



PUBLIC DEFENDER
(OMBUDSMAN) OF GEORGIA

SITUATION OF CHILDREN'S RIGHTS IN GEORGIA

2015



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PUBLIC DEFENDER
(OMBUDSMAN) OF GEORGIA

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INTRODUCTION

The Public Defender of Georgia has essentially studied the measures taken in 2015 by the State for the protection of the children's rights. Positively were assessed a number of developments, including the following: approval of the Juvenile Justice Code by the Parliament, preparation of the draft law on Early and Preschool Education, initiation of the amendments to the law of Georgia on Adoption and Foster Care and preparation of the standards on foster care, submission of the fourth periodic report on the implementation of the Convention on the Rights of the Child to the UN Committee on the Rights of the Child by the Government of Georgia. It should also be noted that on 16 December 2015, on the third reading the Parliament of Georgia unanimously adopted the draft law that was based on the legislative proposal submitted by the Public Defender of Georgia. According to the amendments, the rule for the registration of marriage of individuals between 16 and 18 years has changed so that only the court can give the permission on marriage. In addition, valid circumstances for the registration of marriage were clarified and the validity of the norm was defined to be one year. The fact that the determination once again expressed in order to promote the prevention of early marriage is highly appreciated.

In addition to the above-mentioned, there are a number of challenges in terms of protection of the children's rights in Georgia. The problem of signing and ratifying the third additional protocol to the UN Convention on the Rights of Child is still in question. The adoption of the Governmental Human Rights Action Plan and Strategy in 2014 should have been followed by implementation of the commitments with more consistency. Despite the fact that the rate of violence against children is still high in the country, no changes have been made to the Georgian legislation according to which the Government would take more responsibility for the protection of children from any kind of violence. In this regards, no effective measures were taken for raising the awareness of the public. In most of the cases, the professionals working with children do not possess the skills for the identification of the juvenile victims and for the prevention of violence against children. Also, problematic is the poor coordination among the Governmental bodies responsible for implementing the decree on procedures of referrals for the protection of children from violence. It is noteworthy that the Child's Rights Centre of the Public Defender's Office has revealed the high rate of crimes committed against the sexual freedom and autonomy of minors. The Public Defender of Georgia has addressed the Government of Georgia with the recommendation to develop an action plan in this direction – "On the protection of children from sexual exploitation and sexual abuse" together with the necessary sub-programs for the active implementation of the Council of Europe Convention. However, the Public Defender of has not received the response from the Government during the reporting period. Particularly problematic is the issue of protection of children living and working in the streets from violence. Mostly, no adequate actions and preventive measures are taken by the relevant authorities in cases of violence. The Public Defender has addressed the Minister of Internal Affairs of

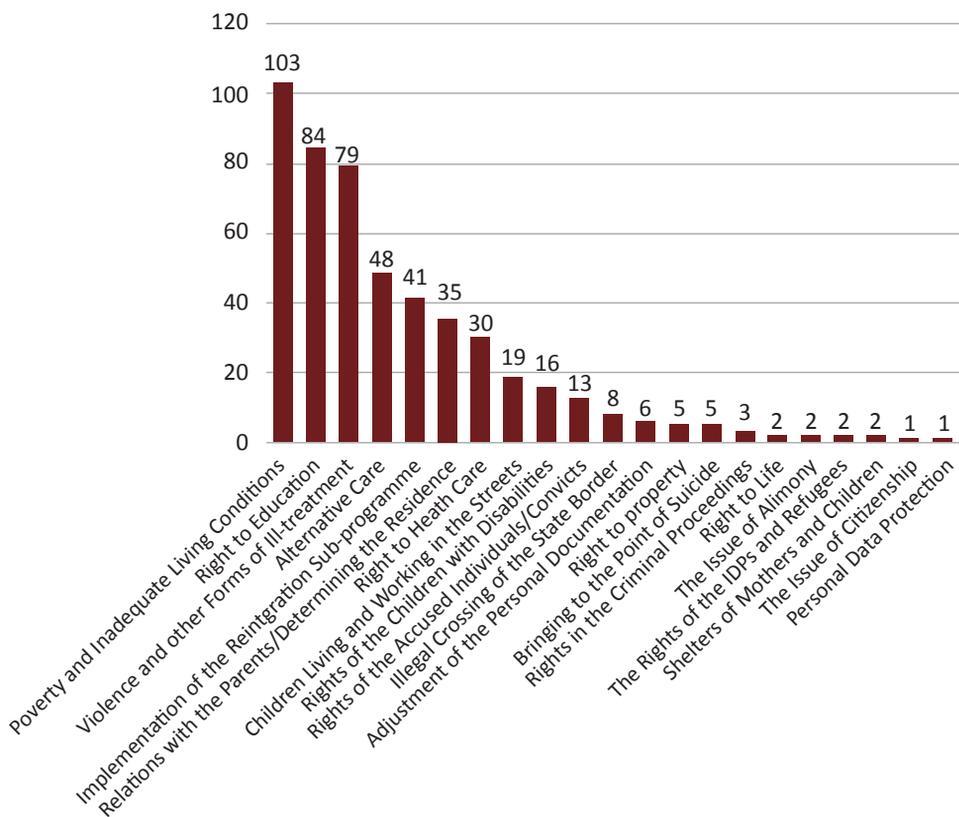
Georgia with the recommendation to implement necessary activities for the protection of children living and working in the street. Enforcement of the court decisions on determining the place of residence of a child after the divorce of the parents remains to be a problem. Part of the assistance sub-programs functioning in the framework of the state childcare program cannot fully cover the needs of the minors. The Social Service is not equipped with the sufficient human and technical resources, including the transportation means. Improving the labour environment for the social workers, avoiding the outflow of the qualified staff from the service and systemic qualification raising of the new personnel – this is the incomplete list of the issues, the solution of which will contribute to the improvement of the quality of child care. The state should take all necessary measures to achieve the abovementioned goal.

The problem of poverty and mortality in children is very acute. Despite the reduction statistics, the further reduction of mortality rate of children under the age of 5 still constitutes an urgent task. The Public Defender has addressed the Government of Georgia with the proposal regarding the measures to prevent the mortality among children under 5 years and indicated the necessity to work out the strategy and action plan for the reduction of mortality of infants. The infrastructure of public schools in the mountainous regions studied by the Public Defender is problematic. Important challenge is the qualification of teachers and the need of their systemic training, the introduction of a fully inclusive educational program, continuity and quality assurance of education for the accused and convicted juveniles in the penitentiary facilities. Urgent measures should be taken for the protection of the accused/convicted juveniles from any kind of violence. The rehabilitation and re-socialization process of the former juvenile convicts is also a notable task.

During the reporting period, the Public Defender's Office has conducted a monitoring in the juvenile boarding-houses under the Georgian Orthodox Church and the Muslim Confession of Georgia. The monitoring results revealed that the service provided to the beneficiaries of the boarding-houses under the religious confessions is in need of harmonization with the state standards on childcare and the beneficiaries of the above boarding-houses should be raised in the conditions close to the family environment. It is necessary that in the case of the beneficiaries of the religious boarding-houses the guardianship and -custodianship body be granted with the rights and responsibilities as their lawful representatives.

See statistics of individual violations of the rights of child according to the case management of 2015 of the Child's Rights Centre of the Public Defender's Office.¹

1 The table shows the distribution of child rights violations and not the quantitative distribution of the cases.



The individual case management –carried out during the reporting period revealed that the poverty and inadequate living conditions of children and various forms of violence against a child still constitute a challenge. The visits –carried out by the representatives of the Public Defender’s Office to the regions demonstrate that eradication of child poverty and improvement of their grave social and economic conditions should be the priority of the State. Besides, according to the case statistics of the Centre, noteworthy is the variety of violations of the children’s right to education and the existing gaps in terms of legal rights of children under the alternative care. There are also challenges in regards with the enjoyment of rights by the accused/convicted juveniles in the penitentiary establishments. Individual Case management is carried out in the direction of defending the rights of children living and working in the streets. A number of cases were found in violation of the child’s right to pre-school education which is examined by the Centre. The issue of enforcement of the court decisions is still problematic.

1. SITUATION OF CHILDREN'S RIGHTS IN THE BOARDING HOUSES OF THE GEORGIAN ORTHODOX CHURCH AND THE MUSLIM CONFESSION

From 23 February 2015 to 15 March 2015, in the framework of the National Prevention Mechanism mandate the Special Preventive Group of the Public Defender of Georgia, together with the Child's Rights Centre, has conducted a monitoring in the boarding-houses run by the Georgian Orthodox Church and the Muslim Confession.²

The legal status of children was examined in the following institutions: 1. Stepantsminda's St. Ilia the Right Gymnasium-Boarding house– non-commercial legal entity of the Georgian Orthodox Church; 2. Non-commercial legal entity of the Patriarchate of the Orthodox Church of Georgia - St. Nino Boardinghouse of Ninotsminda for orphans, waifs and children in need of care ; 3. Non-commercial legal entity of the Patriarchate of the Orthodox Church of Georgia - Boarding house of St. Apostle Mathata's Foundation() in the village of Feria; 4. Girls' Boarding house of the Union of Georgian Muslims in the village of Feria; 5. Boys' Boarding house of the Union of Georgian Muslims in the village of Feria; 6. Boys' Boarding house of the Union of Georgian Muslims in Kobuleti; 7. Bediani Rehabilitation Center for Children and adolescents of the Patriarchate of the Orthodox Church of Georgia.

The above monitoring has been the first attempt within the Public Defender's mandate to examine the state of children's rights and identify challenges in the abovementioned boarding houses as well as to draw up recommendations. It is welcoming that the boarding houses of the Patriarchate of the Georgian Orthodox Church and the Muslim Confession demonstrated the readiness to conduct the monitoring. The mandate of the National Prevention Mechanism covers the power to carry out the monitoring in the public as well as private institutions. Therefore, it is important to give the National Prevention Mechanism the possibility to undertake the above monitoring regularly.

According to Article 2 para. 1 of the Convention on the Rights of the Child, State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without any kind of discrimination. In accordance with Article 3 Para. 1 of the same convention, in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

According to Article 20 of the Convention on the Rights of the Child, a child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. States Parties shall in accordance with

² See the Special Report of the above monitoring on the official web page of the Public Defender: <http://www.ombudsman.ge/ge/reports/specialuri-angarishebi/bavshvta-uflebrivi-mdgomareoba-saqartvelos-martlmadidebeli-eklesiisa-da-muslimuri-konfesiis-daqvemdebarebashi-arsebul-bavshvta-panSIONebshi1.page> .

their national laws ensure alternative care for such a child. Such care could include, inter alia, foster placement, adoption or if necessary placement in suitable institutions for the care of children. It follows from the spirit of the Convention on the Rights of the Child that the use of residential care should be limited to cases where such a setting is specifically appropriate, necessary and constructive for the individual child concerned and in his/her best interests.³ Facilities providing residential care should be small and be organized around the rights and needs of the child, in a setting as close as possible to a family or small group situation.⁴ If large residential care facilities (institutions) remain in the State, alternatives should be developed in the context of an overall deinstitutionalization strategy. To this end, States should establish care standards to ensure the quality and conditions that are conducive to the child's development, such as individualized and small-group care. States should evaluate existing facilities in conformity with the childcare standards; besides, decisions regarding the establishment of, or permission to establish, new residential care facilities, should take full account of the deinstitutionalization purpose and strategy.⁵

Taking into consideration all the abovementioned, Georgia has taken certain steps to support the deinstitutionalization process. On 24 April 2012, with the decree N762, the Government of Georgia has approved the Child Welfare and Protection action plan for 2012-2015. The objective of the action plan is to protect every child residing in Georgia from violence and neglect and to ensure them with the possibility of positive psycho-social development in the family or the environment close to family. In the framework of the deinstitutionalization process, small family-type children's homes (orphanages) were established. Nevertheless, in Georgia there still remain large residential facilities for children and the task of individual care in small groups is not performed. It is noteworthy that assessment and optimization of the private orphanages is noted as one of the measures for reaching the objective of completing the deinstitutionalization process and expanding the alternative service in the action plan. Accordingly, it is important to assess the license conditions and implementation of the state care standards and to support the licensing process.

The Public Defender of Georgia would like to underline that taking into consideration the problems related to the economic conditions and alternative childcare in Georgia, in accordance with the best interests of children placed in large residential institutions, based on the objectives of deinstitutionalization and implementation of the Convention on the Rights of Child, the State should ensure the development of the consistent policy.

State's effort directed towards the welfare and harmonious development of children should include legislative and administrative measures, creating - the effective mechanism of legal protection, dialogue with all stakeholders, developing of the comprehensive national strategy, coordinating with the interested parties of measures for the protection of the rights of the child, facilitating the provision of services by private entities in the observance with the requirements of the Convention on the Rights of the Child,

3 UN General Assembly resolution – “Guidelines for the Alternative Care of Children,” 2010, para. 21.

4 *Ibid*, para 123.

5 *Ibid*, para 23.

creating the monitoring system for the provision of services and training and capacity building of the persons involved in the childcare process.⁶

According to the all abovementioned, the objective of the conducted monitoring was, at one hand, the assessment of compliance with the state childcare standards at the boarding houses of the Patriarchate of the Georgian Orthodox Church and the Muslim Confession of Georgia and on the other hand, evaluation of the State's effort directed at promoting the fulfillment of these standards. Implementation of the recommendations of the present report depends on the consistent policy of the State.

As a result of assessing the situation of the children's rights by the Public Defender of Georgia in the boarding houses of the Georgian Orthodox Church and the Muslim Confession, several directions were revealed regulation of which serves the improvement of children's welfare and constitutes the obligation of the State. The quality of providing service differs in the above institutions and is not regulated with the unified system of childcare. The beneficiaries of the boarding-schools are not under the State care. Therefore, the Social Service Agency is not involved in the process of care. This contradicts the best interests of the child and hampers the enjoyment of the fundamental rights and freedoms of the child, such as, the right to healthcare, right to education, protection from violence and etc. The fact that the state care does not cover the beneficiaries of the boarding-schools creates problems for the children with disabilities as well. Without the participation of the State it is impossible to identify their status and implement the relevant medical service. In addition, without the cooperation with the Social Service Agency, it is problematic to regulate the personal documentation of the juveniles and to determine their educational needs. In case of the religious boarding-schools as well, it is necessary to grant the guardianship and custodianship body the rights and responsibilities as their lawful representatives, which is important in the decision-making process related to the juveniles.

Like juveniles residing in the small family-type houses, the majority of the beneficiaries of the boarding-schools of the religious confessions constitute traumatized children, victims of various forms of violence, who are in need of a special approach, consistent psychological rehabilitation, and in a number of cases, psychiatric intervention. At the same time, beneficiaries are not provided with the proper psychological/psychiatric services. In this context, the issue of the caregivers' qualification is important. In order to preventing violence according to the decree on Approving Child Protection Referral Procedures,⁷ a caregiver should have knowledge and skills to identify the juvenile victim of violence, to expose the fact of violence and to refer the child with the relevant authority. Hence, professionalism of the personnel working in the above institutions has utmost importance. In this regards, as the monitoring results revealed, majority of caregivers need additional training in the area of childcare, since the lack of skills for the treatment

6 Committee on the Rights of the Child, General Comment N5 (2003), "General Measures," CRC/GC/2003/5.

7 Join Decree N152/n –N496 – N45/N of the Minister of Labour, Health and Social Affairs of Georgia, the Minister of Internal Affairs of Georgia and the Minister of Education and Science of Georgia "on Approving Child Protection Referral Procedures."

of victims and therefore, children of complex behavior constitute an increased risk of child abuse. It should be noted, that the training of caregivers in the boarding schools of the Georgian Orthodox Church is conducted by the NGO “Partnership for Children.” In addition, the monitoring has also revealed that all administrations of the above boarding houses have expressed a desire to train the caregivers/teachers of the institutions in the general education as well as childcare sphere.

Besides, it is necessary to introduce an individual approach oriented on the individual needs of the beneficiaries, taking into consideration their opinion and interests, hence, they have the possibility of full realization of their abilities.

Consequently, for the improvement of welfare of children, the full implementation of their rights and freedoms and for taking into consideration the best interests of the juveniles, the services provided to the beneficiaries of the boarding houses run by the religious confessions, need to be harmonized with the state standards for childcare and the beneficiaries should be raised in the conditions close to the family environment. The measures taken by the State in this regard are unsatisfactory. Taking into account the state policy on deinstitutionalization, in the condition of close cooperation with the service providers, in order to implement the state standards on childcare, the State should set up all necessary resources for the creation of a proper mechanism in order to monitor the performance of the above standards. The State should also ensure the training and capacity building of all individuals involved in providing service. In the process of taking care of the welfare and harmonious development of children, there should be a dialogue with all interested parties. For the effective implementation of the principles of UN Convention on the Rights of the Child, the State should reinforce international cooperation.

2. MONITORING OF IMPLEMENTATION OF THE FOSTER CARE SUB-PROGRAMME⁸

Since 3 June 2015, the Public Defender's Office, with the support of the United Nations Children's Fund (UNICEF) is implementing the project "Capacity Building of the Child's Rights Centre." In the framework of this project, the monitoring of the conditions of the rights of 175⁹ beneficiaries of the Foster Care State Sub-programme¹⁰ was conducted in the following regions: Samegrelo – Zemo Svaneti, Racha-Lechkhumi and Kvemo Svaneti, Guria, Imereti, Adjara, Samtskhe-Javakheti, Kakheti, Mtskheta-Mtianeti and Tbilisi.

In the framework of the monitoring, the implementation of the service provided by the authorized bodies¹¹ to implement the reintegration procedures based on the Convention on the Rights of the Child (CRC), resolutions of the EU Council of Ministers and recommendations of the Venice Commission was examined in the following directions: protection of children from violence, exploitation and other types of ill-treatment, right to protection from poverty and inadequate living conditions, principles of confidentiality and individual approach, access to the right to the quality and prompt healthcare, equal access to the right to education, principle of non-discrimination and equal treatment.

General Implementation of the Sub-programme – Based on the data of 2015, 1255 beneficiaries were involved in the Foster-Care State Sub-Programme.¹² According to the statistical information of the LEPL Social Service Agency, the sub-programme is implemented in the majority of self-governing cities, however, it is not implemented in a number of municipalities, including Lentekhi, Mestia, Abasha, Martvili, Poti, Tsalenjikh, Khobi, Akhalkalaki, Tsalka and Shuakhevi. Unlike the regular foster care, emergency foster care sub-programme is of a specific nature. According to Article 4 of the Law of Georgia "on Adoption and Foster Care", while including a beneficiary in the foster care sub-programme the assessment of compatibility between a foster child and a foster family is not conducted. In urgent cases, the decision on the placing the beneficiary in the foster family is taken by the Chairperson of the Regional Council of Guardianship and Custody based on the social worker's conclusion.¹³ Monitoring revealed the facts of transferring the beneficiary from the foster family on an earlier date than foreseen by the contract due to the incompatibility of the juvenile and the foster family.¹⁴

8 The results of monitoring of the foster-care sub-programme will be fully covered by the Public Defender's Special Report.

9 Monitoring of the legal status of the above beneficiaries was carried out from 1 July to 31 December 2015. According to the project, it is planned to monitor 455 beneficiaries till 3 June 2016.

10 Approved by the Law of Georgia on Adoption and Foster Care.

11 LEPL Social Service Agency of the Ministry of Labour, Health and Social Affairs of Georgia, Regional Councils of Guardianship and Custody.

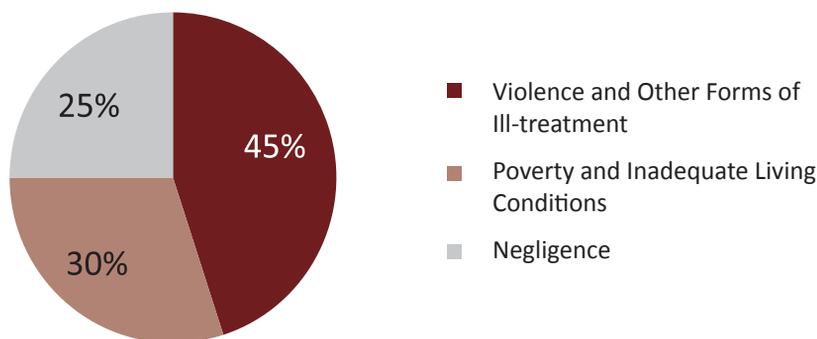
12 In the reporting period 999 juveniles were involved in the regular foster care, 208 – in the relative foster-care sub-programme and 48 beneficiaries – in the emergency foster-care.

13 Decree N51/N of the Minister of Labour, Health and Social Affairs of Georgia, 2010.

14 E.g. in the Adjara region.

25% of the beneficiaries examined during the monitoring process, were involved in the sub-programme of the small family-type orphanages before the inclusion in the sub-programme and 75% - was transferred from the biological families. As a result of the inspection, the leading factors determining the transfer of the juveniles from the biological families were violence and other forms of ill-treatment (including other grave forms of sexual and physical abuse), poverty, inadequate living conditions and negligence.

Table N1 – Grounds for transferring the juveniles in the foster care sub-programme from the biological families



The term of inclusion in the foster care sub-programme of 26% of the monitored beneficiaries is less than a year, for the 56% of the juveniles – 1-3 years and 18% is involved for more than 3 years.

Relevance of service, inclusiveness, functionality and individual approach – during the reporting period, regulation of the relevant documentation and the level or relations of the beneficiary with the biological family members was examined in accordance to the above standards. As a result of the monitoring, the documentation including the contracts with the LEPL Social Service Agency, decisions of the Regional Councils of Guardianship and Custody and individual development plans were examined. The validity period of each document constitutes about 6 months however, according to the factual circumstances of the case, the agreement can be postponed up to one year. The monitoring results revealed that the documentation related to the foster care sub-programme is regulated in 60% of the cases. Problematic is the principle required by national and international standards – allocation as near as possible with the biological family except the case when this contradicts the best interests of the child. The monitoring has highlighted that in 23% of the cases the beneficiaries are placed in different municipalities and self-governing cities. The problem of allocating the beneficiaries with the siblings was also revealed.

The evaluation of the individual development plan has demonstrated that the document enshrines the dates for drafting and reviewing the plan, also the type of service during the validity of contract and an individual responsible for performing the relevant activities. The monitoring process has underlined that in case of 60% of the foster fam-

ilies the plan is developed/reviewed by the social worker and the juvenile or the foster parents are not involved in the process. Unfortunately, they are less informed about the activities stated by the individual development plan. In addition, foster families do not possess sufficient information on the confidentiality concerning the reasons for taking the child from a biological family, about their health condition, experience of violence or - other kind of treatment.

Safe and appropriate physical environment, organizational rules of nutrition and right to healthcare in the foster care sub-programme – The physical environment of the temporary residence of beneficiaries, also, the organization rules of nutrition and the quality of implementation of the right to healthcare was examined during the reporting period. As the examination results revealed, there are positive trends in this sphere. The exception is the implementation of the kinship foster care sub-programme. In this case, the majority of the checked foster families are registered in the unified data of socially vulnerable families and therefore, their economic conditions are grave. 55% of the examined families involved in the kinship foster care sub-programme are in need of inclusion in the active state/municipal programmes. In some cases, problems related to the sanitary and hygienic conditions (e.g. in terms of bathroom amenities) were revealed. 40% of the monitored kinship foster families are in need of rehabilitation of housing.

As for the right to nutrition and healthcare, the majority of beneficiaries is registered in the primary healthcare centers and is ensured with the relevant medical service. However, certain problems were identified in this direction as well. For example, despite the actual need, State/Local bodies are less involved in the funding of a number of medical manipulations. On the other hand, the part of beneficiaries, who are not the citizens of Georgia and do not have their personal documentation in order, encounter serious problems in terms of exercising the right to healthcare. As for the nourishment, it should be noted that the daily and weekly menu is balanced and reflects the real needs of the juveniles.

Situation of beneficiaries with disabilities in the framework of the foster care sub-programme – According to the statistical date of the LEPL Social Service Agency, in 2015, 180 children with disabilities were involved in the foster care State sub-programme, which constitutes 14.3% of the total number of beneficiaries.¹⁵

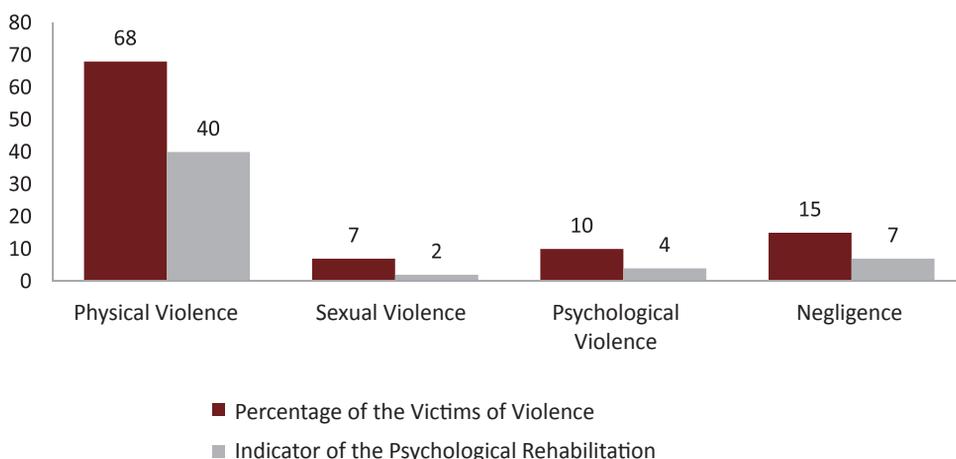
As for the rights of children with disabilities in terms of healthcare, it should be noted that 95% of the examined beneficiaries is registered in the primary healthcare centre and holds the relevant insurance policy. In certain cases, the needs of the children were not taken into consideration. For example, in some of the regions children had the need of a wheelchair; however, the above need was not satisfied even after several months from including the child in the state care. The issue of financial inaccessibility of healthcare is also unresolved. 55% of the examined juveniles, in case of need, cannot receive sufficient medical consultation, medical examinations and medication treatment due to the lack of relevant funds and insufficient involvement of the State/Local Self-Governing bodies.

¹⁵ http://ssa.gov.ge/index.php?lang_id=GEO&sec_id=776 .

In terms of implementation of the right to education it should be noted that 60% of the monitored beneficiaries with disabilities is involved in the pre-school/general education process. In case of involvement in the inclusive education sub-programme, there are problems related to the quality of education. The need was revealed in certain cases to involve intensively special education teachers in the teaching process and to effectively prepare/implement an individual curriculum.¹⁶

The right to protection from violence and other forms of ill-treatment in the framework of the foster care sub-programme – big part of the children involved in the foster care sub-programme were the victims of violence and negligence in the biological families before the inclusion in the state care. In particular, 40% of the beneficiaries constituted the victim of violence while living in the biological families, which caused the damage of health and/or psychological problems. During involvement in the foster care sub-programme, psychological needs assessment of the majority of juveniles and the proper psycho-emotional rehabilitation did not take place (see table 2). This constitutes one of the main obstacles for children’s socialization. Identification of the victims of violence is the hindering factor for the psycho-emotional rehabilitation of the juveniles. This is caused by the small number of psychologists of the LEPL Social Service Agency.¹⁷

Table N2 – Indicators of the juveniles’ psycho-emotional rehabilitation



The monitoring demonstrated that the light physical punishment was used against 10% of juveniles, coercion and intimidation – against 17%. Negative behavior management techniques – screaming, standing in the corner, prohibition of movement – was used against 40% of the beneficiaries. It is noteworthy that the beneficiaries and caregivers are not sufficiently informed about the child protection (referral) procedures.

16 This trend is also revealed against the pupils having special educational needs, who do not have the status of a person with disabilities.

17 Regional Centres of Social Service of the LEPL Social Service Agency, unlike the District Units of Social Service have a psychologist in staff. Therefore, one psychologist reacts to all cases in the region which sufficiently hinders the child’s psycho-emotional rehabilitation.

Implementation of the right to education in the Foster Care Sub-programme– 85% of the examined juveniles are involved in the pre-school/secondary education process. In certain cases, for example, in the Ninotsminda Municipality and village Sadmeli the problem related to involving a child in the pre-school educational process was revealed. 65% of the beneficiaries located in the self-governing cities and 40% of children involved in the foster care in the municipalities are involved in the informal educational activities.¹⁸ As for the children having special educational needs, 15% of the monitored juveniles need assessment by the multidisciplinary team and respectively, development of an individual educational plan and involvement of a special teacher.

Issues of proper care and supervision – it was revealed that in certain cases, the foster parent does not take into account individual needs of a juvenile. Especially in cases when 4 and more children should be taken care of. At the same time, there is a need of systemic and systematic retraining of the foster parents in terms of childcare, especially, in taking care of the juveniles with disabilities, also, in the direction of their positive self-identity and self-esteem rising. The monitoring results revealed that some part of the beneficiaries cannot exercise the right to the freedom of expression even when it is consistent with their interests. There are shortcomings related to the communication between the juvenile and the social worker without the permission of a caregiver.

Legal regulation of the foster care sub-programme – State regulation of foster care is implemented by a number of domestic and international acts. Article 11 of the law of Georgia “on Adoption and Foster Care” determines the rights and obligations of the authorities of the local guardianship and custodianship in terms of implementation of the foster care sub-programme. The responsibilities include identification of the persons subject to foster care and persons wishing to take children into foster care, development of the child’s individual development plan and monitoring of its execution, supervision over compliance of the conditions of housing, upbringing, development, education and health, as well as over how foster parents perform their duties, assessment of foster parents and beneficiaries and their compatibility. According to article 31 para. 1 of the law, decision on foster care is taken based on the conclusion of the social worker by the regional councils of guardianship and custodianship. Article 35 stipulates the duties and responsibilities of the foster family. As for the rights of the foster child, the law underlines the provision of the freedom of expression and participation (Article 36 para. 2).

Order N51/N of the Minister of Labour, Health and Social Affairs of Georgia dated 26 February 2010 “on Approving the Rules of Procedures of Foster Care”, also refers to the obligations of the territorial units of the LEPL Social Service Agency. In addition, according to Article 16 of the order, , not less than once per week, the social worker visits the foster family with or without a prior agreement during a month from involving a child in foster care and after one month – not less than once a month.

The State Sub-Programme on Foster Care is approved by the Decree N138 of the Government of Georgia dated 30 March 2015 on “Approval of State Programs of Social Rehabilitation and Childcare for 2015” (See Annex N1.9). The decree foresees supporting

18 Presented data is related to the beneficiaries of the school-age.

placement of the children without families in an environment close to the family, ensuring the care oriented on the needs and individual development of the child taking into consideration his/her age and abilities, psycho-social support of a child and contributing to his/her preparation for independent life, strengthening the child's contact with the biological family. According to Article 20 para. 1 of the Convention on the Rights of the Child, a child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. The UN Committee on the Rights of the Child has noted that the foster care programme should be implemented in the light of Article 25 of the Convention on the Rights of the Child, which recognizes the right of the child in an alternative care to be protected and to assess periodically the conditions of this kind of care.¹⁹

The Committee on the Rights of the Child in its Concluding Observations on Georgia dated 23 June 2008, in paragraph 34 has underlined the importance of effective work of the social workers in this field. In addition, committee highlighted the necessity of sufficient work in order to assist individuals provide for follow-up and after-care to young persons leaving care centres.²⁰

The UN General Assembly Resolution²¹ approves the principles such as placing the beneficiaries close to their biological family, protection of the juveniles from violence and other forms of ill-treatment, ensuring the freedom of religion and expression, spending as little time as possible in the alternative care. The resolution specifically highlights the necessity of trainings²² and frequent monitoring²³ of the foster parents.

19 Report of the Committee on the Rights of the Child, United Nations General Assembly, Official Records, Session 55, Supplement No. 41, Doc. A/55/41, p. 66.

20 Committee on the Rights of the Child, Concluding Observations: Georgia, 23 June 2008, Doc.CRC/C/GEO/Co/3, para. 37.

21 UN General Assembly Resolution, Guidelines for the Alternative Care of Children, 24 February 2010, Doc. A/RES/64/142.

22 *Ibid*, para. 118.

23 *Ibid*, para. 128.

3. IMPLEMENTATION MONITORING OF THE STATE SUB-PROGRAMME ON REINTEGRATION²⁴

From 1 June 2015 to January 2016, the monitoring of the State Sub-programme of Reintegration of children in the biological families (hereinafter – Reintegration Sub-programme)²⁵ was carried out by the Office of the Public Defender of Georgia in the framework of the project “Capacity Building of the Child’s Rights Centre.” The state of the rights of 90 beneficiaries was assessed in the framework of the project.

Monitoring of the Reintegration Sub-programme was carried out for establishing the effectiveness of implementation of international standards on the fundamental rights and freedoms of juveniles on national level.²⁶ International statutes (e.g. UN Convention of the Rights of the Child, relevant resolutions of the EU Council of Ministers and the recommendations of the Venice Commission) as well as the European and local researches²⁷ in this area and methodological principles were considered during the monitoring process. The Office of the Public Defender of Georgia, with the request to respond to the revealed violations, has addressed the responsible authorities in written form on 80% of the examined cases.

Implementation of the right to protection from poverty and inadequate living conditions – The right of the child to be protected from poverty and inadequate living conditions places a positive obligation on the State to establish an effective social protection system in the framework of which all juveniles, based on the principle of equality, will have proper social environment and education conditions for living.²⁸ At the same time, it is important for the beneficiary to receive the basic care and supervision in the family, relevant to his/her needs.²⁹ The monitoring has demonstrated that a significant number of the reintegrated children lives in the conditions of relative poverty – inadequate social and economic conditions are revealed: children do not have adequate housing and educational conditions, educational and home appliances, healthy food; The problem of housing, access to social services and sub-programmes is acute.

The following **Table N3** reflects the involvement of juveniles in sub-programmes on the protection of reintegrated children from poverty and inadequate living conditions:

24 The full version of the Reintegration Sub-programme monitoring results will be presented in the special report of the Public Defender.

25 Order N01-20/N of the Minister of Labour, Health and Social Affairs of Georgia on “Reintegration assistance allowance, suspension, resumption and termination rules and conditions.”

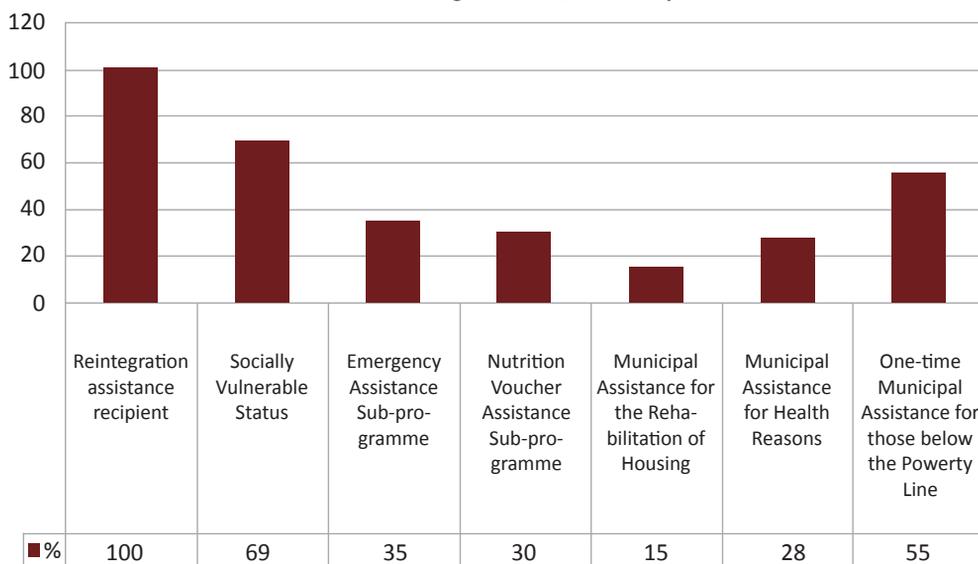
26 Protection from violence, exploitation and other forms of ill-treatment, poverty and inadequate living conditions, access to healthcare, effective implementation of the right to education, principles of non-discrimination and equal treatment principles of confidentiality and individual approach.

27 Including the research “Needs Assessment of Reintegrated Families” conducted by UNICEF, USAID and the organization “Safe the Children,” 2013.

28 UN Convention on the Rights of the Child.

29 *Ibid.*

Beneficiaries Receiving State and/or Municipal Assistance



The effectiveness analyses of the social protection system of reintegrated children demonstrate that a significant part of reintegrated families is involved in the Emergency State Assistance Sub-programme for those below the poverty line. 90% of the interviewed beneficiaries/children’s lawful representatives state that the allowance³⁰ received through the reintegration sub-programme is not sufficient for creating proper social economic conditions and educational environment for a child. 40% of the respondents consider that together with the social assistance, reintegration allowance generally ensures the creation of appropriate social and educational environment for a child and 60% believes that it is necessary to develop additional sub-programmes for strengthening the reintegrated families.

In several regions, from the period of involving a child in State care, comprehensive need for assessment of the biological family and its strengthening in order to ensure the reintegration process and taking the juvenile out of the State care cannot be conducted. 60% of the examined reintegrated children were in inadequate living/social conditions.

In terms of satisfying basic needs, in 55% of the families the physical environment and infrastructural conditions were not satisfactory, violation of the sanitary and hygienic norms was also revealed. For example, 35% of the beneficiaries did not have individual beds, a separate study space, and satisfactory living conditions.

According to Article 2 of the Decree N138 of the Government of Georgia dated 30 March 2015 on “Approving the State Programme on Social Rehabilitation and Childcare” social sub-programmes of child protection were approved. Significant part of reintegrated

³⁰ Reintegration assistance amount for a healthy child is 90 GEL and for a child with disabilities – 120 GEL.

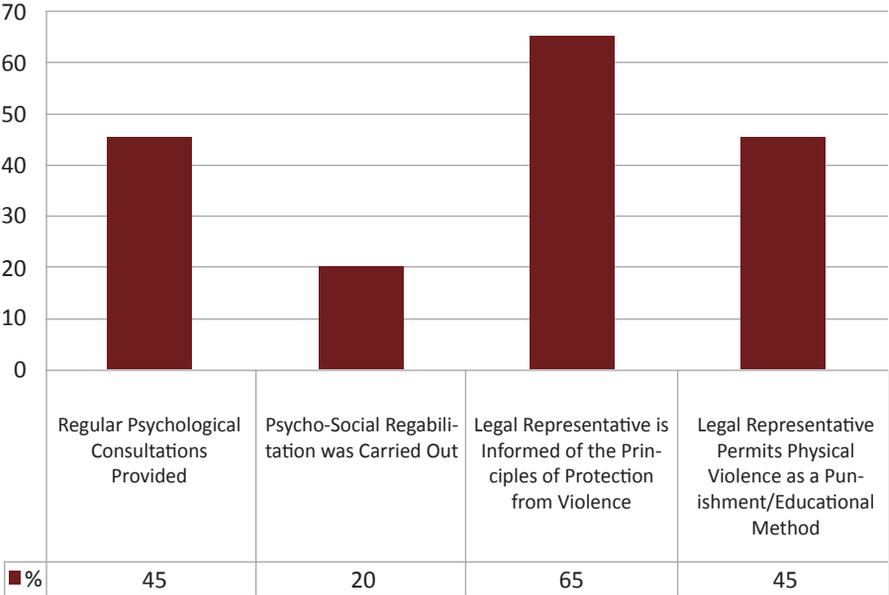
beneficiaries is involved in the following sub-programmes: “Emergency Assistance of Families with Children in Crisis,” “Early Childhood Development,” and “Child Rehabilitation/habilitation”. According to 45% of the interviewed respondents, the involvement process in the above sub-programmes is delayed.

As for the municipal assistance sub-programmes, it is worth noting that the decree of Kutaisi City Council approved the financial assistance sub-programme for ensuring the return of children under the State care to the biological families, prevention and elimination of the risk of abandonment and also, strengthening and supporting the families who left the State care.³¹ In the framework of the above sub-programme, monetary assistance for each beneficiary is 200 GEL. 10 beneficiaries were involved in the sub-programme.

Right to be protected from violence, exploitation and other forms of ill-treatment –

According to the examination results, part of the children involved in the reintegration sub-programme were the victims of violence. Several cases revealed the facts of negligence and physical abuse that were used by the parents as method of upbringing. In several cases there were facts of biased and negative attitude from family members. The case of psychological pressuring and violence was detected in 35% of the examined beneficiaries and the forms of physical violence – in 30%. Positive direction of the implementation of the sub-programme should be considered the fact that in the assessed biological families the beneficiaries are protection from labour exploitation and sexual abuse.

Table N4



31 Decree N59 of the Kutaisi Municipality Citi Council, 19/12/2014, on Approving the Budget for 2015.

Based on the major regulations of the order,³² the representatives of the Public Defender, have examined the effectiveness/security of responding on the cases of violence in the reintegrated families. In particular, according to the order,³³ the social worker reacts only in case if it is revealed that the physical, psychological and/or social environment is harmful to the beneficiary and in case of need, relevant measures should be taken for the psycho-social assistance of the beneficiary.³⁴ In case of suspected child abuse, the parent contacts the social worker, police or the hotline against violence.³⁵ Implementation of the above regulations is delayed since the identification of the cases of violence and negligence, psychological assessment and psycho-social rehabilitation of children is not properly conducted. Therefore, for the implementation of prevention of violence against reintegrated children, it is essential to raise awareness of parents and conduct necessary trainings and informational meetings.

Right to early, pre-school, general and vocational education –Right to education of beneficiaries =of the reintegration State sub-programme was assessed on the level of exercising freely the right to early and pre-school, as well as general and vocational education.

The monitoring demonstrated that children with disabilities, who have problems of transportation and according to the individual development plan, need individual curriculum and evaluation of the multidisciplinary team, are restricted with the right to education. Their part, despite the request, is not assessed by the multidisciplinary team. In addition, the cases were revealed when despite the existence of the special education teacher, the level of skills and knowledge of the juvenile could not be improved due to the inadequate curriculum. In a number of cases, the child with special needs was not linked to the relevant educational institution for implementing an individual curriculum. It should be noted as a positive feature of the sub-programme that territorial accessibility of children involved in the above programmes is mainly ensured.

In the field of implementing the right to availability of the general and vocational education, acute problem for the reintegrated children, after receiving general education, is the issue of continuing vocational studies. In particular, as noted by 15% of the examined children and their lawful representatives, due to the geographical and financial problems, they were not able to receive/continue vocational education.

The table below reflects the number of beneficiaries involved in the early, pre-school and general educational system, also the number of beneficiaries involved in the vocational education programme and those having educational backwardness:

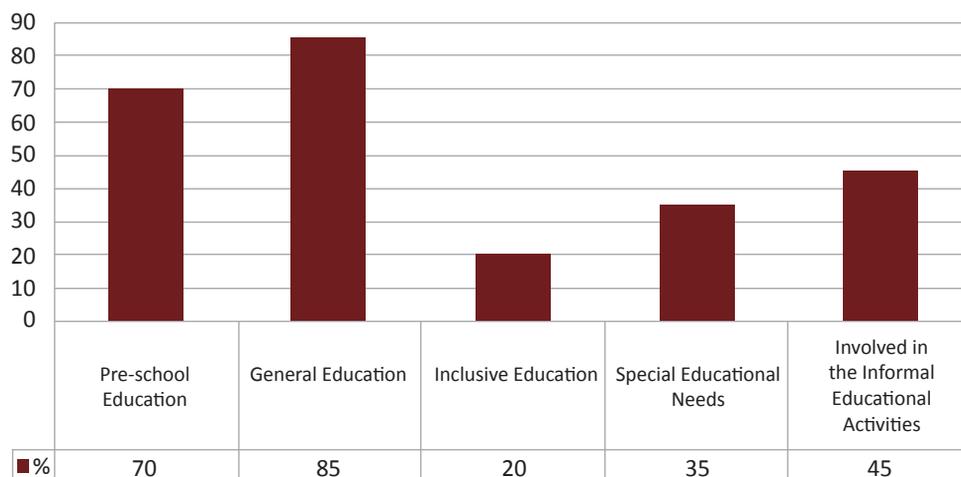
32 Order N01-20/N of the Minister of Labour, Health and Social Affairs of Georgia on “Reintegration assistance allowance, suspension, resumption and termination rules and conditions”.

33 *Ibid.*

34 Order N01-20/N of the Minister of Labour, Health and Social Affairs of Georgia on “Reintegration assistance allowance, suspension, resumption and termination rules and conditions.” Article 10 (5-6).

35 *Ibid.*

Table N5



30% of the examined children were behind the class. In 35% of the cases skills assessment of children with special educational needs and establishment of the individual education needs did not take place. Despite the fact that in order develop educational skills of children with the above needs, the learning conditions and environment should be adapted, it was revealed that 20% of the parents was not informed on the major directions of the individual training plan and 15% was against inclusion of the child in the inclusive education programme (despite the special needs).

Accessibility of the right to health in quality and timely manner in the reintegration sub-programme – timely and proper assessment of the reintegrated children’s state of health is carried out insufficiently and relevant needs are not properly revealed. Accessibility and quality of the right to health of reintegrated children of the mountainous regions is problematic. In this regards, special needs were demonstrated in Zugdidi, Akhaltsikhe Municipality, villages Phkhelsha and Ieli of Mestia Municipality. As for utilizing the healthcare policy, majority of the beneficiaries was registered in the primary healthcare centre, 70% of the beneficiaries was enjoying the regular medical service and had taken planned vaccination. Geographical access to medical services in case of need was partially ensured.

The issues related to the involvement and participation of the reintegrated beneficiaries in the Decree N308 of the Government of Georgia dated 30 June 2015 “on Approving the State Programmes on Healthcare for 2015” was also examined during the monitoring. According to the results of the examination, 15% of the beneficiaries was involved in the State Sub-Programme on Mental Health³⁶ and had access to the relevant medication treatment, 65% participated in the Immunization Sub-programme,³⁷ and 40% enjoyed the targeted assistance of healthcare field issued local self-government. According to

36 Decree N308 of the Government of Georgia dated 30 June 2015 “on Approving the State Programmes on Healthcare for 2015”, Software Code 35 03 03 01, Appendix N11.

37 *Ibid.*

the evaluation results, the right to health of beneficiaries with disabilities is not properly implemented. 45% of the registered beneficiaries who have the status of a person with disability, have not undergone proper medical examinations for the assessment of the health condition and are not regularly provided with the medication necessary for the treatment.

Inclusiveness of the service, individual approach and protection of confidentiality in the reintegration sub-programme – According to the examination results, families involved in the reintegration sub-programme are not sufficiently informed by the social worker on the confidentiality concerning the personal data of children, reintegration contract and the individual development plans. The interviews carried out with the re-integrated families also revealed that the confidential information related to the reasons of taking the child from the biological families, health problems and to the experience of violence or other forms of ill-treatment against the juveniles is not protected. Children, who were asked about the security of the above information and about the services provided by the individual development plans, were not sufficiently provided with the relevant information. At the same time, they were not involved in the preparation of individual development plans. According to the existing legal norms, the parent/guardian periodically, at least once in every 6 months participates in the revision process of the individual development plan together with the beneficiary and a social worker.³⁸ The individual development plan should clearly describe the dates for drawing up and reviewing the plan, the service (assistance) child will receive, schedule of implementing the service, identity and functions of persons responsible for fulfilling specific objectives stated by the plan.³⁹ Implementation of the above regulations is conducted improperly. Particularly, the contentwise (actual) compliance of the individual development plan, in terms of indicators and intensity of the revision, in 40% of the reintegrated children was insufficiently reflected the indicators and measures necessary for the development of reintegrated children. 55% of the interviewed beneficiaries and their lawful representatives were not sufficiently informed on the activities, implementation indicators and mechanisms of the individual development plans.

It should be noted that in terms of managing and monitoring the reintegration cases by the LEPL Social Service Agency,⁴⁰ the regular visits for the implementation of the individual development plan are mainly carried out according to the Order,⁴¹ as a visit to the reintegrated family once a month. However, visits are hindered by the geographical accessibility, transportation problems and etc. According to the interviews conducted with the examined beneficiaries, 85% of the lawful representatives of the beneficiaries noted that the social workers, within their competences, consult them on the matters related

38 Order N01-20/N of the Minister of Labour, Health and Social Affairs of Georgia on “Reintegration assistance allowance, suspension, resumption and termination rules and conditions.”

39 *Ibid.*

40 According to Article 10 of the Order N01-20/N of the Minister of Labour, Health and Social Affairs of Georgia on “Reintegration assistance allowance, suspension, resumption and termination rules and conditions,” the social worker of the LEPL Social Service Agency of the Ministry of Labour, Health and Social Affairs of Georgia is entrusted with the above authority.

41 *Ibid.*

to the care of the beneficiary. Nevertheless, connection with the services supporting children and families is delayed. In 80% of the evaluated cases it was revealed that the parent notifies the Agency about the occurred and expected important changes in life of the beneficiary (change of the place of residence or contact information, change in the family composition). In 60% of the cases, the parent takes into consideration the opinions and desires of a child while deciding the matters related to his/her care, if the latter is reasonable and does not contradict the interests of a child. However, as noted by 40% of the parents, they will take into account the child's opinions only if it does not contradict the views of the parents.

Legal regulation of the reintegration State sub-programme – According to Article 36 para 2 of the Constitution of Georgia, the State shall promote the prosperity of the family and according to paragraph 3 - the rights of the mother and the child shall be protected by law. Article 3 paragraph 2 of the Convention on the Rights of the Child enshrines the following: *“States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.”* According to Article 9 para. 1 of the Convention, States Parties shall ensure that a child shall not be separated from his or her parents against their will. Article 39 of the Convention indicates that the reintegration of a child should take place in a dignified environment. Article 27 para. 3 of the Convention stipulates that States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing. According to Article 39, States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child.

According to the UN General Assembly resolution on “Guidelines for the Alternative Care of Children,”⁴² States should develop and implement consistent and mutually reinforcing family-oriented policies designed to promote and strengthen parents’ ability to care for their children.⁴³ Stemming from the same resolution, social services should be strengthened for parents and children with disabilities. Such services, preferably of an integrated and non-intrusive nature, should be directly accessible to the beneficiaries.⁴⁴ According to the resolution, the following main principles should be implemented – prevention of placing children in alternative care, which means developing the policy oriented on the children deprived of care; prevention of family separation, multiple services for family strengthening, financial assistance, special services for children with disabilities/their parents. From the principles supporting reintegration stated in the resolution, regular assessment of the needs of biological families is also noteworthy; development of timely and accessible services; development of the social assistance system, restoration of

42 UN General Assembly resolution, 24 February 2010, A/RES/64/142, available at:http://www.unicef.org/protection/alternative_care_Guidelines-English.pdf.

43 *Ibid*, Article 33.

44 *Ibid*, Articles 33-35.

regular relationships between a child and a biological family, strengthening the positive psycho-emotional dependence,⁴⁵ Regional Council for Guardianship and Custodianship considers the issue of the child's reintegration based on the social worker's conclusion and makes decision on placing a child in the biological family, on returning/allocating a child with the guardian/caregiver, while taking into account the child's best interests.

According to the sub-programme "on Emergency State Assistance for the Families in Crisis with Children" approved by the decree of the Government of Georgia "on Approving the State Programme on Social Rehabilitation and Childcare", families who have reintegrated children less than 3 months ago, are considered as the target groups.

According to the Venice Commission,⁴⁶ it is essential to establish effective legislative guarantees for supporting/assessing the interests of children involved in alternative care and those returned to their biological families. This includes the development of services and programmes supporting biological families which will be resulted in having all the necessary resources for social development, by juveniles, while living in the family environment.⁴⁷

45 *Ibid.*

46 European Commission for Democracy Through Law: Report on the Protection of Children's Rights: International Standards and Domestic Constitutions, adopted by the Venice Commission at its 98th Plenary Session, (Venice, 21-22 March, 2014), available at:[http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2014\)005-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2014)005-e).

47 *Ibid.*

4. THE PROBLEM OF ENFORCEMENT OF THE COURT DECISIONS

According to Article 3 paragraph 1 of the UN Convention on the Rights of the Child, in all actions concerning children, the best interests of the child shall be a primary consideration. According to the Order of the Minister of Labour, Health and Social Affairs of Georgia,⁴⁸ guardianship and custodianship authority is determined as a competent body for implementing the right to transmitting a child and/or the right to have relationship with a parent or other family member.

In the case of *G.S. vs. Georgia*⁴⁹ the European Court of Human Rights has held that no procedural and positive obligations were exercised by the domestic courts in the decision-making process, as it is stipulated by Article 8 of the European Convention. The court underlined the importance of protecting and taking into consideration the best interests of the child in the decision-making process and the necessity to study all circumstances, in the manner the decision not to have negative impact on the psychological and social well-being of the juvenile. In the case of *N.TS. and others vs. Georgia*,⁵⁰ the European Court of Human Rights has explained that the opinion of the child should be taken into account in the decision-making process. The children should be given the opportunity to express their opinions and they should be listened to. The European Court holds, that the child's representative is responsible for providing a child with information and explanation on the existing processes, also, for finding out the child's opinion on the current matters. He/She is obliged to inform the judiciary on the desires and visions of the child.

According to the information received from LEPL Social Service Agency of the Ministry of Labour, Health and Social Affairs of Georgia requested by the Office of the Public Defender of Georgia,⁵¹ throughout 2015, 559 court cases were reported related to relationship with a child (children). In the territorial units of the LEPL Social Service Agency, 125 applications were filed for the enforcement of the decision, 53 children were ensured with the psychological service in the framework of the enforcement activities. According to the information provided, in the reporting period, enforcement did not carried out in 31 cases due to the psychological abuse against the child, refusal of the child or due to the absence of individuals interested in enforcement.

In its Parliamentary Report of 2010⁵² the Public Defender of Georgia positively assessed the amendments made to the Law of Georgia "on Enforcement Proceedings" according

48 Decree N01-16/N of the Minister of Labour, Health and Social Affairs of Georgia dated 18 April 2011 "on Approving the Rules on Enforcing the Cases Related to the Implementation the Right to Transmitting a Child or the Right to Relations with a Parent or Other Family Member".

49 *G.S v. Georgia*, 21.07.2015.

50 *N.Ts. and others v. Georgia*, 02.02.2016.

51 Correspondence N04/15265, 26.02.2016.

52 Parliamentary Report of 2010 of the Public Defender of Georgia, available at: <http://www.ombudsman.ge/uploads/other/0/84.pdf>

to which, the competent body for to the implementation of the right to transmitting a child or the right to communication with a parent or other family member is regarded guardianship and custodianship body instead of the Enforcement Bureau. Despite the legislative change, the Public Defender of Georgia , regularly notes the shortcomings of the enforcement mechanism and the problems related to the protection of juveniles in this process since 2010, in annual Parliamentary Reports of 2012 and 2013. During 2015, the Child's Rights Centre of the Public Defender, has reviewed 33 applications on the above matter. This indicates that the challenges in this sphere still exist.

The results of the case management in the Office of the Public Defender of Georgia revealed that in the process of deciding upon the place of residence of the juvenile, the child's opinion is not taken into consideration which constitutes one of the major basis of the problems created in the enforcement process. Consequently, during the court proceedings, the role of the social worker and his/her work in each individual case for determining the best interests of the child has the utmost importance.

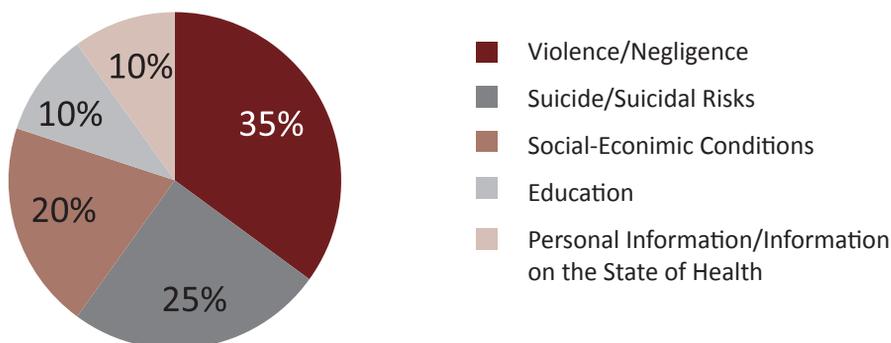
The results of the proceedings demonstrate that in a number of cases, after the court decision, the juvenile is under pressure from the family member (members), which hinders the enforcement process. Psychological and sometimes physical violence takes places against the child. The enforcement process in full compliance with the best interests of the child is also prevented by the fact that the juveniles are not always ensured with the service of a qualified psychologist. Specialists working with children are not able to identify the cases of violence against the juveniles, making it difficult to enforce the decision and endangering the protection and implementation of the child's best interests.

5. MEDIA COVERAGE OF THE CHILD ISSUES – ETHICAL AND LEGAL STANDARDS

During the reporting period, the Public Defender’s Office has studied the topic of protecting ethical and legal standards of media coverage of the juvenile issues.⁵³ The examination of results revealed that the major problems in implementing the above standards are related to the following main factors (additionally, see Table N6):

- 1) Spreading the material giving the possibility of direct and/or indirect identification of children in the broadcasting programmes and printed media;
- 2) Unethical coverage of suicide cases, issues of children with suicidal tendencies or victims of alleged acts against their sexual freedom and autonomy;
- 3) Inclusion of programmes in the broadcasting space having negative nature and impact on the psycho-emotional conditions of the juveniles;
- 4) Unethical broadcasting of legal situation of children under State care, living in poverty and inadequate conditions;
- 5) Limited implementation of the juveniles’ participation and the freedom of expression in the materials covered by media.

Table N6– Thematic Problems



Coverage of alleged acts directed against the sexual freedom and autonomy– According to the examination results, during 2015, the media coverage of the acts directed against the sexual freedom and autonomy of juveniles in most of the cases is carried out with the violation of ethical and legal standards⁵⁴ in the TV and printed and electronic media. In this field particularly problematic was the identification of victim children and their legal representatives, place of residence, educational institutions and certain de-

⁵³ The methodology of examination was based on the UN Convention on the Rights of the Child and recommendations of the Committee, recommendatory instructions of the European Council of Ministers, domestic legislative standards in the field of media coverage of the child’s rights.

⁵⁴ UN Convention on the Rights of the Child

tails of the case. Therefore, possible negative psychological impact of the coverage was not taken into consideration.

In 2015, the Office of the Public Defender of Georgia had proceedings⁵⁵ on disclosure of the witness statements by one of the printed media in the framework of the investigation and criminal proceedings on the case of the child's sexual abuse. The printed media reflected the details of sexual abuse, statements of the victim children and disclosed the crime scene. The Child's Rights Centre of the Public Defender of Georgia has addressed⁵⁶ the Chief Prosecutor's Office of Georgia with the request to take relevant measures. However, no response was provided on the appeal of the Public Defender's Office.⁵⁷

Coverage of issues related to the juvenile suicides and children under the risk of suicide – As a result of the proceedings, cases were revealed when the identification of the children's inclination towards the suicide and suicide cases was conducted by the media violating the ethical rules, which might have had a negative impact on the psychological conditions of the juveniles. The ways of coverage in several TV programmes created the risk of suicide in children inclined to the suicide. In some cases, was named the method, form and way of committing a suicide (in one of the cases they named the medication which, according to the investigation results, caused the death of the juvenile).

Direct/Indirect identification of the juveniles – in the process of covering the child - related issues in the media, the requirement of prohibiting direct identification is relatively met. However, the prohibition of indirect identification of children is violated. For example, in several cases the place of residence of the child victim (name of the self-governing city, municipality) as well as the educational institution was revealed. This violated the requirements of legal and ethical standards on the child related issues. Despite the fact that according to the Code of Conduct for Broadcasters, the consent of the child's legal representative does not give the media the right to disclose identifying and damaging information for the child,⁵⁸ in several cases, personal information of the juvenile was disclosed with the consent of the legal representative.

As for responding to the violation of ethical standards on child related issues, on 14 October 2015 the agreement of the The Georgian Charter of Journalistic Ethics was signed with the broadcasters.⁵⁹ The signatories of the memorandum have undertaken the responsibility to receive and review complaints in terms and procedures prescribed by the Code the child - related issues in the self-regulatory commissions even in cases when the author of the appeal does not constitute an "interested party"⁶⁰ according to the

55 Case N5612/15, 20/05/2015.

56 Correspondence N10-2/43/05, 01/06/2015.

57 Correspondence N7040/15, 18/06/2015; Correspondence N6894/15, 11/06/2015.

58 Code of Conduct for Broadcasters, Article 44 para 1.

59 The Georgian Charter of Journalistic Ethics, "Ethical Coverage of Child Issues in Media – Final Monitoring Report," Tbilisi, 2015, p. 3.

60 According to Article 5 para f of the Code of Conduct for Broadcasters, Concerned party is any person who is affected by or mentioned in a programme or in the decision of the broadcaster's self-regulation body.

Code,⁶¹ however, at the same time is a physical or legal person⁶² working on the topic of children or in the media sphere. According to the research carried out by the Charter of Journalistic Ethics in 2015, in the process of media monitoring, it was revealed that the media is barely trying to protect the inviolability of the child's personal life, especially when it is related to the child's state of health.⁶³

Throughout 2015, the Georgian Charter of Journalistic Ethics, in terms of compliance of child related issues coverage with the ethical principles, has reviewed 2 cases⁶⁴ and established violation of Article 8. Decision N44 addressed the identification of socially vulnerable children and decision N59 – identification of the minor child victim of act directed against the sexual freedom and autonomy. In the first case,⁶⁵ the Charter has ruled that the programme identified the children in social distress and moreover, in a number of episodes the host/ess asked the juvenile questions on tragic events, indirectly forcing the child to talk about the facts causing emotional torment, about separation with a mother, forcible change of the environment. Children's rights are gravely violated in the disputed show. Their interests and possible negative future impacts are in fact not taken into consideration. Moreover, there is a high likelihood that this kind of TV shows, interviews and broadcasting already had a negative impact on the emotional state of children.⁶⁶ In the second case⁶⁷ the Charter has noted: "it was possible to identify the juvenile according to the information spread in the programme. The name, place of residence and the mother's identity was disclosed. Responsible journalists did not take into account the possible negative outcome that can follow the identification of the child. The Board agrees with the applicant's position that the identification might "increase the unacceptability in the society." The Board also notes that the consent of the parent does not free the journalist from the positive obligation not to disclose the identity and facts related to the juvenile. The journalist is obliged to **"give priority to the interests of the child during the professional activity.** He/she should assess the negative outcome that might follow the identification of a child."⁶⁸

Legal regulation of the child issues' media coverage – According to Article 17 of the Convention on the Rights of the Child, States Parties recognize the important function

61 Decree N2 of the Georgian National Communications Commission dated 12 March 2009 on "Approving the Code of Conduct for Broadcasters" (in the present report – "Code of Conduct for Broadcasters").

62 See footnote 59.

63 *Ibid.*, p. 7.

64 <http://qartia.org.ge/category/8-%E1%83%9E%E1%83%A0%E1%83%98%E1%83%9C%E1%83%AA%E1%83%98%E1%83%9E%E1%83%98/>

65 Decision dated 6 April 2015 of the Charter of Journalistic Ethics on the case of "Georgian Coalition for Children and Youths Welfare vs. Gia Jajanidze and Khatuna Paichadze," available at: <http://qartia.org.ge/%E1%83%92%E1%83%90%E1%83%93%E1%83%90%E1%83%AC%E1%83%A7%E1%83%95%E1%83%94%E1%83%A2%E1%83%98%E1%83%9A%E1%83%94%E1%83%91%E1%83%90-%E1%83%A1%E1%83%90%E1%83%A5%E1%83%9B%E1%83%94%E1%83%96%E1%83%94-31/>

66 *Ibid.*

67 Decision N59 of the Charter of Journalistic Ethics dated 1 October 2015 on the case of "Partnership for Human Rights vs. Gia Jajanidze and Maia Stepnadze," available at: http://qartia.org.ge/phr_gia_jajanidze/

68 *Ibid.*

performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, in accordance with para. “e” of Article 17, States shall encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

According to Article 37 para. 1 of the Code of Conduct for Broadcasters, broadcasters shall ensure the protection of minors from harmful influence, and according to paragraph 2, television scheduling decisions need to balance the protection of minors with the rights of all viewers to receive a full range of subject matter throughout the day. Article 38 para. 1 holds that broadcasters shall not broadcast programmes or feature material in programmes that might impair the physical, psychological, mental or moral development of people under eighteen, and according to paragraph 2, broadcasters shall use the programme classification criteria set out in this Code to determine programme categories and make scheduling decisions in accordance with the time restrictions outlined herein. Article 38 para 3 point “a” stipulates that when scheduling programmes, broadcasters shall take into consideration whether there is a potential harm to physical, psychological, intellectual or moral development of minors. According to Article 41 paragraph 1, Scenes of violence or its aftermath as well as the description of violence both oral and visual shall be appropriately edited before 23:00, except when it is justified by context. Article 44 paragraph 1 holds that while respecting a child’s right to freedom of information and expression, broadcasters shall ensure physical, psychological and emotional welfare of minors involved in programmes irrespective of any consent given by a parent, guardian or carer. According to Article 56 para. 5 of the Law of Georgia on Broadcasting, broadcasting of programmes having harmful influence on the physical, intellectual and moral development of children and adolescents at times when they are most likely to be viewed or listened to, are prohibited.

According to principle 8 of the Charter on Journalistic Ethics, “a journalist, in the professional activity shall protect the rights of the child, prioritize the child’s interests, shall not prepare and publish articles or reportage on children that will be harmful for them. A journalist shall not interview or take a photo of a child under 16 without the consent of a parent or a guardian on matters that are related to his/her or other child’s well being.”

6. MORTALITY OF CHILDREN UNDER 5 YEARS OF AGE

Factual Circumstances – Mortality of children under 5 years of age constituted one of the acute problems of 2015 in the field of protecting the rights of the child. As the results of the study conducted by the Office of the Public Defender of Georgia demonstrated, among the risk factors causing infant deaths is the geographical accessibility of medical service, provision of quality and timely services to the population, also, effective work of antenatal services, equipping the intranatal care establishments (maternity homes and units) with adequate medical inventory and infrastructure, including the equipment and supply necessary for managing the state of health of the newborn patients. It should be underlined, that there are shortcomings in terms of qualification of the medical personnel of the relevant profile.

, In 2015, compared to the previous year, the mortality rate of children from birth to under the age of 1 has decreased in Georgia. However, it should be stressed that the mortality rate of children under 5 per 1000 newborns still abruptly exceeds the index of the developed states. The mortality rate of the latter is 6 per 1000 newborns, while in case of Georgia this number in 2015 was 12.⁶⁹ In addition, the 2013 study of UNICEF on reasons of child mortality revealed that (a) the likelihood of death of children living outside Tbilisi is 1,4 times more than that of the children residing in Tbilisi; (b) the likelihood of mortality of infants weighting 1,500 kg or less living outside Tbilisi is 1,9 higher in the period before being discharged from the maternity home and 1,5 higher after being discharged.

As the analysis of the above field demonstrates, the infant mortality s in Georgia is caused by the factors such as, system of care for pregnant women, qualification of medical personnel and obstetricians, the quality of prenatal services, extreme poverty, low level of awareness of the parents, which is in its term related to the right to have access to information and etc.

During 2014-2015, the applications of the citizens received in the Office of the Public Defender of Georgia reveal that in the field of child healthcare and mortality, there are facts of negligence from the medical personnel. It was demonstrated that the personnel does not provide with the relevant information on the patient's health condition the legal representatives of children. Consequently, the parent is not sufficiently involved in the child's treatment process. Moreover, in most of the cases, approximately one hour is allocated for the parents to meet their child, which is not enough for the legal representative to have a range of information on the health condition and treatment of the child.

In 2015, the LEPL State Regulation Agency for Medical Activities studied 23 cases of

69 Data of the Inter-agency Group for Child Mortality Estimation (IGME), available at:http://www.childmortality.org/files_v20/download/IGME%20Report%202015_9_3%20LR%20Web.pdf.

death of children from 0-1 years and 9 cases death of children from 1 under 5.⁷⁰ During the reporting period, the Council for Professional Development has reviewed 15 cases of child mortality for which 33 doctors were held responsible.⁷¹ The Council has studied 3 cases of death of infants from 1 to 5 years and 12 doctors were held responsible.⁷²

It should be noted that there is a lack of neonatologists and pediatricians in the country. According to the date of 2014, their total number is 2 364, which equals 0,62 doctor per 1000 inhabitants. As for the qualification of the doctors, it should be stressed out that 499 doctors have taken the educational programmes of individual training for the pediatric profile and 139 doctors – pediatric profile programmes of continuous medical education. 138 doctors attended vocational rehabilitation and educational programmes of pediatric profile were overcome by 256 specialization seekers. In addition, it is also noteworthy that the number of trained doctors is significantly lower than the total number of doctors.

The statistics of maternal mortality in Georgia is extremely high during the pregnancy and in the postpartum period. Together with Uzbekistan Georgia is on the third place from the last within the former Soviet Union. According to the international research, maternal mortality in Georgia is 36 per every 100 000 newborn.⁷³ According to the percentage data, 12 cases of maternal deaths were found during 6 months in 2015.

In terms of territorial accessibility of the medical facilities it should be noted, that during winter, in the mountainous regions where roads are closed, medical institutions should maintain stable functionality and should be able to ensure the patient with the transportation to the relevant hospital. It is important to have the possibility of transferring them with the helicopter and there should be existed a sufficient number of ambulances for the infants.

Based on the information requested from the Ministry of Labour, Health and Social Affairs of Georgia, according to the date of 2015, in case of death of an infant from 0 to 1 year of age, frequently, the place of residence and the registration place of death do not coincide, since the mortality of infants, generally, is observed in the high-tech clinics. The clinics near the houses often cannot provide the sufficient service and it becomes necessary to transport the infants. In parallel with the geographical accessibility to the childbirth, apparently, it is important to ensure with the proper quality services. Problematic is the issue of using new technologies and the relevant equipment. The lack of neonatologists is also a problem. It is important to send the doctors from the high-tech

70 The Ministry of Labour, Health and Social Affairs of Georgia, Healthcare Department, Correspondence N 01/7571, 01/02/2016.

71 *Ibid*, written notices was issued to 16 doctors, the validity of State certificate was suspended for 1 months to 6 doctors, for 2 months – to 3 doctors, for 3 months – to 3 doctors, for 4 months – to 1 doctor, for 5 months – to 2 doctors, for 6 months – to 2 doctors.

72 *Ibid*, written notice was issued to 7 doctors, the validity of State certificate was suspended for 1 month to 3 doctors, for 2 months – to 1 doctor, for 3 months – to 1 doctor, for 4 months – to 1 doctor.

73 Trends in Maternal Mortality: 1990 -2015, see UNICEF, World Health Organization, World Bank, UN-FPA, p. 53, available at: http://apps.who.int/iris/bitstream/10665/194254/1/9789241565141_eng.pdf?ua=1.

hospitals with the relevant qualifications to the regional hospitals, which will significantly contribute to the qualification rising of the local personnel.

In order to prevent the child mortality, attention should be paid to the continuity of the life circle, which means paying due attention and providing proper quality medical service during the following stages: before conception, conception, antenatal period, first days of birth and supervision of the child's growth/development for ensuring the child's health.

The Public Defender of Georgia positively assesses the introduction of the "Electronic Module for Maternal and Newborn Medical Surveillance" and hopes that it will contribute to the improvement of health services provided to mothers and children. It is important to supervise the implementation of the module and to train the relevant medical personnel on the issues related to the use of the electronic system.

It should also be stressed out that the 2008 Concluding Observations on Georgia of the UN Committee on the Rights of the Child underlines that the Committee is gravely concerned by the high rates of neonatal deaths and premature births as well as the overall state of prenatal and post-natal health care. Attention should be paid to the problems related to the transportation of the infants and the high-risk pregnant women. Serious shortcomings are revealed that is caused by the ineffectiveness of the transportation system. It is important to introduce the unified regulation of using private and public medical transportation means. The Committee has urged Georgia to allocate increased resources to address the high rates of neonatal deaths and premature births. The Committee has also encouraged Georgia to consider establishing a governmental body in charge of maternal and child health care and development at the executive and sub-national levels.

Given the importance of the problem, the Public Defender of Georgia has addressed the Government of Georgia with the proposition of measures for the prevention of mortality of children under 5 years of age (N10/1528; 23.02.2016) and urged to effectively fulfill the obligations of the proposal and take necessary measure for the prevention of mortality of infants and children under 5 years of age.

The practice of the European States – in order to study the measures and best practice for eliminating mortality of children under 5 years of age, the Office of the Public Defender of Georgia has addressed the European Network of Ombudspersons for Children (ENOC). Analysis of legislation and policy of ten European States was conducted.⁷⁴

These States are implementing a number of important programmes which aims at reducing the child mortality. They include programmes supporting nutrition with natural milk, programmes on integrated management of child diseases and on modernization of pediatric and neonatal therapy.⁷⁵ Noteworthy are the national strategies⁷⁶ on child

74 Ireland, Great Britain (including Northern Ireland and Wales), Lithuania, Armenia, Norway, the Netherlands, Bulgaria, Serbia and Bosnia-Herzegovina.

75 The above programmes are intensively implemented in Armenia and Bulgaria.

76 Bulgaria's National Strategy on Children's Issues, (2008-2018).

protection, long-term health programmes which significantly decreased the above problem.⁷⁷ The best practice on reducing child mortality in the above states also implies modernization of the infrastructure of hospitals and ambulances and their adaptation to the needs of the infants. Special attention is drawn to the diagnostic and emergency equipment and reanimation and intensive therapeutic units.⁷⁸ The best practice of states includes the public awareness campaigns, maximum distribution of the healthcare information, systemic and systematic training of the medical personnel for the prevention of the infants' sudden death, introduction of the unified guidelines for the medical personnel according to the recommendations of the World Health Organization, creation of the effective prevention mechanism, contribution to the researches carried out in this field, regular monitoring of the child mortality.⁷⁹

Legal Regulation – right to life is guaranteed by the Constitution. It should be protected from the intentional and negligent unlawful actions.⁸⁰ According to Article 37 of the Constitution of Georgia, the state shall control all institutions of health protection and the production and trade of medicines.

Article 24 of the UN Convention on the Rights of the Child enshrines the obligations of the States Parties to protect the children's health. According to paragraph 2 of the same article, States Parties shall take appropriate measures to diminish infant and child mortality and to ensure appropriate pre-natal and post-natal health care for mothers. The obligation of the State to introduce the highest healthcare standard and to ensure prevention of mortality of children under 5 years of age, is underlined in a number of international documents, such as the International Covenant on Economic, Social and Cultural Rights (Article 12), the European Social Charter (Article 11), UN General Assembly Resolution on "Technical guidance on the application of a human rights - based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age," also, Guidelines of the Committee of Ministers of the Council of Europe on child-friendly health care. According to these documents, for the reduction of child mortality it is necessary to take into consideration the relevant risk-factors, also, to provide the legal representative of the child with the information on the juvenile's health condition and to involve them in the decision-making process.

Reduction and prevention of child mortality is enshrined in the Law of Georgia on Health Care.⁸¹ According to Article 4 para. "a" of the document, universal and equal accessibility of health care for the population within the limits of the State obligations provided for by the state health care programmes is among the principles of state health care policy. Decree N308 of the Government of Georgia has approved the State Health Care

77 Healthcare strategy of Lithuania for 1998-2010 and 2014-2025; National Healthcare Strategy of Bulgaria (2014-2020).

78 Specific attention is drawn to the above-mentioned in the Lithuanian Health Strategy for 2014-2025 years.

79 Healthy Child, Healthy Future; Universal Child Healthcare Programme of the Northern Ireland, Annual Report, 2010; Child Death Review Programme Annual Report, Public Health Wales, (2015).

80 *Ogur v Turkey*, 1999-III; 31 EHRR 912 GC.

81 Law of Georgia "on Health Care", Articles 133 and 134.

Programme and its Annex N9 has developed the health care programme for mothers and children.⁸² The objective of the above document is to reduce the maternal and infant mortality, reduction of the preterm births and development of congenital anomalies through increasing geographic and financial accessibility of effective patronage of pregnant women and highly qualified medical assistance. Reduction of Child mortality through the improvement of child protection and assistance is stated in the Decree N2315–IIS of the Parliament of Georgia dated 30 April 2014 “on Approving the Human Rights National Strategy for 2014-2020” (paragraph 13), Decree N445 of the Government of Georgia dated 9 July 2014 “on Approving the Action Plan of the Government of Georgia on the Protection of Human Rights (2014-2015) and on Establishment of the Inter-Agency Coordination Council of the Governmental Action Plan on the Protection of Human Rights” (paragraph 13.3), the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part (Article 356), and Decree N724 of the Government of Georgia dated 26 December 2014 “on Approval of the “Universal Health Care and Quality Control for the Protection of Patients’ Rights” of the Georgian Healthcare System State Concept for 2014-2020”.

82 <https://matsne.gov.ge/ka/document/view/2891068> .

7. ISSUE OF JUVENILE SUICIDES

Juvenile suicide is one of the most difficult and complex phenomenon. Combined approach of various disciplines is necessary for its research. This issue contains legal, social, cultural and psychological elements, studying of which is significant to fight against the suicide. Based on the data of the Informational - Analytical Department of the Ministry of Internal Affairs of Georgia,⁸³ 400 cases of suicide were found in the country in 2015, out of which 13 were conducted by the juveniles.⁸⁴ In 2015, the investigation under Article 115 of the Criminal Code (bringing to the point of suicide) has started on 1948 criminal cases in Georgia.⁸⁵ In 2015, no criminal proceedings were found under Article 115 of the Criminal Code. According to the date of the Ministry of Internal Affairs,⁸⁶ Article 115 of the Criminal Code does not foresee as an aggravating circumstance, particularly, the crime committed against the juvenile, at the same time, the plot of the crime does not always indicate the circumstances of the crime, which does not give specific direction for data processing. Therefore, based on the data of the Ministry of Internal Affairs, the data is not processed on the crime committed specifically by the juvenile under Article 115 of the Criminal Code.

Given the fact that the State does not have a unified document for the prevention of child mortality, it is not possible to study the causes and risk-factors of the problem and therefore, it is not possible to fight against the phenomenon. The results of the proceedings in the Public Defender's Office revealed that from 5 studied cases,⁸⁷ identification of the accused individual and launching criminal proceedings has not started in any of the cases under Article 115 of the Criminal Code. Considering the fact that there are a number of reasons causing the juvenile suicides, psycho-emotional rehabilitation of children, especially those inclined to suicide and awareness raising about the harmful influence on juveniles and their suicides⁸⁸ is very important, especially in schools. In addition, it is also significant to raise awareness of the children's legal representatives in this area.⁸⁹ It is important, that professionals working with children, including the teachers, social workers, psychologists, representatives of the law enforcement bodies should realize their role and responsibility in terms of protection of the child's rights and prevention of the juvenile suicide. Therefore, the Government should pay special attention to studying the causes of the child suicides, should take preventive measures for its elimination, and consider the best practice of the foreign states; the Ministry of Internal

83 Correspondence of the Ministry of Internal Affairs of Georgia N 338338.

84 The above data is studied based on the information received from the territorial units of the Ministry of Internal Affairs and therefore, contains information according to the investigative jurisdiction of the above units.

85 The above information reflects date on the preliminary stage of investigation. As a result of investigation, in a majority of cases, the criminal cases are resolved under Article 105 para. 1 subparagraph "a" of the Criminal Procedure Code of Georgia (unless the act provided for by the criminal law takes place).

86 *Ibid.*

87 Case N 5275/15, N 5274/15, N 5269/15, N 3594/15 and N 2675/15.

88 Guidelines on Implementation of the Convention on the Rights of the Child, UNICEF, 2002, p. 88.

89 *Ibid.*

Affairs should conduct a prompt, effective and transparent investigation. The research of the best practice of the foreign states⁹⁰ has demonstrated that in terms of juvenile suicide prevention, a number of states, for example the USA, Finland, Ireland, the Great Britain, Germany, France, the Netherlands, Australia and New Zealand have developed specific strategies and action plans. The above documents contain the responsibilities of States for the prevention and reduction of the child suicides and the concrete steps in the form of a number of programmes and sub-programmes that should be implemented in concrete terms for achieving the objectives.

According to Article 6 paragraph 2 of the CRC, Georgia has a positive obligation to protect the right to life of the child. Particularly, Georgia should ensure to the maximum extent possible the survival and development of the child. This article not only obliges state to register and investigate the facts of juvenile suicide, but also, enshrines the obligation of effective prevention and reduction of the relevant risk-factors of suicide. The UN Committee on the Rights of the Child is alarmed by the increasing rate of the juvenile suicide in the world and urges the States to take effective measures in order to understand the above phenomenon and to implement a number of support and intervention programmes for its prevention and elimination, in which, experienced experts will actively participate.⁹¹ The UN Committee on the Rights of the Child has drawn its attention to the diversity of the juvenile suicides and the need of its studying and analyzing. In its General Comment N13 (On the right of the child to freedom from all forms of violence), the Committee defines violence against children as one of the major causes of the juvenile suicide and urges the States to take effective measures to eliminate the above phenomenon.⁹² In addition, the Committee, in the 2008 Concluding Observations on Georgia, as well as in the General Comment N15 (the right of the child to the enjoyment of the highest attainable standard of health) has underlined the necessity of prevention and elimination of the suicidal actions and the need to take respective measures in this direction.⁹³

90 International Prevention of Suicide, 100 Best Practices, available at:<http://www.gavoorgeluk.be/wp-content/uploads/2014/05/100-BestPractices.pdf>.

91 Guidelines on Implementation of the Convention on the Rights of the Child, UNICEF, 2002, p 102, p. 499.

92 General Comment N 13 (2011), The right of the child to freedom from all forms of violence, Committee on the Rights of the Child, 2011, para 15, 28.

93 General Comment N 15 (2013) the Right of the Child to the Enjoyment of the Highest Attainable Standard of Health, Committee on the Rights of the Child, 2013, para 34, 38.

8. ILLICIT TRANSFER OF CHILDREN ABROAD

Illicit transfer of children abroad is one of the problematic issues in the field of the child's rights protection. Compared to 2014, on 2015, the number of complaints submitted to the Public Defender on the above topic has increased.⁹⁴ According to the study, it was revealed that the alleged transportation of juveniles across the border, basically, takes place by one parent without the notification or consent from the other legal representative. In addition, considering that in a number of cases, the border is crossed with the false documentation, the process of finding a child and returning to Georgia is especially complicated.⁹⁵

According to the information provided by the Ministry of Internal Affairs of Georgia, the Informational Analytical - Department of the Ministry does not register the statistical data on the illegal transportation of juveniles across the State border or its attempt in a form requested by the Office of the Public Defender (illicit transportation of juveniles across the State border).⁹⁶

The Law of Georgia "on Rules for Georgian Citizens on Leaving and Entering Georgia" defines the regime of transferring the juveniles across the border. According to Article 8 of the document, a child can be temporarily taken from Georgia with the consent of one legal representative and accompaniment by the capable adult.⁹⁷ The consent of both legal representatives is necessary for getting a passport⁹⁸ and a visa^{99,100}. However, the situation is more complicated when the juvenile is transferred to the State which does not require a visa. According to Article 11 of the CRC, States Parties shall take measures to combat the illicit transfer and non-return of children abroad. This article implies the responsibility of states to effectively prevent and reduce to the maximum extent possible the above cases. According to this article, one of the most effective ways to achieve the objectives is the conclusion of bilateral or multilateral agreements or accession to existing agreements. Among others, the most important instrument is the 1980 Hague Convention on the Civil Aspects of International Child Abduction, which entered into force for Georgia on 1 October 1997. Georgia undertook the obligation to cooperate with the competent authorities of the Contracting States in areas such as child abduction and the circumstances of the discovery and study of a peaceful solution to the dispute, to ensure the prompt return of children, administrative and judicial procedures and the exchange of relevant information.¹⁰¹ The States are responsible for effective implementation of the norms of the abovementioned document in the domestic legislation, however, it has not taken place in the Georgian normative base.

94 According to the data of 2014, only two from the studied cases concerned the illegal transportation of juveniles across the State border, while the same figure increased to 7 in 2015.

95 Cases N 9326/15 and N 14927/15.

96 Correspondence of the Ministry of Internal Affairs N 262339.

97 The requirement of the accompanying capable adult does not apply to the procedure of border crossing by the 16-18 years old juvenile.

98 http://sda.gov.ge/?page_id=5103.

99 See Visa information for the Georgian Citizens: <http://www.mfa.gov.ge/MainNav/ConsularInformation/VisaInfoGeorgian.aspx>.

100 When a 16-18 years old juvenile is taking a passport, consent of only one legal representative is needed.

101 In addition, according to the Decree N319 of the President of Georgia dated 22 June 1997, the Ministry of Justice was determined as a central body.

9. VIOLENCE AGAINST CHILDREN

Article 19 of the Convention on the Rights of the Child guarantees the child's right to be protected from all forms of violence. The same article foresees the obligation of the State to take preventive measures for elimination of all forms of violence and take appropriate measures for the rehabilitation and support of the child victims of violence, also, to identify and respond to the facts of violence.

Among the individual violations of the child's rights examined by the Child's Rights Centre of the Public Defender in 2015, the high rate of violence against children in various forms was revealed again (see, statistical table of the proceedings). In this regard, the main challenges are the severity of identifying the fact of violence against children, the necessity to introduce the protection and rehabilitation system of the juvenile victims of violence in practice, the lack of professional psychologists working in the social service sphere and the insufficient cooperation among the relevant institutions.

Bullying— according to the resolution adopted by the UN General Assembly,¹⁰² bullying can be expressed through a violent or aggressive action, which has a negative impact on the child's wellbeing. Besides, the children victims of bullying are under the risk of emotional problems. It is noted in the General Comment N13 of the Committee on the Rights of the Child on the right of the child to freedom from all forms of violence that violence against a child, both physical and psychological, is often expressed as bullying among children. This harms the physical and psychological wellbeing of a child and has a negative impact on the development of a child, education and integration in the society.

During the proceedings conducted by the Child's Rights Centre of the Public Defender's Office on the alleged facts of bullying in 2015, the problems related to the identification of bullying cases at schools and to the rehabilitation of juveniles allegedly committing bullying were revealed. Mostly, when the case concerns the juvenile allegedly committing bullying, transferring the child from school to the another education institution is named as a solution of the problem. In addition, aggressive attitude is formed against this kind of children, which further exacerbates the problem. The Child's Rights Centre of the Public Defender's Office studied two cases concerning the juvenile who allegedly committed bullying. In one of the cases, the child was dismissed from school for 10 days and in the other case, based on the teachers' advice, the parents transferred a child to another educational institution. Changing of the school is named as a problem solution in case of the child victim of the bullying as well. There is a tendency that parents complain that they are not sufficiently informed. They note that they are informed only when the problem is escalated. It is also related to the problem of promptly identifying and taking the relevant preventive measures at schools. The teachers do not have sufficient knowledge on how to identify bullying, what measures to take and whom to address to eliminate the problem. If bullying is vividly expressed, the child is sent to the psycholog-

102 Resolution adopted by the UN General Assembly on 18 December 2014, on the report of the Third Committee, (A/69/484)69/158. Protecting Children from Bullying.

ical assistance centre of the office of the resource officers. This procedure is voluntary and depends on the will of the child and his/her legal representative. In the process of case studying, several cases were revealed when the children refused to visit a psychologist. Therefore, they have not undergone the rehabilitation process of a bullying victim or of a juvenile committing bullying.

According to the information requested from the Ministry of Education and Science of Georgia,¹⁰³ all candidates of becoming the resource offices, before the appointment, undergo the special training approved by the order N37/N of the Minister of Education and Science of Georgia dated 11/03/2013. 1156 resource officers of 419 schools have the opportunity to take two training courses per year. Nevertheless, it should be taken into consideration that not all public schools of Georgia have the resource officers, which complicates the identification of children victims of violence or the alleged perpetrators and the issue of taking relevant measures. This is especially problematic in the regions.

The Child's Rights Centre of the Public Defender's Office requested the statistical data on the number of fact of bullying revealed during the reporting period from the Ministry of Education and Science of Georgia. The Ministry could not provide the statistical data, which indicates that the cases of bullying are not identified and registered.

Protection of a child from the actions directed against the sexual freedom and autonomy– According to the results of the proceeding conducted at the Public Defender's Office in 2015, in terms of actions directed against the sexual freedom and autonomy, problems were revealed related to the active implementation of response system of the responsible individuals, timely and effective investigation, identification of the responsible persons, launching of the relevant criminal proceedings and problems of protection of the juvenile victims' procedural rights. In addition, psycho-social rehabilitation and educational integration of children victims of sexual abuse and the alleged perpetrator juveniles is not properly carried out. In a number of cases, the investigation process is delayed and there is a problem of identifying the accused/responsible individuals, which is proved by the rate of statistical data on sexual violence for 2014-2015. In particular, according to the information requested by the Office of the Public Defender of Georgia from the Ministry of Internal Affairs of Georgia (Correspondence of the Ministry of Internal Affairs of Georgia N2134/15), in 2014 (11 months), investigation on actions directed against sexual freedom and inviolability of juveniles was launched in 80 cases and criminal proceedings were conducted in only 38 cases. Additionally, according to the statistical data requested from the Chief Prosecutor's Office of Georgia (Correspondence of the Human Rights Protection Unit of the Chief Prosecutor's Office of Georgia N3183/15), in 2014, 48 juveniles were granted the status of victim of crime against the sexual freedom and autonomy. According to the data of January-February 2015, on the alleged actions against the sexual freedom and inviolability, with the qualification of Articles 137-141 of the Criminal Code of Georgia, criminal proceedings started in 7 cases and 6 juveniles were granted the victim status.

It is difficult the identification of the facts of sexual abuse against children, their exposure and timely response. In this process, professionals working with children, especially

103 Correspondence N MES 6 16 00227432.

the teachers having daily contact with the juveniles, have an important role. It was revealed that in public schools and specialized institutions the timely implementation of the procedure of referral of the fact of sexual abuse against a child and its further supervision is problematic. In the case of need, it is also problematic to allocate a child in the service or services, which will contribute to his/her security and rehabilitation. In addition, exposure of the facts of violence is hindered by the unawareness of the signs of violence, also, by the weak coordination among the responsible State authorities regarding the child protection referral procedures.

The issue of providing adequate psychological service and rehabilitation to children victims of sexual abuse is also complicated. In a number of cases, a thorough analysis of the emotional state of the victim children is not conducted. There are cases when the primary assessment of psychological condition and the need of rehabilitation of the juvenile victim of violence is carried out not by the psychologist, but by the social worker. Such an example is the alleged perverted actions against the minor Q.U. (case N2317/15).¹⁰⁴ It was also revealed that in a number of cases, the effective performance of duties by the responsible individuals involved in the investigation and sufficient communication with the relevant authorities for the exchange of information is problematic.

Legal Regulation – Article 17 of the Constitution of Georgia is in line with the international legal standards on the right of protection of a child from sexual abuse, exploitation and other forms of ill-treatment. It stems from the analyses of paras. 1 and 2 of the above Article that for the protection of human honor and dignity the State should prohibit torture and inhumane and degrading treatment and punishment. In 2014, Georgia joined the Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse. This document entered into force for Georgia in 2015. It constitutes a significant instrument for the prevention and elimination of sexual abuse against children, however, for its implementation, all three branches of Government, in the framework of their competences, should ensure compliance with the obligations undertaken by the Convention. More relevant is Article 6 of the Convention, in accordance to which the States Parties should ensure that the children in primary and general education period have an adequate knowledge of sexual exploitation and sexual abuse of children, of the means to identify them and of the possibility to protect themselves, in accordance with the level of their development. As an international legal standard, Article 3 of the European Convention on Human Rights declares the prohibition of torture and inhumane and degrading treatment or punishment. It follows from the analysis of the above article by the European Court of Human Rights that crime against the sexual freedom and inviolability, such as rape, should be considered as torture.¹⁰⁵ Article 3 of the Convention places excessive responsibility upon the State on level of all three branches to prevent and eliminate sexual abuse of children in the framework

104 Criminal proceedings on this case started under Article 141 of the Criminal Code of Georgia and responsible persons were revealed, however, the psychological condition of the victim child was assessed by the social worker and not by the psychologist. The social worker has unsuitably considered the further psychological rehabilitation. Correspondence of the LEPL Social Service Agency of the Ministry of Labour, Health and Social Affairs of Georgia N04/18360, 16/03/2015 Internal N 3129/15).

105 *Audin v. Turkey*, 1997-VI, ECHR.

of positive and negative obligations and urges the States to ensure timely and effective implementation of the measures. Article 19 of the UN Convention on the Rights of the Child, States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of violence, including sexual abuse. In addition, the UN Committee on the Rights of the Child in its Concluding Observations on Georgia dated 23 June 2008¹⁰⁶ has underlined the obligation of Georgia to take all necessary measures in order to fight the violence against the juveniles, especially the domestic violence. According to the General Comment N13 “on the Right of the Child to Freedom from All Forms of Violence” of the UN Committee on the Rights of the Child,¹⁰⁷ sexual abuse against a child includes The inducement or coercion of a child to engage in any unlawful or psychologically harmful sexual activity through physical as well as psychological coercion.¹⁰⁸ According to Article 13 para “b” of the Decree N2315–II of the Parliament of Georgia dated 30 April 2014 “on Approving the National Strategy for Human Rights (2014-2020)”, protection of children from any form of violence and timely and effective response to the facts of violence should be prioritized.

Right to be protected from violence in pre-school and secondary education institutions – The results of the proceedings in the Public Defender’s Office of Georgia reveal that in 2015, the cases of violence, negligence and other forms of ill-treatment are still acute in the early, pre-school and secondary education institutions and needs timely and effective measures taken by the responsible State institutions and local self-governing bodies.

The mechanisms for the protection of children of early and pre-school education age from violence, exploitation and other forms of ill-treatment are foreseen by the 2015 draft law on Early and Pre-school Education. The document enshrines the definitions in the sphere of protection from violence on one hand and enforceable norms for the protection of children from violence on the other hand. The draft law includes the definition of violence.¹⁰⁹ In addition, according to Article 6 para. 4, the pre-school educational institution is obliged to ensure the prevention of child abuse (including parental education and awareness), identification, assessment, notification and appropriate response, in accordance with the child protection (referral) procedures. The institution is also obliged to allocate a person responsible for the prevention and protection of children from violence in the institutions. The above regulations of the draft law respond to the Public Defender’s recommendations of 2014¹¹⁰ in the field of protection of children of early and pre-school education age from violence. However, for their prompt and effective implementation, it is necessary to carry out the universal and timely training of the pre-school teachers in the field of child’s behavioral problems, prevention of child abuse and referrals. In the early and pre-school education institutions, the problems of introducing

106 Committee on the Rights of the Child, Consideration of Reports Submitted by States Parties under Article 44 of the Convention, Concluding Observations: Georgia.

<http://www.refworld.org/type,CONCOBSERVATIONS,CRC,GEO,4885cfab0,0.html>.

107 General Comment N 13 (2011), The right of the child to freedom from all forms of violence, Committee on the Rights of the Child, 2011.

108 *Ibid*, para. 25.

109 Article 3 para. “p” of the draft law.

110 Parliamentary report of the Public Defender of Georgia for 2014, Rights of the Child.

the norms of protection from violence are revealed in the following directions: identification of children victims of violence, assessment, referral to the competent body, assistance of the psychologist. As for the protection of children from violence in the secondary education institutions, the following main factors are mentioned in the statements submitted to the Public Defender of Georgia: identification of cases of violence against pupils and implementation of the referral procedure, rehabilitation of children victims of violence. 30% of the complaints/applications received at the Public Defender's Office related to the protection of children from violence, negligence and other forms of ill-treatment at the pre-school and secondary education institutions revealed the cases of the alleged psychological abuses against the pupils at the public schools, 20% concerns the alleged facts of physical violence; 20% of the applicants point to the facts of neglecting children at the nursery schools and 30% indicate the use of physical abuse and corporal punishment. According to the information provided by the LEPL Office of Resource Officers of Educational Institutions,¹¹¹ 55 children having suicidal thoughts/behavior were transferred to the above institutions from the public schools. As for the number of children transferred to the regional centers, in 2015, 722 cases were revealed in the centre of Tbilisi, 140 – in Batumi, 136 – in Kutaisi, 82 – in Poti, 63 – in Gori and 35 – in Telavi.¹¹² 1070 resource officers of 400 public schools are trained in the field of child abuse. Nevertheless, the applications submitted to the Public Defender's Office demonstrate that the resource officers of public schools do not sufficiently identify the cases of violence and together with the representatives of the public schools, do not transfer the cases to the LEPL Social Service Agency and LEPL Psychological Centre of the Office of Resource Officers of Educational Institutions.

111 Correspondence of the LEPL Office of Resource Officers of Educational Institutions of the Ministry of Education and Science of Georgia N MES 716 00089086, 03/02/2016.

112 *Ibid.*

10. THE RIGHT OF THE CHILD TO BE PROTECTED FROM POVERTY AND INADEQUATE LIVING CONDITIONS

According to the results of examination carried out by the Office of the Public Defender of Georgia in 2015, children cannot enjoy sufficiently and effectively the right to be protected from poverty and inadequate living conditions. Significant number of juveniles lives in the conditions of relative poverty and inadequate social environment.

The analysis of the applications and complaints received at the Office of the Public Defender of Georgia revealed the issues of timely provision of adequate housing and State and municipal assistances. Several cases demonstrated the problems of ensuring children with relevant nutrition, living conditions and adequate educational inventory.

In the applications submitted to the Public Defender the citizens mainly note that the process of inclusion in the targeted social assistance is delayed. Noteworthy is the sub-programme on Emergency State Assistance to Families with Children in Crisis, where 60% of the population in the proceedings has not received written information on agreement or rejection about the inclusion in the sub-programme.

55% of the cases on child poverty studied by the Child's Rights Centre of the Public Defender's Office revealed the restrictions on enjoying adequate living conditions and 45% - the problems related to the provision of food, medicines and educational inventory. It should also be noted that in 55% of the studied cases the population did not have sufficient information on the acting State and Local Self-Government Social Assistance sub-programmes.

According to the data of the LEPL Social Service Agency of the Ministry of Labour, Health and Social Affairs of Georgia, 34 002 juveniles were the beneficiaries of the social package by December 2015.¹¹³ In addition, by December 2015, 75 806 beneficiaries from 0 to 6 years old and 225 131 beneficiaries from 6 to 18 years of age were involved in the targeted social assistance sub-programmes.¹¹⁴ By December 2015, 466 juveniles were involved in the early development sub-programme,¹¹⁵ 944 juveniles enjoyed the nutri-

113 http://ssa.gov.ge/index.php?lang_id=GEO&sec_id=883.

114 In 2015, the rate of involvement of beneficiaries in the targeted social assistance sub-programme was following: **January** – from 0 to 6 years old 84 206 children and 236 922 from 6 to 18 years; **February** – from 0 to 6 years old 82 926 children and from 6 to 18 years 236 721 beneficiaries; **March** – from 0 to 6 years old 82 490 beneficiaries and from 6 to 18 years old 236 617 children; **April** – 82 249 beneficiaries from 0 to 6 years old and 236 676 children from 6 to 18 years; **May** – from 0 to 6 years – 82 023 and from 6 to 18 years – 236 902 beneficiaries; **June** - from 0 to 6 years – 80 400 and from 6 to 18 years – 235 631 beneficiaries; **July** - from 0 to 6 years – 79 194 and from 6 to 18 years – 234 909 beneficiaries; **August** - from 0 to 6 years – 78 250 and from 6 to 18 years – 234 577 beneficiaries; **September** - from 0 to 6 years – 77 210 and from 6 to 18 years – 232 984 beneficiaries; **October** - from 0 to 6 years – 76 568 and from 6 to 18 years – 231 969 beneficiaries; **November** - from 0 to 6 years – 75 977 and from 6 to 18 years – 229 009 beneficiaries; **December** - from 0 to 6 years old 75 806 and from 6 to 18 years 226 131 beneficiaries. http://ssa.gov.ge/index.php?lang_id=GEO&sec_id=767.

115 In 2015, the rate of involvement of beneficiaries in the early development sub-programme was following: **January** – 394; **February** – 452; **March** – 448; **April** - 456; **May** – 398; **June** - 443; **July** - 465; **August** - 325; **September** - 466; **October** - 471; **November** - 477; **December** - 466.

tion voucher.¹¹⁶

Legal Regulation – Right to protection of juveniles from poverty and inadequate living conditions is stipulated in Article 36 para. 2 of the Constitution of Georgia, according to which, the State shall promote the prosperity of the family. According to Article 27 para. 1 of the UN Convention on the Rights of the Child, States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development. According to the para. 3 of the same Article, States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing. Article 17 of the European Social Charter enshrines that with a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures.

According to Article 10 para. 1 of the International Covenant on Economic, Social and Cultural Rights, the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses. Article 11 of the same Covenant stipulates that the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

116 In 2015, the rate of involvement of beneficiaries in the nutrition voucher sub-programme was following: **January** – 855; **February** –975; **March** –978; **April** - 986; **May** – 993; **June** -979; **July** -988; **August** -999; **September** -996; **October** - 947; **November** -937; **December** - 944.

11. CHILDREN LIVING AND WORKING IN THE STREET

Legislative changes improving protection for the children living in the streets should be considered as a positive development during the reporting period. It is particularly important to define the concept of homeless children and documentation settlement issues for them. For the protection of the child from violence, a social worker has been granted the right to make a decision, in cases of any form of violence against children, on the separation of minor from the abuser. Along with the legislative changes it is important to define execution mechanism and upgrade capacity of its enforcement agencies, especially qualification of social workers.

As results of the Public Defender's Office proceedings revealed that there still remain a problem of state protection from abuse and neglecting of the street children. Providing the realization of the right to education and health care is a challenging issue for them, as well as identification and settlement of the personal documentation for the children living and working in the streets.

During the reporting period, the Public Defender addressed with the recommendation to the Ministry of Internal Affairs on the necessary measures of the protection of children living and working in streets. The recommendation states that the Ministry of Internal Affairs, in certain cases, is not cooperating with the mobile groups providing the shelter to the homeless children. The referral procedures are especially problematic that making it difficult work and allocation to the necessary services for children living/working in the street.

According to information provided by the Social Service Agency,¹¹⁷ during 2015, in the framework of the homeless children's shelter sub-program, the Ministry of Interior was referred 11 times. It is noteworthy that out of this number - 4 of them was on child abuse fact, of which only 2 cases was responded. From appealed 2 cases of alleged prostitution involvement one of them was responded. On the cases of begging and neglecting was referenced - 4 notifications, of which only one case was responded. According to information provided, there was no reaction to the one notification of the alleged trafficking fact. Considering the scale of the problem, the figure is low, that indicates the lack of coordination between the agencies, the ineffectiveness of the referral procedures and low awareness of the issue from the responsible authorities.

According the information received from the Central Criminal Police Department of Ministry of Internal Affairs,¹¹⁸ in 2015, two cases of labor exploitation was revealed and an investigation of one criminal case was launched on the fact of trafficking of minors. The same letter stated that for to fight against trafficking, in trafficking and combating illegal immigration department in Organized Crime Division of the Central Criminal Police Department was created and is functioning four mobile inspection groups, which is composed of law enforcement bodies. Due to the fact that the children living and work-

117 Correspondence N04/12372.

118 Correspondence MIA 2 16 00398721.

ing in street are vulnerable and there is high risk of addressing organized crime toward them, it is important to strengthen the co-operation between the children's shelter mobile groups and the above-mentioned supervising mobile groups for timely detection and investigation of the alleged crimes.

It is important to constantly improve capacity of the representatives of the bodies responsible for the protection of children living and working in the streets. According to the information provided by the Ministry of Internal Affairs of Georgia,¹¹⁹ in 2015, only 20 employees of the Police Department of Ministry of Interior Affairs was trained on the topic of the identification of crimes/ violence committed against homeless children. 12 Investigative Services' representatives of Ministry of Interior Affairs and 8 employees of the Prosecutor's Office have been trained in the techniques of investigation of the crimes committed against homeless children. These data once again underlines the fact that proper awareness and raising of the qualification of responsible agencies, especially police officer's, is much necessary.

According to the information received from the Social Service Agency, 634 children working and living in the streets have been contacted. The majority of the children do not have an identity document.

In 2015, 158 children have used services of the day care center, 60 children were provided with the services of the crisis intervention shelter , while 23 children benefited from the transit service. In 2015, 10 children were placed in foster care, 6 children allocated in reintegration services, 9 children were placed in small family type homes, 32 beneficiaries were involved in formal education. In order to strengthen the family, the program diverted 80 cases. Documentation was settled for 40 beneficiaries and / or a family member, 13 children were redirected in other relevant organizations. In 2015, the notifications concerning 270 homeless children were carried out. The mobile group responded to 210 cases. In 2015, 15 children were taken to the crisis intervention shelter the police crews, 1 child was taken to a transit shelter, 1 – to the shelter of mothers and children, 1 – to the foster family, 1 – to the Children's Home, 1 - in the police department; During this period, the 27 protocols has been drawn up. Approximately 60 posts were revealed throughout the capital by "112" hot line, including one case that was revealed by the agency.

119 Correspondence N 618946.

12. SUBPROGRAM OF PROVISION OF MOTHERS AND CHILDREN WITH SHELTER

Article 36 of the Constitution states that “The State shall promote the welfare of the family, women’s and children’s rights are protected by law.” The stated provision establishes the state’s positive obligation to provide minimum conditions for a decent life for the minors that serves their best interests. The child’s rights are protected by national legislation, as well as by the international legal acts. According the Article 27, paragraph first of Convention on the Rights of the Child “States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.” Paragraph 3 of the same article states that “States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.”

State program in 2015 considers the social rehabilitation and child care issues, one of the sub programs is - “Provision of Mothers and Children with Shelter”, that aims at the prevention of infant abandonment and the child’s biological family strengthening. The program activities include provision of beneficiaries with shelter, food and safe environment for 24 hours, in addition, the promotion of education, medical, psychological services and provision of other practical needs. In the framework of the sub-program operates two shelters all over the country, in Tbilisi and Kutaisi. The shelters are receiving mothers with a minor child younger than 10 years old.

Children’s Rights Center of the Public Defender’s Office carries out monitoring of the shelters of mothers and children (“Association of SOS Children’s Villages “,Tbilisi, Vera, IV m / d, Herman Gmainer str. N1; (“Association of SOS Children’s Villages in Georgia “, Kutaisi, Youth turn N3). The monitoring and record keeping results show that the rights of minors in the shelters are not adequately protected.

According the statistical information requested by Children’s Rights Centre of the Public Defender’s Office from the Social Service Agency of the Ministry of Labour, Health and Social Affairs (correspondence N04 / 19904; 14.03.2016), in 2015, in Kutaisi, 34 beneficiaries benefited from the services of the shelter of mothers and children (16 mothers, including two juvenile mothers and 18 children). 9 mothers and 11 children have left the shelter in the same year. In 2015, 7 mothers have participated in the professional training course, 5 of them have already left the shelter. 3 beneficiaries have been employed. During 2015 different types of training were conducted for beneficiaries. Social Service Agency has been referred in one case of child abuse; as a result the minor is involved in the state care program.

In 2015, in total 121 beneficiaries use services of two mothers and children shelters (53 mothers and 68 children). 31mothers and 45 children have left the shelters. In 2015,

7 beneficiaries were involved in educational courses, 5 of them have already left the shelter. 3 mothers have been employed. During the same year, the social service agency referred 6 cases of child abuse, 3 children were placed in alternative care. The aim of the sub-program on the Provision of mothers and children with shelter is to strengthen the family and to prevent the child abandonment. The abovementioned statistics and the analysis of the current case in the Children's Rights Centre of the Public Defender's Office shows that vocational education is not properly promoted. Vocational trainings are promoting the mothers' employment and it is the prerequisite of creation decent living environment for minors. According to statistics, in 2015, both in Kutaisi and in Tbilisi out of 69 beneficiary mothers 14 were involved in the vocational training and only 6 of them were employed. This shows that even after a year, mothers still are not ready for independent life and still are facing the same problems that they had before living in the shelter. In many cases they do not have possibility to provide housing for themselves and their children.

It should be noted that often conflicts occur between the mother in the shelter, there was a physical confrontation cases as well that threaten the health and safety of minors. One of the beneficiaries of the shelter notified the Children's Rights Centre of the Public Defender's Office about the physical confrontation between the two mothers, as a result, one of them was taken to the hospital and the other was taken to the police department. The case is in the process of studding. If the Conflict situation occurs, the beneficiaries often are calling to the police. This condition hinders the creation of an appropriate environment for the juvenile development and has a negative impact on children's psychological development.

Keeping order and discipline is an issue in the shelter. In Tbilisi and in Kutaisi a psychologist is working with mother in the shelters, however conflict prevention still cannot be provided. The mentioned issue is especially vivid in a Tbilisi shelter. Cases of unknown persons entering the shelter with the mothers have been recorded, that identifies the shortcomings of the protection system.

According to information received from the beneficiaries of the shelter, the several mothers are not following the rules of the hygiene during food preparation process that adversely affects the health of minors.

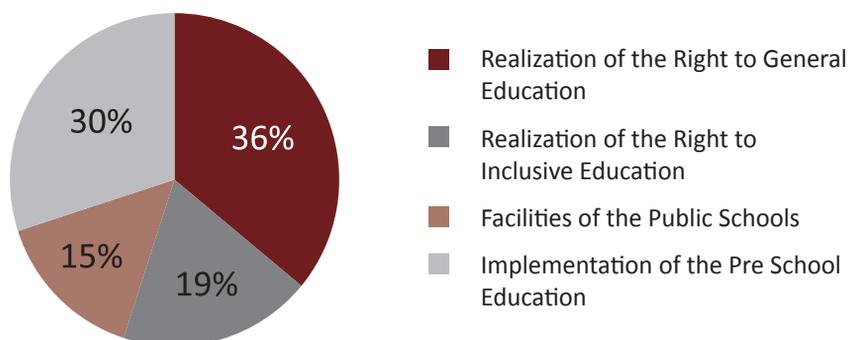
In often cases the mothers living in shelters are lacking of child care skills. Accordingly, they are unable to take proper care of their children. The number of nurses working in shelters is insufficient. Special attention should be paid to the mental health of the mothers. Implemented monitoring results revealed cases of the beneficiary's enrollment in the shelter that has mental problems; the mentioned facts were not prevented by demanding the health report. Thus, the safety of minors living in the shelter was threatened.

It is also important to pay special attention to the enrollment of the mothers under 16 years of age in a shelter. The monitoring revealed that the enrollment cases of the mothers under 16-year-old were not reported to the law enforcement agencies.

13. REALIZATION OF THE RIGHT TO EDUCATION

Realization of the Right to Education in terms of the implementation of the rights of the child was one of the main challenges during the reporting period. According to the analysis of the proceedings, there are several problematic areas in this field: the right to access to the general education, creation of the safe and adequate physical infrastructure in the educational institutions, environment, the introduction and overall implementation of the inclusive education, the implementation of pre-school education.

Table N7 - the main problematic areas in terms of implementation of the right to education:



Exercising the right to general education - During the reporting period, after conducting the case study the shortcoming of the realization of the right to general education was revealed in several dimensions: inadequate physical - infrastructural environment of the public schools, the implementation of quality general education, introduction and implementation of the inclusive education.

Exercising the inclusive education – According to the data provided by the Ministry of Education and Science of Georgia¹²⁰ in January 2016, the numbers of the pupils with special educational needs in Tbilisi and in the regions of Georgia in 2013 were as follows: Tbilisi - 1 347, Imereti – 438, Kakheti- 180, Kvemo Kartli - 280, Samegrelo-Zemo Svaneti - 154, Adjara - 266, Guria - 240, Shida Kartli - 207, Samtskhe-Javakheti - 126, Mtskheta-Mtianeti - 93, Racha - 31, Abkhazia - 3 (in total 3 365 pupils). In 2014: Tbilisi - 1 089, Imereti – 508, Kaheti - 373, Kvemo Kartli - 350, Samegrelo-Zemo Svaneti - 284, Adjara- 365, Guria - 319, Shida Kartli - 285, Samtskhe-Javakheti - 140, Mtskheta-Mtianeti - 131, Racha - 40, Abkhazia - 13 pupils (in total 3 897 pupils). In 2015: Tbilisi - 1 453, Imereti – 643, Kakheti - 581, Kvemo Kartli - 484, Samegrelo-Zemo Svaneti - 438, Adjara- 441, Guria - 390, Shida Kartli - 388, Samtskhe-Javakheti - 210, Mtskheta-Mtianeti - 172, Racha - 50, Abkhazia - 17 (in total 5 267 pupils).

According to the data provided, during the years 2013-2015, the number of pupils with special educational needs are increasing, which obviously indicates a positive trend and

120 Correspondence N MES 4 16 00218692 of the Ministry of Education and Science of Georgia.

indicates success dynamics of the inclusive education program. Nevertheless, according to the Public Defender's cases study and monitoring results, the introduction and the implementation process of the inclusive education includes shortcomings in the numbers of regions.

Effective introduction and implementation of the inclusive education is a challenging matter. Among them is the need for teachers' capacity building, including the recruiting the qualified personnel and providing them with continuing professional development. During the reporting period, Children's Rights Center of the Public Defender's Office appraised ongoing proceedings that evaluated the number of the juveniles with special needs, however their involvement in the inclusive education program in a number of villages in the high mountain regions was not possible due to the lack of the specially trained teachers. For instance, in Mestia municipality in village Becho public school the involvement process in the inclusive education program for the pupil with special needs and recruitment of the teacher with special education prolonged for a years and a half.¹²¹

According to the data of the Ministry of Education and Science of Georgia,¹²² the numbers of the specially educated teachers in Tbilisi and in the regions of Georgia, in January 2016, were as follows: Tbilisi - 258, Imereti – 233, Kakheti - 155, Kvemo Kartli - 88, Samegrelo-Zemo Svaneti - 151, Adjara - 153, Guria - 100, Shida Kartli - 106, Samtskhe-Javakheti - 73, Mtskheta-Mtianeti - 40, Racha - 24 (in total 1 381 teachers). As it turns out, these numbers of special teachers is not enough for full involvement of the pupils with special needs in inclusive education program.

Physical environment and infrastructure of the educational institutions; Abkhazian Public Schools - the case analysis during the reporting period shows that a number of schools are functioning under the deprived physical infrastructure and hygienic conditions. The situation in the public schools in Abkhazia should be particularly taken into consideration. Number of mentioned educational institutions is fifteen, two of them - N13 and N16 schools, are situated in the occupied territory of Abkhazia.¹²³ During the reporting period, studying the physical and infrastructural environment of Abkhazian agency owned N2, N3 (Tbilisi) and N22 (Likani) schools showed that the students of the general education institution are getting education in the improper conditions.¹²⁴ The small space was transferred from the Borjomi municipality Likani settlement kindergarten to the N22 school, while an IDP housing located in the school N2 as well as in public school N3, that significantly interferes with the to the right to the quality education. After the appraising the physical and infrastructural environment of Abkhazian agency's N3 public school revealed that students and IDP families have a common entrance in the building.

Mentioned three general education institution buildings need major rehabilitation work, repairing the restrooms. It is noteworthy that the major part of the funds of the Ministry

121 Case N 12419/1.

122 Correspondence N MES 4 16 00218692of the Ministry of Education and Science of Georgia.

123 <http://meca.gov.ge/itst/index.php?module=Content-House&action=view&id=1393&lang=geo>.

124 Case N 2261/15, N 5404/15 and N 5967/15.

of Education and Science is allocated for the remunerations, while meager funds are allocated for the repairing and heating (approximately 7-8% of the total budget).¹²⁵

The main issue of the general educational institutions N3 and N 22 is functioning of the mixed age classes, so-called mixed classes¹²⁶ that hinders the effective implementation of the primary education.

It should be noted that despite the notification made by the Public Defender of Georgia, the rehabilitation of mentioned school buildings have not been included in the 2015 action plan of the Educational and Scientific Infrastructure Development Agency.¹²⁷

The right to access to the pre-school education - within the reporting period on the basis of the proceedings, shortcomings of the realization of the right to access to the pre-school education at municipal level revealed.

According the data requested from Tbilisi Kindergarten Management Agency,¹²⁸ in December 31 2015, 55 605 children were registered at kindergartens in Tbilisi, meanwhile 6 500 children were not involved in the education process due lack of available places in nursery schools.

In some kindergartens age groups of children almost twice exceed the permissible maximum numbers.¹²⁹ According the data of Tbilisi Kindergarten Management Agency, in order to prevent overcrowding, construction of 4 pre-school educational institution buildings are finalized, in addition, the appropriate age groups were added to the existing kindergartens.¹³⁰

Case analysis revealed that the right to access to the pre-school education is problematic in Akhalkalaki and Marneuli municipalities. A number of nursery schools are functioning in deprived physical and infrastructural environment,¹³¹ and in some villages, kindergartens are not established at all, regardless the number of population and their requests.¹³² According the information requested from the municipality of Akhalkalaki, out from 65 villages of municipality pre-school educational institution is functioning in only eight of them - six of them are pre-school nursery-educational centers, and two - Kindergarten.¹³³ It should be noted that the problem of access to the pre-school education is revealed in other municipalities and villages as well.¹³⁴

125 Case N 5404/15.

126 At N3 public school mixed classes exists I – III and II – IV forms, and at N 22 school – I-II and III – IV form pupils.

127 Corespondence N MES 51501114300.

128 Corespondence N 2266/16.

129 For example, cases of children's nursery „Khutkunchula“, case N 11024/15.

130 Corespondence N 1/2121.

131 For example , village Azhavreti.

132 For example , villages: Varevani, Azizkendi, Tazakendi.

133 Corespondence N 1440/13.

134 For example , village Velevi of the Ambrolauri minucipality , village Becho of Mestia municipality, village Didi Aragiali of Ninotsminda municipality, village Kulashi of Samtredia municipality, village Dirbi of Kareli municipality, village Tchiauri of Lagodekhi municipality.

Legislative regulation - According to article 35 of the Constitution of Georgia, the state should support the operation of educational institutions and provides pre-school education in accordance with relevant laws. Article 3 of the Law of Georgia “on General Education” maintains that the state should ensure openness and equal accessibility to general education system for all. The same provision, Georgia provides the implementation of the inclusive education throughout the country.

According the Article 28 of the UN Convention on Convention on the Rights of the Child, the Contracting States, within its jurisdiction, make primary and secondary education compulsory and available free to all. According the first paragraph of the article 2 of the same document and Article 4, the Contracting Parties shall ensure full implementation of the rights of children in educational institutions. Universality of the right to education is constituted in Article 13 of the International Covenant on Economic, Social and Cultural Rights as well.

The observations of the Committee on the Rights of the Child (CRC), dated June 23, 2008, emphasizes the obligation of the state to allocate additional funds to ensure that everybody’s right to education is realized.¹³⁵ In addition, the state should focus on an overall improvement of the quality of education provided, particularly in rural regions.¹³⁶ Committee pointed out that the quality of education should be improved through bettering material provisions of schools.¹³⁷ As for the implementation of the right to pre-school education, the Committee noted that Georgia should take the necessary measures to improve protection of rights of minors in the pre-school institutions.¹³⁸

RECOMMENDATIONS

TO THE GOVERNMENT OF GEORGIA:

- To strengthen state politics in the areas of reintegrated children’s biological families’ socio-economic needs improvement, prevent allocation of the children in the state care facilities.
- To reflect special strengthening subprograms for reintegrated families in social rehabilitation and child care state program.
- In order to reduce infant mortality, it is recommended:
 - A) To develop a strategy and action plan
 - B) To implement qualification raising actions for the relevant medical personnel and introduce the continuing education system; To develop a capacity build-

135 Concluding observations of the Committee on the Rights of the Child (CRC): in 2008, Georgia, paragraph 57(a).

136 *ibid* , paragraph.57(b).

137 *ibid* , paragraph 57(c).

138 *ibid* , paragraph 57(e).

ing training program for regional medical staff; To facilitate introduction of midwifery care system and its universal implementation;

- C) To facilitate children's access to medical facilities and its high-quality operation, to equip certain medical profile institutions with the infrastructure and medical equipment;
 - D) To add the appropriately equipped helicopter to an ambulance, in order to timely transport the patients from high mountain regions and remote areas; To establish a universal regulation for the private and public medical transport vehicles in connection with its application;
 - E) To reduce infant mortality, establish and actively implement electronic universal base that stores and accumulates the patient's medical history.
- To Increase public awareness of the rights of infant health protection mechanisms and maternal and child health services.
 - Special attention should be paid to the study of the causes of suicide in children, to take preventive measures to eliminate the mentioned issue, to take into consideration the best practices of foreign countries.
 - To take maximally effective measures to eliminate all forms of violence against children, as one of the determining factors of suicide in children.
 - To prevention children smuggling, the work with other states on bilateral and multilateral agreements should be strengthened, in order regulation of important issues such as the discovering and studding the circumstances of child abduction, operative return of children, implementation of administrative and court procedures and exchange of the relevant information.
 - To fully reflected the principles of the 1980 Hague Convention - "Convention on the Civil Aspects of International Child Abduction" in the Georgian normative base.
 - To create an action plan with the involvement of all responsible ministries, to ensure practical implementation of domestic and international law in the field of protection of children from sexual abuse.
 - To accumulate Action Plan on the government level, considering the importance and complexity of the case, to define sexual violence elimination / prevention actions and specific tools of the implementation.
 - To include sub-programs for the implementation the Council of Europe Convention on "the Protection of Children against Sexual Exploitation and Sexual Abuse" and provide mentioned document's principles systematic enactment; To provide trainings for professionals, to ensure timely and effective investigation / criminal prosecution on child sexual abuse cases.
 - To formulate a particular system that will ensure effective implementation of re-integration in educational process and psychological reintegration for the sexual abuse affected beneficiaries within the framework of Action Plan.

- To identify and implement the specific needs of children living in relative poverty, the children's social and economic needs should be reflected in the current state sub-programs, special attention should be paid to the basic needs of children living in rural and high mountain regions.
- To create the appropriate conditions for general educational institutions' special education teachers in the high mountain regions, in order to involve juveniles of special needs in the inclusive education program.

TO THE MINISTRY OF LABOUR, HEALTH AND SOCIAL AFFAIRS:

- To ensure involvement of the care agency during the children's enrolment process in the children's boarding schools under the control of Georgian Orthodox Church and Muslim confessions
- To ensure the introduction of principles of the UN Convention on Child Rights and state child care standards in the children's boarding schools under the control of Georgian Orthodox Church and Muslim confessions
- To add a psychologist position for child victim of violence needs assessment and psycho-emotional rehabilitation in Social Service Agency's regional centres
- To Ensure systematic and regular training of foster families in the field of children's rights and needs
- To conduct active monitoring of foster families in the areas of children's access to health, education and protection from ill-treatment
- To pay special attention to the matter of implementation of sub-program on strengthening of the foster families and children involved in the kinship foster care, the implementation of the special state sub-programs and services should be initiated
- To raise awareness of the families involved in the sub-program of reintegration on children's rights, in particular, in terms of prevention of violence, exploitation and other forms of ill-treatment, as well as in the field of complex behaviour and children's individual needs
- To promote social empowerment of the families living the relative poverty that are involved in the reintegration subprogram; Special attention should be paid to families living in the rural areas and the high mountain regions
- To carry out active identification and psycho-social rehabilitation of the children who are victims of violence
- To ensure systematic referral to the agencies which are responsible for elimination of child violence to strengthen social services with human and technical resources, including vehicles; to improve the employment environment for the social workers, as far as it is possible, to prevent the brain drain of qualified personnel from the service. To create conditions to increase the number of social workers

TO THE SOCIAL SERVICE AGENCY OF THE MINISTRY OF LABOUR, HEALTH AND SOCIAL AFFAIRS

- To ensure rating of children's living in the boarding schools under the control of Georgian Orthodox Church and Muslim confessions and their families by social workers, which will promote the identification of alternative forms of caregiving.
- To implement multi-disciplinary appraisal of beneficiaries in the children's boarding schools under the control of Georgian Orthodox Church and Muslim confessions and to create the plan according to their individual needs
- To ensure the protection of the child's best interests during the court's decision-making process by the Social Service Agency representatives, including ensuring that the minor states his/her own opinion during the process
- To ensure identification and response required by law of the cases of a physical / psychological abuse of juvenile by the family members during the court proceedings
- To ensure actively participation of the social worker, in case of necessity, delivery of psychological service for the juvenile to maximize the protection of the interests of minors in the process of execution of court decisions
- To raise qualification of social workers and provide information on the matter on the necessary measures for the protection of children living and working in the street
- To strengthen the child protection procedures, work in coordination with the Ministry of Internal Affairs
- To protect the safety of minors, special attention should be paid to the conflict prevention of mothers in the shelter for mothers and children
- To ensure development of mothers' parenting skills in the shelters for mothers and children
- To increase the number of babysitting staff in the shelters for mothers and children
- To ensure mother's participation in professional courses and to enhance their career development in the framework of the sub-program on providing the shelters for mothers and children

TO THE TV, PRINTED AND ELECTRONIC MEDIA OUTLETS IN GEORGIA:

- To ensure covering children's issues in accordance with ethical and legal standards; In this regard, special attention should be paid to the coverage of the issues of violence and suicide-prone of children

TO THE MINISTRY OF INTERNAL AFFAIRS:

- To carry out a fast, effective and transparent investigation on teenage suicide cases

- To ensure coordinated work on the issues of the children living / working in the streets in accordance child protection procedures stated in the order,¹³⁹ along with the other responsible agencies, including timely identification of the cases of the children living / working in the streets and their involvement in the relevant service in cooperation with the Social Service Agency. To Adopt concrete actions to increase the awareness on necessary measures for the protection of children living and working in the streets for police officers working on the street
- To take adequate preventive measures regarding the persuasion of begging of the children living / working in the streets or on the alleged facts of minor's involvement in a trafficking cases
- To ensure timely and effective investigation / prosecution and revealing the persons responsible in the alleged illegal treatment against the children living / working in the streets
- To ensure timely and adequate investigation of child abuse cases, including sexual abuse

TO THE MINISTRY OF EDUCATION AND SCIENCE:

- To implement systematic training , not only for the resource officers of educational institutions, but also for all the teachers and school principals of the regional educational institutions on bullying incidents identification, prevention and child protection (referral) procedures
- To formulate and actively implement educational programs on the issue of bullying for to raise an awareness of the juveniles
- To develop a common action plan for teachers and the recourse officers of educational institutions to tackle the bullying issue. Bullying identification, prevention and follow up actions should be clarified in the manual
- To record the cases of bullying identified in educational institutions. Relevant statistical data should be accumulated
- Systematic training of teachers on issues of violence against children should be carried out
- Information on child abuse cases should be actively provided to the Social Service Agency and to the Police of the Ministry of Internal Affairs
- To strengthen the Office of Resource Officers of Educational Institutions psychological services center in Tbilisi and the regions, to identify the needs of children with complex behavioral and for the large-scale implementation of the psychological rehabilitation of children.

139 Ministry of Labour, Health and Social Affairs, Ministry of Internal Affairs and the Minister of Education and Science of the joint order N152/5-N496-N45/N