

ქვეყანაში გაეროს განყოფილებასთან და  
სხვა საერთაშორისო ორგანიზაციებთან  
საქართველოს მუდმივი წარმომადგენლობა



MISSION PERMANENTE DE LA GEORGIE AUPRES  
DE L'OFFICE DES NATIONS UNIES ET DES AUTRES  
ORGANISATIONS INTERNATIONALES A GENEVE

No.5/10

31.08.2004

Dear Mr. Paulo Sergio Pinheiro,

With reference to your letter (dated 22<sup>nd</sup> March 2004), I am pleased to transmit to you the attached replies of the Government of Georgia to the questionnaire, which was designed to obtain information for the United Nations Secretary-General's in-depth study on the question of violence against children.

The reply of the Government of Georgia was prepared in the Office of the National Security Council of Georgia and transmitted by the Ministry of Foreign Affairs of Georgia.

With respect and desire for future cooperation,

David Bakradze

Charge d'Affaires a. i.  
Minister Plenipotentiary

**Mr. Paulo Sergio Pinheiro**  
**Independent Expert**  
**Secretary-General's Study on the question**  
**of violence against children**

Encl. 8 pages.

## **Replies to the Questionnaire on the Issues Related to Violence towards Children**

### **LEGAL FRAMEWORK**

#### International human rights instruments

Reference is made to the initial report of Georgia under the CRC, paragraphs 6-10 and 14. According to the data available, there have been no cases in which Georgian courts have referred to the CRC, but other international and regional human rights instruments to which Georgia is a State party were several times referred to at the national courts.

#### Legal provisions on violence against children

With respect to legislative guarantees against violence, including corporal punishment, reference is made to the initial report of Georgia under the CRC, paragraph 186, and the second periodic report under the CRC, paragraphs 152, 153 and 156.

In the context of prohibiting corporal punishment, importance of the following provision of the Law on Education should be stressed: "[A teacher] must ensure school discipline employing methods, which shall not physically abuse or degrade the pupil" (Article 43, paragraph D).

Harmful traditional practices have never been existing in Georgia.

With respect to the problem of displaced children, reference is made to the initial report of Georgia under the CRC, paragraphs 269, 273, and the second periodic report under the CRC, paragraphs 254, 257 and 258.

With regard to the studies and surveys of the legal framework, reference is made to the second periodic report under the CRC, paragraphs 9, 11 and 12.

In 2000 local NGO "Independent Board of Advisers of the Parliament of Georgia", in cooperation with UNICEF, prepared a study entitled "Compatibility of Georgian legislation with the CRC". In 2001 the same NGO, also in cooperation with UNICEF, prepared a study entitled "Commercial Sexual Exploitation of Children: Child Prostitution, Child Trafficking, and Child Pornography - the Ways for Legal Regulation".

#### Courts tasked with addressing violence against children

The Georgian Constitution stipulates that justice may only be administered by the general courts and does not allow the creation of special courts (art. 83, paragraphs 2 and 4). Accordingly, the creation in Georgia of a special juvenile court would contravene the

country's Constitution.

According to the Criminal Procedure Code of Georgia, court trials on the minor's criminal cases shall be conducted by judges having special training in the field of pedagogy and psychology (Article 654). This Article of the Code entered into force on 1 January 2004.

#### Minimum age for sexual activity

Reference is made to the second periodic report under the CRC, paragraph 49.

According to the Civil Code of Georgia, any person who has reached the age of 18 may enter into marriage. In exceptional circumstances, marriage may be permitted from the age of 16, provided that the parents or other legal representatives give their consent in writing. Should the parents or legal representatives withhold their consent, marriage may be authorized by a court (art. 1118).

#### Sexual exploitation of children

Reference is made to the initial report of Georgia under the CRC, paragraphs 306, 309, 310 and the second periodic report under the CRC, paragraphs 286-291 and 293.

In conformity with the Criminal Code of Georgia, inveigling of a minor into prostitution without using violence, threat of violence or deception shall be punished with deprivation of liberty up to 5 years (article 171, paragraph 3).

Since July 2003 the Criminal Code contains article 143<sup>2</sup> - "Trafficking in Minors". The article envisages that "selling or buying of minors, or subjecting them to other illegal deals, also recruiting, transporting, harboring or taking them on, for purposes of exploitation" is punishable by imprisonment from 8 to 15 years. The same offence, committed under aggravating circumstances is punishable by imprisonment from 12 to 17 years. This offence committed by an organized group, or which resulted in a death of a minor person or caused other serious consequences is punishable by imprisonment from 15 to 20 years or by life imprisonment.

#### Pornography and harmful information

The Criminal Code contains article entitled "Inveigling of a minor into illegal producing or trading of pornographic work or other item". It should be underlined that the lawmaker has managed to give exact explanation of the term "minors' pornography". This crime shall be punished with deprivation of liberty up to 5 years (Article 255<sup>1</sup>).

Apart from it, in the context of prevention of pornography some important changes to Georgian Law on Advertisement should be mentioned. The aim of these novelties is to prevent using minors and their images in sexual advertisements. In the

respective articles of the Law the lawmaker has given a clear definition of the advertisements in question (Article 3, paragraph 15) and envisaged provisions prohibiting such visual commercials by means of TV, radio and other media (Article 4, paragraph 14 and Article 8<sup>1</sup>, paragraph 1). At the same time, these prohibitions do not cover medicines and medical products provided that such an advertisement is necessary to protect the public health. In this case distribution of the respective advertisements is being regulated by the law (Article 8<sup>1</sup>, paragraph 2).

According to the Ministry of Internal Affairs, no cases of cruelty, sexual exploitation or pornography involving children were recorded in the period 2001-2003. The internal affairs agencies detected 123 minors engaged in prostitution during the same period. All have been placed on the preventive register. At the same time, the Ministry notes that there is still no specialized institution in the country for the rehabilitation of children in this category.

#### Reporting obligations relating to violence against children

The Criminal Code of Georgia contains article 376 which envisages sanctions (up to 5-year deprivation of liberty) for failure to report crime. This provision covers all citizens.

#### Complaint procedures

Reference is made to the second periodic report under the CRC, paragraphs 26-28.

In compliance with the recent amendments to the Civil Code of Georgia, a minor has the right to legal remedy against abuse of powers on the part of his/her parents or legal representatives. If the parent(s) violate(s) the minor's rights and legitimate interests, in particular, in terms of upbringing and education, this minor shall have the right to apply to guardianship bodies. After a minor is fourteen years old, he/she shall be entitled to independently apply to the court (Article 1198<sup>1</sup>, Paragraph 1). The last provision is very important. Previously a person could apply to the court independently, without parental consent and/or assistance, only after he/she was eighteen. So, pursuant to the above amendment, legal age in Georgia has been decreased and we believe that this is in line with the Committee's approaches in this respect.

In conformity with Article 81<sup>1</sup>, which was added to the Civil Procedure Code of Georgia, in the cases envisaged by law a minor who is fourteen or older has the right to apply to the court to protect his/her rights and legitimate interests. In this case the court shall appoint a procedural representative and consider the case on the merits. A minor is entitled to disagree with the procedural representative and protect himself/herself without help. If such situation occurs, the court is obliged to involve the guardianship body in the case.

According to amendments made to the Criminal Procedure Code of Georgia, the court (the judge) may decide to hold a trial partly or entirely *in camera*, in particular, when a case on the crime committed by a minor is being considered (Article 16, paragraph 4).

According to the Ministry of Internal Affairs, in 2001-2003 criminal proceedings were brought against 850 minors aged 14-18, including 11 girls. These minors had committed 1,674 criminal offences, including 16 murders, 16 attempted murders, 29 cases of intentional infliction of serious bodily harm, 7 rapes, 4 attempted rapes, 70 robberies, 12 abductions of women with a view to forcing them into marriage, and 21 cases of unlawful possession and carrying of a firearm, etc. In all, 1,103 minors were convicted by the courts. The following sentences were handed down: deprivation of liberty (192 cases); suspended sentence (828 cases); punitive deduction of earnings (3 cases); other penalty (68 cases). Sentence was deferred in 12 cases.

#### INSTITUTIONAL FRAMEWORK AND RESOURCES TO ADDRESS VIOLENCE AGAINST CHILDREN

Reference is made to the initial report of Georgia under the CRC, paragraphs 12, 14, 16.

The Children's Rights Centre was set up and became operational within the Georgian ombudsman's office in June 2001. It plays a fairly active role in promoting and protecting children's rights both in terms of education (in Tbilisi and the regions) and in terms of examining individual complaints and offering assistance in specific cases.

The Centre operates a telephone hotline. This service was used by more than 200 callers in 2002, mostly children experiencing problems at school or with their parents, etc. All callers receive counseling, and if necessary staff from the Centre explore the problem in more detail in a face-to-face encounter.

In July 2002 the ombudsman's office concluded a six-month cooperation agreement with UNICEF that became operational in October 2002. Pursuant to this agreement, a grant of more than US\$ 5 thousand has been made available for the following projects:

- Preparation of radio programmes with an educational and advisory focus aimed at children;
- Organization of six thematic symposiums involving representatives of relevant State structures and NGOs;
- Organization of meetings across the country on issues relating to protection of the rights of the child;
- Making and siting of confidential "postboxes" in schools, where pupils can deposit reports of alleged violations of their rights, which are subsequently examined case by case, from sociological, psychological or legal perspective.

To date all the initiatives under the agreement have been launched, except for the radio broadcasts. Negotiations are under way with the donor organization on the possibility of extending the agreement.

In October 2001 representatives of the Children's Rights Centre took part as observers in the annual meeting of the network of European children's ombudsmen in Paris. In November 2001 the Centre became a member of this organization, which brings together the children's ombudsmen of 32 European countries.

As regards the institution of regional delegates of the ombudsman, it should be noted that the law allows the ombudsman to delegate some of his or her powers to local representatives. The work of the representatives is continuously monitored and directed by the ombudsman. The ombudsman's representatives are currently operating in six major regions of Georgia: Imereti, Samegrelo-Zemo Svaneti, Kakheti, Shida Kartli, Kvemo Kartli and Samtskhe-Javakheti. The regional ombudsmen work fairly closely with the Children's Rights Centre. Specifically, they were directly involved in organizing the various regional seminars referred to above.

#### CHILDREN AS ACTORS IN ADDRESSING VIOLENCE

Reference is made to the initial report of Georgia under the CRC, paragraphs 77-79, and the second periodic report under the CRC, paragraphs 72-78.

#### POLICIES AND PROGRAMMES TO ADDRESS VIOLENCE AGAINST CHILDREN

Reference is made to the second periodic report under the CRC, paragraphs 20-22. The National Programme of Action for the Welfare of Children was adopted by the President of Georgia in August 2003.

The National Programme of Action provides for, inter alia, the following:

- Adoption of special legislative measures to protect children from violence in family, educational establishments and facilities of institutional care (executors - ministries of education and justice);
- Elaboration of a programme for the prevention of domestic violence towards children, including measures aimed at investigating specific facts of violence and bringing perpetrators to responsibility (executors - ministries of education, internal affairs, Office of the Public Defender of Georgia, with assistance of donor countries);
- Physical and social rehabilitation and reintegration of child victims of violence (executors - ministries of labor, health and social affairs, and of finances, together with NGOs).

The Programme is to be carried out in 2003-2007.

On 27 September 2003 the President of Georgia issued a special Decree approving Plan of Action against Torture for 2003-2005. The Plan includes five main goals to be achieved. One of these goals is formulated as follows: "Prevention of torture, other cruel, inhuman and degrading treatment against /.../ minors, and improvement of living conditions, food and medical treatment for /.../ minor convicts". In order to attain the goal in question, relevant activities shall be implemented, within established timeframe, by the state bodies concerned. This is about the following:

- Elaboration of proposals aimed at creating system of protection for minor victims of torture during inquiry, preliminary investigation, court trial, and the post-trial period (executing agencies – the Prosecutor-General's Office, the Ministry of Internal Affairs of Georgia, the Ministry of Justice of Georgia, the Ministry of Education of Georgia);
- Improvement of living conditions, food, education opportunities and medical treatment for /.../ minor convicts, to bring them in line with the respective international standards (executing agency – the Ministry of Justice of Georgia).

#### DATA COLLECTION, ANALYSIS AND RESEARCH

Reference is made to the second periodic report under the CRC, paragraph 24.

According to records kept by the Ministry of Internal Affairs, 15 minors committed suicide in the period 2001-2003. The procuratorial bodies are investigating all these cases.

The Ministry of Internal Affairs is to collect information on violent deaths, which are investigated by the Prosecutor-General's Office. According to the Ministry of Internal Affairs, the following statistical data are available:

- In 2000, 239 violent deaths were registered, out of which 215 were uncovered. Four persons under the age 18 became victims of violent deaths; all cases were uncovered;
- In 2001, 263 violent deaths were registered, out of which 217 were uncovered. Six persons under the age 18 became victims violent deaths; four cases were uncovered;;
- In 2002, 292 violent deaths were registered, out of which 237 were uncovered. Five persons under the age 18 became victims of violent deaths; all cases were uncovered;
- In 2003, 302 violent deaths were registered, out of which 222 were uncovered. Nine persons under the age 18 became victims of violent deaths; six cases were uncovered.

See below disaggregated data on premeditated murders of persons under the age 18.

	2000	2001	2002	2003
Sex	2 boys; 2 girls	4 boys; 2 girls	5 boys	8 boys; 1 girl
Age	1 – 5 years old; 1 – 13 years old; 1 – 16 years old; 1 – 17 years old;	1 – 6 years old; 1 – 14 years old; 1 – 16 years old; 3 – 17 years old;	1 – 4 years old; 1 – 12 years old; 1 – 14 years old; 1 – 15 years old; 3 – 17 years old;	2 – newborn babies; 1 – 13 years old; 1 – 15 years old; 4 – 16 years old; 1 – 17 years old;
Ethnicity	3 Georgians; 1 non-Georgian	5 Georgian; 1 non-Georgian	4 Georgians; 1 non-Georgian	6 Georgians; 1 non-Georgian;

				2 unidentified (newborn babies)
External causes of death	2 - firearm; 2 - sidearm	2 - firearm; 4 - sidearm	2 - firearm; 2 - sidearm; 1 - suffocation	2 - firearm; 3 - sidearm; 2 - beating; 2 - unidentified (newborn babies)
Geographical location of incident	1 - Tbilisi; 1 - Khasuri district; 1 - town of Gori; 1 - town of Akhalkalaki	1 - Tbilisi; 1 - Bolnisi district; 1 - Bagmati district; 1 - town of Gori; 1 - Kaspi district; 1 - town of Tsalenjikba	1 - Tbilisi; 1 - Gardabani district; 1 - Martvili district; 1 - town of Marneuli; 1 - town of Zugdidi	1 - Tbilisi; 1 - Gardabani district; 1 - town of Gori; 1 - Gurjaani district; 1 - town of Dmanisi; 1 - Khelvachauri district; 1 - Kvareli district; 1 - Mtskheta district; 1 - Tskhaltubo district
Time and date of incident	15 April; 16 June; 21 August; 25 October	6 January; 17 March; 28 April; 21 September; 28 October; 11 November	6 January; 17 March; 28 April; 21 September; 28 October; 11 November	20 February; 8 March; 15 March; 11 March; 10 August; 10 October; 16 December; 22 December; 26 December

The Ministry of Internal Affairs has also provided the following statistics relating to the period 2001-2003:

- Criminal proceedings were brought against 850 minors aged 14-18, including 11 girls. These minors had committed 1,674 criminal offences, including 16 murders, 16 attempted murders, 29 cases of intentional infliction of serious bodily harm, 7 rapes, 4 attempted rapes, 70 robberies, 12 abductions of women with a view to forcing them into marriage, and 21 cases of unlawful possession and carrying of a firearm, etc. There were no cases of abuse or maltreatment of children during arrest or detention in the period 2001-2003:

- In all, 1,103 minors were convicted by the courts. The following sentences were handed down: deprivation of liberty (192 cases); suspended sentence (828 cases); punitive deduction of earnings (3 cases); other penalty (68 cases). Sentence was deferred in 12 cases.

According to the Ministry of Justice:

- The Georgian penitentiary system includes one young offenders' institution with capacity for 300 inmates. Construction work finished in 2002, and inmates were



transferred to this institution in April the same year. It should be noted that the amenities and conditions at this institution are aligned as closely as possible with Georgian law and relevant international standards;

- In January 2001 there were 34 detainees at the young offenders' institution. In January 2002 there were 20 inmates, and in July 2003 there were 23. There have been no cases of young offenders being detained in penitentiaries for adults;

- In January 2001, a total of 13 minors charged with an offence or standing trial were being held in remand prisons in Georgia. The corresponding figure in January 2002 was 41. As of July 2003, a total of 54 minors charged with an offence or standing trial were being held in pre-trial detention.

### AWARENESS, ADVOCACY AND TRAINING

The task of raising public awareness of children's rights is an ongoing process in Georgia. Thus, for example, with the support of UNICEF and the European Union, a course was organized in late 2001 and 2002 to train trainers in the field of the Convention on the Rights of the Child. The course was attended by 90 professionals from the law enforcement agencies and educational and health-care workers. Twenty of these specialists were selected to undergo special training with a view to subsequently training their colleagues. A total of 60 groups of trainers (1,800 individuals) was to be trained up under this programme by the end of 2003. Of these, 34 groups (1,020 individuals) are educational workers; 10 groups (540 individuals) are physicians and 8 groups (240 individuals) are law enforcement officers. At the end of 2002, a total of 1,350 people had been trained in matters relating to the Convention on the Rights of the Child in Tbilisi, Batumi, Rustavi, Poti, Borjomi and Telavi. There are plans to hold training sessions in Sagarejo, Mtskheta and Gori.

Since 2001 two Georgian television channels have aired video clips prepared with the support of UNICEF that reflect various provisions of the Convention on the Rights of the Child, including children's right to participate. In addition, every Sunday in May and June 2002, also with UNICEF support, Georgian television showed a series of programmes about various aspects of the Convention. The target audiences of this public information project were parents and representatives of bodies that deal directly with issues affecting children. Among the issues discussed were the civil rights of children, particularly the child's right to respect for his or her views and the right to participate.