

To the UN Committee on the rights of Persons with Disabilities

**Alternative Report on the Implementation of the Convention on the
Rights of Persons with Disabilities in Georgia**

**Georgia
2019**

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The development of the Alternative Report on the Implementation of the Convention on the Rights of Persons with Disabilities in Georgia was facilitated and coordinated by the Coalition for Independent Living (CIL) with valuable input and contributions from its member and non-member (partner) organizations. CIL is a national cross-disability coalition of 26 non-governmental organizations working on the issues of persons with disabilities.

The principle for setting up the alternative report working group was to ensure the involvement of representatives from all groups of persons with disabilities,

as well as the engagement of the non-governmental organizations that work on disability-related discrimination cases. The contributing organizations include both, Tbilisi-based and regional NGOs.

The meetings of the working group took place during January-July, 2017 and totally four meetings were organized. During the same period, additional consultation meetings were held with the visually impaired and deaf community, parents of disabled children, the women living in rural areas, organizations working on the issues of people with psychosocial needs and learning disabilities and the organizations working in regions and rural areas.

Each contributor organization has a long history of working on the disability issues and/or discrimination cases on the grounds of disability. While gathering information for this report, they have applied different methods including research, focus-groups, interviews, existing litigation cases and/or information requested from the various government organizations.

The report covers the timeframe of 2014-2019, i.e. the period since the convention entered into force for Georgia.

Executive Summary

After the ratification of the CRPD Convention in 2013, important legislative changes to bring the national legislation and policies in compliance with the CRPD followed:

- The legal capacity reform implemented in 2015 abolished the practice and the provisions recognizing persons with developmental delays or mental health issues as legally incapacitated. The reform also abolished guardianship and replaced it with supported decision-making.
- The Government of Georgia Decree No. 41, dated 6 January 2014, laid down accessibility standards for built physical environment applicable to design and construction.

- The Law on Elimination of All Forms of Discrimination (2 May 2014), enumerates prohibited grounds for discrimination including discrimination based on disability.
- Mental Health Development Strategy and Action Plan 2015-2020 adopted in 2014.
- National Human Rights Strategy of Georgia 2014-2020 adopted on 30 April 2014, which includes protection of disability rights as one of the focus areas.
- Law on education was revised several times with regard to disability.

However, these and other legislative changes, strategic documents and action plans **are mostly declarative in nature. There is a lack of effective monitoring and enforcement mechanisms; the implementation is poor due to practices that clearly fall short of the requirements of the Convention.** Main reasons hindering the implementation of legislative changes or contributing to the formation of poor practices include the following: (i) the medical model for disability assessment and registration system which leads to lack of services, inadequate funding of disability programs, lack of data and understanding of the actual needs of persons with disabilities, etc.; (ii) no high level government body designated to coordinate the implementation of the CRPD; (iii) lack of independent living support services; etc.

Article 5. Equality and non-discrimination

The medical system for granting the official disability status, which dates to the Soviet times, remains an insurmountable problem in Georgia. Without implementing reforms in this area, any discussions about substantial equality of persons with disabilities will be pointless.

The adoption of the Law for Elimination of All Forms of Discrimination in 2014 was an important step for ensuring equality and non-discrimination since the Law made it possible to litigate disability rights violations in case of discrimination. The Law lists a disability as a protected ground and recognizes the direct and indirect types of discrimination, multiple discrimination and,

harassment in all areas of life.¹ However, the **denial of reasonable accommodation in all areas of life is not recognized as a form of discrimination**. Thus, there are no clear sanctions established in case of non-compliance with the reasonable accommodation requirements, and no guidelines on how reasonable accommodation should be applied in different areas. Besides the above mentioned, Georgian anti-discrimination Law does not recognize discrimination by association.

Lesbian, gay, bisexual, transgender and intersex (LGBTI) persons with disabilities daily face stigma based on disability in LGBTI community, as well as prejudices related to sexual orientation and gender identity in the communities of persons with disabilities and their families. LGBTI persons with disabilities are victims of multiple discrimination when accessing services or public benefits. The State is completely disregarding the needs of the transgender community, which leads to systemic discrimination of this group.

Even though the Law on Elimination of All Forms of Discrimination prohibits discrimination on the basis of sexual orientation and gender identity, its enforcement in relation to members of the LGBTI community remains a challenge.² Often, LGBTI persons subjected to discrimination are reluctant to bring a claim to court or to apply to the Public Defender of Georgia in fear of outing.³ Under such circumstances, the public data about psychological challenges, physical threats and barriers to accessing justice experienced by LGBTI persons with disabilities is not available. Thus, the recommendation “to take measures to address violence against and harassment of lesbian, bisexual and transsexual women and to abolish restrictions for transgender persons with regard to obtaining identity documents” made by the Committee

¹ Law of Georgia on the Elimination of All Forms of Discrimination. Adopted 02.05.2014, entry into force 07.05.2014, Art 1-3

² Public Defender of Georgia, Special report on combating and preventing discrimination and the situation of equality, 2017, p.26, Available at: <http://ombudsman.ge/uploads/other/4/4825.pdf>

³ Women’s Initiative Support Group (WISG), Discrimination and hate crime against LGBT people, Tbilisi 2015, Available at: <http://bit.ly/2s9FSyA>

on the Elimination of Discrimination against Women in 2014⁴ remains unaddressed.

As for the anti-discrimination mechanisms in place, delay in ratification of the Optional Protocol of the CRPD hinders the effective implementation of the CRPD in Georgia. Considering the ineffective national mechanisms and legislation for the protection of the rights of persons with disabilities, the opportunity to bring complaints before the CRPD Committee would significantly improve the level of the implementation of the CRPD requirements in all areas of life.⁵

Suggested questions:

- i. Please, inform the Committee on the State's plans to ratify the Optional Protocol to the CRPD, including the work carried out up to date and timeframe for the ratification;
- ii. Please, inform the Committee on the legislative and practical measures planned or undertaken to repeal the medical model of disability in assessments procedures and social protection programs;
- iii. Please, inform the Committee whether legislative changes have been prepared for the recognition of the denial of reasonable accommodation as a discrimination; as well as if appropriate sanctions have been determined for the lawbreakers. Please specify if the guideline defining the reasonable accommodation principle has been prepared and introduced to all state agencies and public institutions, as written in Human Rights Action Plan for 2018-2020;
- iv. Please, inform the Committee on the State's plans to recognize and include the issues of LGBT persons with disabilities in Government Action plans and other policy documents in order to ensure availability/existence of adequate services for accessing justice;

⁴ Committee on the Elimination of Discrimination against Women, Concluding observations on the combined fourth and fifth periodic reports of Georgia, CEDAW/C/GEO/CO/4-5, para 35(e)

⁵ Another procedural obstacle, the three-month term established by the Civil Procedure Code of Georgia, for bringing a discrimination claim to court (on which the initial version of the alternative report was referring), was changed in May 2019 as a result of the recommendations of the Ombudsman and civil society organizations. The term for filing a claim has been increased from three months to one year.

Article 6. Women with disabilities

One of the most serious problems neglected by the State is the right of women with disabilities to sexual and reproductive health. There is no expert knowledge available in the country and legal regulations are also lacking. As a result, awareness about this issue is low among disability specialists as well as women with disabilities and their families. A recent publication by the Public Defender's Office on Sexual and Reproductive Health and Human Rights also underlines the problem of lack of awareness of women with disabilities regarding family planning/contraception services.⁶

Families of women with learning disabilities or psychosocial disabilities (especially in rural areas) lock women up at home or prohibit them from talking about their sexual issues. In some cases, families recur to medical intervention to suppress sexual activity among women with intellectual or psychosocial disabilities although data are not available on this issue. It is unknown whether such medical intervention is based on informed consent of women with disabilities. No data or research is available on the abortion or sterilization of women with psychosocial disabilities, learning disabilities, or those who were recognized by the court as the recipients of the support. Neither the Law of Georgia on Health Care⁷ gives the provisions on the abortion and sterilization cases where a woman is the support-recipient, nor the Order by the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia covers above-mentioned issues.⁸

Another challenge is identification of acts of domestic violence against women with disabilities, their prevention and elimination. The Public Defender of Georgia speaks about the challenges to identification of the violence cases

⁶ Public Defender (Ombudsman) of Georgia, Sexual and Reproductive Health and Human Rights: National Assessment, 2019, p. 7

⁷ Law of Georgia on Health Care. Adopted 10.12.1997

⁸ Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, Order N 01-74/5 on Approving the Rules on Abortion. Date 07.10.2014

against women with psychosocial disabilities by the Law enforcement agencies. According to the Public Defender, referring to the mental health condition of the victim by the offender was sufficient argument to convince the Law enforcement agencies in the innocence of the offender.⁹

There are cases where women with intellectual disability do not realize that they have been subjected to violence in family. According to neighbors or relatives, they are reluctant to report on the instances of violence because they do not trust the State, they do not know where and in what conditions they will end up after reporting, and fear that the victim of violence and/or the woman with disability who reported violence will be institutionalized. Victims of violence are sometimes provided with shelter by relatives, neighbors or friends, who say that they have no information about the State policies on prevention and elimination of domestic violence.

Participation of women in public life remains a problem, especially in rural areas. It is virtually impossible for them to leave home and attend information meetings or participate in other activities. Women with disabilities are mostly unaware of their rights. Nevertheless, they are more concerned with social and economic problems they face and are therefore more focused on financial assistance.¹⁰

Suggested questions:

- i. Please, inform the Committee on the existing and planned measures of the State to promote participation of women with disabilities in public life on both central and local levels of governance.
- ii. About the de-institutionalization process, is the State preparing a strategy to promote independent living and social inclusion of institutionalized women with disabilities?
- iii. Please, inform the existing and planned efforts of the government to incorporate quality health services specific for the needs of women with

⁹ Public Defender (Ombudsman) of Georgia, Women's Rights and Gender Equality, 2016, p. 30

¹⁰ Life experiences and stories were collected from the meetings with the women with disabilities in Samegrelo, Imereti and Adjara regions during 2016-2017 years.

disabilities (including services related to sexual and reproductive health rights such as accessible gynecological equipment) in the State-funded Universal Healthcare Program;

- iv. Please, inform on the actions taken by the State in order to raise awareness of women with disabilities, their families and medical personnel about sexual and reproductive health issues;
- v. Please, inform whether the State plans to design the programs to prevent/protect women with disabilities from violence and ensure training and awareness-raising of public servants (social workers, Law enforcement officers, etc.).

Article 7. Children with disabilities

The Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia is responsible for the issues related to children with disabilities; however, many of these children remain invisible for the social service system under the Ministry. According to the *Standard no.8 of Social Work Practice*¹¹ – *Referrals*, there must be eligibility criteria as well as outreach mechanisms that social workers will apply to identify and refer all children with disabilities to available services. Currently public sector social workers are not obligated to find new clients while a number of problems could effectively be overcome as a result of proactive response, such as: informing families about available services, including regarding care and prevention of abandonment of children with disabilities.

A focus group meeting with social workers revealed that a person with disability, who is not involved in the government poverty reduction program and therefore does not claim any social benefits, may be left beyond the care system and they may not be able to receive services provided by the State, unless his/her family is aware of such services. Another systemic problem is lack of services and their uneven geographic distribution, leading families of

¹¹ Standards of social work practice – prepared by experts of the Georgian Association of Social Workers in 2004 and revised in 2013. It is not a legal document for evaluation of performance of social workers, but it is a functional document in the community of professionals and the Professional Ethics Commission relies on these standards for evaluation of performance of social workers

children with disabilities to travel from one region to another to receive these services, which they can rarely afford, if at all.

Correct identification of children with disabilities and assessment of their needs is a problem. Social workers are not provided with tools and specific methodologies to focus on individual needs of children with disabilities.

Certain number of children are enrolled in small family-type homes under a unilateral decision of the Regional Councils of the LEPL Social Services Agency, which is why initially information about children is not provided to a social worker or a service provider, i.e. full assessment of the child is not performed before she or he is enrolled in the service. Additionally, distribution of functions between a social worker and a service provider (Order no.4-11/n of the Social Service Agency, dated 11 January 2016) does not determine as to how individual plans should be prepared for children with disabilities and how a multidisciplinary team should function for timely identification of children's needs and subsequent multidimensional planning.

The process of reintegration of children with disabilities into their biological families continues to face significant challenges. The role of the social worker in this process is limited to referral and coordination and there is almost nothing done to support families with integration. According to the State Monitoring Service, recipient families spontaneously and intuitively attempt development of independent living skills among children with disabilities.

The UNICEF Annual Report 2015 titled "Children with Disabilities in Georgia" clearly underlines the need to improve legislative framework for children's alternative care, in order for the system to ensure realization of the preferential right to family support services for children with disabilities outside of family care.

Suggested questions:

- i. Please, inform the Committee if and when the State plans to design a tool for determining disability status of children at an early age, as aiming to prepare and implement individual integration/rehabilitation/development plans for each child;
- ii. Please, provide the information about the financial support the State is providing to the families of children with disabilities in order to reduce the risk of abandonment;
- iii. Please, inform the Committee about the State's plans for reviewing and strengthening the social work standards, as well as functions and role of the social workers in order to offer better support, information and services for children with disabilities and their families;
- iv. Please, inform how the State ensures the access to existing services for children with disabilities; and whether existing needs and balanced geographic distribution is taken into consideration;
- v. Please, inform the Committee on the actions of the State to foster families, including through information, consultation, training, and other services.

Article 8. Raising awareness

Generally, there is extremely low awareness in Georgia about individuals that are different for one reason or another, and disability is no exception. As persons with disabilities claim their rights recognized in the Convention and demand using and adapting spaces that are rightfully theirs, intolerance, low level of awareness and even aggression comes to bright light. For example, in 2015 commercial tenants of an office space demanded that the landlord evict the Down syndrome rehabilitation center from the building; they claimed that their productivity decreased after seeing children with Down syndrome.¹²

Low level of awareness about the rights of persons with disability is evident among doctors, judges, notaries, Lawyers and civil servants. In one instance, a judge had to be informed that wheelchair users could exercise their legal

¹² From the experience of the Coalition for Independent Living

capacity without a guardian. During the trainings conducted for Lawyers, was identified that the majority of Lawyers still believe that institutionalization of persons with disabilities is justified, especially for treatment and that discriminatory prohibitions of certain rights contained in the legislation should be allowed due to health condition of persons with disabilities.¹³

The approach of LEPL Levan Samkharauli Forensics Bureau (the State forensic expertise center), towards persons with psychosocial disabilities is extremely alarming. Findings of the bureau play a decisive role in court's recognition that a person with psychosocial disabilities requires support to exercise his or her legal capacity. However, specialists mostly rely on outdated approaches that ignore individual capacities of persons with psychosocial needs during assessment. The fact itself that the National Forensics Bureau assesses the persons with disabilities and their capacity, contradicts the requirements and basic principles of the CRPD.

There is a low level of awareness among persons with disabilities themselves and their families, particularly outside the capital. For instance, a mother decided not to take her child to school because the principal said that he would only admit the child if the parent promised not to demand installment of a ramp or adaptation of the bathroom. The parent did not know that the principal's demand was illegal and decided not to take the child to school. Another parent who visited the office of Gamgebeli [chair of a self-governing town] to receive available social services was told by the Gamgebeli that she was "delusional" and asking for too much.¹⁴

In response to the request for information about awareness raising campaigns and trainings organized by the government, the Human Rights Secretariat of

¹³ Trainings conducted for practicing lawyers in 2016-2017 by the non-profit organization Coalition for Independent Living

¹⁴ Meetings of the non-profit organization Coalition for Independent Living with persons with disabilities and their families in Western Georgia in 2016-2017

the Administration of the Government of Georgia denied providing information, stating that they did not collect and maintain such data.¹⁵

Suggested questions:

- i. Please, inform the Committee on the campaigns conducted by the State for educating and awareness-raising of civil servants (both at the central and local level); How regularly are these campaigns offered and what are the outcomes regarding the current challenges and needs of persons with disabilities;
- ii. Please, inform the Committee about the actions conducted by State to promote large-scale programs for raising public awareness against the prejudices and discriminatory attitudes towards persons with disabilities and disability issues in general.
- iii. Please, inform the Committee regarding the training provided to respective officials in the legislative, executive, and judicial systems on specific forms of discrimination faced by persons with disabilities.

Article 9. Accessibility

On 6 January 2014, the Government of Georgia adopted Resolution No 41 on “Approving the Technical Statute for Creating Areas and Architectural and Planning Elements for Persons with Disabilities”. Despite this and some progress in its enforcement, no meaningful changes have been made for improving accessibility of physical environment.

During January-May 2017, CIL requested information about the accessibility of buildings under construction and/or operational since 2014 to the governments of three major cities in Georgia (Tbilisi, Rustavi and Poti). None of the cities provided such information. From the list of buildings provided by the city halls, CIL randomly selected sites for inspection and found that none of them met the requirements of the Resolution. This concerns multi-store residential buildings as well as public spaces. Responsible units for

¹⁵ Human Rights Secretariat of the Administration of the Government, letter no.10250, 31.03.2017

monitoring the compliance with the accessibility requirements are architectural departments of the local authorities. They are not equipped with sufficient knowledge, thus they are unable to adequately assess the compliance of the accessibility requirements, neither do they have knowledge regarding the universal design. Accessibility on information and technologies are not even paid any attention.

Accessibility of public transportation, including intercity transport, remains a problem. For regional travel, the only available accessible means of transportation is a train between the two major cities of Georgia, Tbilisi and Batumi, although, discriminatory practices persist in delivering it (e.g. wheelchair users cannot purchase a train ticket online as all the other users or they may have a problem taking the booked seat).

Even though the State has procured new wheelchair-accessible buses for Tbilisi, proper service is still problematic. The bus stops remain inaccessible and it is difficult to stop them at stations in a manner that would allow wheelchair users to access the bus. New busses in Tbilisi are not adapted to needs of the blind and deaf people as well. Most parking spaces are not accessible for wheelchair users (i.e. small spaces between the parking lots; long distance between the parking space and a ramp to the sidewalk; etc.).

Public facilities, including banks, drug stores, hotels, food facilities and department stores are mostly inaccessible. Because these facilities are under private ownership, legislation turns a blind eye to the failure of the private sector to fulfill Law requirements. Penalties prescribed by the legislation are not enforced in practice. For instance, Art.178¹ of the Code of Administrative Offences of Georgia prescribes an administrative penalty for noncompliance with accessibility requirements in residential, public and commercial facilities, transportation, information and communications systems, and violation of the right to the freedom of movement. Art.178² also prescribes administrative penalty for failing to consider the needs and requirements of persons with disabilities during design and construction of facilities. However, these articles

are only declarative in nature. According to the Law, the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia must address violations of the Law, however it is unclear how the Ministry of Health will be able to control issues related to design and construction. Based on the information of Tbilisi, Kutaisi and Batumi courts there is no record of a single case involving violations of Art.178¹ and 178² of the Code of Administrative Offences in these courts during 2012-2016.¹⁶

Inaccessibility of physical environment and information remains the primary challenge visually- and hearing-impaired persons. Public sector, including the Ministry of Justice, notaries and banks refuse to provide them services without the involvement of a third person. Pursuant to Art.21 of Order no.4 of the Minister of Justice on Adoption of Instructions for Public Registry (16 Feb 2010), before a blind person signs a document, validity of signature of their representative needs to be established, which creates obstacles not only in the public sector but in the operation of notaries and banks who rely on the said Order for guidance. The National Bank who is in charge of overseeing provision of services in the private banking sector believes that since monitoring the implementation of the CPRD is the responsibility of the Public Defender's office, information about practices of a private bank with regard to provision of services to persons with disabilities should be provided by the Public Defender.¹⁷

Suggested questions:

- i. Please, inform the Committee on the progress of the State towards amending all relevant legislative acts and enforcement of the accessibility of physical environment and services, including bank services and transport;
- ii. Please, inform the committee regarding the effective monitoring mechanisms for ensuring compliance with the requirements of the

¹⁶ Tbilisi City court, letter no.3-0112/1782860. Date 1.02.2017; Kutaisi City Court, letter no.757-3. Date 6.02.2017; Batumi City Court, letter no.77c/j. Date 15.02.2017

¹⁷ National Bank of Georgia, letter no.2-07/2999-16. Date 30.09.2016

Article 9, the sanctions for non-compliance with the accessibility and inclusion of disabled people in monitoring process.

Article 11. Situations of risk and humanitarian emergencies

Under the 11 January 2017 Resolution N4 of the Government of Georgia, National Strategy and Action Plan for Disaster Risk Reduction 2017-2020 was approved.¹⁸ Some of the priorities of the adopted policy (3.13) is to increase the role of persons with disabilities in policy formation and implementation; identification of natural disaster circumstances/types of risk analysis, assessment and reduction. In addition, the needs of persons with disabilities will be taken into account in the process of disaster risk assessment and planning.

However, these requirements exist on paper and persons with disabilities and their organizations continue to be excluded from disaster risk reduction policy formation. Consequently, it is difficult to assess the effectiveness of the State's fulfillment of requirements provided in Art.11 of the Convention and the action plan for implementation of the Sendai Framework for Disaster Risk Reduction.

There is lack of understanding from the State about the urgent need for developing inclusive evacuation plans and emergency protocols. There are no early warning systems accessible to persons with visual and hearing impairments.

Suggested questions:

- i. Please, inform the Committee on the mechanisms and activities developed by the State to engage persons with different types of disabilities in the design of policies, strategies and methodologies of disaster risk reduction.

¹⁸ Government of Georgia, Resolution no.4. Date 11.01.2017 – Available http://gov.ge/files/469_59429_120118_4.pdf

- ii. Please, inform the Committee on the State efforts to date and plans to develop inclusive evacuation plans and emergency protocols.

Article 12. Equal recognition before the Law

The legal capacity reform was launched in Georgia based on a Lawsuit of the Georgian Young Lawyers' Association concerning the decision of the Constitutional Court of Georgia in the case of "Citizens of Georgia Irakli Kemokelidze and Davit Kharadze v Parliament of Georgia", 8 October 2014.¹⁹ Part of the legislation regarding legal capacity of persons with psychosocial disabilities was abolished before the decision was published and certain legislative acts were adopted by Parliament on March 20, 2015.

Before these changes, the will of legally incapacitated persons was entirely substituted by the will of their guardians. The amendments introduced a system of supported decision-making that provides persons with disabilities with a supporter based on the assessment of their individual needs. A supporter assists them in decision-making²⁰ and understanding terms and consequences of a transaction.²¹

According to the Public Defender, the existing practice of recognizing a person's right to supported decision-making is merely a replacement of the term "incapacitated" with the term "recipient of support" as, in reality, the rights of persons with psychosocial disabilities continue to be restricted and no substantial changes have been made for these individuals to receive actual support in decision-making and not a substitution of their will.²² More specifically:

- i. In majority of decisions on granting a person's request for supported decision-making, expert evaluations find that the person should receive

¹⁹ Citizens of Georgia Irakli Kemokelidze and Davit Kharadze v Parliament of Georgia, decision of the Constitutional Court of Georgia, 8 Oct 2014, available from: <http://constcourt.ge/ge/legal-acts/judgments/saqartvelos-moqalaqeebi-irakli-qemoklidze-da-davit-xaradze-saqartvelos-parlamentis-winaagmdeg-866.page>.

²⁰ Civil Code of Georgia, Art.1278.3

²¹ Civil code of Georgia, Art.1293.3

²² Public Defender of Georgia, Legal Capacity – Legislative reform without implementation, 2016, p. 29

support “in all areas.” Generally, courts do not apply individual approach and they do not establish unique psycho-social needs of the individual. Courts disregard whether or not the individual agrees with the expert evaluations. The reasoning and justification of these decisions are overwhelmingly identical with minor differences evident only in a few rulings.²³

- ii. In most cases (85.82%) a person’s free will is essentially substituted by his or her supporter.²⁴ Support-recipients have no right to challenge supporter’s decisions. This effectively amounts to substitution of free will, which has been abolished by the Constitutional Court.

In addition, the following gaps have been found in the existing model:

- The practice of publishing only the resolution parts of court rulings on supported decision-making makes it difficult to challenge them;
- Rulings that contain descriptions of reasoning (motivation) (4.52%) are unsubstantiated and follow the same template. They only contain citations from expert findings;
- Decisions about a person’s request for supported decision-making are essentially identical, which leads us to believe that the court grants these requests solely based on medical diagnosis;
- Contrary to the Constitutional Court decision²⁵, the legislation allows supporters to conclude minor agreements;²⁶
- The Law provides a blanket prohibition for designating as a supporter a person that has been recognized as a support-recipient (even in the area where s/he does not require support);²⁷
- Even when it has been recognized that a person does not require support in making medical decisions, the legislation provides a blanket obligation for the supporter to closely and regularly follow medical services provided to the support-recipient;²⁸

²³ *ibid*, p. 35

²⁴ *ibid*, p. 36

²⁵ *Kemokelidze and Kharadze v Parliament of Georgia*, II.30

²⁶ Civil Procedure Code of Georgia, Art.363.3

²⁷ Civil Procedure Code of Georgia, Art.1283.b

²⁸ Civil Procedure Code of Georgia, Art.1289.2

- The legislation allows blanket deprivation of some rights that are not directly provided for in court decision (parental and related rights, right to hold a public office; right not to become a subject of a research without informed consent), meaning that presumption does not work in favor of the person with disability.

Additionally, the court practice on whether or not a legally incapacitated individual can request restoration of his/her full legal capacity (instead of supported decision-making) is inconsistent. In some cases, courts require that the individual first applies to court with a request for supported decision-making and only then makes a request for restoration of their full legal capacity. This creates illegal and unjustified barriers to exercising the rights provided in Art.12 of the Convention.²⁹

When applying to the court, persons with disabilities have a limited right to have an attorney of their own choosing. Conclusion of a representation agreement requires notarized power of attorney, while notaries refuse to authenticate a legally incapacitated person's power of attorney due to the lack of legal capacity. This limits the right of legally incapacitated persons to be represented in court by an attorney of their choice.³⁰

Lack of support and independent living services is a major barrier to adequate implementation of the legal capacity reform, which is why often persons with psycho-social needs continue to depend on their families and relatives for support. Absence of these services means that nothing has changed for persons with psychosocial needs and their families.

The existing practice of evaluating individual psycho-social needs is another important barrier. First of all, assessment takes place at the psychiatric department of the National Forensics Bureau, which is a closed facility with a degrading environment. Persons with psycho-social disabilities are examined

²⁹ As confirmed by the experience of the Coalition for Independent Living and the Georgian Young Lawyers' Association

³⁰ As confirmed by the experience of the Coalition for Independent Living and the Georgian Young Lawyers' Association

(or rather, tested) by different specialists for only a few minutes. Within that limited time, the specialists expect from the disabled persons to fully demonstrate capacities in order to determine whether the person under the examination needs support or not, and in which areas of life is it needed.

Within the existing legislative framework and practice of capacity assessment, does not allow for an alternative evaluation (examination). Pursuant to the Law on Evaluation of Psychosocial Needs³¹, a report of the evaluation of psychosocial needs has to be delivered by the Levan Samkharauli National Forensics Bureau only. Such approach runs against the standard of the right to obtain an alternative opinion and completely disregards the possibility to challenge any inadequate findings. However, the existence itself of the above-described assessment procedures is arising from the medical model of disability and it needs to be changed to comply with the values of the CRPD and human rights model of disability.

Suggested questions:

- i. Please, inform the Committee regarding the plans for developing and implementing supported decision-making systems and creating applicable legal frameworks;
- ii. Please, inform the Committee on the State plans for developing personal assistance services for persons with disabilities;
- iii. Please inform the Committee on the measures undertaken by the State to ensure the access of persons with disabilities to independent living services;
- iv. Please, provide information about the conducted training for judges regarding disability issues, so that they take into account individual characteristics and circumstances, rather than consider blanket restrictions and use medical evaluation reports as the sole basis for final decisions;

³¹ Law of Georgia on Evaluation of Psychosocial Needs. Adopted 20.03.2015. Available at: <https://www.matsne.gov.ge/ka/document/view/2788241>

- v. How does the State plan to improve existing legal capacity assessment practice so that it is in full compliance with the CRPD requirements;

Article 13. Access to justice

Persons with disabilities, particularly those with psychosocial disabilities, face stigmatization in court proceedings. Monitoring of criminal trials by the Georgian Young Lawyers' Association identified unethical behavior of judges, prosecutors and Lawyers towards certain groups of individuals – their attitudes were illustrative of gender stereotypes or other stigma, underlining characteristics of and creating a humiliating environment for the person concerned.³²

In another case which occurred after February 2016 the defendant was a female with physical disability whose face muscles made her look as if she was smiling. Before the judge and the defendant entered the courtroom, the prosecutor and the Lawyer had the following exchange:

Lawyer: "They shouldn't be arresting people like her"

Prosecutor: "Right, they should let her outside in the street, so she can attack people. And she's so unashamedly demanding to read the court records ... Can you imagine that I don't feel sorry for a defendant?... I understand that she's pitiable but what can I do?!"

Women with disabilities are particularly vulnerable towards gender-based violence and related crimes. Their access to justice is constrained by intersectional discrimination due to their sex and disability, as well as social hardships and poor access to information and resources.

³² Georgian Young Lawyers' Association, Monitoring of criminal trials in Tbilisi and Kutaisi city and appellate courts, February-July 2016, G.Khatiashvili, p. 32

The State does not maintain or plan to maintain disaggregated data about crimes committed against persons with disabilities.³³ The existing crime prevention policy and other relevant documents do not take into consideration the needs of women with disabilities. Crime referral documents do not elaborate procedures for referring women with disabilities or properly analyzing “physical threat” and barriers in communication. In practice, these barriers lead to failure of Law enforcement authorities to receive complete information from persons with disabilities, which in turn violates their right to access to justice.³⁴

Lack of information, lack of trust towards Law enforcement authorities, threat of victim’s isolation by the perpetrator (who in many cases may be the victim’s only caregiver), fear of embarrassment, punishment and taking away of children prevents women with disabilities from reporting violence or seeking remedy.³⁵

The Law enforcement authorities lack effective response mechanisms and rely on myths and stereotypes that exist about women with disabilities, including that their accounts are not credible.³⁶ The system does not restore justice for persons with disabilities who are victims of crime. Instead, when persons with disabilities do report crimes, they find themselves in even worse situation and are subjected to further stigmatization.

Suggested questions:

- i. Please, inform the Committee regarding the training of Law enforcement representatives to eliminate stereotypes related to the credibility of testimonies of persons with disabilities; as well as regarding the introduction of adequate interviewing methodologies during legal proceedings;

³³ Partnership for Human Rights, Barriers to access to justice faced by women with disabilities, 2016, p.12

³⁴ *ibid* p.17

³⁵ *ibid* p. 27

³⁶ *ibid* p. 28-29

- ii. Please, inform the Committee on the practices of maintaining disaggregated data on investigations and prosecutions on crimes of violence against persons with disabilities, which should also include disaggregation based on sex and psycho-social needs; as well as data on applications for legal remedies by persons with disabilities;

Article 14. Liberty and security of person

According to the Penitentiary Department of the Ministry of Corrections³⁷ of Georgia, as of February 2017 there were a total of 87 defendants/convicted persons with disabilities placed in penitentiary institutions nationwide.³⁸

The Public Defender report on the human rights situation of persons with disabilities kept in penitentiary institutions as well as in involuntary and forced psychiatric treatment institutions and pre-trial detention isolators was published in 2014.³⁹ According to the report, at that time specialized services for persons with disabilities had not yet been introduced. The rehabilitation room was closed and inaccessible for prisoners with disabilities.⁴⁰ The physical environment was inaccessible, including bathrooms. To use the bathroom, prisoners using a wheelchair had to ask for help from other inmates⁴¹. The findings summarized in the 2014 report⁴² beg the question of whether safety of persons with disabilities is ensured. It is unknown whether they are subjected to inhuman treatment and whether any means for their protections are available.

Safety of LGBTI persons with disabilities is also called into question, especially in closed institutions. Considering the high rate of homophobia and frequent attacks on representatives of LGBTI community in Georgia, LGBTI

³⁷ On July 11, 2018 Ministry of Corrections was integrated into the Ministry of Justice and it nowadays operates as the Special Penitentiary Service unit.

³⁸ Ministry of Corrections of Georgia, letter no. MOC 6 17 00109519. Date 13.02.2017

³⁹ Public Defender of Georgia. State of Persons with Disabilities in penitentiary establishments and temporary detention isolators and involuntary psychiatric treatment institutions. 2014. Available at:

<http://www.ombudsman.ge/res/docs/2019040514043884020.pdf>

⁴⁰ *ibid* p. 6

⁴¹ *ibid* p. 9

⁴² See footnote 28

persons with disabilities are especially vulnerable. There are no official mechanisms for their protection. Research and policy about these issues are lacking and there are no plans to remedy this gap.

Suggested questions:

- i. Please, inform the Committee on the availability of services in penitentiary and other State-run closed facilities, that are necessary for the dignified life of persons with disabilities;
- ii. Please, inform the Committee on how the State evaluates and prevents risks of specific violence against persons with disabilities in the penitentiary and other State-run closed facilities, including against LGBTI persons with disabilities.

Article 19. Living independently and being included in the community

Georgia has not made any steps for deinstitutionalization of persons with disabilities that are 18 years old or older. Deinstitutionalization is not considered in the Resolution no.2315-Ilm of the Parliament of Georgia on “National Strategy of Georgia for Protection of Human Rights (2014-2020).⁴³

The State submitted its first report on the implementation of the CRPD in 2016. The report discusses community care provider organizations who offer conditions resembling family environment and promote independent living for their target groups. According to the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, each community care organization enrolls 20-42 adult beneficiaries.⁴⁴ The State report does not point to any official plans of adult deinstitutionalization. Moreover, the way the report describes the community care services provided by NGOs suggests that the State is inclined to maintain the residential institutions though smaller in size and with different names.

⁴³ Parliament of Georgia, National Strategy of Georgia for Protection of Human Rights (2014-2020). Date 30 April 2014, para15

⁴⁴ Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, letter no.01/17894. Date 23.03.2017

Residential institutions continue to be the only option for alternative housing for persons with disabilities, including those who has only moderate physical impairment. The State repeatedly refuses to provide social housing, citing lack of material and financial resources.⁴⁵

Understanding of deinstitutionalization is also quite low among judges and other justice system professionals. In the case which concerned the deinstitutionalization of physically impaired person, judge ordered additional forensic examinations in order to determine whether person living in residential institution could live independently⁴⁶ and could take care of herself⁴⁷ in view of their health condition”, even though it is not required by the national legislation and even contradicts the aim and requirements of the Article 19.

Services to support independent living and provide initial information after the onset of disability including psychological assistance are not available in the country. Lack of these services leads persons with disabilities and their families to rely on inconsistent, unreliable and often mutually exclusive resources and to receive fragmented assistance. They lack information about physical rehabilitation, the rights and services they are entitled to and opportunities for building independent living skills.

Suggested questions:

- i. Please, inform the Committee on the progress of works related to developing the action plan for deinstitutionalization of adults with disabilities and when does the State plan to start their gradual deinstitutionalization;
- ii. Please, inform the Committee regarding the State actions or plans supporting the development of independent living services, such as

⁴⁵ See footnote 3

⁴⁶ Please, note: “independent living” is identified with “living alone”. This is a common misconception not only among public but also among professionals, and persons with disabilities and their families have poor understanding of “independent living”

⁴⁷ See footnote 3

independent living centers, personal assistance, housing opportunities, etc.

Article 21. Freedom of expression and opinion, and access to information

Lack of access to information affects all persons with disabilities and particularly those with learning disabilities. The understanding and practice of providing them with information in easy-to-read formats is lacking. The Law of Georgia on Official Language⁴⁸ does not recognize sign language, which impedes provision of services in State agencies and the private sector. This problem is further exacerbated by lack of sign language interpreters and their availability in delivery of private and public services. The number and the quality of television programs that are available in sign language or with subtitles are inadequate. Websites run by various government organizations and municipalities are not accessible to visually impaired persons.

Suggested questions:

- i. Please, inform the Committee on the State's position on amending legislation in order to recognize Georgian sign language as an official language in Georgia.
- ii. Please, inform the Committee on the steps undertaken by the State to increase the number and quality of sign language interpreters in public and private sector services; as well as increase the television offer in sign language and subtitles
- iii. Please, inform the Committee how and when the State plans to establish the practice of deliver information and other documents in easy-to-read format for persons with learning disabilities, especially public information.

Article 24. Education

The State has revised legislation to ensure accessibility for persons with disabilities to general education. However, mechanisms for realization of the

⁴⁸ Law of Georgia on Official Language. Adopted 22.07.2015

legal requirements remain ambiguous. A number of regulations and services are lacking, including: the standard of home-based learning or e-learning for students with disabilities; behavior management methodology for students with autism spectrum disorder; qualified personnel for students who are blind or have mental health issues, etc.

Most of the educational institutions remain physically inaccessible. However, recently increased attention is being paid to accessibility standards of vocational training schools – e.g. Spektri, Mermisi, Kachreti and other facilities while the accessibility level of other schools has worsened⁴⁹.

There is a shortage of professional staff to work with students with disabilities. The education system does not recognize the necessity of social workers in schools and does not employ them. There is also a dramatic shortage of occupational therapists, tutors, speech therapists, teachers for blind and visually impaired students, ABA (Applied Behavior Analysis) therapists, speech therapists, etc.

Preschool education

The preschool education system is under the management of local authorities in Georgia. As of now, the system and practices fall short in delivering meaningful assistance for children with disabilities. While certain municipal bodies have approved the preschool education strategy, the needs of children have not been delineated and relevant modifications are yet to be made in the educational environment.

Vocational training

In September 2013, with support of the Norwegian Government, the Ministry of Education, Science, Culture and Sport launched a project of inclusive

⁴⁹ In a call for tenders announced in 2014 on <http://procurement.gov.ge/> by LEPL Educational and Scientific Infrastructure Development Agency for the rehabilitation of the school “Progress”, designs/architectural plans ignored the need of ramps, not to mention other accessibility norms

vocational education. About 95 students with special educational needs were enrolled in different VET institutions (as of 2016). After finishing nine grades they were able to take alternative exams and apply for three VET programs choosing the most suitable profession for them. However, often interests and motivation of youth with disabilities are not taken into account. Members of multidisciplinary teams (who evaluate a person with disability and provide career advice) are more of partners to parents rather than to persons with disabilities. In addition, often prospective students are unaware of details of their future profession and they have not attended a course of career guidance and planning.

General education

Inaccessible infrastructure for the major number of schools remains a significant problem for the general education. According to the report by the Public Defender of Georgia, out of existing 2084 public schools (those that function), about 120 are fully accessible while about 690 schools are only partially accessible.⁵⁰

Despite textbooks transcribed in Braille and voice recognition computer software have recently become available for blind students, students with learning disabilities continue to be discriminated in this regard. New methodologies in consideration of their needs are yet to be introduced. For instance, the Georgian educational system does not recognize the “easy read” technique. Schools also lack means to encourage effective learning among students with disabilities, such as: ergonomic pens, adapted keyboard, sensory helmets, communication boards, etc.

Despite some positive changes, transportation for students with disabilities is not entirely solved. Parents still have to use several vehicles interchangeably to get to school or they have to pay additional money for taxi; it often happens that, in order to save money, parents wait for their children at school to take them back home after classes are finished. Transportation problem has most

⁵⁰ Public Defender of Georgia, Inclusive education in pilot public schools. Monitoring report. 2019, p. 7. Available at: <http://ombudsman.ge/res/docs/2019061419175345379.pdf>

often been cited as the reason for absenteeism or not going to school altogether.

“Low expectations about students with disabilities” continue to exist in Georgia: for years LEPL National Examination Center has been reluctant to conduct school examinations adapted for students with significant developmental and concomitant impairments as a result of which students are completely removed from the general education evaluation system. Consequently, instead of diplomas, these students are awarded with “certificates of completion” which hinders their progression to higher education.

There are no guidelines for parents of students with disabilities, or informative websites and consultations, series of trainings on educational rights, etc. Parents are mostly supported by NGOs, however in a fragmented and inconsistent manner.

Accessibility of websites of major public educational institutions has not been officially studied, however, it is clear that these websites poorly, if at all, respond to the accessibility requirements, while important matters like enrolling children in kindergartens, choosing and applying for schools and for higher education institutions, etc. is done through these websites. The verification indicator such as “text content” is completely disregarded and the standard for creating a universal website (WGAG2.0 – international web content accessibility standard) is not taken into consideration either.⁵¹

Higher education

Consequences of challenges experienced by students with disabilities in preschool and secondary education become more evident in their efforts to

⁵¹ As an example, please see the following websites: enrollment of children in kindergartens - <http://kids.org.ge/registration/registration-form>; enrollment of first graders in school - <http://registration.emis.ge/>

access and engage in higher education. Even though the Ministry requires physical accessibility for the institution to gain accreditation, accessibility provision is mostly pro forma and in majority of cases only includes a ramp installed in violation of applicable standards. Similar to schools, bathrooms and elevators in higher education institutions continue to be inaccessible for students with physical impairments.

The Ministry of Education, Science, Culture and Sport of Georgia has not provided statistics about students with disabilities enrolled in higher education institutions, which makes it impossible to determine the percentage of students with disabilities that have access to higher education after completing secondary education.

Suggested questions:

- i. Please, inform the Committee on the State plans to introduce effective mechanisms for implementation of alternative curriculum for students with disabilities (with developmental and concomitant impairments), including the introduction of “easy read” technology and e-resources;
- ii. Please, inform the Committee regarding the quantity and quality of accessibility of the school buildings for students with disabilities, and on the provision of accessible transportation and accessible toilet facilities.
- iii. Please, inform the Committee regarding the steps undertaken to enhance qualifications of schools in narrow specializations, using high international standards - e.g. in ABA therapy;
- iv. Please, inform the Committee about the steps undertaken to develop a single standard for preschool education of children with disabilities and enforce it at the local level, within self-government programs/budgets;
- v. Please, inform on how does the State draw adequate attention to accessibility of physical infrastructure for students with disabilities, as well as to the issue of adapted school materials and support services during the accreditation of educational institutions.

Article 25. Health

Standards or statistics for measuring highest attainable level of health for persons with disabilities and achieving this level in cross-disability context – physical, psychological, intellectual and sensory impairments - are not available in Georgia.

For measuring the overall State of health of persons with disabilities Georgia only recognizes Years Lost due to Disability – YLDs index. According to the National Center for Disease Control and Public Health (NCDC), YLDs per capita was increasing in Georgia while it was decreasing globally in 2010-2015.⁵² According to WHO, in 2015 disability-adjusted life expectancy (DALY) in Georgia was 63.4 among men and 69.3 among women, which is an average for Europe. It indirectly indicates a relatively lower level of quality of health of persons with disabilities in Georgia.⁵³

According to the principles set forth in Art.4 of the Law of Georgia on Healthcare, the State undertakes to ensure “universal and equal accessibility of medical assistance” for its population.⁵⁴ However, in practice the right of persons with disabilities to health is not adequately realized within any of the healthcare programs (in terms of accessibility) due to the following reasons: Georgian health legislation does not recognize special health needs of persons with disabilities; it does not specify mechanisms for realization of the right to health for persons with disabilities in particular; fails to provide uniform regulations or acknowledge reasonable accommodation to eliminate or reduce barriers to access health services. As a result, persons with disabilities and especially persons with learning disabilities and sensory impairments, who are already at a disadvantage, are treated same as persons with lesser

⁵² Healthcare, statistical directory, Georgia 2015, Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, National Center for Disease Control and Public Health, Tbilisi, 2015, p. 36

⁵³ Global Health Estimates 2015: Disease burden by Cause, Age, Sex, by Country and by Region, YLD estimates, 2000–2015. Geneva, World Health Organization; 2016 https://gateway.euro.who.int/en/visualizations/choropleth-map-charts/hfa_69-disability-adjusted-life-expectancy-world-health-report-females/#table

⁵⁴ Law of Georgia on Healthcare. Adopted 10.12.1997, Art 4(a)

needs for medical services, which creates a precondition for their indirect discrimination.

On the one hand, within the “the State-funded universal healthcare program”, persons with disabilities receive certain medical services on equal basis with other groups.⁵⁵ However, competencies of medical personnel (especially doctors practicing in rural areas) and the range and volume of primary healthcare services provided within the program is insufficient to meet different medical needs of persons with disabilities. These services are funded for persons with disabilities similarly as those for other population groups, however their different medical needs mean that services that they require are more expensive and therefore inaccessible due to the funding.

Starting from 1 May 2017, the program covers 20% of costs of acute care as well as surgery scheduled in advance for persons with disabilities, including children with disabilities and persons with profound disabilities, while significant portion of persons with disabilities that are in need of these services are unemployed. According to UNICEF, 58% of children live in households that “could not satisfy their basic needs”.⁵⁶ The program does not cover health-related rehabilitation services for any of the groups with disabilities, except children. The program provides annual limit of GEL 50-200 (USD 20-81, EUR 16-65)⁵⁷ for medication for persons with disabilities, on equal basis with others, which barely meets even 1% of their needs.

On the other hand, other public healthcare programs approved by the Government annually (therefore, containing risks of sustainability and continuation), are designed to meet the medical needs of persons with disabilities not covered by the universal healthcare.⁵⁸ However, these

⁵⁵ Universal healthcare program, Social Service Agency, Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia; Available at: http://ssa.gov.ge/files/01_GEO/JAN_PROG/sakoveltao-jandacva/05.05.2017.pdf

⁵⁶ Stephen Kidd and Bjorn Gelders “Child wellbeing and social security in Georgia”, 2015 Available at: http://unicef.ge/uploads/UNICEF_Child_Wellbeing_GEO_.pdf

⁵⁷ See footnote 1

⁵⁸ Government of Georgia, Resolution №638 on Adoption of the Public Healthcare Programs 2017. Date 30.12.2016. Available at: <https://www.matsne.gov.ge/ka/document/view/3530020>

programs barely meet the requirements of paragraphs “a” and “b”, Art.25 of the Convention as they are not responsive to individual healthcare needs of different categories of persons with disabilities. Instead, they are bound by the annual limit within which they distinguish between different types of beneficiaries by age, social status, settlement areas and more.

For instance, there are only two public healthcare programs for early identification and intervention, including the program for “Early Identification and Screening of Diseases” that entails:

- a. Early diagnosis of mild and moderate developmental impairments among children aged between 1 and 6 and prevention of learning delays;
- b. Diagnostics and monitoring of epilepsy;
- c. Retinopathy screening for children born prematurely;

The Mother and Child Health Program envisages identification of genetic pathologies during pregnancy (antenatal care), and screening of newborns and children only for a handful of diseases (hypothyreosis, fenilceturonia, hyperphenylalaninemia and mucoviscidosis), as well as screening the hearing of newborns as a separate component.

UNICEF research (2015) indicates that the “healthcare system does not apply the identification and early intervention measures” for children with disabilities,⁵⁹ and as a remnant of the Soviet healthcare model, Georgia is lacking health-related rehabilitation and specialized outpatient healthcare services for persons with disabilities. The State does not implement a single targeted program for disability prevention. Instead, some services (mostly hospital services) are funded in a fragmented manner and in only a handful of cases (based on the report of a commission formed to make decisions about provision of medical assistance) within various programs. According to UNICEF, “the health system works in a case-by-case way, which means that it responds to an individual application submitted by families of children with

⁵⁹ Children with Disabilities in Georgia: Study on Georgian National Legislation towards CRPD and CRC, May 2015. Available at: http://unicef.ge/uploads/UNICEF_CRPD_GEO_edit.pdf

disabilities and allocates financial or other assistance individually within the limited resources of the State.”⁶⁰

Medical institutions providing rehabilitation services are very few and mostly in the capital city (84%).⁶¹

Due to the length and high cost of healthcare services, private insurance companies refuse to provide health insurance for persons with disabilities. Considering the poor statistics on quality of health of persons with disabilities and lack of measurement of life expectancy, private companies refuse to even entertain the idea of providing life insurance for persons with disabilities. The State lacks regulations or mechanisms for positive encouragement to address such practice of direct discrimination.

The State has made steps to eliminate barriers to physical accessibility of healthcare services - in particular, licensing requirements for primary healthcare and hospital facilities include certain standards for safe movement of persons with disabilities; however, these standards have been implemented only on the entrance level (from street to building) and physical accessibility of the interior healthcare facilities is still a challenge.

The following also hinders delivery of services to persons with disabilities on equal basis with others:

- Lack of qualified personnel, which primarily entails lack of means of communication with patients and knowledge/experience about managing medical conditions that are progressing differently in cross-disability context;
- Inadequacy and insufficiency of medical guidelines and protocols adopted by the State;

⁶⁰ Children with Disabilities in Georgia: Study on Georgian National Legislation towards CRPD and CRC, May 2015. Available at: http://unicef.ge/uploads/UNICEF_CRPD_GEO_edit.pdf

⁶¹ Informational portal of the Ministry of Labor, Health and Social Assistance, medical services: medical rehabilitation and sports medicine (physical culture for treatment and rehabilitation). Available at: <http://cloud.moh.gov.ge/Pages/SearchPage.aspx>

- The issue of quality assurance of medical services for persons with disabilities in terms of protecting their free and informed consent is ambiguous. So far this exists only at the legislative level:

According to Art.7 of the Law of Georgia on Healthcare: “All citizens of Georgia shall have the right to receive comprehensive and objective information in a form that is understandable to them” about medical services they will receive. However, due to lack of means of communication with persons with disabilities, this right is not realized in practice.

Art.39 of the Law on Medical Practice stipulates: “an independent medical practitioner is obligated to provide patients with complete, impartial, timely and understandable information in a manner acceptable for them,” however, the standard of “acceptable manner” for persons with disabilities is not determined. Art. 41 stipulates: “an independent medical practitioner shall communicate to the patient, or if the patient is a minor or lacks the capacity to make conscious decisions – to his/her relative or legal representative the information on his/her health condition provided in the patient’s medical records, including the results of diagnostic examinations, the data related to treatment and care, and the records of consultations provided by another independent medical practitioner.” Definition of the term “conscious decision” is provided only in the Law of Georgia on Psychiatric Care: “ability of a person to evaluate his/her own mental health, the goal of medical intervention and the expected result of treatment”, which puts persons with intellectual impairments and persons with speech impairments at a disadvantage compared to other individuals in similar conditions.

Alongside other issues, provision of dental services to persons with disabilities is an acute matter. There are three different problems in this regard: low awareness of medical personnel about persons with disabilities; willingness to provide service to persons with learning disabilities only if they consent to general anesthesia, which causes health problems and makes dental services

more expensive; Lack of accessible infrastructure for persons with physical impairments.

Suggested questions:

- i. Please, provide information on the State actions and plans to clearly delineate the standard of highest attainable level of health for persons with disabilities and their medical needs in cross-disability context;
- ii. Please, provide information with regards to maintaining the disability health statistics based on WHO indicators to measure the overall status of health of persons with disabilities;
- iii. What are the steps made by the State to ensure accessibility of healthcare services for all persons with disabilities: for the elimination of the unequal model of funding and developing special programs in the area of health-related rehabilitation;
- iv. Which steps have been made by the State to create and implement positive stimuli, regulations and reasonable accommodations in order to ensure the development of primary healthcare, specialized outpatient and dental services for persons with disabilities, especially in rural areas;
- v. Please, inform the Committee on the actions taken by the State to eliminate/reduce physical and communication barriers in medical facilities and improve the competencies of medical personnel regarding disability issues;
- vi. Please, inform on the legal mechanisms defined for realization and subsequent monitoring of the right of persons with disabilities to health, including the issues of free and informed consent;
- vii. Please, inform the Committee on the steps made by the State for developing regulations to ensure that private insurance plans offer medical and life insurance for persons with disabilities.

Article 26. Habilitation and rehabilitation

Public habilitation/rehabilitation programs

The State runs four sub-programs for children with disabilities: 1) rehabilitation; 2) services of daycare centers; 3) early development; and 4) rehabilitation of children with Autism Spectrum Disorder (ASD). The volume of the services and funding provided within these sub-programs is far from being sufficient. As a result, persons with disabilities have to constantly search for additional funding.

Recently certain changes have taken place to ensure that services are responsive to individual needs, however, mechanisms for monitoring the implementation of the programs by the State is weak in terms of evaluation and management of functional situation of beneficiaries and registration of service providers.

Geographic accessibility of services offered within the sub-program for children's rehabilitation and the subprogram of early development is low. The subprogram for rehabilitation of children with ASD is implemented by Tbilisi City Hall and in only some municipalities. Therefore, it is inaccessible for children living in other cities and regions of Georgia.

The only support offered by the State for adults with disabilities is the provision of assistive devices, including wheelchairs. The State does not implement adult physical rehabilitation programs. Private rehabilitation centers provide only a small amount of adult rehabilitation services that are quite expensive, at their discretion and without substantial monitoring of the State.

Education and qualification of professionals

The level of education and qualification offered at Georgian universities is quite low. Curriculums are outdated and fall short of contemporary requirements of education. There is no continued education program for habilitation and rehabilitation professionals in the country.

Professionals with higher education essentially start learning at their workplaces and during periodic short-term trainings organized by employers, which is mostly non-systemic and spontaneous.

Approaches in habilitation/rehabilitation

Habilitation/rehabilitation professionals continue to be strongly inclined to medical approach, which significantly hinders introduction of the social model of evaluation and management and is followed by a chain of negative events, including application of rehabilitation measures, which are not supported by any scientific evidence of optimizing function and achieving other social goals.

Lack of a single system for habilitation and rehabilitation and continuous education results in lack of “common language” among professionals, which is why children and adults in need of habilitation/rehabilitation services often receive different and sometimes mutually exclusive recommendations from professionals, which causes their confusion and disappointment.

Suggested questions:

- i. Please, inform the Committee on the work undertaken by the State for designing a policy for habilitation and rehabilitation services and for establishing a single habilitation/rehabilitation system, as well as its organizational and monitoring mechanisms;
- ii. Please, provide information regarding the works undertaken for reforming the education (university education and vocational training) of habilitation/rehabilitation professionals, to make it compliant with the CRPD; as well as for developing the system of continuous education in the field of habilitation/rehabilitation;
- iii. Please, inform the Committee on the progress made towards introducing State-funded wide habilitation/rehabilitation programs for adults with disabilities.
- iv. Please, inform the Committee on how the State plans to integrate quality assistive devices and technologies in habilitation/rehabilitation services;
- v. Which actions are being taken by the State to ensure the exclusive employ of evidence-based methodologies and approaches in public rehabilitation and habilitation services?

- vi. Please, inform the Committee on the actions made by the State for establishing quality assessment and monitoring of habilitation and rehabilitation services.

Article 27. Labor and employment

Despite recent amendments to the Labor Code that generally prohibit discrimination and promote equal opportunities for career advancement, including for persons with disabilities, the research conducted by the Education, Development and Employment Center of Kutaisi indicates that only 2 out of 28 employees with disabilities had an opportunity for career advancement. The research also indicates that lack of employment contracts is also a problem. Only 54% of those surveyed had signed a written contract. 75% of them could not describe their job responsibilities. Clearly, employees are not protected against having to do the work that was not included among initially agreed-upon job description.⁶²

Job seekers with disabilities that are registered in the database of households living below the poverty line are discouraged, as they fear that if hired, their social benefits will be cancelled.⁶³ This was cited as a primary obstacle to employment by about 80% of job seekers. They are reluctant because available jobs provide minimum remuneration and are deemed unstable, while social benefits assessments take the household income into account and once cancelled, they are cancelled for the entire family.

Individual labor skills and capacity are not evaluated during application for the disability status. Absence of such data means that the State is unaware of how many citizens with disabilities are ready to participate in the labor market.

Lack of accessible public transportation across the country constitutes another barrier to getting or retaining a job.

⁶² The survey was conducted within the “Pilot program for advocating equal education and employment opportunities for persons with disabilities” implemented by the Education, Development and Employment Center of Kutaisi and supported by the EU

⁶³ Government of Georgia, Resolution no.279 on the rule for determining social benefits package, Art 6. Date 23.07.2012

“I almost fell down when I was walking the road. If I fall down, I’ll lose much more than my current salary. I’ll continue working if they provide transport” – L., 58 years old.

In addition, according to the legislation, if a person with profound or moderate disabilities starts working as a civil servant, they lose the social assistance package⁶⁴. Although the Public Defender has described this regulation as discriminating towards persons with profound and moderate disabilities and has recommended against it, the regulation is still effective⁶⁵. Coalition for Equality also points to the discriminating nature of the regulation in its 2017 report “The Right to Non-Discrimination in Practice for Various Groups in Georgia”⁶⁶.

Since 2016 the Government of Georgia implements Employment Promotion Services Development Program.⁶⁷ According to the Program, if private entities employ the persons with disabilities, the Government commits to pay 50% of the salary for a period of 4-months, but of no more than 470 GEL (164 USD, 147 EUR).⁶⁸ The program, among others, involves the obligation for the formation of a group of employment advisers to support the disabled employees.

While it is a good initiative to encourage employers to hire persons with disabilities, in 2019, NGO “Article 42 of the Constitution” has conducted a study about the employment issues of disabled persons⁶⁹ and revealed

⁶⁴ July 23, 2012 Resolution #279 of the Government of Georgia on Determining the Social Package, Article 6.4. Available at:

<https://www.matsne.gov.ge/ka/document/view/1707671?publication=0>

⁶⁵ Recommendation of the Public Defender of Georgia on finding direct discrimination in the employment-related regulations dealing with persons with profound and moderate disabilities. Available at: <http://www.ombudsman.ge/uploads/other/4/4495.pdf>

⁶⁶ The Right to Non-Discrimination in Practice for Various Groups in Georgia – The Report; p. 37; Coalition for Equality. Available at:

http://www.osgf.ge/files/2018/Publications/Discrimination_Eng.pdf

⁶⁷ Government of Georgia. Order N333, On Employment Promotion Services Development Program. Date 18.07.2016

⁶⁸ National Bank of Georgia, Official Exchange rate as for December 13, 2019

⁶⁹ Article 42 of the Constitution, Labour of Persons with Disabilities from Employers’ Standpoint. January 2019

numerous shortcomings. For example, the study showed that subsidized employment is mostly used for seasonal jobs, which usually last for no more than 4 months.⁷⁰ With regards to the employment advisers, the insufficient number of professionals and poor geographical coverage has been revealed.⁷¹ The study also points out that resources for the reasonable accommodation is not envisaged in the program.⁷²

Another shortcoming of the program is that it uses portal www.worknet.gov.ge for its functioning, which is not accessible for users with all kinds of disabilities.

Suggested questions:

- i. Please, provide information regarding the legislative amendments, action plans or programs developed by the State in order to prohibit discrimination against the persons with disabilities during career advancement, remuneration for their work and at the workplace;
- ii. Please, provide information regarding the development of effective work accommodation and vocational educational programs to ensure that all persons with disabilities have equal opportunities and access to the labor market;
- iii. Please, provide information on how the State plans to strengthen the Employment Support Services in terms of implementation, geographical coverage, and monitoring in order to provide more effective and sustainable employment opportunities for persons with disabilities across the country;
- iv. Please, provide the information regarding the programs designed for engaging and employing persons with disabilities living in rural areas in the agricultural sector, including supporting self-employment (Ministry of Environmental Protection and Agriculture of Georgia);

⁷⁰ *ibid*, p. 25

⁷¹ *ibid*

⁷² *ibid*

Article 28. Adequate standard of living and social protection

After the changes introduced in Constitution of Georgia in 2018, the State took the responsibility of ensuring decent housing for its citizens.⁷³ The Article has a general nature and does not refer specifically to persons with disabilities. Before the constitutional amendment, the only legislative act making a reference to housing for persons with disabilities was the Law on Social Protection of Persons with Disabilities.⁷⁴ The Law underlines the responsibility of the State, self-government and its administrative bodies to provide persons with disabilities with housing.⁷⁵ However, some requests from physically impaired persons living in big residential institutions to local governments on public housing were denied by referring to the unavailability of resources.⁷⁶

There are a number of factors that affect living conditions of persons with disabilities, including lack of access to education and discrimination in employment. Essentially, persons with disabilities depend on assistance of their families and social benefits provided by the State, which is insufficient to improve quality of life. Moreover, social benefits⁷⁷ are so small that they barely meet their daily needs.

Based on CIL's legal advocacy experiences, it is safe to conclude the following:

- Due to prevailing disability stereotypes and attitudes, low awareness and lack of information about available social programs, persons with disabilities in both urban and rural areas often find themselves excluded from the society. Their living conditions entirely depend on benevolence of their family members, who in turn often lack information about disability needs.⁷⁸

⁷³ Constitution of Georgia. Adopted 24.08.1995, Art 5(4)

⁷⁴ Law of Georgia on Social Protection of Persons with Disabilities. Adopted 14.06.1995

⁷⁵ *ibid.* Art 27

⁷⁶ Healthcare and Social Service Department of Rustavi City Municipality, letter 02/7643. Date 12.04.2016

⁷⁷ See footnotes 1, 2

⁷⁸ In the experience of the Coalition for Independent Living, there have been cases where due to their low awareness and stereotypes, families often subject PWDs to violence instead of ensuring their education or integration in the society. A woman with disability is often reluctant

- Families with a disabled member often face more economic hardships than others.⁷⁹ Due to scarce social benefits and lack of personal assistance services, often a member of the family (mostly a mother) is forced to give up her personal life, education, job and a career to avoid placing the child in a residential institution. As a result, the parents do not have any income which makes the family even poorer. The situation becomes even more alarming if the child with disability is raised by a single parent. This means that disability benefits are the only source of income for the family.
- The State does not provide home-based support services for persons with disabilities to improve quality of their living conditions and ensure quality of their health, safety and food.

The above-mentioned problems aggravate the conditions of families of internally displaced persons (IDPs). Out of every 4 or 5 IDP families, one person has a disability. Due to persistent unemployment in a country, and specifically among IDPs, often entire families are depending on disability benefits. Universal Health Care Program benefits that IDPs are entitled to, does not cover daily needs of persons with disabilities.⁸⁰

Suggested questions:

- i. Please, inform the Committee if and when the State plans to revise benefits system for persons with disabilities in accordance with the human rights model of disability, by taking into account disability-specific factors for ensuring an adequate standard of living;
- ii. Please, inform the Committee on the steps undertaken by the State for social protection and poverty eradication for persons with disabilities.

to report such violence mostly due to fear of being kicked out of home. Due to ineffective housing policy of the State, everyone is trying not to disclose such incidents fearing that the victim will be left homeless

⁷⁹ UNICEF, The well-being of Children and Their Families in Georgia, Georgia Welfare Monitoring Survey. November 2016, para 5.1.1, p. 63

⁸⁰ Research conducted within the ongoing project of Article 42 of the Constitution, “Civil sector engagement in investigation of situation of Georgia by the International Criminal Court”

Article 29. Participation in political and public life

Participation of persons with disabilities in political life is nearly non-existent. They are not represented in political parties and/or decision-making positions in local self-governments and/or central government bodies. There is only one person with disability in the current composition of the Parliament.

Some progress has been made towards increasing participation of persons with disabilities in elections as voters. In particular, individuals recognized as the recipients of support as a general rule have been granted the right to vote.⁸¹ However, if the support recipient is placed in an inpatient medical facility, she/he is deprived the right to vote.⁸² A certain number of polling stations have also become more accessible. They have been equipped with assistive devices for persons who are blind. However, most polling stations remain inaccessible for persons who use wheelchairs. Getting to a polling station remains a problem as well because of inaccessible environment.

On 21 October 2017, local self-government elections were held in Georgia. Monitoring of 63 polling stations in Tbilisi and in Western Georgia found that only 17 polling stations out of 63 were wheelchair-accessible.⁸³ 20 polling stations lacked wheelchair accessible voting booths⁸⁴, or they were available in polling stations that were physically inaccessible for wheelchair-users.⁸⁵ The monitoring found that at about 40% of polling stations members of the electoral commissions were poorly informed about the needs of persons with disabilities.⁸⁶ Finally, on the so-called “electoral map” posted on the official website of the Central Electoral Commission accessible polling stations had been incorrectly pinpointed.⁸⁷

Suggested questions:

⁸¹ Election Code of Georgia. Adopted 27.12.2011, Art 3(a.c)

⁸² *ibid*

⁸³ Coalition for Independent Living, Monitoring of 2017 Local Self-Government Elections, p.2. Available at: http://disability.ge/images/stories/pdfs/21.10.2017_-2.pdf

⁸⁴ *ibid*, p. 3

⁸⁵ *ibid*, p. 3

⁸⁶ *ibid*, p. 6

⁸⁷ *ibid*, p. 2

- i. Please, provide information regarding the training of representatives of the electoral management bodies on the right to vote of persons with disabilities;
- ii. Please, provide the information regarding the planned measures/policies/legislation for ensuring full accessibility of the electoral environment and infrastructure for different categories of voters with disabilities.

Article 30. Participation in cultural life, recreation, leisure and sport

Participation of persons with disabilities in cultural life continues to be hindered by the lack of accessible environment. The situation is especially alarming regarding cultural monuments, majority of which remains inaccessible for persons with disabilities while the small part of cultural monuments that are deemed to be accessible are in gross violation of accessibility standards.

There is no strategy of accessible tourism, one that would entail attainable goals and activities for effective implementation. Higher education institutions do not offer programs in this area. There are no trainings or pilot programs for relevant professionals. Research to understand and develop accessible tourism is lacking.

Participation of persons with disabilities in sport is hindered by lack of relevant material and technical means in the regions for identification of athletes with disabilities, their training and development. Local and central agencies in charge of sports development are not interested in reaching out to persons with disabilities and engaging them in sports.

Suggested questions:

- i. Please, provide the information regarding the progressive measures taken to have accessible cultural, recreational and leisure facilities.
- ii. Please, inform, if the State is preparing a strategy for developing Paralympic sports at the local level and promoting involvement of persons with disabilities in sports federations;

- iii. Please, inform the Committee on the steps undertaken by the State for creating the material and, technical means in the regions for identification and support for athletes with disabilities, their training and advancement in sports career.

Article 31. Statistics and data collection

Disability statistics and data collection remains a challenge. MoLHSA or the National Statistics Office of Georgia is unable to provide realistic estimates of the total number of persons with disabilities in the country. Data published by MoLHSA includes only those persons with disabilities who receive social benefits from the Government or only those with profound and moderate disability. In addition, the number of individuals that opted to receive retirement pension instead of registering for disability benefits is also unknown. Individuals who decided not to request official disability status due to public stigma or the lack of information are not covered by the statistics.

There is a complete lack of coordination between central and local authorities in terms of maintaining statistics. Local authorities cite lack of financial or human resources for absence of disability data at the local level, while MoLHSA refuses to provide data to local governments, citing privacy and data protection reasons. As the statistics is not available in the regions, it is impossible to adequately estimate existing needs of persons with disabilities in specific areas and match these needs to local social programs that need to be implemented.

Shortcomings in the process of collecting and maintaining statistics seriously hinder processing of other information. For instance, according to the Prosecutor's Office,⁸⁸ there is no record of a single claim dealing with violation of Art.142² of the Criminal Code of Georgia (prescribing criminal liability for denying a person with disabilities an opportunity to exercise the rights granted by Law and/or other treaties to which Georgia is a party) in the electronic document management system of the Office of the General Prosecutor of

⁸⁸ Chief Prosecutor of Georgia, letter no.13/10606. Date 15.02.2017

Georgia, for the period from 2012 through 2016. The fact that such claim was indeed filed during the said time period⁸⁹ and subsequent investigation had been launched⁹⁰ leads us to question whether statistics provided by the prosecution service or other State entities can be relied for analysis.

Suggested questions:

- i. Please, inform the Committee on the measures/actions of the State to create and maintain comprehensive and needs-based statistics about the number of persons with disabilities both on the national and local levels, disaggregated by disabilities, gender, age, status, geographic location and needs;

Article 33. National implementation and monitoring

The National Coordinating Council on Disability chaired by the Prime Minister of Georgia and composed of persons with disabilities and their representatives and members of the Government of Georgia, only exists on paper and is essentially non-functional. There have been unsuccessful attempts to turn the Council into the entity responsible for implementation of the CRPD. Thus, coordination of issues related to persons with disabilities and the CRPD, and involvement of representatives of the community in decision-making is not ensured at the highest level of governance.

Local councils on disability are being established in municipalities but only with support of NGOs. Sometimes in an attempt to avoid the responsibility of leading these councils, local officials pass their responsibilities onto individuals without any leverage for enforcement of decisions made by councils. As a result, the councils are essentially ineffective.

The Public Defender of Georgia is in charge of monitoring the implementation of the CRPD in Georgia promoting its adequate enforcement. However, it lacks resources to ensure high quality monitoring of the CRPD implementation.

⁸⁹ Coalition for Independent Living, letter no.82. Date 11.12.2015

⁹⁰ Vake-Saburtalo District Prosecution Service, letter no.13-03-33126. Date 26.05.2016

Suggested questions:

- i. Please, provide the information on the steps taken by the State to designate the body responsible for the implementation of the CRPD, within the Office of the Prime Minister of Georgia and ensure effective participation of persons with disabilities in decision-making;
- ii. What are the measures taken by the State to promote the implementation of the CRPD at the municipal level;
- iii. What are the measures taken by the State to allocate additional resources for the Office of the Public Defender of Georgia to improve the scale and effectiveness of its monitoring actions?