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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by the International Catholic Child Bureau, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[27 May 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Protection of Child Sexual Abuse Victims in Georgia

A. Identification of Child Sexual Abuse Victims

1. In November 2012, Georgia has established a Specialized Cybercrime Unit with the mandate to undertake prevention, detection, suppression and investigation of online child pornographic crimes in accordance with the Council of Europe Convention on Cybercrime ratified by Georgia on 6 June 2012 which entered into force on 1 October 2012.

2. In December 2012, as mentioned in the Georgian national fourth periodic report to the Committee on the Rights of the Child¹, Georgia endorsed the EU-USA Declaration on Global Alliance against child sexual abuse online and endeavoured to the Global Alliance's Guiding principles, policy targets, operational goals and specific actions. Georgia purposely committed to achieve its goals, including the enhancement of its national forensic capacities for victim identification and introducing software to identify known images that will furthermore automatically remove known images.

3. Whilst cooperation between State agencies as well as with Interpol and other countries is commendable, concerns remain over the fact that the identification of child sexual abuse victims has not reached the yearly 10% pledged. In addition, the Digital Evidence Research Unit which is supposed to improve the victim identification process in child online sexual abuse cases has not yet been established as planned by the 2013 Development Strategy of the Ministry of Internal Affairs (MoIA).

4. Furthermore, with regard to the increasing public awareness of the risk posed by children's activities online, including grooming and self-production of images leading to the production of new child pornography that may be distributed online, the government endeavors are still fragmented and incoherent. At present, there is neither a national campaign nor an education policy for parents, teachers, children and other care givers involved with children to minimize risks and maximize internet benefits for children.

5. Despite the ratification on 27 September 2010 of the Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention), concrete steps have not yet been fully undertaken to align the domestic legislation to the regional instrument so as to translate into action pledges made, *inter alia*, under the Global Alliance against child sexual abuse online framework.

6. Recommendations:

- (a) **Enforce the existing legal framework on child sexual abuse online and off-line in all settings on the basis of the Lanzarote Convention and, whenever necessary, harmonize it with the domestic legislation. In addition, clarify steps towards i) awareness raising to maximize potential and minimize risks; ii) reducing as much as possible the re-victimization; iii) victim identification; iv) investigation and prosecution of child sexual abuse online, and v) cooperation;**
- (b) **Establish a due diligence obligation vis-à-vis internet, mobile phones and online game providers, to regulate their operations, and introduce preventive and alert windows for children online;**
- (c) **In partnership with the private sector, effectively introduce the announced new software programs in order to technically identify and remove known child pornographic images;**
- (d) **Implement policies on public age-appropriate awareness-raising campaigns for children, parents and teachers; identification of victims; investigation of cases; prosecution of offenders; capacity building of law enforcement agents; and needed assistance, support and protection of victims or children at risk;**
- (e) **Establish the announced Digital Evidence Research Unit to forensic the cybercrime digital evidence and identify child online sexual abuse cases.**

B. Restrictive and Protective Orders

¹ CRC/C/GEO/4, § 201.

7. In its national report submitted to the Committee on the Rights of the Child, Georgia refers to restrictive and protective measures². In Georgia, the police can issue restrictive orders and the court can take protective orders according to article 21¹⁵ (para. 4 and 5) of the Administrative Procedural Code and article 199 of the Criminal Procedure Code. These provisions and related practices are positive and need to be continued and strengthened.

8. However, in February 2016, the Special Rapporteur on violence against women, its causes and consequences, Ms. Dubravka Šimonović, expressed, during her visit to Georgia, concerns over different forms of violence against women and girls, as well as sexual violence, including rape and sexual harassment. In addition, she was concerned about the « low number of protection orders, allowing an increased protection to victims – up to six months. Pro-active issuance of protection orders by the police and Public Prosecutors is needed and should be connected with restriction orders and the risk assessment of each case »³. Furthermore, she declared that notwithstanding an increasing number of restriction orders issued the last couple of years, since the Group for Determining Domestic Violence Victim Status of the Interagency Council for Prevention of Domestic Violence has not determined the “status of victim », victims, including children, remain « alleged victims » which do not give them full access to protective measures⁴.

9. The comprehensive monitoring of conditions of restrictive and protective orders faces a number of challenges, including the lack of institutional regulation, that makes monitoring operations dependent on law enforcement agents solely initiatives. The lack of an official monitoring mechanism promotes impunity for reoffending. Unfortunately, the very limited resources for neighborhood police officers and patrol police crew, especially in highland regions, negatively impact monitoring efforts as the police has to deal with different issues (interviews of victims, perpetrators, family members, witnesses, neighbors; safety; dialogue; protection and monitoring) in order to fully understand the situation for which they have received a call and provide the appropriate response, due to the complex nature of domestic violence, especially when children are concerned.

10. While police restrictive orders strive to protect women and their children in cooperation with the Social Service Agency and its social workers, it is much more difficult to identify and consider children as victims of neglect or abuse so that they can enjoy victim status. It often happens that social workers and police officers’ criteria qualifying possible signs of sexual abuse differ. To issue a restrictive order, the police require visible and tangible signs and injuries whilst a social worker may base its identification on a body of evidence.

11. The current legislation is not very clear about the enforcement of restrictive and protective orders. In case of the first non compliance to those measures by the perpetrator of a domestic child sexual abuse, should there be a “warning” or immediate penalties imposed ? And which body, police or court, should be in charge?⁵

12. In addition, it is to be noted that violations of protective and restrictive measures are subjected to criminal liability and not to disciplinary, administrative or any other sanctions. Therefore, the orders themselves should duly indicate that when there is a breach of the law, immediate criminal penalties will be taken.

13. Recommendations

- (a) **Provide including to alleged children victim of sexual abuse with immediate necessary medication while awaiting and pursuing further investigations;**
- (b) **Remove obstacles that impede the full enjoyment by victims of protective and restrictive measures;**

² CRC/C/GEO/4, §§ 99 & 106.

³ OHCHR press release entitled « Special Rapporteur on violence against women finalizes country visit to Georgia », available here, including in Georgian language

<http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=17073&LangID=E#sthash.XLDJKQXz.dpuf>

⁴ *Ibd.*

⁵ DV-GEO/241/2013 [AIC], Opinion on the draft amendments to the legal framework on preventing and combating domestic violence in Georgia, OSCE Office for Democratic Institutions and Human Rights, Warsaw, 17 December 2013, §§ 96-100.

- (c) **Ensure that the issuance of a restrictive order or a protective order for the protection of the child victim does not prevent him or her from issuing simultaneously other legal proceedings, which requires harmonization of the Criminal Procedure Code (article 199) and the ongoing amendments (new article 10 para. 6) to the legal framework on Preventing and Combating Domestic Violence in Georgia⁶.**

D. Rehabilitation-Recovery Mechanism for Victims

14. In 2008, the Committee on the Rights of the Child recommended Georgia to “strengthen support for victims of abuse and neglect in order to ensure their access to adequate services for recovery, counseling and other forms of rehabilitation”⁷. However, until now, there are no specific rehabilitation services for abused and neglected children especially for child victims of sexual abuse; exploitation and cyberbullying, but only very limited rehabilitation and counseling services that are provided by non-governmental sector. The services that are funded by foreign donor organizations lack of persistency and fail to meet existing needs countrywide, including counseling and rehabilitation services for children in alternative care settings (foster care, small group homes). Currently, there are no State-run programs-focused on the rehabilitation of child-victims and witnesses to violence. The principles enshrined in CRC Article 39 are not translated and implemented in Georgia.

15. Recommendations:

- (a) **Carry out child-friendly budgeting and appropriate allocation of resources, as well as increase the budget for child social protection measures;**
- (b) **Ensure that law enforcement authorities, as well as medical and social workers, continue to receive appropriate training to deal with cases of domestic violence⁸.**

Public Health Foundation of Georgia (PHFG, an NGO without consultative status, also shares the views expressed in this statement.

⁶ Op. cit, § 107-108.

⁷ CRC/C/GEO/CO/3, § 41 d).

⁸ CCPR/C/GEO/CO/4, § 9 c).
