

GEORGIA

Statistical data

Population size of the country was estimated at 3,989,000⁷³ (year 2020).

Estimate number of PLHIV is 10,500.

The state of the 90-90-90 treatment target in 2020⁷⁴ was as follows:

- Percentage of PLHIV diagnosed (first 90 target): 64 %
- Percentage of PLHIV on treatment (second 90 target): 91 %
- Percentage of PLHIV with undetectable viral load (third 90 target): 97 %

Main epidemiological trends

Georgia belongs to HIV/AIDS low prevalence countries that are at a high risk for an expanding epidemic. A rapid spread of HIV/AIDS is expected in Georgia in the close future, unless urgent measures are undertaken immediately. The registered number of HIV/AIDS cases does not reflect the actual spread of the infection in Georgia.

The estimated number of people living with HIV/AIDS is around 10,500. National HIV prevalence is low (0.4%) but is up to 54 times higher among some key populations (e.g. MSM). In Georgia HIV/AIDS prevalence is related to many factors, such as drug use, high STI prevalence, lack of single-use medical instruments and the problem of sterilization and disinfection; lack condom usage.

Homophobia, biphobia, and transphobia are present in the country and PLHIV may often encounter HIV-related stigma. Knowledge about HIV/AIDS among the Georgian population is very limited. The first HIV/AIDS case in Georgia was detected in 1989. By June 2nd, 2021, a total of 8,853 HIV/AIDS cases have been registered in the Infectious Diseases, AIDS & Clinical Immunology Research Centre, including 6,612 men and 2,241 women. Most patients belong to the age group of 29-40. 4,441 patients developed AIDS. 1,839 patients died.

Relevant anti-discrimination legislation applicable in healthcare settings

Georgian legislation guarantees the protection of PLHIV against discriminations in healthcare settings at multiple levels. Except for on act (Law of Georgia on HIV Infection/AIDS), the legislation is generally not formulated as HIV-specific; protection is provided through general anti-discrimination provisions.

Constitutional level

The **Constitution of Georgia** anchors the right to equal treatment and protection against discrimination in Article 11 which reads:

⁷³ UN Department of Economic and social Affairs, Population Division. *World Population Prospects 2019*. Available at: <https://population.un.org/wpp/Download/Standard/Population/>

⁷⁴ As reported by the Centre for Information and Counseling on Reproductive Health – Tanadgoma.

"1. All persons are equal before the law. Any discrimination on the grounds of race, colour, sex, origin, ethnicity, language, religion, political or other views, social affiliation, property or titular status, place of residence, or on any other grounds shall be prohibited."

Although this constitutional provision is not HIV-specific, nor does it include the discriminatory ground of "health status" or "disability", its demonstrative character expressed by the formulation "other grounds" shall ensure the rights of PLHIV are protected and any discrimination against PLHIV is prohibited.

Primary legislation level

Law of Georgia on Healthcare⁷⁵ regulates the relations between state authorities and natural and legal persons in healthcare. Article 6(1) reads:

"1. It shall be prohibited to discriminate against a patient due to his/her race, skin colour, language, sex, religion, political and other beliefs, national, ethnic and social affiliation, origin, property status and title, place of residence, disease, sexual orientation, or a personal negative attitude."

The provision is not HIV-specific but prohibits discrimination based on "disease". Therefore, protection against discrimination on the basis of HIV is guaranteed under this law.

Law of Georgia on Patient Rights⁷⁶ serves the purpose of protecting citizens' rights to receive healthcare and ensure the inviolability of their honour and dignity. Article 6(1) reads:

"Patients may not be discriminated against on the grounds of race, skin colour, language, sex, genetic heritage, belief and religion, political and other opinions, national, ethnic or social origin, property and social status, place of residence, illness, sexual orientation or negative personal attitude."

The provision is not HIV-specific but prohibits discrimination based on "illness". Therefore, protection against discrimination on the basis of HIV is guaranteed under this law.

Law of Georgia on the Elimination of All Forms of Discrimination⁷⁷ is intended to eliminate every form of discrimination and to ensure equal rights of every natural and legal person under the legislation of Georgia, irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics (Article 1 of the Law of Georgia on the Elimination of All Forms of Discrimination).

The provision is not HIV-specific but prohibits discrimination based on "health". Therefore, protection against discrimination on the basis of HIV is guaranteed under this law.

⁷⁵ Law of Georgia on Health Care. Available at: <https://matsne.gov.ge/en/document/view/29980?publication=37>

⁷⁶ Law of Georgia on Patient Rights. Available at: <https://matsne.gov.ge/en/document/view/16978?publication=7>

⁷⁷ Law of Georgia on the Elimination of All Forms of Discrimination. Available at: <https://matsne.gov.ge/en/document/view/2339687?publication=0>

The **Criminal Code of Georgia**⁷⁸ establishes grounds for criminal liability, defines which acts are prohibited, and determines an appropriate punishment or any other type of penal sanction. Article 142(1) prohibits discrimination when it states that:

"1. Violation of human equality on the grounds of language, sex, age, nationality, origin, birthplace, place of residence, material or rank status, religion or belief, social belonging, profession, marital status, health status, sexual orientation, gender identity and expression, political or other views or of any other signs that have substantially breached human rights,

– shall be punished by a fine or corrective labour for up to one year and/or with imprisonment for up to two years."

The provision is not HIV-specific but prohibits discrimination based on "health status". Therefore, protection against discrimination on the basis of the HIV status is guaranteed under this law.

Law of Georgia on HIV Infection/AIDS⁷⁹ provides universal access, free will, and confidentiality of personal information. It vigorously secures every constitutional right for PLHIV (right to education, right to employment, etc.). Article 5 establishes the principles of state policy regarding HIV/AIDS, including the principles of protection of PLHIV against discrimination. Article 5(f) provides that:

"The principles of state policy in the field of HIV infection/AIDS shall be: [...]

f) the protection of the rights, honour and dignity of physical persons and the prevention of discrimination against them with regard to HIV infection/AIDS."

Furthermore, Article 10(1) states that it shall not be permitted to limit the civil, political, social, economic, and cultural rights and freedoms of persons infected with HIV and/or ill with AIDS only on the basis of their HIV+ status, except for the cases provided for by the legislation of Georgia.

Legislation that may provide basis for discrimination against PLHIV in healthcare settings

Law of Georgia on Patient Rights can provide basis for discrimination against PLHIV due to the rule laid down in Article 6(2) which reads:

"2. The legislation of Georgia shall determine the conditions for limiting patient rights with respect to certain diseases."

This provision creates a legal framework for limiting patient rights, including the rights of PLHIV.

Law of Georgia on HIV Infection/AIDS is the only law that regulates an individual sexually transmitted infection or virus. Instead of establishing adequate preventive guarantees of non-discrimination and mechanisms for fighting unequal treatment, the law copies provisions of the general law on patient rights and obligations. Being regulated with an unnecessary separate law, HIV is given special attention within the Georgian legal system, which results in exacerbating the stigma around PLHIV and the LGBTQ+ community in general. Moreover, this law contains provisions of a discriminatory nature. Under Article 11(2), the disclosure of one's HIV+ status to a sexual partner is

⁷⁸ The Criminal Code of Georgia. Available at: <https://matsne.gov.ge/en/document/view/16426?publication=209>

⁷⁹ Law of Georgia on HIV Infection/AIDS. Available at: <https://matsne.gov.ge/en/document/view/90088?publication=3>

mandatory; an obligation that is being eliminated from the legal systems of many countries. In Article 11(1), the law also provides legal basis for criminalization of HIV transmission without taking into account the doctrine of undetectable viral load. In June 2020, the association “Equality Movement” submitted a draft containing amendments to Article 131 of the Criminal Code (containing the criminal offense of transmitting AIDS) to the Parliament of Georgia. The draft law proposes amendments to the current article in order to eradicate discriminatory regulation. The process is ongoing.

In addition, Law of Georgia on HIV Infection/AIDS provides basis for discrimination against PLHIV in regard to occupational limitations in the area of healthcare (i.e. PLHIV cannot perform certain professions in healthcare). [see section on “Prohibitions and limitations on working in specific healthcare professions for PLHIV”]

Law of Georgia on the Legal Status of Aliens and Stateless Persons⁸⁰ lays down duties and restrictions of such persons. Article 18(1)(f) states that a residence permit in Georgia may be denied if the applicant has such infectious or other diseases, the nature, severity, or duration of which may pose a threat to the population of Georgia. The list of such diseases shall be established by the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia. Such list was indeed published by the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs in the form of Order No. 300/N⁸¹. HIV/AIDS is included among the listed diseases.

Means of reporting discrimination in healthcare settings (legal and other remedies)

When PLHIV come across discrimination in healthcare settings, several means of protection are available to them under Georgian law. These include:

- citizens' application to the State Regulation Agency of Medical Activities;
- complaint to the Public Defender of Rights;
- lodging a criminal report;
- legal action.

Citizens' application to the State Regulation Agency of Medical Activities

Since 2011, the State Regulation Agency of Medical Activities (hereinafter “Agency”) is responsible for controlling the quality of medical care provided to patients by all legal entities and individuals. The Agency is authorized to receive and examine citizens' applications and issue relevant reports. The organisation, legal status and functioning of the Agency are regulated in the Order of the Minister of Labour, Health, and Social Affairs of Georgia No. 01-64/6⁸².

Complaint to the Public Defender of Rights

⁸⁰ Law of Georgia on the Legal Status of Aliens and Stateless Persons. Available at:

<https://matsne.gov.ge/en/document/view/2278806?publication=12>

⁸¹ Order of the Minister of Labour, Health, and Social Affairs of Georgia No. 300/N. Available at:

<https://matsne.gov.ge/ka/document/view/67696?publication=0>

⁸² Order of the Minister of Labour, Health, and Social Affairs of Georgia No. 01-64/6. Available at:

<https://matsne.gov.ge/ka/document/view/1544211?publication=9>

The Public Defender of Georgia (hereinafter "Public Defender") is a constitutional institution which supervises the protection of human rights and freedoms within its jurisdiction on the territory of Georgia. It identifies the violations of human rights and contributes to the restoration of the violated rights and freedoms.

The Public Defender examines applications and complaints submitted by natural and legal persons or groups of persons who consider themselves victims of discrimination. As primary means of conflict resolution, the Public Defender attempts to settle the submitted cases through an amicable agreement of the parties. If the parties fail to reach an agreement and if there is sufficient evidence of bias, the Public Defender then proceeds to submit recommendations to relevant institutions or persons in order to restore the rights of the victims of discrimination. Furthermore, the Public Defender prepares and forwards general proposals to relevant institutions or persons in the matter of preventing and combating discrimination. If an administrative body fails to respond to a recommendation and there is sufficient evidence of discrimination, the Public Defender may request the issue of an administrative legal act of a performance of an

Regarding individual cases, the Public Defender is authorized to apply to a court as an interested person, according to the Administrative Procedure Code of Georgia.

[Filing a criminal report](#)

Under certain circumstances, discrimination can constitute a criminal offense under Article 142(1) of the Criminal Code of Georgia. Regarding this criminal offense, any person may report a crime in order to incite an investigation.

[Civil lawsuit](#)

Any person who considers himself/herself to be a victim of discrimination may bring a civil legal action against the person/institution which he/she believes to have committed the discriminatory conduct and make a claim for moral and/or material damages under Article 10(1) of Law on the Elimination of All Forms of Discrimination. The procedure for bringing a civil legal action is governed by the Civil Procedure Code of Georgia. When filing a claim, the plaintiff shall present to the court those facts and evidence that provide grounds to assume that discriminatory action has been committed. After this, the burden of proof that he/she has not achieved the discriminative act shall be imposed on the defendant.⁸³

Obligation of PLHIV to disclose their HIV+ status in healthcare settings

Under Georgian law, PLHIV do not have an obligation to disclose their HIV+ status to healthcare workers. However, not all patients are aware that they can avoid disclosing their HIV+ status; thus, they unknowingly expose themselves to unnecessary risk of discrimination.

Confidentiality and accessibility of personal data related to HIV

Article 9 of the Law on HIV Infection/AIDS regulates the confidentiality of information regarding persons infected with HIV and/or ill with AIDS. Article 9(1) reads:

⁸³ Article 363³ of the Civil Procedure Code of Georgia. Available at: <https://matsne.gov.ge/en/document/view/29962?publication=134>

"1. Service provider institutions that implement the diagnostics, treatment, prophylaxis, support/assistance and/or care of persons infected with HIV and/or ill with AIDS, as well as any legal and natural person who has been informed about persons infected with HIV and/or ill with AIDS, are obliged to protect the confidentiality of such information."

This obligation to protect confidentiality of HIV-related information shall apply both during the life of the infected person and after his/her death. The conditions for disclosure of confidential HIV-related information are regulated in Article 9(3) which provides that such disclosure shall be permitted if:

- there is informed consent from persons infected with HIV and/or ill with AIDS;
- there exists the preliminary written consent of persons infected with HIV and/or ill with AIDS concerning the disclosure of information in the case of their death;
- in other cases provided for by the legislation of Georgia.

Regarding the obligation to disclose one's HIV+ status to their spouse or sexual partner (obligation imposed on all PLHIV under Article 11(2) of the Law on HIV Infection/AIDS), if an HIV+ patient fails to fulfil this obligation, the service provider institution which implements the diagnostics, treatment, prophylaxis, support/assistance and/or care of this person (hereinafter "Service Providers"), has the duty to notify the spouse or sexual partner itself.

The Service Provider is also authorised to disclose depersonalised data for educational and scientific purposes (Article 9(4) of the Law on HIV Infection/AIDS).

Prohibitions and limitations on working in specific healthcare professions for PLHIV

According to the Law on HIV Infection/AIDS access to certain working positions in healthcare may be restricted for PLHIV. On the one hand, Article 10(2) provides that in general it shall not be permitted to dismiss persons infected with HIV and/or ill with AIDS from work or to refuse to recruit such persons only on the basis of their HIV positive status. On the other hand, this prohibition of dismissal or non-recruitment does not apply to activities where there is a high risk of infecting persons who have contact with such persons. Such activities can be presumed to be present in the field of healthcare.

The Ministry of Labour, Health, and Social Affairs of Georgia was responsible for developing a list of mentioned activities (Article 10(2) second sentence) within six months after the Law on HIV Infection/Aids entered into force (2009). On March 9th, 2012, the Public Defender released a recommendation in which it urged the Ministry of Labour, Health, and Social Affairs of Georgia to develop and approve this list; until today, the list still does not exist.

Private insurance policies concerning PLHIV

In Georgia, private insurance policies are not often sought by PLHIV. That being said, no legal limitations were reported in this context. It should be possible for any person to take out a private insurance, including life and health insurance. Commonly, there is no request for information related to the HIV+ status of a potential client.

Common forms of discrimination in healthcare settings

Collecting documentation of discrimination cases on the grounds of HIV is a great challenge for the community organizations in Georgia. Regarding the types of discriminatory practices against PLHIV indicated in the

questionnaire, only specific instances of individuals being discriminated were described. The outlined discriminatory practices took the form of refusal of care; separation from other patients; and demeaning behaviour of medical workers. It was indicated that discriminatory conduct is most common at the clinics of GPs and in dental care. Another concerning practice reported in the questionnaire was the performance of surgeries for PLHIV on a "separate day" (reported in L. Managadze National Centre of Urology).

Regarding the refusal of care, the respondents to the questionnaire brought up that not all medical practitioners, including dentists, provide required services to PLHIV. This situation brought the necessity to create an "informal group" of doctors who offer services to PLHIV without discrimination. Community members are encouraged to seek services with the members of this informal group.

Case studies

No cases dealing with discrimination against PLHIV in healthcare settings, that would have significant impact on legislation, policies, or practices in Georgia, were reported in the questionnaire.

Good practices in the national context

Public Defender of Georgia

Withing its competence, the Public Defender of Georgia continues to publish recommendations in order to promote the rights of PLHIV. For instance, in 2016, the Public Defender of Georgia issued a general proposal to the Ministry of Education and Science of Georgia to prevent discrimination. The Public Defender of Georgia recommended the removal of phrases and arguments containing stigma and stereotypes about PLHIV from the Grade VIII textbook for Biology. The Public Defender of Georgia points out that the terms used in the textbook strengthen stereotypical attitudes and stigma towards PLHIV and encourage restricting their rights in various fields on discriminatory grounds.

Issues and bad practices in the national context

Insufficient data protection mechanisms

In 2020, the Innovations and Reforms Centre (IRC) conducted a study on the HIV/AIDS Management Program to evaluate the service provider institution's – Infectious Diseases, AIDS and Clinical Immunology Research Centre (hereinafter "Research Centre") – data protection mechanism. It was found that:

- the grounds for special data processing are problematic;
- the depersonalization method for data protection is not adopted, and therefore, it is impossible to discuss its effectiveness;
- the storage period for data is not defined.

The representatives of the local NGOs, that provide support in the context of HIV, also highlighted the problems related to the risks of revealing personal data associated with HIV by the Research Centre, both directly in the doctor's room and in the queues or laboratories.

COVID-19 impact on PLHIV

The COVID-19 pandemic has harmed access to healthcare but has not significantly impacted HIV and STI risk behaviours. The practice of prescribing a supply of HIV and TB medicines for a more extended period is well received and accepted by the community. Significant challenges were faced in the area of HIV and TB prevention, diagnostic and treatment services that required adaptation of service delivery models throughout the pandemic.⁸⁴

[Postal delivery of ART medication](#)

Postal delivery based alternative ART medication distribution model was developed to ease the access to drugs for PLHIV. In order to tackle the prolonged delivery period of international shipments, Georgia was able to utilize a local procurement to refill the stock of HIV prevention supplies for HIV prevention programme and address the increased demand on commodities during the COVID-19 epidemic, such as syringes, needles, and condoms.

The representatives of national NGOs noted that medication was available to some patients, while others did not know about the services that were newly introduced in order to ensure easy. Medication supply was particularly problematic for HIV-positive people living outside the big cities.

[Healthcare teleclinics](#)

Primary healthcare online teleclinics (hereinafter “Teleclinics”) were established to serve as a countrywide primary health care gateway for KPs, PLHIV, and TB patients during the COVID-19 epidemic and beyond. Primary health care physicians of the Teleclinics underwent training on the unique needs of KPs, PLHIV, and TB patients. The Teleclinics started offering telephone consultations to patients, including online and telephone counselling for general health conditions, mental health support, and proper referrals to treatment facilities based on the symptoms’ assessment.

[Mandatory HIV testing for public employees](#)

During the COVID-19 pandemic, the Ministry of Internal Affairs required its employees to be tested for the coronavirus every 14 days and also required a onetime testing for hepatitis C and HIV. The employees received an official letter from the head of the administration, Ketevan Tkeshelashvili. Two of the employees were the beneficiaries of the association “Brotseuli” and reached out for legal consultation. One of them refused to be tested, and the other left the job.

⁸⁴ Tanadgoma, UNFPA, NCDC. *Access of Key Populations, People Living with HIV and TB to Medical, Prevention and Social Services During COVID-19 Pandemic*. Available at: https://georgia.unfpa.org/sites/default/files/pub-pdf/covid-19-kps-plhiv-tb_eng.pdf