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الدورة الرابعة والثلاثون

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البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

تقرير المقررة الخاصة المعنية ببيع الأطفال واستغلالهم في البغاء وفي  
المواد الإباحية عن زيارتها إلى جورجيا

## مذكرة من الأمانة

يشرف الأمانة أن تحيل طيه تقرير المقررة الخاصة المعنية ببيع الأطفال واستغلالهم في البغاء وفي المواد الإباحية عن زيارتها إلى جورجيا. وتستكشف المقررة الخاصة، في هذا التقرير، المسائل المتصلة ببيع الأطفال واستغلالهم جنسياً في جورجيا في ضوء القواعد والمعايير الدولية لحقوق الإنسان. واستناداً إلى المعلومات التي جمعتها المقررة الخاصة قبل الزيارة وأثناءها وبعدها، تسلط المقررة الخاصة الضوء على المبادرات التشريعية والإطار المؤسسي وسياسات حماية الطفل التي اعتمدها اليابان لمكافحة ظاهرة استغلال الأطفال في البغاء وفي المواد الإباحية والوقاية منها، وكذلك على التدابير المتاحة لتوفير خدمات الرعاية والتعافي وإعادة الإدماج للأطفال الضحايا. وتقدم المقررة الخاصة توصيات من أجل تعزيز الجهود الرامية إلى معالجة الظاهرة وتحسين الحماية المقدمة إلى الأطفال والتقليل إلى الحد الأدنى من مخاطر وقوع الأطفال ضحايا البيع والاستغلال في البغاء وفي المواد الإباحية.



الرجاء إعادة الاستعمال

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## Report of the Special Rapporteur on the sale of children, child prostitution and child pornography on her visit to Georgia\*

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\* Circulated in the language of submission only.

## **I. Introduction**

### **A. Programme of the visit**

1. At the invitation of the Government of Georgia, the Special Rapporteur on the sale of children, child prostitution and child pornography visited the country from 11 to 18 April 2016. The objective of the visit was to assess the situation of the sale and sexual exploitation of children and to evaluate the national child protection system, with a view to making recommendations to prevent and eradicate all forms of sale and sexual exploitation of children.

2. In the course of the visit, the Special Rapporteur visited Tbilisi, Batumi, Rustavi and the settlement of Tserovani for internally displaced persons. She met the Minister of Justice, the Minister of Labour, Health and Social Affairs, the Minister of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, the Deputy Minister of Foreign Affairs, the Deputy Minister of Internal Affairs, the Deputy Minister of Corrections, the Deputy Minister of Education and Science, the Deputy Minister of Sport and Youth Affairs, the Assistant to the Prime Minister on human rights and gender equality issues, the Deputy Head of the National Tourism Administration, the Chair of the Supreme Court, the Deputy Chief Prosecutor, the Deputy Public Defender and members of parliament. In Batumi, the Special Rapporteur met the mayor, judges of the city court and representatives of the special anti-trafficking unit.

3. In addition, the Special Rapporteur met representatives of non-governmental organizations (NGOs) dealing with child rights and protection, members of the youth committee of the Georgian Coalition for Child and Youth Welfare and children from the Tserovani settlement. She also met with the United Nations country team and consular representatives in Georgia.

4. The Special Rapporteur visited a shelter for mothers and children at risk of separation or abandonment, a shelter for children living and/or working on the street, two small group homes and a residential institution for children run by the Orthodox Church.

5. The Special Rapporteur wishes to thank the Government of Georgia for facilitating her meetings with State agencies. She also thanks the United Nations country team, civil society organizations and the Office of the United Nations High Commissioner for Human Rights (OHCHR) for their assistance before, during and after her mission.

6. The Special Rapporteur regrets not having been able to assess the situation in the territories of Abkhazia, Georgia, and Tskhinvali region/South Ossetia, Georgia, in the context of her visit.

### **B. Context**

7. Georgia gained its independence from the Soviet Union on 9 April 1991. It has gone through several armed conflicts owing to separatist movements in Abkhazia, Georgia, and Tskhinvali region/South Ossetia, Georgia, in 1992-1993 and in 2008. Those conflicts have led to a large number of displacements and as of 2014, according to the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, there were 259,247 registered internally displaced persons.

8. The population of Georgia is 3,720,400 of whom 930,600 are under 19. The largest ethnic minorities are Azeri and Armenian, accounting for 6.5 and 5.7 per cent of the

population respectively. There are approximately 1,500 Roma people registered in the country.

9. Georgia signed an Association Agreement with the European Union in June 2014. Its economic growth has slowed following several external shocks and in 2015, according to the World Bank, it was 2.8 per cent. In 2015, according to government statistics, 10.1 per cent of the population lived under the poverty threshold and 20.1 per cent were living in relative poverty. As of 2013, 6 per cent of Georgian children lived in extreme poverty while 27.1 per cent were living in relative poverty.<sup>1</sup> An estimated 18,624 children are out of school.<sup>2</sup>

## II. Scope of the sale of children, child prostitution and child pornography

10. Georgia has made considerable progress in the last decade to better protect children from neglect and violence. However, there remain persistent issues of concern, such as child marriage and children living and/or working on the street. Crimes of child sexual abuse and violence are numerous, while very few cases of the sale, sexual and labour exploitation and related trafficking of children are investigated, prosecuted and sanctioned. Poverty and the weakening of families, discrimination against minorities, and domestic violence are the main root causes and push factors of those crimes and violations of child rights. In addition, a new trend of unregulated international commercial surrogacy arrangements taking place within Georgia has emerged, with a negative impact on the rights and best interests of the children born through such arrangements.

### A. Sale of children

#### 1. Child marriage

11. Child marriage persists in Georgia among certain ethnic and religious minorities and in some rural areas. The Special Rapporteur noted that no comprehensive and up-to-date research has been conducted on the scope of child marriage, its practices and consequences. Data from 2010 shows that 14 per cent of Georgian women are married before the age of 18.<sup>3</sup> Despite the criminalization of forced marriage in 2014, no prosecutions were conducted for the offence in 2015.<sup>4</sup>

12. Child marriage in Georgia is linked to poverty and lack of education, traditions and social norms that justify this harmful practice, lack of information about sexual and reproductive health, and lack of integration of some ethnic and religious minorities.<sup>5</sup> The Special Rapporteur reminds authorities that child marriage is a gendered crime that contravenes Georgia's legal obligations under international human rights law. It has devastating effects on the lives of children, in particular girls, and violates their basic rights,

<sup>1</sup> See United Nations Children's Fund (UNICEF), "Reducing child poverty in Georgia: a way forward", UNICEF, 2015, (2014), p. 9.

<sup>2</sup> See UNICEF country programme document for Georgia for 2016-2020 (E/ICEF/2015/P/L.14).

<sup>3</sup> Data based on the Georgia reproductive health survey for 2010, available from [www.ncdc.ge/AttachedFiles/reproductive\\_health\\_survey\\_georgia\\_2010\\_0ac9423c-44f8-47a6-afa4-118953ab52de.pdf](http://www.ncdc.ge/AttachedFiles/reproductive_health_survey_georgia_2010_0ac9423c-44f8-47a6-afa4-118953ab52de.pdf).

<sup>4</sup> See Public Defender (Ombudsman) of Georgia, "Early age marriages: challenges and solutions" (2016).

<sup>5</sup> See United Nations Population Fund, "Child marriage in Georgia" (overview, June 2014).

including the rights to education and health, and protection from all forms of sexual abuse and exploitation.

## 2. Illegal adoptions

13. According to data provided by the Ministry of Labour, Health and Social Affairs, the number of children eligible for adoption had decreased from 276 in 2010 to 181 by September 2016. Most of these children have disabilities (119 out of 181), are above the age of 10 (78), or refuse to be adopted (19). Domestic adoptions have declined (from 269 in 2010 to 69 by September 2016) and intercountry adoptions are scarce (23 since 2010). According to the Government of Georgia, the decrease in the number of children eligible for adoption is owing to preventive policies aimed at reducing child abandonment. However, the number of prospective adoptive parents has increased steadily (from 2,439 in 2010 to 3,325 by September 2016). The Special Rapporteur warned that the imbalance between the number of children eligible for adoption and the number of prospective adoptive parents is a feeding ground for irregularities.

14. The adoptability status of the child is determined by the Social Services Agency and district and city courts take a final decision regarding adoption.<sup>6</sup> The Law on Adoption and Foster Care allows for direct adoptions, which facilitates corruption and irregular practices.<sup>7</sup> Irregularities have also been reported in the issuance of birth certificates, which contain the names of the adoptive parents without any mention of the biological parents.<sup>8</sup> Nevertheless, between 2013 and 2015, only 12 investigations were launched concerning illegal adoptions (article 172 of the Criminal Code), which led to the conviction of eight persons.<sup>9</sup>

## 3. International commercial surrogacy arrangements

15. The Special Rapporteur is deeply concerned by international commercial surrogacy arrangements that have proliferated in Georgia over recent years and are increasing. Since 2012, 581 children have been born through international commercial surrogacy, of which 171 were born in the first nine months of 2016.<sup>10</sup> Gestational surrogacy is legal in Georgia and Georgian law views children born through gestational surrogacy arrangements as the legal children of their commissioning parents. Georgia is one of the few countries providing surrogacy arrangements to foreign commissioning parents (although surrogacy arrangements are not permitted for same-sex couples), without the regulations that protect the rights and best interests of children born through these arrangements and the rights of the women acting as surrogate mothers.

16. The lack of comprehensive protective regulations has resulted in so-called “baby tourism”, fuelled by advertising campaigns promoting clinics based in Georgia, which often operate in agreement with foreign clinics.<sup>11</sup> Surrogacy costs are estimated at \$30,000 in

<sup>6</sup> See Law on Adoption and Foster Care, articles 18 and 20.

<sup>7</sup> According to official statistics, in 2015 68 per cent of adoptions were direct adoptions. In the first six months of 2016, 52 per cent of adoptions were direct adoptions. The statistics include step-parent adoption.

<sup>8</sup> In 2015-2016 the number of children whose birth parents were indicated in birth certificates upon a court decision increased considerably (39 cases as opposed to 4 cases in 2012-2014). Data provided by the Chief Prosecutor’s Office.

<sup>9</sup> Data provided by the Government.

<sup>10</sup> Statistics provided by the Ministry of Justice.

<sup>11</sup> See, for example, [www.newlifegeorgia.com/](http://www.newlifegeorgia.com/); [www.caresurrogacygeorgia.com/step-by-step-process](http://www.caresurrogacygeorgia.com/step-by-step-process); [www.surrogacy.ge/en/the-best-surrogacy-legislation](http://www.surrogacy.ge/en/the-best-surrogacy-legislation); [chachava.ge/index.php?page=1010&lang=eng](http://chachava.ge/index.php?page=1010&lang=eng); and [www.findsurrogatemother.com/surrogacy-agencies/georgia/tbilisi](http://www.findsurrogatemother.com/surrogacy-agencies/georgia/tbilisi).

Georgia, a lower cost than other countries, but still a profitable business.<sup>12</sup> In 2013, at the request of the Ministry of Labour, Health and Social Affairs, the United Nations Population Fund commissioned a preliminary assessment of the practice of surrogacy in Georgia in order to find a solution to the problem. However, there has been no immediate follow-up, owing partly to opposition from the clinics.

17. Consular representatives of foreign States in Georgia acknowledged that unregulated international commercial surrogacy arrangements are an issue of concern, owing to differences between the legislation in Georgia and in their own jurisdictions, which raise conflicts and can result in situations of legal limbo for children born through such arrangements, in particular regarding the determination and recognition of legal parentage and the issuing of identity documents. According to Georgian legislation regarding surrogacy, the woman who gives birth (the surrogate mother) has no legal right over the child and no legal status in relation to the child. Upon submission of a surrogacy contract, the registry issues birth certificates with the names of the commissioning parents as the legal parents of the child. The birth certificate does not contain the name of the surrogate mother and no reference to the surrogacy arrangement is recorded on the child's birth certificate.

18. Some foreign consulates in Georgia conduct additional enquiries, based on their national laws, to confirm parentage. In case of doubt, consulates may refuse to issue identity documents for the child. However, owing to a lack of resources, some consulates issue identity documents based solely on the birth certificate issued by the registry in Georgia, even when there are doubts about the child's parentage. The lack of consistency in dealing with such cases results in some consulates being more solicited by foreign commissioning parents to obtain identity documents for children. In some cases, clinics liaise with the consulates on behalf of the commissioning parents, in order to facilitate the issuance of legal documents.<sup>13</sup> In other cases, the consulate accompanies the commissioning parents throughout the process once they have arrived in Georgia.

## **B. Sexual abuse and exploitation of children**

19. The Special Rapporteur noted with concern that there is no comprehensive and reliable data on the scope and different forms of sexual abuse and exploitation of children in Georgia.<sup>14</sup> The information received is fragmented and anecdotal. However, it shows that the scope of the phenomenon is broader than what is officially registered. Indeed, nearly 80 per cent of respondents to a survey conducted in 2012 considered sexual abuse of children to be a major problem.<sup>15</sup>

20. Since 2010, 12 cases of offences related to the production and sale of child abuse material have been investigated under article 255 of the Criminal Code.<sup>16</sup> Between 2011 and August 2016, 64 persons were prosecuted for those offences and sanctions ranged from imprisonment for 3 years to fines.<sup>17</sup> No investigations have been conducted since 2010 for

<sup>12</sup> See [www.famliesthrusurrogacy.com/surrogacy-by-country/](http://www.famliesthrusurrogacy.com/surrogacy-by-country/).

<sup>13</sup> See, for example, the step-by-step process described at [www.caresurrogacygeorgia.com/step-by-step-process](http://www.caresurrogacygeorgia.com/step-by-step-process).

<sup>14</sup> See ECPAT International, "Commercial sexual exploitation of children in the Commonwealth of Independent States: developments, progress, challenges and recommended strategies for civil society" (November 2014).

<sup>15</sup> See UNICEF and United States Agency for International Development, "Violence against children in Georgia. National survey of knowledge, attitude and practices" (July 2013).

<sup>16</sup> Data provided by the Ministry of Internal Affairs.

<sup>17</sup> Data provided by the Chief Prosecutor's Office.

engaging a minor in prostitution (article 253 of the Criminal Code).<sup>18</sup> While the number of investigations into and prosecutions for child sexual exploitation is very low, the number of investigations related to child sexual abuse and violence, including rape, is high: between 2010 and June 2016, 913 investigations were launched and 516 children identified as victims of sexual abuse and violence offences.<sup>19</sup>

21. The Special Rapporteur observed that sexuality and issues related to sex were considered taboo by society. That may lead to a denial of sexual abuse and violence against children within the family and make it difficult to detect and report such cases. While the Special Rapporteur noted an opening on the issue of domestic and gender-based violence owing to ad hoc legislative reforms and awareness-raising campaigns, she regrets that similar progress has not been made vis-à-vis the abuse, violence and exploitation of children. Furthermore, according to a survey conducted by the United Nations Children's Fund (UNICEF) in 2012, 60 per cent of respondents believed that using harsh parenting as a tool for child discipline was more effective than non-violent parenting techniques.<sup>20</sup>

22. The Special Rapporteur commends the efforts made by Georgia in combating trafficking in persons. However, she regrets the low level of prosecutions and convictions for trafficking in children. Between 2010 and August 2016, 12 cases of trafficking in relation to the sale and sexual and labour exploitation of children were investigated. During the same period, five persons were convicted for child sexual exploitation and three for the sale of children. Since 2010, only five cases of child labour exploitation have been investigated, which have led to no convictions.<sup>21</sup>

### C. Children living and/or working on the street

23. Information regarding the labour exploitation of children in Georgia is scarce. Reportedly, children continue to be engaged in labour in agriculture and forced begging.<sup>22</sup> However, despite the creation of a labour inspectorate and the adoption of the State programme on the monitoring of labour conditions,<sup>23</sup> no cases of labour exploitation of children have been detected so far.<sup>24</sup>

24. A study published in 2009 revealed that there was an average of 1,049 children living and/or working on the streets of Tbilisi, Kutaisi, Rustavi and Batumi in 2007.<sup>25</sup> According to the Public Defender's Office, up to the end of 2015 mobile groups had identified 634 children in street situations.<sup>26</sup> Approximately half of them were from Azerbaijan or belonged to the Roma community.

25. The Special Rapporteur received information of cases of trafficking of children for the purpose of forced begging. Reportedly, many of the children are brought by their

<sup>18</sup> Data provided by the Ministry of Internal Affairs.

<sup>19</sup> Data provided by the Government.

<sup>20</sup> See "Violence against children in Georgia".

<sup>21</sup> Data provided by the Chief Prosecutor's Office.

<sup>22</sup> See United States Department of Labor, Bureau of International Labor Affairs child labour and forced labour reports, available from [www.dol.gov/agencies/ilab/resources/reports/child-labor/georgia](http://www.dol.gov/agencies/ilab/resources/reports/child-labor/georgia).

<sup>23</sup> Resolution of the Government of Georgia on approval of the rule of State supervision/labour inspection of prevention and responding on forced labour and labour exploitation of 1 January 2016, and resolution No. 38 on approval of the State programme on monitoring of labour conditions of 5 February 2015.

<sup>24</sup> Information provided by the Ministry of Labour, Health and Social Affairs.

<sup>25</sup> See Katarzyna Wargan and Larry Dershem for Save the Children, "Don't call me a street child: estimation and characteristics of urban street children in Georgia" (March 2009).

<sup>26</sup> See Public Defender (Ombudsman) of Georgia, "Situation of children's rights in Georgia" (2015).

parents from Azerbaijan, through networks, for targeted begging. Children in street situations also belong to the Roma minority, who suffer from discrimination. Many of the children suffer from domestic violence and neglect within their families, are drug users and as they grow older risk becoming victims of sexual exploitation.

26. The Special Rapporteur took note of the numerous challenges faced when addressing the phenomenon of children living and/or working on the street. First, there is a lack of up-to-date and reliable data or comprehensive research and analysis on the background, recruitment and forms of exploitation of the children to inform effective policies. Information and evidence is anecdotal and knowledge and understanding of the phenomenon is missing, due partly to existing prejudices. Secondly, responses are not addressing the root causes and are therefore not preventive. A systematic approach is lacking and interventions are sporadic. Third, the fact that many of the children are not from Georgia renders their identification difficult, which, until the adoption of legislative amendments in June 2016, hampered their access to assistance and services, owing to lack of identity documents.

#### **D. Root causes and risk factors**

27. The Special Rapporteur identified among the main root causes of the sale and exploitation of children, poverty and economic hardship, the weakening of families, migration, discrimination against minorities and domestic violence. She emphasizes the direct link between the absence of social protection and the lack of protection of children from abuse, violence and exploitation.

28. Certain groups of children are more vulnerable to falling victim to sale and exploitation, including children who belong to minorities and children with disabilities. Hence they require increased attention and targeted interventions from policymakers and service providers. Children with disabilities constitute 5 per cent of all children in the country. Even though 10,000 children with disabilities are officially registered, it is estimated that around 34,000 are still unregistered, owing partly to a lack of early identification and referral mechanisms.<sup>27</sup>

29. The Special Rapporteur warns of new risk factors, such as the global spread of the Internet and new technologies, which can facilitate the sexual abuse and exploitation of children. Despite a high Internet penetration rate in Georgia,<sup>28</sup> mainly in the cities, the Special Rapporteur noted with concern that there are no studies on the impact of information and communications technologies on child sexual abuse and exploitation. The Special Rapporteur commends the prevention and protection measures adopted at public schools through the educational management information system under the Ministry of Education and Science, and encourages the relevant authorities to extend similar measures, in partnership with the private sector, beyond public schools.

30. The Special Rapporteur also stresses that the sexual exploitation of children in travel and tourism constitutes a new risk factor that should be addressed by national authorities through adequate prevention and protection measures.

<sup>27</sup> Data provided by UNICEF based on World Health Organization estimates.

<sup>28</sup> According to the Family Online Safety Institute global resource and information directory, as of June 2012, Internet users stood at 1.3 million (28.4 per cent of the population).



### **III. Measures to combat and prevent the sale of children, child prostitution and child pornography**

31. Georgia has made considerable progress in the last decade to better protect children from neglect and violence. It has launched a reform of the childcare system,<sup>29</sup> increased efforts to combat trafficking in human beings and adopted a new Juvenile Justice Code. Despite those positive steps, Georgia must adopt and invest more in a comprehensive strategy that effectively tackles the sale and sexual exploitation of children, including their root causes. While the basic framework exists, the main challenges remain the lack of data and understanding of the phenomenon, the lack of a comprehensive and clear legal framework and the lack of effective implementation through allocation of the necessary resources.

#### **A. Legal framework**

32. Georgia has ratified most of the core international human rights treaties, including the Convention on the Rights of the Child and its Optional Protocol on the sale of children, child prostitution and child pornography. The Special Rapporteur commends Georgia for its ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure in September 2016, and of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse and urges the authorities to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

33. The Special Rapporteur welcomed the entry into force of the Juvenile Justice Code in 2016, which establishes a child-sensitive justice process through specialized prosecutors, judges and lawyers. It applies to children in conflict with the law and any child who is in contact with the criminal justice system as a victim or a witness. The Code favours restorative justice through the adoption of alternative sanctions (such as release on parole and house arrest), and the use of penal sanctions as a last resort. It also introduces numerous child-sensitive measures, such as an individualized approach, the protection of the private life of the child, the appointment of a legal representative during judicial proceedings and the presence of a psychologist during interviews, as well as a reduction in the number of interviews, to avoid retraumatizing the child in question.

34. The Special Rapporteur welcomes the prohibition of forced marriage since 2014. Forced marriage committed knowingly against a child is punished with up to 4 years of imprisonment (article 150 of the Criminal Code). Article 140 of the Criminal Code punishes sexual intercourse, homosexual or lesbian or other sexual intercourse in a perverted form committed knowingly by an adult against a child under 16 with 7 to 9 years of imprisonment.<sup>30</sup> Article 1108 of the Civil Code sets the minimum age for marriage at 18 and the legal reform of December 2015 prohibited child marriage with exceptions, since it authorized courts to approve marriages between children aged 17 in special circumstances such as pregnancy (article 1507 of the Civil Code). According to a recent study on early marriages, in 2015 there were 611 registered marriages of persons between 16 and 18 years

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<sup>29</sup> This reform, generally known as the “deinstitutionalization process”, refers to policies and measures adopted by the Government to reduce the placement of children in institutions through the establishment of alternative childcare services that are more compliant with child rights, such as foster care and small group homes.

<sup>30</sup> Between 2010 and June 2016, 367 child victims of the offence of forced marriage were identified by the police during investigations.

of age, 95 per cent of whom were girls.<sup>31</sup> The Special Rapporteur welcomes the fact that legal exceptions to the prohibition of child marriage will no longer be effective from 1 January 2017.

35. The Special Rapporteur welcomes the adoption in 2006 of the Law on Combating Human Trafficking and its amendments of 2012 and 2014, which included a specific section on the social and legal protection, support and rehabilitation of children who are victims of or affected by human trafficking, and incorporated the best interests of the child and a clearer definition of exploitation (art. 3. d).

36. However, while Georgia is a party to the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the Special Rapporteur notes with concern that national legislation does not incorporate the definition of sale of children established by the Optional Protocol. Moreover, article 143.1 of the Criminal Code defines child trafficking as “purchase or sale of children, or other unlawful transactions in relation to them”. That definition mixes the crimes of sale and trafficking of children, which are similar but distinct. As a result of that provision, most if not all efforts are directed towards combating trafficking in persons, while other manifestations of the sexual exploitation and sale of children are overlooked.

37. In addition, the Special Rapporteur noted that sexual exploitation of children is only criminalized in relation to, or as part of, the crime of trafficking (article 3. f of the Law on Combating Human Trafficking), and not as a separate crime. Moreover, articles 253.2 and 255 of the Criminal Code, which criminalize the engagement of minors in “prostitution” and “illegal production and sale of pornographic works” respectively, do not fully incorporate the definitions of child prostitution and child pornography contained in the Optional Protocol.<sup>32</sup>

38. The Special Rapporteur welcomes the adoption on 22 June 2016 of the legislative reform package affecting children living and/or working on the street, which grants them temporary identification documents to access support services, gives more powers to social workers and broadens the referral mechanism to include relevant stakeholders such as local authorities.<sup>33</sup>

39. The Special Rapporteur urges authorities to expedite the passing of the new law on child adoption and foster care. She welcomes the abolition of direct adoptions in the new draft law and recalls that, in order to be compliant with child rights and effectively combat illegal adoptions, the prohibition cannot allow for exceptions. The Special Rapporteur also welcomes the inclusion in the draft law of provisions on the assessment, matching, monitoring and court approval of adoption processes, based on the best interests of the child and the right of the child to be heard, as well as mandatory training of foster and adoptive parents. Intercountry adoption processes must be carried out between the competent central authorities of the States concerned, based on specific requirements for the accreditation of foreign agencies.

40. The Special Rapporteur notes with concern that there is no comprehensive regulation of commercial surrogacy arrangements. Maternal surrogacy is legal in Georgia

<sup>31</sup> See Public Defender (Ombudsman) of Georgia, “Early age marriages: challenges and solutions” (2016).

<sup>32</sup> Even though article 255.2 of the Criminal Code criminalizes, among others, storing child abuse material, it does not criminalize mere possession. Article 255.3 of the Criminal Code only criminalizes “knowingly making or selling pornographic work containing images of minors”.

<sup>33</sup> According to the Government, two NGOs will receive funds from the Ministry of Justice to implement in 2017 legal amendments affecting children in street situations, in particular, to facilitate their identification and reintegration.

for married heterosexual couples. The only provision regulating this matter is article 143 of the Law on Health Care, which allows in vitro fertilization. In addition, this provision establishes that the commissioning couple are deemed to be the legal parents of the child while the donor or the surrogate mother has no right to be recognized as a parent of the child. The balance that has been struck is clearly in favour of commissioning parents. That violates the rights of the child, including the right to preserve identity, nationality and health, places such children at risk of being affected by decisions which are not in their best interests and exposes them to the risk of exploitation. It also subordinates the rights of women who act as surrogates, since they have no legal right over the child, and places them at risk of exploitation as well.

41. The lack of detailed regulation of surrogacy arrangements, in particular their commercial aspect and the lack of control over the clinics that provide surrogacy services, has led to irregularities and protection gaps. In April 2016, the Ministry of Justice and the Ministry of Internal Affairs issued Joint Order No. 133-No. 144 on the procedure for removing from Georgia a child born in Georgia through surrogacy, to prevent child trafficking. However, its effects are limited to the creation of a database run by the Ministry of Justice and accessible by the Ministry of Internal Affairs, to ensure the registration of children born through surrogacy arrangements. If, upon leaving the country, the child and both parents are not registered in the database, officers of the Ministry of Internal Affairs can refuse the removal of the child at the border.

## **B. Institutional framework**

42. The Social Service Agency, an independent entity under the Ministry of Labour, Health and Social Affairs, and its regional branches are in charge of implementing the child protection system. The regional bodies for guardianship and custody are composed of representatives of local authorities and NGOs, and take decisions on support benefits for children and their families, and the placement of children in alternative care settings such as foster care and small group homes.

43. Since March 2015, there has been a department for the inspection of labour conditions within the Ministry of Labour, Health and Social Affairs. It is tasked with detecting labour exploitation and forced labour in State and privately-owned companies through, among other things, carrying out inspections without warning. Once detected, child labour cases are referred to the Social Service Agency. The Ministry of Labour, Health and Social Affairs has signed a memorandum of understanding with the Ministry of Internal Affairs to strengthen cooperation through, inter alia, information-sharing on high-risk companies.

44. The Inter-agency Council on Combating Trafficking in Persons is led by the Ministry of Justice and composed of six other ministries, the State Fund for the protection and assistance of (statutory) victims of human trafficking, the Parliamentary Secretary of Government, the Chief Prosecutor's Office, the Public Defender's Office, as well as intergovernmental organizations and NGOs. It is tasked with facilitating the implementation of measures to prevent and combat trafficking; protecting, supporting and rehabilitating victims; and coordinating and monitoring the activities of multiple stakeholders. The recently established Inter-agency Council for the Prevention of Domestic Violence also adopts a multidisciplinary approach in its work.

45. The Public Defender's Office has a child rights centre and a national prevention mechanism for conducting its monitoring and protection role in relation to the rights of the child. It reacts on the basis of allegations of individual violations, makes recommendations for legislative reform, conducts regular monitoring of childcare centres, attends judicial hearings as an observer and submits expert opinions.

## C. National policies, strategies and programmes

### 1. Policies on child protection

46. Georgia is slowly overcoming a recent history of lack of child protection plans and policies. The Child Welfare and Protection Action Plan 2012-2015 was aimed at protecting children from violence and neglect, and providing opportunities for their psychological and social development in a family environment. The objectives of the action plan were to provide childcare support to families in the form of targeted transfers, non-monetary assistance and increased access to services to prevent child abandonment; to reduce the number of children subject to violence and neglect and strengthen identification and response mechanisms; to complete the deinstitutionalization process and expand alternative care services; and improve the child protection system by strengthening joint coordination. The Special Rapporteur notes that the implementation of the action plan was heavily dependent on donor funding and lacked comprehensive analysis and assessment of its impact and results.<sup>34</sup>

47. The National Strategy for the Protection of Human Rights 2014-2020 lists among its strategic paths the development of a child rights-compliant juvenile justice system, the promotion of gender equality, the improvement of child protection, a reduction in child poverty and the provision of a high level of education for all children. The Special Rapporteur welcomes the incorporation of the protection of the rights of the child into the new action plan on the protection of human rights for the period 2016-2017, which includes a specific goal on the elimination of violence against children. However, the prevention and combating of sexual exploitation of children should constitute a separate goal, with an allocation of adequate funding and activities aimed at prevention through education and awareness-raising; the establishment of child-friendly complaint and reporting mechanisms; effective coordination among all stakeholders; and the provision of comprehensive care, recovery and reintegration programmes for child victims and support for children in vulnerable situations.

48. The Special Rapporteur welcomes the adoption on 21 July 2016 (decree No. 341) of the action plan for 2016-2017 on the measures to be implemented to combat violence against women and domestic violence and protection of victims/survivors. However, she regrets its lack of a child rights perspective and the absence of child protection measures. The Government must ensure complementarity and coordination in the implementation of all action plans that stem from the action plan on the protection of human rights for 2016-2017, based on an impact assessment of and lessons learned from previous action plans.

49. The national action plan on combating trafficking in persons 2015-2016 sets out five goals, namely prevention, protection of victims, effective prosecution, capacity-building of professionals and internal coordination. Objectives linked to prevention include raising awareness at schools and in higher education and childcare institutions, as well as among children in street situations, about the risks associated with trafficking. As part of the protection measures, the plan of action refers to the consideration of the needs of children in the provision of services provided at shelters for victims of trafficking. The Special Rapporteur encourages the authorities to incorporate a comprehensive child rights perspective in the next action plan and to develop further prevention, protection and prosecution measures to combat the sexual and labour exploitation of children.

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<sup>34</sup> See Stronger Coalition for Child Welfare, "Assessment of child welfare reform and childcare system" (July 2014).

## 2. Investigation and prosecution

50. Law enforcement personnel, social workers, teachers, resource officers of educational institutions and doctors are tasked with detecting and referring cases of violence against children.<sup>35</sup> The Social Service Agency operates a hotline number and the police offer a universal helpline to report such cases.<sup>36</sup> In addition, there is a hotline at a specific rate for trafficking cases managed by the State Fund for protection and assistance of (statutory) victims of trafficking and for 2017 the State Fund intends to expand the toll-free hotline for domestic violence cases to cover sexual abuse and trafficking cases. However, the Special Rapporteur notes that no child-friendly complaint and reporting mechanism is available in the country. The authorities acknowledged the difficulties in identifying child victims of violence, partly due to a lack of sufficient training and awareness-raising for law enforcement personnel and social workers, the limited number of social workers and other weaknesses in the social protection system. Society's culture of silence towards the problem is also a major concern. As a result, cases of child abuse, violence and exploitation are underreported.

51. Victim identification relies heavily on law enforcement. The Ministry of Internal Affairs has a specific division in charge of investigating cases of trafficking, identifying victims of trafficking and referring them to services. Mobile inspection groups conduct proactive detection of cases of trafficking by operating in high-risk areas, such as bars and brothels. The Special Rapporteur also welcomed the adoption of internal guidelines for law enforcement personnel on the investigation and prosecution of trafficking cases and the treatment of victims, including children, which ensure the principle of confidentiality and aim to avoid retraumatization.

52. The Ministry of Internal Affairs is also a member, together with social services, of the coordination body set up to address the situation of children living and/or working on the street. The Ministry conceded that the plight of children in street situations is a long-standing issue which needs to be addressed at its root causes, i.e. through poverty reduction and employment policies. Coordination with relevant stakeholders, including NGOs, is also essential to offer long-term responses. In that regard, it is expected that the implementation of the new child protection referral mechanism, introduced in September 2016, will address the lack of effective interaction and coordination among different stakeholders, in particular law enforcement personnel and service providers. In that context, the Special Rapporteur welcomes training on childcare referral procedures that have been approved for social workers.

53. The Ministry of Internal Affairs set up a special cybercrime unit in 2012 and law enforcement bodies and the Ministry of Education conduct awareness-raising activities on safe Internet usage. Law enforcement bodies also seek the cooperation of the business sector to remove online child abuse material and pursue criminal investigations. However, the Special Rapporteur notes that there are no public-private sector protocols to combat online child abuse and exploitation. In addition, despite Georgia being a member of the Global Alliance against Child Sexual Abuse Online, there is a need to strengthen the international cooperation of law enforcement bodies to combat child sexual exploitation online.

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<sup>35</sup> See Joint Order No. 152/N-No.496-No.45/N of the Minister of Labour, Health and Social Affairs, the Minister of Internal Affairs and the Minister of Education and Science of 31 May 2010 on approval of child protection referral procedures.

<sup>36</sup> In February 2016, the 112 emergency response centre adopted software to distinguish cases of violence against children. Between February and August 2016, 132 calls were registered under this category. Data provided by the Ministry of Internal Affairs.

54. The Special Rapporteur welcomes the specialized training received by law enforcement personnel, prosecutors, judges and lawyers since the entry into force of the Juvenile Justice Code. According to the Prosecutor's Office, there are 190 prosecutors trained and certified to work with child victims and witnesses and with children in conflict with the law. At the time of the visit, the Chief Prosecutor's Office was drafting its strategy and action plan for the period 2016-2024, which will prioritize the fight against trafficking and domestic violence.

55. Between 2010 and July 2016, 10 persons were convicted by first instance courts for the offence of forced marriage, 8 were convicted for child trafficking, 4 for the production and sale of child abuse material, and 2 for child prostitution.<sup>37</sup> The very few cases that made it to the Supreme Court were rendered inadmissible. Accountability for the crimes of the sale and exploitation of children remains very low.

### 3. Care, recovery and reintegration

56. The Social Service Agency manages funds and programmes related to the protection of children from violence, alternative childcare, the placement of children in adoption, the reintegration of children placed in residential institutions with their biological families, preventive measures in support of vulnerable families, and assistance for children with disabilities. With 250 statutory social workers in charge of child protection, the system has been criticized for being understaffed, limited in geographic coverage and reactive rather than proactive.

57. The provision of care and support services for child victims of neglect and violence is outsourced through NGOs based on a voucher system. Their services range from the management of various types of childcare centres to the provision of psychosocial assistance to child victims. The Special Rapporteur notes that financial provisions allocated for care services are insufficient. In addition, the outsourcing of the provision of care has an impact on the quality of services and NGOs are often incapable of dealing with certain categories of victims owing to a lack of expertise and means.

58. The Special Rapporteur stresses that the quality of services should be ensured through the adoption of proper regulations. She welcomes the adoption of government resolution No. 66 of 15 January 2014 on technical regulations on approval of child care standards, which apply to day-care centres and childcare institutions, such as small group homes, that provide 24-hour services to children. The regulations establish standards, such as the adoption of an individual approach to services, the establishment of complaints procedures, preparation for an independent life and requirements for the personnel. The Special Rapporteur encourages the authorities to adopt appropriate standards for other service providers not covered by the regulations, such as foster care and non-public residential institutions.

59. Another major deficiency of the childcare system is the lack of effective control and monitoring of services. A small monitoring unit of the Ministry of Labour, Health and Social Affairs is tasked with assessing all licensed childcare centres and services, and ensuring that service providers meet childcare standards. However, the Ministry has been criticized for not having effective control over service providers and for limiting its role to the provision of funds.

60. All interlocutors of the Special Rapporteur conceded that the social service system is very weak, owing partly to the situation of social workers, who are overburdened, poorly paid and lack the means and conditions to work effectively. Social workers must have the

<sup>37</sup> Statistics provided by the Supreme Court and the Government.

necessary skills to communicate with child victims. Standards of social work are missing, as is training of social workers, including on how to detect and report child abuse.

61. Until recently, the referral process for child victims of domestic or other violence was dealt with by the Ministry of Labour, Health and Social Affairs, the Ministry of Internal Affairs and the Ministry of Education and Science. The Special Rapporteur welcomes the adoption on 12 September 2016 of the new child protection referral procedures, which involve all ministries and municipalities concerned in the decision-making process of the referral system. The Social Service Agency is in charge of assessing the condition of child victims, preparing an individual development plan, placing the children in appropriate institutions and supervising their condition.<sup>38</sup> The Special Rapporteur encourages social workers and other stakeholders to exercise their new powers proactively in the identification and removal of child victims of violence, in order to balance out the predominant role that the police have had in this area until now.

62. Most of the children in street situations who are referred for State care come from dysfunctional families and are often not wanted in schools. These children stay an average of three to six months in temporary centres or shelters. Thereafter, they are referred to foster care, adoption or small group homes, unless they are reintegrated with their biological families. Other children in need of alternative care are placed directly in foster care or small group homes. In emergencies, children are sometimes placed in emergency foster care and then moved to long-term or permanent living arrangements, such as kinship, foster care, small group homes or adoption.

63. Referrals of child victims of trafficking are dealt with by law enforcement. There are two shelters for victims of trafficking (in Batumi and Tbilisi) operated by the State Fund for the protection and assistance of (statutory) victims of human trafficking. Child victims of trafficking with families are brought to these shelters, while unaccompanied child victims are referred to small group homes. The State Fund provides legal assistance, psychological and medical services free of charge and monetary compensation. Shelters also offer the service of babysitter or caretaker for child victims of trafficking and children accompanying their parents. Services are tailored to the children through individual interviews and needs assessments conducted by social workers, who prepare rehabilitation and reintegration plans.<sup>39</sup>

64. The Special Rapporteur notes with concern the lack of support services for care leavers, namely children who upon turning 18 stop being under State care. Since 2011, 170 young adults have left State institutions.<sup>40</sup> Young adults who have been brought up in State care need long-term support to facilitate their social reintegration. The limited support available, such as grants for accommodation and vocational training, is provided by NGOs. The State should provide assistance to care leavers for an induction period into adult life to prevent them from returning to vulnerable situations and falling victim to exploitation. Accommodation and psychosocial counselling should be prioritized in the support package for care leavers to facilitate their social reintegration.

65. In 2013, the Ministry of Labour, Health and Social Affairs, with the support of UNICEF and the European Union, launched a programme to address the situation of children living and/or working on the street. It consisted of the identification of children in

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<sup>38</sup> See Joint Order No. 152/N-No. 496-No. 45/N.

<sup>39</sup> See reply of the Ministry of Labour, Health and Social Affairs, dated 15 May 2015, to an OHCHR questionnaire on assistance and rehabilitation programmes for child victims of sale and exploitation, including sexual exploitation, available from <http://www.ohchr.org/Documents/Issues/Children/SR/CareAndRecovery/Georgia.pdf>.

<sup>40</sup> Data provided by the Ministry of Labour, Health and Internal Affairs.

street situations by multidisciplinary mobile groups (a psychologist, a social worker, a peer educator and a driver), and their referral to services offered in day-care centres, 24-hour crisis intervention centres and transitional centres in Tbilisi and Kutaisi. Day-care and crisis intervention centres provide children with services to cover their basic needs, including shelter and psychological support. Transitional centres are 24-hour care services for up to one year that offer an individualized approach, developmental opportunities and the preparation of children for longer-term placements in foster care and small group homes.<sup>41</sup>

66. One of the challenges faced by mobile groups is the identification of children, since most of them lack documentation. The draft legislative reform package on foster care and adoption addresses this problem with the adoption of a broader definition of the abandoned child and by providing relevant children in street situations with temporary identification documents so that they can access support services. Another challenge is the origin and background of the children. Many of them are not from Georgia, belong to minorities or come from the deinstitutionalization process. Mobile groups lack the means to deal with the children and/or their parents.

67. Despite its positive aspects, the programme for children in street situations has been criticized for a series of deficiencies. It lacks a systematic approach, since it only focuses on sporadic and emergency interventions, overlooking longer-term support, evaluation and follow-up.

#### 4. Residential institutions

68. The Plan of Action for reform of the childcare system 2011-2012 prioritized the upbringing of children in a family-like environment. The plan was based on the premise that when the possibilities for reintegration of abandoned children into their biological family and placement in foster care or adoption were exhausted, small group homes were the best alternative care option.<sup>42</sup> According to the Ministry of Labour, Health and Social Affairs, in 2005 there were approximately 5,000 children placed in around 50 such institutions. Of those children, 70 per cent had at least one living parent. Through the deinstitutionalization process, 40 public residential institutions have been closed.<sup>43</sup> Since 2010, the number of children placed in State-run institutions has decreased considerably (from 1,239 in 2010 to 88 in 2016), while the number of children in foster care has increased (from 509 in 2010 to 1,343 in 2016). In addition, there are 47 small group homes, which provide care to 326 children (an increase from 130 in 2010).<sup>44</sup>

69. The Ministry of Labour, Health and Social Affairs has initiated the second phase of the deinstitutionalization process to target non-public residential institutions. Unregulated private childcare institutions are run by third parties, such as religious institutions, local governments and private individuals. According to 1 NGO, there are 36 non-public residential institutions that provide care to 1,146 children, most of them from vulnerable families. The majority of these institutions were created from 2000 onwards and developed in parallel to the deinstitutionalization process for public residential institutions led by the Government.

70. Non-public residential institutions have been largely criticized for escaping any type of regulation, monitoring and control by the Government. The Special Rapporteur welcomed the initiation of talks between the Ministry of Labour, Health and Social Affairs

<sup>41</sup> See Ministry of Labour, Health and Social Affairs reply to OHCHR questionnaire.

<sup>42</sup> Small group homes are family-type homes where care and services are provided by qualified foster parents to up to eight children, 24 hours a day.

<sup>43</sup> See Ministry of Labour, Health and Social Affairs reply to OHCHR questionnaire.

<sup>44</sup> Statistics provided by the Ministry of Labour, Health and Internal Affairs.



and the Orthodox Church, and the monitoring of some Church-run residential institutions.<sup>45</sup> She encourages the authorities to pursue a dialogue with representatives of all private childcare institutions with a view to accomplishing the full deinstitutionalization process by closing non-public residential institutions and strengthening support to families and alternative care options. In addition, she expresses concern over the intentions of the local government in Batumi to open a residential institution for children, which runs contrary to the deinstitutionalization efforts of the central Government.

71. According to the Ministry of Labour, Health and Social Affairs, children with disabilities are the most challenging group of beneficiaries in the deinstitutionalization process. Most of the children with disabilities have been placed in institutions at birth and the possibilities for reintegration are small. Initially, the Ministry considered that orphanages were the only option left for abandoned children with disabilities and efforts focused on developing better quality services and facilities in its action plan on reform of the childcare system for 2011-2012. Nowadays there are two public residential institutions providing care, including specialized medical care, to approximately 80 children with disabilities.<sup>46</sup> The Special Rapporteur urges authorities to redouble their efforts to include children with disabilities in the deinstitutionalization process and welcomes plans to launch new small family-type homes for children with disabilities.

72. The Special Rapporteur calls on the Ministry of Labour, Health and Social Affairs to conduct a comprehensive assessment of the deinstitutionalization process, which has been criticized for being conducted too quickly and without consultation with the children concerned, in order to inform the effective closure of the remaining residential institutions by increasing support to families in vulnerable situations and adopting alternative childcare measures.

## **5. Prevention**

73. Prevention measures must be based on solid data and understanding of the phenomenon of the sale and exploitation of children. The Special Rapporteur commends the efforts of the Public Defender's Office to work on prevention through education, based on the collection of data, analysis and recommendations. It also conducts training through its Human Rights Academy, targeted at different stakeholders, including psychologists at small group homes.

74. The Special Rapporteur commends the numerous efforts aimed at preventing trafficking in persons, including children, such as public awareness-raising campaigns targeted at vulnerable groups and the inclusion of sexual and labour exploitation issues in secondary and high school curricula. She also welcomes prevention efforts by the Inter-agency Council implementing measures to eliminate domestic violence and its working group to combat child marriage. On this topic, she takes note of the unified electronic database for general education institutions, which obliges schools to register cases of early school suspension, including those due to child marriage.

75. The Special Rapporteur welcomes the special programme of the Ministry of Education on parent education and engagement, which aims to raise awareness of the risks associated with child marriage among parents from regions where this traditional harmful practice is common. In addition, the Ministry of Education implements an awareness-raising programme targeted at parents, teachers and children on issues of health care, including reproductive health and the risks emanating from child marriage.

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<sup>45</sup> See Public Defender (Ombudsman) of Georgia, "Children's rights monitoring in boarding houses run by the Georgian Orthodox Church and the Muslim confession" (2015).

<sup>46</sup> See Ministry of Labour, Health and Social Affairs reply to OHCHR questionnaire.

76. The involvement of the business sector needs to be integral in prevention strategies. The Special Rapporteur is unaware of any initiatives by the private sector to prevent the sexual abuse and exploitation of children through new technologies and in travel and tourism. According to the National Tourism Administration, no cases of sexual exploitation of children in tourism have been reported by hotels. The Administration has made presentations on the Global Code of Ethics for Tourism but acknowledged its limited impact, since the travel and tourism sector is unregulated. Furthermore, it is allegedly rare to find hotels or travel agencies with ethical policies on the prevention of sexual exploitation of children. The Special Rapporteur also notes the lack of strategies for awareness-raising and education on safe Internet usage targeted at children, parents and teachers.

#### **6. Child participation and empowerment**

77. The Special Rapporteur commends the important awareness-raising and advocacy work conducted by the youth committee of the Georgian Coalition for Child and Youth Welfare, set up in December 2014. The Council is composed of youth representatives, who have been in State care. They carry out campaigns targeted at children who are in State care or in vulnerable situations and coach them through, among other things, visits to childcare settings. The Council is well-positioned to engage in meetings with national authorities and advocate for their main concerns, such as support and follow-up services for care leavers.

78. Social attitudes towards care leavers are a major issue of concern for them. The Youth Council has conducted awareness-raising campaigns through short films disseminated on television and posted on the Internet. The films present one-minute stories of care leavers as ordinary people who face challenges, such as the lack of employment opportunities, when they leave State care. The objective is to make society aware of the problems of care leavers, demand equal treatment for them and press the authorities to adopt effective measures to support them.

## **IV. Conclusions and recommendations**

### **A. Conclusions**

79. **Georgia has made considerable progress in the last decade in order to better protect children from abuse, violence and exploitation. Since 2005, it has adopted various legislative, institutional and policy measures to introduce a child protection system and promote the deinstitutionalization process through the adoption of alternative childcare measures. Since 2012, Georgia has also stepped up efforts to combat trafficking in human beings, including children. A more recent positive development is the entry into force in 2016 of the Juvenile Justice Code, which introduces a child-sensitive justice system in compliance with international child rights norms and standards.**

80. **However, despite these positive measures, the sale and sexual exploitation of children remain issues of concern. Child marriage and the exploitation of children in street situations persist. Cases of sexual abuse of and violence against children are numerous, although the exact extent is unknown, while cases of sexual exploitation of children are not effectively investigated, prosecuted and sanctioned, which results in low levels of accountability for these crimes. Moreover, in recent years, international commercial surrogacy arrangements have increased steadily and without comprehensive regulation to protect the rights of vulnerable parties to such**

arrangements, violating the rights of the child and of the women acting as surrogate mothers.

## **B. Recommendations**

81. In order for Georgia to consolidate its achievements, overcome the remaining challenges and ensure the effective protection of all children, the Special Rapporteur recommends the actions described below and stands ready to offer her full cooperation and assistance in their implementation.

82. The Special Rapporteur stresses that a robust national child protection system starts with a comprehensive and clear legal framework, which prevents, prohibits and protects children from all forms of sale and sexual exploitation. The Special Rapporteur calls on Georgia to:

(a) Ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, and the Protocol of 2014 to the International Labour Organization Forced Labour Convention (1930);

(b) Prioritize the passing of the draft law on adoption and foster care, which prohibits direct adoptions without exception, in compliance with international norms and standards;

(c) Criminalize all forms of the sale and sexual exploitation of children as separate crimes and distinct from the crime of trafficking, incorporating into national legislation the full definitions of the sale of children, child prostitution and child pornography contained in the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in order to criminalize, *inter alia*, the possession of child abuse material and accessing it;

(d) Harmonize all legislation to ensure that the minimum age for marriage is established at 18 without exception;

(e) Adopt comprehensive regulations to govern the practice of commercial surrogacy arrangements based on the best interests of the child and protection from abuse and exploitation, as well as the protection from exploitation of women who act as surrogates; set up a regulatory system for clinics and their practices in relation to surrogacy and associated practices, and ensure that decisions and actions undertaken in all surrogacy arrangements are consistent with the rights and best interests of the child.

83. In order to effectively prevent and combat the sale and sexual exploitation of children, the Government must develop an appropriately structured and resourced child protection system under a comprehensive plan of action that is decentralized and developed at the local level, with the inclusion of the following components:

(a) Comprehensive research on and mapping of different forms of the sale and sexual and labour exploitation of children, identifying risk factors and how they affect the vulnerability of children and collecting and analysing reliable, updated and disaggregated data on different forms of violence against and abuse and exploitation of children, including child marriage and forced begging;

(b) Creation of a centralized, standardized and reliable information system, which enables a better analysis of data and of emerging and long-term trends, and information-sharing between relevant entities at the national and local levels;

(c) Evaluation of the availability, accessibility and quality of existing programmes, services and mechanisms, with a view to informing and increasing the impact of new plans and programmes;

(d) Ensure a child rights perspective in the implementation of the National Strategy for the Protection of Human Rights 2014-2020 and all action plans that stem from it, such as the action plan on the protection of human rights, the action plan on measures to combat violence against women and domestic violence and the action plan on combating trafficking in persons, ensuring their coordination and complementarity;

(e) Development of a distinct comprehensive action plan for the protection of the rights of the child, which incorporates a separate goal to prevent and combat the sale and exploitation of children and includes a comprehensive strategy to address the situation of children living and/or working on the street throughout the country; with prevention as its core component and in coordination and complementarity with policy measures addressed at minorities; and with the inclusion of effective identification and referral mechanisms to comprehensive and long-term care, recovery and reintegration programmes, including follow-up and measures in support of families (for example, parenting skills) and communities;

(f) Strengthening of the Social Service Agency and the monitoring unit of the Ministry of Labour, Health and Social Affairs with the necessary and sustained technical, human and financial resources, so that they can effectively fulfil their role of coordination and monitoring of child protection policies and services;

(g) Creation of an inter-agency coordination mechanism to ensure effective implementation of the child protection system and combat child abuse, violence and exploitation;

(h) Establishment of early identification mechanisms for vulnerable children to ensure an adequate standard of living by offering social protection policies and family-strengthening programmes, with specific interventions targeted at children from minorities and children with disabilities;

(i) Allocation of adequate and sustained technical, human and financial resources to fund all child protection policies, strategies and programmes, and reduce reliance on donor funding;

(j) Mobilization and involvement of all stakeholders, including children and young people, in the process of elaboration, implementation, follow-up and monitoring of national child protection policies and programmes.

84. The Special Rapporteur calls on Georgia to enhance efforts to detect, investigate, prosecute and sanction the crimes of sale and sexual exploitation of children, and in particular requests:

(a) The creation of a child-friendly reporting and complaint mechanism, including dedicated helplines free of charge and managed by qualified and trained professionals, to report violence against and abuse and exploitation of children;

(b) The strengthening of the victim referral mechanism by ensuring effective and timely coordination among law enforcement personnel, social workers and service providers; supporting adequately the increased role of social workers in the decision-making process to ensure the best interests of the child; and adopting a systemic approach with comprehensive rehabilitation and reintegration of child victims as the ultimate goal through the provision of multidisciplinary services;

(c) The adoption of proactive investigation and prosecution strategies to ensure accountability of perpetrators for offences of child sexual abuse and exploitation;

(d) The organization of training for judges, prosecutors, lawyers and law enforcement personnel to increase their knowledge of the crimes of sale and sexual exploitation of children as separate crimes from trafficking and their awareness of applicable international child right norms and standards, so that they adopt a child-friendly and gender-sensitive approach when dealing with child victims of sale and exploitation;

(e) The department for the inspection of labour conditions to comply with its monitoring role by enhancing child labour inspections and ensuring the enforcement of child labour laws in the country;

(f) The adoption of protocols between law enforcement and ICT companies to combat online child abuse and exploitation.

85. The Special Rapporteur encourages Georgia to adopt sustainable preventive measures that take into account all the underlying factors of the sale and sexual exploitation of children, including demand, and in particular to:

(a) Conduct awareness-raising and education campaigns involving all stakeholders, such as children, parents, teachers, law enforcement personnel, service providers, families and local communities, including in rural and remote areas, on the rights of the child, gender equality and non-discrimination and sexual and reproductive health, and integrate sexual and reproductive health education into the formal education system, as an effective means to combat social norms and cultural values that tolerate traditional harmful practices and other forms of violence against children and their sexual abuse and exploitation;

(b) Address the ethnic and religious aspect of child marriage, integrating prevention efforts into the action plan on the protection of ethnic and religious minorities, while avoiding stigmatization of affected communities, and engage leaders of ethnic and religious minorities in order to effectively combat the phenomenon;

(c) Encourage and facilitate child participation and empowerment by supporting child-led initiatives and assisting children in gaining broader knowledge of their rights, giving them the opportunity to have their views heard and their proposals taken into consideration in the design and implementation of prevention strategies;

(d) Establish regular monitoring and evaluation processes, in order to assess the impact of preventive interventions and ensure that measures contribute to reducing the exposure of children and care leavers to risk and victimization;

(e) Increase campaigns on digital education and safe Internet usage targeted at children, parents, teachers and educators, in partnership with Internet service and content providers, law enforcement, media, schools and NGOs;

(f) Encourage public and private partnerships to adopt effective protocols and measures to detect, block and close websites that contain child abuse material;

(g) Enhance corporate social responsibility, involving Internet service and content providers, telecommunications, the travel and tourism industries and the media, in order to strengthen child safety online and to prevent child sexual exploitation in travel and tourism.

86. In relation to the right to the care, recovery and reintegration of child victims, the Special Rapporteur calls on Georgia to:

(a) Assume its primary responsibility in providing comprehensive, child-centred and rights-based care, recovery and reintegration programmes for child victims through quality services and qualified staff, and the allocation of adequate means to support long-term care, evaluation and follow-up;

(b) Adopt and implement a new plan of action for reform of the childcare system, to fully accomplish the deinstitutionalization process, which includes the regulation, monitoring, and supervision of non-State-run childcare institutions, with the ultimate goal of closing them down and favouring alternative childcare measures;

(c) Ensure that children with disabilities also benefit from the deinstitutionalization process, allocating the necessary specialized means and resources to support families with children with disabilities and promoting alternative specialized care measures for children with disabilities;

(d) Adopt standards for service providers in foster care and non-public residential institutions that are compliant with child rights and ensure effective control and monitoring of their implementation;

(e) Increase the recruitment, training and incentives of qualified, specialized and trained social workers for the provision of comprehensive care, recovery, reintegration and follow-up programmes for child victims of abuse, violence and exploitation, ensuring adequate geographic coverage and allocation of the necessary means and resources; adopt standards for social workers to ensure the delivery of quality services that are compliant with child rights;

(f) Adopt and implement long-term support measures for care leavers, including accommodation and psychosocial counselling, in order to facilitate their social reintegration.

87. The Special Rapporteur calls on Georgia to increase bilateral, regional and international cooperation to prevent and combat the sale and sexual exploitation of children, and in particular to:

(a) Adopt bilateral and transnational agreements with neighbouring countries to address the situation of children living and/or working on the street and prevent and combat the sexual exploitation of children in travel and tourism;

(b) Share and update information related to child victims and offenders, and obtain digital evidence to effectively investigate and prosecute the perpetrators and criminal networks responsible for the sale and sexual exploitation of children;

(c) Support alliances, such as the Virtual Global Taskforce and the WeProtect Global Alliance, for effective cooperation in investigation and prosecution of criminal networks and perpetrators;

(d) Adopt the necessary measures, including through international technical assistance, to achieve Sustainable Development Goal targets 8.7 and 16.2.