



საქართველოს
სახალხო დამცველი
PUBLIC DEFENDER
(OMBUDSMAN) OF GEORGIA

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Ms. Suzanne Jabbour

Chairperson

The United Nations Subcommittee on Prevention of Torture Office of the United Nations

High Commissioner for Human Rights

Palais des Nations CH-1211 Geneva

10 Switzerland

Ms. JABBOUR,

Please allow me, at the outset, to renew assurances of my highest consideration personally to you and the UN Subcommittee on Prevention of Torture (SPT).

The Public Defender of Georgia appreciates and supports the preparation of a general comment on article 4 of the OPCAT by the Subcommittee on Prevention of Torture, and acknowledges the efforts made in this regard. The Public Defender shares the view that this document should serve as a practical guide to assist National Prevention Mechanisms to clarify the obligations of States parties to the Optional Protocol in relation to the definition of places of deprivation of liberty. We are grateful for the opportunity to provide feedback on the draft version of the comment, and while we fully agree with the importance of the issues presented, we would like to offer some comments aimed at providing further clarification on certain matters:

Comment regarding paragraph 11

1. Article 11 of the draft comment outlines the scope of the Optional Protocol, which includes situations where the state exercises or may be expected to exercise regulatory functions. The next paragraph underlines that the State party must enable and ensure visits to any place under its jurisdiction or control where persons are or may be deprived of their liberty. **We believe that it is crucial to highlight the significance of access to the places where state exercises or may be expected to exercise regulatory function, and in this context, to emphasize the importance of regulating these places by state and maintaining a comprehensive list of those places. Regrettably, there are numerous places that lack regulation and do not feature in any comprehensive list maintained by the state.**

Comment regarding paragraph 39

2. Article 39 of the draft comment references the Human Rights Council and highlights that determining whether a situation of confinement constitutes 'detention' is not solely based on the de jure right to leave, but also on the de facto ability to exercise that right without risking serious human rights violations. **It would be beneficial to provide practical examples of such situations to enhance clarity. Moreover, it is crucial to emphasize the vulnerability of certain groups in such settings, such as children, elderly persons, or persons with intellectual disabilities. These individuals may have the legal right to leave a confined space, but their vulnerabilities may hinder their ability to exercise that right. For example, a child may be unable to leave a detention facility due to lack of appropriate care or fear of repercussions, or an elderly person may face mobility challenges that prevent them from physically leaving a confined space. Similarly, persons with intellectual disabilities may face difficulties in understanding or asserting their rights, making it practically impossible for them to exercise their right to leave, even if they have the legal entitlement to do so.**

Thank you for the opportunity to participate in this process,

Sincerely,

Levan IOSELIANI

Public Defender (Ombudsperson) of Georgia

