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**Input for the Office of the UN High Commissioner for Human Rights on challenges experienced by countries in responding to the COVID-19 pandemic**

**Submitted by**

**The National Human Rights Institution – Public Defender   
(Ombudsman) of Georgia**

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Georgian Government started to take active measures aimed at preventing and eliminating the spread of coronavirus at the beginning of March 2020 and the Public Defender (Ombudsperson) of Georgia closely monitored the implementation of these measures since the very beginning of the pandemic. On March 21, 2020, due to the increased threat of the spread of COVID-19 throughout Georgia, the President of Georgia declared a state of emergency that lasted until May 23, 2020. Special quarantine spaces have been set up for the mandatory placement of the relevant persons, in order to prevent the spread of COVID-19 (“COVID hotels” which are operating until now). Relevant legal acts have been adopted by the Parliament of Georgia in order to create legal framework to operate in the context of COVID-19 during and after the state of emergency. Office of the Public Defender (Ombudsperson) of Georgia (PDO) has been continuously analyzing legal acts adopted during the pandemic and studying human rights situation in the context of COVID-19, as well as identifying and responding to the existing challenges in many different areas, such as women’s rights, rights of a child, human rights in defense, economic and social rights of the people affected by the emergency situation, right to health, rights of ethnic and sexual minorities, the situation of persons deprived of liberty, etc.

Throughout the course of the year 2020 PDO identified some of the main challenges in relation to measures taken by the State to combat the spread of COVID-19:

* The Public Defender (Ombudsperson) of Georgia underlined many times that the prevention of and effective response to violence against women and domestic violence in a timely manner should be a priority for the State during the state of emergency and curfew. According to the Ministry of Internal Affairs of Georgia, the rate of applications has not increased during the pandemic, however the international practice shows that mass isolation and curfew increased the risks of domestic violence against women and LGBT+ persons and made it difficult for them to have direct access to the protection and assistance services. In order to respond to the increased risks of domestic violence against women and LGBT+ persons, including the increased rate of applications, the Public Defender (Ombudsperson) of Georgia made a statement at the beginning of the pandemic that a special methodology of risk assessment and monitoring of violence against women and domestic violence should be developed by the law enforcement authority and the mechanism of keeping the offender away from the victim should be used when necessary.
* One of the problematic areas was lack of unified database on homeless people in the country or even local databases in some of the municipalities which made provision of shelter very hard. Additionally, Due to the lack of housing, the homeless were deprived of the opportunity to meet the requirements of the state of emergency (to observe the curfew, hygiene and isolation norms, to stay at home, etc.), which further endangers their life and health and increases the risk of spreading the disease.
* In order to stop the spread of COVID-19 municipal transport was banned in the country on several occasions. As a result, those involved in the tuberculosis, hepatitis C, dialysis and kidney transplantation programmes found themselves in a difficult situation. They have to periodically go to medical centers to get necessary drugs, but for many of them this was a problem due to the ban of public transport. The problem was even more acute with patients who needედ to go to specific medical facilities according to a strictly predetermined schedule in order to receive medical care. In many cases, these facilities are quite far from their place of residence.
* In order to address economic challenges posed by pandemic the Government of Georgia adopted anti-crisis economic plan in spring 2020, however, the Public Defender (Ombudsperson) expressed concerns that the plan did not adequately address the needs of persons with disabilities. According to the plan, only persons with severe disabilities and children with disabilities enjoyed social benefits, while persons with significant and moderate disabilities, as well as the children with Down syndrome and autism, who do not have the disability status due to the defective assessment model, were left without assistance. Such a social policy for persons with disabilities cannot be called satisfactory. In particular, the benefits provided in the plan were based on the status established according to a medical model of disability assessment. The above casts doubt on the effectiveness of the plan, as assistance should be based not on the medical degree of disability, but on the real social needs of the above mentioned individuals in the given situation.
* National Preventive Mechanism (NPM) conducted the monitoring of quarantine spaces in March-May 2020. 112 respondents were interviewed in detail at 41 quarantine hotels. It should be noted that most of the responses were positive. The monitoring showed that the living conditions at hotels were mostly good. Only few respondents expressed dissatisfaction, however, monitoring showed the need for psychological assistance for persons placed at such places, since isolation along with general anxiety related to the pandemic, causes moderate to high level of stress. NPM detected certain cases of violation of child’s rights. Particularly in the cases of children with behavioral disorders, as well as children with autism spectrum disorders, as it was more difficult for them to be in a strange and closed space, which is a challenge for their parents as well. In the above cases, self-isolation was not used for unknown reasons, which would have improved the condition of these children.
* On May 21, 2020, the Public Defender (Ombudsperson) of Georgia submitted opinions to the Parliament of Georgia relating to the draft amendments to the Law of Georgia on Public Health and the Criminal Procedure Code of Georgia in the context of COVID-19 pandemic. Having observed that while introducing certain restrictions for the protection of human life and health during the pandemic, certain constitutional standards were not reflected in the draft amendments in question. PDO further noted that it is important that the procedure of decision-making relating to isolation and quarantine measures be clear, that the remedies of placed persons be strengthened and that an effective appeal mechanism be introduced. At the same time, Public Defender (Ombudsperson) highlighted that given that the draft amendments granted special powers to the Government, it was important for the legislator to provide appropriate guarantees for the administration of effective justice in case of interference with human rights by the executive government (by introducing shortened hearing terms). It should be noted that the obligation to inform persons on the grounds of their placement in isolation/quarantine, right to the lawyer and right to inform a person indicated by them about their placement in isolation/quarantine was established following the Public Defender’s (Ombudsperson) recommendation. The amendments were adopted on May 22, 2020. As a result of the adopted amendments, the Government of Georgia was granted the right to impose new regulations and restrict fundamental human rights without declaring a state of emergency. It was problematic that use of certain restrictions related to the pandemic was not foreseeable. Public has not been informed as to why a specific restriction was required for a specific period of time and what would be the expected result of their introduction. As noted above the issue of introduction and removal of restrictions was regulated by a government’s sub-legal act, hence it allowed the government to make changes easily and frequently. There was a reasonable suspicion that certain restrictions might be based on political expediency and in order to be used as grounds for restricting e.g. the right to peaceful assembly.
* During the state of emergency in the country and after its lifting, detailed criteria were not written at the normative level, which, if met, could lead a person to self-isolation. As a result, the possibility of self-isolation was problematic in practice, despite meeting the appropriate conditions. As an example of good practice set in place by state authorities it should be noted that from June 2, 2020, the relevant resolution of the Government of Georgia defined additional criteria that a person must meet in order to be transferred to self-isolation. It should be also positively assessed that the Ministry of Internal Affairs of Georgia has taken into account the recommendation of the Public Defender and has developed a short guide for the employees of the Ministry who have relations with the persons transferred / placed in the quarantine space.
* During the pandemic, the remote administration of criminal justice and electronic court hearings became the subject of Public Defender’s (Ombudsperson) particular attention. From May 18 to June 22, the Public Defender’s (Ombudsperson) representatives attended 279 remote hearings in 21 district and city courts and as a result published the special report. The monitoring revealed a number of substantial problems. In particular visual and audio problems during online hearings hindered the normal course of the hearings and in some cases led to the postponement. PDO also noted in the report that remote hearings have become a significant challenge in terms of realizing the right to a fair trial since for the vast majority of defendants it was not possible to have confidential communication with the lawyer. In addition, during questioning, the court often failed to verify the credibility of witnesses. It was even problematic to see or hear witnesses due to technical deficiencies. There were possible facts of influence on witnesses and insufficient safeguards also were in place in order to prevent influence on witnesses. During remote hearings, it was impossible to examine material evidence. The video-recordings examined during several trials were not at all perceptible to the participants of the trial. The quality of translation was also poor in some cases.

Considering that some of the restrictions are still in place until now the PDO continues to observe the situation in the context of COVID-19. It should be noted that many public institutions managed to adapt to teleworking and most of the services were delivered online. Second wave of restrictions were introduced in autumn 2020 and are gradually lifting up since the beginning of March 2021. Transition is not very smooth considering the existing political tensions in the State, however, public institutions continue to observe safety measures.

In order to inform the citizens the Public Defender of Georgia published a statement on human rights standards during a pandemic/epidemic. In the statement, the NHRI responds to a number of frequently asked questions about human rights standards in the current situation. The NHRI has also published news on a number of coronavirus-related issues. Among others, it addressed the rights of persons with disabilities and provided information on rights and responsibilities of employees and employers.

Moreover, PDO disseminated a short guide for the citizens who have been fined for violating the isolation and/or quarantine rules after the state of emergency was declared in the country. The guide answers most frequently asked questions about where and how the fine can be appealed and how should it be paid.

It should be also noted that the Public Defender’s Office of Georgia continues to provide Stateless Persons, Asylum Seekers and Persons with International Protection with legal counseling services.