**To the UN Committee on the rights of Persons with Disabilities**

**Alternative Report on the Implementation of the Convention on the Rights of Persons with Disabilities in Georgia**

**2014-2017**

**Georgia**

**2018**

**Table of Contents**

Authors of the Report: 3

Executive Summary 4

Article 5. Equality and non-discrimination 5

Article 6. Women with disabilities 7

Article 7. Children with disabilities 9

Article 8. Raising awareness 11

Article 9. Accessibility 13

Article 11. Situations of risk and humanitarian emergencies 15

Article 12. Equal recognition before the law 15

Article 13. Access to justice 19

Article 14. Liberty and security of person 21

Article 15. Freedom from torture or

cruel, inhuman or degrading treatment or punishment 21

Article 19. Living independently and

being included in the community 22

Article 21. Freedom of expression and

opinion, and access to information 24

Article 24. Education 25

Article 25. Health 29

Article 26. Habilitation and rehabilitation 34

Article 27. Labor and employment 36

Article 28. Adequate standard of living and social protection 39

Article 29. Participation in political and public life 41

Article 30. Participation in cultural life, recreation, leisure and sport 43

Article 31. Statistics and data collection 44

Article 33. National implementation and monitoring 45

# Authors of the Report:

Development of the Alternative Report on the Implementation of the Convention on the Rights of Persons with Disabilities in Georgia was facilitated and coordinated by Coalition for Independent Living (CIL) with valuable input and contributions from its member and non-member (partner) organizations.

**Coalition for Independent Living (CIL)** is a cross-disability coalition of 26 non-governmental organizations run by persons with disabilities and/or their legal representatives and working on disability issues across the country. Since 2003, CIL has been implementing projects to protect the rights of persons with disabilities, increase their inclusion in political, economic and social life of the country and promote independent living.

Contact person: Giorgi Dzneladze, Chairman; (+995) 599 455 688; g.dzneladze59@gmail.com Address: 7, Kedia Str. 0154, Tbilisi, Georgia Tel.: (+995 32) 2 35 66 09

E-mail: ciltbilisi@gmail.com; info@disability.ge Website: [www.disability.ge](http://www.disability.ge)

**Contributing Organizations:**

Georgian Young Lawyers’ Association (GYLA)

Society for Inclusion

# Parents Bridge

Neurodevelopment Center (NDC)

Article 42 of the Constitution

Georgian Association of Social Workers (GASW)

Education Development and Employment Center (EDEC)

Union of the Deaf

Union of the Blind

Child, Family, Society (CFS)

Association Anika

Accessible Tourism Center Parsa (ATCP)

Changes for Equal Rights (CER)

Welfare and Development Center (WDC)

Women’s Initiatives Support Group (WISG)

**Executive Summary**

The UN Convention on the Rights of Persons with Disabilities - CRPD (2006) was ratified by Georgia on 26 December 2013. The Convention entered into force in Georgia on 12 April 2014. Ratification of the Convention was followed by important legislative changes in order to bring the national legislation and policy documents in compliance with the CRPD:

* The legal capacity reform implemented in 2015. It abolished the practice and possibility of recognizing persons with developmental delays or mental health issues as legally incapacitated. The reform also abolished guardianship and replaced it with supported decision-making.
* Government of Georgia Decree No. 41, dated 6 January 2014, laying down accessibility standards for built physical environment applicable to design and construction.
* Law on Elimination of All Forms of Discrimination (2 May 2014), which enumerates prohibited grounds for discrimination including discrimination based on disability.
* Mental Health Development Strategy and Action Plan 2015-2020 adopted in 2014.
* National Human Rights Strategy of Georgia 2014-2020 adopted on 30 April 2014, which includes protection of disability rights as one of the focus areas.
* Law on education was revised several times with regard to disability.

However, these and other legislative changes, strategic documents and action plans **are mostly declarative in nature. There is a lack of effective monitoring and enforcement mechanisms and the implementation is poor due to practices that clearly fall short of requirements of the Convention**. Main reasons that hinder implementation of legislative changes or contribute to formation of poor practice include the following: (i) the medical model-based disability classification and registration system which leads to the lack of services, inadequate funding of disability programs, lack of data on the actual needs of persons with disabilities, etc. (ii) no high level government body designated to coordinate the implementation of the CRPD; (iii) lack of independent living support services; etc.

# Article 5. Equality and non-discrimination

The medical system of granting the official disability status, which dates back to the Soviet times, remains to be the insurmountable problem in Georgia. Without implementing reforms in this area, any discussions about substantial equality of persons with disabilities will be pointless.

It is also important to ratify the Optional Protocol of the CRPD. Considering the ineffective national mechanisms and legislation for protection of the rights of persons with disabilities, the opportunity to bring complaints before the CRPD Committee would significantly improve their access to justice.

Adoption of the Law for Elimination of All Forms of Discrimination in 2014 was an important step for ensuring equality and non-discrimination since the Law made it possible to litigate disability rights violations in cases of discrimination. However, at least some de-facto equality and prohibition of discrimination of persons with disabilities in any area is yet to be achieved. This is caused by ineffective anti-discrimination mechanisms and problems related to implementation of the Convention.

The three-month term established by the Civil Procedure Code of Georgia for bringing a discrimination claim to court remains to be a major legislative obstacle. Soon after adoption of the anti-discrimination legislation (2014) it became clear that the three-month period was insufficient for persons with disabilities to identify discriminatory actions perpetrated against them or find relevant legal mechanisms for taking a court action. In 2015, the Public Defender of Georgia recommended the Parliament to increase the term[[1]](#footnote-1) but there have been no changes as yet.

The mandate of the Public Defender, designated by the anti-discrimination legislation as the national body for enforcing equality, does not entail important leverage for combating discrimination effectively and ensuring equality.

Another obstacle to elimination of disability-based discrimination is lack of legislative regulation of the principle of “reasonable accommodation” recognized by the Convention. Three years after ratification of the CRPD, the Georgian legislation does not recognize denial of reasonable accommodation as a form of discrimination.

Lesbian, gay, bisexual, transgender and intersex (LGBTI) persons with disabilities have to face on a daily basis disability stereotypes in LGBTI community as well as prejudices related to sexual orientation and gender identity in disabled communities and their families. LGBTI persons with disabilities are victims of multiple discrimination in their efforts to access services or public benefits. The State has been completely disregarding the needs of transgender community, which leads to systemic discrimination of this particular group. Even though the law on Elimination of All Forms of Discrimination prohibits discrimination on the basis of sexual orientation and gender identity, its enforcement in relation to members of the LGBTI community remains a challenge. [[2]](#footnote-2) Often, LGBTI persons subjected to discrimination are reluctant to bring a claim to court or to apply to the Public Defender of Georgia in fear of outing. [[3]](#footnote-3) Under such circumstances, the public data about psychological challenges, physical threats and barriers to accessing justice experienced by LGBTI persons with disabilities is not available.

**Recommendations:**

1. The State must ratify the Optional Protocol to the CRPD;
2. The State must replace the existing medical model of granting disability status with the system of individual functional assessment based on the social model of disability and World Health Organization (WHO) recommendations/relevant tools;
3. Prepare and adopt within a reasonable time the law for protection of the rights of persons with disabilities which will fully incorporate the CRPD principles and provisions and provide effective enforcement mechanisms.
4. Amend the Law of Georgia on Elimination of All Forms of Discrimination so that the Law recognizes denial of reasonable accommodation as a form of discrimination;
5. Amend the Civil Procedure Code of Georgia to extend the three-month time-limitation for taking a discrimination claim to court to year or a minimum of six months;
6. Increase the mandate of the Public Defender of Georgia for effectively combating discrimination and ensuring equality;
7. The State action plans and other disability policy documents should include measures regarding persons facing multiple discrimination, including on account of sexual orientation and gender identity, and ensure adequate services and actions for accessing justice;
8. The State should raise public awareness on disability issues, as well as provide training to relevant officials in legislative, executive and judicial system on specific forms of discrimination faced by persons with disabilities.

# Article 6. Women with disabilities

Women with disabilities remain the most vulnerable group of the society alongside children with disabilities. They are often stigmatized and excluded from public life on the basis of their disability and gender, as well as social and economic circumstances.

One of the most serious problems neglected by the State is the right of women with disabilities to sexual and reproductive health. There is no expert knowledge available in the country and legal regulations are also lacking. As a result, awareness about this issue is low among disability specialists as well as women with disabilities and their families. Families of women with learning disabilities or mental health issues (especially in rural areas) deal the sexual and reproductive health issues by locking women up at home or prohibiting them from talking about their issues. Rarely, families have applied medical intervention to suppress sexual activity among women with learning disabilities or mental health condition. Data or research about these challenges and practices are not available. It is unknown whether such medical intervention is based on informed consent of women with disabilities.

Another challenge is identification of acts of domestic violence against women with disabilities, their prevention and elimination. There are cases where women with learning disability do not realize that they have been subjected to violence in family. According to neighbors or relatives, they are reluctant to report on the instances of violence because they do not trust the State, they do not know where and in what conditions they will end up after reporting, and fear that the victim of violence and/or the woman with disability who reported violence will be institutionalized. Victims of violence are sometimes provided with shelter by relatives, neighbors or friends, who say that they have no information about the State policies on prevention and elimination of domestic violence.

Participation of women in public life remains a problem, especially in rural areas. It is virtually impossible for them to leave home and attend information meetings or participate in other activities. Women with disabilities are mostly unaware of their rights. Nevertheless, they are more concerned with social and economic problems they face and are therefore more focused on financial assistance.

**Recommendations:**

1. The State should develop programs and services that will promote participation of women with disabilities in public life on both central and local level of governance;
2. Before complete closure of residential institutions for adults with disabilities, the State should prepare a strategy to promote independent living and social inclusion of institutionalized women with disabilities;
3. The existing State-funded Universal Healthcare Program should incorporate quality health services specific to the needs of women with disabilities (including services related to sexual and reproductive health rights);
4. The State should raise awareness of women with disabilities, their families and medical personnel about sexual and reproductive health issues;
5. The State should design programs to prevent/protect women with disabilities from violence and ensure training and awareness-raising of public servants (social workers, law enforcement officers, etc.) about measures to eliminate/prevent violence against women with disabilities and provide adequate response to their reports on violence.

# Article 7. Children with disabilities

The State has made some progress in deinstitutionalization of children with disabilities; however it is still questionable if the steps taken by the State have had any significant impact for them.

The Ministry of Labor, Health and Social Affairs (MoLHSA) is responsible for the issues related to children with disabilities, however, many of these children remain invisible for the social service system under the Ministry. According to the *Standard no.8 of Social Work Practice*[[4]](#footnote-4)  *– Referrals*, there must be eligibility criteria as well as outreach mechanisms that social workers will apply to identify and refer all children with disabilities to available services. Currently public sector social workers are not obligated to find new clients while a number of problems could effectively be overcome as a result of proactive response, such as: informing families about available services, including regarding care and prevention of abandonment of children with disabilities.

A focus group meeting with social workers revealed that a person with disability, who is not involved in the government poverty reduction program and therefore does not claim any social benefits, may be left beyond the care system and they may not be able to receive services provided by the State, unless his/her family is aware of such services. Another systemic problem is lack of services and their uneven geographic distribution, leading families of children with disabilities to travel from one region to another to receive these services, which they can rarely afford, if at all.

Correct assessment of children with disabilities and identification of their needs is a problem. Social workers are not provided with tools and specific methodologies to focus on individual needs of children with disabilities.

Certain number of children are enrolled in small family-type homes under a unilateral decision of the Regional Councils of the LEPL Social Services Agency, MoLHSA (as an emergency), which is why initially information about children is not provided to a social worker or a service provider, i.e. full assessment of the child is not performed before she or he is enrolled in the service. Additionally, distribution of functions between a social worker and a service provider (Order no.4-11/n of the Social Service Agency, dated 11 January 2016) does not determine as to how individual plans should be prepared for children with disabilities and how a multidisciplinary team should function for timely identification of children’s needs and subsequent multidimensional planning.

The process of reintegration of children with disabilities into their biological families continues to face significant challenges. The role of the social worker in this process is limited to referral and coordination and there is almost nothing done to support families with integration. According to the State Monitoring Service, recipient families spontaneously and intuitively attempt development of independent living skills among children with disabilities.

The UNICEF Annual Report 2015 titled “Children with Disabilities in Georgia” clearly underlines the need to improve legislative framework for children’s alternative care, in order for the system to ensure realization of the preferential right to family support services for children with disabilities outside of family care.

**Recommendations:**

1. The State must design a tool for determining disability status for children at an early age, as the basis for preparing and implementing individual integration/rehabilitation/development plans for each child;
2. The State must provide financial support for families of children with disabilities in order to reduce risks of their abandonment;
3. Social work standards and the role and functions of the social worker must be reviewed and strengthened to offer better support, information and services for children with disabilities and their families;
4. Access to existing services must be ensured in consideration of existing needs and in adequate geographic distribution;
5. The State must provide support to foster families through information, consultation and training.

# Article 8. Raising awareness

Generally there is an extremely low awareness in Georgia about individuals that are different for one reason or another, and disability is no exception. As persons with disabilities claim their rights recognized in the Convention and demand using and adapting spaces that are rightfully theirs, intolerance, low level of awareness and even aggression comes to bright light. For example, in 2015 commercial tenants of an office space demanded that the landlord evict the Down syndrome rehabilitation center from the building; they claimed that their productivity decreased after seeing children with Down syndrome.[[5]](#footnote-5)

Low level of awareness about disability is evident among doctors, judges, notaries, lawyers and civil servants. In one instance, the judge had to be informed that wheelchair users could provide a power of attorney without consent of a third person. In another case the judge wrongly interpreted the ECHR jurisprudence about disability. Majority of lawyers still believe that institutionalization of persons with disabilities is justified, especially for treatment. They also believe that discriminatory prohibitions of certain rights contained by the legislation should be allowed due to health condition of persons with disabilities.[[6]](#footnote-6)

The approach of LEPL Levan Samkharauli Forensic Bureau (the State forensic expertise center), towards persons with psychosocial needs is extremely alarming. Findings of the bureau play a decisive role in court’s recognition that a person with psychosocial needs requires support to exercise his or her legal capacity. However, specialists mostly rely on outdated approaches that ignore individual capacities of persons with psychosocial needs during assessment.

There is a low level of awareness among persons with disabilities themselves and their families, particularly outside the capital. For instance, a mother decided not to take her child to school because the principal said that he would only admit the child if the parent promised not to demand installment of a ramp or adaptation of the bathroom. According to the parent, she did not know that the principal’s demand was illegal, so she decided not to take the child to school instead. Another parent who visited the office of Gamgebeli [chair of a self-governing town] to receive available social services was told by the Gamgebeli that she was “delusional” and asking for too much.[[7]](#footnote-7)

In response to the request for information about awareness raising campaigns and trainings organized by the government, the Human Rights Secretariat of the Administration of the Government of Georgia denied to provide information, stating that they did not collect and maintain such data.[[8]](#footnote-8)

**Recommendations:**

1. The State should educate and raise awareness of civil servants (both at the central and local level) in a continuous manner on the rights and needs of persons with disabilities;
2. The State should train and raise awareness of employees of Levan Samkharauli Forensic Bureau about contemporary practices and approaches to disability.
3. The State should promote large-scale programs for raising public awareness to eliminate prejudices and discriminatory attitudes towards persons with disabilities.

# Article 9. Accessibility

On 6 January 2014, the Government of Georgia adopted Resolution No 41 on “Approving the Technical Statute for Creating Areas and Architectural and Planning Elements for Persons with Disabilities”. Despite adoption of the Resolution and some progress in its enforcement, no meaningful changes have been made for improving accessibility of physical environment.

During January-May 2017, CIL requested information about the accessibility of buildings that were under construction and/or operational since 2014 from governments of three major cities of Georgia (Tbilisi, Rustavi and Poti). None of the cities provided such information. From the list of buildings provided by the city halls CIL randomly selected sites for inspection and found that none of them met the requirements of the Resolution. This concerns multi-storey residential buildings as well as public spaces.

Accessibility of public transportation, including intercity transport, remains a problem. The only accessible means of transportation is a train between Tbilisi-Batumi-Tbilisi, however, the manner in which the service is provided is discriminatory (e.g. wheelchair users cannot purchase a train ticket online or they may have a problem taking the booked seat). Even though the State has procured new wheelchair-accessible busses for Tbilisi, the bus stops remain to be inaccessible and busses find it difficult to stop at stations in a manner that would allow them to provide full accessibility for wheelchair users. The new busses in Tbilisi are not adapted to needs of the blind and deaf people as well. Most parking spaces are not accessible for wheelchair users (i.e. small spaces between the parking lots; long distance between the parking space and a ramp to the sidewalk; etc.).

Public facilities including: banks, drug stores, hotels, food facilities and department stores are mostly inaccessible. Because these facilities are under private ownership, legislation turns a blind eye to the failure of private individuals to fulfill requirements of the law. Penalties prescribed by the legislation are not enforced in practice. For instance, Art.1781 of the Code of Administrative Offences of Georgia prescribes an administrative penalty for noncompliance with accessibility requirements in residential, public and commercial facilities, transportation, information and communications systems, and violation of the right to the freedom of movement. Art.1782 also prescribes administrative penalty for failing to consider the needs and requirements of persons with disabilities during design and construction of facilities. However, these articles are only declarative in nature. According to the law, the Ministry of Labor, Health and Social affairs must address violations of the law, however it is unclear how the Ministry of Health will be able to control issues related to design and construction. Based on the information of Tbilisi, Kutaisi and Batumi courts there is no record of a single case involving violations of Art.1781 and 1782 of the Code of Administrative Offences in these courts during 2012-2016.[[9]](#footnote-9)

Inaccessibility of physical environment and information remains the primary challenge affecting the blind and the deaf. Public sector, including the Ministry of Justice, notaries and banks refuse to provide services to the blind and the deaf without involvement of a third person. Pursuant to Art.21 of the Order no.4 of the Minister of Justice on Adoption of Instructions for Public Registry (16 Feb 2010), before a blind person signs a document, validity of signature of their representative needs to be established, which creates obstacles not only in the public sector but in the operation of notaries and banks who rely on the said Order for guidance. The National Bank who is in charge of overseeing provision of services in the private banking sector believes that since monitoring the implementation of the CPRD is the responsibility of the Public Defender’s office, information about practices of a private bank with regard to provision of services to persons with disabilities should be provided by the Public Defender.[[10]](#footnote-10)

**Recommendations:**

1. The State should amend all relevant legislative acts on accessibility of physical environment and provide effective enforcement mechanisms;
2. The State should amend all relevant legislative acts on accessibility of transportation and provide effective enforcement mechanisms;
3. The State should promptly make amendments in the legislation for identification, elimination and prevention of noncompliance with accessibility requirements;
4. The National Bank of Georgia should be ordered to issue general recommendations for Georgia’s private banks, so that they develop the practice and standards of nondiscriminatory services.

# Article 11. Situations of risk and humanitarian emergencies

Under the 11 January 2017 Resolution N4 of the Government of Georgia, National Strategy and Action Plan for Disaster Risk Reduction 2017-2020 was approved. [[11]](#footnote-11) Some of the priorities of the adopted policy (3.13) is to increase the role of persons with disabilities in policy formation and implementation; identification of natural disaster circumstances/types of risk analysis, assessment and reduction. In addition, the needs of persons with disabilities will be taken into account in the process of disaster risk assessment and planning.

However, these requirements exist on paper and persons with disabilities and their organizations continue to be excluded from disaster risk reduction policy formation. Consequently, it is difficult to assess the effectiveness of the State’s fulfillment of requirements provided in Art.10 of the Convention and the action plan for implementation of the Sendai Framework for Disaster Risk Reduction.

**Recommendations:**

1. The State should develop mechanisms and activities to engage persons with different types of disabilities in the development of policy, strategies and methodologies of disaster risk reduction.

# Article 12. Equal recognition before the law

The legal capacity reform was launched in Georgia based on a lawsuit of the Georgian Young Lawyers’ Association concerning the decision of the Constitutional Court of Georgia in the case of “Citizens of Georgia Irakli Kemokelidze and Davit Kharadze v Parliament of Georgia”, 8 October 2014.[[12]](#footnote-12) Part of the legislation regarding legal capacity of persons with psychosocial needs was abolished before the decision was published and certain legislative acts were adopted by Parliament on March 20, 2015.

Before these changes, the will of legally incapacitated persons was entirely substituted by the will of their guardians. The amendments introduced a system of supported decision-making that provides persons with disabilities with a supporter based on the assessment of their individual needs. A supporter assists them in decision-making[[13]](#footnote-13) and understanding terms and consequences of a transaction.[[14]](#footnote-14)

According to the Public Defender, the existing practice of recognizing a person’s right to supported decision-making is merely a replacement of the term “incapacitated” with the term “recipient of support” as in reality, the rights of persons with psychosocial needs continue to be restricted and no substantial changes have been made for these individuals to receive actual support in decision-making and not a substitution of their will.[[15]](#footnote-15) More specifically:

1. In majority of decisions on granting a person’s request for supported decision-making, expert evaluations find that the person should receive support “in all areas.” Generally courts do not apply individual approach and they do not establish unique psycho-social needs of the individual. Courts disregard whether or not the individual agrees with the expert evaluations. The reasoning and justification of these decisions are overwhelmingly identical with minor differences evident only in a few rulings. [[16]](#footnote-16)
2. In most cases (85.82%) a person’s free will is essentially substituted by his or her supporter. [[17]](#footnote-17) Support-recipients have no right to challenge supporter’s decisions. This effectively amounts to substitution of free will, which has been abolished by the Constitutional Court.

In addition, the following gaps have been found in the existing model:

* The practice of publishing only the resolution parts of court rulings on supported decision-making makes it difficult to challenge them;
* Rulings that contain descriptions of reasoning (motivation) (4.52%) are unsubstantiated and follow the same template. They only contain citations from expert findings;
* Decisions about a person’s request for supported decision-making are essentially identical, which leads us to believe that the court grants these requests solely based on medical diagnosis;
* Contrary to the Constitutional Court decision[[18]](#footnote-18), the legislation allows supporters to conclude minor agreements; [[19]](#footnote-19)
* The law provides a blanket prohibition for designating as a supporter a person that has been recognized as a support-recipient (even in the area where s/he does not require support);[[20]](#footnote-20)
* Even when it has been recognized that a person does not require support in making medical decisions, the legislation provides a blanket obligation for the supporter to closely and regularly follow medical services provided to the support-recipient;[[21]](#footnote-21)
* The legislation allows blanket deprivation of some rights that are not directly provided for in court decision (parental and related rights, right to hold a public office; right not to become a subject of a research without informed consent), meaning that presumption does not work in favor of the person with disability.

Additionally, the court practice on whether or not a legally incapacitated individual can request restoration of his/her full legal capacity (instead of supported decision-making) is inconsistent. In some cases courts require that the individual first applies to court with a request for supported decision-making and only then makes a request for restoration of their full legal capacity. This creates illegal and unjustified barriers to exercising the rights provided in Art.12 of the Convention.[[22]](#footnote-22)

When applying to the court, persons with disabilities have a limited right to have an attorney of their own choosing. Conclusion of a representation agreement requires notarized power of attorney, while notaries refuse to authenticate a legally incapacitated person’s power of attorney due to the lack of legal capacity. This limits the right of legally incapacitated persons to be represented in court by an attorney of their choice. [[23]](#footnote-23)

Lack of support and independent living services is a major barrier to adequate implementation of the legal capacity reform, which is why often persons with psycho-social needs continue to depend on their families and relatives for support. Absence of these services means that nothing has changed for persons with psychosocial needs and their families.

The existing practice of evaluating individual psycho-social needs is another important barrier. First of all, assessment takes place at the psychiatric department of the National Forensics Bureau, which is a closed facility with a degrading environment. As persons with psycho-social needs find themselves being examined (or rather, tested) by different specialists for only a few minutes, they grow reluctant, unconfident and unable to fully demonstrate their capacities which clearly works against their interests.

Notably, the legislation does not allow for an alternative evaluation (examination). Pursuant to the Law on Evaluation of Psychosocial Needs” [[24]](#footnote-24), a report of the evaluation of psychosocial needs has to be delivered by the Levan Samkharauli National Forensics Bureau only. Such approach runs against the standard of the right to obtain alternative opinion and completely disregards the possibility to challenge any inadequate findings.

**Recommendations:**

1. The State should develop and implement supported decision-making systems and create applicable legal frameworks;
2. The State should develop personal assistance services for persons with disabilities;
3. The State should ensure that persons with disabilities have access to independent living services;
4. The State should ensure training of judges regarding disability issues, so that they take into account individual characteristics and circumstances, rather than consider blanket restrictions and use the medical evaluation reports as the sole basis for final decisions;
5. The State should revise evaluation practices of the National Forensics Bureau, so that they conform with international best practices and develop methodologies that allow identification and consideration of individual characteristics and needs;
6. The State should amend legislation to allow obtaining of alternative medical expert opinion for determination of legal capacity by the court.

# Article 13. Access to justice

Persons with disabilities, particularly those with psychosocial needs, face stigmatization during court proceedings. Monitoring of criminal trials by the Georgian Young Lawyers’ Association identified unethical behavior of judges, prosecutors and lawyers towards certain groups of individuals – their attitudes were illustrative of gender stereotypes or other stigma, underlining characteristics of and creating a humiliating environment for the person concerned. [[25]](#footnote-25)

In another case which occurred after February 2016 the defendant was a female with physical disability whose face muscles made her look as if she was smiling. Before the judge and the defendant entered the courtroom, the prosecutor and the lawyer had the following exchange:

*Lawyer: “They shouldn’t be arresting people like her”*

*Prosecutor: “Right, they should let her outside in the street, so she can attack people. And she’s so unashamedly demanding to read the court records ... Can you imagine that I don’t feel sorry for a defendant?... I understand that she’s pitiable but what can I do?!”*

Women with disabilities are particularly vulnerable towards gender-based and other crimes. Their access to justice is constrained by intersectional discrimination due to their sex and disability, as well as social hardships and poor access to information and resources.

The State does not maintain or plan to maintain disaggregated data about crimes committed against persons with disabilities. [[26]](#footnote-26) The existing crime prevention policy and other relevant documents do not take into consideration the needs of women with disabilities. Crime referral documents do not elaborate procedures for referring women with disabilities or properly analyzing “physical threat” and barriers in communication. In practice, these barriers lead to failure of law enforcement authorities to receive complete information from persons with disabilities, which in turn violates their right to access to justice. [[27]](#footnote-27)

Lack of information, lack of trust towards law enforcement authorities, threat of victim’s isolation by the perpetrator (who in many cases may be the victim’s only care-giver), fear of embarrassment, punishment and taking away of children prevents women with disabilities from reporting violence or seeking remedy.[[28]](#footnote-28)

The law enforcement authorities lack effective response mechanisms and rely on myths and stereotypes that exist about women with disabilities, including that their accounts are not credible.[[29]](#footnote-29) The system does not restore justice for persons with disabilities who are victims of crime. Instead, when persons with disabilities do report crimes they find themselves in even worse situation and are subjected to further stigmatization.

**Recommendations:**

1. The State should train lawyers, prosecutors and judges in protecting persons with disabilities from stigmatization during trials and investigations;
2. The State should ensure training of law enforcement representatives to eliminate stereotypes related to credibility of testimonies of disabled persons and introduce adequate interviewing methodologies during legal proceedings;
3. The State should maintain disaggregated data on investigations and prosecutions on crimes of violence against persons with disabilities, which should also include disaggregation based on sex and psycho-social needs; as well as data on applications for legal remedies by persons with disabilities;
4. The State should ensure accessibility of 112 (emergency) services for different categories of persons with disabilities and adequate distribution of information about these services.

# Article 14. Liberty and security of person

# Article 15. Freedom from torture or cruel, inhuman or degrading treatment or punishment

According to the Penitentiary Department of the Ministry of Corrections of Georgia, as of February 2017 there were a total of 87 defendants/convicted persons with disabilities placed in penitentiary institutions nationwide.[[30]](#footnote-30)

The Public Defender report on the human rights situation of persons with disabilities kept in penitentiary institutions as well as in involuntary and forced psychiatric treatment institutions and pre-trial detention isolators was published in 2014.[[31]](#footnote-31) According to the report, at that time specialized services for persons with disabilities had not yet been introduced. The rehabilitation room was closed and inaccessible for prisoners with disabilities.[[32]](#footnote-32) The physical environment was inaccessible, including bathrooms. To use the bathroom prisoners using a wheelchair had to ask for help from other inmates[[33]](#footnote-33). The findings summarized in the 2014 report[[34]](#footnote-34) beg the question of whether safety of persons with disabilities is ensured. It is unknown whether they are subjected to inhuman treatment and whether any means for their protections are available.

Safety of LGBTI persons with disabilities is also called into question, especially in closed institutions. Considering the high rate of homophobia and frequent attacks on representatives of LGBTI community in Georgia, LGBTI persons with disabilities are especially vulnerable. There are no official mechanisms for their protection. Research and policy about these issues are lacking and there are no plans to remedy this gap.

**Recommendations:**

1. The State should ensure training of personnel of law enforcement institutions, penitentiary and other closed facilities of the State on disability rights and needs;
2. The State should provide persons with disabilities in penitentiary and other State-run closed facilities with services that are necessary for dignified life;
3. The State should evaluate and prevent risks of violence against persons with disabilities in penitentiary and other State-run closed facilities, including against LGBTI persons with disabilities.

# Article 19. Living independently and being included in the community

Georgia has not made any steps for deinstitutionalization of persons with disabilities that are 18 years old or older. Deinstitutionalization and adequate housing are not considered in the Resolution no.2315-IIm of the Parliament of Georgia on “National Strategy of Georgia for Protection of Human Rights (2014-2020), 30 April 2014.[[35]](#footnote-35)

The State submitted its first report on the implementation of the CRPD in 2016. The report discusses community care provider organizations who offer conditions resembling family environment and promote independent living for their target groups. According to the Ministry of Labor, Health and Social Affairs, each community care organization enrolls 20-42 adult beneficiaries.[[36]](#footnote-36) The State report does not point to any official plans of adult deinstitutionalization. Moreover, the way the report describes the community care services provided by NGOs suggests that the State is inclined to maintain the residential institutions though smaller in size and with different names.

Residential institutions continue to be the only option for alternative housing for persons with disabilities. The State repeatedly refuses to provide social housing, citing lack of material and financial resources.[[37]](#footnote-37)

Understanding of deinstitutionalization is also quite low among judges and other justice system professionals. ECHR jurisprudence and international agreements are misinterpreted, especially by the first instance courts.[[38]](#footnote-38) Judges often order additional forensic examinations in order to determine whether persons living in residential institutions “can live independently[[39]](#footnote-39) and can take care of themselves[[40]](#footnote-40) in view of their health condition”, even though it is not required either in the CRPD nor the national legislation.

Services to support independent living and provide initial information after the onset of disability including psychological assistance are not available in the country. Lack of these services leads persons with disabilities and their families to rely on inconsistent, unreliable and often mutually exclusive resources and to receive fragmented assistance. They lack information about physical rehabilitation, the rights and services they are entitled to and opportunities for building independent living skills.

**Recommendations:**

1. The State should immediately develop action plan for deinstitutionalization of adults with disabilities and start their gradual deinstitutionalization;
2. The State should immediately develop and support independent living services, such as independent living centers, personal assistance, housing opportunities, etc.

# Article 21. Freedom of expression and opinion, and access to information

Lack of access to information affects all groups of persons with disabilities and particularly those with learning disabilities. The understanding and practice of providing them with information in easy-to-read formats is lacking. Recognition of sign language by the legislation continues to be a problem for persons who are deaf. The Law of Georgia on Official Language[[41]](#footnote-41) does not recognize sign language, which impedes provision of services in State agencies and the private sector. This problem is further acerbated by lack of sign language interpreters and their availability in delivery of private and public services. The number and the quality of television programs that are available in sign language or with subtitles for persons who are deaf are inadequate.

**Recommendations:**

1. Legislation should be amended to recognize the Georgian sign language as an official language in Georgia.
2. Number and quality of sign language interpreters should be increased in public and private sector services;
3. Number of television programs available in sign language and with subtitles should be increased;
4. The practice of creating informational and other documents in easy-to-read format for persons with learning disabilities should be established, especially with regard to State services.

# Article 24. Education

The State has revised legislation to ensure accessibility for persons with disabilities to general education, however, mechanisms for realization of the legal requirements remain ambiguous. A number of regulations and services are lacking, including: the standard of home-based learning or e-learning for students with disabilities; behavior management methodology for students with autism spectrum disorder; provision of transportation for students who use wheelchair; qualified personnel for students who are blind or have mental health issues, etc.

Most of the educational institutions remain physically inaccessible; however recently increased attention is being paid to accessibility standards of vocational training schools – e.g. Spektri, Mermisi, Kachreti and other facilities while the accessibility level of other schools has worsened[[42]](#footnote-42).

There is a shortage of professional staff to work with students with disabilities. The education system does not recognize the necessity of social workers in schools and does not employ them. There is also a vital need of personal assistance in schools and a dramatic shortage of occupational therapists, tutors, sign language teachers, teachers for blind and visually impaired students, ABA (Applied Behavior Analysis) therapists, speech therapists, etc.

**Preschool education**

The preschool education system is under the management of local authorities in Georgia. As of now, the system and practices fall short in delivering meaningful assistance for children with disabilities. While certain municipal bodies have approved the preschool education strategy, the needs of children have not been delineated and relevant modifications are yet to be made in the educational environment.

**Vocational training**

In September 2013, with support of the Norwegian Government, the Ministry of Education and Science (MoES) launched a project of inclusive vocational education. About 95 students with special educational needs were enrolled in different VET institutions (as of 2016). After finishing nine grades they were able to take alternative exams and apply for three VET programs choosing the most suitable profession for them. However, often interests and motivation of youth with disabilities are not taken into account. Members of multidisciplinary teams (who evaluate a person with disability and provide career advice) are more of partners to parents rather than to persons with disabilities. In addition, often prospective students are unaware of details of their future profession and they have not attended a course of career guidance and planning.

**General education**

Alongside the National Curriculum which is a binding document for all schools of Georgia, the MoES developed in 2015 an alternative curriculum for students with significant developmental and associated multiple impairments. The fundamental principle of the alternative curriculum is to focus on the outcome using diverse, student-oriented teaching forms and strategies. By introducing the alternative curriculum, the MoES obligates all general and specialized education institutions to ensure high standard of teaching for students with impairments, by focusing on teaching outcomes (similar to the National Curriculum). Approval of this important document has been pending for two years.

Textbooks transcribed in Braille and voice recognition computer software have recently become available for blind students, however, students with learning disabilities continue to be discriminated in this regard. New methodologies in consideration of their needs are yet to be introduced. For instance, the Georgian educational system does not recognize the “easy read” technique, a universally recognized method for maximizing independent functioning of persons with learning disabilities. Schools also lack means to encourage effective learning among students with disabilities, such as: ergonomic pens, adapted keyboard, sensory helmets, communication boards, etc.

Transportation of students with disabilities remains a problem. Parents have to use several vehicles interchangeably to get to school or they have to pay additional money for taxi, so often in order to save money parents wait for their children at school to take them back home after classes are finished. Transportation problem has most often been cited as the reason for absenteeism or not going to school altogether.

“Low expectations about students with disabilities” continue to exist in Georgia: for years LEPL National Examination Center has been reluctant to conduct school examinations adapted for students with significant developmental and concomitant impairments as a result of which students are completely removed from the general education evaluation system. Consequently, instead of diplomas, these students are awarded with “certificates of completion” which hinders their progression to higher steps of education.

There are no guidelines for parents of students with disabilities, or informative websites and consultations, series of trainings on educational rights, etc. Parents are mostly supported by NGOs, however in a fragmented and inconsistent manner.

Accessibility of websites of major public educational institutions has not been officially studied, however, it is clear that these websites poorly, if at all, respond to the accessibility requirements, while important matters like enrolling children in kindergartens, choosing and applying for schools and for higher education institutions, etc. is done through these websites. The verification indicator such as “text content” is completely disregarded and the standard for creating a universal website (WGAG2.0 – international web content accessibility standard) is not taken into consideration either. [[43]](#footnote-43)

**Higher education**

Consequences of challenges experienced by students with disabilities in preschool and secondary education become more evident in their efforts to access and engage in higher education. Even though the MoES requires physical accessibility for the institution to gain accreditation, accessibility provision is mostly pro forma and in majority of cases only includes a ramp installed in violation of applicable standards. Similar to schools, bathrooms and elevators in higher education institutions continue to be inaccessible for students with physical impairments.

The MoES has not provided statistics about students with disabilities enrolled in higher education institutions, which makes it impossible to determine the percentage of students with disabilities that have access to higher education after completing secondary education.

**Recommendations:**

1. Ministry of Education and Science should introduce effective mechanisms to implement alternative curriculum for students with disabilities (with developmental and concomitant impairments), including introduction of “easy read” technology and e-resources;
2. Personal assistance services should be introduced in schools to support children with disabilities in improving their skills and learning;
3. School buildings should be fully accessible for students with disabilities, including provision of accessible transportation;
4. It is important to enhance qualifications of schools in narrow specializations, using high international standards - e.g. in ABA therapy;
5. A single standard for preschool education of children with disabilities should be developed and enforced at the local level, within self-government programs/budgets;
6. During accreditation, adequate attention should be paid to accessibility of physical infrastructure for students with disabilities, as well as the issue of adapted school materials and support services.

# Article 25. Health

Standards or statistics for measuring highest attainable level of health for persons with disabilities and achieving this level in cross-disability context – physical, psychological, intellectual and sensory impairments - are not available in Georgia.

For measuring the overall State of health of persons with disabilities Georgia only recognizes Years Lost due to Disability – YLDs index. According to the National Center for Disease Control and Public Health (NCDC), YLDs per capita was increasing in Georgia while it was decreasing globally in 2010-2015. [[44]](#footnote-44) According to WHO, in 2015 disability-adjusted life expectancy (DALY) in Georgia was 63.4 among men and 69.3 among women, which is an average for Europe. It indirectly indicates a relatively lower level of quality of health of persons with disabilities in Georgia. [[45]](#footnote-45)

According to the principles set forth in Art.4 of the Law of Georgia on Healthcare, the State undertakes to ensure “universal and equal accessibility of medical assistance” for its population.[[46]](#footnote-46) However, in practice the right of persons with disabilities to health is not adequately realized within any of the healthcare programs (in terms of accessibility) due to the following reasons: Georgian health legislation does not recognize special health needs of persons with disabilities; it does not specify mechanisms for realization of the right to health for persons with disabilities in particular; fails to provide uniform regulations or acknowledge reasonable accommodation to eliminate or reduce barriers to access health services. As a result, persons with disabilities and especially persons with learning disabilities and sensory impairments, who are already at a disadvantage, are treated same as persons with lesser needs for medical services, which creates a precondition for their indirect discrimination.

On the one hand, within the “the State-funded universal healthcare program”, persons with disabilities receive certain medical services on equal basis with other groups. [[47]](#footnote-47) However, competencies of medical personnel (especially doctors practicing in rural areas) and the range and volume of primary healthcare services provided within the program is insufficient to meet different medical needs of persons with disabilities. These services are funded for persons with disabilities similarly as those for other population groups, however their different medical needs mean that services that they require are more expensive and therefore inaccessible due to the funding.

Starting from 1 May 2017, the program covers 20% of costs of acute care as well as surgery scheduled in advance for persons with disabilities, including children with disabilities and persons with profound disabilities, while significant portion of persons with disabilities that are in need of these services are unemployed. According to UNICEF, 58% of children live in households that “could not satisfy their basic needs”. [[48]](#footnote-48) The program does not cover health-related rehabilitation services for any of the groups with disabilities, except children. The program provides annual limit of GEL 50-200 (USD 20-81, EUR 16-65)[[49]](#footnote-49) for medication for persons with disabilities, on equal basis with others, which barely meets even 1% of their needs.

On the other hand, other public healthcare programs approved by the Government annually (therefore, containing risks of sustainability and continuation), are designed to meet the medical needs of persons with disabilities not covered by the universal healthcare.[[50]](#footnote-50) However, these programs barely meet the requirements of paragraphs “a” and “b”, Art.25 of the Convention as they are not responsive to individual healthcare needs of different categories of persons with disabilities. Instead, they are bound by the annual limit within which they distinguish between different types of beneficiaries by age, social status, settlement areas and more.

For instance, there are only two public healthcare programs for early identification and intervention, including the program for “Early Identification and Screening of Diseases” that entails:

a. Early diagnosis of mild and moderate developmental impairments among children aged between 1 and 6 and prevention of learning delays;

b. Diagnostics and monitoring of epilepsy;

c. Retinopathy screening for children born prematurely;

The Mother and Child Health Program envisages identification of genetic pathologies during pregnancy (antenatal care), and screening of newborns and children only for a handful of diseases (hypothyreosis, fenilcetunoria, hyperphenylalaninemia and mucoviscidosis), as well as screening the hearing of newborns as a separate component.

UNICEF research (2015) indicates that the “healthcare system does not apply the identification and early intervention measures” for children with disabilities,[[51]](#footnote-51) and as a remnant of the Soviet healthcare model, Georgia is lacking health-related rehabilitation and specialized outpatient healthcare services for persons with disabilities. The State does not implement a single targeted program for disability prevention. Instead, some services (mostly hospital services) are funded in a fragmented manner and in only a handful of cases (based on the report of a commission formed to make decisions about provision of medical assistance) within various programs. According to UNICEF, “the health system works in a case-by-case way, which means that it responds to an individual application submitted by families of children with disabilities and allocates financial or other assistance individually within the limited resources of the State.”[[52]](#footnote-52)

Medical institutions providing rehabilitation services are very few and mostly in the capital city (84%).[[53]](#footnote-53)

Due to the length and high cost of healthcare services, private insurance companies refuse to provide health insurance for persons with disabilities. Considering the poor statistics of quality of health of persons with disabilities and lack of measurement of life expectancy, private companies refuse to even entertain the idea of providing life insurance for persons with disabilities. The State lacks regulations or mechanisms for positive encouragement to address such practice of direct discrimination.

The State has made steps to eliminate barriers to physical accessibility of healthcare services - in particular, licensing requirements for primary healthcare and hospital facilities include certain standards for safe movement of persons with disabilities; however, these standards have been implemented only on the entrance level (from street to building) and physical accessibility of the interior healthcare facilities is still a challenge.

The following also hinders delivery of services to persons with disabilities on equal basis with others:

* Lack of qualified personnel, which primarily entails lack of means of communication with patients and knowledge/experience about managing medical conditions that are progressing differently in cross-disability context;
* Inadequacy and insufficiency of medical guidelines and protocols adopted by the State;
* The issue of quality assurance of medical services for persons with disabilities in terms of protecting their free and informed consent is ambiguous. So far this exists only at the legislative level:

According to Art.7 of the Law of Georgia on Healthcare: “All citizens of Georgia shall have the right to receive comprehensive and objective information in a form that is understandable to them” about medical services they will receive. However, due to lack of means of communication with persons with disabilities, this right is not realized in practice.

Art.39 of the Law on Medical Practice stipulates: “an independent medical practitioner is obligated to provide patients with complete, impartial, timely and understandable information in a manner acceptable for them,” however, the standard of “acceptable manner” for persons with disabilities is not determined. Art. 41 stipulates: “an independent medical practitioner shall communicate to the patient, or if the patient is a minor or lacks the capacity to make conscious decisions – to his/her relative or legal representative the information on his/her health condition provided in the patient’s medical records, including the results of diagnostic examinations, the data related to treatment and care, and the records of consultations provided by another independent medical practitioner.” Definition of the term “conscious decision” is provided only in the Law of Georgia on Psychiatric Care: “ability of a person to evaluate his/her own mental health, the goal of medical intervention and the expected result of treatment”, which puts persons with intellectual impairments and persons with speech impairments at a disadvantage compared to other individuals in similar conditions.

Alongside other issues, provision of dental services to persons with disabilities is an acute matter. There are three different problems in this regard: low awareness of medical personnel about persons with disabilities; willingness to provide service to persons with learning disabilities only if they consent to general anesthesia, which causes health problems and makes dental services more expensive; Lack of accessible infrastructure for persons with physical impairments.

**Recommendations:**

1. The State should clearly delineate the standard of highest attainable level of health for persons with disabilities and their special medical needs in cross-disability context;
2. The State should maintain disability health statistics based on WHO indicators to measure overall state of health of persons with disabilities;
3. The State should ensure accessibility of healthcare services for all persons with disabilities: eliminate the unequal model of funding and develop special programs in the area of health-related rehabilitation;
4. The State should create and implement positive stimuli, regulations and reasonable accommodations in order to ensure development of primary healthcare, specialized outpatient and dental services for persons with disabilities, especially in rural areas;
5. The State should eliminate/reduce physical and communication barriers in medical facilities and improve competencies of medical personnel;
6. The State should define legal mechanisms for realization and subsequent monitoring of the right of persons with disabilities to health, including the issues of free and informed consent;
7. Develop regulations to ensure that private insurance plans offer medical and life insurance for persons with disabilities.

# Article 26. Habilitation and rehabilitation

**Public habilitation/rehabilitation programs**

The State runs four sub-programs for children with disabilities: 1) rehabilitation; 2) services of daycare centers; 3) early development; and 4) rehabilitation of children with ADS. The volume of the services and funding provided within these sub-programs is far from being sufficient. As a result, persons with disabilities have to constantly search for additional funding.

Recently certain changes have taken place to ensure that services are responsive to individual needs, however, mechanisms for monitoring the implementation of the programs by the State is weak in terms of evaluation and management of functional situation of beneficiaries and registration of service providers.

Geographic accessibility of services offered within the sub-program for children’s rehabilitation and the subprogram of early development is low. The subprogram for rehabilitation of children with ADS is implemented by Tbilisi City Hall only and therefore it is inaccessible for children living in other cities and regions of Georgia.

The only support offered by the State for adults with disabilities is the provision of assistive devices, including wheelchairs. The State does not implement adult physical rehabilitation programs. NGOs provide only a small amount of adult rehabilitation services that are quite expensive, at their discretion and without monitoring of the State.

# Education and qualification of professionals

The level of education and qualification offered at Georgian universities is quite low. Curriculums are outdated and fall short of contemporary requirements of education. There is no continued education program for habilitation and rehabilitation professionals in the country.

Specialists with higher education essentially start learning at their workplaces and during periodic short-term trainings organized by employers, which is mostly non-systemic and spontaneous.

**Approaches in habilitation/rehabilitation**

Habilitation/rehabilitation professionals continue to be strongly inclined to medical approach, which significantly hinders introduction of the social model of evaluation and management and is followed by a chain of negative events, including application of rehabilitation measures, which are not supported by any scientific evidence of optimizing function and achieving other social goals.

Lack of a single system for habilitation and rehabilitation and continuous education results in lack of “common language” among professionals, which is why children and adults in need of habilitation/rehabilitation services often receive different and sometimes mutually exclusive recommendations from professionals, which causes their confusion and disappointment.

**Recommendations:**

1. The Ministry of Labor, Health and Social Affairs (MoLHSA) should design a policy for habilitation and rehabilitation services and establish a single habilitation/rehabilitation system and its organizational and monitoring mechanisms;
2. Education (university education and vocational training) for habilitation/rehabilitation professionals should be reformed to comply with international quality standards;
3. MoLHSA should develop the system of continuous education in the field of habilitation/rehabilitation and bring it in compliance with international standards;
4. State-funded habilitation/rehabilitation programs should be expanded including by introducing accessible adult rehabilitation programs covering a wide range of health conditions;
5. MoLHSA should integrate quality and accessible assistive devices and technologies in habilitation/rehabilitation services;
6. MoLHSA should ensure use of only evidence-based methodologies and approaches in services provided within public habilitation and rehabilitation programs;
7. The State should design monitoring systems for services that will focus on evaluation of quality.

# Article 27. Labor and employment

Following ratification of the Convention, the Government adopted the Action Plan for Ensuring Equal Opportunities for Persons with Disabilities 2014-2016.[[54]](#footnote-54) The document listed the following as one of the first tasks to be fulfilled: “creating a working group for development of measures and the action plan to support employment of persons with disabilities”, however, the working group, which must be inclusive and representative, is yet to be created. [[55]](#footnote-55)

EU Twinning project for the capacity building for the Employment Support Services (ESS) in Georgia has been implemented since 2015. The Government of Georgia allocated GEL 350,000 for this purpose and approved the program for developing employment support services (Government of Georgia, 2015). The program is carried out by the Social Service Agency of under MoLHSA and it aims to “create employment support mechanisms for vulnerable disadvantaged groups”, including persons with disabilities. The services include: individual and group career counseling for job seekers; professional guidance and career planning services; and intermediary services. They are provided by the Social Service Agency in 7 regions of Georgia, through a total of 10 ESS consultants and 1 coordinator. Clearly, these resources are insufficient for supporting employment of persons with disabilities nationwide, especially in the regions (Samegrelo-Zemo Svaneti, Samtskhe-Javakheti, Kvemo Kartli) where such services are entirely unavailable. Ensuring privacy for individual interviews at the facility providing ESS continues to be an important challenge. Majority of job seekers state that qualification of professionals (or lack thereof) and how they perform in their jobs is another important barrier for communication:

 *“They didn’t let me speak... I can’t count on the State” – N., 22 year old.*

*“All right, give me your documents and you’re free to go ... There are many people waiting for me” – N., 56 years old.*

Another challenge is that all ESS recipients need to be registered in the Labor Market Information Management System – [www.worknet.gov.ge](http://www.worknet.gov.ge), which is not accessible for people with different types of disabilities.

The subsidized employment program supported by the Government also raises certain questions. While it is a good initiative to encourage employers to hire persons with disabilities, the State has not yet designed a control and evaluation mechanism in order to determine whether temporary subsidies are effective and yield any meaningful results. It is also unknown whether persons with disabilities were actually provided with long-term jobs, or after termination of subsidies their employment contracts were also terminated. Any negative impact of the lack of personal assistance at workplaces for persons with disabilities or other employees is unknown.

In addition, despite recent amendments to the Labor Code that generally prohibit discrimination and promote equal opportunities for career advancement, including for persons with disabilities, the research conducted by the Education, Development and Employment Center of Kutaisi indicates that only 2 out of 28 employees with disabilities had an opportunity for career advancement. The research also indicates that lack of employment contracts is also a problem. Only 54% of those surveyed had signed a written contract. 75% of them could not describe their job responsibilities. Clearly, employees are not protected against having to do the work that was not included among initially agreed-upon job description.[[56]](#footnote-56)

Job seekers with disabilities that are registered in the database of households living below the poverty line are discouraged, as they fear that if hired, their social benefits will be cancelled.[[57]](#footnote-57) This was cited as a primary obstacle to employment by about 80% of job seekers. They are reluctant because available jobs provide minimum remuneration and are deemed unstable, while social benefits assessments take the household income into account and once cancelled, they are cancelled for the entire family.

Individual labor skills and capacity are not evaluated during application for the disability status. Absence of such data means that the State is unaware of how many citizens with disabilities are ready to participate in the labor market.

Lack of accessible public transportation across the country constitutes another barrier to getting or retaining a job.

*“I almost fell down when I was walking the road. If I fall down, I’ll lose much more than my current salary. I’ll continue working if they provide transport” – L., 58 years old.*

In addition, according to the legislation, if a person with profound or moderate disabilities starts working as a civil servant, they lose the social assistance package[[58]](#footnote-58). Although the Public Defender has described this regulation as discriminating towards persons with profound and moderate disabilities and has recommended against it, the regulation is still effective[[59]](#footnote-59). Coalition for Equality also points to the discriminating nature of the regulation in its 2017 report “The Right to Non-Discrimination in Practice for Various Groups in Georgia”[[60]](#footnote-60).

**Recommendations:**

1. The State should prevent exclusion of persons with disabilities from the labor market and develop legislative amendments to encourage disability employment;
2. The State should prohibit discrimination against persons with disabilities during career advancement, remuneration for their work and at workplace including by means of reasonable accommodation;
3. The State should develop effective work rehabilitation and vocational educational programs to ensure that all persons with disabilities have equal opportunities and access to the labor market;
4. The State should strengthen the Employment Support Services managed by the Social Service Agency under MoLSHA in terms of implementation, geographical coverage and monitoring in order to provide more effective and sustainable employment opportunities for persons with disabilities across the country;
5. The State should design programs for engaging and employing persons with disabilities living in rural areas in agricultural sector, including supporting self-employment (Ministry of Agriculture of Georgia);

# Article 28. Adequate standard of living and social protection

The Constitution of Georgia (1995) [[61]](#footnote-61) does not recognize the right to housing. This right may be implied by provisions that deal with other rights entrenched in the Constitution but there is no clear provision that deals with the right to housing.

Currently, the only legislative act on housing for persons with disabilities is the Law on Social Protection of Persons with Disabilities (1997). Pursuant to Art.27 of the Law, “the State shall provide persons with disabilities with housing based on their individual rehabilitation programs and taking into account their wishes.” According to para.2 of the same article, “If, as a result of rehabilitation, persons with disabilities no longer require stay at a residential institution or other inpatient facility of social assistance, local self-government and administrative bodies shall provide them with housing.” [[62]](#footnote-62) Enforcement of this right in court is a questionable matter.[[63]](#footnote-63)

There are a number of factors that affect living conditions of persons with disabilities, including lack of access to education and discrimination in employment; consequently they are unable to compete in the labor market. This leads to employment difficulties in public and private sector, leading to the material deprivation. Essentially persons with disabilities depend on assistance of their families and social benefits provided by the State, which is insufficient to improve quality of life. Moreover, social benefits[[64]](#footnote-64) are so small that they barely meet their daily needs.

Based on CIL’s legal advocacy experiences, it is safe to conclude the following:

* Due to prevailing disability stereotypes and attitudes, low awareness and lack of information about available social programs, persons with disabilities in both urban and rural areas often find themselves excluded from the society. Their living conditions entirely depend on benevolence of their family members, who in turn often lack information about disability needs. [[65]](#footnote-65)
* Families with a disabled member often face more economic hardships than others. It is more likely that these families will move even further down below the poverty line.[[66]](#footnote-66) Due to scarce social benefits and lack of personal assistance services, often a member of the family (mostly a mother) is forced to give up her personal life, education, job and a career to avoid placing the child in a residential institution. As a result, the parents do not have any income (which makes the family even poorer) and their potential in the job market is lost. The situation becomes even more alarming if the child with disability is raised by a single parent. This means that disability benefits are the only source of income for the family.
* The State does not provide home-based support services for persons with disabilities to improve quality of their living conditions and ensure quality of their health, safety and food.

Social protection of internally displaced persons (IDPs) is especially alarming. One person out of almost every 4 or 5 IDP families has a disability. The problem of unemployment in the country also significantly affects IDPs, meaning that disability benefits are an important source of household income and it often serves as a subsistence minimum for the entire family. Universal medical insurance that IDPs are entitled to does not cover everyday needs of persons with disabilities. [[67]](#footnote-67)

**Recommendations:**

1. The benefits system for persons with disabilities should be revised to take into account disability-specific factors for ensuring adequate standard of living;
2. The benefits system for persons with disabilities living below the poverty line should be revised, in order to allow a person with disability (or their family members) earn some income without the removal of State social and healthcare benefits.

# Article 29. Participation in political and public life

Participation of persons with disabilities in political life is nearly non-existent. They are not represented in political parties and/or decision-making positions in local self-governments and/or central government bodies. There is only one person with disability in the current composition of the Parliament.

Some progress has been made towards increasing participation of persons with disabilities in elections as voters. In particular, individuals recognized as incapacitated have been granted the right to vote. [[68]](#footnote-68) A certain number of polling stations have also become more accessible. They have been equipped with assistive devices for persons who are blind. However, most polling stations remain inaccessible for persons who use wheelchairs. Getting to a polling station remains a problem as well.

On 21 October 2017, local self-government elections were held in Georgia. Monitoring of 63 polling stations in Tbilisi and in Western Georgia found that only 17 polling stations out of 63 were wheelchair-accessible.[[69]](#footnote-69) 20 polling stations lacked wheelchair accessible voting booths[[70]](#footnote-70), or they were available in polling stations that were physically inaccessible for wheelchair-users. [[71]](#footnote-71) The monitoring found that at about 40% of polling stations members of the electoral commissions were poorly informed about the needs of persons with disabilities.[[72]](#footnote-72) Finally, on the so-called “electoral map” posted on the official website of the Central Electoral Commission accessible polling stations had been incorrectly pinpointed.[[73]](#footnote-73)

**Recommendations:**

1. The State should raise awareness of representatives of the electoral management bodies on the right of persons with disabilities to voting and obligations of its realization;
2. The State (including self-government bodies) should ensure full accessibility of the electoral environment and infrastructure for different categories of voters with disabilities.

# Article 30. Participation in cultural life, recreation, leisure and sport

Participation of persons with disabilities in cultural life continues to be hindered by the lack of accessible environment. The situation is especially alarming regarding cultural monuments, majority of which remains inaccessible for persons with disabilities while the small part of cultural monuments that are deemed to be accessible are in gross violation of accessibility standards.

There is no strategy of accessible tourism, one that would entail attainable goals and activities for effective implementation. Higher education institutions do not offer programs in this area. There are no trainings or pilot programs for relevant professionals. Research to understand and develop accessible tourism is lacking.

Participation of persons with disabilities in sport is hindered by lack of relevant material and technical means in the regions for identification of athletes with disabilities, their training and development. Local and central agencies in charge of sports development are not interested in reaching out to persons with disabilities and engaging them in sports.

**Recommendations:**

1. The State should ensure progressive measures for cultural, recreational and leisure facilities to be adequately equipped; a plan for adapting these facilities to all categories of persons with disabilities should be prepared for public and private institutions;
2. The State should prepare a strategy for developing Paralympic sports at the central and local level and promote involvement of persons with disabilities in sports federations;
3. Material and technical means should be created in the regions for identification and support for athletes with disabilities, their training and advancement in sports career.

# Article 31. Statistics and data collection

Disability statistics and data collection remains a challenge. MoLHSA or the National Statistics Office of Georgia is unable to provide realistic estimates of the total number of persons with disabilities in the country. Data published by MoLHSA includes only those persons with disabilities who receive social benefits from the Government or only those with profound and moderate disability. In addition, the number of individuals that opted to receive retirement pension instead of registering for disability benefits is also unknown. Individuals who decided not to request official disability status due to public stigma or the lack of information are not covered by the statistics.

There is a complete lack of coordination between central and local authorities in terms of maintaining statistics. Local authorities cite lack of financial or human resources for absence of disability data at the local level, while MoLHSA refuses to provide data to local governments, citing privacy and data protection reasons. As the statistics is not available in the regions, it is impossible to adequately estimate existing needs of persons with disabilities in specific areas and match these needs to local social programs that need to be implemented.

Shortcomings in the process of collecting and maintaining statistics seriously hinder processing of other information. For instance, according to the Prosecutor’s Office,[[74]](#footnote-74) there is no record of a single claim dealing with violation of Art.1422 of the Criminal Code of Georgia (prescribing criminal liability for denying a person with disabilities an opportunity to exercise the rights granted by law and/or other treaties to which Georgia is a party) in the electronic document management system of the Office of the General Prosecutor of Georgia, for the period from 2012 through 2016. The fact that such claim was indeed filed during the said time period[[75]](#footnote-75) and subsequent investigation had been launched[[76]](#footnote-76) leads us to question whether statistics provided by the prosecution service or other State entities can be relied for analysis.

**Recommendations:**

1. The State should maintain comprehensive and needs-based statistics about the number of persons with disabilities in the country;
2. All municipalities should be instructed to maintain statistics about persons with disabilities within their respective municipalities, disaggregated by status, geographic location and needs;
3. The State should also maintain statistics about disabled persons, who in addition to disability, face various vulnerabilities (e.g. sexual orientation and gender identity, ethnic or religious belonging, place of residence or other status) to inform relevant State policies and action plans.

# Article 33. National implementation and monitoring

The National Coordinating Council on Disability chaired by the Prime Minister of Georgia and composed of persons with disabilities and their representatives and members of the Government of Georgia, only exists on paper and is essentially non-functional. There have been unsuccessful attempts to turn the Council into the entity responsible for implementation of the CRPD. Thus coordination of issues related to persons with disabilities and the CRPD, and involvement of representatives of the community in decision-making is not ensured at the highest level of governance. In addition, since 2016 the State has not developed any detailed government actions plans on disability, which is a primary instrument for implementation of the CRPD. As a result, often there are overlaps between the State programs; available resources are spent ineffectively and so on.

Local councils on disability are being established in municipalities but only with support of NGOs. Sometimes in an attempt to avoid the responsibility of leading these councils, local officials pass their responsibilities onto individuals without any leverage for enforcement of decisions made by councils. As a result, the councils are essentially ineffective.

The Public Defender of Georgia is in charge of monitoring the implementation of the CRPD in Georgia promoting its adequate enforcement. However, it lacks resources to ensure high quality monitoring of the CRPD implementation.

**Recommendations:**

1. The State should immediately designate the body responsible for implementation of the CRPD, within the Office of the Prime Minister of Georgia and ensure effective participation of persons with disabilities in decision-making;
2. A long-term realistic and budgeted governmental action plan on disability should be prepared in line with CPRD principles and commitments. The aforementioned body should be put in charge of coordination and monitoring of the implementation of the action plan;
3. The State should take adequate measures to promote implementation of the CRPD at the municipal level;
4. Additional resources should be allocated for the Office of the Public Defender of Georgia to improve the scale and effectiveness of its monitoring actions.
1. Legislative proposal of the Public Defender of Georgia: <http://www.ombudsman.ge/uploads/other/2/2327.pdf>; <http://www.ombudsman.ge/ge/diskriminaciis-prevenciis-meqanizmi/siaxleebi/sakanonmdeblo-winadadeba-saqartvelos-parlaments-diskriminaciis-yvela-formis-agmofxvris-shesaxeb-kanonis-gaumdjobesebis-miznit.page> [↑](#footnote-ref-1)
2. Special report on combating and preventing discrimination and the situation of equality, Public Defender of Georgia, 2017, p.26, available at: <http://ombudsman.ge/uploads/other/4/4825.pdf> [↑](#footnote-ref-2)
3. Discrimination and hate crime against LGBT people, WISG, Tbilisi, 2015, available at: <http://bit.ly/2s9FSyA> [↑](#footnote-ref-3)
4. Standards of social work practice – prepared by experts of the Georgian Association of Social Workers in 2004 and revised in 2013. It is not a legal document for evaluation of performance of social workers but it is a functional document in the community of professionals and the Professional Ethics Commission relies on these standards for evaluation of performance of social workers. [↑](#footnote-ref-4)
5. From the experience of the Coalition for Independent Living. [↑](#footnote-ref-5)
6. Trainings conducted for practicing lawyers in 2016-2017 by the non-profit organization Coalition for Independent Living. [↑](#footnote-ref-6)
7. Meetings of the non-profit organization Coalition for Independent Living with persons with disabilities and their families in Western Georgia in 2016-2017. [↑](#footnote-ref-7)
8. Letter of the Human Rights Secretariat of the Administration of the Government no.10250, 31 March 2017. [↑](#footnote-ref-8)
9. Letter of Tbilisi City court no.3-0112/1782860 dated 1 Feb 2017; Letter of Kutaisi City Court no.757-3 dated 6 Feb 2017; Letter of Batumi City Court no.77c/j dated 15 Feb 2017. [↑](#footnote-ref-9)
10. Letter of the National Bank of Georgia no.2-07/2999-16, dated 30 Sept 2016. [↑](#footnote-ref-10)
11. Resolution no.4 of the Government of Georgia dated 11 January 2017 -<http://gov.ge/files/469_59429_120118_4.pdf> [↑](#footnote-ref-11)
12. Citizens of Georgia Irakli Kemokelidze and Davit Kharadze v Parliament of Georgia, decision of the Constitutional Court of Georgia, 8 Oct 2014, available at: http://constcourt.ge/ge/legal-acts/judgments/saqartvelos-moqalaqeebi-irakli-qemoklidze-da-davit-xaradze-saqartvelos-parlamentis-winaagmdeg-866.page. [↑](#footnote-ref-12)
13. Civil Code of Georgia, art.1278.3. [↑](#footnote-ref-13)
14. Civil code of Georgia, art.1293.3. [↑](#footnote-ref-14)
15. See Public Defender of Georgia, Legal Capacity – Legislative reform without implementation, 2016, p.29. [↑](#footnote-ref-15)
16. Ibid, p. 35. [↑](#footnote-ref-16)
17. Ibid, p. 36. [↑](#footnote-ref-17)
18. Kemokelidze and Kharadze v Parliament of Georgia, II.30. [↑](#footnote-ref-18)
19. Civil Procedure Code of Georgia, art.363.3. [↑](#footnote-ref-19)
20. Civil Procedure Code of Georgia, art.1283.b. [↑](#footnote-ref-20)
21. Civil Procedure Code of Georgia, art.1289.2. [↑](#footnote-ref-21)
22. As confirmed by the experience of the Coalition for Independent Living and the Georgian Young Lawyers’ Association. [↑](#footnote-ref-22)
23. As confirmed by the experience of the Coalition for Independent Living and the Georgian Young Lawyers’ Association. [↑](#footnote-ref-23)
24. Law of Georgia on Evaluation of Psychosocial Needs - <https://www.matsne.gov.ge/ka/document/view/2788241> [↑](#footnote-ref-24)
25. Georgian Young Lawyers’ Association, Monitoring of criminal trials in Tbilisi and Kutaisi city and appellate courts, February-July 2016, G.Khatiashvili, p.32. [↑](#footnote-ref-25)
26. Partnership for Human Rights, Barriers to access to justice faced by women with disabilities, 2016, p.12. [↑](#footnote-ref-26)
27. Ibid p.17. [↑](#footnote-ref-27)
28. Ibid p.27. [↑](#footnote-ref-28)
29. Ibid p. 28-29. [↑](#footnote-ref-29)
30. Letter no.MOC 6 17 00109519 of the Ministry of Corrections of Georgia, dated 13 February 2017 [↑](#footnote-ref-30)
31. Report of the Public Defender 2014 - <http://www.ombudsman.ge/uploads/other/2/2253.pdf> [↑](#footnote-ref-31)
32. Ibid p. 6. [↑](#footnote-ref-32)
33. Ibid p.9. [↑](#footnote-ref-33)
34. See footnote 28. [↑](#footnote-ref-34)
35. <https://matsne.gov.ge/ka/document/view/2348314> para.15. [↑](#footnote-ref-35)
36. Letter no.01/17894 of the Ministry of Labor, Health and Social Affairs of Georgia, dated 23 March 2017. [↑](#footnote-ref-36)
37. See footnote 3. [↑](#footnote-ref-37)
38. For instance, the court cited JEDAMSKI AND JEDAMSKI V. POLAND to substantiate its refusal to admit request of a legally incapacitated person about restoration of legal capacity. [↑](#footnote-ref-38)
39. Please, note: “independent living” is identified with “living alone”. This is a common misconception not only among public but also among professionals, and persons with disabilities and their families have poor understanding of “independent living”. [↑](#footnote-ref-39)
40. See footnote 3. [↑](#footnote-ref-40)
41. Law of Georgia on Official Language <https://matsne.gov.ge/ka/document/view/2931198> [↑](#footnote-ref-41)
42. In a call for tenders announced in 2014 on <http://procurement.gov.ge/> by LEPL Educational and Scientific Infrastructure Development Agency for the rehabilitation of the school “Progress”, designs/architectural plans ignored the need of ramps, not to mention other accessibility norms. [↑](#footnote-ref-42)
43. As an example, please see the following websites: enrollment of children in kindergartens - <http://kids.org.ge/registration/registration-form>; enrollment of first graders in school - <http://registration.emis.ge/> [↑](#footnote-ref-43)
44. Healthcare, statistical directory, Georgia 2015, Ministry of Labor, Health and Social Affairs, National Center for Disease Control and Public Health, Tbilisi, 2015, p.36.

<http://www.ncdc.ge/AttachedFiles/cnobari%202016_65fb8af9-8331-4397-930f-2f65a459583a.pdf> [↑](#footnote-ref-44)
45. Global Health Estimates 2015: Disease burden by Cause, Age, Sex, by Country and by Region, YLD estimates, 2000–2015. Geneva, World Health Organization; 2016 <https://gateway.euro.who.int/en/visualizations/choropleth-map-charts/hfa_69-disability-adjusted-life-expectancy-world-health-report-females/#table> [↑](#footnote-ref-45)
46. Law of Georgia on Healthcare

<http://ssa.gov.ge/files/01_GEO/KANONMDEBLOBA/Sakanonmdeblo/30.pdf> [↑](#footnote-ref-46)
47. Universal healthcare program, Social Service Agency, Ministry of Labor, Health and Social Affairs; <http://ssa.gov.ge/files/01_GEO/JAN_PROG/sakoveltao-jandacva/05.05.2017.pdf> [↑](#footnote-ref-47)
48. Stephen Kidd and Bjorn Gelders “Child wellbeing and social security in Georgia”, 2015

<http://unicef.ge/uploads/UNICEF_Child_Wellbeing_GEO_.pdf> [↑](#footnote-ref-48)
49. See footnote 1. [↑](#footnote-ref-49)
50. Resolution of the Government of Georgia №638 on Adoption of the Public Healthcare Programs 2017, 30 December 2016; <https://www.matsne.gov.ge/ka/document/view/3530020> [↑](#footnote-ref-50)
51. Children with Disabilities in Georgia: Study on Georgian National Legislation towards CRPD and CRC, May 2015. <http://unicef.ge/uploads/UNICEF_CRPD_GEO_edit.pdf> [↑](#footnote-ref-51)
52. Children with Disabilities in Georgia: Study on Georgian National Legislation towards CRPD and CRC, May 2015. <http://unicef.ge/uploads/UNICEF_CRPD_GEO_edit.pdf> [↑](#footnote-ref-52)
53. Informational portal of the Ministry of Labor, Health and Social Assistance, medical services: medical rehabilitation and sports medicine (physical culture for treatment and rehabilitation) <http://cloud.moh.gov.ge/Pages/SearchPage.aspx>

 [↑](#footnote-ref-53)
54. <http://government.gov.ge/files/381_40157_501181_76200114.pdf> [↑](#footnote-ref-54)
55. This issue was raised once more by a representative of Parents Bridge, T.Kacheishvili during a meeting of the State Coordination Council for PWD Issues (Mukeria, 2015b). [↑](#footnote-ref-55)
56. The survey was conducted within the “Pilot program for advocating equal education and employment opportunities for persons with disabilities” implemented by the Education, Development and Employment Center of Kutaisi and supported by the EU. [↑](#footnote-ref-56)
57. Resolution no.279 of the Government of Georgia, dated 23 July 2012, on the rule for determining social benefits package, Art.6. [↑](#footnote-ref-57)
58. July 23, 2012 Resolution #279 of the Government of Georgia on Determining the Social Package, Article 6.4; <https://www.matsne.gov.ge/ka/document/view/1707671?publication=0> [↑](#footnote-ref-58)
59. Recommendation of the Public Defender of Georgia on finding direct discrimination in the employment-related regulations dealing with persons with profound and moderate disabilities; <http://www.ombudsman.ge/uploads/other/4/4495.pdf> [↑](#footnote-ref-59)
60. The Right to Non-Discrimination in Practice for Various Groups in Georgia – The Report; p. 37; Coalition for Equality; <http://www.osgf.ge/files/2018/Publications/Discrimination_Eng.pdf> [↑](#footnote-ref-60)
61. <https://matsne.gov.ge/ka/document/view/30346>. [↑](#footnote-ref-61)
62. [https://matsne.gov.ge/ka/document/view/30316#](https://matsne.gov.ge/ka/document/view/30316). [↑](#footnote-ref-62)
63. Legal practice of the Coalition for Independent Living. [↑](#footnote-ref-63)
64. See footnotes 1, 2. [↑](#footnote-ref-64)
65. In the experience of the Coalition for Independent Living, there have been cases where due to their low awareness and stereotypes, families often subject PWDs to violence instead of ensuring their education or integration in the society. A woman with disability is often reluctant to report such violence mostly due to fear of being kicked out of home. Due to ineffective housing policy of the State, everyone is trying not to disclose such incidents fearing that the victim will be left homeless. [↑](#footnote-ref-65)
66. “Panel households that have fallen below the relative poverty threshold since 2013 are, on average, significantly more likely to live in rural areas, include a disabled person, and have less education’’, The well-being of Children and Their Families in Georgia, Welfare Monitoring Survey, Fourth Stage, 2015, 5.1.1. p. 72. [↑](#footnote-ref-66)
67. Research conducted within the ongoing project of Article 42 of the Constitution, “Civil sector engagement in investigation of situation of Georgia by the International Criminal Court”. [↑](#footnote-ref-67)
68. Pursuant to the Civil Code of Georgia, persons recognized as legally incapacitated by court before 1 April 2015 will be considered legally incapacitated until individual evaluation is performed. [↑](#footnote-ref-68)
69. The Coalition for Independent Living – Monitoring of 2017 Local Self-Government Elections, p.2 - <http://disability.ge/images/stories/pdfs/21.10.2017___-2.pdf> [↑](#footnote-ref-69)
70. Ibid, p. 3. [↑](#footnote-ref-70)
71. Ibid, p. 3. [↑](#footnote-ref-71)
72. Ibid, p. 6. [↑](#footnote-ref-72)
73. Ibid, p. 2. [↑](#footnote-ref-73)
74. Letter no.13/10606 of the Chief Prosecutor of Georgia, dated 15 Feb 2017. [↑](#footnote-ref-74)
75. Letter no.82 of the Coalition for Independent Living, addressed to the Office of the Chief Prosecutor of Georgia, dated 11 Dec 2015. [↑](#footnote-ref-75)
76. Letter no.13-03-33126 of Vake-Saburtalo District Prosecution Service, dated 26 May 2016. [↑](#footnote-ref-76)