

**Sexual Exploitation of Children in Georgia**

**Submission**

for the Universal Periodic Review of the Human Rights situation in Georgia

Submitted by

**Public Health Foundation of Georgia**

and

**ECPAT International**

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*The Public Health Foundation of Georgia (PHF) is a Georgia-based NGO with over 20 years of expertise in the field of prevention and response to all forms of child abuse, neglect and sexual exploitation. PHF is one of the first organizations in Georgia that started counselling and therapy of abused children, training of child professionals in identification and response to child abuse cases. The PHF is actively involved in the implementation of the child welfare and protection and juvenile justice reforms and has good advocacy experience locally, regionally and internationally. PHF is a member of ECPAT International network since 2014.*



## **ECPAT International**

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*ECPAT International is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children. For the past 30 years, ECPAT has acted as the international watchdog, monitoring States' response to sexual exploitation of children, and advocating for robust international measures to protect children from sexual exploitation. ECPAT International currently has 121 network members operating in 103 countries*

## **Justification for submission**

1. The purpose of the present submission is two-fold: (1) to serve as an update on the progress that has been made by the Government of Georgia (GoG) to end the sexual exploitation of children (SEC) in the country, and (2) to assess the level of implementation of the UPR recommendations relating to SEC made in 2015.<sup>1</sup>
2. During Georgia's previous UPR in 2015, the report of the Working Group contained 29 recommendations related to children's rights,<sup>2</sup> of which 7 are directly related to SEC.<sup>3</sup> One of these recommendations encouraged Georgia to ratify the Optional Protocol to the Convention on the Rights of the Child Communications Procedure (OPIC),<sup>4</sup> and five specifically expressed the need to combat child marriage.<sup>5</sup>

## **Methodology and Scope**

3. The content of this report is based on country work experience of the Public Health Foundation of Georgia and desk research by ECPAT International.
4. The scope of this report is limited to SEC and its different manifestations, including exploitation of children in prostitution,<sup>6</sup> online child sexual exploitation (OCSE), child sexual abuse materials (CSAM),<sup>7</sup> child trafficking for sexual purposes, sexual exploitation of children in the context of travel and tourism (SECTT)<sup>8</sup> and child, early and forced marriage (CEFM).

## **Current status and developments of sexual exploitation of children in Georgia**

### *General overview of country conditions*

5. The large-scale and prolonged displacement that resulted from the conflicts in the Abkhazia and South Ossetia regions has contributed significantly to children's vulnerability. The conflicts in the early 1990s displaced over a quarter of a million people.<sup>9</sup> In addition, the five-day armed conflict between Georgia and Russia in 2008 within those regions resulted a new wave of displacement.<sup>10</sup> While figures on the total number of internally displaced persons (IDPs) vary, as per 2018, the total number of IDPs stood at 293,000.<sup>11</sup>
6. The Georgian government does not appear to have an estimate for the number of displaced children;<sup>12</sup> however, UNICEF in 2009 estimated the number of displaced children post 2008 at approximately 12000 in addition to the 103,000 as of 2007.<sup>13</sup>
7. Children who are displaced and/or separated from their families face higher risk of sexual exploitation.<sup>14</sup> Evidence has demonstrated that, when displaced from a protective and familiar environment, children often face increased threats of violence and abuse, disrupted access to education and pressure to work in potentially risky or exploitative conditions where they may also be vulnerable to sexual exploitation.<sup>15</sup>

8. While some IDPs have benefited from government efforts to provide housing, the number of beneficiaries remains limited. A large number of IDPs, many of whom are children, continue to live in “deteriorating collective centres”, and there is a considerable lack of information on those IDPs living in private accommodation.<sup>16</sup>
9. Poverty drives vulnerability to SEC not just among the country’s child IDPs, but also among much of Georgia’s child population in general, which represents over one-fifth (23.0%) of the total population.<sup>17</sup>
10. Poverty is also closely associated with low school attendance and educational attainment which are known risk factors for sexual exploitation of children.<sup>18</sup> Girls, in particular, face a high risk of discontinued education due to CEFM.<sup>19</sup> Georgia has one of the highest rates of CEFM in Europe.<sup>20</sup> A range of complex social, cultural and economic factors contributes to the high prevalence of child marriage in Georgia.

### *Sexual exploitation of children in Georgia*

#### Exploitation of children in prostitution

11. Ascertaining the situation of the children being exploited through prostitution is difficult as there is little available data and few cases are investigated.<sup>21</sup> In particular, IDP children without documentation are at increased risk, as they lack access to formal systems and services.<sup>22</sup> Both Azeri-Kurds and Romani-speaking peoples face pervasive stigma, also leading to their withdrawal from those social services that may otherwise help to reduce their children’s vulnerability to exploitation in prostitution and in general.<sup>23</sup>
12. A 2018 UNICEF report on children living and working in the streets of Georgia describes that sexual reward structures are often part of the internal group dynamics among street-connected children, wherein girls are forced to supply services to older gang/group members, resulting in children being involved in their own exploitation.<sup>24</sup> It also reports of other former affiliates of street-connected groups using some of the money they obtained to buy sexual services (from children).<sup>25</sup> Both the above scenarios suggest that girls working and/or living in the street experience vulnerability to exploitation in prostitution.<sup>26</sup>

#### Online child sexual exploitation (OCSE)

13. In 2018, the overall proportion of individual Georgians using the Internet reached about 62% and there were about 136 mobile phone subscriptions per 100 inhabitants.<sup>27</sup> As of 2017, approximately 60% of children ages 6-15 have access to the Internet.<sup>28</sup>
14. After her 2016 visit to Georgia, the Special Rapporteur on the Sale and Sexual Exploitation of Children emphasized the importance of online child protection.<sup>29</sup>

15. The 2016 Ombudsman report on the Situation of Children's Rights emphasised the lack of investigations into cases of the illegal production and sale of child sexual abuse materials.<sup>30</sup> There are also lacunae in the data and research into the current situation.

#### Sale and trafficking of children for sexual purposes

16. There is no data available to understand the number of children who are victims of trafficking for sexual purposes and it is highly likely that the few reported statistics severely underestimate the scope of the trafficking of children for sexual purposes.
17. Given the large numbers of IDPs in Georgia, displacement continues to put children at risk of being trafficked for sexual purposes. Displacement increases the risk of disrupting families resulting in children separated from parents or other protective caregivers.<sup>31</sup>
18. In addition to internally displaced children, those from socially marginalised groups as well as those living and/or working in streets are among the most vulnerable to sex trafficking.<sup>32</sup>

#### Sexual exploitation of children in travel and tourism

19. Georgia is a destination for tourists predominantly from Russia, Azerbaijan, Turkey, Armenia, Iran, Ukraine and Israel.<sup>33</sup> The Georgian National Tourism Administration estimated 573,715 tourist visits in 2019, a 16.4% increase from 2018.<sup>34</sup>
20. Despite anecdotal evidence and some high profile cases, there is no specific data on SECTT, including the number of child victims from either government, or civil society sources.

#### Child, early, and forced marriage

21. The issue of exploitation in CEFM in Georgia is complex. Current drivers of CEFM in Georgia include strict norms regarding pre-marital sex that emphasise marriage as the only acceptable arena for sexual exploration.<sup>35</sup> Another driver is the perception of marriage as one of the few pathways to finding meaningful connections in the context of increased use of technology and limited space for engaging with peers outside of social media.<sup>36</sup> The stigma against unmarried girls in their 30s also pressures girls to marry early.<sup>37</sup>
22. Recent research published in the 2019 Multi Indicator Cluster Survey emphasises the scale of the problem of CEFM in Georgia. Among women aged 20-24 it was found that 14% claimed to have been married before the age of 18.<sup>38</sup> Whilst child marriage is a problem in all regions of Georgia, data shows that it disproportionately affects those living in rural areas. This is highlighted with 8% of women aged between 20-24 in urban areas being married before turning 18 in comparison

with 25% (aged 20-24) of those women living in rural areas. No data is available for the rate of CEFM amongst boys in Georgia. Further, in 2019, there were 105 reported cases of child marriage, 56 investigations into possible abductions of children for the purpose of marriage and 14 investigations into cases of forced marriage.<sup>39</sup>

23. Regarding sexual exploitation in the context of CEFM, key factors include, but are not limited to, economic hardships and high rates of unemployment that leave marriage as the “only suitable financial option available to families.”<sup>40</sup>
24. The intersection of these and other important drivers establish an environment of limited opportunities, especially for girls. As a result, there is a perception, including among girls themselves that they are “choosing” to marry early.<sup>41</sup> When girls leave their families to live with their husbands’ families they are often placed “at the mercy of unfamiliar adults,” who may exploit their vulnerability.<sup>42</sup>

### **Legislative framework on prohibition of sexual exploitation**

25. Georgia adopted the Code on the Rights of the Child (Child Code) in September 2019, the majority of which has or will have entered into force by the end of 2020..<sup>43</sup> This is much awaited as it prioritises the best interests of the child and reforms all the laws (related to children) to comply to the provision of the Child Code.<sup>44</sup>
26. The definition of a child as any person below 18 is consistent across national legislation. The introduction of the Child Code sets forth a reformation in the legislative, administrative and judicial functioning related to children and in particular SEC. Chapter VIII of the Code explicitly protects children from all violence including torture, exploitation, sale (trafficking), in all places including on the Internet.<sup>45</sup>

### **Exploitation of children in prostitution**

27. The exploitation of children in prostitution is punishable by law in Georgia. The Child Code in Article 56 expressly protects children from prostitution.<sup>46</sup> Article 57 states that ‘offering, transfer or receipt of a child in any form for sexual...exploitation shall be prohibited’.<sup>47</sup>
28. Article 171(3) of the Criminal Code considers “the engagement of minors in prostitution using violence, threat of violence or by deceit” an “anti-social” activity.<sup>48</sup>
29. Article 140 forbids any sexual intercourse including “homosexual or lesbian [...] committed by an adult against a person who has not attained the age of 16.”<sup>49</sup> This leaves a legal gap in the protection of children between the ages of 16 and 18.

30. Article 253(2) further prohibits organised groups from engaging in prostitution with minors, or acquiring any type of benefit from the engagement of minors in prostitution.<sup>50</sup>
31. The Criminal Code was amended in 2016 to include the act of engaging a person in prostitution as a form of exploitation, in the provision on human trafficking.<sup>51</sup>

#### Online child sexual exploitation (OCSE) and child sexual abuse materials (CSAM)

32. Under Article 255 of the Georgian Criminal Code a note defines CSAM as “A pornographic work containing images of minors shall mean a visual or audio-visual material produced by any method, also a staged performance which, using various means, depicts the participation of minors or of characters with the appearance of a minor in the actual, simulated or computer-generated sexual scenes or displays genitalia of a minor for the gratification of a consumer’s sexual needs. A work shall not be considered to be pornography if it has medical, scientific, educational or artistic value”.<sup>52</sup> Notably, this definition covers only visual or audio-visual material and therefore may omit those materials which are written or in the form of audio only.
33. The recent Child Code in Article 56(3) explicitly criminalises the engaging of a child in pornographic activities, production, advertisement, distribution, transmission, receipt, export, import, sale of pornographic material.<sup>53</sup> In Article 66(3), it is illegal to sell, present to a child, or ensure access of children to magazines, newspapers or other publications of print media that contain information injurious to children.<sup>54</sup> This also applies to movies, computer games or other audio-visual items.<sup>55</sup> The Child Code further states that children under 16, unaccompanied (by parents) cannot visit the Internet between 22:00-08:00. It also states a complete ban, if these entities don’t ensure the limitation of access to pornographic or other information with harmful effect to children.<sup>56</sup>
34. The Code also entrusts a duty on Internet Service Providers to enact mechanisms to enable them to block the user’s access to information harmful to children, upon the user’s request.<sup>57</sup> This is a very narrow obligation as it doesn’t include the duty of the ISPs to block CSAM. A new provision under the Law of Georgia on Electronic Communications, which will enter into force on the 1<sup>st</sup> of September 2020, covers the control over the protection of age appropriate rules for movies and games placed on the Internet.<sup>58</sup> This law does not include any reference to potential penalties for ISPs. Under the new Directive on the Regulation of Posting of Harmful Information on the Internet for a Child, published in March 2020, the National Communications Commission may apply to law enforcement agencies for the appropriate response in cases where they have found out about posting on the Internet that leads to liability under the Criminal Code.<sup>59</sup> Furthermore, ISPs are obliged to develop mechanisms that will enable them to block access to Internet pages containing a harmful/dangerous information for children and may face administrative penalties for failing to do so.<sup>60</sup> However, this Directive does not mention CSAM directly.

35. Further, Article 255(2) of the Criminal Code forbids “knowingly purchasing, storing, attending the demonstration of, offering, disseminating, transferring, advertising, providing access to or using pornographic work containing images of minors.”<sup>61</sup> The wording ‘knowingly’ creates a problem as there is the requirement of ‘intent’ for the act to be considered as an offence.
36. The definition does not specify exactly whether these acts need to be committed online. The same penalty applies to the sale and the production of pornographic materials containing images of minors, which article 255(3) prohibits.<sup>62</sup>
37. Article 255 states that engagement of a minor in the illegal production or sale of pornographic works carries a sentence to two to five years of imprisonment.<sup>63</sup> It further prohibits offering a meeting of a sexual nature to a person under the age of 16 by using information and communication technologies with the aim of committing sexual intercourse or any other sexual act and/or making or selling pornographic material.<sup>64</sup> Under a new draft bill it will be illegal to offer a meeting to a minor under the age of 18, including online, in order to make pornographic material.<sup>65</sup>
38. Although largely in compliance with Article 23 of the Lanzarote Convention, which criminalises the solicitation of children for sexual purposes (grooming), the abovementioned article fails to protect children between 16 and 18 years of age and has a narrower scope of application.
39. Storing, purchasing or selling CSAM/CSEM are condemned by Articles 255.2 and 255(3),<sup>66</sup> in which “storing” can be read as being synonymous with “possession”, thereby criminalising possession of CSAM/CSEM.<sup>67</sup>

#### Sale and trafficking of children for sexual purposes

40. Article 58 of the Child Code protects children from trafficking<sup>68</sup> and also entrusts the duty to the state to take all relevant administrative, social and educational measures to protect them from trafficking.<sup>69</sup>
41. Article 143 defines trafficking of children as the “purchase or sale of children, or other unlawful transactions in relation to them, as well as their recruitment, carriage, concealment, hiring, transportation, provision, harbouring or reception for exploitation”.<sup>70</sup>
42. Exploitation is defined as including, among other things, inducing a person to provide sexual services, engaging a person in prostitution and pornographic activities and subjecting a person to practice similar to slavery.<sup>71</sup>
43. In compliance with Article 3(c) of the Palermo Protocol, the involvement of the means provided for trafficking of adults i.e. “threat, use of force or other forms of coercion, of abduction, blackmail, fraud, deception, by abuse of a position of vulnerability or power or by means of giving

or receiving of payment or benefits to achieve the consent of a person having control over another person”, are not required to constitute the crime when the victim is a child.<sup>72</sup>

44. The Criminal Code does not clearly distinguish between the sale and the trafficking of children.<sup>73</sup>
45. The Law on Combating Human Trafficking provides a definition of sexual exploitation. Although this definition is not exclusively applicable to children, it does at least include the act of prostitution, the production of pornographic materials and other sexual services as possible types of exploitation, as provided by Article 3 of the OPSC.<sup>74</sup> This law explicitly acknowledges that consent to trafficking cannot justify exploitation which is important in child protection, as children can never consent to their own exploitation.<sup>75</sup>

#### Sexual exploitation of children in travel and tourism

46. There is no legal framework in place that protects children from SECTT-related offences. The Criminal Code does not provide any protections from SECTT. Likewise, there is nothing in the Law on Tourism and Resorts.<sup>76</sup> The introduction of the new Child Code, still hasn't addressed SECTT.
47. The majority of hotels (with the exception of high-end chains) don't have child protection policies or any redressal mechanisms in case of an incident of child exploitation in the property.<sup>77</sup>

#### Child, early and forced marriage

48. Forced marriages, including non-registered marriages, are punishable by community service and up to two years of imprisonment.<sup>78</sup>
49. The Criminal Code explicitly prohibits forced marriages involving children, which could result in up to four years of imprisonment.<sup>79</sup> The legal age for marriage is set at 18 in Article 1108 of the Civil Code of Georgia.<sup>80</sup>

#### *Extraterritorial jurisdiction and extradition*

50. Georgian citizens who have committed offences abroad are liable in Georgia if the act is considered as an offence in the country where it was committed.<sup>81</sup> If the act is not criminalised in the country where it was committed, the citizens of Georgia may still be liable under the Code if the act “constitutes a serious or partly serious crime directed against the interests of Georgia, or if the criminal liability of this crime is prescribed by a treaty Georgia is a party to.”<sup>82</sup> Furthermore, Article 5(3) extends the extraterritorial jurisdiction of Georgia to foreigners who have committed a crime abroad that could constitute a serious or partly serious crime directed against the interests of Georgia, or a criminalised act under a treaty signed by Georgia.<sup>83</sup>

51. With a few exceptions (highlighted above), jurisdiction over SEC-related offences in Georgia necessitates double criminality, which poses an obstacle to the prosecution of offenders.<sup>84</sup> An additional loophole is the fact that the Criminal Code of Georgia does not extend jurisdiction over offences committed by a non-national against a Georgian victim (passive extraterritoriality).
52. A Georgian citizen who committed an offence abroad can only be extradited for prosecution if a treaty to which Georgia is a party prescribes it.<sup>85</sup> Likewise, foreigners who live in Georgia and who have committed an offence may also be extradited to another State to be prosecuted, under an international treaty ratified by Georgia.<sup>86</sup>

### **Recommendations to the GoG**

1. Amend the Criminal code by making trafficking and the sexual exploitation of children separate crimes;
2. Ensure the implementation of the Code is in alignment with the commitment stated in the Code;
3. Intensify efforts to cooperate with the private sector especially with regards to online child sexual exploitation and to sexual exploitation in the context of travel and tourism.

### **Implementation**

53. Georgia developed the Child Welfare and Protection Action Plan 2012-2015 to provide children and families with both social care and support. The plan aimed to reduce the number of child victims of violence and to develop more effective identification processes by strengthening coordination between different stakeholders. Since then, the National Strategy for the Protection of Human Rights 2014-2020 has replaced previously existing separate plans. All the rights of the child are now reflected in this strategy although it cannot be said to be fully comprehensive.<sup>87</sup>
54. The National Strategy for the Protection of Human Rights 2014-2020 explicitly seeks to improve child protection mechanisms by incorporating children's rights within the 2016-2017 Child Welfare and Protection Action Plan.<sup>88</sup>
55. Government policies have framed sexual violence as related to women without the acknowledgement that children (both girls and boys) may also be victims. Although the Action Plan 2016-2017 provides guidelines for the elimination of violence against children and the prevention of child abuse in its goal 12.5, it does not explicitly target SEC.<sup>89</sup>
56. The Ministry of Justice leads an Interagency Council on Combatting Trafficking in Persons, which plays a significant role in preventing and combatting the phenomenon.<sup>90</sup> The council facilitates coordination between ministries, including the Ministry of Labour, Health and Social Affairs

(MoH). The council also coordinates closely with the Public Defender's Office (PDO) and with NGOs in its efforts.<sup>91</sup>

57. In 2015, the MoH created a special unit to detect forced child labour and other forms of labour exploitation in Georgia. This unit's operations include carrying out inspections without warnings in companies or sectors with a high risk of exploitation.<sup>92</sup> When it uncovers cases of exploitation, the MoH refers them to the Social Service Agency (SSA). However, the labour inspectorate lacks a clearly defined mandate, which has limited its effectiveness in investigating employers.<sup>93</sup> It has not been possible to find any monitoring or evaluation report carried out on this unit.
58. In September 2016, the new Child Protection Referral Mechanism (CPRM) was implemented.<sup>94</sup> It obligates all local authorities, schools, medical institutions and other government agencies to refer cases of child violence, including SEC, to the SSA, and it coordinates with the former to take adequate measures.<sup>95</sup>
59. To ensure the effective implementation of the referral procedures there is a need for professionals involved to have the qualifications and knowledge of implantation of referral procedures, signs of child abuse and the rights of the child. According to the unpublished study report carried out by PHF under the project "Support implementation of Child Protection Referral Procedures and Communication for Social Change Campaign to address negative social norms related to violence against children", professionals with the requisite knowledge have not been identified in any of the ministries studied.<sup>96</sup> In practice, whilst some of the institutions (such as law enforcement agencies) involved in the CPRP have a good understanding of their roles, there are challenges to its successful implementation. This is due to several factors such as a lack of general understanding of roles and responsibilities and the lack of technical and human resources of the SSA.<sup>97</sup>
60. The MoIA established a cybercrime unit, which seeks to strengthen the coordination between law enforcement agencies and the private sector in order to remove CSAM and proceed with the prosecution of perpetrators.<sup>98</sup> Unfortunately, it has not been possible to find any information as to the functioning and efficacy of this unit.
61. In December 2016, the Interagency Council on the Implementation of the UN Convention on the Rights of the Child was established. The Council's mandate is to develop a comprehensive programme on the rights of the child in Georgia. This Council is the first in Georgia to promote and facilitate the implementation of the CRC between the central government and other provinces and between the central government and civil society.<sup>99</sup> It is part of a larger National Strategy for the Protection of Human Rights that seeks to ensure the compliance of Georgia's legal system with the CRC and other international and regional obligations.<sup>100</sup>
62. Established under the Ministry of Labour, Health and Social Protection, the State Fund for the Protection of and Assistance to Victims of Trafficking in Persons, operates a telephone hotline for

statutory adult and child victims.<sup>101</sup> As of 2017, 54 cases were reported through the hotline, but data is not disaggregated by age of the victim.<sup>102</sup>

63. In 2017, the State Fund extended its support services to child victims of other forms of sexual violence.<sup>103</sup> However, the victim identification process remains inadequate and requires more cooperation as it relies heavily on law enforcement agencies.<sup>104</sup>
64. The State Fund for the Protection of and Assistance to Victims of Trafficking in Persons will also allow a number of child advocacy centres to begin running in pilot mode.<sup>105</sup> These centres will provide a child centred multi-disciplinary approach, allowing child victims of violence to access rehabilitation support from various agencies in one location.<sup>106</sup>

### International Cooperation

65. Georgia participated in the Council of Europe's "One in Five Campaign" to stop sexual violence against children. The primary goal of this campaign was to improve the implementation of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. The Campaign also sought to equip children and families with the necessary tools to prevent SEC.<sup>107</sup>
66. Georgia is part of the 'End Online Child Sexual Exploitation and Abuse @Europe' project implemented by the Children's Rights division of the Council of Europe, in co-operation with the Cybercrime Office in Romania. It is a project to address the contextual challenges identified in the pan-European and country levels by promoting, facilitating and supporting national efforts and action to combat OCSEA.<sup>108</sup>
67. The Georgian government established a working group to coordinate the implementation of the SDGs on a national level.<sup>109</sup> In 2019, Georgian Officials and UN experts discussed the country's progress on different areas and identified SDGs 5,10, 16 and 17 having considerable gaps.<sup>110</sup>
68. The Government of Georgia has joined the Global Partnership on "End Violence against Children" as a pathfinding country in the framework of the National Strategy for the Protection of Human Rights in Georgia (2014-2020) and its Action Plan for 2018-2020 (objective 16.4.1).<sup>111</sup> However, strategy and an action plan addressing child sexual abuse specifically, is not in place in Georgia.
69. Since 2017, the EU has funded the Advocacy for Child and Youth Protection project. The Public Health Foundation of Georgia (PHF) implemented this project to provide consultation and child-friendly services to victims of sexual abuse.<sup>112</sup> Furthermore, "Combating Violence against Children, in particular Sexual Violence, in Eastern Europe" is an ongoing project of PHF with the

objective of improving the skills of children and their entourage to prevent, identify, access support and report violence, in particular sexual violence within the child's circle of trust.<sup>113</sup> Another ongoing project of PHF is - "Stop Child Abuse" which aims to strengthen the child abuse prevention and response capacity of the primary healthcare system in Georgia and Azerbaijan.<sup>114</sup>

#### **Recommendations to the GoG**

4. Develop comprehensive goals on how to prevent, raise awareness and combat the sexual exploitation and abuse of children in the future Human Rights Action Plan and its strategy;
5. Develop a clear strategy addressing the issue of children living and working on the streets, especially in the occupied territories;
6. Plan suitable training for law enforcement personnel, social workers and other referral subjects of the Child Protection Referral Procedure on how to provide adequate and legal remedies to child victims of sexual exploitation.

#### **Prevention, awareness and education.**

70. The Child's Rights Centre within the Public Defender's Office has a national prevention programme which aims to promote the rights of the child in Georgia.<sup>115</sup> This office carries out monitoring reports on the implementation of the rights of the child in child residential institutions, schools and other systems.
71. The Ministry of Education, Science, Culture and Sport also made extensive efforts in developing awareness campaigns on the risks of child marriage. The campaigns largely targeted parents from regions with high rates of CEFM.<sup>116</sup> The Ministry of Internal Affairs has also launched the campaign "Do not take childhood away", aimed at eliminating child marriage, increasing public awareness and ensuring crime reporting to police in a timely manner.<sup>117</sup> Additionally, a cohesive electronic database has been developed for institutions in the education sector, which obligates them to register any case of school dropout due to CEFM.<sup>118</sup>
72. Overall, there is a need to enhance preventative measures to reduce children's risk of living and working on the streets, a major risk factor for SEC.<sup>119</sup>
73. Legislation came into effect in August 2016 to address the lack of identification documents among street-connected children by allowing for the issuance of temporary identification documents.<sup>120</sup> This enables children to access health and education services. The law also broadened the authority of social workers to permit them to remove children from situations of violence, including in circumstances involving the child's family.<sup>121</sup>
74. The target audience of the implemented awareness raising campaigns in Georgia is mostly women and school age children. Unfortunately, there is a lack of attention to younger children

who are also vulnerable when it comes to sexual abuse in general and especially in a family / circle of trust.<sup>122</sup>

### **Recommendations to the GoG**

7. Raise awareness among ethnic minority groups of the risks and dangers of child, early and forced marriage.

### **Protection**

*Measures adopted by the GoG to protect the rights and interests of child victims*

*National complaint mechanisms*

75. Georgia has not established a national complaint mechanism specific to child victims of sexual exploitation. Although the SSA operates a hotline for victims to report cases of sexual violence, there is no formal child-friendly reporting system available.<sup>123</sup>
76. Victims of crimes may file an application to the prosecutor in order to be recognised as a victim, allowing them to be represented in the hearing of the case.<sup>124</sup> In case the prosecutor fails to do so, the person in question may file another request within 48 hours to a superior prosecutor whose decision shall be final and may not be appealed.<sup>125</sup>

*Child Sensitive Justice*

77. The Juvenile Code sets the guidelines for child-sensitive legal processes that include well-trained lawyers, judges and prosecutors.<sup>126</sup> The Code emphasises the need to prioritise the best interests of the child. The Code grants specific rights to victims, such as the right to be informed of the proceedings, and the right to have a special legal representation.<sup>127</sup> Additional internal guidelines for police and law enforcement personnel have also been adopted to ensure child-friendly investigation procedures and to avoid the retraumatisation of child victims of trafficking.<sup>128</sup>
78. Although a maximum limit is not specified, the Juvenile Justice Code (Juvenile Code) states that the number of interrogations child victims and witnesses of sexual exploitation should be “as limited as possible.”<sup>129</sup> Children can only be interviewed between the hours of 8:00am and 10:00pm. During the interrogation of a child witness, the lawyer may also file a motion to take further measures to protect the identity of the child. Among these measures, the court may be asked to use special devices to alter the image and/or the voice of the witness, or to be examined by the court remotely using other adequate technical tools.<sup>130</sup>
79. A psychologist may attend the interrogation of a minor victim.<sup>131</sup> In accordance with the Code, victims of sexual exploitation below the age of 14 can only be interrogated with the consent and

the presence of their legal representative, and the numbers of interrogations must be limited.<sup>132</sup>

80. A recent report examining the implementation of the National Strategy and the Juvenile Code noted that while all of the agencies involved with juvenile justice have specialised staff to manage children's cases, law enforcement agencies have yet to fully strengthen and institutionalise this specialised role.<sup>133</sup>
81. The new Child Code has ensured that efforts will be taken to prevent secondary victimisation and re-victimisation of victims at all stages of the justice process, in accordance with the Juvenile Code.<sup>134</sup>

#### *Access to recovery and reintegration*

82. The SSA is the primary entity responsible for managing child SEC victims' recovery and reintegration. The agency possesses a fund dedicated to programmes related to the protection of child victims of violence in general which includes sexual exploitation in its different forms.
83. However, with its limited funds, the agency's programmes are restricted geographically and do not cover all regions, with particularly weak representation in the occupied territories where most state agencies cannot operate.<sup>135</sup> Local NGOs and service providers work to fill these gaps.
84. In cases of children who have been sexually exploited, the Juvenile Code refers to children as victims or witnesses.<sup>136</sup> However, given that prostitution is criminalised in the Criminal Code, this poses a contradiction, and challenges the protection of child victims of sexual exploitation, because nowhere in the Juvenile Code is it stated that child victims of sexual exploitation are protected from prosecution. Further, the Code applies only to the children in conflict with the law and not victims.<sup>137</sup>
85. Victim-Witness Coordinators within the Prosecutor General's Office also provide victims with information about counselling and other services available to them, and help to facilitate their engagement with those services, throughout the investigation and court proceedings.<sup>138</sup>
86. With the introduction of the Child Code, the state has reiterated their commitment to develop short and long-term physical, psycho-social therapy and rehabilitation programmes and services.<sup>139</sup> However, the article guaranteeing these services is not due to enter into force until January 2022.

#### *Access to compensation*

87. The Juvenile Code gives child victims “the right to compensation for injury and damage and the right to claim compensation,” although it is difficult to determine the extent to which victims of SEC have been able to exercise this right.<sup>140</sup>
88. The State Fund is the primary entity administrating compensation for victims of trafficking and other forms of sexual violence. Compensation includes monetary payments up to a maximum of 1,000 GEL (327 USD as of July 2020).<sup>141</sup> The State Fund also provides a range of services including rehabilitation and reintegration programmes, legal assistance and medical assistance.<sup>142</sup> No information on the implementation of the State Fund for victims of SEC has been found in the context of this research.
89. In cases of trafficking, Georgian legislation specifically authorises law enforcement to “use the freezing and forfeiture of the offenders assets to secure compensation” to the victims.<sup>143</sup> However till date, no victims have received compensation.<sup>144</sup> This is in part due to law enforcement’s failure to freeze and seize criminal assets.<sup>145</sup> Another obstacle to restitution through these means is the fact that many of the traffickers are foreigners without assets registered in Georgia.<sup>146</sup>
90. The Code in Article 77 lays down the statute of limitation for compensation in the cases of victims of sexual violence that it shall be suspended until the child reaches adulthood or upon the application to the court before reaching the age of maturity.

### Recommendations to the GoG

8. Provide specific national, child-friendly complaint mechanisms for child victims of sexual exploitation;
9. Establish a state-managed fund to provide compensation to child victims of all forms of sexual exploitation.

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<sup>1</sup> Human Rights Council. (2015). [Report of the Working Group on the Universal Periodic Review: Georgia](#). A/HRC/31/15, 10 November 2015.

<sup>2</sup> See Human Rights Council. (2015). [UPR of Georgia – Second Cycle – Thematic List of Recommendations](#).

<sup>3</sup> Human Rights Council. (2015). [Report of the Working Group on the Universal Periodic Review: Georgia](#). A/HRC/31/15, 10 November 2015, Recommendations 116.1, 118.4, 118.5, 117.64, 117.73, 117.17, 117.65

<sup>4</sup> Ibid., Recommendations 116.1.

<sup>5</sup> Ibid., Recommendations 118.4,118.5,117.64,117.17, 117.15

<sup>6</sup> In line with the recently and widely adopted Terminology Guidelines, ECPAT prefers the term “exploitation of children in prostitution” instead of “child prostitution.” ECPAT International (2016). [Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, Adopted by the Interagency Working Group in Luxembourg, 28 January 2016](#), 29. Bangkok: ECPAT.

<sup>7</sup> In line with the recently and widely adopted Terminology Guidelines, ECPAT prefers the term “child sexual exploitation material” or “child sexual abuse material” instead of “child pornography.” Ibid., 39.

<sup>8</sup> Ibid., 54.

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- <sup>9</sup> IDMC ‘IDP’s in Georgia still need attention: [A profile of Internal displacement situation 2009](#)’.
- <sup>10</sup> *Ibid.*
- <sup>11</sup> IDMC (2019) ‘[Georgia: Figure Analysis – Displacement Related to Conflict and Violence](#)’.
- <sup>12</sup> PHF. (2020, March). *Personal Communication*.
- <sup>13</sup> IDMC ‘[IDP’s in Georgia still need attention: A profile of Internal displacement situation 2009](#)’.
- <sup>14</sup> UNICEF (2019) ‘[Working paper on Family Unity in the Context of Migration](#)’.
- <sup>15</sup> IRC, Save the Children, OHCHR, et al., (2009), “[Action for the Rights of Children \(ARC\), ARC Resource Pack: Critical Issue Module 1 - Abuse and exploitation](#)”, 12-14.
- <sup>16</sup> Council of Europe (2018), “[Consolidated Report on the Conflict in Georgia \(October 2017- March 2018\)](#)”, 12; IDMC (2019) ‘[Georgia: Figure Analysis – Displacement Related to Conflict and Violence](#)’; PHF. (2020, July). *Personal Communication*.
- <sup>17</sup> The State of the World’s Children. (2019, October). [The State of the World’s Children](#). New York: UNICEF.
- <sup>18</sup> ECPAT International. (2016). [Power, Impunity and Anonymity](#). 43.
- <sup>19</sup> UNOHRC, (n.d) ‘[Child, early and forced marriage, including in humanitarian settings](#)’.
- <sup>20</sup> UNFPA (2014) “[Child Marriage in Georgia](#)”
- <sup>21</sup> PHF. (2020, March). *Personal Communication*.
- <sup>22</sup> UNICEF (2018), “[Children Living and Working in the Streets of Georgia](#)”, 13.
- <sup>23</sup> *Ibid.* 11.
- <sup>24</sup> *Ibid.* 6.
- <sup>25</sup> *Ibid.*
- <sup>26</sup> *Ibid.*
- <sup>27</sup> International Telecommunications Union (ITU). (2019, December) [Mobile Cellular 2000-2008 statistics](#).
- <sup>28</sup> UNICEF (2017), “[The State of the World’s Children 2017: Children in a Digital World](#)”, 47.
- <sup>29</sup> UN Human Rights Council (2016), “[Report of the Special Rapporteur on her visit to Georgia](#)”, para 53.
- <sup>30</sup> Public Defender of Georgia (2016), “[Situation of Children’s Rights in Georgia](#)”, 13.
- <sup>31</sup> UNHCR (n.d.), “[Handbook for the Protection of Internally Displaced Persons: Action Sheet 7- Human Trafficking](#)”, 218-219.
- <sup>32</sup> UNICEF (2017), “[A Child is a Child: Protecting Children on the Move from Violence, Abuse and Exploitation](#)”, 6.
- <sup>33</sup> Georgian National Tourism Administration (2019), “[2019 Georgian Tourism in Figures](#)”.
- <sup>34</sup> *Ibid.*
- <sup>35</sup> UNFPA (2017), “[Exploring harmful Practices of Early/Child Marriage and FGM/C In Georgia: Final Report](#)”, 7.
- <sup>36</sup> *Ibid.*
- <sup>37</sup> *Ibid.*
- <sup>38</sup> UNICEF (2018), “[Findings of the Multiple Indicator Cluster Survey \(MICS\) in Georgia, Child Marriage](#)”
- <sup>39</sup> PHF. (2020, July). *Personal Communication based on official data from the Ministry of Internal Affairs of Georgia*.
- <sup>40</sup> UNFPA (2017), “[Exploring harmful Practices of Early/Child Marriage and FGM/C In Georgia: Final Report](#)”
- <sup>41</sup> *Ibid.*
- <sup>42</sup> ECPAT International, Plan International (2015), “[Thematic Report: Unrecognised Sexual Abuse and Exploitation of Children in Child, Early and Forced Marriage](#)”, 38.
- <sup>43</sup> Government of Georgia (2019), Code on the Rights of the Child.
- <sup>44</sup> *Ibid.* Scope of the Code.
- <sup>45</sup> Government of Georgia (2019), “[Code on the Rights of the Child](#)”, Article 53.
- <sup>46</sup> *Ibid.* Article 56(3).
- <sup>47</sup> *Ibid.* Article 57(2).
- <sup>48</sup> Government of Georgia (1999), [Criminal Code](#), Article 171(3).
- <sup>49</sup> *Ibid.* Article 140.
- <sup>50</sup> *Ibid.* Article 253(2).
- <sup>51</sup> *Ibid.* Article 143. Note 1(a)(c).
- <sup>52</sup> Government of Georgia (1999), “[Criminal Code](#)”, Article 255 note (1).
- <sup>53</sup> Government of Georgia (2019), Code on the Rights of the Child, Article 56(4).
- <sup>54</sup> *Ibid.* Article 66(3).

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- <sup>55</sup> *Ibid.* Article 66(4).
- <sup>56</sup> *Ibid.* Article 66(7).
- <sup>57</sup> *Ibid.* Article 66(9).
- <sup>58</sup> Government of Georgia. (2005). [Law on Electronic Communications](#). Article 11.
- <sup>59</sup> Government of Georgia. (2020). [Approval of the Directive on the Regulation of Posting of Harmful Information on the Internet for a Child](#). Article 1.
- <sup>60</sup> *Ibid.* Article 6.
- <sup>61</sup> Government of Georgia (1999), "[Criminal Code](#)", Article 255(2).
- <sup>62</sup> *Ibid.* Article 255(3).
- <sup>63</sup> *Ibid.* Article 255.
- <sup>64</sup> *Ibid.* Article 255(2).
- <sup>65</sup> PHF. (2020, July). *Personal Communication based on a statement made by the chairwomen of the Human Rights Committee of the Parliament of Georgia*.
- <sup>66</sup> Government of Georgia (1999), "[Criminal Code](#)" Articles 255.2 and 255(3)
- <sup>67</sup> PHF. (2020, March). *Personal Communication*.
- <sup>68</sup> Government of Georgia (2019), Article 59(1) states 'locating, transporting, transfer of a child, providing or receiving a place using threat or force or other forms of coercion, abduction, forging, deceit, abuse of power or misusing the victim's helplessness, or by one person to coerce consent from another person under his/her influence by receiving or giving monetary or other gain, for trafficking purposes shall be prohibited.'
- <sup>69</sup> Government of Georgia (2019), Article 59(2).
- <sup>70</sup> *Ibid.* Article 143.2.
- <sup>71</sup> *Ibid.* Article 143.1. (Note).
- <sup>72</sup> *Ibid.* Article 143.1.(1).
- <sup>73</sup> UN Human Rights Council "[Report of the Special Rapporteur on her visit to Georgia](#)", 2016, para. 36.
- <sup>74</sup> OPSC, Article 3(a).
- <sup>75</sup> *Ibid.*
- <sup>76</sup> Government of Georgia (1997), "[Law on Tourism and Resorts](#)", entered into force on April 12 1997.
- <sup>77</sup> PHF. (2020, March). *Personal Communication*.
- <sup>78</sup> Government of Georgia (1999), "[Criminal Code](#)", Article 150.1(1).
- <sup>79</sup> *Ibid.* Article 150.1(2)
- <sup>80</sup> Government of Georgia (1997) "[Civil Code](#)" Article 1108
- <sup>81</sup> Government of Georgia (1999), "[Criminal Code](#)", Article 5(1).
- <sup>82</sup> *Ibid.* Article 5(2)
- <sup>83</sup> *Ibid.* Article 5(3)
- <sup>84</sup> Double criminality requires that the offence must be prohibited both in the perpetrator's country of origin and in the country where the offence was committed.
- <sup>85</sup> Government of Georgia (1999), "[Criminal Code](#)", Article 6.
- <sup>86</sup> *Ibid.* Article 6(2).
- <sup>87</sup> PHF (2020, March). *Personal Communication*
- <sup>88</sup> *Ibid.*
- <sup>89</sup> Government of Georgia (2016), "[Action Plan of the Government of Georgia on the Protection of Human Rights for 2016-2017](#)", 63.
- <sup>90</sup> UN Human Rights Council (2016), "[Report of the Special Rapporteur on her visit to Georgia](#)", para 44.
- <sup>91</sup> *Ibid.*
- <sup>92</sup> UN Human Rights Council (2016), "[Report of the Special Rapporteur on her visit to Georgia](#)", para 43.
- <sup>93</sup> U.S. Department of State (2019), "[Trafficking in Persons Report: Georgia](#)", 205.
- <sup>94</sup> East West Management Institute-PROLoG (2017), "[Report on progress in the implementation of the National Strategy for the Protection of Human Rights in Georgia 2014-2020, and Recommendations as to Future Approaches](#)", 28.
- <sup>95</sup> *Ibid.*
- <sup>96</sup> PHF. (2018). *Study on the Implementation of the Child Protection Referral Procedures (unpublished)*.
- <sup>97</sup> *Ibid.*

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- <sup>98</sup> UN Human Rights Council (2016), "[Report of the Special Rapporteur on her visit to Georgia](#)", para 53.
- <sup>99</sup> UNICEF (2017), "[Interagency coordination council on child rights established in Georgia](#)", UNICEF Newsletter.
- <sup>100</sup> *Ibid.*
- <sup>101</sup> The State Fund for the Protection and Assistance of (statutory) Victims of Human Trafficking (n.d.), [About us](#).
- <sup>102</sup> The State Fund for the Protection and Assistance of (statutory) Victims of Human Trafficking, '[Statistics of consulting hotline for the victims of trafficking](#)'. (2014-2017)
- <sup>103</sup> *Ibid.*
- <sup>104</sup> PHF. (2020, March). *Personal Communication*.
- <sup>105</sup> *Ibid.*
- <sup>106</sup> *Ibid.*
- <sup>107</sup> Council of Europe (2010), "[ONE in FIVE](#)".
- <sup>108</sup> Council of Europe (2019), '[End Online Child Sexual Exploitation and Abuse @Europe](#)'.
- <sup>109</sup> UNDP (2016), "[Georgia: Prioritizing SDG implementation towards institutional coordination and policy coherence](#)".
- <sup>110</sup> UNDP Georgia (2019), '[Unlocking progress towards SDGs](#)'.
- <sup>111</sup> Government of Georgia (2018), "[Human Rights Action Plan for 2018-2020](#)"
- <sup>112</sup> PHF (2016), "[Advocacy for Child and Youth Protection](#)"
- <sup>113</sup> PHF (2019), "[Combating Violence against Children, in particular Sexual Violence, in Eastern Europe](#)"
- <sup>114</sup> PHF (2018), "[Stop Child Abuse](#)"
- <sup>115</sup> UN Human Rights Council (2016), "[Report of the Special Rapporteur on her visit to Georgia](#)", para 45.
- <sup>116</sup> UN Human Rights Council (2016), "[Report of the Special Rapporteur on her visit to Georgia](#)", para 75.
- <sup>117</sup> Ministry of Internal Affairs (2019), "[Do not take Childhood away](#)" Newsletter
- <sup>118</sup> *Ibid.*
- <sup>119</sup> East West Management Institute-PROLoG "[Report on progress in the implementation of the National Strategy for the Protection of Human Rights in Georgia 2014-2020, and Recommendations as to Future Approaches](#)", 27.
- <sup>120</sup> *Ibid.* 28.
- <sup>121</sup> *Ibid.* 28.
- <sup>122</sup> PHF (2020, March). *Personal Communication*.
- <sup>123</sup> UN Human Rights Council (2016), "[Report of the Special Rapporteur on her visit to Georgia](#)", para 50.
- <sup>124</sup> Government of Georgia (2009), "[Code of Criminal Proceedings](#)", Article 56(2).
- <sup>125</sup> *Ibid.* Article 56(5).
- <sup>126</sup> UN Human Rights Council (2016), "[Report of the Special Rapporteur on her visit to Georgia](#)", para 33.
- <sup>127</sup> *Ibid.* 23.
- <sup>128</sup> UN Human Rights Council (2016), "[Report of the Special Rapporteur on her visit to Georgia](#)", para 51.
- <sup>129</sup> Government of Georgia (2015), "[Juvenile Justice Code](#)", Article 52.
- <sup>130</sup> Government of Georgia (2009), "[Code of Criminal Proceedings](#)", Article 243.
- <sup>131</sup> Government of Georgia (2015), "[Juvenile Justice Code](#)", Article 52(3).
- <sup>132</sup> *Ibid.*, Article 52(5).
- <sup>133</sup> East West Management Institute-PROLoG "[Report on progress in the implementation of the National Strategy for the Protection of Human Rights in Georgia 2014-2020, and Recommendations as to Future Approaches](#)", 4.
- <sup>134</sup> Ministry of Internal Affairs (2019), [Do not take childhood away, Ministry has launched child marriage information campaign](#)
- <sup>135</sup> UN Human Rights Council (2016), "[Report of the Special Rapporteur on her visit to Georgia](#)", para 57.
- <sup>136</sup> Government of Georgia (2015), "[Juvenile Justice Code](#)", Article 52(3) and Article 52(5).
- <sup>137</sup> *Ibid.*, Article 99(3).
- <sup>138</sup> PHF. (2020, March). *Personal communication*.
- <sup>139</sup> Government of Georgia, Article 61(1).
- <sup>140</sup> Government of Georgia, "[Juvenile Justice Code](#)", Article 25.
- <sup>141</sup> ECPAT International (2015), "[Global Study on Sexual Exploitation of Children in Travel and Tourism- Country Specific Report: Georgia, 2015](#)", 32.
- <sup>142</sup> UN Women (2006), "[State Fund for the Protection of and Assistance to Victims of Trafficking in Persons](#)".

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<sup>143</sup> Council of Europe (2017), "[Report Submitted by the Georgian Authorities on Measures Taken to Comply with](#)

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[Committee of the Parties Recommendation CP\(2016\)5 on the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings- Second Evaluation Round](#)," 11.

<sup>144</sup> U.S. Department of State (2018), "[2018 Trafficking in Persons Report: Georgia](#)".

<sup>145</sup> *Ibid.*

<sup>146</sup> *Ibid.*