime incidents, identifying gaps and proposing measures for improvement. It is also mandated to cooperate with international organisations, such as the United Nations and the European Union, and various NGOs in order to develop action plans and hold training events. Unfortunately, ECRI has not received any information about co-operation with LGBT NGOs, which would be relevant to tackle homo-/transphobic hate crime. It expresses its hope that these groups will also be included in the co-operation work of the new department.

While ECRI considers the creation of this department a very positive step, it is still too early to assess the impact of its work. More importantly, such a department is not a substitute for a specialised investigative unit within the police, as recommended by ECRI. The new department was created to review hate crime investigations, not to carry them out. It therefore does not constitute a dedicated reinforcement of hate crime investigation capacity at law enforcement level. In this context, however, ECRI notes positively that the Ministry of Internal Affairs cooperated with the Office of the Public Defender (Ombudsman) of Georgia to train, in May 2018, some 40 police officers, who are designated to be specifically in charge of investigating alleged hate motivated crimes in the future.

Taken together, the above efforts constitute promising steps towards tackling the problem of racist and homo-/transphobic hate crime more effectively and ECRI encourages the Georgian authorities to continue on this path. It considers that this recommendation has been partially implemented.

2.) *In its report on Georgia (fifth monitoring cycle), ECRI recommended that the Georgian authorities scale up their support for the Council of Religions, which operates under the auspices of the Public Defender's Tolerance Centre. The authorities should in particular task the newly created State Agency for Religious Issues to cooperate with the Council of Religions and utilise the Council's expertise and recommendations in order to tackle the problem of religious intolerance.*

The Georgian authorities informed ECRI that they consider the State Agency for Religious Issues (henceforth: State Agency) to be the main interlocutor between religious communities and the government and fully capable of acting as an impartial, trusted and successful mediator in cases of problems related to religious affairs or inter-religious tensions. The authorities further assert that there has been no case so far in which another intermediary between religious associations and the government, represented by the State Agency, was needed. They also insist that the State Agency has taken steps in the past to cooperate with the Council of Religions and is eager to continue doing so in the future. However, the only example provided by the authorities of co-operation consists of the State Agency reviewing documents produced by the Council of Religions. This already points to a rather minimal level of interaction between the two bodies. Moreover, the authorities refer to tensions between the Council of Religions and the State Agency, in particular that some members of the Council allegedly advocate for the abolition of State Agency, but without providing further details as to the reasons for such lack of trust in the State Agency.

In contrast with the above information, ECRI notes that in 2015 the Public Defender addressed the State Agency with a request to be included as an observer in the work of a special commission set up by the State Agency to deal with tensions surrounding the disputed Mosque in Mokhe village. The local Muslim community had requested the involvement of the Public Defender and the Tolerance Centre, because they did not trust the State Agency and other members of the commission to be impartial. The State Agency, however, rejected the request.¹ ECRI regrets that on this occasion yet another opportunity for co-operation and for the utilisation of the experience of the Public Defender's Tolerance Centre with regard to promoting religious tolerance was missed.

ECRI has also not received any other information that could be interpreted as an expression of interest from the side of the State Agency for meaningful co-operation with the Council of Religions.

Furthermore, in 2017 proposed amendments to the Constitution were discussed, some of which aimed at subjecting freedom of religion to restrictions on grounds such as national security.² These provisions, if they had been enacted, would have mainly or even exclusively affected minority religions. While the Council of Religions, in line with the Council of Europe's Venice Commission, spoke out publicly against these proposals and pointed to their incompatibility with the European Convention on Human Rights, the State Agency did not oppose them. This gave further rise among many human rights groups and religious representatives to viewing the State Agency as a mechanism to control minority religious organisations, rather than an impartial institution.³

Based on the available information, ECRI must conclude that the situation that had originally given rise to this priority recommendation persists and that the State Agency for Religious Issues has not taken any serious steps to cooperate with the Council of Religions, as recommended by ECRI.

ECRI therefore considers that this recommendation has not been implemented.

¹ Annual Report of the Public Defender of Georgia (2015): 397-398. - See also § 102 of ECRI's last report on Georgia in which a reference was already made to similar problems in the aftermath of islamophobic incidents, for example in Chela. The exclusion of the Public Defender and the Tolerance Centre by the State Agency in such situations gave rise to this priority recommendation.

² See also § 99 in ECRI's last report on Georgia in which ECRI highlighted its concern about the State Agency's Religious Policy Development Strategy (2015) being driven by a national security perspective. As the Council of Europe's Venice Commission emphasised in its opinion regarding the proposed amendments, national security is not a legitimate aim in the sense of Article 9(2) of the ECHR (Venice Commission, Opinion 876 (2017): § 39). See also: ECtHR, *Nolan and K. v. Russia* (application no. 2512/04) and ECtHR, Guide sur l'article 9 de la Convention européenne des droits de l'homme (updated 2018, available in French only).

³ This lack of trust in the State Agency was already pointed out in ECRI's last report (see §§ 97-101).

