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**Info Submission to the**

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

**On the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material**

**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 on the basis of 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 on the basis of 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).

**Addressing the vulnerabilities of children to sale and sexual exploitation in the framework of the Sustainable Development Goals**

The Office of the Public Defender of Georgia (PDO) within its mandate regularly monitors the situation of child’s rights in the country and evaluates the actions of the State Agencies to eliminate, prevent and act on cases of sexual violence against children in a coordinated and timely manner. Together with the requested data and relevant information from the stakeholders, the PDO investigates individual cases of sexual violence against children and their exploitation. Unfortunately, recommendations issued by the Public Defender of Georgia concerning certain amendments in the legislation in terms of sexual violence against children have not been followed by the Parliament of Georgia. Therefore, Georgian legislation in terms of sexual violence and exploitation against children still does not fully comply with the mandatory human rights instruments ratified by Georgia. In addition to this, the timely identification/prevention of crimes of sexual abuse of children, proper administration of justice, and their protection from secondary victimization remain problematic. Despite concerning and systematic challenges in this area, which will be later discussed in detail, in this document the Office of the Public Defender would also like to emphasize the positive development in terms of protecting children from sexual exploitation and sexual violence.

First and foremost, prevention and acting on cases of violence against children in a timely and coordinated manner remains a pressing issue and has become considerably challenging during the Covid-19 pandemic. The risk of violence against children increased during the isolation and the restrictions set during the Covid-19 Pandemic, and it had a significantly negative effect on child protection mechanisms. Namely, switching to distance learning has made it challenging to monitor children’s behaviour, and identify emotional or physical signs of violence. In particular, observation of the problem was no longer available to outsiders (e.g., school, resource officers of educational institutions). Due to barriers, overseeing child behaviour, identification of cases of alleged child abuse by schools and resource officers was under threat, which was reflected in a reduction of the referral rate to the relevant agencies or in a tendency for referrals to remain unchanged. Even though the State was providing online services, it was very difficult to communicate with children, since not everyone was equipped with the Internet or other relevant resources.

It should be noted, that one of the most identified vulnerable groups of children are those living in state care, beneficiaries of residential services (social housing, small family group homes, boarding schools), children living and/or working in the streets, children with disabilities, representatives of ethnic and religious minority groups, children from socio-economically vulnerable families who are particularly vulnerable to all forms of exploitation and other ill-treatment.

Child labour and protection of children from the worst forms of labour had been problematic in Georgia before, but the risks of child labour have also increased in the context of Covid-19, given the general socio-economic situation of the population and the increased risks of child poverty. Children living in socially vulnerable and economically poor families are, in some cases, involved in labour that is inappropriate for their age and development to buy food, clothes, and educational items. Children also speak about the cases of child labour caused by poverty with representatives of PDO. It is a common practice in the regions to involve children in households’ seasonal work, which poses a risk to their development and their access to education. Heavy forms of child labour such as scrap scavenging, truck work, and regular farming have also been identified.

It is also noteworthy that an early marriage practice remains a significant challenge in the country. As in previous years, the coordinated work between agencies, carrying out proper referral procedures and taking preventive measures is widely problematic. Along with the harmful practice of an early marriage, the engagement of underage girls remains one of pressing concerns. A case study shows that agencies are mostly unable to identify cases of the alleged forced marriages. Therefore these girls are one of the most vulnerable groups towards sexual abuse or other violation of their rights. According to the processed statistical data, the LEPL - Agency of State Care and Assistance for the (Statutory) Victims of Human Trafficking has examined 12 cases of early marriage in 2021. The Ministry of Internal Affairs of Georgia has launched an investigation into 101 alleged crimes of early marriage. 36 children left school due to their marriage. In 2020, an investigation was launched into 132 alleged crimes, with the Ministry of Education recording 20 cases of school dropouts due to marriage, and the LEPL - Agency of State Care and Assistance for the (Statutory) Victims of Human Trafficking studied 115 cases of early marriage in 2020.

As for the cases of sexual violence against children, in 2021 the law enforcement agencies started investigating 311 cases, 252 people were persecuted for sexual violence against children and 187 children were given victim status of sexual violence. In addition to this, investigation has started on 6 cases of child trafficking, 2 people were persecuted and 3 children were given victim status of a child trafficking.

In this regard, one of the main areas of concern, is rehabilitation and supportive services for child victims of sexual violence and exploitation and their families. Not only the rehabilitation services, but medical expertise set during the investigation of sexual violence against children remains geographically available only in the capital, Tbilisi, which makes this traumatic procedure even more complicated and stressful for child victims. The lack of relevant and necessary services contradicts the responsibilities of protecting the child’s best interest and acting in a victim-oriented manner. Additionally, during the pandemic, services, including social rehabilitation and child care services, shifted to working remotely, which has put its efficiency even at more risk.

However, it is important to note that state law enforcement agencies, the Ministry of Internal Affairs of Georgia, and the Prosecutor’s Office of Georgia have taken positive steps toward educating and training a considerable number of its officials on the topics of sexual violence and sexual exploitation against children. It is also noteworthy that the Ministry of Internal Affairs considered the recommendation of the Public Defender and now a psychologist is being proactively involved in all cases of sexual violence against children. In addition to this judges and other court officials are frequently trained on matters of a child-friendly approach. It should also be outlined that recently a center (Barnahus module) for child victims of sexual violence which enables specialists to work on sexual violence cases in a timely and coordinated manner has been established. However, this center is located only in Tbilisi and the situation concerning a child-friendly environment and approach is still challenging in the regions. Additionally, in overall, only 4 police stations and 5 courts have child-friendly environments in Georgia, which is a significantly low number considering the number of child sexual violence cases per year.

The PDO continues to monitor and evaluate the State’s actions concerning combating and preventing cases of child sexual violence and exploitation. Additionally, PDO is currently conducting meetings with children, teachers, and self-government authorities on topics of violence against children, including sexual violence and mechanisms of child protection to raise awareness on the concerning issues.

For more information and the relevant statistical data please address the Public Defender’s Annual Parliamentary Report about Protection of Human Rights and Freedoms in Georgia 2021, which will be soon available in English at the following link: <<https://bit.ly/3GuKuVW>>. Also, for comparison, the statistics and other relevant information regarding previous years are available at the same link.