



საქართველოს სახალხო  
დაცველი

PUBLIC DEFENDER  
(OMBUDSMAN)  
OF GEORGIA

Comments on Georgia's 14th  
National Report on the  
Implementation of the European Social Charter

2021

## Introduction

The Public Defender's (Ombudsman) Office of Georgia (hereinafter PDO) oversees the observance of human rights and freedoms in Georgia. PDO also analyses the state's laws, policies and practices, in compliance with the international standards, and provides relevant recommendations.

The powers and functions of the Public Defender are defined in the 1996 Organic Law on the Public Defender of Georgia.

In 2014 the Public Defender of Georgia was named as the structure for ensuring implementation, promotion and protection of the Convention on the Rights of Persons with Disabilities. The monitoring mechanism of the Public Defender, together with the Department of the Rights of Persons with Disabilities, includes the Consultative Council for Monitoring of Promotion, Protection and Implementation of the Convention on the Rights of Persons with Disabilities and a monitoring group.

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

In addition, based on the Law on "Elimination of All Forms of Discrimination", the Public Defender is designated as an equality body, whose one of the main functions is to supervise the implementation of the law.

The Public Defender undertakes educational activities in the field of human rights and freedoms, and lodges complaints in the Constitutional Court of Georgia in case the human rights and freedoms (as envisaged in the chapter II of the Georgian Constitution) are violated by a normative act.

PDO is further authorized to exercise the *Amicus Curiae* function at the Common Courts and the Constitutional Court of Georgia and has an experience of intervening before ECtHR as well. In addition, the PDO has been submitting Rule 9 communications to the Committee of Ministers of the Council of Europe on the implementation status of ECtHR judgements and also has been actively contributing to the examination of state reports by UN treaty bodies.

The Public Defender exercises its functions independently and is bound only by the Constitution, international treaties and agreements of Georgia, and by the universally recognized principles and rules of international law, the Organic Law on Public Defender of Georgia, and other legislative acts. Any influences or interferences with the Public Defender's activities are prohibited and punished by law.

PDO welcomes the opportunity to provide to the European Committee of Social Rights comments on a number of matters regarding Georgia's 14<sup>th</sup> National Report on the Implementation of The European Social Charter and the rights that are examined in the present cycle.

### Article 3 - The right to safe and healthy working conditions

In Georgia, challenges related to the realisation of the right to safe and healthy working conditions have been identified over the years.<sup>1</sup> In the previous parliamentary reports the Public Defender of Georgia permanently highlighted a problem that there was an unconditional need to harmonize labour legislation with international standards in order to have effective mechanisms (allowing imposition of sanctions) for the labor inspection of the implementation of requirements stipulated by the labor legislation.

In the 2018 and 2019 Parliamentary Reports the Public Defender positively evaluated the adoption of the Law on „Occupational Safety” and amendment to the law that covered all spheres of economic activity and labor inspectors were allowed to access workplaces without undue restrictions. However, a recommendation of the Public Defender of Georgia to grant labor inspectors effective oversight on the implementation of other requirements prescribed by the labor legislation, had not been considered until 2020 year.

The labor legislation reform was a prominent development in 2020. In particular, granting a full mandate for the oversight over the protection of labor rights to the Labor Inspectorate.<sup>2</sup> Since January 1, 2021, the Labor Inspectorate, LEPL has been empowered to inspect workplaces without employer’s consent, with the aim to detect breaches of the provisions of the Labor Code of Georgia and the Law of Georgia on Public Service and to impose respective sanctions in case of detection of violation. It is worth to point out that during 2020 year the number of labor inspectors were increased and material and technical resources of the Office were upgraded.<sup>3</sup>

The Public Defender of Georgia closely monitored the activities of Labour Conditions Inspection Department (LCID) and other supervisory state bodies which took place during the pandemic. The Ministry of Health designed special recommendations to maintain the continuity of operations of business entities engaged in various economic activities while preventing the spread of COVID-19 at workplaces.<sup>4</sup> To raise awareness of

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<sup>1</sup> Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia in 2019, p.209-2015, available at: <https://bit.ly/3wPZb0M>;

The Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia in 2018, p.159-161, available at: <https://bit.ly/3zBNHQr> ;

The Report of the Public Defender of Georgia on the Situation of Protection of Human Rights and Freedoms in Georgia in 2017, p.124-127, available at: <https://bit.ly/3wDx3hw>

<sup>2</sup> The Law of Georgia on the Labor Inspectorate; the Organic Law of Georgia on the Amendments to the Organic Law of Georgia the Labor Code of Georgia, available at: < <https://bit.ly/3fs8JJJ> >

<sup>3</sup> The Letter of the Ministry of the Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia N 01/902 dated January 22, 2021 and the Labor Inspectorate, LEPL Letter # 09/525 dated March 12, 2021.

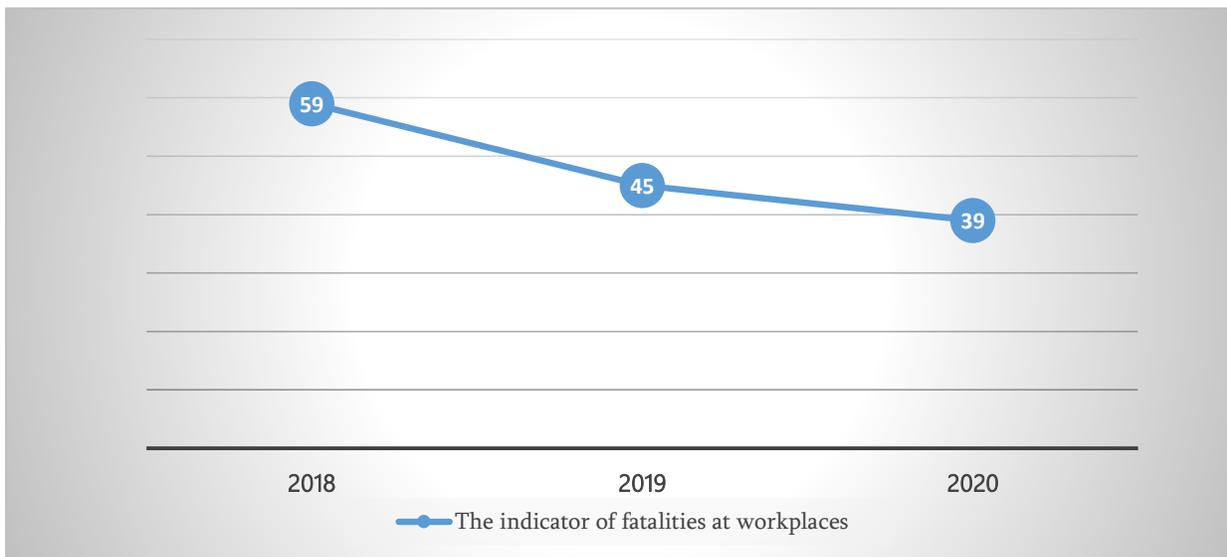
According to the information provided under the Labor Inspectorate, LEPL Letter #09/525 dated March 12, 2021, there are 112 positions of labor inspectors stipulated (of these, 26 under territorial offices) as of the time of receiving information, 54 labor Inspectors were employed.

<sup>4</sup> The Minister of Labor, Health and Social Affairs of Georgia Order N<sup>o</sup>01 227/ᄁ dated May 29, 2020 on the Approval of Recommendations for Preventing the Spread of COVID-19 at Workplaces.

The Minister of Labor, Health and Social Affairs of Georgia Order N<sup>o</sup>01-56/ᄁ dated June 6, 2020 on the Approval of the Rules and Procedures for Monitoring and Control over the fulfillment of the Recommendations developed by the Ministry of the Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia for Preventing the

employers and workers about these recommendations, with a goal to grant or decline permits to businesses for continuing operations, 88,731 joint activities were conducted as part of more stringent monitoring over the compliance with the Ministry of Health recommendations, by the Labor Conditions Inspection Department, the National Food Agency, the Environmental Supervision Department, sub-agency, the Revenue Service, municipal inspection offices in the regions and the Ministry of Internal Affairs of Georgia, among them, 67,275 awareness- raising activities.<sup>5</sup> As a result of monitoring, 11,817 entities obtained a permit to continue operations, 3,882 entities did not meet the aforementioned requirements, while 5,592 entities were found not ready for continuing operations. Moreover, 151 entities were penalized for the breach of the norms prescribed by the protocol. The given data indicate that the competent authorities in Georgia performed extensive oversight aimed at the protection of occupational safety norms at workplaces during the pandemic.

It is important to provide accurate data about occupational accidents and fatal occupational injuries during reporting period. In 2020 there were 39 fatal occupational accidents and 249 occupational injuries. Out of the occupational accidents 2 are massive, 57 are serious and 192 are moderate.. It is important to note that for the past two years following 2018, the indicator of fatalities at workplace is falling (there were 59 fatalities at workplace in 2018, and 45 ones in 2019).<sup>6</sup>



Based on the inspection reports at sites involving heavy, harmful or dangerous jobs the employers predominantly do not try to identify threats, to assess and manage resultant risks, also they do not provide trainings and instruction guidance, do not use personal protection gear and the cases of breach of the

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Spread of COVID-19 Infection Caused by the Novel Coronavirus (SARS-CoV-2) at Workplaces, Annex N 1, Article 1, Paragraph 2.

<sup>5</sup> The Labor Inspectorate, LEPL, Letter N 09/318 dated February 16, 2021.

<sup>6</sup> See the Labor Conditions Inspection Department performance 2018-2019 reports, available at: < <https://bit.ly/2O52SPa>

Technical Regulations on Safety Requirements for Working at Heights approved under the Government of Georgia Decree N 477 dated October 27, 2017 is frequent.

The aforementioned data indicates that employers fail to implement relevant preventive measures for occupational safety of employees and other individuals; hence, the Labor Inspectorate, LEPL should ramp up its inspections to maximally reduce expected hazards. Furthermore, it is important to timely fulfill the Public Defender's recommendation regarding the staffing of the labor inspectorate, LEPL, especially of its territorial bodies to ensure effective performance.

## Article 11 - The right to protection of health

### Mental Health

Mental health and providing quality mental health services to the population remained significant challenge for the state during the reporting period.

The Strategy on the Development of Mental Health and the 2015-2020 Action Plan expired in 2020. According to the information received from the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia on the implementation of the action plan, a strategy for the prevention of suicide of persons with mental health problems has not been developed. There have been no significant changes in the development of social integration and rehabilitation-based services for persons with mental health problems. There is still no strategy for deinstitutionalizing the field.

### *Involuntary Treatment of Inpatients of Psychiatric Establishments*

Compulsory medical interventions used in psychiatric establishments to fulfil the prescription carry a high risk of arbitrariness. The risk of arbitrariness is even higher against the background where neither forcible administration of prescribed injections nor rapid tranquillisation performed against the patient's will to control his/her behaviour is documented.<sup>7</sup> Information about these procedures can only be obtained when speaking to a patient or witnessing the procedure.<sup>8</sup> According to the patients at LTD Tbilisi Mental Health Centre, the forcible administration of injections is a frequent occurrence in the establishment and even other patients are involved in this procedure. Incidents of male patients being involved in the process of giving injections by force to female patients have also been identified.

In the Public Defender's opinion, the established practice of rapid tranquillisation against a patient's will does not have an adequate justification or legal safeguards, leads to complete or partial suppression of the

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<sup>7</sup> In case of forcible injection, medical documentation only refers to injection administered without prescription.

<sup>8</sup> In LTD Senaki Mental Health Centre, the Special Preventive Group witnessed the incident of forcible administration of injection.

patient's consciousness and reflexes as well as excessive sedation and violates the patient's physical integrity.<sup>9</sup> This amounts to inhuman and degrading treatment of a patient. Under international standards, the informed consent of the patient regarding the treatment is crucial as it concerns the use of powerful psychotropic medications, the use of which may cause suffering and significant harm to an individual's health. Treating a patient without consent may reach the threshold of torture and ill-treatment.<sup>10</sup>

Inpatient psychiatric care is voluntary in Georgia except in cases determined by law.<sup>11</sup> Voluntary implies a patient expressing a genuine will that he/she wishes to receive psychiatric care at a psychiatric establishment. The legislation provides for the need to establish a patient's informed consent for hospitalisation and treatment, which must be confirmed in a medical document.<sup>12</sup> Most patients sign the informed consent form upon entering a psychiatric establishment unknowingly or unwillingly.<sup>13</sup>

It is important to obtain informed written consent from a patient from the very beginning, continuation and alteration of the course of treatment.<sup>14</sup> The admission of a person to a psychiatric establishment on an involuntary basis should not automatically lead to his/her involuntary treatment.<sup>15</sup>

The monitoring results demonstrate that patients are not informed about the methods of their treatment or alteration of the course of the treatment. Informed consent is not sought where the strategy of the treatment is modified to ensure that a patient is involved in this process to the maximum degree possible. This problem is caused by the fact that the legislation does not determine the obligation to obtain informed consents for hospitalisation and treatment separately.

The formal and illusory nature of voluntary placement and treatment of patients in a psychiatric establishment is also confirmed by the fact that patients cannot leave psychiatric establishments voluntarily. The gist of voluntariness implies that a patient should be able to withdraw informed consent for hospitalisation at any time and leave the psychiatric establishment.

In the Public Defender's opinion, formally voluntary psychiatric inpatients requesting discharge, should be immediately discharged if there is no legal basis for the use of involuntary psychiatric care. Similar to the previous years, lengthy hospitalisation of psychiatric inpatients remains problematic in 2020. The Public Defender has been discussing this issue for years. The Public Defender's recommendation regarding needs assessment of patients placed in psychiatric clinics for more than 6 months and the recommendation about

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<sup>9</sup> Article 17 of the United Nations 2006 Convention on the Rights of Persons with Disabilities protects the physical integrity of a person.

<sup>10</sup> Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/63/175, 28 July 2008, para. 63, available at: <https://bit.ly/3uecqqF>.

<sup>11</sup> The Law of Georgia on Psychiatric Care, Article 15.1.

<sup>12</sup> The Law of Georgia on Psychiatric Care, Article 17.2.

<sup>13</sup> According to patients, they do not know what they signed; some of them cannot even remember signing.

<sup>14</sup> "Every competent patient, whether voluntary or involuntary, should be given the opportunity to refuse treatment or any other medical intervention. Any derogation from this fundamental principle should be based upon law and only relate to clearly and strictly defined exceptional circumstances." Extract from the 8<sup>th</sup> General Report of the CPT on Involuntary Placement in Psychiatric Establishments, para. 41.

<sup>15</sup> Extract from the 8<sup>th</sup> General Report of the CPT on Involuntary Placement in Psychiatric Establishments, para. 41, available at: <https://bit.ly/2PcedxF>.

discharging and referring them to community-based services remain unfulfilled. It is also important to elaborate a plan for setting up shelters based on an estimated number of potential beneficiaries. Even though patients do not often need active treatment, they cannot leave the hospital due to the lack of support services in the community and since the patients have nowhere to go.<sup>16</sup>

### Sexual and reproductive health and rights of LGBT+ persons

The situation regarding sexual and reproductive health and rights of LGBT+ representatives remained the same during reporting years. The government does not have a national guideline of clinical practice for trans-specific medical procedures and a state standard for managing clinical condition (hereinafter, guideline and protocol), which would serve as a basis to compile a list of diagnosing and follow-up medical procedures needed to provide service to transgender persons. Consequently, the LEPL State Regulation Agency for Medical Activities does not have a possibility to conduct a quality control within its competence

Absence of guidelines and protocols of trans-specific medical services must be viewed in the context of established practice whereby a sex reassignment surgery is a precondition for changing the entry about sex in a document certifying identity. With such practice, which in itself is a violation of human rights, instead of legal recognition of gender, the state forces trans people to subject themselves to medical procedures of sex change in conditions when the state has no standards determined and mechanisms to monitor the quality of these procedures.

Needs of transgender persons are not examined and duly reflected in the state programs and health strategies. Lack of basic knowledge on transsexuality/ intersexuality among specialists of primary care creates discrimination and maltreatment risks for transgender persons. Further, it hinders the identification of their needs and subsequent referral at the level of primary healthcare. Trans identity is viewed as a medical problem requiring clinical intervention and treatment. The state does not regulate issues related to trans-specific medical transition either. There are no national clinical guidelines that would secure state control over medical services provided. Health insurance policies in Georgia of neither the state nor private companies cover gender reassignment medical procedures at any stage of transition. Majority of transgender individuals cannot afford gender reassignment related medical services. Given a current practice of legal recognition of sex, non-affordability of required medical services places transgender persons in unequal condition vis-a-vis other citizens. This problem could be regulated by legal norms on the state funding/co-funding of costs required for gender reassignment related medical services.<sup>17</sup>

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<sup>16</sup> As of 12 June 2020, there were 12 patients for more than 6 months in LTD Centre for Mental Health and Prevention of Addiction. Out of the 12 patients, 5 patients had been placed in the centre for more than a year. Among them are those patients that had been in the inpatient psychiatric facility since 2011. As of 16 September 2020, there were 71 patients (24 men and 47 women) for more than 6 months in LTD Tbilisi Mental Health Centre. Out of them, 5 patients had been placed in the establishment for more than a year. There are patients in the establishment who had been placed in the inpatient psychiatric facility since 2008, 2014, 2015, 2016 and 2017.

<sup>17</sup> Women's Initiatives Supporting Group (WISG) - Needs of Transgender Persons in Healthcare (Policy paper) Available at: <https://bit.ly/2SIJcTB>

Availability of national clinical guidelines is one of important mechanisms for controlling the quality of medical services provided by the state. Because an international guideline on transgender health care is already available, which is based on latest research and accumulated clinical experience, and at the same time reflects ongoing worldwide processes on Trans depathologization, it is required to adapt and introduce international clinical guideline focused on the needs of transgender, transsexual, and gender non-conforming persons for securing transgender persons' access to quality healthcare; Raise qualification of secondary and tertiary healthcare specialists in Trans related issues; Study transgender persons' social needs and reflect them adequately in the state plans and healthcare strategies.<sup>18</sup>

### Women's Sexual and Reproductive Health and Rights

The Public Defender is actively monitoring the development of the human rights situation related to women's sexual and reproductive health in Georgia. Examining the current situation in this area is an important criteria in the process of assessing gender equality in the country.

Despite progress in maternal health in 2020,<sup>19</sup> a number of challenges remain. The state maternal health program is still limited to aspects related to physical health and does not include psychological support services for pregnancy, childbirth, and the postpartum period. Also, unlike perinatal services, the state still does not have a systematic vision of postpartum care services for women.

In addition, full integration of family planning services and contraceptives into the primary health care level remains challenging,<sup>20</sup> as well as to integrate its funding component into the universal health care program. In addition to the issue of financial access, access to contraceptives is also complicated by the low awareness associated with it. An additional challenge is the fact that there is a lot of misinformation in the public about modern contraceptives, their action and rules of use. It should be noted that according to the information received as a result of the informational meetings conducted by the Public Defender, the disseminators of false information are, in many cases, the gynecologists themselves. Of particular importance in dealing with this challenge is the fact that, according to a multi-indicator cluster survey conducted in Georgia in 2018, the level of unmet family planning needs<sup>21</sup> is 23.1%, which by European standards is very high<sup>22</sup> and clearly increases the risk of unwanted pregnancies.

Territorial and financial access to safe abortion services remains a challenge. This barrier is exacerbated by the 5-day mandatory reflection period for abortion services, which is particularly problematic in the case of

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<sup>18</sup> Ibid. p.122

<sup>19</sup> Based on the recommendation of the Public Defender, the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia approved the State Standard (Protocol) for Management of the Clinical Condition and the National Recommendation for Clinical Practice (Guideline) for Management of Perinatal Period During Mental Disorders.

<sup>20</sup> Study of the Public Defender of Georgia; available at: < <https://bit.ly/3clXBMN> >

<sup>21</sup> The World Health Organization provides following interpretation for the term "unmet need for family planning": Women with unmet need are those who are fecund and sexually active but are not using any method of contraception, and report not wanting any more children or wanting to delay the next child. Available at: < <https://bit.ly/3qXAzzS> >

<sup>22</sup> Sexual and Reproductive Health in Georgia; available at: < <https://bit.ly/39tFzGl> > [last visited on 24.03.2021].

women living in the regions and rural areas. A study by the Public Defender, as well as other organizations<sup>23</sup> working on the issue, confirms that a 5-day mandatory reflection period does not achieve the goal of reducing the number of abortions or any other legitimate goal and, conversely, creates additional barriers for service seekers.<sup>24</sup> Respondents of the study reported cases where a woman did not return to a medical facility after a 5-day period - had an abortion at another facility, or resorted to arbitrary termination of pregnancy and returned to the same medical facility with deteriorated health (bleeding).<sup>25</sup>

A survey<sup>26</sup> supported by the Office of the United Nations Population Fund (UNFPA) in Georgia found that the number of first antenatal visits by pregnant women under 12 weeks decreased in the spring of 2020 and, in general, fewer pregnant women received a full 8 free antenatal visits during this period, in comparison with the same period in 2019.

This may be due to both mobility restrictions and fears of a high risk of infection, as well as a quantitative reduction in the number of working days of health care providers for antenatal consultations and reduction of number of healthcare specialists during pandemic.<sup>27</sup>

The same study found that pandemic-related restrictions have become an additional and significant barrier for abortion seekers, which increased the risk of unsafe abortions. According to the study, part of the medical institutions providing abortion services have introduced telemedicine to provide sexual and reproductive health services, which, for example, includes the provision of pre- and post-abortion counseling online. According to the study, one of the clinics, during pandemic, implemented a pilot project to provide abortion services fully in a telemedicine (remote) mode, which fully complies with the guidelines set by the World Health Organization; according to these guidelines, self-administered abortion is safe for pregnant women who have access to effective medical protocols and access to healthcare, if necessary.

## Access to Medicines

PDO has been pointing out for years that the high cost of medicines is one of the main reasons why people in need does not have access to medication. It is also important to introduce and develop an effective quality control mechanism for pharmaceutical drugs. It is important to establish strict regulations and controls on the marketing advertising, informing the population about medicines in order to ensure the quality of medicines, to create safety and protected conditions.

Since 2017, the government launched a state program to provide medicines for chronic diseases. A review of the program by industry experts revealed that the state program fails to provide beneficiaries with access to quality, safe, effective, and rationally selected medicines. It should be noted that State Audit Office issued

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<sup>23</sup> "Qualitative Survey of Barriers to Access to Medical Abortion among Rural and Internally Displaced Women in Georgia", Informational Medical-Psychological Center - Tanadgoma, 2020, available at <<https://bit.ly/3qOSf0j>>

<sup>24</sup> Survey report; available at: <<https://bit.ly/3birLj9>>

<sup>25</sup> Ibid.

<sup>26</sup> How COVID-19 Related Isolation Measures Impacted Access to Selected Sexual and Reproductive Health Services in Georgia", 2020, available at: <<https://bit.ly/3s7eVKE>> [last visited on 24.03.2021].

<sup>27</sup> According to the employers' decision, due to the high risk of infection, health professionals over the age of 70 worked in limited conditions during the pandemic in 2020.

recommendations on the mentioned program which referred to increasing the effectiveness of the control mechanism in the process of procurement of medicines, logistics services and expenditure.<sup>28</sup>

Access to medicines in the country has been gradually deteriorating. The reason is the ever-increasing prices. As a result, it is difficult for a significant part of the population to afford them. The quality of medicines often does not meet the requirements, and their effectiveness is questionable. The Public Defender recommended to the government to improve the mechanisms of procurement, expenditure and control of medicines provided by the state programs and to bring them in line with the existing standards. As well as the introduction and full operation of an electronic platform for price monitoring in the pharmaceutical market.

## Tobacco Control

The Public Defender is fully aware of the harmful effects of tobacco products and the risks to life and health caused by them and has been actively working on these problems since 2016.<sup>29</sup>

In 2017 Public Defender issued a special report which reviewed problems in the field of tobacco control in the country<sup>30</sup>. The special report discussed the gaps of national legislation in the field of tobacco control and the level of effectiveness of implementing the existing regulations by the state entities. Following this special report the Parliament of Georgia voted in favor of the package of amendments to the tobacco control legislation in May 2017, which provided for toughening of the regulations concerning the availability of tobacco products for younger generation, full ban on the use of tobacco in closed buildings, as well as direct and indirect restrictions on tobacco advertising, promotion and popularization. Despite these positive changes, unfortunately, amendments were again made to the Law of Georgia on Tobacco Control in December 2018, as a result of which, tobacco smoking has been allowed in the buildings with slot machine parlors. The Public Defender of Georgia described the mentioned legislative amendments as a step backwards in the field of tobacco control and criticized it as a tendency to weaken the tobacco control legislation.<sup>31</sup>

At the same time, it should be noted that the government itself notes that there are still number of challenges in the country in terms of tobacco control, especially in protecting minors from the harmful effects of tobacco<sup>32</sup>.

It is important to effectively oversee compliance with existing regulations, in addition to addressing gaps in existing tobacco control legislation. It is unfortunate that in recent years, violations of tobacco rules have been observed mostly in the public sector and medical institutions.<sup>33</sup>

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<sup>28</sup>State Audit Office's Report. Available at: <https://bit.ly/3wSGFoQ>

<sup>29</sup> Annual Report of The Public Defender of Georgia, 2016

<sup>30</sup> Special Report of the public Defender of Georgia on Situation in the Field of Tobacco Control, 2017. Available at: <https://bit.ly/3zCdSXq> >

<sup>31</sup> Public Defender's Statement on May 31 Is World No Tobacco Day. Available at: <https://bit.ly/3xpJHk6>

<sup>32</sup> Resolution of the Parliament of Georgia. Available at: <https://bit.ly/2TJZGec>

<sup>33</sup> Resolution of the Parliament of Georgia .Available at: <https://bit.ly/2TJZJGU>

The Public Defender of Georgia called on the competent executive bodies to properly analyze the problematic issues related to the implementation of the Law of Georgia on Tobacco Control and to intensify the campaign aimed at raising the awareness of the population, especially minors, about the harmful effects of tobacco.

## Public healthcare

For years, the needs of oncology patients in Georgia have been met through several different designs and financial support state programs.<sup>34</sup>In 2020 the amount of reimbursement for non-surgical treatment and treatment with oncological medicines within the framework of the universal health care program has increased, as well as reimbursements of the the basic, targeted veteran package and age-related (children aged 0-5, retirees, children with disabilities, severely disabled persons, students) packages.

However, despite these changes, it is unfortunate that the state does not share the PDO's recommendation and still has not adopted a unified state oncology program, the existence and effective management of which would significantly improve oncology patients' treatment and access to medicines, as well as cancer prevention, which is not covered under the current program. Besides, the issue of side effect management and funding for psychological services remain beyond these separate programs.

## Informed consent to health-related interventions or treatment and specific measures to combat pseudoscience in respect of health issues.

Receiving patient's informed consent for different medical treatment is essential and is a right of the patient safeguarded by the legislation, thus there are other concerns in that regard: Ensuring the quality of medical services and legal regulation of medical activity contributes to the enhancement of effectiveness of the healthcare system and raised confidence of patients.<sup>35</sup> Patient's opinion and satisfaction is a criterion used for the assessment of the quality of provided service; it also presents a medical service from the viewpoint of a patient. The Public Defender noted back in the 2017 report that there is a delay in the examination of citizens' applications at the Professional Development Council, furthermore, applicants are unable to participate in the process of review/examination of applications.<sup>36</sup> The Professional Development Council has partially rectified the deficiency. In 2020 State Regulation Agency for Medical and Pharmaceutical Activities<sup>37</sup> procured review services from the Tbilisi State Medical University, the inspection team monitored

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<sup>34</sup> State Program for Universal Health Care; Referral services; Early detection and screening of diseases; Pediatric Oncohematology Services Palliative Care for Incurable Patients; Programs funded from the local self-government budget.

<sup>35</sup> Wilson L. and Goldschmidt P. Quality Management in Health Care. McGraw Hill Book Company, Sydney. 1995; 1-731: Fiscella K., Meldrum S. et al. Patient trust: is it related to patient-centered behavior of primary care physicians? J.Med.Care. 2004; 42(11):1049-1055.

<sup>36</sup> The Public Defender of Georgia, 2017 Parliamentary Report, Tbilisi, 2018, 218.

<sup>37</sup>The Regulation Agency for Medical and Pharmaceutical Activities provides organizational-technical support to the activities of the Professional Development Council.

the fulfillment of the contract.<sup>38</sup> Although, Tbilisi State Medical University, LEPL, was fined several times due to submitting incomplete conclusions or delayed submission thereof, and the delay in the review of applications and complaints remains a problem. The records management procedure within the Agency should enable the review of patients' applications/complaints based on high level protection of their rights and fast and objective resolution of cases.

## Impact of Air and Water Pollution on Health

Ambient air pollution is one of the country's most pressing problems which has grave effects on living organisms, ecosystem and the climate, as well as the entire society and the economy. It causes a variety of adverse health outcomes, such as respiratory and cardiovascular diseases, cancer, stroke, liver and blood diseases.

Major sources of outdoor air pollution include: transport and energy sectors, industrial facilities, construction activities and agriculture. Common hazardous pollutants in Georgia are particular matter (PM), nitrogen oxides (NO<sub>x</sub>), sulphur dioxide (SO<sub>2</sub>), carbon monoxide (CO), and ozone (O<sub>3</sub>).

Although the State has taken some effective steps in recent years to improve air quality, the full enjoyment of the right to clean air remains a challenge. More specifically, It is welcomed that the country started to gradually transit to the European standards of ambient air quality monitoring and management from September 1, 2021 and undertook a legislative commitment to develop relevant air quality management plans to respond to local challenges and to divide the country into zones and agglomerations and to classify them according to the pollution levels. Effective and timely implementation of these regulations will significantly facilitate the collection and assessment of information on air pollution challenges across the country.

Nevertheless, the flawed air quality monitoring system remains a significant challenge, which fails to reflect a complete picture of pollution across the country and poses a problem not only in terms of responding to emissions, but also in terms of assessing the impact of air pollution on the health of the population.

In this regard, the main challenge is the lack of monitoring facilities, which includes only 7 fixed and 1 mobile stations and 1 non-automatic station. According to the Ministry of Environmental Protection and Agriculture of Georgia, in 2020, a plan was developed for air quality monitoring network,<sup>39</sup> which indicates the types, number and locations of stations, and provides the first outline of the division of the Georgian territory into zones and agglomerations. It is noteworthy that according to this document, the final monitoring network should be much wider than the existing one and should consist of 18 fixed and 3 mobile stations. According

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<sup>38</sup> State Procurement Contract №2020-12/ժ, February 10, 2020

<sup>39</sup> The plan, which represents a guideline for the National Environmental Agency, was developed within the framework of the project "Improving Air Quality Management Capacities in Georgia" funded by the Swedish International Development Agency.

to the information available to the Public Defender's Office, the Ministry of Environmental Protection and Agriculture of Georgia plans to purchase one automatic mobile station in 2021.

Thus, in order to implement the substantial part of the positive changes made to legislation and, as a result, to provide the public with relevant environmental information, the air quality monitoring network needs to be significantly improved. The Public Defender is well aware that the expansion of the monitoring network is associated with significant financial resources, but emphasizes the need for its timely completion by attracting budgetary and donor support. The Office is also informed that the Ministry of Environmental Protection and Agriculture is actively working with the EU Delegation to Georgia to obtain the necessary financial assistance for the implementation of the plan.

The preparation of the Voluntary Code of Good Agricultural Practice for Reducing Ammonia Emissions and the analysis of international practices of reducing emissions in the agricultural sector was also a step forward in 2020. The document addresses issues relating to the reduction of emissions, including manure management, livestock feeding and use of fertilizers. According to the Ministry of Environmental Protection and Agriculture of Georgia, before the adoption of this Code as a mandatory legislative act, it is necessary to raise awareness of farmers and prepare the sector to meet the new requirements. This process will significantly augment knowledge of the target audience about the agricultural activities that cause air pollution and about the practices that reduce the relevant risks. It should be noted that in order to prevent and reduce air pollution caused by the agricultural sector, the adoption of the relevant legislative changes has been recommendation of the Public Defender.

Unfortunately, to date, pollution from the industrial sector has not been properly regulated and the relevant legal framework is still not in line with Georgia's commitments under the Association Agreement. It is noteworthy that the draft law on industrial emissions designed to reduce such emissions and to introduce European standards in order to control them should have been submitted in the Parliament of Georgia in 2019, but was initially postponed for the fall session of 2020, while currently the bill is planned to be submitted by the end of 2021. The Public Defender points out that the adoption of this bill, as well as timely enactment of its provisions, is the main lever to reduce emissions from the industrial sector, which has been an unresolved problem in many municipalities for years.

Legislation regulating the transport sector, which is one of the main sources of air pollution, and the mechanisms for its enforcement are also problematic and need to be improved. In particular, the country does not effectively control the exploitation of vehicles, the emissions of which contain pollutants in excess of the established norm. The Public Defender has been consistently pointing to this problem for years.

It should be noted that the liability for breaching fuel quality norms became more stringent in 2020. Furthermore, similar to the previous reporting year, the trend of improving quality control over fuel was maintained.

Another cause of concern is that regulations for construction activities (the placement, transportation or processing of particulate matter) have not yet become applicable outside Tbilisi city municipality area.

It is also noteworthy that green urban spaces help reduce the risks posed by pollution sources characterizing to cities. Thus, the Public Defender has been emphasizing for years the need to determine the ratio of green space per capita in the municipalities and to approve the relevant assessment standard.

## COVID– 19 Response

The pandemic has been a heavy burden for the healthcare system of Georgia. In spring, 2020, as a result of the measures implemented by the Government of Georgia<sup>40</sup>, the number of confirmed COVID-19 cases during spring and summer of 2020 was low, epidemiological situation was manageable and predictable; although, there was a spike in new cases from autumn, mortality rate increased as well.<sup>41</sup>

Despite implemented measures, at the initial stage of the pandemic a number of problems related to access to medicines as well as various medical services were identified. Specific state medical programs had flaws. The Public Defender of Georgia made a statement<sup>42</sup> about the above listed problems. There was a delay in the provision of healthcare services, resulting in the lack of required medical services (diagnostic tests, ventilators, personal protective equipment for medical staff, medical masks). Although, it is commendable that the government gradually eliminated these deficiencies.

During the pandemic the ease of search for disease related information (including, accurate and authentic statistical data), possibility of obtaining and disseminating such information is important. In this respect, the launch of the special informational government website [www.StopCov.ge](http://www.StopCov.ge) where various virus related information was posted was a significant step. Despite introducing this new portal, in the opinion of the Public Defender, national, regional and local health communication specialists should focus on the creation of a flexible, viable informational system to ensure regular delivery of updated information about risk to the residents and target groups.

In late October, 2020, a centralized management mechanism, the so-called “Central Online Clinic” was established. As soon as this clinic started functioning, patients said that they encountered difficulties while making initial phone calls due to long waiting time. Although, according to the information provided to the Public Defender’s Office by the organization, during that period average waiting time was 314 seconds (about 5 minutes).<sup>43</sup> According to the standard<sup>44</sup> applicable in 2020, the Emergency Situations Coordination

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<sup>40</sup> The Interagency Coordination Council, as well as an operational headquarters for emergency management was founded; representatives of all relevant entities were involved in the operations of these bodies. Within the framework of the operational headquarters, the Office of the National Security Council was tasked with the design of a scheme for the management of the state of emergency at central and regional levels. Pursuant to the developed scheme, local headquarters were established in 10 regions of Georgia, available at: < <https://bit.ly/2Q5fwlM> >

<sup>41</sup> Available at: < <https://bit.ly/2PozX9x> >

<sup>42</sup> Available at: < <https://bit.ly/2XzsqFa> >

<sup>43</sup> Public Safety Command Center, 112’s Director’s Order №2940656 dated November 11, 2020.

<sup>44</sup> The Order N №12-65/მ dated July 13, 2020 on determining a work standard for contracted employees of the Medical Support and Calls Management Department’s Management and Hospitalization Unit (Control Unit) of the Legal Entity of Public Law Emergency Situations Coordination and Urgent Assistance Center.

and Urgent Assistance Center was required to respond immediately to the calls from 112, the Public Safety Command Center, a legal entity of public law of the Ministry of Internal Affairs and to transfer the callouts within no later than 2 minutes to a nearest available ambulance crew. Although, the time of arrival to an address (from the transfer of the callout to an ambulance crew to their arrival at a patient's location), according to a standard applicable in 2020, as well as currently, is not prescribed by the protocol and depends on the distance between the location of the crew and that of the patient. It should also be mentioned that by the end of 2020, when the daily indicator of detection of new infection cases was high throughout Georgia (except for the occupied territories) the time of the arrival of an ambulance at a COVID-infected/potentially infected patient's location, according to the information provided to the PDO, varied by districts/by geographical availability and was on average 38 minutes.<sup>45</sup>

The government made a decision,<sup>46</sup> considering the aggravated epidemiological situation in the country due to the pandemic, to temporarily suspend state funding of specific medical services stipulated under the State Universal Healthcare Program, from November 10 2020 to March 1, 2021.

The assessments of various international institutions on this matter are worthy of attention:

"...COVID-19 has long-lasting impact on our health...], [...28 million elective surgeries across the globe may be cancelled during 12 weeks of peak disruption during the COVID-19 pandemic. Study indicates that each extra week of disruption is associated with 2.4 million cancellations. 38% of global cancer surgery has been postponed or cancelled. Backlog could take 45 weeks to clear. "Cancelling elective surgery at this scale will have substantial impact on patients and cumulative, potentially devastating consequences for health systems worldwide. Delaying time-sensitive elective operations, such as cancer or transplant surgery, may lead to deteriorating health, worsening quality of life, and unnecessary deaths. Around the world, the cancellation or postponement of routine procedures risks widening the gap in access to health services. Disadvantaged and marginalized people face worsening health inequalities as a result of the difficult choices made by hospitals in response to the pandemic...]."<sup>47</sup>

The afore-mentioned restrictions have resulted in limited affordability of often essential medical services, thus compromising the health of the population.

Along with the above-described problems during the pandemic, the cases of late hospitalization and treatment, in some cases - fatalities during October-November, 2020 merit particular attention.<sup>48</sup> The Public Defender deems that all such cases should be examined in a fast and effective manner and systemic recommendations should be developed about the improvement of the quality of management of COVID-19 cases based on the analysis of results. For the fulfillment of this objective, the formation of a Team of

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<sup>45</sup> Emergency Situations Coordination and Urgent Assistance Center, LEPL Letter №12/3964 22.12.2020.

<sup>46</sup> The Government of Georgia Decree N 688 dated November 19, 2020 on the Amendments to the Government of Georgia Decree N 36 dated February 21, 2013 on the Measures for Moving to the Universal Healthcare.

<sup>47</sup> Available at: <<https://bit.ly/3e25WpW>>

<sup>48</sup> Available at: <<https://bit.ly/3kHmq88>>

Experts<sup>49</sup> last year, under the Order of the Minister of Health was an important event; the duties of the team entailed/entail clinical audit of COVID-19 infection cases and the development of methodology and recommendations for the improvement of the quality of management of new cases based on the results of the analysis. In the opinion of the Public Defender, developing guidance documents by this team is of critical importance for stopping the pandemic and for comprehensive management of the cases. Unfortunately, despite attempts, we were unable to obtain information about problems identified and specific recommendations developed by this team.<sup>50</sup> Considering major public interest towards this topic, it is important to timely share conclusions made by the team of experts with medical personnel as well as with the general public. The Public Defender made a statement about this topic on December 5, 2020.<sup>51</sup>

In addition to general recommendations by the afore-mentioned Commission and experts, the Public Defender is of the opinion that it is crucial for the Ministry to comprehensively look into whether there were cases of infringements on the part of medical staff in the course of the provision of medical services and follow up with relevant individual response on all those cases when the families of those who died of the novel coronavirus spoke about late hospitalization and delayed medical treatment of their family members. Moreover, considering particularly high public interest towards this topic, the Ministry should also inform the public about implemented measures and relevant outcomes.

With the spread of the COVID-19 pandemic the need for qualified physicians and the lack of nurses has become prominent. In Georgia there are only 0.6 nurses per physician, while in European countries – 2 to 5 nurses. As a result, Georgian physicians are 3-5 times less productive compared to their European colleagues which means that they serve less patients.<sup>52</sup>

According to the studies conducted in 2019, support medical personnel work for over 40 hours and their 84.6% receive less than GEL 500 salary, while 100% do not get paid for overtime work performed on working days or days off. There is no regulation about the level of difficulty of work and the workload of workers either at the private or the state level.<sup>53</sup> According to a new research, support personnel faced the same problems in 2020 like 2019,<sup>54</sup> although the pandemic further aggravated their situation. During a pandemic and crisis nurses play significant role in public healthcare response, they provide direct (along with physicians) assistance to patients and reduce the risk of effect of infectious diseases. The experience of nurses and their satisfaction with working conditions is important for the quality of rendered medical services. While low number of nurses has negative impact on the healthcare system and medical services provided to patients.

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<sup>49</sup> The Minister of Labor, Health and Social Affairs of Georgia Order № 01-482/მ dated September 24, 2020.

<sup>50</sup> The Ministry of the Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia Letter №01/1862 10.02.2021.

<sup>51</sup> The Statement of the Public Defender of Georgia, available at: <<https://bit.ly/3cA7Qgb>>

<sup>52</sup> Research – the Healthcare Sector in Georgia 2020, "Galt & Taggart" Available at: <<https://bit.ly/3jvXX52>>

<sup>53</sup> The Solidarity Network Study The Working Conditions of Nurses in Georgia, Tbilisi, 2019.

<sup>54</sup> The Solidarity Network Study Minimum Wages of Nurses, Tbilisi, 2021.

Against the background of considerable rise in the number of COVID-19 infected people<sup>55</sup>, better performance of the primary healthcare has become key. In 2019 the Public Defender's Office monitored more than 70 rural out-patient facilities in 17 different Georgian municipalities. The monitoring revealed a series of dire problems relating to the infrastructure (dilapidated buildings, poor conditions of communication and sanitary-hygienic systems) as well as to the lack of qualified support staff (nurses). The Public Defender issued recommendations for the construction of new outpatient clinics and the improvement of old infrastructure, as well as the provision of appropriate equipment and communication facilities and communication channels through the state program "Rural Doctor" and the improvement of their socio-economic conditions.<sup>56</sup> Despite a number of measures implemented by the state, reforming primary healthcare and the improvement of management, as well as enhancing well-functioning infrastructure and socio-economic conditions of personnel, remains a challenge. In the opinion of the Public Defender, it is important to meet immediate needs related to COVID-19 and at the same time booster essential healthcare services.

#### Article 12 - The right to social security

The number of families registered in the Targeted Social Assistance Program (hereinafter TSA) database and the recipients of subsistence allowance increased considerably compared to previous years. In particular, as of December, 2020, almost 100,000 more persons benefited from subsistence allowance compared to the previous year. Respectively, the share of the beneficiaries of subsistence allowance relative to total population increased from 11.5% to 14.1%. Moreover, the number of residents willing to participate in the program increased by 83,875, although only 51% of those are the TSA beneficiaries. Unfortunately, it is evident that the number of families willing to receive assistance is considerably higher than the capacity of the program.

High interest in getting into the system is caused for additional in-kind benefits that are envisaged for the beneficiaries of the TSA (e.g., soup kitchens, certain medicines, student grants, firewood, utility subsidies) and services (e.g., insurance, subsidies for using transport) that are tied to the receiving of subsistence allowance.

Various flaws in Targeted Social Assistance Program which were reported by the Public Defender in parliamentary reports over the years were corrected. For example, system did not motivate beneficiaries to seek employment. For this stage this challenge has been already addressed. Studies have shown, that almost half of the beneficiaries could be employed, had income, and improve their socioeconomic situation. However, when the socio-economic situation (employment and other income) was changed, the data of a beneficiary was corrected, and family no more were eligible for subsistence allowance. Therefore, employment was tantamount to losing subsistence allowance for the beneficiaries, as the social security

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<sup>55</sup> National Center for Disease Control and Public Health – Statistics. Available at: <<https://bit.ly/2NBiub>>

<sup>2</sup> Public Defender's Special Report on Monitoring of Access to Primary Health Care Services. Available at: <<https://bit.ly/2TJY0Bq>>

system was accommodated to such minimal needs that any change in income, even a minor salary or other economic activity, resulted in an increase of the rating score.

The TSA was introduced in the country in 2006 in conjunction with development of a methodology for the assessment of families' socio-economic standing. Since then, the assessment methodology underwent major changes only in 2015. Since then no assessment of the effectiveness of the program, as well as that of the calculation formula of the Consumer Price Index and needs of households has been carried out. For the reporting period, it is not available whether changes are being made in this regard. So, the assessment of the effectiveness of the TSA Program, systematic monitoring and the development of a relevant methodology remains a principal challenge under the social security policy of Georgia.

The TSA does not have effective administration procedures. In particular, the Public Defender has been emphasizing the problem of the delay in appointing subsistence allowance for years. The period from the application by a family to getting enrolled in the system and ultimately the transfer of allowance ranges between 3-4 months.

Along with access to food for children, there are significant challenges to access to adequate food for adults. The Public Defender has been referring to the challenges in the area of access to adequate food/ soup kitchen in Georgia. This problem became more pressing during the pandemic. The Public Defender holds that the majority of municipalities have not studied the needs related to the access to food for the residents and families within their territories. Therefore, there are no allocations in the budget for adequate food, leaving considerable number of the residents without this service. The number of individuals who were willing to benefit from the soup kitchen services was high even before the pandemic; these individuals are enrolled in additional lists and are unable to benefit from the program. During the pandemic, access to soup kitchens became complicated even for those in the main lists. Hence, it is necessary to assess the needs related to access to food.

#### [Article 14 – The right to benefit from social welfare services](#)

##### [Homeless Services](#)

According to Georgian law, the system of social protection is "a set of state-sponsored, organized and / or supervised activities aimed at improving the socio-economic situation of a person with special care needs, a family living in poverty or a homeless person."<sup>57</sup> According to the record, the legislation deliberately and lawfully puts a group of persons in a legally different situation and ensures their protection to a high standard, since they can not independently provide the minimum conditions necessary for a decent standard of life. Thus, the realization of the right to social security for vulnerable groups, including the homeless, significantly contributes to social equality in the state.

Homeless people belong to one of the vulnerable group of society, which creates an obligation on the part of the state to take the minimum measures necessary to ensure their decent living conditions. The state

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<sup>57</sup> Law of Georgia on Social Assistance, article 4

program for protection socially vulnerable families is the main social program of the country, as it is connected with the social assistance package of both central and local governments. One of the major drawbacks of this program is the fact that it is impossible to include homeless people in it.

In particular, according to the law, a family wishing to become a beneficiary of the program is required to live permanently in a separate living area.<sup>58</sup> Consequently, the most severe category of homeless people - homeless people who spend their nights on the streets, building entrances, squares and other undefined places - are not included in the state program of socially vulnerable families, which leads to their social exclusion and indirect discrimination.

It should also be noted that the methodology for assessing the socio-economic status of socially vulnerable families was established in 2005 and the program had the above-mentioned shortcomings from the very beginning.<sup>59</sup> An updated methodology has been repeatedly approved by the government to improve the document, however, it should be noted that the inclusion of the most vulnerable category of homeless people in the program has in no case been ensured and is a problem to this day. This issue is even more problematic if we take into account the fact that budgets for homeless housing services in local self-government bodies across the country are insufficient, and in some municipalities these services do not exist at all.<sup>60</sup>

The existing situation leaves the above-mentioned homeless persons behind the state support, which leads to their social exclusion and degrading treatment. In order to solve the described problem, in 2017 the non-governmental organization "Center for Human Rights Education and Monitoring" applied to the Constitutional Court of Georgia and demanded that the regulations on receiving subsistence allowance for homeless people living on the streets be declared unconstitutional.<sup>61</sup> The Public Defender of Georgia submitted Amicus curiae brief to the Constitutional Court in the mentioned case.

In a situation caused by the new coronavirus pandemic, the need for appropriate social support measures for the homeless has become vital. It is noteworthy that people living on the streets are particularly vulnerable, as they are deprived of the opportunity to comply with the requirements set by the government to prevent a pandemic (eg, stay at home, move to self-isolation, comply with sanitary requirements, etc.). Which puts you at extensive risk.

Another vulnerable group of homeless people are people living in overcrowded and informal dwellings / settlements (wagons, cars, garages, basements, arbitrary public and private buildings, in the so-called cardboard city area of Batumi, etc.), who are fully or partially lack access to basic communications, including water. It should be noted that some of the homeless people have developed chronic diseases as a result of

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<sup>58</sup> Resolution # 126 of the Government of Georgia of 24 April 2010 on Measures to Reduce Poverty and Improve Social Protection of the Population in the Country, Article 2, Paragraph "b".

<sup>59</sup> Resolution # 126 of the Government of Georgia of August 4, 2005 on the approval of the methodology for assessing the socio-economic status of socially vulnerable families (households).

<sup>60</sup> See the 2020 Parliamentary Report of the Public Defender of Georgia, Chapter "The Right to Proper Housing", p. 305-316.

<sup>61</sup> Available at: <https://bit.ly/3gcWfFO>

living in inappropriate environments, due to which, in case of infection with the virus, their lives and health are in special danger.

In order to provide appropriate social services to various groups of homeless people during the new Coronavirus pandemic, the Public Defender of Georgia, issued a public statement, addressed the local and central authorities recommendations that should be implemented with immediately.<sup>62</sup> Unfortunately, the right to adequate housing was less of a priority for the Georgian government during the pandemic, in particular, the socio-economic support programs approved by the government to alleviate the damage caused by the new coronavirus, in particular, did not provide any measures of social support to homeless.<sup>63</sup>

## Domestic Violence

Despite the positive changes<sup>64</sup> in the direction of violence against women and domestic violence, a comprehensive approach to the problem and concerted work between government agencies remains challenging.

Systemic shortcomings in combating violence against women and domestic violence effectively still remain. In particular, there is still the problem of effective involvement of social workers in the process of investigating cases of domestic violence, no social service guidelines have been developed, which is important for managing cases successfully. It is also problematic for the abuser to take a mandatory training course focused on violent attitudes and behavior change.

Awareness on public services on violence against women and domestic violence is still low. Proper empowerment of victims of violence, their provision with housing and financial support is still problematic. The rule of timely, adequate and effective compensation for the women victims of violence and victims of domestic violence as enshrined under the Article 30 of the Council of Europe Convention on the Preventing and Combating Violence against Women and Domestic Violence has not yet been developed.

The Public Defender of Georgia, based on a specially developed methodology, has been monitoring femicide cases since 2016. The purpose of the monitoring is to analyze each case of gender related murder, attempted murder and incitement to suicide, in order to identify the shortcomings of the mechanism for protection of victims of violence, to further refine and develop these mechanisms.

Femicide also remains an alarming challenge. Femicide is a direct result of gender and social inequality in society. According to the data of the Office of the Prosecutor General of Georgia, during the period of 2019-2020, 43 incidents of femicide were identified, out of which, 25 were committed as a result of domestic violence; and, out of 49 incidents of attempted femicide, 35 were committed as a result of domestic violence. Prevention of murder/attempted murder as a result of domestic violence as well as serious harm to health

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<sup>62</sup> Available at: <https://bit.ly/3pH76Ln>

<sup>63</sup> Resolution №286 of the Government of Georgia of May 4, 2020.

<sup>64</sup> As a result of the implemented legislative changes, from September 1, 2020, with the issuance of a restraining order, it is possible to establish electronic surveillance against the perpetrator in case of a real threat of repeated violence. Available at: < <https://bit.ly/36mL4ow> >

remains problematic. There have been no concrete measures taken to fight violence against women and domestic violence in terms of social work. The duties imposed on social service in terms of violence against women and domestic violence are practically ignored.

In 2019, the Gender Department of the Public Defender's Office of Georgia, with the support of the UN Women, carried out monitoring of all state shelters and crisis centers in Georgia for the victims of domestic violence and trafficking. The monitoring team paid visits to the shelters of Batumi, Kutaisi, Gori and Signagi<sup>1</sup>, as well as the crisis centers of Tbilisi, Gori, Kutaisi, Ozurgeti and Marneuli.

Despite the positive changes, the service provided by the shelters faces a number of challenges against the increased number of reporting. In particular, the monitoring revealed that:

- Psycho-social rehabilitation of victims and the provision of adequate living conditions for them remains a challenge; particularly problematic is the limited number of psychosocial rehabilitation, educational and employment programs, recreational, sports and cognitive activities. Support and assistance to beneficiaries after leaving the shelter also remains a problem due to the small number of relevant programs, and in some cases their absence;
- Providing psychologist services to ethnic minority beneficiaries due to language barriers constitutes a problem;
- Managing the cases of beneficiaries with mental health problems is an important challenge. According to the shelter administration, the number of beneficiaries with mental health problems has increased and the administration has difficulty dealing with cases. The monitoring revealed that the cases of confrontation between the beneficiaries (including Victims of Trafficking due to the name change. Accordingly, the LEPL the Agency for State Care and Assistance for the (Statutory) Victims of Trafficking is a legal successor of the State Fund for Protection and Assistance of Victims of Human Trafficking; nevertheless, as this subject did not exist during the monitoring, the agency will be referred to as the State Fund for Protection and Assistance of Victims of Human Trafficking. 6 This problem was identified during the survey of beneficiaries in Gori and Batumi. 6 physical confrontation) and calling the police to the shelter have become more frequent, which naturally disrupts the calm and safe environment in the shelter and worsens the situation of the psychologically difficult beneficiaries.
- Access to shelter for persons with disabilities remains a challenge, shelters are partially adapted for wheelchair users, while they are not adapted for persons with other types of disabilities.
- The number of service recipients in crisis centers in the region is critically low, which raises questions about the proper delivery of services and information by these service centers.

During the reporting period, a number of steps were taken<sup>8</sup> to improve access to services for victims of violence against women and domestic violence, however, monitoring revealed some problems in accessing services. It can be stated that, an important barrier for victims is the requirement of victim status as a prerequisite for receiving protection and assistance services. It is noteworthy that most of the beneficiaries surveyed in the monitoring process addressed the law enforcement agency about the violence and were mostly satisfied with the police response. However, some of the respondents have not applied to the law

enforcement bodies or focused on the negative experience while dealing with the representatives of the agency. Fear of the law enforcement agency and the work of a family member in the police department were named as reasons for not addressing the police. It should be noted that the status and influence of the abuser, in some cases, raises doubts about the unbiased consideration of the case. Beneficiaries also pointed out the problem of the lack of special survey rules for victims of sexual violence at the law enforcement agency. According to one of the beneficiaries, she was not ready for the interrogation, at the same time she was interrogated by the male investigator and had a feeling of awkwardness while talking about the details of the case.

During the reporting period, it appeared that, as in previous years, it is still problematic to prevent domestic violence against children, to protect and assist victims. Revealing facts by social workers and law enforcement bodies is delayed in some cases, and in already identified cases, minor victims of domestic violence do not have access to long-term, therapeutic rehabilitation services. In addition, custodial institutions and investigative bodies do not provide a properly adapted environment for the children.

The increasing of the risk of domestic violence against children has once again shown that it is crucial to increase the staff of social workers and psychologists in the regions in order to detect child abuse and take measures aiming to ensure safety and support for the victims.

### Children's Services

Compared to the previous years, there is an increase in the number of suicides and attempted suicides committed by juveniles in Georgia. According to the Ministry of Internal Affairs of Georgia, in 2020, 14 cases of juvenile suicide and 54 cases of attempted suicide were detected. According to the Ministry of Education, Science, Culture and Sports of Georgia, from March 1 to October 31, 2020, 36 cases of students' suicidal thoughts / behaviour and self-harm were revealed.<sup>65</sup>

There is no methodological document for assessing and detecting suicidal behaviour of children in children in the country as well as a specific tool that would allow social workers, law enforcement officers and school representatives to assess the risks of suicide in children based on specific indicators, take a multidisciplinary approach to solve their problems.

Despite the severity of the problem, the state has not yet developed a specific strategy and action plan aiming to eliminate the causes of suicidal behaviour among children, and for timely and effective assessment of the individual needs of children at risk.

According to the Assessment of Public Defender the current social security system, the existing state and municipal services did not appear to be sufficient during the pandemic of coronavirus to cope with the poverty challenges arising the families with children, especially when the large part of the families are left without a job. The social allowance received from state is often not enough to buy food, clothes and primary

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household / educational items for children. One of the reasons which caused such situation is the absence of the targeted social aid program oriented to identify and to eliminate the identified risks of the families with children living in poverty. The current social security system fails to eliminate children's poverty in the country or significantly reduce it.

In the cases studied by the Public Defender of Georgia is revealed that like past years, involvement of children in the sub-program on "the emergency support for families with children who are in the crisis situation" is still delayed. According to the statements of the citizens, that in some cases, it is insufficient and family needs are not covered with the assistance provided for beneficiaries within the sub-program (including food products).

### Disability Services

Special attention should be paid to the ratification of the Optional Protocol to the UN Convention on the Rights of Persons with Disabilities, which will allow persons with disabilities to apply to the relevant UN Committee on facts of human rights violations. Public Defender also welcomes that the Parliament of Georgia has adopted the Law of Georgia on the Rights of Persons with Disabilities, which is a step forward to bring the domestic legislation of the country closer to the international standards. However, despite the recommendations of the Public Defender,<sup>66</sup> several important issues were not taken into account when adopting the law.<sup>67</sup>

No significant steps have been taken to implement the UN Convention on the Rights of Persons with Disabilities.<sup>68</sup> This year the process of establishing a national mechanism for implementation of the UN Convention on the Rights of Persons with Disabilities has begun, but has not yet been completed.

The state anti-crisis plans to combat the pandemic do not adequately address the needs of persons with disabilities. The Public Defender negatively assessed the effectiveness of the government's anti-crisis action plan in this regard and considered it necessary to review/amend the planned activities.<sup>69</sup> Nevertheless, the request of the Public Defender was not taken into account. Measures taken by the state during the reporting period in the field of mental health are not sufficient to protect the rights of persons with mental health problems. The number of community services and their geographical coverage have not been increased significantly.

A strategy for deinstitutionalization of the field has not been developed yet. Problems arose in terms of observing preventive measures against the spread of the virus in state care facilities. Protocols for the

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<sup>66</sup> Proposal of the Public Defender on the Draft Law of Georgia on the Rights of Persons with Disabilities, available at: <<https://bit.ly/38HMo6H>> [last visited on 25.03.2021].

<sup>67</sup> Statement of the Public Defender on the Law of Georgia on the Rights of Persons with Disabilities, available at: <<https://bit.ly/3lfM11L>> [last visited on 25.03.2021].

<sup>68</sup> The United Nations Convention on the Rights of Persons with Disabilities, A/RES/61/106 (adopted December 13, 2006, entered into force on May 3, 2008), available at: <<https://bit.ly/2CqO7wZ>>

<sup>69</sup> The opinion of the Public Defender on the proper consideration of the needs of persons with disabilities in the anti-crisis economic plan, available at: <<https://bit.ly/3rlgSD3>>

treatment of persons with mental health problems during coronavirus are not effectively applied in inpatient and outpatient facilities.<sup>70</sup>

Every year, by the ordinance of the Government of Georgia, the "State Program of Social Rehabilitation and Child Care" is approved, which combines targeted social services for persons with disabilities in the country. In early 2021, the Public Defender monitored this program, and examined the impact of restrictions on the operation of the program caused by the new coronavirus pandemic.<sup>71</sup>

Over the last decade, the overall volume of the program has increased significantly, although the quality of individual services and the lack of beneficiaries involved remain challenging. Some of the services provided by the program are implemented without a service standard, which poses a serious problem for both the quality of their delivery and the monitoring of the services provided.<sup>72</sup> The fact that the state care agency is not properly involved in the program oversight process and its function is limited to the formal procedure of issuing a voucher and involving beneficiaries in the program also has a negative impact on the proper functioning of the program.

Geographical coverage of subprograms remains a challenge. Most of the target groups living in the country are deprived of the opportunity to receive services according to their place of residence. Most of the sub-programs still have waiting lists.<sup>73</sup>

Despite the demand, it is not possible to fully utilize the funds allocated in the state program every year, which is partly due to the fact that the sub-programs are not based on statistical data and the needs of specific groups. Bureaucratic barriers to unequal geographical distribution of services and inclusion in the program also pose problems. Nor is the amount allocated to the sub-program distributed effectively within the sub-program.

Providing beneficiaries with services foreseen by the state program has been particularly difficult in the context of the coronavirus pandemic. Remote access to the service due to lack of appropriate technical means (computer, telephone)/lack of knowledge of their use, as well as lack of Internet access, has become

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<sup>70</sup> Order №01-222/მ of the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia of May 27, 2020 on the approval of state standards (protocols) for the management of clinical conditions - "Mental Health and COVID-19" – "National Recommendation for Clinical Practice (Guideline)" and "Safe Management of Patients in outpatient Mental Health Care Services during COVID-19"; "Safe Management of Patients in Inpatient Mental Health Care Services during COVID-19" Annexes №1, №2, №3, available at: <<https://bit.ly/3vw0Qkn>>

<sup>71</sup> The monitoring was conducted by an invited expert with the support of the United Nations Development Program (11.2020-02.2021). The implementation of the activities of the sub-programs envisaged by the state program in 2018-2020 was assessed, a comparative analysis was carried out, the main problems were identified and recommendations were developed.

<sup>72</sup> Early development sub-program, child rehabilitation/habilitation sub-program, means of assistance sub program (wheelchairs, prosthetic-orthopedic means; hearing aids, smartphones for the deaf and those with hearing loss, walking crutches, white cane for people who are blind and walking frames), sub-program to promote communication of deaf.

<sup>73</sup> As of December 2020, the number of persons in the waiting list are as follows: early development sub-program - 555, habilitation/rehabilitation sub-program - 279, day center sub-program - 71 children with disabilities and 36 persons with disabilities.

a challenge for many beneficiaries. In some cases, it was impossible to manage the service remotely<sup>74</sup> due to the disability and the specifics of the service, which left this circle of persons/children with disabilities beyond the necessary services for months and created a real risk of losing the results already achieved.

The UN Convention on the Rights of Persons with Disabilities obliges the member states to take appropriate measures to ensure the independent living of persons with disabilities and their effective inclusion in society. According to the provisions of the Convention, persons with disabilities are not obliged to settle in specially designated areas.<sup>75</sup> Despite the deinstitutionalization policy announced by the state, a certain number of persons with disabilities in the country still continue<sup>76</sup> to live in large residential institutions.

### Care Needs of Older People

In Georgia, older persons are a vulnerable group and find themselves at a higher risk of poverty compared to the rest of the population. They often depend on social benefits and pensions and live in difficult socio-economic conditions. More than 25% of the population registered in the TSA program are older persons.

A state policy document on older persons – a new action plan for the state policy concept on aging has not been developed in Georgia. According to the Aging Action Plan for 2017-2018, more than half of the commitments have not been fulfilled. It should be mentioned that steps were taken at the end of 2017, however. As a result, the responsible entities were left with only one year for fulfilment the obligations set forth in the action plan.

It has been a significant challenge over the years that further aggravating the socio-economic situation of the elderly the practice of withholding more than 50% of pension because of high-interest loans given to older persons against their pension. The amount of interest was changed by regulation last year. It should be noted, however, that due to the high-interest loans, the amount of pensions received by pensioners has been decreasing every month and they have been receiving much less than the subsistence level on a monthly basis.

Furthermore, the lack of statistics on violence against older persons is a serious challenge. The Ministry of Internal Affairs of Georgia does not register incidents of domestic violence against older persons. The Public Defender has been addressing this issue in parliamentary reports for years. The ministry has been producing unified statistics on violence against people above the age of 45, which, of course, does not reflect accurate data on violence against older persons. The lack of detailed information about mistreatment and abuse and violence against older persons made it impossible to identify the circumstances triggering violence, thus impeding the development of adequate prevention measures and their further improvement. According to the analysis of statistics on domestic violence maintained by the Ministry of Internal Affairs of Georgia since

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<sup>74</sup> Especially in the case of persons with difficult behavior and severe and profound intellectual disability; also in the case of children with disabilities in need of physical rehabilitation.

<sup>75</sup> UN Convention on the Rights of Persons with Disabilities, A/RES/61/106 (adopted on December 13, 2006, entered into force on May 3, 2008), Article 19.

<sup>76</sup> Branches of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking: Martkopi Boarding House for Persons with Disabilities, Dzevri Boarding House for Persons with Disabilities, Dusheti Boarding House for Persons with Disabilities, Tbilisi infant house and Kojori childrens' house for children with disabilities – these are large-scale residential services for 70 children with disabilities and 185 persons with disabilities.

April 2020 there has been an increase in restraining orders applied in the incidents of domestic violence (against persons aged 45+). Because of this surge in domestic violence during the pandemic, it is most important to study the situation of older persons living in Georgia in this regard to detect and respond to violence in a timely manner.

For years, the Public Defender has been discussing the challenges faced by older persons at the local level. These are the difficult socio-economic and living conditions, the threat of poverty and homelessness, inadequate targeted programmes, the lack of measures for the welfare of older persons, the necessity for the assessment of the needs of older persons living in municipalities as well as for planning targeted programmes tailored to their interests.

The cases examined by the Public Defender's Office in the reporting period revealed that the issue of placing older persons in specialised day care facilities takes lengthy consideration. Based on an application drafted by an older person, his/her family member, or the findings of a social worker, an applicant has to wait for a long time to be admitted to the residential care facilities. There is no time limit determined for the period from filing an application to the placement. Furthermore, there is no statistical information maintained on the period of placement in the facility. This deficiency makes it difficult to assess the situation.

#### [Protecting older people during the coronavirus \(COVID-19\)](#)

Older persons are one of the most marginalised and vulnerable groups in Georgia. Therefore, it was very important to monitor the living conditions of older persons during the pandemic in Georgia. It is especially important to analyse the needs of older persons living alone in the regions and the impact of the pandemic on their daily lives. The Public Defender maintains that special attention should be paid during the pandemic to socially vulnerable and dependent older persons living alone. There are 41,995 socially vulnerable older persons, living alone in Georgia.

The pandemic has made the need for long-term care for the older persons even more evident. An important problem in implementing a homecare programme for the elderly is the scale of access to the service. In addition to homecare services, it is important to ensure access to palliative care for older persons. In this case, too, the problem is the limited availability of the programme; in particular, the state programme of palliative care provides only specific services for beneficiaries in several cities.

Lengthy isolation had a negative impact on the mental health of older persons. To avert this threat, psychosocial support programmes should be implemented for older persons. It is also important to improve the access of older people to mobile telephone and modern technologies in general to increase their access to digital technologies. Furthermore, digital exclusion significantly impedes the access of older persons to essential information regarding the pandemic and related health and socioeconomic measures. Unfortunately, these programs are not implemented by the state and it is utmost important to develop appropriate programs for promoting and better realization of the rights of Older Persons.

#### [Discrimination in terms of the Delivery of Social Services](#)

The use of social and healthcare programs by persons who have permanent residence permit in Georgia remains a challenge. Social or healthcare programs implemented by the state, setting allowances for beneficiaries, are basically available only for citizens of Georgia and unfairly exclude persons with permanent residence permit, who contribute to the state budget for purposes of social and healthcare programs equally with citizens of Georgia.

As in previous years, social and healthcare programs offered by a number of municipalities contain discriminatory eligibility criteria. These programs exclude various groups from using them, for example, on the ground of disability, citizenship or legal status (requesting a marriage certificate). When determining a target group, some programs contribute to further stigmatization of specific groups. Furthermore, the analysis of municipal social programs showed that these programs are too detailed that, in certain cases, may result in leaving people with similar needs beyond social and healthcare programs.