

**THE PUBLIC DEFENDER (OMBUDSMAN) OF GEORGIA**

**SUBMISSION TO THE UN COMMITTEE ON THE RIGHTS OF PERSONS WITH DISABILITIES**

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#

**Introduction**

This submission is made by the Public Defender (Ombudsman) of Georgia, Georgia’s national human rights institution. It outlines a number of issues that the Public Defender of Georgia suggests should be considered by the Committee on the Rights of Persons with Disabilities as it develops a List of Issues ahead of the consideration of Georgia’s report regarding the implementation of the Convention on the Rights of Persons with Disabilities (UN CRPD).

In these comments, the Public Defender of Georgia aims to provide the Committee with information on a number of key issues that the Public Defender of Georgia believes may be relevant to the Committee in considering Georgia’s implementation of the UN CRPD.

The Public Defender of Georgia thanks the Committee for inviting it to submit information pursuant to Rule 51 of the Rules of Procedure and looks forward to further engagement in the Committee’s review of Georgia’s report.

# Articles 1-4

**Purpose, Definitions, General principles, General obligations**

Improvement of the protection of the rights of persons with disabilities largely depends on the correct analysis of existing situation and development of a needs-based policy. After the ratification of the Convention, significant change was carried out only with regard to the definition of the term of person with disability. In particular, amendment was made to the Law of Georgia on “Medical and Social Examination”, which defined “disability” as follows: “Substantial physical, mental, intellectual or sensory impairments, which may result in temporary or permanent disability (limitation of capabilities)."[[1]](#footnote-1) The content of the definition still contradicts the requirements of the Convention, since the new term, which should have been based on a social model, equalizes the social and environmental factors and leaves in force impairment as a superior factor causing disability.

The issues related to the status of the person with disabilities is regulated by the Law of Georgia on Medical and Social Examination. According to the current regulations, granting a status of a person with disabilities is based only on the medical diagnosis of the person and does not take into account the obstacles caused by other social factors. The list prescribed by the instructions reflects the specific diseases determining the status of person with disabilities, which serve as preconditions for granting the status of the person with disabilities on the basis of the appropriate diagnosis.[[2]](#footnote-2)

Given the medical model of understanding of disability, the problem of terminological gap existing in national legislation is acute.Georgian legislation does not recognize the concept of reasonable accommodation and universal design. The applicable acts do not comply with the Convention approaches and in some cases even contradict them. We can find terms such as “ Handicapped” and “invalid”[[3]](#footnote-3) in the legislation.

In accordance with the amendments made to the Civil Code of Georgia and other 67 laws of Georgia in 2015, the reform of the “legal capacity system” was carried out, but serious shortcomings still remain in terms of its implementation.[[4]](#footnote-4)

One of the most important policy documents in relation to persons with disabilities is the Concept Paper on Social Integration of Persons with Disabilities, which was adopted by the Parliament of Georgia in 2008. The document tries to introduce vision based on the social model, though it includes some flaws and is terminologically insensitive.

It is noteworthy that in order to harmonize the Georgian legislation with the principles of the Convention the Government of Georgia, , defined drafting of legislative amendments and their submission to the Parliament of Georgia as one of the important tasks of the Human Rights Action Plan of 2016-2017

After the ratification of the Convention, the Action Plan on Ensuring Equal Opportunities for Persons with Disabilities (2014-2016) defined measures that were to be taken by the state. The plan, regardless of the imperfect regulation,[[5]](#footnote-5) somewhat perceives the principles of the Convention. However, obligations are not timely fulfilled.[[6]](#footnote-6) In addition, implementation of the document is impeded by the lack of the relevant funds while planning the budget.[[7]](#footnote-7) At the same time, the absence of statistical data and study of the needs of persons with disabilities questions the compliance of the specific components of the plan with actual challenges existing in the filed.[[8]](#footnote-8)

In order to regulate psycho-social rehabilitation, the Government adopted the Technical Regulations on the Approval of Psychosocial Rehabilitation Standards in 2014, which is an important document, but it is necessary to provide enough leverage for its implementation.

The decree of the Government of Georgia annually approves the State Program on Social Rehabilitation and Child Care, the subprograms of which are aimed at ensuring social integration of persons with disabilities, including children, and their involvement in different areas of public life. In 2014, a monitoring division was set up in the Social Protection Department of the Ministry of Labour, Health and Social Affairs of Georgia in order to ensure monitoring of the implementation of the subprograms of the mentioned state program. According to the results of the monitoring conducted by the division in 2015, as well as the information obtained by the Public Defender, the mentioned programs cannot fully cover the needs of target groups and requires improvement of the quality of services and expansion of geographical accessibility.

The sign language has not an official status in the country and nothing is done for its development or effective realization.

Recommendations

* The national legislation and policy documents should be harmonized with the principles and vision of the Convention
* Relevant status should be granted to the sign language and actual measures should be taken for its effective implementation and development
* Social model of granting disability status should be developed and implemented
* Quality and geographical availability of state programs/services oriented to the needs of persons with disabilities should be increased

# Article 5.Equality and non-discrimination

In May 2014, by adopting the Law on Elimination of All Forms of Discrimination,[[9]](#footnote-9) the Parliament of Georgia declared fight against discrimination as one of the priorities of the state. The main advantage of the law isthat it, along with the administrative body, applies to individuals and legal entities of private law. The law introduces the concepts of direct and indirect discrimination. In addition, the list of prohibited grounds is broad and one of the grounds is disability. The same law grants the function of elimination and supervision of discrimination to the Public Defender.

Despite this positive step, existing legal norms and shortcomings hinder its effective implementation and cannot restore the violated rights.[[10]](#footnote-10) In particular, one of the detrimental factors for effective implementation of the law is the fact that individuals and legal entities of private law are not obliged to provide discrimination-related information to the Public Defender, while the term for appealing to the court is limited to only 3 months. In October 2015, the Public Defender addressed the Parliament of Georgia with a legislative proposal concerning the abovementioned issues. The legislative proposal was initiated, but the amendments have not been carried out yet. The law has no instrumental mechanism for its proper enforcement and it does not provide for effective legislative leverage or appropriate repressive measures. In addition, the law does not reflect the approaches of the Convention and does not make reference to consideration of the refusal for reasonable accommodation as discriminatory treatment.

Cases of unequal treatment of persons with disabilities were detected within the framework of the anti-discrimination mechanism of the Public Defender. In particular: persons with disabilities were not allowed to attend an event at the Sports Palace due to improper adaptation of the building. On July 17, 2015, the Public Defender of Georgia addressed the violator with a recommendation[[11]](#footnote-11) to develop an internal document for the promotion of full participation of persons with disabilities in various events.

In November 2015, the Public Defender addressed the Tbilisi Transport Company with a general proposal to take into account the different needs of persons with disabilities and ensure their safe and comfortable transportationin order to prevent and combat discrimination.[[12]](#footnote-12)

Low awareness about the issues related to the disabilities often serves as basis for unequal treatment. A clear example of this is the case studied by the Public Defender, according to which, an individual annulled a lease agreement with a citizen due to the disability (autism spectrum disorder) of his child. Direct discrimination was established as a result of the study of objective circumstances and the Public Defender addressed the violator with a recommendation.[[13]](#footnote-13)

On August 22, 2016, the Public Defender addressed the Ministry of Internal Affairs of Georgia with a recommendation[[14]](#footnote-14) with regard to an applicant who was subjected to direct discrimination as a result of the neglect of his specific needs by law enforcement bodies. In particular, the applicant was not given the right to use a toilet, which turned into degrading treatment against him. In the recommendation, the Public Defender emphasized the obligation of law enforcement agencies to act in any situation so that the rights and freedoms of persons with disabilities are not violated.

In December 2016, the Public Defender addressed the Ministry of Education and Science with a general proposal to prevent discrimination against children with disabilities engaged in inclusive education. It was indicated in the general proposal that absence of proper legislation on inclusive education might, in some cases, infringe the rights of children with disabilities. According to the applicant, a child with autistic spectrum was not allowed to attend classes in case of being “a bit late” by the instruction of the principal of Tbilisi public school No 41. In addition to the fact that similar situations were regulated by the personal viewpoints of the principal, the child's parent and special teacher were not adequately involved in the decision-making process. The Public Defender called on the Ministry to examine the disputed instruction of the school principal, better inform school employees about the nature of inclusive education, speed up the improvement of the legislation on inclusive education, namely define in detail the functions of the multi-disciplinary team members and the role of special teachers at the legislative level and make the functions of such teachers more effective, as well as define in detail the rights and obligations of the parties involved in the inclusive education, especially in relation to the role of parents of children with special educational needs.

##

## Recommendations

* For the purposes of improvement of anti-discrimination mechanism, the Parliament of Georgia should adopt legislative amendments that are currently initiated in the Parliament
* Institutional anti-discrimination mechanisms should be improved and equipped with appropriate leverage, coercive mechanisms and repressive measures
* Refusal of reasonable accommodation should be defined as one of the forms of discrimination; the Government of Georgia and local self-government bodies , through cooperation with relevant agencies, should conduct awareness rising campaignsabout persons with disabilities right to equality and their specific needs

# Article 6. Women with disabilities

The state policy in the field of health care and social protection is not sensitive in relation to the interests of women and girls with disabilities. Although the abovementioned persons represent a group with special needs according to the approach based on the Convention, the policy documents in the field of human rights of the country, as well as state programs, do not regard them as an independent target group. Issues important to them are not taken into account while developing and budgeting state programs, including programs on health care, social rehabilitation, education, employment, etc.

The main strategic document of the country in the field of women's rights - Action Plan 2014-2016 on Implementation of Gender Equality Policy in Georgia - does not specifically define the tasks to be performed for satisfying the specific needs of women and girls with disabilities. It should be disapproved that the Minimum Standards for Service delivary to Persons with Disabilities and Older People in Daily Specialized Institutions, approved by the Minister of Labour, Health and Social Affairs of Georgia on July 23, 2014, does not take into account the needs of the mentioned target group either.

Women with disabilities much more frequently become victims of violence. A special obstacle in preventing violence against women with psychosocial needs and identifying major challenges is the statistics of the country which fully exclude the collection of relevant data on women, especially women with mental health problems.[[15]](#footnote-15) It is problematic both the identification of the cases of violence against these persons and the functioning of relevant support services and rehabilitation referral system. [[16]](#footnote-16)

Representatives of the law enforcement agencies find it difficult to detect cases of violence against persons with disabilities, especially if victims of alleged violence have mental health problems.

Unfortunately, in some cases, police officers do not consider it necessary to talk to victims and they prefer to trust the explanations provided by alleged abusers, which clearlyoutlines need for improvement of the skills of law enforcement officers in identifying the cases of violence against persons with disabilities.

The Public Defender of Georgia studied a case of domestic violence against Ts.Ts. - a person with disabilities. Ts.Ts. had been subjected to violence by her brother for years. She was physically and economically abused and neglected. Ts.Ts. needed specific course of treatment and hospitalization due to her health condition, though given that the abuser enjoyed her pension, he did not want to satisfy her needs. The case was superficially studied by the Ministry of Internal Affairs of Georgia and the results of the investigation were based on the interview with the abuser. The issue of responsibility of the abuser was raised only after the Public Defender of Georgia appealed to the Prosecutor's Office to launch an investigation into the case.

In 2014, in the process of working on a survey developed within the framework of the United Nations program (Implementation of Article 6 of the UN Convention on the Rights of Persons with Disabilities)[[17]](#footnote-17), the Public Defender's Office identified the challenges faced by women and girls with disabilities. Among them, we should emphasize the level of public awareness, including women with disabilities themselves, in the field of human rights. Majority of these people live below the poverty line and have low access to health care, education and employment; the issues of environmental accessibility and adaptation of transportation are unresolved; employment of women with disabilities remains problematic.

Despite the fact that the state medical insurance system covered almost every person with disabilities in the country, women with disabilities still cannot enjoy medical service tailored to their needs, especially in terms of reproductive and sexual health. Medicines necessary for treatment are not sufficiently provided. Majority of beneficiaries financially depend only on the state social package that does not allow them to purchase medicines necessary for their health.

The above mentioned survey conducted by the Public Defender's Office within the framework of the UN Joint Program revealed that violations of the rights of women and girls with disabilities are of a systemic nature. Most of them live in a dangerous environment; access to medical and social services, as well as realization of the right to education, is problematic for them. Collection of statistics on internally displaced women with disabilities, as well as women with disabilities of ethnic minorities, remains a challenge.[[18]](#footnote-18)

Due to the lack of local budgetary funds and the lack of information on persons with disabilities the involvement of local self-government bodies in the resolution of problems of women with disabilities is low, .

## Recommendations

* International acknowledgment of the importance of the protection of the rights of women and girls with disabilities should be shared by the state in order to implement Article 6 of the Convention. The state policy and strategy should be oriented to the needs of these persons
* The rights of women and girls with disabilities should be particularly stressed in the process of developing policies and legislative regulations on fight against discrimination and violence
* The health insurance system should be improved so that to provide medical service, including reproductive health service, tailored to the needs of women and girls with disabilities. The issue of supply of medications necessary for their health should be revised
* Involvement of women and girls with disabilities in the decision-making process and the quality of independence of these persons should be improved
* Representatives of law enforcement agencies should be retrained in the field of the rights and specific needs of womenwith disabilities, especially in identifying cases of domestic violence and responding to them
* Efforts should be taken to increase public awareness aboutthe issues related to women and girls with disabilities

# Article 7. Children with disabilities

There are still many challenges in relation to the protection of children with disabilities in the country. Proper implementation of social rights of these children and their families is among them.

The examination conducted by the Public Defender's Office in 2015 showed that children (including those with disabilities) cannot properly and effectively realize their right to be protected from poverty and inadequate living conditions. Inadequate living conditions were recorded in 55% of the studied cases, while the lack of food products, medicines and educational materials were obvious in 45% of cases. In 55% of the studied cases, the population did not have proper information about the social assistance subprograms of the central and local self-governments.[[19]](#footnote-19) Therefore, the problems of poverty and mortality of children with disabilities are acute. Mortality of children under the age of 5 represents a challenge. In particular, in 2015, the mortality rate of children under the age of 5 was 12 per 1000 live births, which is a significantly higher indicator compared with the relevant indicator in the developed countries.[[20]](#footnote-20) Despite the recommendations of the Public Defender[[21]](#footnote-21), no strategy or action plan has yet been elaborated targeted on this direction.

The issue of determination of disability status is problematic in the early age (0-3 years). The current state regulations cannot ensure early identification and effective management of problems.[[22]](#footnote-22)

The issue of financial availability of health care of children with disabilities is unresolved due to the poor financial situation of their families and the lack of relevnt involvement of central/local government bodies.

The State Program on Social Rehabilitation and Child Care is oriented to the interests of children with disabilities, but it cannot fully cover their needs, which is caused by the fact that measures have been planned over the years without having statistics on the target group and researching their needs. In 2016, the analysis of the information received from the Ministry of Labour, Health and Social Affairs of Georgia showed that the number of children receiving service within the relevant subprograms is low, while the number of those on the waiting list is high. It is necessary to enhance the process of deinstitutionalization, improve specialized foster care and create/implement a relevant model of small group homes. Several shortcomings were observed as a result of the monitoring of foster care[[23]](#footnote-23) and reintegration[[24]](#footnote-24) subprograms. It became clear that the situation of children with disabilities involved in the abovementioned services requires regular supervision by the state.

Study of individual cases revealed that delivery of certain services to children with disabilities is delayed. Among them is the Subprogram on Emergency Assistance to the Families of Children in Crisis conditions. In particular, in 60% of the studied cases, persons applying for the subprogram had not received written information about the involvement orrefusal concerning engagement in the program.

Protection of the rights of children with deep and complex mental development problems is particularly problematic. The country's social protection system is not tailored to the needs of the families, including single mothers, of children with disabilities. The only income of the mentioned persons is a social package (180 GEL). There are no support programs for them (employment of parents in flexible work schedule, financing caretaker expenses, etc.). Consequently, the financial situation and the emotional burden of such families are grave, which increases the risk of placement of children with disabilities in shelters and care institutions.

In 2014-2015, the process of deinstitutionalization and optimization of large residential child care institutions proceededin the country. On January 18, 2016, a memorandum of cooperation was signed between the Social Service Agency (LEPL) and UNICEF. The memorandum provides for development of alternative, small-size services for beneficiaries of the infant's house – orphan children with deep and complex disabilities. The monitoringmade it clear that it is necessary to work more actively and accelerate the process of providance alternative services by the state (foster care, small family type homes, etc) for the beneficiaries as soon as possible.

Due to the absence of coordination mechanism and social services, the situation of children leaving residential institutions due to achieving theage of majority, is alarming.[[25]](#footnote-25) They have serious problems in realization of the rights to education and employment, as well as other social rights.

Violence against children with disabilities represents a challenge. It is particularly dangerous that the violence committed against children with disabilities is often "invisible" and remains without proper response, which is partly caused by the low awareness and stereotypical attitudes of the society and the law enforcement agencies.

The main challenge in this direction is identification of the cases of violence, protection of juvenile victims of violence, practical implementation of rehabilitation measures and lack of professional psychologists working in the field of social services, as well as inadequate cooperation between the relevant agencies. The problems in implementation of effective response system by law enforcement agencies, timely and effective investigation of cases, identification and issue of liability of offenders, launch of relevant criminal prosecution and protection of the procedural rights of juvenile victims are especially acute with regard to the cases of violation of sexual freedom and inviolability of children, including children with disabilities.[[26]](#footnote-26) Children working on the street represent a particularly vulnerable group.[[27]](#footnote-27)

The quality and continuity of the process of inclusive educationremains a challenge. Significant part of children with disabilities, especially in regions, is not involved in the educational process. The number and qualifications of special teachers, physical environment, transportation and access to educational institutions, classroom inventory and educational materials are problematic and mostly insufficient. [[28]](#footnote-28)

It should be noted that the survey conducted by the World Vision Georgia in 2014, one of the components of which was evaluation of the involvement of children with disabilities in everyday life and other activities, showed an alarming tendency compared with other schoolchildren. Most children with disabilities cannot enjoy participation in public life on an equal basis with others due to detrimental environmental factors.[[29]](#footnote-29)

Recommendations

* In order to identify the needs of children with disabilities in the early age, for timely intervention and engagement of children with disabilities in relevant services/programs, the state should introduce a system of outreachof children with disabilities
* Effective steps should be taken in order to reduce poverty and mortality of children with disabilities. Strategy and action plan in this direction should be developed.
* Adequate measures should be taken in order to identify and satisfy the specific needs of all children with disabilities living in relative poverty (especially in rural areas and mountainous regions)
* The scale and quality of health care services should be increased to ensure availability of proper medical care for all children with disabilities with relevant needs. Medical personnel should be retrained in order to ensure appropriate communication (especially with those having problems in verbal communication) with children with disabilities. Social service should be strengthened with human (a position of a psychologist should be added in district centers) and technical resources; the Social Service Agency should strengthen coordination with other agencies
* Programs in the country should be based on statistical data and research of needs, and they should fully cover all target groups
* State policy and internal mechanisms should be strengthened in order to improve the protection of the rights of children in foster care and reintegration program. Appropriate measures should be taken to facilitate development of children and reduce the risk of their abandonment
* The state should carry out active monitoring of the implementation of measures envisaged by the state programs
* All beneficiaries of large child care institutions (orphan children, children with deep and complex disabilities) should be outreached in the process of deinstitutionalization and alternative small-size services should be developed for them as soon as possible
* Effective measures should be taken to eliminate all forms of violence against children with disabilities and to ensure appropriate response to such cases, including through raising awareness
* Appropriate conditions should be provided to improve the quality and continuity of inclusive education (including in high mountainous regions)
* The state should take appropriate measures to eliminate all factors hindering the involvement of children with disabilities in the public life and to encourage their social integration

# Article 8. Awareness-raising

Persons with disabilities frequently encounter obstacles in participatng in the public life as full members of the society, which is caused by unhealthy attitudes towards them. According to the UNICEF survey, 43.3% of youth in Georgia think that the stigma related to the disability is a social norm.[[30]](#footnote-30)

Despite the fact that media has immense potential of making social changes, it is often a source of hate speech, discrimination on various grounds and segregation. Neglect of interests of persons with disabilities and their stigmatization are frequent,[[31]](#footnote-31) which is due to the low level of awareness of persons employed in the broadcasting area and the ineffective self-regulatory mechanisms.[[32]](#footnote-32)

The regulatory acts at the national level (Law of Georgia on Broadcasting[[33]](#footnote-33), Code of Conduct of Broadcasters, Charter of Journalistic Ethics) envisages issues relating to the prevention of promotion of intolerant attitudes and discrimination against persons with disabilities, protection of their privacy and protection of these persons from harmful and offensive materials, as well as the need for maintaining a reasonable balance between the protection of freedom of expression of opinion and information, on the one hand, and the protection of the interests of persons with disabilities, on the other hand. However, implementation of the abovementioned in practice, as well as response to the violations of the norms, is problematic. The Government’s Action Plan 2014-2016 on Ensuring Equal Opportunities for Persons with Disabilities, imposes certain obligations on the National Communications Commission, the Public Broadcaster and other media outlets[[34]](#footnote-34). The monitoring conducted by the Public Defender's Office in 2015 revealed that the plan does not include systemic/complex approach and contains flaws. The strategic document defines donor organizations (without prior identification of such organizations or any prior obligation to finance certain activities) as a financing source, which hinders timely implementation of positive measures. In addition, the agencies concerned (or other stakeholders) are defined as bodies responsible for covering issues relating to persons with disabilities, which is clearly ambiguous both in terms of fulfillment of obligations and effective supervision over the process. Popularization of the Convention is important for raising awareness about the issues related to persons with disabilities. Even though the text of the Convention has been translated and published into Georgian)[[35]](#footnote-35), there is no audio version of the document and it has not been published in a easy to read versions either. At the same time, the material has not been prepared in Braille, large letters or sign language.

##

## Recommendations

* Complex approaches should be introduced and effective policy should be implemented in order to raise awareness about the issues related to persons with disabilities
* Topics related to persons with disabilities should be included in the educational programs at all levels, based on the approaches of the Convention
* The state should ensure continuous training/retraining of persons employed in the areas of the media, health care, social protection and education with regard to the issues relating persons with disabilities, in order to ensure provision of qualified services
* The text of the UN Convention on the Rights of Persons with Disabilities should be timely made accessible to persons with all kinds of disabilities

# Article 9. Accessibility

Accessibility in the state public policy lacks complex understanding. The internal legislation is not in conformity with the requirements of the principles of reasonable accommodation and universal design. In particular, the current regulations are limited and focused only on one component of accessibility - physical environment. An important challenge for persons with disabilities is access to physical, social, economic and cultural environment, as well as access to information and communication.

Infrastructure of educational and medical institutions, banks and other social facilities meet the needs of persons with disabilities only in single cases and partially.[[36]](#footnote-36)

There is no complex standard at the national level for ensuring accessibility. Thematic issues are partially reflected in the Government’s Human Rights Action Plan and the Action Plan 2014-2016 on Ensuring Equal Opportunities for Persons with Disabilities. The periodic monitoring carried out by the Public Defender's Office made it clear that relevant agencies do not fulfill obligations under the abovementioned documents.[[37]](#footnote-37)

The use of subway is problematic for persons with disabilities. The state does not care for the complex resolution of the issue - adaptation of the infrastructure of the existing metro stations. On October 28, 2015, the Public Defender addressed the Municipality Development Fund with a recommendation[[38]](#footnote-38) to consider the principle of universal design in the process of construction of the metro station “University”, but the issue has not yet been positively resolved.

Even though the Government of Georgia approved the Technical Regulations on Architectural and Planning Elements and Arrangement of Space for Persons with Disabilities in 2014, the latter does not apply to the majority of the components of accessibility defined by the Convention (physical environment in all its forms, services and information). At the same time, it does not provide for quick adaptation of important facilities. The main drawback in the document is the fact that the regulations do not provide for enforcement and supervision mechanisms.[[39]](#footnote-39) Appropriate response to the violations is also problematic. The study of certain cases[[40]](#footnote-40) showed that in most cases of arrangement of facilities, projects are not agreed with relevant experts, while the agencies try to avoid responsibility.

It should be disapproved that the involvement of persons with disabilities and organizations working on disability issues is not sufficiently provided in the decision-making process, as well as in the process of development of strategic documents on accessibility and other issues.[[41]](#footnote-41)

Despite some positive changes (ensuring access to emergency services[[42]](#footnote-42), remote services[[43]](#footnote-43)), persons with disabilities still have problems in access to psycho-social, banking, household and other services due to the lack of exchange of information and alternative communication mechanisms.

## Recommendations

* Standards of access to information and services and the obligation of ensuring equal access for person with all forms of disabilities should be defined. The legislative framework, that covers both the private and public sectors, should be improved.
* Transport and road infrastructure should be adapted to the needs of persons with disabilities; new vehicles should be purchased in case of necessity
* The standard of arrangement of space should be modified and implemented in practice
* Effective enforcement and supervision mechanisms should be provided in the process of spatial arrangement. In order to ensure accessibility, the involvement of persons with disabilities should be ensured at the central and local levels of the development of legislation and programs
* Availability of the mass media, television programs and movies should be ensured for persons with disabilities through the use of interpretation into sign language, audio descriptive methods (tiflo*-*commentary), Braille, tactile communication, large print, multimedia, augmentative or alternative communications and other accessible forms, methods, tools and technologies

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# Article 10. Right to life

The right to life is protected by the national legislation in Georgia. In addition, the state is a party to a number of international treaties.

The applicable legislation does not provide for specific approaches in relation to persons with disabilities and is of general nature. One of the most important acts in the mentioned field is the Law of Georgia on Health Care.[[44]](#footnote-44) The norm of the mentioned law concerning non-discrimination of patients does not regard disability as grounds for different treatment.

The National Council of Bioethics is functioning in Georgia. The Conference onPolicy of Human Rights of the Participants in Bio-Medical Researches – Current Challenges and Solutions[[45]](#footnote-45), organized in the Parliament of Georgia on December 22, 2015, showed that the national legislative framework in the field of biomedical research needs to be improved.

As it is known, the Committee for the Prevention of Torture (CPT) particularly focuses on the identification of a suicide threat. Elimination of stereotypes concerning the level of life of persons with disabilities is crucial for the prevention of suicide and full social integration of these persons.

It is noteworthy in relation to exsisting stigma, that the Mental Health Awareness Raising Strategic Plan 2015-2020 (in compliance with the priorities of the Mental Health Strategic Plan) was developed in 2015, but the document has not been approved so far.

In relation to the right to life, it should be noted that the high number of deaths of beneficiaries of boarding houses of persons with disabilities was an unfortunate trend in 2015-2016. Three beneficiaries died from December 2015 to April 2016.

According to the Public Defender's special report, gaps in medical assistance and administration of the mentioned institutions makes it impossible to provide services tailored to the individual needs of persons with disabilities, which provokes gross violations of the beneficiaries' rights and their unequal and degrading treatment. Sometimes it causes violations of these persons’ right to life.[[46]](#footnote-46)

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## Recommendations

* The national legislation in the field of health care/medical-biological research should be revised, improved and harmonized with the requirements of the Convention
* The Mental Health Education and Awareness Raising Strategy Plan 2015-2020 should be approved as soon as possible

# Article 11. Situations of risk and humanitarian emergencies

On March 27, 2015 the 112 Service of the (LEPL) Emergency Management Agency of the Ministry of Internal Affairs, following the Public Defender's recommendation issued in 2013[[47]](#footnote-47) concerning the necessity of exchange of information during receiving calls from deaf persons or persons with impaired hearing through the use of SMS or other adequate measures, launched SMS and video call services adapted for the abovementioned persons..[[48]](#footnote-48) However, the process was delayed[[49]](#footnote-49), while the web page[[50]](#footnote-50) of the mentioned agency is not accessible in an appropriate format for persons with disabilities.

The Police Code of Ethics of the Ministry of Internal Affairs says that police officers are obliged, if necessary, to render assistance and first aid to women, minors, older people and persons with disabilities. The terminology of the mentioned act does not comply with the requirements of the Convention[[51]](#footnote-51). Apart from the imposition of the obligation, it is important to raise awareness of the employees of with regard to the issues of persons with disabilities and their different needs.

As for the situations of risk, particular attention should be paid to of the needs of internally displaced persons with disabilities. Despite the measures taken in accordance with the Public Defender’s recommendations, mentioned persons still have to live in the damaged facilities, which are dangerous for life and health. Interests of persons with disabilities should be properly taken into account in the process of rehabilitation of these buildings and accommodation of IDPs.

Recommendations

* Proper protection and safety of persons with disabilities should be ensured in situations of risk, including during armed conflicts, humanitarian emergencies and natural disasters
* The legislation in the field of public order, safety, situations of risk and humanitarian emergencies should be brought in line with the principles and approaches of the UN Convention on the Rights of Persons with Disabilities
* The webpage of the Ministry of Internal Affairs should be adapted
* The needs of persons with disabilities should be taken into account during accommodation of IDPs, construction of new residential buildings and rehabilitation of buildings; the processes should be properly supervised
* Employees of the 112 Service should be retrained with regard to the evacuation of persons with disabilities

# Article 12. Equal recognition before the law

The legal capacity of persons with disabilities on an equal basis with others and its realization were recognized on the basis of the reform carried out in the national legislation of Georgia in 2015 under Article 12 of the Convention. The state has an obligation to provide appropriate support to these persons and promote expression of their true will.

Plenary guardianship had been used for a long time for persons with psychosocial needs before the implementation of the reform, meaning that all rights of such persons used to be handed over to the guardian after full deprivation of their capacity. As a result of the changes, a support system was established, which provided for the appointment of support for the person according to his/her individual needs.

In 2016, the Public Defender’s Office, within the framework of monitoring the implementation of the Convention, evaluated the part of the capacity system reform, which refers to the recognition of the person as the support recipient and its scopes[[52]](#footnote-52). The mentioned scopes are defined by common courts on the basis of the conclusion of the examination carried out by the National Forensics Bureau.

According to the special report,, as a result of the reform, the legislation mostly reflects the individual needs of persons with psychosocial needs and is mainly in line with the requirements of the Convention and the Constitutional Court.

As for the common courts, it was found out that court in some casesdoes not observe procedural terms and only the resolution parts of the majority of decisions in line with the civil procedural legislation are drafted, which makes it impossible to get the content of the decisions on the appointment of support. The decisions of common courts, which contain a motivation part as well, are template and unsubstantiated. In addition, there is no uniform model of the resolution part of court decisions.

The legislation, in contrast to the decision of the Constitutional Court, directly grants common courts the right to appoint support in cases of petty deals. The applicable regulations blanketly provide for the obligation of the supporter to permanently observe the support recipient’s medical service even if medical support is not assigned. Support recepients are blanketly deprived of a number of rights without judicial or individual assessment. Among them are parental and related rights, as well as the right to hold a position in the public service.

The blanket nature of the appointment of support, full deprivation of capacity and the issues related to plenary guardianship remain to be systemic problem in the process of implementation of the reform.

## Recommendations

* The legislation should define a list of the aspects of right/rights, which cannot be limited or handed over to the supporter due to their personal nature
* Relevant amendments should be made to the legislation, which would authorize support recepientsto appeal against the supporters’ decisions
* Support recepients’ involvementin the decision-making process should be increased In order to increase the substantiation of the decision on recognition of a person as a support recepient, a program should be developed for training of judges, which would raise their awareness concerning the principles and approaches of the UN Convention on the Rights of Persons with Disabilities

# Article 13. Access to justice

Access to justice is not properly realized by persons with disabilities. After the ratification of the Convention, no tangible changes have been carried out in this direction, except for the legal capacity reform(Article 12 of the Convention), practical implementation of which, as noted above, is so far faulty.

Despite the regulations of the national legislation, including the norms on non-discrimination, persons with disabilities cannot properly enjoy their rights. Non adapted physical environment, public transport, public facilities, including the inner and outer infrastructure of the justice institutes, impedes the proper realization of the mentioned right.

The buildings of common courts are not fully adapted for persons with disabilities. Although in some of them it is possible to move via an elevator, there are some obstacles in terms of entering courtrooms (as there are stairs). Accordingly, persons with various disabilities cannot move independently.

The Public Defender appealed to the common courts in 2013 to ensure physical access to court hearings, although the issue is still unresolved.

Blind people do not have access to adapted and alternative forms of documents, including appeal and complaint forms. Persons with intellectual disabilities do not have access to court documents in a easy-read or simplified language. Although persons with hearing and speech disorders are provided with a sign language interpreter’s service, other kinds of communication (submission of applications/complaints/suits independently, legal consultation, reception of various legal documents, etc.) are problematic in the justice system.

One of the important problems is the low level of awareness of persons employed in the mentioned system (judges, prosecutors, investigators, lawyers, police officers, etc.) and the attitude towards persons with disabilities. The training/retraining of the mentioned persons is just one-time and not of systematic nature.

## Recommendations

* Full access to justice, including physical environment, infrastructure, adapted and simplified (easy read) information, should be ensured for persons with various disabilities
* A program should be developed for retraining of persons involved in the justice process (lawyers, police officers, representatives of courts and the Prosecutor’s Office) about the Convention standards and rights of persons with disabilities.

# Articles 14, 15 and 16

# Liberty and security of the person

# Freedom from torture or cruel, inhuman or degrading treatment or punishmnet

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# Freedom from exploiation, violance and abuse

There is no seperate regulation on deomestic violence against persons with dissabilites at the legislative level. Instead, it is integrated with the general policy on deomestic violence, which is regulated by the Law of Georiga on Elimiantion of Domestic Violence, Protection and Support of Victims of Domestic Violence. Therefore, the interests of particulary vulnarable group and specific apporach towards them are not taken into account.

The registration of cases of domestic violence and collection of data remain to be a challenge. Namely, the number of identified cases is low, which, among other factors, is caused by the low awareness of the public, fear of revenge and stigmatization, lack of confidence in the law enforcement agencies and irrelevant mechanisms/services in the field of protection and support of victims of violence.[[53]](#footnote-53)

In the second half of 2015, the Public Defender’s Office of Georgia registered 1 478 cases of domestic violence, in 93% out of which, abusers were men and 87% of victims were women. Unlike sexual aspects, there is no differentiated statistics on physical, physiological, economic, sexual and other types of violence against persons with disabilities. It should be noted that the data on domestic violence is based on the quantity of issued restraining orders, which cannot reflect the real scales of the problem. Some cases were registered by police as “domestic conflicts”, which makes the presumable number of cases of domestic violence more ambiguous.

Effective monitoring of the enforcement of protective measures remains a challenge. It is necessary to introduce a monitoring mechanism that would enable relevant structures to supervise the families where cases of violence were detected, as well as to form a database that would make it possible to plan effective preventive measures.[[54]](#footnote-54)

Coordination and exchange of information between the agencies responsible for responding to the cases of domestic violence are problematic. The study of cases showed gaps in evaluation of the measures taken by law enforcement agencies and the Social Service Agency. In some cases, information provided by the mentioned agencies to the Public Defender is contradictory. In addition, law enforcement officers find it difficult to identify cases of violence even when they are confirmed by social workers and do not respond to them adequately. This problem is particularly acute with regard to cases of psychological violence, during which, warning mechanism is used instead of issuing restraining orders and the main focus is made on the will of the victim, who suffers from secondary victimization in the process of communication with law enforcers. The situation is further aggravated by the fact that law enforcers often do not possess specific skills of communication with persons with disabilities and do not explain the inefficiency of warning mechanism (which is not followed by legal result) to them in cases of repeated violence. It is also problematic that dangers are not correctly evaluated and continuous/systemic nature of domestic violence is not taken into account during responding to such cases.

It should be noted that intensive interference with freedom from torture or cruel, inhuman and degrading treatment or punishment most frequently occurs in closed institutions. Convicts with mobility or sensory disabilities, as well as those with mental health problems, represent one of the most vulnerable groups in the penitentiary facilities. Failure in rendering proper assistance and delivering relevant services to this group may lead to humiliation of these persons[[55]](#footnote-55). The use of solitary confinement is a particular problem.

The special report 2014 of the National Preventive Mechanism describes a case when the abovementioned measure was applied in relation to a prisoner with mental health problems. No psychiatric consultation was provided after placing the convict in the facility. In addition, he inflicted self-injuries four times. Pursuant to the Law of Georgia on Psychiatric Care[[56]](#footnote-56), inpatient care may be voluntary or involuntary. In certain cases, the national legislation provides for the placement of a person in a psychiatric facility against his/her will for the purpose of inpatient treatment if there is a relevant decision of the court. Informed consent serves as basis for voluntary inpatient psychiatric treatment, which means that the patient or his/her legal repressive should express consent in writing about inpatient treatment.[[57]](#footnote-57)

It should be noted that informed consent is just a formality and it is most often obtained without providing proper explanation or full, impartial, timely and intelligible information.[[58]](#footnote-58)

Another problem is that patients are often left in the institutions for a long time against their will, despite the fact that acoording to the law, patients under voluntary inpatient treatment must be discharged from the medical facility at any stage when such a request is made by them.[[59]](#footnote-59) The mentioned negative practice impedes observation of the criteria of necessary consent, leads to intensive intervention and violates freedom and inviolability of persons with disabilities.

The lack of human resources in the health care system of Georgia is a very serious problem. The number and qualifications of the personnel of psychiatric institutions represent a challenge.

The monitoring carried out by the Public Defender in 2015 showed that insufficient funding of the psychiatric services leads to the lack of qualified personnel in psychiatric institutions, absence of proper therapeutic environment, low quality of treatment, poor care and psycho-social rehabilitation, prolonged hospitalization, including due to social problems (no alternative shelter) and unavailability of community-based services. The physical environment and sanitary conditions are also poor in the psychiatric institutions.[[60]](#footnote-60)

Cases of violence were observed in the psychiatric hospitals both among patients and by personnel (nurses). The latter was reflected in the physical abuse of patients, including with the use of sticks. In the process of interviewing, some of the beneficiaries had injuries, which had not been documented in medical papers or the register of measures taken in response to violence. Sticks were found in the nurses’ room during the monitoring, which were likely to be used against patients. By the evaluation of the Preventive Group, abuse and aggressive treatment of patients by the personnel is systematic in the mentioned facility.[[61]](#footnote-61)

The Law of Georgia on Psychiatric Care[[62]](#footnote-62), like the Instructions on Rules and Procedures for Application of Methods of Physical Restraint to Patients with Mental Disorders, does not define the maximum duration of application of the measure of physical restraint, which is dangerous and allows application of the mentioned measure for a long time, g.e for 4 hours in several times. The mentioned acts do not provide for an obligation to document the application of the measure of physical restraint in medical papers or on a special register. The monitoring showed that power is often abused and patients are subordinated to violence by personnel during application of the measure of physical restraint.

Simultaneous use of chemical and physical restraints is especially alarming in light of the fact that there is no clear legal framework for regulating chemical restraint, while reasonableness of its application is not substantiated or documented. This practice clearly contradicts the established standards of international human rights law.[[63]](#footnote-63)

The situation of persons with disabilities is poor in the daily specialized institutions. Institutional arrangement of the community organizations, non-adapted infrastructure[[64]](#footnote-64), lack of professional and assistant staff, shortage of psycho-social services and relevant personnel, poor qualifications, lack of contact with the outside world and families (including children), social inactivity and isolation from the community is a short list of problems.[[65]](#footnote-65) Sometimes they cause violation of the beneficiaries’ right to life. From December 2015 to April 2016, 3 beneficiaries died in the state care institutions.

The number of beneficiaries in boarding houses significantly exceeds the limit defined by standards, which cannot provide conditions close to a family environment. Significant problems were observed in the supply of auxiliary items as well. All this creates degrading conditions for persons with disabilities in the State Care institutions[[66]](#footnote-66).

According to the national standards[[67]](#footnote-67), all beneficiaries of daily specialized institutions for persons with disabilities should be protected from any kind of violence and coercion. Analysis of the interviews with beneficiaries/personnel and examination of documents by representatives of the Public Defender showed that the state care system fails to ensure protection of beneficiaries with disabilities from violence, management of their challenging behavior and prevention of alcohol abuse. Service providers fail to protect beneficiaries from violence and exploitation[[68]](#footnote-68).

Recommendations

* Statistics on cases of physical, psychological, economic, sexual or other forms of violence against persons with disabilities should be collected
* Observation of the requirements of the legislation by law enforcement bodies during responding to cases of domestic violence should be monitored
* Coordination should be strengthened between the agencies authorized to respond to cases of domestic violence
* Personnel of the law enforcement agencies, penitentiary/psychiatric institutions and dauly specialized institutions for persons with disabilities should be retrained in order to ensure protection of human rights and practical implementation of the Convention standards
* The practice of solitary confinement of persons with mental health problems should be eliminated and timely/adequate psychiatric care should be provided for them
* Funding of health care system should be increased; the process of deinstitutionalization should be promoted;state supervision over the quality of psychiatric care and human rights situation in the state care institutions should be strengthened
* Beneficiaries should be protected from discrimination, biased or negative attitudes/actions in the process of service delivery, including through introducing adequate forms and conditions of care
* Risk factors related to the violence and ill-treatment in the care institutions should be assessed

# Article 17. Protecting the integrity of the person

The national legislation contradicts the standards established by the Convention in terms of protection of the integrity of the person and restricts his/her equal right to respect for his/her physical and mental integrity.

It should be noted that provision of psychiatric assistance based on the mentioned right, which requires patient’s informed consent, is problematic in the mental health system.

The monitoring[[69]](#footnote-69) carried out by the Public Defender in the mental health institutions showed that informed consent is only formally obtained from patients before their hospitalization. It serves to avoid forced procedures for hospitalization and is aimed at formally putting the patient’s signed consent in the medical documents. The goal of informed consent and real factual/legal consequences that may lead to refusal or acceptance of the treatment by patients are not explained.

Another problem is prolonged inpatient treatment of patients in psychiatric institutions against their will, which is often caused by: lack of support system, financial problem, absence of modern housing/long-term care facilities, geographical unavailability of outpatient psychiatric services and lack of the community-based psychiatric services, as well as shortage of skills necessary for living independently.

Patients are often provided with voluntary inpatient psychiatric care, during which, persons with disabilities are placed in medical institutions after obtaining consent from their guardians, supporters or legal representatives, which obviousely should not be persieved as expression of the will by the person with psycho-social needs him/herself.

## Recommendations

* All necessary measures should be taken in order to check the authenticity of the patients’ will in case of voluntary psychiatric treatment and the model of psychiatric treatment based solely on the patients’ will should be gradually introduced
* Clear regulations should be developed for obtaining informed consent from persons with disabilities during participating in medical experiments in order to prevent abuse of powers by supporters or legal representatives and interference with patients’ real will.

# Article 18. Liberty of movement and nationality

No significant violations have been reported in the country in terms of realization of the mentioned right by persons with disabilities, but there are some shortcomings in the delivery of various services by the state.

According to the Georgian legislation, citizens can get any service relating to the issuance or/and registration of ID documents through on-site service offered by the Public Service Development Agency (LEPL) of the Ministry of Justice. According to reports, several offices of the Agency are authorized to provide the mentioned service (Tbilisi, Kutaisi and Batumi civil registry offices). Residents of other regions lack this opportunity. The service puts persons with disabilities living in regions, who find it more difficult to exercise the right to liberty of movement due to lack of adapted vehicles and scarce financial resources, in an unequal situation.

In 2017, the Public Defender issued special reports on liberty of movement in the occupied territories[[70]](#footnote-70) and the rights situation of women and children there[[71]](#footnote-71).

## Recommendations

* Changes should be carried out in the on-site service regulations for issuance and/or registration of ID documents, through increasing the geographical coverage of the services in order to make them available for all persons with such needs, including persons with disabilities living in regions.

# Article 19. Living independently and being included in the community

The state is unable to pursue effective and result-oriented policy to help persons with disabilities to live independently.

Independent living opportunities are particularly limited after the expiration of the state care period for persons with disabilities, who spent childhood in the care institutions, but are forced to leave them after reaching age of majority. The institutions do not care for the development of independent living skills. The state does not offer adequate support to these persons and they, apart from facing social-economic problems, are left without housing and appropriate services.

The main challenge in starting to live independently is the lack of adequate housing, which is closely related to the realization of the right to health, social protection, education, employment and other basic human rights.

On August 24, 2015, the Public Defender of Georgia addressed the Government of Georgia with a general proposal (N09-3/6891) to take measures to help persons with disabilities to live independently after leaving state care institutions, but the situation has not changed so far.

The subprogram on community organizations, small family-type homes and day care centers of the State Program on Social Rehabilitation and Child Care are oriented to preparation of persons with disabilities for independent living, though the extremely low number of beneficiaries who are able to enjoy services under the mentioned programs once again indicates that the existing programs and their practical implementation cannot provide adequate support for persons with disabilities.

According to the information submitted to the public defender’s Office by relevant state agency, , during 2016, beneficiaries of the community organizations subprogram amounted216 beneficiaries across the country, the subprogram on day care centers was enjoyed by 507 persons with disabilities and 737 children with disabilities, while the subprogram on small family-type homes, which is one of the components of alternative care at this stage, was enjoyed by only 10 children with disabilities. As it has been already mentioned, the absolute majority of the subprograms have waiting lists,due to insufficient funding for the subprograms, which in turnhampers their effective implementation.

Another significant challenge is prvision of support to persons with psycho-social needs to live independently. Most of them do not have permanent residence. The monitoring carried out by the Public Defender in the psychiatric institutions revealed that some patients spend months and even years at the hospital "without ever leaving it".[[72]](#footnote-72) In the majority of institutions, the so-called "life-long" patients constitute 30-40% of the patients under prolongedinpatient treatment. Among the reasons for prolonged inpatient treatment of patients is absence of housing/long-term care facility, geographical unavailability of outpatient psychiatric services and shortage of community-based psychiatric services, as well as lack of skills necessary for independent living.

## Recommendations

* A strategy and an action plan should be developed with the involvement of state agencies to promote persons with disabilities to live independently, by taking into account the components of preparation of persons with disabilities for independent living, provision of adequate housing, financial support, professional training, employment and development of skills necessary for independent living
* The budget and geographical coverage of programs supporting persons with disabilities to live independently should be increased
* All necessary measures should be taken to start consistent evaluation of mental helath needs and social situation of the patients under long-term treatment, especially those neglected by their families, and gradually provide safe housing for them in order to promote their re-socialization
* The system of monitoring of programs aimed at promotion of persons with disabilities independent life should be strengthened

# Article 20. Personal mobility

Individual mobility is one of the important elements necessary for persons with disabilities to live independently. Requirements of the Convention are not properly observed in this field either.

Although the Technical Regulations on Architectural and Planning Elements and Arrangement of Space for Persons with Disabilities provide for the creation of accessible physical environment for these persons, there is no mechanism for implementing it in practice. Access to public transport, as well as infrastructure of public and private facilities, represents a problem for persons with disabilities.

Provision of persons with disabilities with auxiliary items - wheelchairs (both electronic and mechanical), prosthetic-orthopedic products, walking sticks, crutches, white canes and walking frames is envisaged in the state program. In 2016, the state supplied the mentioned items to 1573 persons with disabilities, while the subprogram waiting lists included 699 people as of January 1, 2017. Persons residing in regions who need auxiliary items often do not have information about the existing programs and the agencies responsible for their implementation.

There are no statistics on persons with disabilities according to the types and forms of disability and therefore, information on the number of items necessary for them is not known. State programs are approved without researching the needs of persons with disabilities, which cannot ensure individual mobility of persons with disabilities.

In addition, according to the information obtained by the Public Defender, the agency responsible for the implementation of the program does not provide relevant training on the rules of use of mentioned items and mobility skills. Consultative and technical services, as well as trainings concerning the use of wheelchairs, are provided by the suppliers of the auxiliary items.

##  Recommendations

* For the purpose of promoting individual mobility and maximum independence of persons with disabilities, the state program should cover all persons with relevant needs and inform them of the available services
* The state should ensure teaching of mobility skills for persons with disabilities and specialists working with them by professionals with relevant education and competences (occupational therapist, orientation and mobility specialist, etc.)

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# Article 21 –Freedom of expression of opinion, and access to information

Proper realization of the mentioned right by persons with disabilities still represents a serious challenge.

The national legislation or strategic documents do not ensure access to information for persons with all forms of disability on an equal basis with others.[[73]](#footnote-73) Therefore, they face obstacles in realizing their rights in every-day life.

The applicable legislation recognizes the sign language as a mean of communication, though it does not say anything about granting a relevant status to it. Regardless of some positive initiatives[[74]](#footnote-74), it should be noted that there is no systemic approach to the issue and realization, development and effective use of the sign language remains problematic[[75]](#footnote-75).

Access to news, entertaining and other television programsis partially problematic as well. No legislative amendments have been drafted concerning interpretation into the sign language, Braille, subtitles, augmentative or other special means of communication; no regulatory norms have been developed for the introduction, production and spread of adapted communication terminal devices and systems and for ensuring accessible format of TV programs, movies, theater and other cultural events.

Information requested from certain agencies within the framework of the monitoring carried out by the Public Defender in 2015 revealed that most of the broadcasting companies do not use adapted communication terminal devices, systems or methods, one of the causes of which is low awareness of the standard of provision of programs in the format accessible to persons with disabilities.[[76]](#footnote-76) In addition, the sign language is used only in few cases in the process of provision of information to the public. In 2015, the Public Defender addressed the National Communications Commission with a proposal[[77]](#footnote-77) to take relevant measures, through cooperation with relevant agencies, for ensuring availability of mass media, TV programs and movies for persons with disabilities. In order to achieve this goal, the Commission should have elaborated an action plan on necessary measures, terms of implementation, result indicators, funding resources and responsible agencies. It is noteworthy that the process is delayed and the responsible agencies are not taking effective measures[[78]](#footnote-78). The needs of persons with disabilities for electronic services and their development potential are not being studied.

Majority of the public agencies, including ministries, do not provide information/services for persons with disabilities in accessible formats.. At the same time, no measures have been taken for the modernization or adaptation of websites. The Global RTI Rating report disapproved consideration of the needs of persons with disabilities by Georgia’s public institutions in the part of provision of requested information.[[79]](#footnote-79) It should also be mentioned that the rate of requesting information from public institutions by persons with disabilities is extremely low due to insufficient support.[[80]](#footnote-80)

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## Recommendations

* An action plan should be developed, which would set out in detail the measures that are necessary to be taken to ensure acess to information for persons with disabilities, terms of its implementation, information about the responsible agencies, funding source and measurable indicators of the outcome
* Persons with disabilities should be properly protected in the process of communication with representatives of state agencies. In addition, the practice of the use of the sign language, Braille and other alternative means of communication, should be introduced
* Relevant agencies should provide public information by using the relevant format and means of communication
* Websites of public institutions should be adapted and made accessible to persons with different disabilities

# Article 22. Respect for privacy

Regulations, which have not been amended after the ratification of the Convention, are used in relation to the realization of the mentioned right by persons with disabilities.

Realization of the right of persons with disabilities to be protected from arbitrary or unlawful interference in their private life, family, residence, correspondence or other communications, is hampered by the challenges exsisting in access to information and facilitation of independent living. Effective implementation of this right is also hindered by the stigma and discrimination against persons with disabilities, particularly persons with mental health problems.

The legislation provides for the protection of private life and personal information of persons with disabilities living in the care institutions. However, as a result of the monitoring conducted by the Public Defender in the daily care institutions for persons with disabilities in 2016, it was made clear that despite detailed regulations, the beneficiaries are not informed of the issues related to the protection of confidentiality. Most of them say no one has informed them of possible violation of confidentiality of their documents.

## Recommendation

Adequate protection of the right to privacy of persons with disabilities should be ensured through implementing the principles of the Convention in the national legislation.

# Article 23. Respect for home and the family

The current regulations and the state policy cannot ensure proper fulfillment of the requirements of this Article. Even though direct or indirect restrictions of the right to marriage and family relations is prohibited, proper realization of this right for persons with disabilities is one of the serious challenges.

The civil legislation imposes certain restrictions on support recipients. In particular, it establishes a blanket obligation of signing a marriage contract by persons with psycho-social needs receveing support, as well as blanket deprivation of parenting and some of the rights associated to it.

Persons with disabilities are not provided with information on reproductive health and family planning issues in accordance with their age. Their right to make a free and responsible decision on the number of children they will have and the interval between childbirths is restricted. The particular problem in this regard is the situation of patients living in the state care institutions, as well as patients (especially women) in the psychiatric institutions.

The right to private and family life of beneficiaries of residential care facilitiesis restricted, which leads to their unequal treatment on the ground of place of residence - institution. They are unable to keep in touch with their children or other family members. Restrictions on the right to private and family life were particularly acute in relation to children and women. Children are often placed in the childcare institution far away from the residence of their parents, so that they are rarely or never visited by their mothers due to lack of transport and financial problems (lack of access to social packages).

According to the Public Defender’s special report[[81]](#footnote-81), the monitoring conducted in the state care institutions of persons with disabilities revealed that the personnel of the state care institutions lack adequate knowledge in reproductive and sexual health. Beneficiaries are not aware of it either, which contains risks of sexual harassment and sexual exploitation. The personnel do not have appropriate skills in managing such risks.

Patients of psychiatric institutions have problems in contacting with family members, including with underage children. Within the framework of the monitoring conducted by the Public Defender, persons with disabilities indicated that their children were placed in foster care and they had not seen them for several years. In addition, they do not have information about who they can appeal to for assistance[[82]](#footnote-82).

Persons with disabilities are not properly supported in upbringing children and performing their parental function.

The right of children with disabilities to live in a family is often violated. No effective measures are taken to prevent children from being away from their parents.

The state does not have enough alternative services, which would ensure living of persons with disabilities in a family environment. The existing measures are not enough to prevent abandonment, denial or segregation of children with disabilities. During 2014-2016, out of 90 children with disabilities living in residential institutions (infants’ boarding house and Kojori boarding house for children with disabilities), only 8 were moved to the foster care sub program and 3 were adopted.

## Recommendations

* The country’s regulations and the state policy should be brought in line with the requirements of the United Nations Convention in order to ensure proper realization of the right to respect for home and family life of persons with disabilities
* Parental rights of persons with disabilities living in the state care institutions, as well as psychiatric hospitals, should be adequately protected. Efforts should be strengthened in order to ensure contact of these persons with their families and children
* The right of children with disabilities to live in a family on an equal basis with others should be protected by the state – support and alternative services (foster care, small family-type homes) should be developed and expanded

# Article 24 – Education

***Preschool upbringing and education***

TheMinistry of Education and Science of Georgia has developed a preschool education program for the purposes of impelemtation ofpreschool education, which is based on the Early teaching and Development Standards, but it is not a binding document and does not allow modification ofteaching and development plans for children with disabilities through an individual approach.

Before the adoption of the Law of Georgia on Early and Preschool Education in June, 2016, there had not been an uniform standard at the preschool education level, which would define the direction of the development of children of preschool age.

The issues related to the functioning of educational institutions had been regulated only at the municipal level with increasing risks of establishing non-uniform practice irrelevant to the child’s rights in the absence of a uniform approach[[83]](#footnote-83). The recent studies showed that conditions are inappropriate in the mentioned institutions. Among the problems are improper infrastructure and feeding, as well as violence against children with disabilities as the most alarming issue.[[84]](#footnote-84)

A different approach was introduced under the new regulations, but they apply only to public institutions, meaning that private institutions are left beyond the process, which cannot ensure complex solution to the problem.

***General education***

The Ministry of Education and Science of Georgia does not have statistics on children with disabilities enrolled in general educational institutions. The Ministry generates the unified data on persons with special educational needs.

In 2015-2016, 498 873 students were enrolled in public schools. According to the data of the statistics office, which is based on the information of the Ministry of Education, 542 367 students were studying at public schools in 2010-2011.

During the past five years, the number of students has been reducing at public schools. The situation is opposite at private schools. This indicator is directly proportionate to the degree of education (including inclusive) offered by the state.

The integration of the issue of implementation of inclusive education for persons with disabilities with the Law of Georgia on General Education after the ratification of the United Nations Convention kind of created a precondition for the introduction of positive practice. However, despite the changes, the normative regulation still regards inclusive teaching as the authority (and not obligation) of general education institutions[[85]](#footnote-85). In addition, the law focuses on geographical and linguistic barriers in terms of ensuring access to general education, but it does not consider disability in the same context, whereas equal access to education is hampered by many factors related to the latter.

The quality and continuity of inclusive education[[86]](#footnote-86) is problematic in general educational institutions. Among the challenges are access to educational institutions and educational materials, the number of special teachers and their qualification. As of March 2016, 1372 special teachers were employed in public schools, which could not satisfy the existing needs. Low payment of special teachers often leads to the attraction of unprofessional staff and their frequent replacement, which negatively affect their motivation and the quality of education.

The realization of inclusive education is also hindered by the non-adapted roads, transport infrastructure and physical environment of the institutions. According to the information of the Ministry of Education and Science, 777 public schools have ramps or simple adaptation. This figure is less than one third of the total number of schools across Georgia. The annual report of the US Department of State indicates that a large number of public schools are incompatible with the needs of children with disabilities, while the level of inclusion is low even at schools considered to be adapted[[87]](#footnote-87).

In June 2014, monitoring of public schools conducted by the Public Defender of Georgia revealed that the public school building in the village of Tsvera of Mestia municipality is damaged and 10 classrooms function under dangerous conditions. In addition, conditions in toilet rooms are poor. Despite difficult geographical location and climate conditions, no transportation is provided for persons with disabilities. The inner and outer infrastructure of the institution is not adapted to the needs of students with differentneeds; implementation of inclusive education program is faulty. The Public Defender addressed the Ministry of Education and Science with a recommendation[[88]](#footnote-88) concerning these and other problematic issues.

Implementation of the approaches of the Convention in practice is hindered by other circumstances as well. Parents of children with disabilities do not have enough support and in many cases they are not informed of the needs of their children.

The Word Vision report 2014 showed that children with disabilities encounter much more problems in terms of involvement in the learning process. Physical and social environments are named as detrimental factors. The majority of children, who do not go to school, does not get education at home either. The study revealed only 4 cases when children were receiving homeschooling service.

Specialized education system continues to function in Georgia. Despite applicable inclusive education model, the existing legislative space and practice allows existence of specialized schools alongside with regular schools, wher children with disabilities can be engaged in inclusive education. Unlike the capital, specialized schools operate only in several regions of Georgia, access to which is problematic for the regional population due tonon-adapted physical environment and transportation.

Full involvement of children with disabilities in the general education system is hindered by the absence of public willingness to perceive them as full-fledged members of the society. Alienation from the society leads to stigmatized attitudes towards them. Inconsistent approach to the specific needs of children with disabilities, as well as improper legislative base regulating inclusive education, encourages discrimination against children with disabilities. On December 23, 2016, the Public Defender of Georgia addressed the Ministry of Education and Science with a general proposal and urged to improve the legislative basis regulating inclusive education.

Another problem in practice is that the role and duties of a special teacher are not defined in detail at the legislative level, which would have made the functions of teachers more effective in the process of making decisions on the inclusive school education of children with special educational needs.

The approval of the Inclusive Education Implementation Monitoring Program should be praised. However, it is important to provide a monitoring instrument at the level of general education as soon as possible.

***Vocational education***

The Law of Georgia on Vocational Education, unlike the Law of Georgia on General Education, is not oriented to the individual needsof persons with disabilities. It does not recognize such a target group separetly and does not take into account the need for application of specific methods in relation to them.

Article 31 of the law, reffering to equal treatment of students, is not characterized by complex approach and determines only "physical ability" as one of the grounds.

Adaptation of space represents a challenge at the level of vocational education as well. Adaptation of the physical environment was launched only in 5 out of 21 state vocational colleges in compliance with the universal design principle[[89]](#footnote-89) in 2015. Although there are ramps at all authorized vocational colleges (required pre-condition for authorization), full adaptation of the environment to various needs of students (classrooms, bathrooms, workshops, etc.), movement inside the buildings and access to educational materials are still problematic.

It should be noted that inclusive education can be considered successful only if it’s graduates can find a job. At this stage, recruitment and selection process of employment consultants is delayed. As of September 2016, only 2 employment consultants were employed in the Social Service Agency.

***Higher education***

The Ministry took some steps to ensure access to higher education. Adaptation of the National Examination Center should be assessed positively. However, the unified national exam registration system (website) is not adapted for persons with disabilities. Special needs of students are only indicated by the students themselves during registration.

According to the data of March 2016, 67 students were getting education in state and private higher educational institutions. This indicator is extremely low in relation to the overall contingent of students in Georgia. The above picture is largely caused by the lack of effective institutional mechanisms for supporting students of higher education.

Effective monitoring of implementation of inclusive education is important. As of today, no inclusive education monitoring mechanism is introduced in the field of general and higher education.

The web-pages of the Ministry of Education and Science, as well as schools, vocational colleges and higher education institutions, are not adapted.

## Recommendations

* Education policy should be based on the principles and standards of the Convention in relation to inclusive education and this approach should be reflected in the national strategic documents and programs
* The quality and continuity of preschool, general, vocational and higher inclusive education should be improved through revising and improving the existing legislative basis
* The needs of children/persons with disabilities enrolled in preschool education, or general, vocational and higher education institutions, should be researched and differentiated database should be developed
* Access to discrimination-free education should be ensured at all stages of education, special attention should be paid to the obstacles related to the territorial accessibility in the regions
* Specialized school education should be considered as an extreme and temporary means for protecting the right of persons with disabilities to education
* The web-pages of the Ministry of Education and Science, unified national exam registration system, as well as general, vocational and higher educational institutions, should be adapted

# Article 25. Health

No tangible changes have been carried out in this direction after the ratification of the Convetion. Significant part of health care state programs cannot satisfy the needs of persons with disabilities. Engagement of persons with disabilities in the universal health care state program, as well as in referral service and rural doctor program, is problematic. Implementation of the mental health state program is also progressing with shortcomings.

Low awareness of reproductive and sexual health issues, as well as delivery of relevant services and enrollment of persons with disabilities in screening programs, is a challenge.

Proper access to health care system for persons with disabilities is largely hampered by unavailability of the system infrastructure. The monitoring carried out by the Public Defender in 2013-2014 showed that it is almost impossible for persons with disabilities to receive necessary medical service due to the problem of accessibility; physical barrier prevents them from arriving at the medical facility or moving inside it. The situation has not been essentially changed for now as well. Communication with medical personnel or reception of necessary information is problematic for deaf and blind persons, as well as as those with impaired vision.

Another problem is lack of information about the insurance system, especially for persons with disabilities and their families living in regions. Many of them are not aware of the available state-funded services. This problem is particularly acute for persons living in regions inhabited by ethnic minorities. As a rule, they cannot explain their needs to medical or administrative personnel due the language barrier. Consequently, there are frequent cases of appealing to unauthorized agencies with regard to health care issues (enrollment in programs, explanations about terms of services).

Public campaigns on health issues are not accessible to persons with disabilities as are not informed of the issues through alternative communication means.

No systematic training is provided for doctors or other medical personnel of the rights of persons with disabilities. The abovementioned is of decisive importance in the process of communication with persons with disabilities and provision of proper services for them.

Problems were detected in relation with the health care of beneficiaries during monitoring the state care institutions of persons with disabilities by the Public Defender. The lack of qualified medical service or regular medical examination were among the problems.

### Mental health

One of the most important problems in realization of the right to health by persons with disabilities, is mental health care.

The mental health care program is largely based on a medical model. The program includes a component such as mobile group service, though it operates only in the capital and even here, number of beneficiaries to be engaged is limited .

According to the Public Defender’s Report on the Monitoring of Psychiatric Institutions[[90]](#footnote-90), Georgia spends most of the finances on inpatient psychiatric services (approximately 70%) and this figure remains steadily high over the years. From the perspective of universal health care funding, dominancy of psychiatric hospitals limits general availability of mental health care services.

For the purpose of implementation of the universal system of care, the country needs to develop services outside hospitals. As of 2015, only 28% of the state program finances was spent on the abovementioned and only 4,5% of this was spent on modern community-based services. (Mental Health Reform National Strategy and Action Plan 2015-2020, Govenrment’s decree N762, December 31, 2014). According to the information provided by the Ministry of Labour, Health and Social Affairs of Georgia to the Public Defender’s Office of Georgia, in 2016 the indicators of mental health funding was as follows: 72% of the mental health state budget was spent on hospital services, 1,5% was spent on community-based services, while 23% was spent on outpatient services. In addition, the budget of psycho-social rehabilitation services amounted only GEL 70.1 thousand as of December 2016.

The high indicator of re-hospitalization is a problem. The risk of re-hospitalization increases when patients are quickly discharged from hospitals, which has negative impact on the adequacy of psychiatric service.. According to the information provided by the Ministry of Labour, Health and Social Affairs, 31 cases of re-hospitalization were reported in 2014 and 25 cases – in 2015.

Mental health services are not equally spread in the country: the quality and accessibility of services is low in poor and further regions. About half of the licensed physiatrists (48%) work in the capital.

The mental health system of Georgia harshly lacks human resources. The shortage of physiatrists is twice as much as the relevant average indicator of the European countries, equalizing to shortage of at least 250 physiatrists in absolute numbers.

The efforts of the state taken during 2015-2016 aimed at reducing stigma and discrimination against persons with mental health problems , as well as raising public awareness of the public and journalists, cannot meet even the minimal required standards.

Absence of fundamental mental health strategy on deinstitutionalization of large mental health institutions, should be disapproved. In accordance with 2015-2020 Mental Helath Development State Program approved by the Government, the mentioned document was to be developed in 2016, but according to the Ministry of Labour, Health and Social Affairs, the strategy will be developed in 2017.

Violation of the rights of women with disabilities is frequent in the process of realization of the right to mental health. According to the Survey on “Violence against Women with Psycho-social Needs in Georgia – Main Trends” carried out by the NGO Partnership for Human Rights, violence against women with psycho-social needs is often caused by the general regulations of the law that do not consider individual needs of women with mental health problems at all. The legislation includes only general regulations, general vision, which are absolutely insensitive in relation to both disabilities and gender. [[91]](#footnote-91)

## Recommendations

* The country’s health care state program should be tailored to the needs of persons with disabilities, including in terms of providing gender sensitive medical service
* Medical personnel should be retrained in order to ensure provision of high-quality, effective and safe medical service for persons with disabilities, including gender sensitive medical service
* The Mental Health Development Strategy and Action Plan 2015-220 should be implemented within the terms prescribed in the mentioned document

# Article 26. Habilitation and rehabilitation

The current habilitation and rehabilitation programs of the country cannot cover all exisiting needs and therefore, the mentioned right is not properly protected.

Despite the fact that the Social Rehabilitation and Child Care State Program consists of several components, its coverage, as well as its budget, is small. As a result, not all persons with needs are provided with necessary services.

As of June 2016, 1151 persons were provided with service under the subprogram on child habilitation/rehabilitation within the framework of the state program, while the number of seekers was 189 as of January 1, 2017.

The subprogram on rehabilitation of children with autism is also aimed at promoting early development of children with disabilities. The mentioned subprogram is being implemented with the local budget and 144 children are enrolled in the program, though there are waiting lists as well. The problem of the subprogram is the fact that the service is provided only to children with disabilities registered in Tbilisi, while children with disabilities living in regions are left beyond the program.

The country does not have a rehabilitation program for adults.

As of today, there is not uniform standard regulating various services offered by the state (at the national or local levels), which has negative impact on the quality of service.

## Recommendations

* The state should strengthen and expand rehabilitation and habilitation programs in order to ensure maximum independence, full realization of physical, intellectual, social and vocational skills of persons with disabilities
* The program should be implemented at the earliest possible stage and should be based on the multi-disciplinary evaluation of individual needs
* The state should ensure accessibility of early development and habilitation-rehabilitation programs for all persons with disabilities (both children and adults) through effective monitoring of the quality of services and increasing geographical coverage and budget of the programs
* The state should adopt unified habilitation-rehabilitation standard, which will be mandatory for all service providers

# Article 27. Work and employment

The regulations of the country’s legislation and leading strategic documents with regard to employment of persons with disabilities are quite general and declarative. The state employment programs are insufficient and inadequate. Effective implementation of the existing small-scale programs is also a challenge.

There are no effective mechanisms for stimulating potential employers (tax allowances, quota system, etc).

Instead of sharing the practice of various countries aimed at stimulating employers through various measures, the national legislation relates employment of persons with disabilities in the public sector to abolition of their right to get social assistance. The only exceptions are persons with severe disabilities or persons with profound disabilities due to sight problems. As a result of the mentioned regulation, part of persons with disabilities are forced to refuse their state financial support, which can lead to discouragement or even even refusal of employment by such persons.

The survey carried out by the Tbilisi State University’s research center on issues of persons with disabilities[[92]](#footnote-92) shows that getting a job by a person with disabilities, especially as a result of an open competition, is an unachievable goal. The cause of the abovementioned often is the low qualifications of persons with disabilities and/or absence of education certificates. Persons with disabilities are mainly employed within the framework of certain initiatives of some organizations (for example, the public registry, local municipalities) as part of campaigns. . The payment of persons with disabilities is very low, which together with other barriers, makes their work non-profitable. In addition, the survey showed that non-adapted physical environment and transport across the country are important barriers for persons with disabilities in getting and maintaining a job. These factors significantly prevent persons with disabilities from getting education, developing professional skills and actively participating in public life.

Persons with disabilities are employed in some small workshops, such as sewing workshops, as well as workshops of felt and other handicrafts, but the number of such workshops is not high. In addition, this kind of employment of persons with disabilities may turn into a negative trend and persived as if theymay not be employed according to their skills or education.

The low number of employed persons with disabilities also reveals the inefficiency of employment efforts. Since October 2015, 32 persons with disabilities have taken part in the State Program on Vocational Training-retraining andQualification Raising, though only 3 of them have been employed. 12 persons with disabilities completed an internship course within the framework of the State Program on Development of Employment Services and only 2 of them were permanently employed. Out of 136 beneficiaries of state care institutions, only 4 are self-employed. 3 beneficiaries are employed by one of the institutions.

In 2016, 32 persons with disabilities were employed in the private sector and 52 - in the public sector.

It should be noted that employment of persons with disabilities is only of one-time nature and is not part of effective state policy.

Realization of the labour rights of persons with disabilities is hampered by the fact that the applicable legislation does not recognize the refusal of reasonable accommodation by employers as discrimination in labour relations.

## Recommendations

* The work and employment legislation should be revised in order meet the commitments under the UN Convention (2006) on the Rights of Persons with Disabilities
* Consistent state policy and strategy should be developed with regard to thepromotion of employment of persons with disabilities in compliance with the basic principles of the UN Convention

# Article 28. Adequate standard of living and social protection

Most of the norms of Georgia are not in compliance with the requirements of the Convention, reflected in this article. No in-depth legal analysis of the legislation has been made after the ratification of the international treaty; no legislative package has been drafted or ways for its implementation have been searched.

Social protection of persons with disabilities is mainly limited to establishing the status of disability and appointing social assistance (disability pension). It should also be noted that determination of the status is based on the medical model of evaluation and has nothing to do with the Convention at this stage.

The financial assistance (GEL 180 for persons with severe disabilities and children with disabilities, GEL 100 for persons with profound disabilities) is often the only income of the persons’ families and cannot satisfy minimum of their needs.

The Social Rehabilitation and Child Care State Program is focused on supporting persons with disabilities, but the lack of services provided by the program, age limit of beneficiaries and geographical coverage of the program are problematic.

The subprogram on community organizations, which is the only program tailored to the needs of adults with disabilities, cannot satisfy even minimal needs. As of 2016, only 135 persons with disabilities were enrolled in the subprogram, while 52 people were on the waiting list.

The subprogram on home care for children with deep mental development disabilities is being implemented only in Tbilisi. 45 persons with disabilities were provided with services under the subprogram in 2016.

24 children with disabilities are enrolled in the small family-type program.

The subprogram on facilitation of communication between deaf persons provides sign language interpreter’s service, but the number of interpreters (12 interpreters across the country) is not enough.

The scales of Tbilisi budget-funded subprograms on provision of an assistant for the blind (3 assistants in Tbilisi) and provision of sign language interpretation for the deaf (3 interpreters under the project) are small. In addition, the service is not continues, permanent or everyday and it provides only one-time assistance for persons with disabilities in public or private institutions.

The existing programs cover only a part of children with disabilities, who remain beyond the service after reaching age of majority. There are almost no programs tailored to the needs of adults, which leads to isolation of adults with disabilities and worsens their health condition.

Consideration of the needs of persons with disabilities in the poverty program is also problematic and ineffective. According to the current regulations, families under the poverty line receive social assistance (state allowance). Applications submitted by citizens to the Public Defender’s Office and the study of cases show that in many cases appointment of social packages (disability pensions) of persons with disabilities serve as basis for abolition of social assistance of their families.

It is not clear how much is spent from the state budget on the social welfare of persons with disabilities. In response to this question, the Social Service Agency (LEPL) provided information only about its total budget, but there is no information about the amount of money spent from the budget on the social assistance of persons with disabilities or the percentage relation between the mentioned amount and the number of persons with disabilities.

Provision of adequate housing and shelter to persons with disabilities is an important challenge in the country. The social protection mechanism offered by the state to persons in need of special assistance/support ignores the need for independent housing, which leads to the risk of segregation of homeless persons. Realization of the right to adequate housing, due to lack of long-term housing service, is a significant problem in relation to persons above 18 years leaving state care after reachingage of majority.[[93]](#footnote-93)

## Recommendations

* The state should replace existing medical-social examination model with a social and functional model for the purpose of determining the individual needs of persons with disabilities and providing adequate services for them
* The state should ensure access to programs tailored to the needs of persons with disabilities for all persons with needs, through increasing geographical coverage and funding of services
* The state should develop programs based on the needs of adults with disabilities in order to ensure continuity of service delivery
* The existing programs should be developed and expanded

# Article 29. Participation in political and public life

Political rights of persons with disabilities and equal opportunities for their enjoyment are not properly ensured in the country.

Despite the fact that the national legislation recognizes active and passive voting rights of citizens of Georgia, persons with disabilities face certain barriers in terms of realizing these rights, which is related to the problems of environment, public transport, access to information and communication.

The existing challenges hamper persons with disabilities to be represented in the election commissions or work as election observers.

The passive voting rights are important, but their realization requires certain preconditions, including the willingness of political parties and blocks to engage persons with disabilities in their activities and to recognize their role and importance; the public attitude towards persons with disabilities also needs to be changed.

According to the data of the Central Election Commission of Georgia, the number of adapted polling stations was only 1115 out of 3 634 polling stations in 73 election districtsduring the parliamentary elections of October 8, 2016. Accordingly, 70% of polling stations were not adapted. It should also be noted that the quality of adaptation is not in full compliance with the standards of the Convention. The universal design principle is not applied in the process of ensuring access to electoral processes.[[94]](#footnote-94)

An important problem is lack of access to the websites of political parties, as well as unavailability of pre-election programsfor blind persons and those with impaired sight.

The website of the Central Election Commission of Georgia, which, according to the Commission, is fully adapted to the needs of persons with disabilities, including blind persons, cannot be accessed without using a special electronic program.

It is important to engage persons with disabilities and their organizations in the decision-making process in order to ensure their participation in the political and public life.

In this regard, one of the objectives of the Government’s action plan (for 2014-2016 as well as for 2017)is to involve persons with disabilities in the decision-making process, including creation/activation of local councils working on the issues of persons with disabilities with participation of these persons and/or their organizations at the local and regional levels.

As a result of the monitoring conducted by the Public Defender, it was revealed that as of December 2016, local councils were created in 33 municipalities of the country, which is half of the existing territorial units. In light of the existing situation, it can be concluded that engagement of persons with disabilities in the decision-making process at the regional and local levels is not properly ensured. Consequently, knowledge, experience and recommendations of these people are not taken into account in the process of solving local issues.

The monitoring once again proved low awareness of local self-government officials with regard to the rights of persons with disabilities. Municipality officials cannot realize well their obligations under action plans - to ensure timely introduction of the local councils for the purposes of involving persons with disabilities (their representatives) in their efforts. Information obtained from the municipalities does not make it possible to essentially assess the impact of the council efforts on the consideration of the needs of persons with disabilities by the self-governing bodies.

## Recommendations

* The problem of access to physical environment, public transport, information and communication across the country should be solved as soon as possible
* The state should provide access to election procedures, means and materials in easy and intelligible format in order to ensure equal, effective and full participation of persons with disabilities in the political and public life
* The state should ensure involvement of persons with disabilities in the activities and management of political parties, as well as the activities of election administrations and observation processes, through introducing legislative regulations
* The councils working on the issues related to persons with disabilities should be timely established/activated at the local and regional levels and active involvement of persons with disabilities and/or their organizations should be ensured in the process of establishment as well as work of such councils

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

The state policy document on the involvement of persons with disabilities in cultural, sporting, leisure and recreational events takes into account the general approaches of the Convention, though the result indicators of the planned events, as well as their budget, is so general and vague that it does not allow their effective implementation .

According to the information provided by the Ministry of Culture and Monument Protection of Georgia, 20 out of 86 buildings of the agencies subordinated to the Ministry are fully or partially adapted to the needs of persons with disabilities (12 buildings have only ramps, 8 buildings have ramps and adapted bathrooms), while 5 buildings are now being repaired.

The study of the issue by the Public Defender made it clear that by June, 2014 577 persons with different kinds of disabilities (intellectual, hearing, sight, etc) were involved in the projects and events funded by the Ministry and 281 out of them were employed within the framewors of the projects. However, employment of persons with disabilities is not continuous and is limited to the duration of the projects.

Materials related to culture are seldom issued in the format accessible to persons with disabilities;
maximum participation of persons with disabilities in general sporting events is not promoted or popularized in the country.

The unpleasant practice in 2015 was the neglect of the different needs of persons with disabilities in sporting, cultural and recreational activities, including the obstacles faced by persons using wheelchairs at the jubilee concert and the opening ceremony of the European Olympic Youth Festival Tbilisi 2015. The Public Defender of Georgia released a special statement[[95]](#footnote-95) regarding the mentioned issue and addressed the Government of Georgia with a recommendation.[[96]](#footnote-96)

Measures with regard to the given right were mainly taken in the capital. The situation in regions cannot meet the objectives of the Convention.

## Recommendations

* The state should ensure access to cultural, sporting, leisure and recreational activities for persons with disabilities on an equal basis with others, as well as full availability of culture-related materials, programs, activities, institutions and services, in accordance with the principles of the Convention
* Maximum participation of persons with disabilities in sporting events should be promoted and popularized

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# Article 31. Statistics and data collection

In 2016, the Public Defender of Georgia studied the situation of collection of statistics on persons with disabilities and its compliance with the requirements of the UN Convention. For this purpose, relevant information was requested from the National Statistics Office, the (LEPL) Social Service Agency and the ministries about collection, maintenance and spread of statistics by them, within their competences, under Article 31 of the Convention.

The examination revealed that the state only counts the total number of persons with disabilities during the census, on the basis of self-identification and information provided by them themselves, which does not provide full information on the needs of these persons.

It was found out that the statistics maintained by the Social Service Agency,, provides information only about the number of persons with disabilities receiving social packages/other allowances and the number of job seekers with disabilities.

Statistics and data on persons with disabilities collected and maintained by the state do not reflect the objective and accurate picture of the protection of their rights. Accordingly, it is difficult to analyze to what extant the rights of these individuals are protected by the state.

In 2016, the Public Defender, on the basis of information received by state agencies, developed a proposal for the Government of Georgia concerning collection and maintenance of statistics and data concerning persons with disabilities.[[97]](#footnote-97)

## Recommendations

* Maintenance of relevant statistics on persons with disabilities should be defined as an obligation at the legislative level in order to ensure effective control of the rights of persons with disabilities
* Involvement of persons with disabilities and their organizations should be ensured in the process of determination of data collection criteria and maintenance of statistics
* Statistics and collected information should be spread in an accessible form
* Effective cooperation and coordination mechanism should be created for the state agencies in order to determine targeted programs and policies for persons with disabilities in accordance with the obligations under the Convention; researchesshould be conducted with regard to persons with disabilities and the results of those researches should be exchanged between the agencies

# Article 32. International cooperation

The state cooperates with international organizations and receives financial, technical, informational and other support from them, in order to facilitate protection of the rights of persons with disabilities. It should also be noted that the scope of the cooperation is not enough to popularize and protect the rights of persons with disabilities. It needs to be expanded. It is important that persons with disabilities be the target group of donor organizations.

## Recommendation

The rights of persons with disabilities should be recognized as a priority within the framework of cooperation with international donor organizations, in accordance with the principles of the UN Convention, which will ensure the inclusive nature of international cooperation, including international development programs.

# Article 33. National implementation and monitoring

The State Coordination Council of Persons with Disabilities of the Government of Georgia was defined as a body authorized to implement the UN Convention on the Rights of Persons with Disabilities, while the Human Rights Secretariat of the Government of Georgia was assigned as a coordination mechanism.

The Public Defender of Georgia was named as a body monitoring the promotion, protection and implementation of the Convention.

The composition, functions and activities of the Coordination Council are not in accordance with the requirements of Article 33 of the Convention. Moreover, the Council fails to fulfill its obligations in practice. In 2015, it held only one meeting, while no meeting was held in 2016.[[98]](#footnote-98)

It can be concluded that the body charged with the implementation of the UN Convention on the Rights of Persons with Disabilities does not actually function in Georgia. Accordingly, the implementation process is significantly delayed.

The Public Defender’s mechanism of the monitoring of the promotion, protection and implementation of the Convention, together with the Department of the Rights of Persons with Disabilities, includes the Consultative Council for Monitoring the Promotion, Protection and Implementation of the Convention and the Monitoring Group.[[99]](#footnote-99)

The Consultative Council is a body that determines the strategy and priorities of monitoring of the implementation of the Convention and consists of representatives of the Public Defender's Office, persons with disabilities, local and international organizations working in the mentioned field. The rules and the composition of the Council were approved by the Public Defender's order.[[100]](#footnote-100) From September 2015 through December 2016, the Council held eight working meetings according to the rules.

The legal capacity reform was surveyed and Government’s action plans were monitored within the framework of the monitoring of the promotion, protection and implementation of the Convention in 2014-2016; psychiatric inpatient facilities and boarding houses for persons with disabilities were monitored together with the National Preventive Mechanism; special reports were prepared.[[101]](#footnote-101)

2 public debates (themes: Challenges in Implementation and Monitoring of the United Nations Convention on the Rights of Persons with Disabilities; Elections and Inclusive Electoral Environment), as well as discussion on the topic: Support to Persons with Disabilities to Live Independently, were held for the promotion of the Convention.

In November 2014, 7 meetings were held in the regions inhabited by ethnic minorities.

Flyers and posters were prepared in English and ethnic minority languages and were spread in order to raise awareness about the rights of persons with disabilities.

In 2015, meetings were held in Kakheti region, which was attended by persons with disabilities, non-governmental organizations and local officials.

A social video[[102]](#footnote-102) was prepared on the rights of persons with disabilities and the Public Defender’s mandate in this direction.

The Public Defender’s Parliamentary Reports on the Situation of Human Rights and Freedoms in Georgia in 2014 and 2015 were printed in Braille and were issued as audio-books.

Training was conducted for members of the Consultative Council, the Monitoring Group and the Special Preventive Group with the support of donor organizations (International Fund for Electoral Systems - IFES, United Nations Development Program - UNDP, funding from the Romanian Government) in 2015. Training was also conducted for journalists for the purpose of providing them with information on persons with disabilities and promoting observation of ethical standards while covering these issues by them.

In 2016, the Human Rights Academy of the Public Defender held trainings for various focus groups, including the organizations working on the issues relating to persons with disabilities. The theme of the trainings was: Implementation and Monitoring of the Convention on the Rights of Persons with Disabilities. Training on Involvement of Persons with Disabilities and Consideration of Their Needs in the Budgeting Process was held for public officials of the self-governing city halls and city assemblies working on financial and social issues.

In 2015, representatives of Public Defender's Office conducted trainings for students of Tbilisi public schools and a documentary film was displayed in order to raise awareness of the issues related to persons with disabilities.

57 press releases were disseminated in 2014-2016 for the purpose of informing the public of the measures taken by the Public Defender for the protection of persons with disabilities.

## Recommendation

A body should be set up for the implementation of the UN Convention on the Rights of Persons with Disabilities and its functioning should be ensured.

1. Law of Georgia on Medical-Social Examination, Article 10 https://matsne.gov.ge/ka/document/view/15772, [↑](#footnote-ref-1)
2. Facilitation of Reform in Granting the Status of Medical-Social Status of Persons with Disabilities in Georgia (in the areas of mental health care), report of the Center for the Rights of Persons with Disabilities under the Public Defender of Georgia, 2009-2010, pages 2-7 [↑](#footnote-ref-2)
3. Law of Georgia on Health Care, Article 3,

 <https://matsne.gov.ge/en/document/view/29980>

Law of Georgia on General Education, https://matsne.gov.ge/en/document/view/29248

Law of Georgia on the Rights of Patients, Article 12, Article 25 [https://matsne.gov.ge/en/document/view/16978 Article 12](https://matsne.gov.ge/en/document/view/16978%20Article%2012), Article 25 [↑](#footnote-ref-3)
4. See comment on Article 12 of the present report [↑](#footnote-ref-4)
5. One of the essential gaps is related to the neglect of the measures to be taken by the state for the creation of an alternative legal capacity model [↑](#footnote-ref-5)
6. The Rights Situation of Persons with Disabilities in Georgia, 2015, page 6 <http://www.ombudsman.ge/uploads/other/3/3327.pdf> [↑](#footnote-ref-6)
7. The plan does not specify the amount of assignment required for the implementation of specific actions [↑](#footnote-ref-7)
8. Guidelines on the Implementation of the UN Convention on the Rights of Persons with Disabilities (UNCRPD). EMC. 2014, pages 7-8, <https://emc.org.ge/2014/08/26/guidelines-on-the-implementation-of-the-un-convention-on-the-rights-of-persons-with-disabilities-uncrpd> [↑](#footnote-ref-8)
9. <https://matsne.gov.ge/en/document/view/2339687> [↑](#footnote-ref-9)
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46. <http://www.ombudsman.ge/en/reports/specialuri-angarishebi/legal-situation-of-persons-with-disabilities-in-the-state-care-institutions.page> [↑](#footnote-ref-46)
47. Public Defender’s Report on the Situation of Human Rights and Freedoms in Georgia in 2013, page 551 <http://www.ombudsman.ge/uploads/other/1/1934.pdf> [↑](#footnote-ref-47)
48. The project was carried out by the support from the UNDP and SIDA. [↑](#footnote-ref-48)
49. The service was launched only two years after the issue of the recommendation [↑](#footnote-ref-49)
50. <http://police.ge/en/lepl/lepl112> [↑](#footnote-ref-50)
51. The term “handicapped” was used. The trend is particularly negative in light of the fact that the last amendment was made to the act by the order №853 of November 6, 2015, of the Ministry of Internal Affairs of Georgia [↑](#footnote-ref-51)
52. <http://www.ombudsman.ge/uploads/other/3/3949.pdf> [↑](#footnote-ref-52)
53. Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences on his Visit to Georgia, page 6 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17073&LangID=E> [↑](#footnote-ref-53)
54. <http://www.ombudsman.ge/uploads/other/3/3892.pdf> Public Defender’s Report on Situation of Human Rights and Freedoms in Georgia in 2015, page 708 [↑](#footnote-ref-54)
55. Situation of Persons with Disabilities in Penitentiary Facilities, Temporary Detention Facilities and Involuntary Psychiatric Institutions [↑](#footnote-ref-55)
56. https://matsne.gov.ge/en/document/view/24178 [↑](#footnote-ref-56)
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58. <http://www.ombudsman.ge/en/reports/specialuri-angarishebi/report-on-the-monitoring-of-mental-health-institutions.page> , National Preventive Mechanism, Report on Monitoring of Psychiatric Institutions, 2015 [↑](#footnote-ref-58)
59. Ibid. [↑](#footnote-ref-59)
60. Conditions are extremely poor in the Surami psychiatric institution and the national psychiatric center Kutiri [↑](#footnote-ref-60)
61. On October 28, 2015, the Public Defender addressed the Chief Prosecutor with a proposal with regard to the mentioned case [↑](#footnote-ref-61)
62. https://matsne.gov.ge/en/document/view/24178 [↑](#footnote-ref-62)
63. Report of the Euroepan Committee for the Prevention of Torture on the visist to Georgia on December 1-11, 2014, paragraph 152. [↑](#footnote-ref-63)
64. Universal design principle has not been taken into account during arranging the physical environment of the boarding houses. Infrastructure of none of the facilities meets the requirements of the required accessibility. Needs of deaf and blind persons are totally ignored. [↑](#footnote-ref-64)
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66. Rights Situation of Persons with Disabilities in the State Care Institutions, National Preventive Mechanism, 2015 <http://www.ombudsman.ge/en/reports/specialuri-angarishebi/legal-situation-of-persons-with-disabilities-in-the-state-care-institutions.page> [↑](#footnote-ref-66)
67. Order N01–54/n of July 23, 2014, of the Minister of Labour, Health and Socail Afaairs of Georgia on the Approval of Minimal Standards for Serving Persons with Disaabilites and Older People in Specialised state Care Institutions [↑](#footnote-ref-67)
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101. <http://www.ombudsman.ge/uploads/other/3/3998.pdf> [↑](#footnote-ref-101)
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