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Universal periodic review

Report of the Working Group on the Universal Periodic Review*

Georgia

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

* The present document is being issued without formal editing.



Position of Georgia with regard to the recommendations deferred during the review of Georgia within 3rd cycle of the Universal Periodic Review

<i>No of Recommendation</i>	<i>Status of acceptance by Georgia</i>	<i>Comments</i>
148.1	Accepted	
148.2	Accepted	
148.3	Accepted	
148.4	Accepted	
148.5	Accepted	
148.6	Accepted	
148.7	Accepted	
148.8	Accepted	
148.9	Accepted	
148.10	Accepted	
148.11	Accepted	
148.12	Accepted	
148.13	Accepted	
148.14	Accepted	
148.15	Accepted	
148.16	Accepted	
148.17	Noted	
148.18	Noted	
148.19	Accepted	
148.20	Accepted	
148.21	Accepted	
148.22	Accepted	
148.23	Accepted	
148.24	Accepted	
148.25	Accepted	
148.26	Accepted	
148.27	Accepted	
148.28	Accepted	
148.29	Accepted	
148.30	Accepted	

148.31	Accepted
148.32	Accepted
148.33	Accepted
148.34	Accepted
148.35	Accepted
148.36	Noted

The Ministry of Justice actively cooperates with the Public Defender's Office on criminal justice reform issues, including within the framework of thematic interagency councils chaired by the Minister of Justice.

The Public Defender's Office enjoys the status of invited member of the Criminal Justice Reform Interagency Coordination Council. According to the Resolution №316 of the Government of Georgia of 1 May 2014, "On the Approval of the Composition and the Statute of the Criminal Justice Reform Interagency Coordination Council", the Public Defender's Office is a member of the Criminal Justice Reform Inter Agency Coordination Council. Thereto, representatives of the Public Defender's Office are also involved in different working groups, where a criminal justice reform strategy and action plan are being developed.

In addition, as the member of the Criminal Justice Reform Interagency Coordination Council, the Public Defender's Office was actively involved in the process of reviewing/amending criminal justice legislation (both procedural and substantive).

The Public Defender's Office is involved in the activities of the Interagency Coordinating Council against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Interagency Council on Combating Drug Abuse and Interagency Coordinating Council for Implementation Measures against Human Trafficking both, at the council and working groups levels.

The Public Defender's Office membership to the Interagency Coordinating Council against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to Interagency Coordinating Council for Implementation Measures against Human Trafficking is determined by the Statutes of the Councils, approved by the Government (Accordingly, Resolution №341 of the Government of Georgia and Resolution №281 of the Government of Georgia).

As for the Interagency Council on Combating Drug Abuse, according to the Statute of the Council, the Public Defender's Office is not a member agency, however, the Council constantly invites the Deputy Public Defender or the thematic representative to its meetings and working groups and subsequently, the Office invariably shares its opinions and recommendations with the Council on number of related issues.

Herewith, according to Article 21(a-b) of the Organic Law of Georgia "On the Public Defender of Georgia", the Public Defender of Georgia may submit proposals, observations and recommendations to the Ministry of Justice, including on the topics related to criminal justice. Recommendations for the Ministry of Justice are issued within the framework of the annual parliamentary report¹ of the Public Defender, as well as

special reports, such as, report on “Administration of Justice on Sexual Violence Crimes against Women in Georgia”² and on “Protection of procedural rights of juvenile defendants, witnesses and victims in criminal justice”.³

For instance, in 2016, the Ministry of Justice presented a report on the implementation of the ombudsman's recommendations related to proposals on criminal justice issues.⁴ Also, in 2018, a working meeting was held between the Minister of Justice of Georgia and the Public Defender of Georgia to discuss ways of cooperation in the process of legal reform.⁵

148.37	Accepted
148.38	Accepted
148.39	Accepted
148.40	Accepted
148.41	Accepted
148.42	Accepted
148.43	Accepted
148.44	Accepted
148.45	Accepted
148.46	Accepted
148.47	Accepted
148.48	Accepted
148.49	Accepted
148.50	Accepted
148.51	Accepted
148.52	Accepted
148.53	Accepted
148.54	Accepted
148.55	Accepted
148.56	Accepted
148.57	Accepted
148.58	Accepted
148.59	Accepted
148.60	Accepted
148.61	Accepted
148.62	Accepted
148.63	Accepted
148.64	Accepted
148.65	Accepted

148.66	Accepted
148.67	Accepted
148.68	Accepted
148.69	Accepted
148.70	Accepted
148.71	Accepted
148.72	Accepted
148.73	Accepted
148.74	Accepted
148.75	Accepted
148.76	Accepted
148.77	Accepted
148.78	Accepted
148.79	Accepted
148.80	Accepted
148.81	Accepted
148.82	Accepted
148.83	Accepted
148.84	Accepted
148.85	Accepted
148.86	Accepted
148.87	Accepted
148.88	Accepted
148.89	Accepted
148.90	Accepted
148.91	Accepted
148.92	Accepted
148.93	Accepted
148.94	Accepted
148.95	Accepted
148.96	Accepted
148.97	Accepted
148.98	Accepted
148.99	Accepted
148.100	Accepted

148.101	Accepted	
148.102	Accepted	
148.103	Accepted	
148.104	Accepted	
148.105	Accepted	
148.106	Accepted	
148.107	Accepted	
148.108	Accepted	
148.109	Accepted	
148.110	Accepted	
148.111	Accepted	
148.112	Accepted	
148.113	Accepted	
148.114	Accepted	
148.115	Noted	Every year, Georgia takes important steps to combat human trafficking, including the prevention, investigation of the crime, prosecution and punishment of perpetrators, as well as the protection of victims and cooperation at the national and international level. Effort made by Georgia to combat human trafficking and pursued reforms are considered to be positive by numerous international organizations (European Commission within the implementation of the Visa Liberalization Action Plan by Georgia, Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA), OSCE, United Nations) and by US Department of State (According to the US Annual Report on Trafficking, being in so-called the "Tier 1", Georgia ranks highest in 2016–2020. Of course, taking into account the new tendencies, the state has some challenges, in answer to which improvement of legislative and institutional framework is consistently underway and Georgia is ready to strengthen its effort in this regard.
148.116	Accepted	
148.117	Accepted	
148.118	Accepted	Having accepted these recommendations, Georgia emphasizes that the Georgian State is not a legal successor of the Soviet Totalitarian regime and does not bear any legal obligation to retribute any damages caused by such and also, in the Georgian legislation there are no legal provisions or any base for restitution, accordingly the policy of the state will be implemented under its discretion and in accordance with the standards recognized by international Human Rights Law.
148.119	Accepted	
148.120	Accepted	
148.121	Accepted	

148.122	Accepted
148.123	Accepted
148.124	Accepted
148.125	Accepted
148.126	Accepted
148.127	Accepted
148.128	Accepted
148.129	Accepted
148.130	Accepted
148.131	Accepted
148.132	Accepted
148.133	Accepted
148.134	Accepted
148.135	Accepted
148.136	Accepted
148.137	Accepted
148.138	Accepted
148.139	Accepted
148.140	Accepted
148.141	Accepted
148.142	Accepted
148.143	Accepted
148.144	Accepted
148.145	Accepted
148.146	Accepted
148.147	Accepted
148.148	Accepted
148.149	Accepted
148.150	Accepted
148.151	Accepted
148.152	Accepted
148.153	Noted
148.154	Accepted

The legal dispute over the issue of gender legal recognition is pending at the European Court of Human Rights. Therefore, currently this issue is under consideration by the European Court.

148.155	Accepted
148.156	Accepted
148.157	Accepted
148.158	Accepted
148.159	Accepted
148.160	Accepted
148.161	Accepted
148.162	Accepted
148.163	Accepted
148.164	Accepted
148.165	Accepted
148.166	Accepted
148.167	Accepted
148.168	Accepted
148.169	Accepted
148.170	Accepted
148.171	Accepted
148.172	Accepted
148.173	Accepted
148.174	Accepted
148.175	Accepted
148.176	Accepted
148.177	Accepted
148.178	Accepted
148.179	Accepted
148.180	Accepted
148.181	Accepted
148.182	Accepted
148.183	Accepted
148.184	Accepted
148.185	Accepted
148.186	Accepted
148.187	Accepted
148.188	Accepted
148.189	Accepted

148.190	Accepted
148.191	Accepted
148.192	Accepted
148.193	Accepted
148.194	Accepted
148.195	Accepted
148.196	Accepted
148.197	Accepted
148.198	Accepted
148.199	Accepted
148.200	Accepted
148.201	Accepted
148.202	Accepted
148.203	Accepted
148.204	Accepted
148.205	Accepted
148.206	Accepted
148.207	Accepted
148.208	Accepted
148.209	Accepted
148.210	Accepted
148.211	Noted

According to Article 53¹ of Criminal Code of Georgia, commission of crime on the basis of race, skin colour, language, sex, sexual orientation, gender, gender identity, age, religion, political or other views, disability, citizenship, national, ethnic or social affiliation, origin, property or birth status, place of residence or other signs of discrimination with the reason of intolerance is an aggravating factor for liability for all crimes under the Code. Subsequently, if domestic violence or any form of violence against women, which is punishable under the Criminal Code, is committed on any of the grounds of discrimination referred to in Article 53¹, the liability of the offender will increase.

As to the law “On the elimination of violence against women and/or domestic violence, and the protection and support of victims of such violence”, in spite of the fact that the law does not directly refer to discriminatory grounds, Georgian law “On the elimination of all forms of discrimination” recognizes the provision of equal enjoyment of the rights established by the legislation of Georgia for any natural and legal person, irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender

identity and expression, political or other opinions, or other characteristics. Stated provision ensures that the rights of any victim of domestic and violence against women are protected from discrimination.

148.212	Accepted
148.213	Accepted
148.214	Accepted
148.215	Accepted
148.216	Accepted
148.217	Accepted
148.218	Accepted
148.219	Accepted
148.220	Accepted
148.221	Accepted
148.222	Accepted
148.223	Accepted
148.224	Accepted
148.225	Accepted
148.226	Accepted
148.227	Accepted
148.228	Accepted
148.229	Accepted
148.230	Accepted
148.231	Accepted
148.232	Accepted
148.233	Accepted
148.234	Accepted
148.235	Noted

Georgia is unable to accept the recommendation, since all regulations are already in place in order to prevent child marriage and combat child trafficking.

Georgia has regulations in compliance with international standards related to prevention of child marriage and combating trafficking in minors. Namely, in order to prevent child marriage, after legislative changes made in 2015, the Civil Code of Georgia prohibits the marriage of minors between the ages of 16 and 18 with the prior written consent of a parent or custodian and/or in the case of valid reasons (e.g. pregnancy), court permission. These legislative changes came into force on January 1, 2017, as a result of which a person can be in a registered marriage only from the age of 18 years. In addition, for the reason of implementing Council of Europe Convention “On preventing and combating violence against women and domestic violence” (Istanbul Convention), criminal liability for

forced marriage was established (Article 150¹). Coercion of both registered and unregistered marriage was declared a crime and became punishable by community service for two hundred to four hundred hours or by imprisonment for up to two years, with or without restriction of the rights regarding weapons. The same act committed against minor is punishable by imprisonment for a term of two to four years, with or without restriction of the rights regarding weapons.

As for child trafficking, this act has been declared a crime since 2003, as Article 143² of Criminal Code prohibited 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. This act belongs to the category of a particularly serious crime, for which the punishment is imprisonment for a term of eight to twelve years, deprivation of the right to hold an office or activities for up to three years. In the presence of aggravating circumstances, liability may be increased to 20 years or life imprisonment. For the acts provided by this article, a legal person will be punished by deprivation of the right to carry out activities or with liquidation and a fine. The Criminal Code of Georgia also punishes the use of the services of an affected person/victim of trafficking (including a minor), which envisages imprisonment for three to five years. In order to detect child trafficking, legislation has been periodically refined - in order to properly classify cases of human trafficking and to correctly interpret the term "exploitation", the concept of "exploitation" has been newly and clearly established. A person who committed a crime under this Code will be released from criminal liability if he/she voluntarily provided information about this to the investigative authorities, contributed to the conduct of investigation and his/her actions do not contain elements of any other crime. In order to protect the best interests of a child born through *in vitro* fertilization (surrogacy) in Georgia, to prohibit his/her expulsion from the country by bypassing the legislation of Georgia and thus to carry out various illegal actions against him/her the number of regulations have been tightened, the concept of "homeless child" has been introduced to protect children living and/or working on the streets, and it has become possible for them to arrange identification documents in order to get involved in various programs (education, health, social programs), promotion of prostitution was also declared a crime and etc.

148.236	Accepted
148.237	Accepted
148.238	Accepted
148.239	Accepted
148.240	Accepted
148.241	Accepted
148.242	Accepted
148.243	Accepted
148.244	Accepted

148.245	Accepted	
148.246	Accepted	
148.247	Accepted	
148.248	Accepted	
148.249	Accepted	
148.250	Accepted	
148.251	Accepted	
148.252	Accepted	
148.253	Accepted	
148.254	Noted	<p>Georgian legislation already provides ample opportunities for returnees to acquire Georgian citizenship.</p> <p>The Organic law of Georgia “On Georgian Citizenship” provides for a wide range of opportunities for Georgian emigrants to obtain Georgian citizenship. At the same time, according to the national legislation, a repatriate person has the right to be granted Georgian citizenship in a simplified procedure unconditionally, if there are no grounds for refusing naturalization.</p> <p>There are frequent cases of persons obtaining Georgian citizenship by way of exception. It should also be noted that in order to obtain Georgian citizenship by way of exception, a person is not required to renounce the citizenship of another country. It is noteworthy that, in order to restore Georgian citizenship, persons who have lost Georgian citizenship on the basis of obtaining citizenship of another country had the right to apply to the LEPL “State Service Development Agency” until December 31, 2020.</p> <p>For all above-mentioned reasons, the legislation offers a number of opportunities to returnees to be granted Georgian citizenship.</p>
148.255	Accepted	
148.256	Accepted	
148.257	Accepted	
148.258	Accepted	
148.259	Accepted	
148.260	Accepted	
148.261	Accepted	
148.262	Accepted	
148.263	Accepted	
148.264	Accepted	
148.265	Accepted	
148.266	Noted	<p>According to United Nations High Commissioner for Refugees (UNHCR), Georgia is one of the best countries in the regard of protection of stateless persons. Over the past 10 years, a number</p>

of legislative or institutional measures have been taken to reduce and prevent statelessness.

The non-discriminatory naturalization of stateless persons is also confirmed by the decreasing trend of stateless persons - from 2011 to the present their number has decreased from 1958 to 528 persons.

Additionally, addressing the issue of Georgian citizenship for minors, important and flexible regulations have been introduced to protect the rights of children, which makes it practically impossible for a minor born in Georgia to remain without citizenship.

Notes

- ¹ The situation in Human Rights and Freedoms in Georgia 2019.
 - ² Administration of Justice on Sexual Violence Crimes against Women in Georgia, <https://www.ombudsman.ge/eng/spetsialuri-angarishebi/201209103430kalta-mimart-seksualuri-dzaladobis-danashaulebze-martlmsajulebis-gankhortsieleba-sakartveloshi>
 - ³ Protection of procedural rights of juvenile defendants, witnesses and victims in criminal justice, <https://www.ombudsman.ge/eng/190321044913angarishebi/siskhlis-samartlis-martlmsajulebis-sferoshi-arasrultslovan-braldebulta-motsmeta-da-dazaralebulta-saprotseso-uflebebis-datsva>
 - ⁴ The Ministry of Justice report on the implementation of the ombudsman's recommendations <https://ombudsman.ge/geo/akhali-ambebi/iusticiis-saministros-angarishi-saxalxo-damcvelis-rekomendaciebis-shesrulebis-taobaze1>
 - ⁵ The Public Defender met with the Minister of Justice <https://ombudsman.ge/geo/akhali-ambebi/saxalxo-damcveli-iusticiis-ministrs-shexvda>
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