

Alliance of Women with Disabilities

Civil Society Alternative Report of Georgia under the UN Convention on the Rights of the Child

**(To the 96th session of the UN Committee on the Rights of the Child to facilitate the discussion of the
report of Georgia and the development of final recommendations)**

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INTRODUCTION

The Alliance of Women with Disabilities (AWD) welcomes the opportunity to outline the lived experiences of disabled children in Ireland from our perspective as an organization of women with disabilities. AWD is the only disabled women's organization in the Autonomous Republic of Adjara (DPO), representing disabled women, girls, non-binary and genderfluid people. We adopt a broad the conceptualisation of disability in line with Article 1 UNCRPD. Therefore, our members self-identify as having ‘long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others’.

In this report, we focus on five key issues related to the rights of children and young people with disabilities: the right to education, the right to healthcare, the right to social security, the right to justice, the right to protection from abuse and exploitation.

On November 20, 1989 Georgia adopted the UN Convention on the Rights of the Child (hereinafter the Convention) entered into force since July 2, 1994. Although certain legislative and other changes have been made in the country since the adoption of the Convention until now, e.g. the adoption of the Code of Children's Rights¹ in 2019 on the basis of which various legislative changes were made, still due to the lack of enforcement of regulations in the country, children's rights are not properly protected. Therefore, there are challenges in the protection of children's rights in almost all areas, especially in the areas of justice, education, healthcare and social protection. This is especially felt in small towns, villages and township-type settlements in regions.

¹ იხ. <https://matsne.gov.ge/ka/document/view/4613854?publication=6>



Right to Education

This is confirmed by the study² conducted in 2022 by the organization "Step Kharagauli" in the Imereti region located in the central part of Georgia. The study includes findings from Kharagauli, Zestafoni, Sachkhere and Chiatura municipalities. According to the study:

a) the level of protection of children's rights in the country, which is mainly influenced by the current economic background, requires serious attention. And though there are municipal social and healthcare services available, in many cases these programs are insufficient for the full and dignified protection of children's rights;

b) there are problems in terms of the legal status of the both children of pre-school educational institutions and children of school age, especially children with disabilities (hereinafter CD);

c) awareness of the society on children's rights is low, including parents, being the ones who violate the rights of their children most often;

d) There is no effective referral structure at the municipal levels enabling to provide an effective response in case of violation of children's rights. This is evidenced by the fact that the activities of the "Child Rights Protection and Support" departments are not transparent and the information about them is low.

The above-mentioned problems are confirmed by the analysis of challenging issues identified during the activity of our organization. We are often approached by parents, especially parents of disabled people, whose children have problems at preschool educational institutions (kindergartens) because, despite existing regulations, kindergartens are always overcrowded due to high demand. Accordingly, the number of staff is not enough and the services provided to the children are not of the proper quality. e.g. 1 educator often has to pay attention to 10-20 children, which becomes even more difficult if there are children with disabilities in kindergartens, because due to their specific needs, they need personal assistants and educators the services of whom are not introduced yet. The infrastructure of these kindergartens is also problematic because, despite the regulations, none of the buildings are fully accessible for the people with disabilities and some of them are only equipped with ramps. At kindergartens there are not enough and trained special teachers for people with disabilities, psychologists, etc. Due to the lack of resources, they do not even try to fill this gap, despite the strict demands of disabled people and their family members as well as organizations.

For the municipalities only nutrition and hygiene are the priority in order to arrange the environment of the gardens under their jurisdiction while other important needs are still being neglected, e.g. toys, books, working with disabled children, managing difficult behavior, accessibility of buildings,

²იბ. https://www.asocireba.ge/files/Step_Kharagauli_Child_Rights_2022.pdf 83.36-53



responding to violence against children, managing areas of child development, introduction of the services of a nurse, a speech therapist, a psychologist and others³.

The situation in private kindergartens is even more difficult than in municipal ones, because in private kindergartens there is frequent discrimination on the basis of disability and they do not even accept children with disabilities due to the lack of specialists and inaccessible environment. This is confirmed by the facts of discrimination established by the Public Defender in such cases⁴.

The inaccessibility of kindergartens is especially felt in villages, where in most cases disabled children not only have to receive an inadequate services, but kindergartens simply do not physically exist.

It is a difficult situation at schools, especially in big cities, because schools are constantly overcrowded lacking the appropriate physical environment and sufficient human resources, despite the fact that the Ministry of Education has one of the leading budget funds in the country. The shortage of speech therapists, personal assistants (although the schools are obliged to have them), special teachers and psychologists is especially challenging.

Parents of disabled children claim that schools refuse to provide appropriate personnel, e.g. a personal assistant, despite the fact that it is written in the relevant document that the child needs the service and the school also has an obligation to hire a respective staff member. The reason is the lack of funds and the unpopularity of the position. Therefore, we, non-governmental organizations, have to literally fight together with parents to make school administrations add appropriate personnel services. Schools often refuse to admit children with disabilities on discriminatory grounds due to lack of personnel and environment, and this unfortunately applies to both private and state schools.

The situation is particularly difficult in regions and villages where the shortage of personnel is especially felt. Also. there are many personnel in schools who are over the retirement age but cannot be allowed to retire, because there is no one to replace them. While these personnel have old, Soviet-era education and mentality as well as views for which it is unimaginable for children with disabilities to study together with other children at public schools. Punishment, humiliation and strict upbringing of children is a common practice in case children do not know the lessons or respond contradictively to teachers. We have an ongoing case where an elderly teacher in a mountainous village of Ajara region discriminates, bullies and abuses a student with disabilities, which is manifested in the fact that he does not take him to outdoor activities with other children and allows only non-disabled children to play in yard, also, he only gives New Year's gifts to non-disabled students, etc. The teacher explains his behavior by the fact that the student is a wheelchair user, retarded in mental development, unable to speak and consequently cannot understand the essence of the activities or the gift. In his opinion, "such" children should study separately at special schools, because there is no point in teaching them and demonstratively demands from the parents of the child to withdraw the him from school.

³ სახალხო დამცველის სპეციალური ანგარიში სკოლამდელი აღზრდისა და განათლების დაწესებულებების მონიტორინგის შედეგები - 2020 წ. იხ. <https://www.ombudsman.ge/res/docs/2020090917221771342.pdf>

⁴ იხ. სახალხო დამცველი გადაწყვეტილება დისკრიმინაციის ფაქტის დადგენის შესახებ <https://www.ombudsman.ge/res/docs/2022010412445986042.pdf>



He declares this publicly and the Ministry of Education and the municipality are well informed about the fact, but they have not taken any measures for months, because "he is an old, meritorious teacher and they don't have another personnel to replace him and let him go." Our organization got involved in this case on the basis of the parent's request, and together with the public defender's office, the issue is being studied and appropriate measures are being taken.

There are also frequent cases of discrimination on the basis of "old" gender-related views, e.g. at one of the schools in Adjara region, girls are definitely asked to obey to the set dress code and wear a black short skirt and a white shirt while this request is unofficial and has no legal basis. No pants, even under a dress and even in winter when there is a lot of snow and cold. While boys are not subject to similar requirements. With the intervention of a non-governmental organization and on the basis of an appeal to the public defender, the public defender established the encouragement of rights violations and discrimination. Accordingly, he indicated to the school to stop such damaging practices⁵.

Right to Healthcare

There are serious problems in terms of protecting children's health rights, especially in regions where it is often impossible to get quality medical services due to the lack of qualified staff and modern medical equipment or adequate buildings. Because of this, children's health is often damaged.

Another problem is the lack of integration of the needs of disabled people by medical institutions, which do not have an accessible environment as well as the medical staff trained appropriately to interact with disabled people. They often use derogatory terms for people with disabilities, plan medical procedures on behalf of people with disabilities and without their participation, and talk about their personal information publicly with people accompanying the disabled patient, because they believe that children, especially children with disabilities, do not "understand" anything about life and decisions should be made on their behalf by their parents or other senior family members. Although the Ministry of Health is taking some measures, e.g. conducts trainings, similar cases are still frequent, because unfortunately the old, Soviet-era mentality still has a strong foundation among the medical staff.

There was a case when a medical needle was left in the child's head as a result of medical manipulation. The investigation of the case has been started but because the Regulation Agency for Medical Activities has not reviewed the case for years, the investigation has been suspended. The National Bureau of Forensic Expertise refuses to conduct an expert examination because it could not find private experts who will evaluate the case, because the offending clinic is a well-known and influential one and all private experts are at the same time professionally or officially affiliated with the mentioned clinic. So, they refuse to participate in the expert examination. Because of all this, it is impossible to draw a medical

⁵ იხ. სახალხო დამცველის ზოგადი რეკომენდაცია <https://ombudsman.ge/res/docs/2024030512253459324.pdf>



report determining that the child suffered health damage, which would serve as a basis for applying to the court and protecting the child's rights.

Right to Social Protection

There are some challenges in terms of the protection of the rights of homeless children and children under the state care. At the request of the Code of Children's Rights, a sub-program for provision of shelters for mothers and children has been created. The program aims to prevent the abandonment of children and their separation from families as well as to empower biological families. Though the mentioned shelters are unable to ensure the effective implementation of the set goals. as much as child delivery and separation animals in the family are avoided and the biological organism is strengthened, although the shelters cannot provide the effective effect of the set goals. This is confirmed by the Public Defender's Special Report⁶ 2022, where it was revealed that:

a) the state funding of shelters is scarce and within the allocated resources it is impossible to meet all the needs of service recipients, including infrastructural, sanitary and hygienic conditions, purchase of personal items, etc.

b) the lack of psychological and rehabilitation services is challenging and the mentioned services are entrusted only to the psychologist of the shelter, the beneficiaries of the shelter are not prepared for independent living. Also, there are no effective mechanisms for economic empowerment, professional training and employment of the service recipients. After leaving the shelter, beneficiaries often have no idea where to continue living and how to provide their children financially and materially and satisfy their own needs. As a result, the ones who suffer the most are children.

c) the engagement of social workers of the state care agencies is low for individual case management, case supervision and meeting the individual needs of service recipients. Rehabilitation services for abused persons enrolled in shelters are often inconsistent and fragmented because of the lack of additional support services outside of shelters.

d) the awareness of both the employees of the institutions and the service recipients about sexual and reproductive health is low. In this regard, stereotypical attitudes are observed in the institutions.

From our side, we can add to the above-mentioned findings of the Public Defender that the shelters cannot meet the needs of disabled children, neither in terms of physical environment, nor the purchase of special food and hygiene items or special aids (e.g. expensive hearing aids). There are no spaces for relaxation and recreation and the shelters are trying to solve these significant problems with the help of external supporters (donors). Our organization, for example, helped the shelter located in

⁶ სახალხო დამცველის სპეციალური ანგარიში „ დედათა და ბავშვთა თავშესაფრების მონიტორინგის შედეგები” თბილისი, 2022 იხ. <https://www.ombudsman.ge/res/docs/2022101315180382770.pdf>



Batumi by donating to it the children's books and fiction that were requested from the beneficiaries. The activity was implemented with the support of the National Library.

Right to Justice

There are serious problems for children in terms of access to justice. Even though the state has adopted a separate law - "Juvenile Justice Code"⁷, it cannot still provide proper protection. These problems are particularly observed in cases of domestic and sexual violence. This is confirmed by the 2021 special report of the Public Defender, "Implementation of justice for the crimes of sexual abuse and sexual exploitation of children".⁸

Although investigators and lawyers are required to have special qualifications in juvenile justice law, this requirement is formal in nature and the lawyers are qualified only by passing theoretical exams, without any practical experience or additional trainings.

Our organization provides support to women and girls with disabilities, including children, in cases of violence. We have faced many problems and systemic gaps in the protection of the rights of the victimized child during the stages of investigation and trial, namely:

Low qualification of investigative and court workers on the needs and rights of children with disabilities. They have standard approaches to children with disabilities, which lead to serious violations of their rights. In cases of violence, they do not properly consider the specifics and nature of the crime. During the qualification of the crime, attention is paid only to the issue of detecting physical violence and the circumstances suppressing the child's will, psychological pressure and injuries are not accurately identified, which, in many cases, would make it possible to qualify the crime of rape and punish the perpetrator. But the focus on only physical damage makes all this impossible.

There are problems with the practice of interviewing juveniles several times, which leads to re-victimization of the victim, there are no proper, separate interrogation rooms in investigative bodies and juveniles often have to talk about difficult facts in the presence of outsiders.

In the case of victims with hearing impairment, there are not enough personnel, especially in regions, for psychologists, psychotherapists, sign language interpreters, etc.

The problems of working with children with disabilities became public in the country only in June 2023 when a deaf girl contacted our organization and asked for help in preventing possible sexual violence against the representatives of her community. As it turned out, these issues were discussed for months through social networks, there were also "rumors", but no one reacted. After the intervention of our organization, dozens of video materials were collected, where the alleged victims and criminals, as well as outsiders discuss the incident.

⁷ იხ. <https://matsne.gov.ge/document/view/2877281?publication=24>

⁸ იხ. <https://www.ombudsman.ge/res/docs/2021080215240452054.pdf>



Our organization immediately submitted this to the investigative authorities and the fact was publicized in the mass media, because the videos also talked about other victims who were afraid and unable to speak. Therefore, legal, interpreter or other support was publicly offered to them⁹.

As a result, one of the most high-profile and precedent cases in the history of Georgia started, which was about sexual violence against disabled people, including disabled children.

During the investigation, the investigating authorities were completely confused and did not know how to start an investigation involving deaf people. Therefore, interrogations were begun in accordance to standard procedures, without the participation of an interpreter, in common interrogation rooms, in noisy and stressful environments that made the already psychologically vulnerable deaf victims even more vulnerable. They were called several times, interrogated for hours in the background of "Was the victim herself agree?" stereotypical attitudes.

State-allocated resources for sign language interpreters were inadequate and soon ran out, delaying the investigation process. So, our organization had to urgently mobilize funds to hire private translators, which was very difficult. Our organization was more actively engaged in searching for the interpreters than the police itself.

Another problem arisen during the investigation was the distrust of the witnesses towards the state interpreters, because the interpreters had certain contact with the alleged criminals, either friendly or professional because the suspects themselves turned out to be deaf people as well. Therefore, the organization had to fight to replace the interpreters for the victims.

During the process, the bias of some interpreters and the tendency to mistranslate the video recordings in favor of the suspects were revealed. In response, we requested an audio-video recording of the sign translation in order to verify the translation, but the investigative authorities stated that they do not have such technical means, and despite our constant requests, this has not been done to date. So, the content of many audio-video files to be verified may be in doubt. It will be necessary at first to varify the files which will prolong the investigation process.

Procedures and methods of conducting expertise in cases of sexual violence are also challenging. Conclusions are chiefly made only on the basis of physical injuries and the damage to the hymen, neglecting the need of assessment of the victim's psycho-emotional condition. Therefore, when a long time has passed since the crime was committed or when the victim has another partner, it becoms impossible to determine this and consequently the investigation is often unsuccessful. Due to this, the rights of the victims are violated, especially in the case of children/adults.

⁹ იხ. <https://shorturl.at/eAV56> , <https://shorturl.at/lsHKZ> , <https://shorturl.at/bdjkF> , <https://shorturl.at/hnMQ9>



Right to Protection from Abuse and Exploitation

The low level of awareness on sexual violence and harassment among children and parents, especially among children with disabilities and their parents, is problematic. This was clearly observed after the publicizing the cases of the deaf mentioned above, when the statements of the alleged victims and their parents to the police increased. The police could not handle alone with the claims and non-governmental organizations involved in interrogations as defenders of the interests of the victims helped them to communicate with the victims, etc. The facts of pressuring and bribing the main witness was observed from the side of the alleged perpetrator. We reported to the police but the police did not deal with it properly. As a result, the witness who publicly accused the suspects on video recordings, today denies everything and became an active member of an organization related to the suspects and even got a job with their support. Now she accuses other victims of spreading false information, while she herself disclosed this news for the first time and contacted our organization as well as journalists. The police has not reacted to this suspicious fact.

The first instance court changed the charge against one of the persons arrested and began to consider the case with a lighter article, which indicates to the ineffective work of the police and the failure to collect evidence or the unprofessionalism of the judicial system.

There also were other cases when, for example, children with disabilities could not enter the courthouses and the judge publicly talked online to a wheelchair user child from outside the courthouse, violating the child's right to privacy.

Our goal with this report is to draw the Committee's attention to the above-mentioned violations of the rights of children, especially children with disabilities, and ask the Committee to reflect these issues in further recommendations.