



საქართველოს სახალხო
დაცველი

PUBLIC DEFENDER
(OMBUDSMAN)
OF GEORGIA

SUBMISSION OF THE PUBLIC DEFENDER OF GEORGIA TO THE

UN COMMITTEE ON THE RIGHTS OF THE CHILD

90th Pre-Sessional Working Group (27 Sep 2021 - 01 Oct 2021)

List of issues prior to reporting (LOIPR)

Introduction

The Public Defender's Office (hereinafter PDO) is an „A“ Status National Human Rights Institution mandated by the Constitution and Organic law of Georgia to oversee human rights situation in the country. The PDO's work combines the functions of examining complaints, reporting, awareness raising and research activities on human rights related issues.

The Department for Child's Rights has been functioning in the Public Defender's Office since 2001. The Department is guided by the Constitution of Georgia, relevant international conventions and treaties, the Organic Law on Public Defender, the regulations of the Public Defender's Office and other relevant laws. The Department's function is based on the principles of the United Nations Convention on the Rights of the Child and is supervising protection of child's rights and freedoms and promoting realization of their rights, as well as encouraging changes to the procedures and laws for the children's welfare and raising public awareness on the child's rights.

Public Defender (Ombudsman) of Georgia provides the below information to the Committee on the Rights of the Child ahead of 90th Pre-Sessional Working Group session. This submission sets out Public Defender's key concerns about Georgia's compliance with the Convention on the Rights of the Child and suggests the honorable Committee the formulations for the list of issues.

Right to life and health

Prevention of child suicide remains a challenge in Georgia. According to the Ministry of Internal Affairs of Georgia, in 2020, 14 cases of juvenile suicide and 54 cases of attempted suicide were detected. To compare that number with the previous year, the situation was the following: 22 cases of juvenile suicide and 69 cases of attempted suicide in 2019; 12 cases of juvenile suicide and 48 cases of attempted suicide in 2018. According to the Ministry of Education, Science, Culture and Sports of Georgia, from March 1 to October 31, 2020, 36 cases of students' suicidal thoughts / behaviour and self-harm were revealed. There is no methodological document for assessing and detecting suicidal behaviour in children in the country as well as a specific tool that would allow social workers, law enforcement officers and school representatives to assess the risks of suicide in children based on specific indicators, take a multidisciplinary approach to solve their problems.

Child poverty and inadequate standard of living remain an unresolved problem for years, putting juvenile health and lives at particular risk in some cases. One of the obvious examples of the extremely difficult situation related to the poverty in the country is the fact of death of 4 juveniles as a result of fire in Baghdati municipality.¹

In addition, the case of four-year-old N.Z.'s death further demonstrated the inefficiency of the child care system and the lack of prompt response to domestic violence and child care. According to the conclusion of the internal audit of the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, the child was in foster care since her infancy till 14 August 2018. After the necessary removal of the child from the foster family (in August 2018), N.Z. lived in the biological family without a legal ground as the mother had a permission to see and take the child out with her only during daytime. According to the abovementioned conclusion of the internal audit, authorized employees of the Social Service Agency failed to respond adequately to the information about violence against the child. A social worker consulted a police and recommended to transfer the child to a medical institution. Aftermath the social worker, who visited the child in the hospital did not assess the injuries and signs of violence on the body of the child and relied on the information provided by the allegedly offending parent in the conversation through phone call. The study of the case by the PDO reveals that responsible employees of Social Service Agency did not undertake the measures prescribed by the law for detecting and preventing violence against a child and protecting child's safety.

¹ Statement of the Public Defender of Georgia, available at : < <https://bit.ly/3ffCz3Z> >

Another tragic example of existing systemic problems is the suicide of a 14-year-old girl in Kobuleti,¹ which is not an isolated case, but is a part of a whole problem. This case has shown that suicide prevention, risk assessment and timely response remains problematic in the country.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please provide information on the measures implemented aiming to eliminate the causes of suicidal behaviour among children, and for timely and effective assessment of the individual needs of children at risk.

Poverty and inadequate standard of living

The current social security system fails to eliminate children's poverty in the country or significantly reduce it. The social allowance received from state is often not enough to buy food, clothes and primary household / educational items for children. One of the reasons which caused such situation is the absence of the targeted social aid program oriented to identify and to eliminate the identified risks of the families with children living in poverty. In the situation of the socio-economic problems caused by the pandemic, the inadequate standard of living has reached an even more critical level and has caused a significant crisis in socially disadvantaged families with children. From January to December 2020, the number of families receiving subsistence allowance in Georgia, with at least one child, increased from 71,766 to 87,527 families. And, the number of families with 3 or more children from 20,750 to 25,782 families. During the same period, in January, 152,353 juveniles were enrolled in the program, and at the end of the year 186,131 juvenile beneficiaries were enrolled.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please inform the Committee on the measures implemented in terms of strengthening families with children living in poverty:

Children with disabilities

In order to ensure raising of the child with disabilities in the environment close to family, the State Program for Social Rehabilitation and Child Care also has sub-programs for foster care and services in Family-type small group homes,² the implementation of which reveals a number of challenges. Although foster care is one of the priorities of the childcare system, there is still no proper system for finding and training/strengthening of foster care givers, which is especially important in the case of specialized foster care services. Particular problems are faced by service provider families where children with disabilities with

² In 2018, funding for children with disabilities in family-type small group homes was 20 GEL per day, which from 2019, increased to 30 GEL per day. In foster care - 30 GEL per day, and in foster care with relatives a fixed amount of 375 GEL per month (21 children as of December 2020). As of December 2020, there were 40 children with disabilities registered in small family-type homes, and 310 children with disabilities in foster care.

difficult behaviors and mental health problems are accommodated, as the provision of rehabilitation services for them in the country is still not ensured.

Providing beneficiaries with services foreseen by the state program has been particularly difficult in the context of the coronavirus pandemic. Remote access to the service due to lack of appropriate technical means (computer, telephone)/lack of knowledge of their use, as well as lack of Internet access, has become a challenge for many beneficiaries. In some cases, it was impossible to manage the service remotely due to the disability and the specifics of the service, which left this circle of persons/children with disabilities beyond the necessary services for months and created a real risk of losing the results already achieved.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please provide information on the measures/programs implemented by the state in order to assist foster families, where children with disabilities with difficult behaviors and mental health problems are accommodated,
- Please inform the Committee on the assistance that the state has provided to children with disabilities in order to ensure the smooth and effective inclusion of children with disabilities in remote services since the suspension of services provided by the state program and their remote delivery due to the pandemic.

Protection from violence

In 2020, the number of cases of violence against children was still high. According to the LEPL State Care and Victims Assistance Agency, in 2020, 1818 cases of violence against children were detected. Protection of children from abuse is still linked to challenges such as timely detection of violence, comprehensive and effective response to detected facts, lack of rehabilitation services, inadequate coordination between responsible agencies for prevention of violence, and law qualification of professionals working with minors. Revealing facts by social workers and law enforcement bodies is delayed in some cases, and in already identified cases, minor victims of domestic violence do not have access to long-term, therapeutic rehabilitation services. Across the country, only 268 social workers and 12 psychologists have to work with thousands of juveniles with a variety of problems, which is certainly insufficient. In addition, custodial institutions and investigative bodies do not provide a properly adapted environment for children.

It is commendable that the Code of the Rights of the Child (2019) explicitly bans all forms of corporal punishment of children. It should be noted that at present legislation of Georgia does not provide for proportional and efficient administrative or criminal liability measures in case of violation of prohibition of corporal punishment of children.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please provide information on the steps taken to increase the staff of social workers and psychologists in the regions in order to detect child abuse and on the measures implemented to ensure safety and support for the minor victims of the domestic violence.

- Please indicate the measures taken to retrain social workers in issues of domestic violence;
- Please report on measures taken to ensure that corporal punishment has been eradicated in all settings, including the home.

Sexual abuse

Ineffective response to the facts of sexual violence against children is significant problem in the country. In 2020, 254 criminal proceedings on sexual violence and sexual exploitation against minors qualified under Articles 137-141, 253-254 and 255-2552 of the Criminal Code of Georgia were launched, and 31 of these cases were crimes committed in families. Despite the high number of criminal proceedings on sexual violence and sexual exploitation against minors, the lack of staff working on cases of sexual violence against minors, their low qualifications and the lack of rehabilitation services focused on child victims still remain a serious problem in the country.

The lack of adequate staff and the lack of rehabilitation services make it virtually impossible to implement timely and effective measures tailored to the child victim. At this stage, across the country, there is only one psychologist in each region within the State Care Agency, which makes it impossible to respond to all cases in a timely and appropriate manner, taking into account the importance of individual approach to the child.

Deficiency in terms of staff and resources is also related to the challenges of medical expertise in cases of sexual abuse of children. In particular, due to the lack of relevant equipment and specialists, the medical examination in cases of sexual violence against minors is conducted only in Tbilisi, at the central office of the Medical Examination Department of the Levan Samkharauli National Forensics Department.

In addition, although the involvement of appropriate specialists is crucial to prevent secondary victimization related to child, there is no document that would precisely regulate the involvement of a psychologist in child sexual abuse cases, or that would guide investigators and prosecutors in making such decisions. It should also be noted that the responsibilities and powers of the psychologist and social worker at the investigation and trial stage are not clearly and precisely described

Although the training of investigators, prosecutors and judges on juvenile justice is being carried out step by step, the state has not yet been able to provide training to relevant staff through a training module tailored directly to the crimes of child sexual abuse. Social workers do not receive any support to raise qualification on this issue, when their responsibility is to timely respond to the individual needs of the child victim and to provide support and to ensure assistance of children and their families.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please provide information on the trainings conducted for investigators, prosecutors, social workers working with juveniles and witness / victim coordinators on sexual abuse of children.
- Please inform the Committee on the concrete plans in terms of addressing the lack of resources to implement timely and effective measures tailored to the child victim.

Child labor

Due to the poverty, inappropriate level of life and other social factors, children are at a risk to be involved in the work inappropriate with their age and threatening their development. Despite the severity of the situation in terms of child labor in Georgia, the state does not react efficiently on this problem. Responsible agencies have not elaborated effective mechanism to respond to such cases, to prevent them and to assess risks. Responsible agencies are still unable to eliminate children's labor in the streets, to prevent participation of juveniles in anti-social activity, to coordinate work on identifying needs of children living in the streets and improving the situation. In terms of realizing children's rights, labor migration is one of the most important challenges. The labor migration occurs on seasonal basis, as well as for short-term and long-term period, the age of children ranges from 14 to 18 years. Children, in order to get rid of poverty, are performing hard works such as collecting of scrap, work on trucks and cargo and farming works. Involvement in labor activities leads to abandonment of school by juveniles. During seasonal works, households and temporary labor migration, juveniles are not involved in the educational process. At the same time, it should be noted that the legislation regulating the labor of minors needs to be brought closer to international standards.

It is noteworthy that the Covid-19-related problems, such as further impoverishment of families living in poverty, job losses, problems in the education sector, etc., have left even more children in poverty and poor living conditions in Georgia and increased the risk of informal employment, including during school hours. Some of the respondents surveyed within the framework of the study conducted by the Public Defender of Georgia³ in 2020 noted that due to the Covid-19 pandemic, the population were unable to go to the neighboring countries and children were also afraid to go, for example, to Turkey, which indicates a decrease in labour migration for a short period.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please provide the Committee with detailed overview of the activities conducted in terms of the individual need's assessment of children involved in labor and the results of the monitoring of situation of juveniles affected by severe forms of labor.
- Please inform the Committee on the concrete plans to bring the national legislation regulating the labor of minors closer to international standards.

Children working and living in the streets

Under the reality caused by Coronavirus, the most vulnerable group are children living and working in the streets. Besides the fact that they are particularly vulnerable to violence, the acute problem is to provide them with such basic needs as shelter and proper meals, as well as effective access to education, health and

³ Available at: < <https://bit.ly/3h890Rg> >

other services. Children working and living on the streets are also offered shelter and day care services for homeless children, however, this is not an effective way for prevention of child labor and rehabilitation, as, in most cases, children return to the streets and continue their labor activities. It should also be noted that in 2020 Homeless Child Shelter Sub-Program did not include the full contingent of homeless and in need of service children. The results of the study conducted by Public Defender reveals that the sub-program on providing shelter for homeless children is suffering from the lack of material-financial and human resources. In addition, shelters require support to solve infrastructural issues. It is also problematic for the absence of additional support services for homeless children and their families and their geographical access. Mobile groups do not operate in such big cities as Batumi, Kobuleti, Telavi, Akhaltsikhe, etc.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please provide information on the existing services for the families and parents of children living and working in the streets, both in terms of mobilizing their emergency material support funds and developing the necessary skills to increase employment motivation and opportunity;
- Please inform the Committee whether children living in the street and homeless children are registered in each municipality; Provide statistics on such children and information on targeted programs for them in the municipalities;

Child protection in the villages nearby the occupation line

Children living in villages nearby the occupation line have significant needs in relation to the access to education, social integration, health care services, psychosocial well-being and proper level of life.⁴

The study of this issue by the Public Defender of Georgia shows that unlimited access to school and preschool in the villages near the occupation line is related to many challenges. Among them are the physical availability of schools, improper infrastructure, problems of encouraging informal education, and the lack of early and preschool education institutions. In some villages kindergartens and schools do not operate, the infrastructure and the physical environment does not meet standards of educational process in a safe environment. The main concerns of the population living in the villages near the occupation line are the posttraumatic stress and psycho-emotional needs, fear and tension caused by the threat of conflict situations in children. In the most part of the villages nearby to the occupation line, local medical services do not operate in terms of realization of health rights, this fact creates many obstacles to local population, especially children. According to the local population, due to poverty and improper living conditions, they have problems related to purchasing of necessary food and medical staff.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

⁴ The Public Defender's Office examined the rights of children living in 6 villages of Gori municipality and in 2 villages of Kareli municipality and their basic needs.

- Please provide information on the measures implemented to improve the infrastructure of municipal transport, kindergartens and schools in order to improve the rights of children living in the villages nearby the occupation line, as well as to promote non-formal education;
- Please inform the Committee on the steps taken in order to provide access to health services, psychology and primary health care for children living in the villages nearby the occupation line;

The rights of children under state care

The harmful practice of transferring a child to state care due to poverty still remains in the country. The Public Defender has been vocal for years that poverty cannot be the basis for transferring a child to state care, but rather all measures should be taken to strengthen and support families. Unfortunately, in 2020, in 15% of 315 cases the basis for placing juveniles in state care became poverty and inadequate standard of living. This increases the risks of placing children in institutions, a clear example of which are the developments around the Ninotsminda boarding school.⁵

Over the years, the Public Defender has repeatedly referred to the situation of children living in the Ninotsminda boarding school. Our monitoring in previous years has revealed cases of corporal punishment of children, social isolation and disregard of their needs. It is alarming that in 2020 a state social worker could not enter the Ninotsminda facility for 10 months where children lived in state care.

This year, like previous ones, Public Defender's representatives were prevented once again to carry out monitoring in Ninotsminda Boarding school. Detailed information is presented in the case No. 144/2021 submitted to the honourable Committee on 5 May, 2021 on behalf of the children in Ninotsminda Children's Boarding School of Georgia. On May 24, 2020, Public Defender submitted request for third party intervention in the mentioned case before the Committee and as of today our request has been granted.

In June, 2021, PDO also informed the United Nations Subcommittee on Prevention of Torture on the highly concerning and alarming issues relating to child's right violations and violence against children in Ninotsminda Children's Boarding School of Georgia. Noting that recently identified cases of violence against children in child care system are amounting to torture and inhuman treatment.

The Public Defender's Office requested information from the Prosecutor General's Office of Georgia and the Ministry of Internal Affairs of Georgia about alleged offences that took place in the Ninotsminda boarding house. According to the information received, investigations were launched into 4 criminal cases of alleged abuse of minors in 2016-2021. 3 cases concern alleged violence (Article 126 of the Criminal Code) and one case concerns alleged rape (Article 137 of the Criminal Code). The Ninotsminda case is an important lesson for the state to continue the delayed, unplanned de-institutionalization process immediately.

⁵ Ninotsminda St. Nino Boarding house for the careless children of the Patriarchate of Georgia.

It is noteworthy that on June 28, 2021, the Public Defender of Georgia had the opportunity to visit the Ninotsminda boarding house. During the visit, the Public Defender met with the head of the house, as well as children, and inspected the facility. As part of the monitoring, representatives of the Public Defender's Office examined the documents of the boarding house and talked to children. As a result of the visit, a number of challenges have been identified both in terms of producing the documentation of the facility and its beneficiaries, as well as assessing and satisfying the individual needs of the minors. In addition, representatives of the Public Defender's Office, taking into account the wishes of the children, met with the minors living in the orphanage together with a psychologist. The need for additional work with children and the involvement of a psychologist was made clear during the meetings. The Public Defender's Office plans another visit to the Ninotsminda boarding house in the near future to fully study the situation, to assess the needs of the minors and to monitor the deinstitutionalization process.⁶

As for the deinstitutionalization policy in general, which is announced by the state, it should be noted that as of today, there are 3 licensed religious school-boarding homes operating in the country and 163 juveniles are registered there.⁷ Despite the licensing, it is still problematic to monitor the rights of children in such homes.

In general, in terms of the protection of children under state care, the state faces challenges such as prevention of violence against children in the care system, identification of victims, response to their needs, rehabilitation of children's victims of violence, protection of education and health, support of beneficiaries who left the state care system. Monitoring conducted by the Public Defender's Office in small family-type homes showed that no rehabilitation is provided for victim children, there is no effective, therapeutic and outcome-oriented rehabilitation programs that are aggravated by the emotional state of children. This problem is common in general for juveniles in state care and their life conditions depend on the personal skills of the caregivers and recipient families. Unfortunately, the state is still unable to provide access to services for beneficiaries who reached age of 18, and young people are returning from the care to the same environment they were before the state care.

Despite the deinstitutionalization policy announced by the state, a certain number of persons with disabilities in the country still continue⁸ to live in large residential institutions. In 2020, the monitoring conducted by the Office of the Public Defender in these institutions revealed that the institutional arrangement of boarding houses for persons with disabilities and children's houses, the volume of services, the number of enrolled persons⁹ and the living conditions there could not create an environment closer to family, and fail to provide

⁶ Public Defender Visits Ninotsminda Orphanage. Available at: < <https://bit.ly/3614ZZE> >

⁷ LEPL State Care and Trafficking Victims Assistance Agency No. 07/8/842 of 2021.

⁸ Branches of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking: Martkopi Boarding House for Persons with Disabilities, Dzevri Boarding House for Persons with Disabilities, Dusheti Boarding House for Persons with Disabilities, Tbilisi infant house and Kojori childrens' house for children with disabilities – these are large-scale residential services for 70 children with disabilities and 185 persons with disabilities.

⁹ Kojori childrens' house for children with disabilities; Limit 24 beneficiaries (during monitoring - 22); Dzevri Boarding House for Persons with Disabilities - limit 69 beneficiaries (during monitoring - 64); Martkopi Boarding House for Persons with

opportunity to persons with disabilities for individual development and independent living. With these challenges that do not change from year to year, it is still problematic to identify and respond to violence at the institutions.

Licensing of Muslim Boarding houses remains a problem. The state has not properly studied the circumstances that should be taken into consideration in the Muslim Boarding houses licensing process, this increases the risk of covert operation of such boarding houses without state control. In addition, it is important for the state to develop unified policy and approach, in general, in relation to religious boarding schools, taking into account the best individual interests and needs of children.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please inform the Committee on the steps taken by the state in the process of splitting of large institutions and the measures taken to mitigate the existing risks in case of activities of such institutions beyond the control of the state;
- Please provide information on state's reintegration policy, including the number of children reintegrated into biological families in 2018-2020;
- Please inform the Committee on the measures that have been implemented in terms of deinstitutionalization of large institutions in the past years and ongoing at this moment;
- Provide information on the investigation of alleged crimes committed against children (beneficiaries) of Ninotsminda boarding house and the persons held responsible;
- Please inform the Committee on what kind of trainings are provided to the staff of small family type homes to improve their qualifications;

Protection of the right to education

According to the United Nations Children's Fund, 15% of school-age children in Georgia do not have access to the Internet at home. According to the National Statistics Office of Georgia, only 61.8% of households are provided with computers. The long transition to the distance learning regime, without providing adequate technical support to families, has put at risk the protection of the right of some children to education. This issue has been particularly acute in relation to minors living in the regions and in poverty. No specific action plan was developed during the reporting period, in which the state planned activities are outlined. This was extremely important as the distance learning process has been extended in several major cities in Georgia.

The high education suspension rate remains a problem in the country for years. In 2020 (01.01.2020 - 31.12.2020), 6704 minors stopped studying across the country. 2777 of them were girls and 3927 were boys. The most common reason for suspension of the education is not attending of classes for 90 days in a row by child. This may be due to a variety of reasons, including child neglect, other forms of violence against

Disabilities - Limit 69 Beneficiaries (66 during monitoring); Dusheti Boarding House for Persons with Disabilities - Limit 47 Beneficiaries (46 during monitoring). Tbilisi infant house – 46 During Monitoring.

them, poverty, child labor, and etc. However, this information is not reflected in the statistics. Unfortunately, although dropout rates have been high over the years, coordination between general education institutions and responsible agencies on the issues of protection of rights of the children and on reduction of existing risks is not effective and systematic, especially in the case of dropouts before the end of basic education.

According to data of 2020, there are 1,621 preschools and educational institutions in Georgia, although access to pre-school education and education for children remains challenging, especially geographical access for rural children and the lack of appropriate equipment and internet for distance learning. The physical environment of the educational institutions, as well as the issues of providing it with proper inventory and overcrowding are problematic. The state has not yet been able to fully adapt the kindergarten environment to the standards existing in the country and to ensure a smooth running of the full-fledged educational and upraising process in pre-school and educational institutions. This problem is especially acute for children with disabilities, as most kindergartens fail to provide even physical access for them.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please inform the Committee on the measures implemented to address the issues of managing the teaching process in general education institutions during pandemic. In addition, in terms of allocation both financial and human resources to enable schools to implement preventive measures effectively and improve infrastructure;