



MEMORANDUM ON MAINTAINING STATISTICS ON CRIMES COMMITTED ON GROUNDS OF INTOLERANCE WITH DISCRIMINATION BASIS AND PUBLISHING A JOINT REPORT

Parties of the Memorandum:
Supreme Court of Georgia
Prosecution Service of Georgia
Ministry of Internal Affairs of Georgia
Special Investigation Service of Georgia
LEPL National Statistics Office of Georgia

Preamble

Parties of the Memorandum,

Recognize the special importance of statistical data on crimes committed on grounds of intolerance with discrimination basis (hereinafter – “on grounds of intolerance”) for identification and implementation of criminal and human rights policy in the state,

Recognize that the fight for equality is a complex and dynamic objective and therefore, creating a data system for crimes committed on grounds of intolerance is a continuous process and needs constant improvement,

Aim to create a contemporary, comprehensive data system for crimes committed on grounds of intolerance, in compliance with international standards,

Believe that the data system for crimes committed on grounds of intolerance should be accurate, credible, transparent, foreseeable and public,

Realize that the data system for crimes committed on grounds of intolerance should comply with national and international human rights and equality standards, be responsive to contemporary challenges and serve the purpose of solving problems in the field concerned,

Recognize the importance of cooperation, express readiness for introducing the agreed principles and joint approach in the field of data collection on crimes committed on grounds of intolerance, and agree on the following Memorandum of Cooperation (hereinafter, „the Memorandum“).

1. Purpose of the Memorandum

1.1. Determine the principles, standards and rules of cooperation between the Parties of the Memorandum in the field of collection, processing and analysis of data on crimes committed on grounds of intolerance and preparing and publishing a joint statistical report.

1.2. Determine the rules of collection, processing and analysis of data on crimes committed on grounds of intolerance and preparing and publishing a joint statistical report.

2. Contents of the Memorandum

This Memorandum has Annex that forms an integral part of this Memorandum.

The following is determined by Annex:

2.1. The concept of joint statistics on crimes committed on grounds of intolerance;

2.2. Classification of crimes committed on grounds of intolerance and the data to be processed for the purposes of joint collection of data on crimes committed on grounds of intolerance;

2.3. The rules of collecting, processing and analysing the data on crimes committed on grounds of intolerance by the Parties and preparing and publishing a joint statistical report;

2.4. Distribution of information to be processed between the Parties, in consideration of their competencies.

3. Rights and obligations of the Parties

3.1. The Parties shall maintain and provide to LEPL National Statistics Office of Georgia (hereinafter – GeoStat) data on crimes committed on grounds of intolerance, according to the procedure provided in Annex of this Memorandum.

3.2. Annually and no later than March 1, GeoStat shall prepare and publish a joint report on crimes committed on grounds of intolerance for the previous year.

3.3. With the exception of GeoStat, the Parties shall, no later than April 15, July 31, October 15 of each reporting period and January 31 of the year following the reporting period, provide to each other information necessary for maintaining the data defined by Annex of this Memorandum.

3.4. The Parties shall, once a year and no later than February 20, provide GeoStat with data defined in Annex of this Memorandum, necessary for publishing a joint report on crimes committed on grounds of intolerance, for the period from January 1 through December 31 of the previous year, in Georgian and English languages.

3.5. The Parties may analyze the data in the published reports over the intervals agreed upon with each other and provide the joint statistical analysis document to GeoStat. GeoStat shall ensure to make the document public within 1 month.

3.6. The Parties shall, within the scope of their competencies, ensure the accuracy of data on crimes committed on grounds of intolerance, collected, processed, analysed, and published by them.

3.7. The Parties shall abide by the principles provided in the Preamble of this Memorandum in the process of collection, processing and analysis of data on crimes committed on grounds of intolerance.

3.8. The Parties may, within the scope of their competencies, carry out any and all legitimate actions for fulfilment of their obligations provided in this Memorandum.

3.9. The Parties are entitled to request fulfilment of the obligations specified in this Memorandum from each other.

4. Entry into force, publishing, amendment and termination of this Memorandum

4.1. This Memorandum shall enter into force upon its signing and shall stay in effect indefinitely.

4.2. Upon signing, the Memorandum shall be published and public access to the Memorandum should be ensured for the duration of its term.

4.3. This Memorandum may be amended in writing, based on the agreement of the Parties.

4.4. Amending this Memorandum based on a written agreement of the Parties shall be required in an event of changes in functions, rights and obligations of the Parties based on a binding national or international legislation (including international agreements and case law of international courts) and in norms regulating crimes committed on grounds of intolerance, which make it objectively impossible to maintain the statistics specified in Annex of this Memorandum, and/or in case collection, processing and analysis of additional data is required.

4.5. This Memorandum may be terminated based on agreement of the Parties, and as a result of amendments in the binding national or international legislation that make it objectively impossible to fulfil the requirements of this Memorandum and they may not be overcome by amending this Memorandum.

5. Authenticity and copies of this Memorandum

5.1. Authentic text of the Memorandum shall be made in writing, in Georgian.

5.2. This Memorandum shall be made in five original and equally valid copies, according to the number of the Parties, and shall be signed by a representative of each Party.

6. Transitional provisions

6.1. Upon signing this Memorandum, the Memorandum of Cooperation on Maintaining Statistics on Crimes Committed on Grounds of Intolerance with Discrimination Basis and publishing a joint report signed by parties on September 23, 2020, shall be terminated.

6.2. The Special Investigation Service shall commence the collection and processing of data subject to this Memorandum from the first day of the month following the date of signing this Memorandum.

Signed on: **October 5, 2023**

Irakli Shotadze,
Prosecutor General of Georgia

Signature: _____

Vakhtang Gomelauri
Minister of Internal Affairs of Georgia

Signature: _____

Karlo Katsitadze
Head of Special Investigation Service of Georgia

Signature: _____

Nino Kadagidze

Chairperson of the Supreme Court of Georgia

Signature: _____

Gogita Todradze
Executive Director of LEPL National Statistics
Office of Georgia

Signature: _____

Annex

CLASSIFICATION OF CRIMES COMMITTED ON GROUNDS OF INTOLERANCE WITH DISCRIMINATION BASIS

For the purposes of maintaining joint statistics on crimes committed on grounds of intolerance with discrimination basis, crimes committed on grounds of intolerance consists of the following three categories:

1. Crimes with the motive of intolerance as necessary element of their composition.

Crimes provided in Articles 133², 142 142¹, 142², 155, 156, 166, 239¹ of the Criminal Code of Georgia fall under this category;

2. Crimes with the motive of intolerance as their qualifying element.

Crimes provided in subparagraphs “d” and “d¹”, paragraph. 2 of Article 109, paragraph 2 “a” of Article 115, subparagraphs “d” and “d¹” of paragraph 5 of Article 117, paragraph 3 of Article 118 (same as subparagraphs “d” and “d¹” of paragraph 5 of Article 117), paragraph 2 “g” of Article 126, paragraph 2 “f” of Article 144¹, paragraph 2 “f” of Article 144³, paragraph 3 “b” of Article 258 of the Criminal Code of Georgia;

3. Any deliberate crime provided in the Criminal Code of Georgia, in the process of commission of which the individual was acting based on the motive of intolerance with discrimination basis provided in paragraph 1 of Article 53¹ of the Criminal Code of Georgia.

Basis of discrimination provided in Article 53¹ §1 of the Criminal Code of Georgia include: race, colour, language, sex, sexual orientation, gender, gender identity, age, religion, political or other beliefs, disability, citizenship, national, ethnic or social affiliation, origin, property or social status, place of residence and other basis of discrimination.

For the purposes of maintaining joint statistics on crimes committed on grounds of intolerance with discrimination basis, the data on crimes committed on grounds of intolerance will be territorially disaggregated based on the principle of regional division of Georgia, in the following manner:

- Tbilisi;
- Autonomous Republic of Abkhazia;
- Autonomous Republic of Adjara;
- Kakheti;
- Shida Kartli;
- Kvemo Kartli;
- Imereti;
- Guria;
- Samegrelo and Zemo Svaneti;
- Samtskhe-Javakheti;

- Racha-Lechkhumi and Kvemo Svaneti;
- Mtskheta-Mtianeti.

Note:

Criminal cases subjected to jurisdiction of the Patrol Police of the **Ministry of Internal Affairs of Georgia** and Departments of the Central Criminal Police, as well as the State Sub-Agency - Border Police of Georgia, in consideration of their specific nature, will not be disaggregated according to the principle of regional division of Georgia.

The Prosecution Service of Georgia, in regions of Georgia where the Regional Prosecutor's Office of Georgia is not represented as a separate entity, will conduct territorial disaggregation of the data according to the territorial unit of the Prosecution Service of Georgia.

Territorial units of the Prosecution Service of Georgia are as follows:

1. Tbilisi Prosecutor's Office (published data includes that of the Office of the Prosecutor General of Georgia);
2. Prosecutor's Office of Autonomous Republic of Adjara (encompasses Autonomous Republic of Adjara and Guria region);
3. Prosecutor's Office of Autonomous Republic of Abkhazia;
4. Kakheti Regional Prosecutor's Office;
5. Kvemo Kartli Regional Prosecutor's Office;
6. Shida Kartli and Mtskheta-Mtianeti Prosecutor's Office;
7. Samtskhe-Javakheti Prosecutor's Office;
8. Regional Prosecutor's Office of the Western Georgia (encompasses Imereti, Racha-Lechkhumi and Kvemo Svaneti regions);
9. Samegrelo-Zemo Svaneti Regional Prosecutor's Office

The Special Investigation Service, in regions of Georgia where a unit of the Investigation Department of the Special Investigation Service is not represented as a separate entity, will conduct territorial disaggregation of the data according to the territorial unit of the Special Investigation Service.

Territorial units of the Special Investigation Service are as follows:

1. Eastern Georgia Unit (Tbilisi Municipality, Mtskheta-Mtianeti Region, Kvemo Kartli Region, Shida Kartli Region, Samtskhe-Javakheti Region, Tskhinvali Region);
2. Kakheti Unit (Kakheti Region);
3. Western Georgia Unit (Imereti Region, Racha-Lechkhumi and Kvemo Svaneti-Region);
4. Samegrelo-Zemo Svaneti Unit (Samegrelo-Zemo Svaneti Region, Autonomous Republic of Abkhazia);
5. Unit of Autonomous Republic of Adjara (Autonomous Republic of Adjara, Guria Region).

The Ministry of Internal Affairs of Georgia

For the purposes of preparing joint statistics reports, the Ministry of Internal Affairs of Georgia will present statistical information on crimes allegedly committed on grounds of intolerance, which will include investigations initiated during the reporting period, articles based on which the investigation was initiated and alleged basis of discrimination.

At the Ministry of Internal Affairs of Georgia, the Department of Human Rights Protection and Investigation Quality Monitoring is responsible for collection of data required for the Memorandum purposes. The department exercises its functions using internal and external control mechanism.

- The mechanism of internal control entails monitoring of investigation quality on a daily basis by the department staff, through the electronic case management system for criminal cases and other means of communication.
- The mechanism of external control entails receiving information about a particular case from external sources (media, NGOs, Public Defender's Office, etc.), both verbally and in writing.

For the purposes of joint statistics reporting, units of observation for data gathered by the Ministry of Internal Affairs of Georgia on crimes committed on grounds of intolerance include:

1. The number of investigations into crimes committed on possible grounds of intolerance, initiated by the Ministry of Internal Affairs of Georgia – unit of observation – a criminal case.

This entails all criminal cases where, based on a preliminary examination, indicator/indicators of the motive of intolerance are evident, in particular:

- (alleged) victim's perception;
- (alleged) victim's affiliation and/or association with a minority group;
- witness' perception;
- (alleged) defendant's perception;
- drawings, symbols and inscriptions made at the scene of the incident;
- comments made at the crime scene;
- ethnic, national, religious and cultural differences between the (alleged) defendant and the (alleged) victim;
- (alleged) defendant's membership of and/or association with an organized criminal group involved in crimes committed on grounds of intolerance;
- place and time of commission of the crime;
- nature and means of commission of the crime;
- nature and frequency of crimes and incidents committed by the (alleged) defendant in the past.

This type of data will also be territorially disaggregated.

2. Relevant article – unit of observation – a criminal case.

For the purposes of joint data reporting, the Ministry of Internal Affairs will record investigations initiated into crimes committed on possible grounds of intolerance according to articles that served as grounds for initiating the investigation.

3. Basis of discrimination segregated by territorial units – unit of observation – a criminal case.

The Ministry of Internal Affairs of Georgia will record investigations initiated into crimes committed on possible grounds of intolerance segregated by specific basis of discrimination and territorial unit, based on indicator(s) of motive of intolerance identified as a result of preliminary examination.

4. Involvement of Victim and Witness Coordinators – unit of observation – a criminal case.

Such data will represent the total number of the cases of crimes committed on grounds of intolerance with discrimination basis where a Victim and Witness Coordinator of the Ministry of Internal Affairs of Georgia was involved.

The Special Investigation Service

For the purposes of preparing joint statistics reports, the Special Investigation Service will present statistical information on crimes allegedly committed on grounds of intolerance, which will include investigations initiated during the reporting period, articles based on which the investigation was initiated and alleged basis of discrimination.

At the Special Investigation Service, the Department of Investigation Quality Monitoring and Analytics is responsible for collection of data required for the Memorandum purposes. The department exercises its functions using internal and external control mechanisms.

- The mechanism of internal control entails monitoring of investigation quality on a daily basis by the department staff, through the electronic case management system for criminal cases and other means of communication.
- The mechanism of external control entails receiving information about a particular case from external sources (media, NGOs, Public Defender's Office, etc.), both verbally and in writing.

For the purposes of joint statistics reports, units of observation for data gathered by the Special Investigation Service on crimes committed on grounds of intolerance include:

1. The number of investigations into crimes committed allegedly on grounds of intolerance, initiated by the Special Investigation Service – unit of observation – a criminal case.

This entails all criminal cases where, based on a preliminary examination, indicator/indicators of the motive of intolerance are evident, in particular:

- (alleged) victim's perception;
- (alleged) victim's affiliation and/or association with a minority group;
- witness' perception;
- (alleged) defendant's perception;
- drawings, symbols and inscriptions made at the scene of the incident;
- comments made at the crime scene;
- ethnic, national, religious and cultural differences between the (alleged) defendant and the (alleged) victim;
- (alleged) defendant's membership of and/or association with an organized criminal group involved in crimes committed on grounds of intolerance;
- place and time of commission of the crime;
- nature and means of commission of the crime;
- nature and frequency of crimes and incidents committed by the (alleged) defendant in the past.

This type of data will also be territorially disaggregated.

2. Relevant article – unit of observation – a criminal case.

For the purposes of joint statistics reports, the Special Investigation Service will record investigations initiated into crimes committed on possible grounds of intolerance according to articles that served as grounds for initiating the investigation.

3. Basis of discrimination segregated by territorial units – unit of observation – a criminal case.

The Special Investigation Service will record investigations initiated into crimes committed on possible grounds of intolerance segregated by specific basis of discrimination and territorial unit, based on indicator(s) of motive of intolerance identified as a result of preliminary examination.

4. Involvement of counsels of victim, witness, and aggrieved party – unit of observation – a criminal case.

Such data will represent the total number of the cases of crimes committed on grounds of intolerance with discrimination basis where a counsel of victims, witness, and aggrieved party was involved.

The Prosecution Service of Georgia

For the purposes of preparing joint statistics reports, the Prosecution Service of Georgia will present statistical information on decisions to initiate/not to initiate a criminal prosecution, to terminate criminal prosecution and investigation during the reporting period, in connection to crimes committed on grounds of intolerance, and information about victims.

For the purposes of joint reporting of data, units of observation for the data collected by the Prosecution Service of Georgia include:

1. Initiation of criminal prosecution – unit of observation – a person.

The Prosecution Service of Georgia will record the number of individuals subjected to criminal prosecution (this entails overall data on initiation of criminal prosecution, including data about criminal prosecution initiated in a case where investigation has been launched during the reporting period), as well as their sex (male or female), age group (minors from 14 to 18 years, adults – 18 years or older) and territorial distribution segregated by the basis of intolerance. In addition, the number of criminal prosecutions initiated for a specific crime provided in the Criminal Code, according to the number of persons prosecuted.

2. Diversion – unit of observation – a person.

The Prosecution Service of Georgia will record the number of individuals that have been diverted from criminal liability (it entails overall data about diverted individuals, including data on diverted individuals in cases where investigation was initiated during the reporting period), as well as their sex (male or female), age group (minors from 14 to 18, adults – 18 or older) and territorial distribution segregated by the basis of intolerance, as well as the number of diverted individuals for a specific crime provided in the Criminal Code.

3. Termination of criminal prosecution – unit of observation – a person.

The Prosecution Service of Georgia will record the number of persons against whom criminal prosecution has been terminated (it entails overall data about termination of criminal prosecution, including data on criminal prosecutions terminated in cases where investigation was initiated during the reporting period), as well as their sex (male or female), age group (minors from 14 to 18 years, adults – 18 years or older) and territorial distribution segregated by the basis of intolerance, as well as the number of criminal prosecutions terminated for a specific crime provided in the Criminal Code, according to the number of persons.

4. Criminal prosecutions not initiated – unit of observation – a person.

The Prosecution Service of Georgia will record the number of persons against whom criminal prosecution was not initiated by the decree of the prosecutor (it entails overall data about

criminal prosecutions not initiated, including data on criminal prosecutions not initiated in cases where investigation was initiated during the reporting period), as well as their sex (male or female), age group (minors from 14 to 18 years, adults – 18 years or older) and territorial distribution segregated by the basis of intolerance, as well as the number of persons against whom criminal prosecution was not initiated, for specific crimes provided in the Criminal Code.

5. Termination of investigation – unit of observation – a case.

For the purposes of joint reporting of data, the Prosecution Service of Georgia will record decisions to terminate investigation initiated into a criminal case during the reporting period, according to relevant article of the Criminal Procedure Code of Georgia (CPC), basis of termination of investigation and territorial distribution.

6. Victims – unit of observation – a person.

The Prosecution Service of Georgia will record the number of persons recognized as victims during the reporting period (it entails overall data about persons recognized as victims, including information about persons recognized as victims in cases where investigation was initiated during the reporting period), as well as their sex (male or female), age group (minors from 14 to 18 years, adults – 18 to 60 years, elderly – over 60 years), in case of legal persons – the number of legal persons victimized, and territorial distribution segregated by the basis of intolerance, as well as the number of victims of a specific crime provided in the Criminal Code.

7. Social connection

The Prosecution Service of Georgia will record social connection of persons provided in paragraphs 1-4 with the victim.

8. Victim and Witness Coordinator – unit of observation – a case.

Such data will represent the total number of the cases of crimes committed on grounds of intolerance with discrimination basis where a Victim and Witness Coordinator of the Prosecution Service of Georgia was involved.

The Supreme Court of Georgia

For the purposes of preparing joint statistics reports, the Supreme Court of Georgia will present statistical information about cases received and handled by district (city) courts, according to crimes committed on grounds of intolerance, the number of persons convicted and the types of punishment imposed, as well as information about application of Article 53¹(1) of the Criminal Code of Georgia as an aggravating factor in judgments delivered by courts.

For the purposes of joint data reporting, the Supreme Court of Georgia will record the following data in connection to crimes committed on grounds of intolerance:

1. The number of cases received and examined by courts – unit of observation – a case.

The Supreme Court will record the number of cases of crimes allegedly committed on grounds of intolerance received and examined by district (city) courts on regional basis. Information on investigations launched during the reporting period will be retrieved separately from these cases.

2. The number of criminal cases handled – unit of observation - a case/person.

The total number of cases of crimes allegedly committed on grounds of intolerance examined by district (city) courts of Georgia, including the number of cases where investigation was initiated during the reporting period, will be recorded.

The following cases will be set apart from the examined ones:

- **The number of cases where verdict was delivered** (following a hearing on the merits or based on a plea agreement);
- **The number of terminated cases**, indicating relevant article of Criminal Procedure Code;
- **The number of cases returned to the Prosecution Service** (for diversion purposes, or due to court's refusal to render a judgment based on plea agreement).

3. Judgments of acquittal rendered by courts on cases of crimes allegedly committed on grounds of intolerance – unit of observation – a person.

The number of individuals for whom a judgment of acquittal has been delivered by district (city) courts will be recorded on regional basis.

4. The number of persons convicted by courts for crimes committed on grounds of intolerance – unit of observation – a person.

By the specific ground of discrimination, the following will be recorded:

1. The total number of convicted persons, including those involved in the investigations launched during the reporting period;
2. The number of convicts by the articles of the criminal code;

3. The number of convicts by the sex (male or female), and age (minors from 14 to 18 years, adults – 18 years or older);
4. The social connection between the convict and the victim.

5. Types of penalties imposed – unit of observation – a person.

The Supreme Court will record types of penalties imposed on convicted persons segregated by the articles of the Criminal Code of Georgia.

6. Application of Article 53¹(1) of the Criminal Code of Georgia - unit of observation – a case.

The following will be recorded by a specific ground of discrimination:

1. The number of convicts to whom the court applied Article 53¹§1 of the Criminal Code as the aggravating factor of criminal liability segregated by Criminal Code articles;
2. The number of convicts to whom the court applied Article 53¹§1 of the Criminal Code as the aggravating factor of criminal liability segregated by regional units.