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## Convention “Against Discrimination in Education” UNESCO, Paris, December 14, 1960 The Implementation of the Convention in the Georgian Legislation

*The current article refers to the implementation of the UNESCO Convention “Against Discrimination in Education” (UNESCO, Paris) of December 14, 1960 in the Georgian legislation. It covers the general aspects of the implementation of the mentioned convention in the Georgian legislation. In the article we discuss what the discrimination in education is, what type of discrimination exists and what type of discrimination could take place in educational institutions. It is expedient to discuss the implementation of the convention in the Georgian legislation in the context of access to education, financing of education, inclusive education, the rights of ethnic minorities to education and religious and political discrimination. Hence, the following topics are presented: a) The access to education, where legal acts are discussed, in which the provisions of the convention are represented. In the same part, we discuss the Law of Georgia on the “Elimination of All Forms of Discrimination” of May 2, 2014 (Kutaisi, N 2391-IIS), which on its behalf, regulates the issues related to elimination of discrimination in education and access to education; b) The financing of education. Due to the fact that the state finances the general education in Georgia, whereas the citizens have the right to get funding from the state for vocational and higher education, in the given part we discuss all three types of state funding of education; c) The access to inclusive education. Taking into consideration the citizens’ right to education and elimination of all types of discrimination, utmost importance is placed on the inclusive education, thus, in our article we discuss the inclusive education, whereas we cover accessibility to inclusive education in state institutions; d) The ethnic minorities’ rights to education, whereas according to the international standards, Georgia protects the individual and collective rights of ethnic minorities and facilitates their civic integration. This refers to access to education also; e) The religious and political discrimination, whereas we discuss the regulatory norms of the mentioned issue on the national level, which are in accordance with the 5th article of the convention.*

*The article also draws conclusions on the implementation of the discussed issues in Georgian legislation.*

**Key words:** *Right to education, elimination of discrimination, inclusive education, financing of education, UNESCO convention.*

### 1. Introduction

Historically, large emphasis has been placed on education in Georgia, its importance is properly acknowledged in terms of the development of the statehood and likewise other democratic countries, Georgia is a party to the international agreements, which acknowledge the right to education and set

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<sup>1</sup> See, Convention against Discrimination in Education, 14/12/1960, <[www.unesco.org/education/pdf/DISCRIE.PDF](http://www.unesco.org/education/pdf/DISCRIE.PDF)>, [23.11.2018].

high standards. Georgian state conducts the implementation of international standards and principles into the national legislation. Among the international agreements, it is important to discuss the UNESCO “Convention against Discrimination in Education” (UNESCO, Paris, December 14, 1960)<sup>2</sup> (hereinafter referred as convention).

Convention has entered into force for Georgia on November 4, 1993.<sup>3</sup> Georgia by joining the convention undertook the obligation (to eliminate all forms of discrimination in education and implement the opportunities for equal access to education) to implement regulations in the Georgian legislation in the context of access to education, financing of education, inclusive education, the rights of ethnic minorities to education and religious and political discrimination.

What is discrimination in education? In the educational environment, we encounter various methods of discrimination. For example, the educational institutions may refuse to enroll a student of a different race. It is of great importance that the educational institutions could guarantee the access to education for persons with disabilities, whereas access to education should be guaranteed for both sexes, including involvement in sports activities.<sup>4</sup>

In the educational institutions there exist four types of discrimination: direct discrimination, indirect discrimination, harassment and victimization.<sup>5</sup> **Direct discrimination** in schools is when a child is treated less favorably on the grounds of gender, disability, race, sexual orientation, religious belief or age. For example, assuming a child may not be able to reach a certain level of work because they are disabled. In these cases, the act itself is unlawful, not whether or not someone meant it.<sup>6</sup> **Indirect discrimination** is when policies or practices affect a certain group of children more than others for no good reason. The groups protected by the legislation include groups defined by their gender, race, sexual orientation, religion or belief, or age. When it is related to disability, reasonable adjustments should be made so that indirect discrimination does not take place.<sup>7</sup> Harassment can occur when a school engages in unwanted conduct related to a disability which has the purpose or effect of violating a pupil's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the pupil. The pupil concerned may not have a disability but might be associated with someone who has, or is wrongly perceived as having a disability.<sup>8</sup> Victimization occurs when a school does something which is disadvantageous to a pupil because either the pupil or the pupil's parent or sibling takes, or is thought to be about to take, action under disability discrimination law. This extends to pupils who are associated with, or perceived to have, a disability.<sup>9</sup>

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<sup>2</sup> “Convention against Discrimination in Education”, UNESCO, Paris, 14/12/1960.

<sup>3</sup> The National Commission on UNESCO Affairs, <[www.unesco.ge/?page\\_id=534](http://www.unesco.ge/?page_id=534)>, [23.11.2018].

<sup>4</sup> Find Law, Discrimination in Education, <[www.civilrights.findlaw.com/discrimination/discrimination-in-education.html](http://www.civilrights.findlaw.com/discrimination/discrimination-in-education.html)>, [01.05.2019].

<sup>5</sup> Stephenson, Discrimination in Schools, <[www.stephensons.co.uk/site/individuals/education/discrimination-as-a-ground-for-appeal/](http://www.stephensons.co.uk/site/individuals/education/discrimination-as-a-ground-for-appeal/)>, [01.05.2019].

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Ibid.

## 2. Access to Education

The provisions of the convention are mirrored in the Georgian national legislation, whereas the elimination of discrimination in the educational sphere is guaranteed on the legislation level. As according to the article 27 of the Constitution of Georgia, "Everyone has the right to receive education and the right to choose the form of education they receive."<sup>10</sup> "With the mentioned article, Georgian Constitution establishes the constitutional equality in the educational sphere. Everyone, including foreigners and persons without citizenship, who reside in Georgia, are equal (here the fundamental constitutional principle of the Article 14 of the Constitution of Georgia enters into force) and it is unlawful to conduct any discriminatory activities towards them in their right to receive education and the right to choose the form of education they receive."<sup>11</sup>

In accordance with the convention, the Georgian Law on General Education defines that "Everyone shall enjoy equal rights to acquire a complete general education in order to fully develop his/her personality and acquire knowledge and skills necessary for equal opportunities to be successful in private and social life. Acquisition of a primary and basic education shall be mandatory."<sup>12</sup> Deriving from the principles of universality of education and access to education "The State shall ensure the right of each pupil (including pupils with special educational needs) to acquire general education in the official, or in his/her native, language, as close to his/her place of residence as possible."<sup>13</sup>

As according to the National Educational Curriculum "It is forbidden for a public school to set barriers regarding the enrollment of students and only enroll the students, who are ready for school and are of academically successful."<sup>14</sup> As according to the Georgian law on Vocational Education: "Everyone has a right without discrimination to exercise the right to vocational education as determined by Georgian legislation. Vocational education students and trainees, as well as vocational education teachers and their unions have the right without discrimination to exercise the rights granted by the Georgian legislation as well as the rights and freedom granted by educational institutions."<sup>15</sup> Above-mentioned law does not only declare elimination of discrimination in the vocational education sphere, but creates legal mechanisms for the civic integration of the persons, whose mother tongue is not Georgian and offers preparation program/modules in Georgian language, which aims at learning state language in order for them to study on vocational educational programs.<sup>16</sup>

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<sup>10</sup> Article 27 (1), Constitution of Georgia, Departments of the Parliament of Georgia, 31-33, 24/08/1995.

<sup>11</sup> *Kantaria B.*, The Constitutional Principle of the Right to Education, Commentary to the Constitution of Georgia, Chapter two. Georgian Citizenship. The Fundamental Human rights, Tbilisi, 2013, 426 (in Georgian).

<sup>12</sup> Article 9 (1), Georgian Law on "General Education", Parliament of Georgia, LHG, 20, 04/05/2005.

<sup>13</sup> *Ibid*, article 7(1).

<sup>14</sup> Decree № 40/N of the Minister of Education and Science of Georgia of May 18, 2016 about the adoption of the National Education Curriculum, Article 1, annex 11 to the article 1.

<sup>15</sup> Article 4 (1) and (2), Georgian Law on "Vocational Education", 3442-IS, 20/09/2018.

<sup>16</sup> *Ibid*, Article 3(Z).

Georgian Law on “Higher Education” mentions that the state guarantees the transparency and access to higher education, among them for persons with convictions; Life-long higher education opportunity and elimination of any types of discrimination in education, among them academic, religious, ethnic discrimination, as well as discrimination on the grounds of opinion, sex, social origin and others.<sup>17</sup> It is worth mentioning that on May 2, 2014 the Parliament of Georgia adopted the Georgia Law on “Elimination of all forms of discrimination” (Kutaisi, N 2391-IIS). The aim of the statute is to eliminate all forms of discrimination and guarantee for all natural and legal persons bodies to exercise the right guaranteed by the legislation regardless of race, color, language, sex, age, nationality, origin, place of birth, residence, property or title, religion or faith, national, ethnic or social belonging, profession, marital status, health condition, disability, sexual orientation, gender identity and expression, political or other beliefs or other basis. According to the same law the principle of equal treatment shall be imposed towards the conditions of social and health security, education, delivery of products and services, among them access to education.<sup>18</sup>

The essence of the abovementioned legal norms attest that the requisition of the E clause of the article 3, which guarantees the access to education for foreign residents,<sup>19</sup> has been executed on national level in Georgia and according to the national legislation, the equal access, as a principle, is guaranteed to the foreign residents, which means that the public schools do not have a right to refuse or create any type of barriers to access to education.

### **3. Funding of Education**

As according to the Constitution of Georgia, “Pre-school education shall be guaranteed in accordance with the procedures established by law. Elementary and basic education shall be compulsory. General education shall be fully funded by the State, in accordance with the procedures established by law. Citizens shall have the right to state-funded vocational and higher education, in accordance with the procedures established by law.”<sup>20</sup> According to the Georgian Law on “General Education” the state funds each educational institution with a voucher per student. The numbers of standard and increased vouchers are determined according to the maximum work-load set in the National Educational Curriculum, with the preservation of the equality principle in terms of the right to education.<sup>21</sup>

Despite the fact that article 3, clause C of the convention restricts unequal treatment of students in the funding sphere,<sup>22</sup> Law of Georgia on “General Education” (which foresees “shall have the right

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<sup>17</sup> Article 3 (2), Georgian Law on “Higher Education”, Parliament of Georgia, LHG, 2, 10/01/2005.

<sup>18</sup> Articles: 1 and 2(10)(g), Law of Georgia on “Elimination of All Forms of Discrimination”, 2391-IIS, 07/05/2014.

<sup>19</sup> Convention against Discrimination in Education, 14/12/1960, <[www.unesco.org/education/pdf/DISCRIME.PDF](http://www.unesco.org/education/pdf/DISCRIME.PDF)>, [23.11.2018].

<sup>20</sup> Article 27(2), Constitution of Georgia, Departments of the Parliament of Georgia, 31-33, 24/08/1995.

<sup>21</sup> Article 22 (2)(3), Law of Georgia on “General Education”, LHG, 20, 04/05/2005.

<sup>22</sup> Convention against Discrimination in Education, 14/12/1960, <[www.unesco.org/education/pdf/DISCRIME.PDF](http://www.unesco.org/education/pdf/DISCRIME.PDF)>, [23.11.2018].

to receive additional funding from the State Budget of Georgia in the form of an increased school voucher and/or within an appropriate target program"<sup>23</sup> and grants right to the Government of Georgia to set "the financial norms per student, standardized and increased vouchers")<sup>24</sup> could not be reviewed as infringement of the convention, due to the fact that the usage of additional funding and increased vouchers are deemed appropriate on special occasions, while preserving the principle of equality. The public schools, which undertake teaching programs for the students with special educational needs, have the calculated funding and accordingly the standardized vouchers according to their needs. The small public schools are also entitled for additional funding, whereas in cases, when the execution of the National Educational Curriculum exceeds the funding per student.<sup>25</sup>

It is worth noting that according to the article 3 of the convention, the obligation of funding the foreign residents and persons without Georgian citizenship is guaranteed in the General Education sphere, as according to the Georgian Law on General Education "The funding determined by this article shall apply to citizens of Georgia, the persons having neutral ID cards, neutral travel documents or temporary ID cards, aliens (including the citizens of foreign countries with the status of compatriot living abroad), stateless persons and persons with refugee or humanitarian status"<sup>26</sup>.

Georgian citizens, foreign residents and persons without Georgian citizenship are eligible for "Funding of vocational education, short-cycle educational programs and state language programs is carried out by state authorities, authorized ministries of the Autonomous Republics of Abkhazia and Adjara and municipalities in accordance with Georgian legislation. Financing of vocational education, short-cycle educational programs and state language training programs may also be done by other agencies and organizations in accordance with Georgian legislation".<sup>27</sup>

With the aim of preservation of the equality principle, the funding mechanisms for the Higher Education are set, in particular, citizens of Georgia who are persons with neutral ID cards or neutral travel documents, and aliens with the status of fellow citizens living abroad, who are admitted to the accredited educational programs of higher education institutions that are the members of the Unified Post-graduate Examination Network as provided for by this Law, may obtain state educational scholarship for Master's Programs. Aliens, except for aliens with the status of fellow citizens living abroad, whose higher education is financed in accordance with the procedures established by this Law for financing the higher education of the citizens of Georgia, may be granted state educational scholarship for Master's Programs only within the threshold limit of 2% of the annual amount of state educational scholarships for Master's Programs under the state programme determined by the Ministry of Education, Science, Culture and Sports of Georgia.<sup>28</sup>

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<sup>23</sup> Article 22, Law of Georgia on "General Education", LHG, 20, 04/05/2005.

<sup>24</sup> Ibid, article 25.

<sup>25</sup> Decree № 476 of the Government of Georgia of 14 September, 2015 about the Funding of General Education.

<sup>26</sup> Article 22(7), Law of Georgia on "General Education", LHG, 20, 04/05/2005.

<sup>27</sup> Article 30 (1), Georgian Law on "Vocational Education", 3442-IS, 20/09/2018.

<sup>28</sup> Article 80 and 80<sup>1</sup>(2), Georgian Law on "Higher Education", LHG, 2, 10/01/2005.

Despite the fact that article 3, clause C of the convention does not allow to have differences in treatment in matters of funding,<sup>29</sup> the law on “Higher Education” articles 80, clause 2 and article 80<sup>1</sup>, clause 2 (Aliens, except for aliens with the status of fellow citizens living abroad, whose higher education is financed in accordance with the procedures established by this Law for financing the higher education of the citizens of Georgia, may be granted state educational scholarship for Master's Programs only within the threshold limit of 2% of the annual amount of state educational scholarships for Master's Programs under the state program) which determine the state policy towards the foreign residents and aliens with the status of fellow citizens living abroad, should not be considered as infringement of the obligations set as according to the convention, due to the fact that according to the given regulation, during 2013-2018 the total sum allocated as a state grant was set at 240 000 GEL for the foreign residents, who passed the Unified National Exams, whereas the sum for the Unified Master Exams was set at 45 000 GEL. The mentioned funding could be used to give tuition waiver tuition waiver scholarships to 106 students on bachelor educational programs scholarships to 106 students on bachelor educational programs and 20 tuition waiver scholarships on master educational programs.<sup>30</sup>

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<sup>29</sup> Convention against Discrimination in Education, 14/12/1960, <[www.unesco.org/education/pdf/DISCRI\\_E.PDF](http://www.unesco.org/education/pdf/DISCRI_E.PDF)>, [23.11.2018].

<sup>30</sup> See, Decree № 66 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships and Program Funding for the Academic Year of 2013-2014”, 28/03/2013; Decree № 248 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships and Program Funding for the Academic Year of 2014-2015”, 20/03/2014; Decree № 180 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships and Program Funding for the Academic Year of 2015-2016”, 24/04/2015; Decree № 158 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships and Program Funding for the Academic Year of 2016-2017”, 01/04/2016; Decree № 359 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships and Program Funding for the Academic Year of 2017-2018”, 24/07/2017; Decree № 65 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships for Master Educational Programs, Approval of the Priority Master Educational Programs and Approval of the Sums to be Distributed Among the Priority Master Educational Programs for the Academic Year of 2013-2014”, 13/02/2013; Decree № 163 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships for Master Educational Programs, Approval of the Priority Master Educational Programs and Approval of the Sums to be Distributed Among the Priority Master Educational Programs for the Academic Year of 2014-2015”, 13/02/2014; Decree № 85 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships for Master Educational Programs, Approval of the Priority Master Educational Programs and Approval of the Sums to be Distributed Among the Priority Master Educational Programs for the Academic Year of 2015-2016”, 05/03/2015; Decree № 97 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships for Master Educational Programs, Approval of the Priority Master Educational Programs and Approval of the Sums to be Distributed Among the Priority Master Educational Programs for the Academic Year of 2016-2017”, 26/02/2016; Decree № 131 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships for Master Educational Programs, Approval of the Priority Master Educational Programs and Approval of the Sums to be Distributed Among the Priority Master Educational Programs for the Academic Year of 2017-2018”, 15/03/2017.



In the framework of the Foreign National Funding program, the number of the foreign nationals who received tuition waiver scholarships during 2013-2018:<sup>31</sup>

Level of Education	2013	2014	2015	2016	2017
Bachelor	39	42	40	25	42
Master	3	3	9	13	11

The above presented numbers exemplify that each year the number of the students is less than the proposed sum of state funding. Therefore, we could explicitly state that is no unequal treatment towards the foreign nationals in terms of funding in the sphere of higher education.

Taking into consideration the above-mentioned statements, we could summarize that the elimination of discrimination is guaranteed in terms of the state funding on national legislation level in Georgia.

#### **4. Inclusive Education**

The adoption of the principles of inclusive education in Georgia could be viewed in light of the elimination of discrimination and creation of the equal enjoyment opportunities in the educational sphere.

Georgian Law on "General Education" creates legal basis for the implementation of the inclusive education and for the realization of the equal opportunities for the students with special needs. According to the Georgian Law on "General Education", a sign language and its analogues shall be used in specialized schools for sensory impairments, where children with hearing disorders are educated. The Braille system shall be used in specialized schools for sensory impairments, where children with visual impairments are educated. With the purpose of the implementation of the inclusive education, the ministry of Education, Science, Culture and Sports is entitled to adopt the regulations for the implementation, development and monitoring of the inclusive education, also the identification mechanism for the students with special needs.<sup>32</sup>

The national Educational Curriculum defines the individual learning curriculum according to the individual learning competencies and interests. The objective of the individual learning curriculum is to satisfy the needs of the students with special needs.<sup>33</sup>

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<sup>31</sup> The current information has been received through a correspondence of 27 November 2018, № MES61801523368 sent by *M. Shukhoshvili*, Head of the Higher Education and Science Department of the Ministry of Education, Science, Sports and Culture.

<sup>32</sup> Georgian Law on "General Education", LHG, 20, 04/05/2005.

<sup>33</sup> The annex to the Article 1 of the decree № 40/N dated 18 May 2016, of the minister of Education and Science of Georgia about the "Adoption of the Individual Learning Curriculum".

We could consider the Georgian Law on “Vocational Education” as a mechanism for the elimination of discrimination in the vocational education sphere, as it foresees: the equal enjoyment of the educational process, where all vocational educational students and trainees are ensured with opportunities to get vocational education based on their individual educational needs and abilities. According to the Georgian Law on “Vocational Education”, an educational institution should ensure vocational education students and trainees have hearing disabilities; in case of necessity Georgian sign language shall be used. Vocational education students and trainees have visual impairment; in case of necessity Braille system shall be used.<sup>34</sup>

Higher Education Institutions in Georgia provide appropriate learning conditions for students with disabilities and create learning opportunities for students with special needs.<sup>35</sup>

According to the Georgian legislation, an educational institution could not obtain a status, in case of absence adapted environment for the students with disabilities.<sup>36</sup>

## **5. Rights to Education of Ethnic Minorities**

Article 4, clause 3 of the Georgian Law on “General Education” serves the purpose of the elimination of discrimination, as according to it, “the citizens of Georgia, whose native language is not Georgian, shall have the right to acquire a complete general education in their native language in accordance with the National Education Curriculum, as provided for by the legislation. According to the international standards, the Georgian legislation protects the individual and collective rights of ethnic minorities, to practice their native language, preserves and freely express their identity. Apart from this, an individual, who studies at a non-Georgian educational institution or passed the level of individual Educational Curriculum as an extern in Russian, Armenian or Azerbaijani languages is entitled to pass the educational institution’s exams in Georgian, Russian, Armenian or Azerbaijani languages.<sup>37</sup> Therefore, we could state that the Georgian legislation creates the guarantees for access to education and access to education in ethnic minorities’ languages. The mentioned legal regulation is in accordance with the article 5, clause C of the convention.

As according to the Georgian Law on “Vocational Education” there exists a state Language Training Program, module aimed at teaching state language for tackling the goals of the vocational program / short-cycle educational program / vocational training / retraining program and / or for supporting the civil integration of those for whom Georgian is not a native language.<sup>38</sup>

Apart from this, the Georgian Law on “Higher Education” preserves the interests of minorities by introducing a State Language Educational Program, whereas it is compulsory to teach the program

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<sup>34</sup> Georgian Law on “Vocational Education”, 3442-IS, 20/09/2018.

<sup>35</sup> Article 3(3), sub-clause 3 and article 43(3), Georgian Law on “Higher Education”, LHG, 2, 10/01/2005.

<sup>36</sup> Decree № 99/N of the minister of Education and Science of Georgia on the “Adoption of the Authorization of Educational Institutions”, 01/10/2010.

<sup>37</sup> Georgian Law on “General Education”, LHG, 20, 04/05/2005.

<sup>38</sup> Article 3(Z<sup>2</sup>), Georgian Law on “Vocational Education”, 3442-IS, 20/09/2018.

during the 1<sup>st</sup> year to the students, who passed Unified National Examination tests in Azerbaijani, Armenian, Abkhaz and Ossetian languages. Foreign nationals, who wish to continue studies on bachelor programs, bachelor/master integrated educational program of Teacher Education, Veterinary integrated master program, certified medical worker's/dentist's program are entitled to State Language Educational Program.<sup>39</sup>

## **6. Elimination of Discrimination Based on Religious and Political Features**

According to the article 5, clause 1, sub-clause b, the Georgian law on "general Education" guarantees the freedom of public schools from religious and political associations and freedom of private schools from political associations. The legislation does not allow the politicization of the teaching process, also does not allow indoctrination of the educational process, proselytism or forced assimilation.<sup>40</sup> Also, the Georgian law on "Higher Education" prohibits any type of discrimination, among them, academic, ethnic, social or religious affiliation, and/or opinion, sex and other grounds. Establishment of a political or religious organization at higher educational institution. The higher educational institution should guarantee the equal treatment regardless of political or religious beliefs.<sup>41</sup>

In comparison to the Georgian law on "General Education" and the Georgian law on "Higher Education", there Georgian law on "Vocational Education" does not contain legal norms, which directly prohibits discrimination with religious and political features in vocational education; however, it regulates the general norm prohibiting discrimination. According to the Georgian Law on "Vocational Education", a vocational education student, a vocational education teacher and their respective unions, are entitled to the rights guaranteed with the Georgian legislation without discrimination.<sup>42</sup>

## **7. Conclusion**

Taking into consideration all the abovementioned, we could summarize that the convention on the "Elimination of Discrimination in Education" has been successfully implemented in the Georgian legislation. We should also note that, one of the forms of discrimination is racial discrimination. Racial discrimination is related to a race, colour of the skin, national dependency. Discrimination could occur anytime, starting from the pre-school period and continuing to the university period, which could be caused by the teacher, institution, any worker of the institution's administration or by the student.<sup>43</sup> In order to eliminate the racial discrimination and avoid non-friendly educational environment, the federal government established one of the most important acts,

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<sup>39</sup> Georgian Law on "Higher Education", LHG, 2, 10/01/2005.

<sup>40</sup> Georgian Law on "General Education", LHG, 20, 04/05/2005.

<sup>41</sup> Articles 3 and 16, Georgian Law on "Higher Education" LHG, 2, 10/01/2005.

<sup>42</sup> Article 4(2), Georgian Law on "Vocational Education", 3442-IS, 20/09/2018.

<sup>43</sup> Free Advice Legal, Racial Discrimination in Education, <[www.law.freeadvice.com/government\\_law/civil\\_rights\\_law\\_ada/race-discrimination-education.htm](http://www.law.freeadvice.com/government_law/civil_rights_law_ada/race-discrimination-education.htm)>, [01.05.2019].

which declared racial, religious, gender and ethnic discrimination unlawful. Non-equal voting rights and racial segregation at schools had been abolished. President *Lyndon Johnson* had signed the Civil Rights Act at the White House on July 2, 1964.<sup>44</sup>

Often, the discrimination on behalf of the teacher is related to the in-class disciplinary issues, whereas most of these cases contain instances, where teachers show signs of discriminatory actions towards the representatives of minorities. This is custom in cases related to African American/Latin students, especially at high schools, whereas different forms of discrimination on behalf of the teachers are exemplified in giving them non-fair grading. Also, there are instances, when the students, who are the victims of discrimination, are not accepted by the peers, whereas on most occasions, the students, who are the discriminators, do not get the necessary reactions from the teachers.<sup>45</sup>

The cases of discrimination from the educational institution's administration is more common, than acts of discrimination from the teachers. In pre-schools and middle-schools, the administrators are more expected to punish students representing the different minorities. Often, there are cases, when the representatives of the minorities are expelled from the educational institutions, representatives of the majority. The above mentioned Civil Rights Act fines schools, when they refuse students to their program and also, in cases, when the schools do not show signs of positive discrimination to students, who had been victims of discrimination in the past.<sup>46</sup>

Most common form of discrimination is the oppression from the students towards the victim. The mentioned Civil Rights Office published the cases of the racially motivated incidents, which comprises of acts of physical violence, racial epithet calling outs, writings on the school walls and organized acts of violence, which are directed to certain students. Those, closed up incidents, which are conducted by the students, could be perceived as the cases of non-investigative nature, however, such acts are repeated, the Civil Rights Office would start investigation.<sup>47</sup>

It is important to note the cases that happened at the school in Tbilisi, when there had been a verbal confrontation between a white (race) and African-American (race) students. The court had judged that there was a case of racial discrimination, in particular, it judged that it is of great importance to understand whether the victim perceived that conducted act as an act of violence. The Appellate Court judged that the motive of the discriminator is not important, rather it is important, whether the act itself contained facts of discrimination.

It is noteworthy that Georgia represents as a member country of the European Convention on Human rights, whereas the article 14 of the convention prohibits any type of discrimination. In this case, the case of "Savez Crkava "Rijec Zivota" and others v. Croatia" is noteworthy.<sup>48</sup> The court judged that, discrimination could be interpreted widely, in particular, article 1 of the protocol 12 con-

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<sup>44</sup> See, Civil Rights Act, 02/07/1964.

<sup>45</sup> Free Advice Legal, Racial Discrimination in Education, <[www.law.freeadvice.com/government\\_law/civil\\_rights\\_law\\_ada/race-discrimination-education.htm](http://www.law.freeadvice.com/government_law/civil_rights_law_ada/race-discrimination-education.htm)>, [01.05.2019].

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

<sup>48</sup> Savez Crkava (Rijec Zivota) and Others v Croatia, [2010] ECHR, App. № 7798/08.

siders the general prohibition of discrimination and its defense does not limit to "any right approved by the law", as it is indicated in the article 1 of the added protocol. Therefore, the clauses 1 and 6 in article 2 of the Georgian Law on the "Elimination of the Discrimination" serve the purpose of a wider definition.<sup>49</sup>

The right to access to education is constitutionally protected. The current legislation prohibits discrimination in education and declares equal access to education at pre-schools, public schools and higher educational institutions. The Georgian law on "General Education" protects each student from violence or any type of misconduct from the discriminators. Article 13, of the Law, which is related to the prohibition of discrimination, puts obligation on an educational institution to protect students and to establish mutual respect and tolerance among teachers and parents, despite their social, ethnic, religious, language or political belongings. Article 20 of the Law prohibits any type of violence against any student of the educational institution, whereas in cases, where the physical or verbal abuses occur, the school shall immediately react based on the regulations set in the Georgian legislation. A student, has a right to be protected from the non-acceptable behavior, carelessness and humiliation.<sup>50</sup>

It is important to note that there could exist different treatment could co-exist with certain rights or to be related with certain merits, as the discrimination itself, could not be viewed as a separate institute and therefore be a subject of independent protection. Therefore, in cases if discrimination, there should exist a protected spheres/right, which are subject to legal interferences, comparative-analogical or essentially similar person and there should exist a difference between those persons, which should directly be related to the "protected sphere". In cases of direct discrimination, as well as indirect discrimination cases, it is of utmost importance to define the comparator, in order for us to define whether the exact criterion, or the influence of the practice is rather negative, than on instances with other persons being in the similar situation.<sup>51</sup>

### **Bibliography:**

1. Constitution of Georgia, Departments of the Parliament of Georgia, 31-33, 24/08/1995.
2. Convention against Discrimination in Education, 14/12/1960, <[www.unesco.org/education/pdf/DISCRIM\\_E.PDF](http://www.unesco.org/education/pdf/DISCRIM_E.PDF)>.
3. Civil Rights Act, 02/07/1964.
4. Decree № 476 of the Government of Georgia on the "Funding of General Education", 14/09/2015.
5. Decree № 66 of the Government of Georgia on the "Approval of the State Educational Grant Volume and Amount of State Scholarships and Program Funding for the Academic Year of 2013-2014", 28/03/2013.

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<sup>49</sup> Decision of the Tbilisi Appeal Court of 14 June 2018, № 2B/5499-17.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

6. Decree № 248 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships and Program Funding for the Academic Year of 2014-2015”, 20/03/2014.
7. Decree № 180 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships and Program Funding for the Academic Year of 2015-2016”, 24/04/2015.
8. Decree № 158 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships and Program Funding for the Academic Year of 2016-2017”, 01/04/2016.
9. Decree № 359 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships and Program Funding for the Academic Year of 2017-2018”, 24/07/2017.
10. Decree № 65 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships for Master Educational Programs, Approval of the Priority Master Educational Programs and Approval of the Sums to be Distributed Among the Priority Master Educational Programs for the Academic Year of 2013-2014”, 13/02/2013.
11. Decree № 163 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships for Master Educational Programs, Approval of the Priority Master Educational Programs and Approval of the Sums to be Distributed Among the Priority Master Educational Programs for the Academic Year of 2014-2015”, 13/02/2014.
12. Decree № 85 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships for Master Educational Programs, Approval of the Priority Master Educational Programs and Approval of the Sums to be Distributed Among the Priority Master Educational Programs for the Academic Year of 2015-2016”, 05/03/2015.
13. Decree № 97 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships for Master Educational Programs, Approval of the Priority Master Educational Programs and Approval of the Sums to be Distributed Among the Priority Master Educational Programs for the Academic Year of 2016-2017”, 26/02/2016.
14. Decree № 131 of the Government of Georgia on the “Approval of the State Educational Grant Volume and Amount of State Scholarships for Master Educational Programs, Approval of the Priority Master Educational Programs and Approval of the Sums to be Distributed Among the Priority Master Educational Programs for the Academic Year of 2017-2018”, 15/03/2017.
15. Decree № 40/N of the Minister of Education and Science of Georgia on the “Adoption of the National Education Curriculum”, 18/05/2016.
16. Decree № 99/N of the Minister of Education and Science of Georgia on the “Adoption of the Authorization of Educational Institutions”, 01/03/2010.
17. Georgian Law on “General Education”, LHG, 20, 04/05/2005.
18. Georgian Law on “Vocational Education”, 3442-IS, 20/09/2018.
19. Georgian Law on “Higher Education”, LHG, 2, 10/01/2005.
20. Georgian Law on “Elimination of any type of Discrimination”, 2391-IIS, 02/05/2014.

21. *Kantaria B.*, The Constitutional Principle of the Right to Education, Commentary to the Constitution of Georgia. Chapter two. Georgian Citizenship, The Fundamental Human Rights, Tbilisi, 2013, 426 (in Georgian).
22. Decision of the Tbilisi Appeal Court of 14 June 2018, № 2B/5499-17.
23. *Savez Crkava (Rijec Zivota) and Others v Croatia*, [2010] ECHR, App. № 7798/08.
24. Correspondence № MES61801523368 of 17 November, 2018 sent by M. Shukhoshvili, Head of the Higher Education and Science Department of the Ministry of Education, Science, Sports and Culture.
25. <[www.unesco.ge/?page\\_id=534](http://www.unesco.ge/?page_id=534)>.
26. <[www.civilrights.findlaw.com/discrimination/discrimination-in-education.html](http://www.civilrights.findlaw.com/discrimination/discrimination-in-education.html)>.
27. <[www.stephensons.co.uk/site/individuals/education/discriminationasagroundforappea](http://www.stephensons.co.uk/site/individuals/education/discriminationasagroundforappea)>.
28. <[www.law.freeadvice.com/government\\_law/civil\\_rights\\_law\\_ada/race-discrimination-education.htm](http://www.law.freeadvice.com/government_law/civil_rights_law_ada/race-discrimination-education.htm)>.