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## Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people before national and international institutions. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the Organization of American States, the European Commission and Parliament, and is a participant in the FRA Fundamental Rights Platform.
2. This report highlights evidence of institutional discrimination and societal violence against religious minorities in Georgia, and suggests recommendations relating, inter alia, to the protection of places of worship and the safeguarding of freedom of movement for people of all religious groups and none.

### (a) Freedom of Religion

3. The population of Georgia in 2020 is estimated to be close to four million.<sup>1</sup> According to the most recent state census, 83.4% of the population identifies as Georgian Orthodox; 10.7% of the population identifies as Muslim; 2.9% identify as Armenian Apostolic; and the remainder is comprised of Roman Catholics and other faiths.<sup>2</sup>
4. Although there is no official state religion, Article 8 of the Constitution recognises “the outstanding role of the Apostolic Autocephalous Orthodox Church of Georgia” in the history of the country.<sup>3</sup> An example of that is the fact that the head of the Georgian Orthodox Church, Patriarch Illia II, often acts as a mediator in political conflicts. The special advisory role of the Orthodox Church in the government, including particularly in the field of education, reflects the weight it carries in Georgian society.<sup>4</sup>
5. Article 16 of the Constitution of Georgia guarantees that “Everyone has freedom of belief, religion and conscience;” and furthermore, that “The persecution of a person on the account of his/her speech, thought, religion or belief as well as the compulsion to express his/her opinion about them shall be impermissible.”<sup>5</sup> Article 11 prohibits discrimination on any grounds, including based on religion.<sup>6</sup>
6. Under international human rights law, freedom of religion and belief is inter alia guaranteed by Article 18 the ICCPR, which Georgia ratified in 1994. As supported by the Human Rights Committee in its General Comment No. 22, this right ‘encompasses freedom of thought on all matters, personal conviction and the commitment to religion or belief, whether manifested individually or in community

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<sup>1</sup> World Population Review, ‘Georgia Population 2020’ <<http://worldpopulationreview.com/countries/georgia-population/>>.

<sup>2</sup> National Statistics Office of Georgia, ‘2014 General Population Consensus: Main Results’ <[http://census.ge/files/results/Census\\_release\\_ENG.pdf](http://census.ge/files/results/Census_release_ENG.pdf)>.

<sup>3</sup> Constitution of Georgia, art 8 <<http://parliament.ge/en/ajax/downloadFile/131642/constitution-of-georgia>>.

<sup>4</sup> ‘Georgia’s Mighty Orthodox Church’ *BBC* (2 July 2013) <<https://www.bbc.com/news/world-europe-23103853>>.

<sup>5</sup> Constitution (n 3) art 16.

<sup>6</sup> *Ibid.* art 11.

with others' and includes the 'freedom to have or to adopt a religion or belief of [one's] choice,' the right to 'replace one's current religion or belief with another or adopt atheistic views, as well as the right to retain one's religion or belief.' This same General Comment declares that even if 'a religion is recognized as a state religion or that it is established as official or traditional or that its followers comprise the majority of the population,' that this fact 'shall not result in any impairment of the enjoyment of any of the rights under the Covenant.'<sup>7</sup>

### *Places of Worship*

7. Religious minorities face significant obstacles in exercising their right to freedom of religion or belief in their struggle to build places of worship in Georgia.
8. In Batumi, the Muslim community has attempted to build a second mosque for two decades. There is only one mosque in the city, and due to lack of space, many worshippers stand outside during Friday prayers. Despite promises from the local and central governments, the Batumi municipality has repeatedly denied them a building permit. The local city council claimed that the land purchased by the Muslim community was too residential for a religious building despite the presence of several Orthodox churches in the area. On 30 September 2019, the Batumi City Court finally ruled that the local city authorities discriminated against the Muslim community, and overturned several legal acts used by the city to refuse to grant the permission for construction. Nevertheless, the court refused to order the mayor of the city to grant the permit, an act deemed to fall within the discretion of the Batumi municipality. It remains to be seen if the permit will eventually be granted.<sup>8</sup>
9. Likewise, Muslims are seeking the return of a half-ruined mosque in Mokhe. In the 1990s, the roof of the Mosque began collapsing, so the Muslim community rented a local house as a place of prayer until they could afford repairs. In 2014, protests erupted when the city attempted to demolish the partially ruined building. A contractor won the bid and attempted to demolish the building. Almost one hundred Muslims came to the work site and pled for the demolition to stop. Police came to remove the protestors, allegedly using violence to arrest some of them. The State Agency for Religious Issues commissioned an investigation after the event. Meanwhile, members of the Georgian Orthodox Church claimed, since the mosque was built on the site of an older church, and even used the stones from it, the site should revert to them. At the end of the investigation in December 2016, the State Commission announced that the building should stay in state ownership.<sup>9</sup>

### *Societal Violence and Discrimination*

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<sup>7</sup> UN Human Rights Committee, 'CCPR General Comment No. 22: Article 18 (Freedom of Thought, Conscience or Religion)' (30 July 1993) CCPR/C/21/Rev.1/Add.4 <<https://www.refworld.org/docid/453883fb22.html>>.

<sup>8</sup> 'Denial of construction permit for Batumi mosque was discriminatory, court rules' *OC Media* (30 September 2019) <<https://oc-media.org/denial-of-construction-permit-for-batumi-mosque-was-discriminatory-court-rules/>>.

<sup>9</sup> Mariam Gvartadze and Eka Chitanava, 'Georgia: Government and Orthodox block Muslims regaining mosque' *Forum 18* (28 February 2017) <[http://www.forum18.org/archive.php?article\\_id=2260](http://www.forum18.org/archive.php?article_id=2260)>.

10. Religious minority groups reportedly experience societal discrimination on account of their faith.<sup>10</sup> In media reports, Georgian Muslim communities are consistently mislabeled as “Meskhetian Turks” or “Tatars” among other names. Furthermore, minorities are often regarded as threats to the country’s national identity.<sup>11</sup>
11. In February 2016, the local Muslim population appealed to the municipal government of Adigeni to allocate land for a separate Muslim cemetery. Shortly thereafter, three Muslim men were injured in a brawl in the village. The local police opened an investigation for “petty hooliganism,” but they closed the case without labeling it as any form of discrimination.<sup>12</sup>
12. On December 22, 2016, a senior in school was told by headteacher Rekhviashvili that she would be removed from the school if she did not remove her hijab. Rekhviashvili informed the student that she was violating school regulations by wearing the hijab despite the fact that the school regulations do not mention any ban on headscarfs or hijabs. Notwithstanding testimony by multiple parties involved, the Ministry of Education claims that their investigation into the incident was inconclusive.<sup>13</sup>
13. After an appeal from the Human Rights Education and Monitoring Centre in 2017, an investigation by the Public Defender’s Office of Georgia confirmed that Muslims are singled out for additional questioning at border checkpoints, based solely on their religious identity. Furthermore, the investigation found that the Customs Office routinely confiscated the religious literature of Muslims and conducted extensive searches of Muslim women. This behavior is occurring at the border checkpoint between Turkey and Georgia, strongly hinting at anti-Muslim bias.<sup>14</sup>
14. On September 30, 2018, Vitali Safarov, a Yazidi Jew living and working in Georgia, was brutally stabbed to death outside of a bar in Tbilisi. Safarov worked as a program coordinator with a local NGO, the Centre for Participation and Development. He was beloved in the community and known for his passionate fight against xenophobia in Georgia. Officials originally refused to label the murder a hate crime, charging one person with premeditated murder. However, public pressure caused the prosecutor’s office to relabel the crime as “murder under aggravating circumstances due to racial, religious, national, or ethnic origins.” Judge Shorena Guntsadze found the two defendants guilty of murder, but found no aggravated circumstance. She argued that although the defendants were members of a Neo-Nazi group, she did not think the circumstances qualified the murder as a targeted hate crime. The local civil society organizations emphasize that this case demonstrates Georgia’s reluctance to investigate and prosecute acts of religious

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<sup>10</sup> Minority Rights, ‘Georgia: Current Issues’ <<https://minorityrights.org/country/georgia/>>.

<sup>11</sup> Manana Vardiashvili, ‘Research shows that Georgian media covers Muslims insufficiently’ *JAM News* (8 December 2017) <<https://jam-news.net/research-shows-that-georgian-media-covers-muslims-insufficiently/>>.

<sup>12</sup> ‘Ombudsman: Religious conflicts still unresolved in Georgia’ *OC Media* (4 April 2017) <<https://oc-media.org/ombudsman-religious-conflicts-still-unresolved-in-georgia/>>.

<sup>13</sup> Mariam Gvartadze and Eka Chitanava, (n 8).

<sup>14</sup> ‘Muslims’ rights violated at Georgia’s borders ‘because of their religion’ *OC Media* (4 May 2017) <<https://oc-media.org/muslims-rights-violated-at-georgias-borders-because-of-their-religion/>>.

persecution.<sup>15</sup>

15. In Georgia, all men from age 18 to 27 are required to serve one year of military service. Exemptions are in place for students, religious clergy, and for various health reasons. Recruits who apply for a religious exemption must enlist in “alternative service,” such as “emergency services, firefighting, agriculture production, and healthcare.” In March 2019, the head of the Georgian Parliament’s Defense Committee, Irakli Sesiashvili, introduced a bill to scrap exemptions for mandatory military service for all religious clergy except Georgian Orthodox priests. Sesiashvili explained that the Georgian Orthodox Church received the special exemption due to a special constitutional agreement with the Orthodox Church.<sup>16</sup> The Head of the Georgian Muslim’s Union, Taniel Nakaidze stated that the adoption of this law “would break the principle of equality.”<sup>17</sup>
16. The Human Rights Committee recognized in its General Comment No. 22 that the right to refuse to perform military service on the grounds of conscience “can be derived from Article 18”; and that “the obligation to use lethal force...may seriously conflict with the freedom of conscience and the right to manifest one’s religion or belief.”<sup>18</sup> In a later communication, the Committee also affirmed that the right to conscientious objection exists regardless of state recognition, and that states are therefore obligated to recognize it.<sup>19</sup> It is therefore imperative that this basic freedom is safeguarded for all people, and that their right to live and act according to their deeply held convictions or religious beliefs is fully respected.
17. In regard to many of the instances of violence and discrimination outlined above, in 2019, a new parliamentary Working Group on Religious Freedom of the Georgian Human Rights and Civil Integration Committee was established to discuss challenges facing different religious confessions. The Chair of the Committee, MP Sopio Kiladze, stated in a press release that “the ultimate goal of the Working Group meetings is to develop a law to ensure freedom of confession and to protect the public interest”. However, concerns have been raised that such a law could limit the number of religious groups with legal status.<sup>20</sup>
18. The Council of Religions under the Public Defender of Georgia, the biggest forum of religious organizations in the country, has proposed various alternative solutions to the problems experienced by religious minorities in Georgia, including: effectively investigating crimes committed on religious grounds; investigating unequal and discriminatory treatment of different religious communities in taxation and other matters; removing obstacles to the construction of non-Georgian Orthodox places of

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<sup>15</sup> ‘Georgia: Final Statement by international observers representing the Civic Solidarity Platform at the trial of suspects in the murder of Vitali Safarov’ Civic Society (10 July 2019) <<http://www.civicsolidarity.org/article/1613/georgia-final-statement-international-observers-representing-civic-solidarity-platform>>.

<sup>16</sup> ‘New bill in Georgia would scrap military exemptions for non-Orthodox religions’ *OC Media* (4 May 2017) <https://oc-media.org/new-bill-in-georgia-would-scrap-military-exemptions-for-non-orthodox-religions/#more-17369>.

<sup>17</sup> *Ibid.*

<sup>18</sup> UN Human Rights Committee, ‘General Comment No. 22: Article 18: Freedom of thought, conscience or religion’ (30 July 1993) U.N. Doc. CCPR/C/21/Rev.1/Add.4 ¶ 1.

<sup>19</sup> UN Human Rights Committee, Yeo-Bum Yoon and Myung-Jin Choi v. Republic of Korea, Communication No. 1321/2004 and 1322/2004 (23 January 2007) CCPR/C/88/D/1321-1322/2004.

<sup>20</sup> Mariam Gavtadze and Eka Chitanava, ‘Georgia: Who needs a Religion Law?’ *Forum 18* (15 August 2019) <[http://www.forum18.org/archive.php?article\\_id=2501](http://www.forum18.org/archive.php?article_id=2501)>.

worship; returning buildings confiscated in Soviet times to their rightful owners; and the promotion of an environment that facilitates freedom of religion and belief in public schools.<sup>21</sup>

**(b) Recommendations**

19. In light of the aforementioned, ADF International suggests the following recommendations be made to the state of Georgia:

- i) Take effective measures to guarantee religious minorities the right to build and maintain places of worship;
- ii) Address outstanding issues relating to the ownership of places of worship and related properties of religious minorities;
- iii) Develop and implement measures to promote peaceful coexistence between all groups of the population and combat discrimination, intolerance and violence targeting religious minorities;
- iv) Protect people belonging to religious minorities from undue restrictions to their freedom of movement;
- v) Promote intercultural and interreligious dialogue and cooperation, as a way of strengthening its non-discrimination programmes and supporting its awareness-raising campaigns against discrimination;
- vi) Redouble efforts to protect freedom of religion or belief, including by safeguarding the rights of all conscientious objectors.

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<sup>21</sup> Ibid.



**VIENNA**

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