



Institute for Development
of Freedom of Information

Victims of Soviet Repressions in Georgia – Legal Remedies and Their Assessment



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Introduction

To date, modern societies fully recognize the events of mass human rights violations at the territory of the former USSR. After the collapse of the Soviet Union, the states took the responsibility to restore the violated rights of their citizens and ensure their legal rehabilitation. Georgia is among these states.

The rights of the victims of political repressions and Communism are protected to the highest level in the developed European states. In this regard, the former Soviet, Baltic countries have distinguished themselves where the property rights of the rehabilitated individuals are fully restored and they benefit from social support. During the period of its independence, Estonia restituted 6,000 residential buildings and roughly 1.7-million hectares of land; Latvia restituted 10,000 residential buildings; In Lithuania, the list of the victims of Communism is wide and it includes the mobilized individuals for 1944-1945 armed conflict, partisans, veterans of the Afghanistan war and others.¹

Nationals of Georgia experienced mass repressions on the territory of the USSR from February 1921 until 28 October 1990. According to various sources, the number of victims of political repressions on the territory of the USSR is estimated to be between 6-20 million.²

Similarly to the other countries, particular steps have been taken in Georgia for rehabilitating the victims of repressions. The article aims at reviewing the legislature and practice of the rehabilitation, revealing the problems in this direction and providing relevant recommendations for the decision-makers.

Situational Analysis

According to the Constitution of Georgia, the state has a positive as well as negative obligation to ensure the protection of human rights. That is, the state is obliged to refrain from acting in a way that violates basic human rights and freedoms (negative obligation) and has the duty to take active steps when the cases of human right violations are revealed (positive obligation – restitution, legal rehabilitation, compensation, sanctions against violators, etc.). Based on the positive obligation to protect human rights, Georgia has the responsibility to restore violated human rights of those nationals who faced repressions during the period of the Soviet Union and is obliged to take effective measures in this direction. It is notable that respect of democratic values, including human rights and fundamental freedoms, is one of the key principles of the Association Agreement between the EU and Georgia.

¹ Pettai Vello, Overcoming occupation in the Baltic states: how much truth and justice has there been since 1989?, Address at the conference “25 Years after the Baltic Way and the Collapse of Totalitarian Communism: European Memory and Political Inspiration”, Riga, 2014.

² Snyder, Timothy (2010). Bloodlands: Europe between Hitler and Stalin. New York.; Pipes, Richard (2001). Communism: A History. USA.

- Procedural Regulations

According to the legislation, a victim of political repressions on the territory of the former USSR or his/her descendant should file a court application for acquiring relevant status after which he/she is eligible for the compensation and privileges established by the state.

These procedures and privileges are mainly regulated by the Administrative Procedure Code of Georgia, by the law of Georgia on the Recognition of Georgian Citizens as the Victims of Political Repressions and the Measures of their Social Protection, as well as by the decree of the Government of Georgia on the Adoption of Social Packages.³

According to the law on the Recognition of Georgian Citizens as the Victims of Political Repressions and the Measures of their Social Protection, a person can only be recognized as a victim of political repression based on a court ruling. For this purpose, a repressed individual, his/her heir or their representative should apply to the relevant court, based on their address of residence.

- Financial Compensation and the Restoration of Violated Property Rights

According to the Administrative Procedure Code of Georgia after acquiring the status of politically repressed, a victim of repression, his/ her heir, or their representative had the right to file an application with the aim of receiving an indemnity before January 1st, 2018. **Based on the law, currently, repressed individuals are deprived of the opportunity to refer to the court with the aim of restoring their rights.**

Nowadays, it is unclear whether these persons will be given the right to apply to the court and request compensation. In March 2020, IDFI addressed Tbilisi City Court and the Administration of the Government of Georgia with the question but as of to-date, we have not received a response to the question.

The individuals who applied to the court within the set dates had the right to receive financial compensation from 1,000 to 2,000 Gel. According to the information requested by IDFI, Tbilisi City Court received 13.525 applications in total before the set date of January 1st 2018, out of which 11.539 applications were reviewed, 11.511 were granted and only 28 applications were denied. Kutaisi City Court received 5.517 applications, out of which 4.957 were granted. Therefore, in total, 16.468 individuals were recognized as the victims of repressions in Georgia and they or their heirs were given the compensation. IDFI also requested information on the total volume of monetary compensation received by the applicants by their categories, however, the National Bureau of Enforcement, the body executing the court orders, refused to disclose the information.⁴

³ Decree of the Government of Georgia on the Adoption of Social Packages:

<https://matsne.gov.ge/ka/document/view/1707671?publication=0>.

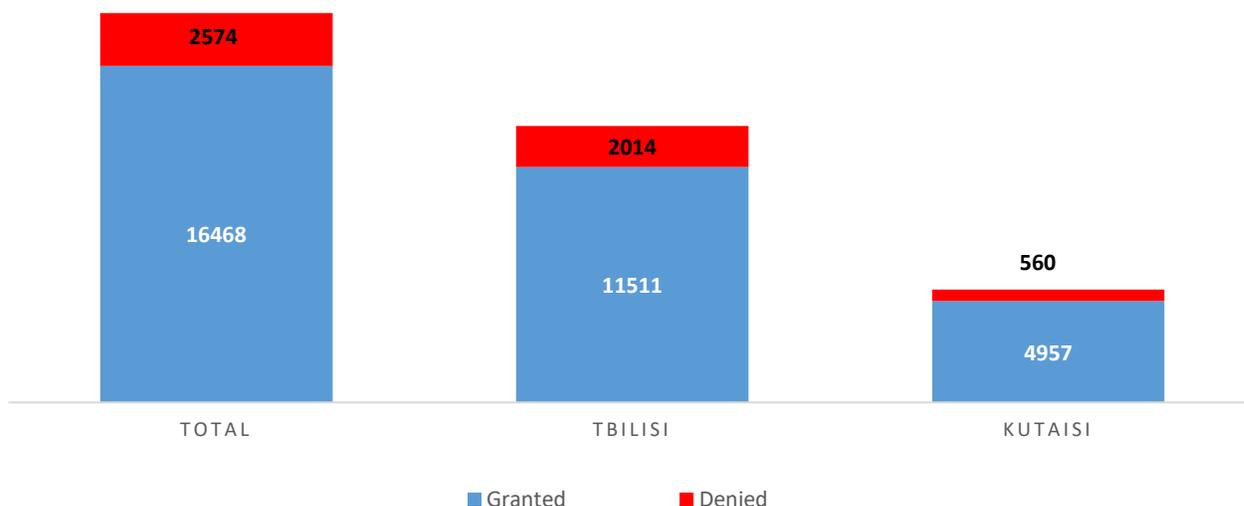
Administrative Procedure Code of Georgia, Chapter VII⁷:

<https://matsne.gov.ge/ka/document/view/16492?publication=77&fbclid=IwAR3kw3lVu8y8uigpXBjZz0k6mlixE564cMzUO1VCUNTPkqC3QNxddbn3CmM>.

The Law of Georgia on the Recognition of Georgian Citizens as the Victims of Political Repressions and the Measures of their Social Protection, Chapter III: <https://matsne.gov.ge/ka/document/view/31408?publication=11>.

⁴ Levan Avalishvili, Rehabilitations of Victims of Political Repressions in Georgia, Article for Journal CEVRO, 2018: <http://open-archives.org/en/newsblogs/interestingnews/29>.

APPLICATIONS ON MONETARY COMPENSATION HEARD BY THE COURTS



According to the law on the Recognition of Georgian Citizens as the Victims of Political Repressions and the Measures of their Social Protection, the procedures for the restitution of property rights of rehabilitated persons has to be determined by a separate law. However, the current legislation does not consider the mechanisms for the full revival of property rights. This is especially problematic considering the fact that the Criminal Code of the USSR included the full confiscation of property of the repressed individuals.

- Household and Utility Benefits

Until January 1st, 2006, Article 12 of the law on the Recognition of Georgian Citizens as the Victims of Political Repressions and the Measures of their Social Protection included the provisions on the household and utility benefits covering 50% of relevant costs. The benefits applied to the heating (gas), water, landline phone bills and the expenses of waste collection. As for the electricity, the law included provisions on the free consumption of electricity in the amount of 30 kWh per month for a single individual and 45 kWh per month for the households with two or more residents. In addition, rental allowances were given to those residing at public housing.

Only limited categories of the repressed individuals and their heirs had the right to benefit from these privileges – namely, those who had been imprisoned at penitentiary establishments, special settlements, psychiatric institutions, and who had been in exile and expulsion as a result of political repressions, or in the case of their death, their children, and the children of persons who had died as a result of political repression.

The given article was repealed after the adoption of the law on Social Support (since January 1st, 2006).⁵ However, the final version of the law on the Recognition of Georgian Citizens as the Victims of Political Repressions and the Measures of their Social Protection published on the website of the Legislative Herald of Georgia still includes the entry on the above-mentioned privileges, since the amendment which abolished the household and utility benefits is not technically reflected in the acting version of the law.⁶ This creates complications for those interested to receive information on the benefits available for the repressed individuals.

To-date the topic of household benefits is regulated by the Decree of the Government of Georgia on the Monetization of Social Benefits.⁷ According to the decree, the recipients of household benefits among the other categories of beneficiaries are victims of political repressions and their incapacitated family members. Their household benefit equals to 7 Gel.

- Social Support

The issues of social benefits applicable to repressed individuals and their heirs are regulated by the Decree of the Government of Georgia on the Adoption of Social Packages. It is notable that according to the laws on the Recognition of Georgian Citizens as the Victims of Political Repressions and the Measures of their Social Protection and the Law on State Pension, the persons recognized as the victims of political repression benefit from social assistance regardless whether they meet the criteria of receiving the basic pension.⁸ Additionally, according to the information provided on the website of Social Service Agency, **if a person is simultaneously eligible for state pension and social package, he/she has the right to claim only one of them.**⁹

According to the Decree of the Government, the following persons are eligible to receive social support related to the Soviet repressions:

- those victims of political repressions who have also participated in the armed conflicts at the territories of other countries or in the armed conflict for protecting the independence of Georgia - eligible to the social assistance amounting to 122 Gel;
- Other persons declared to be victims of political repressions - eligible to the social assistance amounting to 107 Gel;

⁵ Amendments to the law on the Recognition of Georgian Citizens as the Victims of Political Repressions and the Measures of their Social Protection 23.12.2005:

<https://matsne.gov.ge/ka/document/view/28048?publication=0&fbclid=IwAR1BMwCVd9sn0QS5QQyY0SDjjZ2d1bgSyEzcrRB9bFKYHorjefmgrRpRVOE>

⁶ The law on the Recognition of Georgian Citizens as the Victims of Political Repressions and the Measures of their Social Protection (current version): <https://matsne.gov.ge/ka/document/view/31408?publication=1>.

The Law of Georgia on Social Support, 29.12.2006:

https://matsne.gov.ge/ka/document/view/23098?publication=13&fbclid=IwAR0PQcakDq9PyKqvX-gSrG4lUT8ObMUIGuSfLnnW2FEmuvaXpP7qIW_c0nA.

⁷ Decree of the Government of Georgia on the Monetization of Social Benefits, 11.01.2007,

http://ssa.gov.ge/files/01_GEO/KANONMDEBLOBA/Kanon%20Qvemdebare/5.pdf.

⁸ The decree of the Minister of Health and Social Affairs on the Adoption of the Rules for Establishing and Issuing State Pension, State Compensation and State Academic Scholarship” N46/N, 10.02.2006:

http://ssa.gov.ge/index.php?lang_id=GEO&sec_id=723.

⁹ The website of Social Service Agency: http://ssa.gov.ge/index.php?lang_id=GEO&sec_id=93&info_id=715.

In addition, social packages with an additional 7 Gel bonus are given to the following categories of repressed individuals:

- Persons recognized as the victims of political repressions with **severe disabilities** and in case of the death of the victim of political repression – their parents, spouse or children under 18 with **severe disabilities** (227 Gel in total);
- Persons recognized as the victims of political repressions with **clear disabilities** and in case of the death of the victim of political repression – their parents, spouse or children older than 18 years old with clear disabilities (147 Gel in total);
- In case of the death of a victim of political repressions, his/her **minor** with the status of a disabled (227 Gel in total);
- In case of the death of a victim of political repressions, his/her **children under 18** (107 GEL in total);
- In the other cases the victims of political repression or, in case of the death of a victim of political repressions, his/her incapacitated parents, spouse, child receive additional social assistance bonus.

If a victim of political repression has several first-rank heirs, a joint compensation is issued.

As it has already been mentioned above if a person is simultaneously eligible for state pension and social package, he/she has the right to claim only one of them.¹⁰ In the given circumstances when state pension equals to 220 Gel it is logical that repressed individual who is also eligible to receive state pensions, will choose to receive the state pension. Thus, the number of repressed individuals receiving social assistance is very low and to-date equals 138 individuals.¹¹ Different were the circumstances in 2005, when state pension equaled to 28 Gel, while repressed individuals were eligible to the pensions amounting 50 Gel.¹²

Conclusion

Georgia is a country striving towards the European Union and thus has the responsibility to meet the standards implemented by the European countries in different directions. It is crucial that Georgian authorities fully internalize the positive obligation of the state to restore the violated rights of the repressed individuals and provide them with relevant compensation, restitution of property rights, social benefits and support. In this process, it is important to take into consideration the experience of the developed European countries, including Estonia, Latvia and Lithuania.

IDFI finds that the social packages and household benefits for the victims of political repressions and their heirs are not sufficient for satisfying their daily needs. It is not proportional to the damage imposed by the repressed individuals and their heirs. For instance, based on the Constitutional Agreement, the

¹⁰ Official website of Social Assistance Agency, http://ssa.gov.ge/index.php?lang_id=GEO&sec_id=93&info_id=715.

¹¹ Official website of Social Assistance Agency, number of social assistance beneficiaries, http://ssa.gov.ge/index.php?lang_id=GEO&sec_id=1472&fbclid=IwARORGzbEHgwiNpMQeywvKEyaXCdmy6ovNfv1JGJmI6gcRYqgN_8pXSrI3GE.

¹² Historical Overview of State Pension in Georgia, Business Media Georgia – BMG, <https://bm.ge/ka/article/rogor-izrdeboda-pensiebi/25728>

Georgian Orthodox Church receives dozens of million GEL annually as compensation for the damage it has suffered from 1921-1990.¹³

It is also problematic that since 2006, the utility and household benefits for the repressed individuals have been abolished. Although the benefits were insufficient, they still provided a level of assistance for the repressed individuals in the process of coping with monthly utility expenses. Instead, to-date household assistance amounting to 7 Gel is applicable for the repressed individuals.

It is unacceptable to deprive the repressed persons and their heirs of the right to request compensation and limit it with specific dates (e.g. 1 January 2018). IDFI finds that such an approach violates not only the rights of those individuals who were unable to make relevant court applications within the set dates but also the rights of those living on the occupied territories of Georgia who were deprived the possibility to make relevant court application due to the barriers of crossing the de-facto border. Taking into consideration the prospect of regaining control over the occupied territories setting the limited timeframes for the applications on receiving financial compensation is unacceptable.

Additionally, as of to-date a separate law on the restoration of property rights of the rehabilitated persons, foreseen by Article 8 of the law on the Recognition of Georgian Citizens as the Victims of Political Repressions is not adopted.

Based on the above-mentioned, we face the circumstances when those individuals, which succeeded to apply to the court before January 1st, 2018 and received the status of a repressed person, have the right to claim limited social assistance packages and household benefits, while those, unable to file court applications within the set dates, are deprived of the possibility to receive relevant compensation, social and household benefits.

Based on the above-mentioned, the recommendations of IDFI are as follows:

- The rights of the repressed individuals and their heirs to apply to the court and receive financial compensation abolished since January 1st, 2018, should be renewed for an indefinite period of time;
- The amount of compensation should be increased. Before January 1st, 2018 the compensation amounted to 1,000-2,000 Gel;
- The state should ensure a full waiver of utility fees for repressed individuals. If the utility services are provided by the private company, the state should subsidize the fees for the repressed individuals;
- The repressed individuals who do not own residential property should be given a monthly allowance in the amount of full or partial rental fee;
- Social benefit and household assistance should be based on the realistic calculation of monthly expenses and should enable the beneficiaries to meet their daily needs;

¹³ For instance, see 2020 state budget, Code 45 00: <https://matsne.gov.ge/ka/document/view/4734727?publication=0>.

- It is important that repressed individuals have access to public transport benefits;
- Adopting a separate law on the restoration of property rights of the repressed individuals is necessary. Relevant details should be included in secondary legislation (Governmental decree), which will regulate issues of social assistance, household benefits, rent fee support and compensation for politically repressed persons. The issues should be regulated in a separate sub-legal act. Currently, they are spread across a number of governmental decrees, the final (amended) versions of which are not available for the wider society. Thus studying legal regulations of the topic is highly complicated.