

Supplementary report to the first report of the Georgian Government on the implementation of Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography

Submitted by

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and  
**ECPAT International**

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*ECPAT International is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children. For the past 28 years, ECPAT has acted as the international watchdog, monitoring States' response to sexual exploitation of children, and advocating for robust international measures to protect children from sexual exploitation. ECPAT International currently has 102 network members operating in 93 countries.*

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## **Context of this Supplementary Report**

1. This report is meant to supplement the information provided by Georgia in its first report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution, and child pornography (UN Doc. CRC/C/OPSC/GEO/1, 24 January 2017) submitted in compliance with Article 12 of the Protocol.<sup>1</sup>
2. The Government of Georgia (GoG) has shown its commitment to eradicate sexual exploitation of children by ratifying the Convention on the Rights of the Child on June 2, 1994, and its Optional Protocol on the sale of children, child prostitution, and child pornography in 2002 (entered into force on July 28, 2005). In 2015, Georgia reaffirmed this commitment through the adoption of the Sustainable Development Program, which aims to eliminate all forms of violence against children, including sexual abuse and exploitation.<sup>2</sup>
3. The purpose of the report is to strengthen the political will to end sexual exploitation of children in Georgia and to prevent such heinous crimes from being committed against children.

## **Methodology and scope**

4. This submission is based on the practical experience of and research by Public Health Foundation of Georgia and ECPAT International.
5. The scope of the submission is limited to SEC and its different manifestations, including exploitation of children in prostitution,<sup>3</sup> online child sexual exploitation (OCSE), child sexual abuse materials (CSAM),<sup>4</sup> trafficking of children for sexual purposes, sexual exploitation of children in the context of travel and tourism (SECTT),<sup>5</sup> and child early and forced marriage (CEFM).

## **Status and developments of sexual exploitation of children in Georgia**

6. Georgia has a total population of 3,925 million, of whom 22.3% were under 18 years old in 2016.<sup>6</sup> The main ethnic minorities in the country are the Azeris and Armenian people, who account for respectively 6.3% and 4.5% of the total population according to the last census of 2014.<sup>7</sup> Georgia is also home to other minority ethnic groups including Russians, Ossetians, Roma, and Yazidi.<sup>8</sup>
7. A number of events and factors have affected the extent of children's vulnerability to sexual exploitation in Georgia and the state's willingness and ability to continue the reform of institutions overseeing child welfare and protection initiated in the early 2000s. Russia's military aggression against Georgia was undoubtedly a major contributor to many children's vulnerability to sexual exploitation. The culmination of mounting tensions over many years, the five-day armed conflict between Georgia and Russia resulted in the suspension of many ongoing social programs and large-scale displacement.<sup>9</sup> Ten years after the conflict, there has still been no "voluntary, safe, dignified and unhindered return of IDPs and refugees on the basis of internationally recognised principles."<sup>10</sup> The Georgian government does not appear to have an estimate for the number of displaced children; however, a 2010 UNICEF report placed the number of IDPs under the age of 18 at approximately 65,412.<sup>11</sup> Evidence has demonstrated that children who are

displaced and/or separated from their families face higher risks of sexual exploitation.<sup>12</sup> Their physical safety is compromised, their education is often disrupted and they may be pressured to work in risky or exploitative conditions where they may also be vulnerable to sexual exploitation.<sup>13</sup>

8. Poverty drives vulnerability to SEC not just among the country's child IDPs, but also among much of Georgia's child population in general, which represents approximately one-fifth of the total population.<sup>14</sup> Although Georgia's Human Development Index rank places it into the high human development category, there is growing inequality in opportunity and in quality of life.<sup>15</sup> Findings from the recent Welfare Monitoring Surveys indicate that poverty is on the rise in Georgia. According to the 2017 Welfare Monitoring Survey, 6.8% of children live below the extreme poverty line (US\$ 1.25 per day)<sup>16</sup> and nearly 28% of children live below the general poverty threshold (US\$ 2.5 per day).<sup>17</sup> High levels of general unemployment as well as youth unemployment contribute to this problem.<sup>18</sup> Poverty is also closely associated with low school attendance and educational attainment in Georgia, which are also known risk factors for SEC.
9. Another major issue linked to poverty but also driven by other key factors that affect vulnerability to SEC in Georgia is that there are children who live on the street. Even though there is no recent data, two groups of Roma and the Azerbaijani Kurds (Azeri-Kurds) are the most represented among street-connected children. Children living and working in the street are at increased risk of violence from fellow street youth, caretakers, and other adults and vulnerable to various forms of SEC including in prostitution and trafficking for sexual purposes.<sup>19</sup>
10. Finally, high prevalence and broad societal acceptance of violence in Georgia (e.g. domestic violence and child abuse) may also be a contributing factor to children's vulnerability to SEC in prostitution. It is well documented that children's exposure to violence can contribute to risk factors related to SEC.<sup>20</sup> Despite a number of legislative efforts to safeguard children's life and safety from all forms of violence,<sup>21</sup> corporal punishment and generally harsh parenting continues to be perceived as normal, especially in rural areas.<sup>22</sup>
11. Anecdotal data from caseworkers, service providers and NGOs working in Georgia suggest that **exploitation of children in prostitution** is a significant issue in Georgia,<sup>23</sup> and it appears that IDP's children, children living on the streets of Tbilisi (particularly children from minority communities (e.g. Roma, Azeri-Kurds)), and children living in extreme poverty, are the most vulnerable to this form of exploitation. Evidence also highlights the particular vulnerability of girls in the streets. Prostitution is favoured by internal group dynamics among street-connect children, and high prevalence and broad societal acceptance of violence. Despite recent legislative changes, between 2010 and August 2016, only three people were convicted for the sale of children and five for child sexual exploitation.<sup>24</sup> There is in addition little available data on the number of child victims of exploitation in prostitution. The absence of information is directly related to the lack of identification mechanisms. It is critical that more steps are taken to effectively measure the prevalence of SEC in prostitution so it can be better understood and addressed.

12. Georgia is in the process of joining the growing list of countries in which the vast majority of their population is connected to the Internet. In 2017, the overall proportion of Georgians using the Internet reached 60%.<sup>25</sup> In 2016, already 60% of children ages 6-15 had access to the Internet.<sup>26</sup> While Georgia progresses through this transition, it will become increasingly essential to equip children and caretakers, teachers and service providers with information about risks, strategies, and tools to increase protection from the different forms of **online child sexual exploitation and child sexual abuse materials**.<sup>27</sup> The increase in Internet penetration may indeed imply that children in Georgia are more exposed to the risk of being sexually exploited online. In spite of this, in 2015, the Ministry of Internal Affairs (MoIA) was only able to identify one case of illegal production and sale of pornographic materials involving children. The 2016 Ombudsman report on the Situation of Children's Rights emphasized the lack of investigations into cases of the illegal production and sale of child sexual abuse materials.<sup>28</sup> As noted by the Special Rapporteur, there is a lack of data on OCSE in Georgia.<sup>29</sup>
13. Georgia is a country of origin, transit and destination of victims of human **trafficking for sexual purposes**.<sup>30</sup> Women and girls from Georgia are frequently trafficked within the country or in Turkey and some are also brought to the United Arab Emirates and China.<sup>31</sup> Women from Kyrgyzstan, Tajikistan and Uzbekistan are often subjected to sex trafficking in Black Sea resorts and saunas in the Adjara region of Georgia.<sup>32</sup> Internally displaced and street children are the most vulnerable groups as they are easily trafficked, which often leads to their sexual exploitation.<sup>33</sup> Traffickers may notably attract children who are internally displaced by claiming they could offer them a route to safer settlement.<sup>34</sup> Even though Georgia established a database to gather information on victims of trafficking, the government identified only one child, a girl, as a victim of sex trafficking between 2016 and 2017.<sup>35</sup> It is likely that the reported statistics severely underestimate the scope of the trafficking of children for sexual purposes.
14. Like other forms of sexual exploitation of children, data on **SECTT** is difficult to find and the exact number of child victims in general (including boys) is unknown. Given its location, Georgia is largely a destination for predominantly tourists from Central and Eastern Europe. According to the Georgian National Tourism Administration (NTA), in 2017, Georgia received 7,544,936 visitors, out of which almost 70% were from Central and Eastern Europe.<sup>36</sup> As tourism to the country continues to increase each year, resorts in the Black Sea region are becoming known as 'sex destination[s]'.<sup>37</sup> Victims of Azerbaijani descent are often subjected to forced prostitution in tourist areas like the Adjara region and its resort city Batumi.<sup>38</sup> Gonio is another popular destination for foreign visitors, where many nightclubs and bars cater to them exclusively.<sup>39</sup> Although the above-mentioned reports clearly show that the sexual exploitation of women and girls is occurring in Georgia, no cases of SECTT were reported in 2016.
15. With regard to **forced and early marriages**, Georgia has one of the highest rates of child marriages in Europe, with 14% of Georgian women married before the age of 18 in 2016.<sup>40</sup> Although it is underreported, the phenomenon also affects boys. Due to the non-registration of a majority of marriages, the actual percentage of child marriages might have been even higher.<sup>41</sup> CEFM is present throughout the country, including in the capital. However, CEFM is more prevalent among religious minorities in the Adjara mountainous region and among ethnic minorities in the Kvemo Kartli region.<sup>42</sup> A range of complex social, cultural and economic factors contributes the high prevalence of child marriage.<sup>43</sup> CEFM has led to a significant number of children dropping out of school. The threat to girls' education, and the relationship

to exposure to CEFM, is often two-fold. Poverty and financial hardship pose significant barriers to girls' continued education, and once out of school marriage is seen as the only viable alternative.<sup>44</sup> At the same time, girls are not expected to resume their education once married given their new roles and responsibilities.<sup>45</sup> By abandoning education, girls become economically more vulnerable and risk facing sexual and gender-based violence.

## **General measures of implementation**

### *National Action Plan*

16. For a long time, Georgia lacked child protection mechanisms or policies. However, the **Child Welfare and Protection Action Plan 2012-2015** was then developed by the government to provide children and families with both social care and support. The plan aimed to reduce the number of child victims of violence and to develop more effective identification processes by strengthening coordination between different stakeholders. Since then, Georgia has developed child support programs quite fast. For example, the child centre within the Public Defender's Office (PDO) has a national prevention programme which aim is to monitor the rights of the child in Georgia.<sup>46</sup> However, the Action Plan was heavily dependent on donations and further assessment of the impact of these efforts is needed.<sup>47</sup>
17. The **National Strategy for the Protection of Human Rights 2014-2020** explicitly seeks to improve child protection mechanisms by incorporating children's rights in the **2016-2017 Child Welfare and Protection Action Plan**.<sup>48</sup> However, government policies have framed sexual violence as related to women without the acknowledgement that children (both girls and boys) may also be victims. In addition, although the new action plan of 2016-2017 provides guidelines for the elimination of violence against children and the prevention of child abuse in its goal 12.5,<sup>49</sup> it does not explicitly target SEC.
18. In the new **Human Rights Action Plan** for 2018-2020, recently approved, goals to support the rights of the child include: (16.2) strengthening and improving services of poor and vulnerable children and their families and children left beyond formal education; (16.3) developing child-friendly and accessible justice system; (16.5.4) Create child-friendly specialised services for child victims of sexual violence and sexual exploitation; (16.5.5) Elaborate mechanism for revealing and reacting to child labour and child trafficking cases.<sup>50</sup>

### *Coordination*

19. As part of the National Strategy for the Protection of Human Rights mentioned above, the **Interagency Council on the Implementation of the UN Convention on the Rights of the Child** was established in December 2016. The Council's mandate is to develop a comprehensive programme on the rights of the child in Georgia. This Council is the first in Georgia to promote and facilitate the implementation of the CRC between the central government and other provinces and between the central government and civil society.<sup>51</sup> But, as it has been previously mentioned, none of the NPAs adopted explicitly targets SEC.
20. More recently, the Georgian government also established a working group to coordinate the implementation of the SDGs on a national level.<sup>52</sup> In September 2016, the first Voluntary National Review (VNR) on the implementation of the SDGs was presented by the government of Georgia at the United

National High Level Political Forum (HLPF).<sup>53</sup> The VNR reiterates Georgia's commitment to pursue the SDGs on a national level by working closely with the private sector and other local actors.<sup>54</sup> However, the VNR does not mention SEC nor the challenges faced in implementing the SDGs that directly address SEC.

21. Finally, there is also the **Interagency Council on Combatting Trafficking in Persons**, led by the Ministry of Justice, which plays a significant role in preventing and combatting the phenomenon.<sup>55</sup> The Council facilitate the coordination between many stakeholders, including Parliament and other ministries like the Ministry of Labour, Health and Social Affairs (MOH). The Council also coordinates intensively with the PDO and with NGOs in its efforts.<sup>56</sup>

### **Prevention of the sale of children, child prostitution and child pornography**

#### *Measures adopted to prevent the commission of offences prohibited by the Additional Protocol*

22. The National Action Plan 2016-2017 (NAP) clearly set as an objective the need to raise children's awareness of their rights by conducting information and educational workshops with and for children.<sup>57</sup> Among these activities, the Ministry of Education and Science (MES) conducted a series of trainings for teachers on children rights in school.<sup>58</sup> The MES also made extensive efforts in developing awareness campaigns on the risks of child marriage, with a focus on parents from regions with high levels of CEFM.<sup>59</sup> Moreover, a cohesive electronic database has been developed for institutions in the education sector, which makes it compulsory for them to register any case of school dropout due to CEFM.<sup>60</sup> While various state departments have taken steps in order to include children's rights and trafficking related issues in the national curriculum from the grade 5 and up, school curricula do not yet contain themes, which would support prevention of sexual abuse and protection from it. For the moment, only topics on trafficking and bullying have been added to high school curricula.<sup>61</sup> The latest NAP 2018-2020 calls for the further implementation of activities to prevent and effective respond to violence in pre-school and general educational institutions.<sup>62</sup>
23. The Georgian Coalition for Child and Youth (CCY) conducts targeted campaigns on the situations of children in foster and State care.<sup>63</sup> This coalition is composed of different youth representatives that are themselves involved in State care.<sup>64</sup> The coalition has been proactive in campaigning against SEC and other forms of violence against children. The extent of the coalition's success remains however unclear.
24. Regarding SECTT, the National Tourism Administration (NTA) has acknowledged the importance to include the private sector in the promotion of safe and sustainable tourism. Yet, with few national regulations in place in the tourism sector, the impact of these presentations and the engagement of the private sector in the fight against SEC remain to be seen. It is unclear for the moment whether hotels, or operating tour guides are implementing internal regulations that seek to prevent SEC.<sup>65</sup>
25. As it is a major risk factor for SEC,<sup>66</sup> a 2016-legislation finally addresses the prevalent lack of identification documents among street-connected children by allowing for the issuance of temporary identification documents.<sup>67</sup> This would enable those children to access health and education services. In an effort to remove children from the street and place them in more protective environments, mobile teams of social workers and peer educators, operating in Tbilisi, Rustavi and Kutaisi, work to convince children to join a

shelter or care centre.<sup>68</sup> These social workers represent “key element in protecting the rights of the child,” but remain overwhelmed with paperwork and understaffed.<sup>69</sup> More will need to be done to enhance the capacity of these types of programmes to ensure their sustainability.<sup>70</sup>

#### *Participation of children and youth*

26. There are no available mechanisms in Georgia specifically designed to encourage the participation of child victims of sexual exploitation. In fact, the current version of the Georgian Constitution does not mention basic aspects of children’s right to participation,<sup>71</sup> and fails to acknowledge that children are independent “holders of rights”.<sup>72</sup> When dealing with child protection, the drafters of the Constitution only mention children in connection to ‘mothers’ and in a context of marriage.<sup>73</sup> As a result, despite the existence of the CCY, to date child victims and survivors of SEC have not been involved in any decision-making processes through the government or other organizations regarding the development of research, policy analysis, or action plans to address SEC.<sup>74</sup> In general, the level of child participation in processes relevant to child-related issues is low in Georgia.<sup>75</sup>

#### **Prohibition on the sale of children, child prostitution and child pornography**

##### *Existing criminal or penal laws and regulations*

27. *Exploitation of children in prostitution* - The exploitation of children in prostitution is punishable by law in Georgia. Article 171(3) of the Criminal Code considers prostitution in general as an “anti-social” activity.<sup>76</sup> Article 140 forbids any sexual intercourse including “*homosexual or lesbian [...] committed by an adult against a person who has not attained the age of 16.*”<sup>77</sup> This leaves a legal gap in the protection of children between the ages of 16 and 18. Article 253(2) further prohibits organised groups from engaging in prostitution with minors, or acquiring any type of benefit from the engagement of minors in prostitution.<sup>78</sup> Using violence or coercing minors into prostitution leads to prison for two to five years.<sup>79</sup> Furthermore, the code was amended in 2016 to include the act of engaging a person in prostitution as a form of exploitation, in the section on human trafficking.<sup>80</sup> Although the amendment is seen as an effort to criminalise trafficking for sexual purposes, the act of engaging minors in prostitution but not in a context of human trafficking still lacks a comprehensive definition in compliance with the OPSC.<sup>81</sup> In addition, given that prostitution is criminalised in the Criminal code, this poses a challenge to the protection of child victims of sexual exploitation. There is indeed a risk that the child is seen as a prostitute and can thus be prosecuted. There is a need for a policy rule explicitly stating that children who are victims of sexual exploitation in prostitution shall not be prosecuted.
28. *Online child sexual exploitation (OCSE)* - The Georgian Criminal Code does not provide any explicit definition of OCSE. However, after ratifying the Budapest Convention on Cybercrime in 2012, the Georgian government carried out amendments, which included the criminalisation of acts related to CSAM/CSEM.<sup>82</sup> Among these acts, article 255(2) forbids “*knowingly purchasing, storing, attending the demonstration of, offering, disseminating, transferring, advertising, providing access to or using pornographic work containing images of minors*”.<sup>83</sup> The definition does not specify exactly whether these acts need to be committed online. The sale and the production of pornographic materials containing images of minors are also prohibited under article 255(3).<sup>84</sup> Article 255 states that engagement with a minor in the illegal

production or sale of pornographic works is subjected to two to five years of imprisonment.<sup>85</sup> Article 255(2) further prohibits the offer of a meeting of a sexual nature to a person under the age of 16 by using information and communication technologies with the aim of committing sexual intercourse or any other sexual act and/or selling pornographic material.<sup>86</sup> Although largely in compliance with Article 23 of the Lanzarote Convention, which criminalizes the solicitation of children for sexual purposes (grooming), the abovementioned article fails to protect children between 16 and 18 years of age and has a more narrow scope of application. The definitions provided do not fully comply with internationally agreed definitions, as they do not state in full all other online forms of sexual exploitation, such as online grooming. More importantly, if storing, purchasing or selling CSAM/CSEM are condemned by article 255.2 and 255(3), the mere possession of such materials is not explicitly criminalized by the Criminal Code.<sup>87</sup>

29. *Trafficking of children for sexual purposes* - The trafficking of children for sexual purposes is criminalised under the Criminal Code in Georgia. Article 143 defines trafficking of children as the “purchase or sale of children, or other unlawful transactions in relation to them”.<sup>88</sup> Exploitation is defined as including, among other things, inducing a person to provide sexual services, engaging a person in prostitution and pornographic activities and subjecting a person to practice similar to slavery.<sup>89</sup> In compliance with Article 3(c) of the Palermo Protocol, the involvement of the means provided for trafficking of adults i.e. “*threat, use of force or other forms of coercion, of abduction, blackmail, fraud, deception, by abuse of a position of vulnerability or power or by means of giving or receiving of payment or benefits to achieve the consent of a person having control over another person*”, are not required to constitute the crime when the victim is a child.<sup>90</sup> The Criminal Code does not make a clear distinction between the sale and the trafficking of children.<sup>91</sup> The Law on Combating Human Trafficking, which aims to facilitate the prevention of trafficking and protecting victims, provides a definition of the sexual exploitation of a person. Article 3(f) defines sexual exploitation as the “*involvement of a person in prostitution, other sexual services or production of pornographic materials by using threat, violence, coercion, blackmail against him/her or abusing his/her helpless state; by using official status, or through providing false information about the nature and conditions of the job offered*”.<sup>92</sup> Although this definition is not exclusively applicable to children, it does at least include the act of prostitution, the production of pornographic materials and other sexual services as possible types of exploitation, as provided by Article 3 of the OPSC.<sup>93</sup> Yet, this law explicitly acknowledges that consent to trafficking cannot justify exploitation.<sup>94</sup>

30. *Sexual exploitation of children in travel and tourism (SECTT)* - As previously mentioned, SECTT is a growing risk, yet the issue is still underreported. One of the reasons for this is the lack of a legal framework that protects children from SECTT-related incidents. Neither the Criminal Code nor the Law on the Protection of Minors from Bad Influence provide any protection against SECTT. Likewise, the Law on Tourism and Resorts does not mention SECTT.<sup>95</sup> The majority of hotels (with the exception of high-end chains) do not have any child protection policy, nor have they signed on or are even aware of the international “Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism” – a multi-stakeholder initiative spreading awareness and tools for the tourism industry to prevent the sexual exploitation of children.<sup>96</sup>

31. *Child, early and forced marriages (CEFM)* - Forced marriages including non-registered marriages are punished by community service and can result in up to 2 years of imprisonment.<sup>97</sup> The Criminal Code explicitly prohibits forced marriages involving minors, which could lead to 4 years of imprisonment.<sup>98</sup> Additionally, the Civil Code fixes the legal age for marriage at 18 years old.<sup>99</sup> A provision enabling a Court to approve the marriage of a minor that has reached 17 years old in certain situations, such as the birth of a child, was made void in January 2017.<sup>100</sup>

#### *Statute of limitations*

32. The statute of limitations is a rule that releases the offender from criminal liability at the expiration of a period of time; duration which often depends on the gravity of the crime. The period of time often starts from the day the crime has been committed. However, this starting point is often considered inappropriate in case of sexual abuse or exploitation. It often takes a long time for victims to report their case. With this in mind, an increasing number of states have adopted the rule that the period of limitation in cases of sexual abuse and exploitation shall start when the victim has reached the age of 18-year-old. However, in Georgia, there is not such an exception yet and the main rule stating that “*the period of limitation shall be calculated starting from the day when the crime is committed up to the day when formal charges are brought against the person*” is still applicable to SEC offences.<sup>101</sup>

#### *Extraterritorial jurisdiction and extradition*

33. The OPSC (art. 4, para 2) recommends all its States parties to adopt extraterritorial jurisdiction allowing the prosecution of offenders of SEC even if the offence was committed abroad.<sup>102</sup> Georgia has amended its Criminal Code to include extraterritorial jurisdiction. Article 5(1) of the code stipulates that Georgian citizens who committed a criminal act abroad are criminally liable under the Georgian criminal system if the act is considered a crime in the country where it was committed.<sup>103</sup> If the act is not criminalised in the country where it was committed, the citizens of Georgia may still be liable under the code if the act “*constitutes a serious or partly serious crime directed against the interests of Georgia, or if the criminal liability of this crime is prescribed by a treaty Georgia is a party to*”.<sup>104</sup> Furthermore, article 5(3) extends the extraterritorial jurisdiction of Georgia to foreigners who have committed a crime abroad that could constitute a serious or partly serious crime directed against the interests of Georgia, or a criminalised act under a treaty signed by Georgia.<sup>105</sup> This does not cover jurisdiction over foreigners committing abroad a crime against a Georgian national, a jurisdiction however recommended by the OPSC (Art. 4(2)(b)) for cases of SEC. In addition, with a few exceptions, jurisdiction over SEC-related offences in Georgia necessitates double criminality,<sup>106</sup> which poses an obstacle to the prosecution of offenders.

34. In terms of extradition, a Georgian citizen who committed an offence abroad may only be extradited for prosecution if a treaty to which Georgia is a party prescribes it.<sup>107</sup> Furthermore, foreigners who live in Georgia and who have committed an offense may also be extradited to another State to be prosecuted, under an international treaty ratified by Georgia.<sup>108</sup>

## Protection of the rights of child victims

### *Measures adopted to protect the rights and interests of child victims of acts prohibited by the Additional Protocol*

35. Georgia has not established a **national complaint mechanisms** specific to child victims of sexual exploitation. Instead, the State Fund for the Protection of and Assistance to Victims of Trafficking in Persons, operates a telephone hotline for statutory adult and child victims.<sup>109</sup> In 2017, the work of the hotline was expanded to include other forms of sexual violence against children,<sup>110</sup> but it remains a not child friendly reporting system.<sup>111</sup> In addition, the victim identification process is still weak and requires more cooperation as it heavily relies on law enforcement agencies.
36. Adopted by a Government Decree No.169, the National Strategy for the Protection of Human Rights 2014-2020 makes an explicit call for the development of a criminal legal system that takes into account “**the best interest of the child**”. This led to the adoption of the **Juvenile Justice Code**.<sup>112</sup> The new system is applicable to all minors in conflict with the law, but also minors who are considered victims or witnesses in criminal cases.<sup>113</sup> The Code creates a child sensitive legal process that includes well-trained lawyers, judges and prosecutors.<sup>114</sup> The Juvenile Justice Code sets the protection of the “best interest of the child” as a key priority.<sup>115</sup>
37. The Code grants specific rights to victims, such as the right to be informed of the proceedings, and the right to have a special **legal representation**.<sup>116</sup> While it mandates that child victims be granted the right to legal aid, it does not provide guidelines on how a child victim may initiate legal proceedings or file a claim.<sup>117</sup>
38. On the basis of this Code, internal guidelines for police and law enforcement personnel have also been adopted to ensure **child friendly investigation procedures** and to avoid the re-traumatization of child victims of trafficking.<sup>118</sup> During the interrogation of a child witness, the lawyer may file a motion to take further measures to protect the identity of the child. Among these measures, the court may be asked to use special devices to alter the image and/or the voice of the witness, or to be examined by the court remotely using other adequate technical tools.<sup>119</sup> A psychologist may attend the interrogation of a minor victim.<sup>120</sup> The Code also determines the duration of child victim’s interviewing, as well as sets the specific time when this interview can happen (between from 8 am to 10pm). In accordance with the Code, victims of sexual exploitation below the age of 14 can only be interrogated with the consent and the presence of their legal representative, and the numbers of interrogations shall be limited.<sup>121</sup> In cases of domestic violence, for example, the family member responsible for the assault(s) may not be involved as a legal representative of the minor.<sup>122</sup>
39. This new Juvenile Justice Code develops a clear child sensitive justice for children in compliance with international standards. Yet the problem lies in the full implementation of these documents by police forces. A recent report examining the implementation of the National Strategy and the Juvenile Justice Code noted that while all of the agencies involved with juvenile justice have specialized staff to manage children’s cases, law enforcement agencies have yet to fully strengthen and institutionalize this specialized role.<sup>123</sup>

40. Furthermore, the Juvenile Justice Code gives a child victim “the **right to compensation** for injury and damage and the right to claim compensation”.<sup>124</sup> The Juvenile Justice Code also grants victims the right to be informed of their right to access compensation. Yet, the measures taken do not fully guarantee this access.
41. The State Fund is the primary entity dealing with compensation for victims of trafficking and other forms of sexual violence. Compensation includes monetary payment with an amount of 1,000 GEL (approximately 380 USD as of October 2018).<sup>125</sup> Non-monetary compensation in the form of rehabilitation programmes and providing shelters for children on the streets is also provided. In cases of trafficking, Georgian legislation specifically authorizes law enforcement to “use the freezing and forfeiture of the offenders assets to secure compensation,” to the victims.<sup>126</sup> However, in practice, no trafficking victims have ever received compensation from their traffickers.<sup>127</sup> This is in part due to law enforcement’s failure to freeze and seize criminal assets.<sup>128</sup> Another obstacle to restitution through these means is the fact that many of the traffickers are foreigners without assets registered in Georgia.<sup>129</sup>
42. To investigate adequately these cases, the MOH created in 2015 a **special unit** to detect forced child labour and other forms of labour exploitation in Georgia. This unit is tasked with carrying out inspections without warnings in companies or spaces at high risk of exploitation.<sup>130</sup> As according to the ILO Convention n° 182 on the worst forms of child labour, child prostitution and child pornography are among one of the worst forms of child labour, this special unit should also be able to inspect places where sexual exploitation of children is suspected to take place. Once cases of child abuse have been detected, the MOH must coordinate with the Social Service Agency (SSA). However, the labour inspectorate lacks a clearly defined mandate, which has limited their effectiveness in investigating employers.<sup>131</sup> In September 2016, the new Child Protection Referral Mechanism (CPRM) was implemented.<sup>132</sup> The CPRM makes it compulsory for all local authorities, schools, medical institutions and other government agencies to refer cases of child violence, including SEC, to the SSA, and it coordinates with the former to take adequate measures.<sup>133</sup> The CPRM also aims to strengthen cooperation in the public sector on the issue of OCSE, especially among service providers.
43. A cybercrime unit was also set by the MoIA, which seeks to strengthen the coordination between law enforcement agencies and the private sector in order to remove CSAM and proceed with the prosecution of perpetrators.<sup>134</sup>

#### *Recovery and reintegration of victims*

44. The SSA is the primary entity responsible for managing children’s access to recovery and reintegration. The agency possesses a fund dedicated to programmes related to the protection of child victims of violence in general including victims of sexual exploitation in its different forms. However, with its limited funds, the SSA’s programmes are restricted geographically and do not cover all regions, with particularly weak representation in the occupied territories where most state agencies cannot operate.<sup>135</sup> The State Fund also provides a range of services including rehabilitation and reintegration programs, legal assistance and medical assistance,<sup>136</sup> but suffers of similar limitations as well. This is why many local NGOs and regional stakeholders stepped in to fill the gaps. However, NGOs are incapable on their own to deal with

the issue of SEC, mostly because of a lack of training. In addition, in the occupied territories only UNICEF and some INGOs have access, some local NGOs operating services instead at the border.

45. It is unfortunate that, when addressing access to recovery and reintegration, the Juvenile Justice Code only refers to the reintegration of children in conflict with the law, not victims.<sup>137</sup>

### **International cooperation**

46. Georgia was among the participating countries in the **WeProtect Summit** in which the country committed itself to increasing efforts to identify victims of child sexual abuse online, and to ensure that victims receive adequate support and protection. Following the Summit, the MoA started cooperating extensively with other law enforcement agencies and the national bureau of **INTERPOL**.<sup>138</sup>
47. The country also signed with **EUROPOL** in 2017 an agreement on Operational and Strategic Cooperation to expand cooperation to combat serious and organised cross-border criminal activities.<sup>139</sup>

### **Recommendations to the GoG**

#### *General measures of implementation*

1. Enhance quantitative and qualitative research specific to the sexual exploitation of children and its different manifestations across the country;
2. Include comprehensive and specific goals on how to prevent, raise awareness and combat the sexual exploitation and abuse of children in the national action plans;
3. Submit a Voluntary National Review including specific information on the SDG targets 5.2, 5.3, 8.7 and 16.2;

#### *Prevention*

4. Intensify efforts to cooperate with the private sector especially with regards to online child sexual exploitation and to sexual exploitation in the context of travel and tourism;
5. Continue to implement curricula that educate children on their rights;
6. Raise awareness among ethnic minority groups of the risks and dangers of child early and forced marriage;
7. Establish procedures to ensure child participation in decision-making processes, especially the participation of children from marginalised communities;
8. Support initiatives such as the Council for Children and Youth, by giving them a voice and opportunities to contribute more to strategic plans affecting children;

#### *Prohibition*

9. Amend the Criminal Code by making trafficking and the sexual exploitation of children separate crimes;
10. Include in the amendment to the Criminal Code explicit and distinctive definitions of 'sale of children', 'sexual exploitation of children in prostitution' and 'child online sexual exploitation' in

- compliance with the OPSC, prohibiting all thereof prescribed acts with adequate sanctions;
11. Amend the Criminal Code to criminalize online grooming and the mere possession of child pornography;
  12. Amend the Criminal Code to protect also children between the ages of 16 and 18 from any forms of exploitation of children in prostitution and online or other forms of sexual exploitation;
  13. Amend the Criminal Code for the purpose of introducing the rule that the period of limitation for cases of child sexual abuse and exploitation starts when the victim has reached the age of 18;
  14. Amend the Criminal Cod for the purpose of establishing extra-territorial jurisdiction (in line with art.4(2)(b) OPSC) for cases of SEC committed abroad when the child victim is a national of Georgia or has her/his habitual residence in Georgia;
  15. Remove the existing principle of double criminality for the purpose of extraterritorial jurisdiction on SEC offences committed by nationals abroad;

*Protection, recovery, and reintegration*

16. Develop a child-friendly reporting mechanism for child victims of sexual exploitation;
17. Allocate more funds to the Social Service Agency and the special unit in the Ministry of Labour, Health and Social Affairs in order to increase the research on and identification procedures of child victims of sexual exploitation, and in order to increase children's access to recovery and reintegration services;
18. Monitor and guarantee to the full implementation of the Juvenile Justice Code;
19. Provide guidelines on how a child victim may initiate legal proceedings or file a claim;
20. Plan suitable trainings for law enforcement personnel and social workers on how to provide adequate and legal remedies to child victims of sexual exploitation;
21. Strengthen alternative childcare services such as foster homes by providing adequate funding and training to people in charge of children's protection;
22. Increase coordination with regional partners (ie. Council of Europe) with regards to the sexual exploitation of children;
23. Enhance cooperation with the WeProtect network and international law enforcement agencies to detect perpetrators of child online sexual abuse.

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- <sup>1</sup> OHCHR. (2017, January 25). [Consideration of reports submitted by States parties under article 12, paragraph 1, of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography - Reports of States parties due in 2007 – Georgia\\*](#). (UN Doc. CRC/C/OPSC/GEO/1).
- <sup>2</sup> United Nations. (2015). [Sustainable Development Goals Targets 4.2, 8.7 et 16.2](#).
- <sup>3</sup> ECPAT prefers the term ‘*exploitation of children in prostitution*’ instead of ‘*child prostitution*’ in line with the recently widely adopted Terminology Guidelines. ECPAT International. (2016). [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Interagency Working Group in Luxembourg, 28 January 2016](#). Bangkok: ECPAT, 29.
- <sup>4</sup> ECPAT prefers the term ‘*child sexual exploitation material*’ or ‘*child sexual abuse material*’ over the often in legal context still used ‘*child pornography*’ in line with the recently widely adopted Terminology Guidelines. *Ibid.*, 39.
- <sup>5</sup> *Ibid.*, 54.
- <sup>6</sup> UNICEF. (2017, December). [The State of the World’s Children 2017: Children in a Digital World](#). 175 (table 6).
- <sup>7</sup> Osservatorio Balcani e Caucaso Transeuropa. (2016, March 2). [National Minorities under the Georgian Dream](#).
- <sup>8</sup> Minority Rights International Group. (updated after 2014). [Georgia – Minorities and Indigenous Peoples](#).
- <sup>9</sup> Julia Kharashvili. (2013, April). [20 Years of Internal Displacement in Georgia: The International and the Personal](#). *FM Review*.
- <sup>10</sup> Council of Europe. (2018, April 11). [Consolidated Report on the Conflict in Georgia \(October 2017- March 2018\)](#). 12.
- <sup>11</sup> UNICEF. (2011). [Internally Displaced Children](#).
- <sup>12</sup> IIFMCG. (2009, September). [Report of the Independent International Fact-Finding Mission on the Conflict in Georgia](#).
- <sup>13</sup> *Ibid.*
- <sup>14</sup> UNICEF. The State of the World’s... *supra* note 6, 175.
- <sup>15</sup> UNDP. (2018). [Human Development Indices and Indicators: 2018 Statistical Update- Briefing Notes for Countries on the 2018 Statistical Update: Georgia](#), 2.
- <sup>16</sup> UNICEF. (2018, June). [The Welfare Monitoring Survey 2017: Summary](#), 11.
- <sup>17</sup> *Ibid.*, 12.
- <sup>18</sup> *Ibid.*, 7.
- <sup>19</sup> UNICEF. (2018, July). [Children Living and Working in the Streets of Georgia](#), 6.
- <sup>20</sup> World Health Organisation. (2018, February). [Violence against Children Factsheet](#). Media Centre.
- <sup>21</sup> ECPAT International. (2015). [Global Study on Sexual Exploitation of Children in Travel and Tourism- Country Specific Report: Georgia](#). Bangkok: ECPAT International, 12.
- <sup>22</sup> UNICEF. (2013, July). [Violence against Children in Georgia: National Survey of Knowledge, Attitude and Practices. Analysis of Child Protection Referral Procedures and Recommendations to the Government.](#), 19; Public Health Foundation of Georgia (PHF). (2018, October). Personal communication.
- <sup>23</sup> *Ibid.*, 12; Mielnikiewicz, J, & Rimple, P. (2014, August 2). [Georgia: Teenage Prostitution Part of a Bigger Problem](#). *Eurasianet*.
- <sup>24</sup> UN Human Rights Council. (2016, December 21). [Report of the Special Rapporteur on her visit to Georgia](#). (A/HRC/34/55/Add.1), § 22.
- <sup>25</sup> *Ibid.*, § 29; The World Bank Group. (2017). [Individuals Using the Internet \(% of Population\)](#).
- <sup>26</sup> UNICEF. The State of the World’s Children... *supra* note 6, 47.
- <sup>27</sup> ECPAT International. Global Study... *supra* note 21, 24-25.
- <sup>28</sup> Public Defender of Georgia. (2016). Situation of Children’s Rights in Georgia, 13.
- <sup>29</sup> UN Human Rights Council. *supra* note 24, § 24.
- <sup>30</sup> Council of Europe: Group of Experts on Action Against Trafficking in Human Being (2016, June 3), [Report concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Georgia](#). (GRETA(2016)8), 7.
- <sup>31</sup> United States of America: Department of State (2018, June). [2018 Trafficking in Persons Report – Georgia](#), 179.
- <sup>32</sup> Council of Europe, *supra* note 30, 7.
- <sup>33</sup> *Ibid.*
- <sup>34</sup> UNHCR. (2010, June). [Handbook for the Protection of Internally Displaced Action - Sheet 7 Human Trafficking. Persons](#). Genève: Global Protection Cluster (GPC), 218.
- <sup>35</sup> U.S. Department of State, *supra* note 31.

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- <sup>36</sup> Georgian National Tourism Administration. (2018). [International Arrivals 2017 Year](#).
- <sup>37</sup> U.S. Department of State. (2017, June). [2017 Trafficking in Persons Report: Georgia](#), 179.
- <sup>38</sup> *Ibid.*
- <sup>39</sup> Institute of War and Peace Reporting. (2012). [Sex tourism blights Georgian Black Sea resort](#). (video).
- <sup>40</sup> UNICEF, The State of the World's... *supra* note 6, see Table 8, 183.
- <sup>41</sup> Eelens, F. (2017). [Young People in Georgia: An Overview Based on the 2014 General Population Census Data](#). VESTA Ltd., 26.
- <sup>42</sup> UNFPA. (2014, June). [Child Marriage in Georgia \(Overview\)](#). Tbilisi: UNFPA Georgia, 4.
- <sup>43</sup> Gupta, T. P., Taylor, A., Lauro, G., Shengelia, & L., Sturua, L. (2018). ["Exploring Harmful Practices of Early/Child Marriage and FGM/Cin Georgia" - Results from a Qualitative Research](#). Tbilisi, Georgia and Washington, DC: National Center for Disease Control and Public Health, Promundo US, United Nations Population Fund (UNFPA) United Nations Children's Fund (UNICEF).
- <sup>44</sup> *Ibid.*
- <sup>45</sup> ECPAT International, & Plan International. (2015, October). [Thematic Report: Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage](#). Bangkok: ECPAT International, 37-38.
- <sup>46</sup> UN Human Rights Council, *supra* note 24, § 45.
- <sup>47</sup> *Ibid.*
- <sup>48</sup> *Ibid.*
- <sup>49</sup> Government of Georgia. (2016). [Action Plan of the Government of Georgia on the Protection of Human Rights for 2016-2017](#), 63.
- <sup>50</sup> Government of Georgia Human Rights Secretariat. (2018, March). [Human Rights Action Plan for 2018-2020](#).
- <sup>51</sup> UNICEF. (2017, January 17). [Interagency coordination council on child rights established in Georgia](#), *UNICEF Newsletter*.
- <sup>52</sup> UNDG. [Georgia: Prioritizing SDG implementation towards institutional coordination and policy coherence](#).
- <sup>53</sup> Sustainable Development Knowledge Platform. (2016). [Voluntary National Review 2016 - Georgia](#).
- <sup>54</sup> *Ibid.*
- <sup>55</sup> UN Human Rights Council, *supra* note 24, § 44.
- <sup>56</sup> *Ibid.*
- <sup>57</sup> Government of Georgia. (2016). [Action Plan of the Government of Georgia on the Protection of Human Rights for 2016-2017](#), 56.
- <sup>58</sup> *Ibid.*, 61.
- <sup>59</sup> UN Human Rights Council, *supra* note 24, § 74.
- <sup>60</sup> *Ibid.*
- <sup>61</sup> Public Health Foundation of Georgia (PHF). (2018, October). Personal communication.
- <sup>62</sup> Government of Georgia Human Rights Secretariat. (2018, March). [Human Rights Action Plan for 2018-2020](#).
- <sup>63</sup> UN Human Rights Council, *supra* note 24, § 77.
- <sup>64</sup> *Ibid.*
- <sup>65</sup> *Ibid.*, § 74.
- <sup>66</sup> Nicholson, M. (2017, March). [Report on Progress in the Implementation of the National Strategy for the Protection of Human Rights in Georgia 2014-2020, and Recommendations as to Future Approaches](#). United States Agency for International Development (USAID), United Nations Development Programme (UNDP), East West Management Institute-PROLoG, 27.
- <sup>67</sup> *Ibid.*, 28.
- <sup>68</sup> *Ibid.*
- <sup>69</sup> *Ibid.*
- <sup>70</sup> *Ibid.*
- <sup>71</sup> The Georgian Coalition for Children and Youth. (2017, June 22). [An Appeal to Georgia's Parliament: Our Constitution Must Protect Children's Rights](#). Child Pact: Coalition for Child Protection.
- <sup>72</sup> *Ibid.*
- <sup>73</sup> *Constitution of Georgia 1995*, art. 36(3) (Georgia). The amended Constitution has been effective since 13 October 2017, but the provision on children's rights has remained unchanged. Article 30(2) of the amended version stipulates that the rights of mothers and children are guaranteed by the law, but nothing has been added with regard to the

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rights of the child. This information was provided by the Public Health Foundation of Georgia (PHF), the ECPAT Member in the country.

<sup>74</sup> Public Health Foundation of Georgia (PHF). (2018, October). Personal communication.

<sup>75</sup> *Ibid.*

<sup>76</sup> *Criminal Code 1999*, art. 171(3) (Georgia).

<sup>77</sup> *Ibid.*, art. 140.

<sup>78</sup> *Ibid.*, art. 253(2).

<sup>79</sup> *Ibid.*, art. 171(3).

<sup>80</sup> *Ibid.*, art. 143, note 1(a)(c).

<sup>81</sup> UN Human Rights Council, *supra* note 24, § 37.

<sup>82</sup> ECPAT International, Global Study... *supra* note 21, 18.

<sup>83</sup> *Criminal Code 1999*, art. 255(2) (Georgia).

<sup>84</sup> *Ibid.*, art. 255(3).

<sup>85</sup> *Ibid.*, art. 255(1).

<sup>86</sup> *Ibid.*, art. 255.2.

<sup>87</sup> UN Human Rights Council, *supra* note 24, § 36.

<sup>88</sup> *Criminal Code 1999*, art. 143.2 (Georgia).

<sup>89</sup> *Ibid.*, art. 143.1 (note).

<sup>90</sup> *Ibid.*, art. 143.1 (1).

<sup>91</sup> UN Human Rights Council, *supra* note 24, § 36.

<sup>92</sup> *Law on Combatting Human Trafficking 2006*, art. 3(f) (Georgia).

<sup>93</sup> OPSC, art. 3(a).

<sup>94</sup> *Law on Combatting Human Trafficking 2006*, art. 3(f) (Georgia).

<sup>95</sup> *Law on Tourism and Resorts 1997* (Georgia).

<sup>96</sup> Public Health Foundation of Georgia (PHF). (2018, October). Personal communication.

<sup>97</sup> *Criminal Code 1999*, art. 150.1(1).

<sup>98</sup> *Ibid.*, art. 150.1(2).

<sup>99</sup> *Civil Code of Georgia 1997*, art. 1108 (Georgia).

<sup>100</sup> *Ibid.*, art. 1507.3.

<sup>101</sup> *Criminal Code 1999*, art. 71(2) (Georgia).

<sup>102</sup> A similar provision can be found in the Lanzarote Convention to which Georgia is a State party: Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse, Oct. 25, 2007, CETS No.201, art. 25(7).

<sup>103</sup> *Criminal Code 1999*, art. 5(1) (Georgia).

<sup>104</sup> *Ibid.*, art. 5(2).

<sup>105</sup> *Ibid.*, art. 5(3).

<sup>106</sup> Double criminality requires that the offence must be prohibited both in the perpetrator's country of origin and in the country where the offence was committed.

<sup>107</sup> *Criminal Code 1999*, art. 6 (Georgia).

<sup>108</sup> *Ibid.*, art. 6(2).

<sup>109</sup> The State Fund for the Protection and Assistance of (statutory) Victims of Human Trafficking. [About us.](#)

<sup>110</sup> *Ibid.*

<sup>111</sup> UN Human Rights Council, *supra* note 24, § 50.

<sup>112</sup> Government of Georgia. (2014). [National Strategy for the Protection of Human Rights in Georgia \(2014-2020\)](#), 14; UNICEF. (2016, July). [A Better Legislative Environment for Children in Georgia](#), *UNICEF Newsletter*.

<sup>113</sup> *Juvenile Justice Code 2015*, art. 2(1) (Georgia).

<sup>114</sup> UN Human Rights Council, *supra* note 24, § 33.

<sup>115</sup> *Juvenile Justice Code 2015*, art. 4 (Georgia).

<sup>116</sup> *Ibid.*, art. 23.

<sup>117</sup> *Ibid.*, art. 15.

<sup>118</sup> UN Human Rights Council, *supra* note 24, para 51.

<sup>119</sup> *Code of Criminal Proceedings 2009*, art. 243 (Georgia).

<sup>120</sup> *Juvenile Justice Code 2015*, art. 52(3) (Georgia).

<sup>121</sup> *Ibid.*, art. 52(5).

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- <sup>122</sup> *Code of Criminal Proceedings 2009*, art. 60 (Georgia).
- <sup>123</sup> Nicholson, M., *supra* note 66, 4.
- <sup>124</sup> *Juvenile Justice Code 2015*, art. 25 (Georgia).
- <sup>125</sup> ECPAT International, Global Study... *supra* note 21, 32.
- <sup>126</sup> Council of Europe. (2017, May 23). [Report Submitted by the Georgian Authorities on Measures Taken to Comply with Committee of the Parties Recommendation CP\(2016\)5 on the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings- Second Evaluation Round](#). (CP(2017)18), 11.
- <sup>127</sup> U.S. Department of State. 2018 Trafficking... *supra* note 31.
- <sup>128</sup> *Ibid.*
- <sup>129</sup> *Ibid.*
- <sup>130</sup> UN Human Rights Council. *supra* note 24, § 43.
- <sup>131</sup> U.S. Department of State. 2018 Trafficking... *supra* note 31.
- <sup>132</sup> Nicholson, M., *supra* note 66, 28.
- <sup>133</sup> *Ibid.*
- <sup>134</sup> UN Human Rights Council, *supra* note 24, § 53.
- <sup>135</sup> *Ibid.*, § 57.
- <sup>136</sup> UN Women. (last update:2012). [State Fund for the Protection of and Assistance to Victims of Trafficking in Persons \(2006\)](#).
- <sup>137</sup> *Juvenile Justice Code 2015*, art. 99(3) (Georgia).
- <sup>138</sup> European Commission. (2013). [Global Alliance Against Child Sexual Abuse Online - Georgia](#).
- <sup>139</sup> [Agreement on Operational and Strategic Cooperation between the European Police Office and Georgia](#), Apr. 4, 2017, Tbilisi.