

ENOC

European Network of Ombudspersons for Children



ENOC 15th ANNUAL CONFERENCE

“The respect of the rights of children and young people in institutional care”

14, 15 and 16th September 2011
Warsaw, Poland

Name of the member institution : **Centre for Child and Woman’s Rights at the office of the Public Defender (Ombudsman) of Georgia.**

Current Ombudsperson: **Anna Arganashvili (head of the Centre)**

I. Role and structural organization

- Legal framework: **Centre for Child and Woman’s Rights (hereinafter referred as the Centre) operates in the framework of the Organic Law of Georgia on the Public defender (art.26) as the specialised centre to assist the Public Defender in carrying out the activities set forth in this law.**
- Principal functions as defined by law **The centre assist the Public Defender in overseeing the Observance of human Rights and Freedoms on the territory of Georgia and within it’s jurisdiction.**

Extract from the Law of Georgia on the Public Defender

Article 3

1. For the purpose of securing state guarantees for the protection of human rights and freedoms, the Public Defender shall supervise that the state and local self-government bodies, public entities and officials observe and respect the rights and freedoms recognized by the state for all persons within its territory and jurisdiction regardless of race, color, language, sex, religion, political or other opinion, national, ethnic and social belonging, origin, property and title, place of residence or other status.
2. The Public Defender shall reveal facts of violations of human rights and freedoms and facilitate redress of violated rights and freedoms.
3. The Public Defender shall undertake educational activities in the field of human rights and freedoms.

Article 3¹

1. The Public Defender of Georgia exercises the functions of the National Preventive Mechanism, envisaged by the Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

II. Individual complaints (if the institution has a competence to handle individual complaints)

- Scope of competences of the Ombudsperson in handling individual complaints: **The Centre is handling the complains on child rights violation covering all the areas of CRC**

Relevant statistics (if available) on:

- Number of cases for the year 2010-2011 or for a given period in between: **(101 complains submitted in 2010; 98 complains submitted in 7 months in 2011 from January to July)**
- Complaints' main authors. What is the percentage of complaints initiated by children: **2-3%**
- Age average of concerned children,: **of all age groups - until 18 years.**
- Area of complaints (ex: situations relating to schools, social and housing problems etc.). **child protection, right to education, standard of living, health-care, social and housing problems etc**

III. Expressed opinions, statements, policy recommendations and/or proposals for legislative and/or other reforms

During 2010 Ombudsman of Georgia, Mr. George Tugushi addressed 3 official recommendations to the executive governments of Georgia to examine the incidents indicating the violation of the Child Rights:

1. Recommendation to the Minister of Labor, Health and Social Affairs made on 27 Oct., 2010: to study the issues connected with the death of T. K. (6 years old) who was transferred to the Senaki state residential institution for Children with Disabilities and, if established that concrete persons failed to fulfill their obligations, demand that they be held responsible.
2. Recommendation to the Minister of Labor, Health and Social Affairs made on 27 Oct., 2010: to study the issues connected with the death of infant D. G. who was transferred to the Makhinjauri state residential institution for Infants and, if established that concrete persons failed to fulfill their obligations, demand that they be held responsible.
3. Recommendation to the Minister of Labor, Health and Social Affairs made on May 3, 2010: to study the incident that took place in private residential home of the NGO "First Step Georgia", on April 11, 2010, and, if it is established that violations have taken place, raise the question of legal responsibility of the persons who did not fulfill their law-imposed obligations. On April 11, 2010, juvenile K.M., died in the residential small-group house of the First Step Georgia. A juvenile beneficiary of the same institution, G. Ch., has been charged with the crime. He was diagnosed with mild mental retardation and behavioral and emotional disturbance specific to children. Starting from 2007, the non-governmental organization First Step Georgia has repeatedly addressed the Division of Child Care of the Ministry of Education, as well as the Department of Social Policy of the Ministry of Labor, Health and Social Affairs, with an official demand that Giorgi Ch., be transferred to an institution suitable for him. In the letters, the representatives of the organization pointed out that despite the diagnostic-therapeutic measures taken by them, it was impossible to "control and manage the behavior of the pupil, G. Ch., his behavior is unpredictable, and the health and life of both the pupils and teachers come under threat..."

In spite of repeated applications, the organization First Step Georgia has not received an official response from the ministries. The head of the organization confirms that in phone conversations with him, the representatives of the ministries pointed out that the state could not provide children with similar needs with the suitable service.

IV. Research, investigation, studies

- The Centre participated in the monitoring of the residential institutions for children 2010, 2011 - under the National Preventive Mechanism (January 2010¹; October 2010²; February 2011³).
- The Centre participated in the submission of 2 special reports on Child Rights (Child Rights⁴; Rights of the persons with disabilities⁵, including the situation of children with disabilities) to the UN mechanism of Universal Periodic Review.

V. Communication, Promotion and Publications

- The centre translated and published distinguished Cases of the European Court of Human Rights in Georgian, referring the Human Rights of children with disabilities.
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- The centre published the special monitoring report under NPM “the Human Rights Situation of persons with disabilities – infants, children, adults and elderly – at the State residential institutions in Georgia 2010”

VI. Other activities

- Innovative projects/good practices:
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- **Nation-wide annual forum “Child Has the Right To Be Heard”**



Annual Child Forum was held on June 1, 2010 and on June 7 2011. Children from Different regions of Georgia elaborate each area of ongoing State reforms which involves child as beneficiary. Critical recommendations on launching reforms are provided to the major decision-makers (ministers, MPs, heads of administrative organs, judges, social workers etc.) in the format of the one-day discussion panel. Forum bears interactive character, attending decision-makers are encouraged to interact with children and justify, clarify reform/decisions

¹ report of the monitoring of Child residential institutions is incorporated in the annual parliamentary report of the Ombudsman 2009 <http://www.ombudsman.ge/index.php?page=21&lang=1&n=0&id=0>

² Special report on the Human Rights Situation of persons with disabilities – infants, children, adults and elderly – at the Stat residential institutions <http://www.ombudsman.ge/index.php?page=22&lang=1>

³ report of the monitoring is incorporated in the annual parliamentary report of the Ombudsman 2010 <http://www.ombudsman.ge/index.php?page=21&lang=1&n=0&id=0>

⁴ Reports of the stake-holders for UPR session on Georgia http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/GE/JS1_JointSubmission1-eng.pdf

⁵ Reports of the stake-holders for UPR session on Georgia http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/GE/JS4_JointSubmission4-eng.pdf

taken during the current year and involving children as the target group. The forum is preceded by the 2 month work of the representatives of the PDO Centre, who travel in the regions and work with participating children to elaborate on reforms and prepare an in-depth analysis and well-augmented presentations from the unique perspective of a child (insider's view).

After forum each ministry receives Children's' recommendations in the written format (arranged by the Centre); Implementation/modification of these recommendations is also followed up by the Centre of PDO.

- **Nation-Wide NGO Forum**

With the initiative of the Centre, all the major NGOs working in the area of Child Rights protection and promotion are integrated within the forum, organised under the terms of the memorandum set among the stakeholders. The Centre is in continues communication with NGOs throughout the year and reacts on every information on Child Rights violation provided by the NGOs. Once a year, working group composed of all members of the memorandum is organised. Each working group ends up with the concrete outcome. In 2010 Working group was devoted to collaboration among the Centre and NGOs for submitting special report on the Child Rights situation in Georgia for the UN Universal Periodic Review. Working group of 2011 was devoted to mobilising community groups for drafting alternative CRC report (drafting process still in progress);

- **Unite for Combating Domestic violence**

The Centre holds an active role in protection the rights of children and women affected by the Domestic Violence.

Being informed about the difficulties in identification of the cases affecting minors, Centre provided guidelines for policemen how on to handle complex cases of child abuse and domestic violence. The guidelines/recommendations have been integrated into the publication, which was recommended by the police academy for educational purposes and practical application by the policemen.

Being notified about the difficulties of handling domestic violence cases in the communities resided with ethnic minorities or religious groups, the Centred initiated workshop integrating the religious leaders, ethnic minority representatives, social workers and policemen to search for joint solutions while assisting the child victims of domestic violence.

- **Monitoring of the Deinstitutionalisation process**

- Having submitted 3 monitoring reports referring the Rights and Freedoms of Children in State Residential Institutions (2010, 2011) Social Service Agency (under the auspice of the Ministry of Labor, Health and Social Affairs) took after investigation of all the problematic cases of child deinstitutionalisation. The representatives of the Centre were invited for the capacity building of Social Workers by the Georgian Association of Social Workers to improve the monitoring skills and the future monitoring process of deinstitutionalised children.

Incorporating Child Perspective in the National Prevention Strategy of juvenile delinquency introduced by the Ministry of justice of Georgia.

Through participation in the working-groups organised by the Ministry of Justice and involving different ministries, international organisations and NGOs, The centre promoted the notion of Child participation in the Process of planning and implementing National prevention strategy against juvenile delinquency. Consequently, an official document incorporates vision and the concrete actions devoted to and enabling child participation.