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**Info Submission to the**

**Office of the United Nations High Commissioner for Human Rights**

**The impact of the COVID-19 pandemic on the realization of the**

**equal enjoyment of the right to education by every girl**

 **Submitted by**

**The Public Defender (Ombudsman) of Georgia**

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**Background**

The Public Defender (Ombudsman) of Georgia is a **constitutional institution** **(NHRI with “A” Status)**, which oversees the observance of human rights and freedoms within its jurisdiction on the territory of Georgia. It advises the government on human rights issues and scrutinizes the state’s laws, policies and practices, in compliance with international standards, and provides relevant recommendations. **It identifies human rights violations and contributes to the restoration of the violated rights and freedoms**. *The Constitution of Georgia*, *the Organic Law of Georgia on the Public Defender of Georgia* and other legislative acts regulate the Public Defender’s status and competencies.

The Public Defender of Georgia studies the facts of human rights violations both based on the received applications and on its own initiative. The Public Defender studies the cases relating to:

* Decisions of public institutions;
* Violations of human rights and freedoms during the court proceedings;
* Violations of the rights of detainees, prisoners or individuals whose liberty had been otherwise restricted;
* Compliance of normative acts with the Second Chapter of the Constitution of Georgia;
* Constitutionality of the norms regulating the referendums and elections, as well as the elections (referendum) held or to be held based on these norms.

Besides, the Public Defender is authorized to examine the cases of human rights violations guaranteed by the Georgian legislation and international treaties and agreements, to which Georgia is a party.

In order to ensure the protection of human rights and freedoms, the Public Defender of Georgia:

* **Submits proposals, comments and recommendations** concerning the Georgian legislation and draft laws to **the Parliament of Georgia or other relevant bodies**;
* **Addresses the state agencies, local self-government bodies, public institutions and public officials with proposals and recommendations** concerning the restoration of the violated human rights and freedoms;
* **Addresses relevant investigative authorities** with proposals to launch investigation and/or criminal persecution;
* **Addresses relevant agencies with proposals concerning disciplinary or administrative responsibilities** of the individuals, whose actions caused violations of human rights and freedoms;
* **Performs the *amicus curiae* function** at Common Courts and the Constitutional Court of Georgia;
* Submits constitutional claims to the Constitutional Court;
* **Appeals to the President and Prime Minister** in writing, if s/he considers that the means in disposal of the Public Defender are not sufficient;
* In special cases, appeals to the Parliament of Georgia to set up a temporary investigative commission and consider a specific issue.

**The Public Defender of Georgia performs function of the National Preventive Mechanism** under the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In this capacity, the Public Defender regularly checks the situation and treatment of the detainees, prisoners or individuals whose liberty had been otherwise restricted, convicts, as well as the inmates of psychiatric institutions, houses for older persons and orphanages.

Moreover, on 27 October 2014, the Public Defender of Georgia was named as the **structure for ensuring implementation, promotion and protection of the UN Convention on the Rights of Persons with Disabilities.**

Additionally, together with the *Organic Law of Georgia on the Public Defender of Georgia*, *the* *Law of Georgia on Gender Equality* (Article 14(1)) **empowers the Public Defender to protect gender equality**, monitor the given field and respond to the violations of gender equality within the framework of its competencies. The Public Defender contributes to the elimination of gender inequality through effective and accountable management of cases and monitors the compliance of government and public institutions with national and international obligations on human rights and gender equality. Activities of the Public Defender in gender equality cover both, internal institutional development, as well as contribution to the process of achieving gender equality in Georgia. **The** **Public Defender is also a Femicide Monitoring Watch in the country.**

The mandate of the Public Defender was further strengthened by the adoption of *the Law of Georgia on Elimination of All Forms of Discrimination* by the Parliament of Georgia on 2 May 2014 (hereinafter the “Anti-Discrimination Law”). It authorizes the Public Defender to supervise the implementation of the Anti-Discrimination Law and eliminate all forms of discrimination and ensure equality (Article 6). It also determined the Public Defender and courts of general jurisdiction as legal remedies for the right to equality. It is noteworthy that following recent legislative amendments the Public Defender is entitled to refer to the national courts and **demand the** **enforcement of the recommendations addressed to both - public authorities/institutions and legal persons of private law (regarding discrimination cases)**, in cases where the perpetrator fails to take into consideration and fulfil the recommendation of the Public Defender.

Moreover, in 2019 the Public Defender was determined as the institution responsible for **monitoring the protection of the rights of a child and implementation of supporting programs under the new Code on the Rights of the Child** (entered into force in September 2020).

**The impact of the COVID-19 pandemic on the realization of the equal enjoyment of the right to education by every girl**

The Constitution of Georgia introduces the component of education as the principle of the social state and guarantees everyone the right to receive education and to choose its form. Primary and basic education is compulsory in Georgia. General education is fully funded by the state and it is prescribed in the Constitution of Georgia.[[1]](#footnote-1)

The general obligation provided by the Constitution is specified in such acts as the Code of the Rights of the Child,the Law of Georgia on Early and Preschool Education, the Law of Georgia on General Education, and the Law of Georgia on the Rights of Persons with Disabilities. Along with various essential standards, the legislation emphasizes the right of all children to receive a quality and inclusive education and the responsibility of the state to ensure that the inclusive education system is accessible to all. This obligation includes providing access to education according to the individual abilities and needs of children, as well as access to relevant information for children, facilitating the return to the school, of children who are left out of school, and preventing them from dropping out of school. Besides, the legislation secures the participation of children at every stage of the education process.

A review of key national standards demonstrates that a general legal framework for children’s right to education is in place. However, the main challenge is the effectiveness of its enforcement, especially when it comes to the context of the COVID-19 pandemic and various vulnerable groups of children. According to the Public Defender's analysis of the situation since the outbreak of the COVID-19 pandemic, the state has faced new challenges in all aspects. These include the effective involvement of children with disabilities in the learning process, the quality of education, the rate of access to technology, and many others.[[2]](#footnote-2)

The government of Georgia started taking measures to manage and prevent the spread of the new coronavirus pandemic in January 2020. Unfortunately, ahead of the COVID-19 pandemic in Georgia, the Georgian government focused solely on public health and public awareness in this area. It did not consider a plan to address or mitigate the challenges posed by the pandemic, including in the education system. In particular, the Government failed to foresee the mechanisms and concrete steps necessary for the smooth operation of the education system in a possible and after, already confirmed aggravating crisis. As a result, substantial damage has been done not only to the right to general education but also to the realization of many other rights and freedoms and the best interests of children.

One of the most commonly imposed measures in the globe during the Covid-19 pandemic was the suspension of the education process in the physical space and switching to distance learning.[[3]](#footnote-3) Georgia was no exception. In March 2020, in parallel with various measures, the government suspended the education process in the physical space throughout the country and switched to remote learning entirely. For example, at the initial stage of the pandemic, the regulation affected 579,995 students in 2,081 public and 221 private schools.[[4]](#footnote-4)

According to the 2021 data, there are 1,648 preschools and early education institutions in Georgia, although access to early and preschool education for children remains challenging, especially geographical access for those living in the rural area, and the lack of access to appropriate equipment and internet for distance learning. The physical environment of these institutions, as well as the issues of providing them with proper inventory, are problematic. The state has not yet been able to fully adapt kindergartens’ environment to the standards existing in the country and to ensure a smooth running of the full-fledged learning process in pre-school and early education institutions. This problem is especially acute for children with disabilities, as most kindergartens fail to provide even physical access for them. The physical environment in kindergartens, in many cases, does not correspond to the number of children and their needs, and in some cases, the environment is even dangerous for them. The damaged infrastructure of the building, polluted air, and lack of inventory directly affect the health of the children and the staff of the kindergarten.

The regulations of the government regarding distance learning laid the ground for an unequal environment for many groups of children. These include, as mentioned above, children living in rural and mountainous regions, as well as children with disabilities and special educational needs, children living and/or working in the streets or in the shelters created for them (considering poverty and socio-economic vulnerability of these groups).

The study of the Office of Public Defender of Georgia (PDO) shows that the Ministry and representatives of educational institutions, children, and their families were primarily unprepared for remote learning and the transition process to the distance learning was somewhat chaotic. On the one hand, this can be explained by the extraordinary nature of the situation and the lack of experience, and, on the other, by the viscosity of the measures taken by the state and the non-prioritization of the specific needs of children. It is evident that, as, home and computer replaced contact learning, which was a source of various positive experiences gained by education, socialization, communication, etc. for children, the transition to distance learning has put children and their families under significant stress and uncertainty.

Generally, cases studied by the PDO demonstrate many problematic issues, in particular, as regards children’s right to education and most importantly, timely identification/prevention of gender-based crimes and other violence against children. Due to distance learning, barriers emerged in respect of overseeing children’s behaviour, signs of possible violence against them, as well as other violations of their rights. To illustrate this, according to the Social Worker of the State Care Agency, with whom PDO representatives conducted an interview, there was an early marriage case, and the school heard about it late. They received information from the police, and the law enforcement authorities found out about it only after the child – the victim of forced marriage - was subject to sexual and physical violence in the family. If the school actively paid attention to why the child had missed online lessons, the case of early marriage could have been detected at an earlier stage.

Following the abovementioned case, it is noteworthy that in 2021 4103 pupils, out of which 1962 were girls, were suspended their student status until finishing 9th grade, which is the compulsory educational step in Georgia. There is almost a similar result in the case of girls enrolled above 9th grade - from 4,326 pupils, 1727 were girls, who terminated their studies.[[5]](#footnote-5) In total, these numbers are 1725 units higher than in the previous year. Additionally, according to the Ministry of Education after finishing the 9th grade, 32 girls dropped out of school because of their marriage. According to PDO’s assessment, the practice of girls’ early marriage remains one of the most pressing challenges in the country. Both the prevention of this practice as well as the effective management of the specific cases is persistent. Consequently, among other rights, it affects girls’ right to education and development.

Currently, the PDO does not have more segregated data. Nevertheless, PDO has requested all the relevant statistical data from the state agencies and it will be reflected in the Public Defender’s Annual Parliamentary Report 2021. For comparison, the statistics and other relevant information regarding previous years are available at the following link: <<https://bit.ly/3GuKuVW>>.

1. Constitution of Georgia, Article 5 (6), 27. [↑](#footnote-ref-1)
2. The Public Defender has conducted **Child Rights Impact Assessment of COVID-19 Related States Measures in Georgia,**which will be available in English by the end of February at: <<https://bit.ly/3nMyk3B>>. [↑](#footnote-ref-2)
3. UNESCO, Education: From Disruption to recovery, available at: <<https://bit.ly/3yzRKvT>>. [↑](#footnote-ref-3)
4. The Ministry of Education, Science, Culture and Sports of Georgia, Pandemic and General Education in Georgia, 2020. [↑](#footnote-ref-4)
5. Letter from the Ministry of Science and Education MES 3 22 0000057264, 24.01.2022. [↑](#footnote-ref-5)