

# PUBLIC DEFENDER OF GEORGIA CHILD'S RIGHTS CENTRE

## SPECIAL REPORT ON PROTECTION OF THE CHILD'S RIGHTS IN GEORGIA'S HIGHLAND REGIONS.



2015



# PUBLIC DEFENDER OF GEORGIA CHILD'S RIGHTS CENTRE

## SPECIAL REPORT ON PROTECTION OF THE CHILD'S RIGHTS IN GEORGIA'S HIGHLAND REGIONS.



2015

[WWW.OMBUDSMAN.GE](http://WWW.OMBUDSMAN.GE)

The publication was prepared with the financial assistance of UNICEF. The views expressed herein are those of the authors and can therefore in no way be taken to reflect the official opinion of UNICEF.



Table of Content.....	3
Protection of the Rights of the Child in Georgia's Highland Regions.....	4
Introduction.....	4
1. Legal Instruments Used in the Monitoring Process.....	5
Analysis of a legal framework.....	5
2. The Methodology of Monitoring.....	5
2.1 Stages of Implementation.....	6
2.2 Processing the information/data obtained as a result of the monitoring mission and developing responses.....	6
3. The Right of the Child to be Protected from Poverty and Inadequate Standard of Living.....	7
4. Right to Healthcare in Highland Regions of Georgia.....	10
5. Right to General Education.....	16
6. Violence against Children and other Inappropriate Treatment in Highland Regions of Georgia.....	21
7. Realization of the Rights of the Minors with Disabilities.....	25
8. Implementation of Foster Care and Reintegration Sub-Programmes in Georgia's Highland Regions.....	29

# Protection of the Rights of the Child in Georgia's Highland Regions

## Introduction

The present document represents a special report on outcomes of a child protection monitoring mission to Georgia's Highland regions within the frames of a UNICEF supported *Empowering the Centre for Children's Rights* project implemented by the Public Defender's Office from 1 May 2014 to 31 January 2015.

The monitoring aimed at evaluating the implementation of children's rights and freedoms through assessing their relevance to domestic and international standards as well as developing practical recommendations and proposals for better realisation of the rights of minors.

The monitoring process was based on the key principles of trust, confidentiality, security, professionalism, accuracy, neutrality, impartiality, sensitivity, visibility and promotion<sup>1</sup>. In addition, the monitoring process heavily relied on the guiding principles, standards and recommendations developed by the UN Committee on the Rights of the Child (CRC) as well as on Concluding Observations on the Rights of the Child issued by CRC on 28 June 2000 and 23 June 2008<sup>2</sup>. The systemic and comprehensive monitoring which assessed the quality of the implementations of these documents was conducted in a manner encouraging minors' participation and considering the best interests of the children based on equality, appropriate treatment and non-discrimination principles.

The monitoring process covered Mestia, Kazbegi, Akhmeta, Oni, Ambrolauri, Khulo, Shuakhevi and Keda territorial units.

The present report introduces outcomes of the monitoring in the following key areas: realisation of the right to be protected from poverty and inadequate standard of living, the right to healthcare and a quality of its implementation, protection of minors from violence and other kinds of inappropriate treatment, the right to education and its quality and effective implementation and the rights of children with disabilities and foster care placement.

## Members of the Key Monitoring Group

**Maia Gedevanishvili** – Head of the Centre for Children's Rights at the Public Defender's Office, psychologist;

**Mariam Bochorishvili** – A lawyer of *Empowering the Centre for Children's Protection* project administered jointly by the Public Defender's Office and UNICEF;

**Mariam Janiashvili** - A lawyer of *Empowering the Centre for Children's Protection* project administered jointly by the Public Defender's Office and UNICEF

<sup>1</sup> Office of the United Nations High Commissioner for Human Rights (2001), Textbook in Monitoring Human Rights, series of professional trainings 7, Chapter 5, guiding principles, p. 87, Geneva, 2001, ISBN 92-1-154137-9.

<sup>2</sup> <http://www.refworld.org/type/CONC/OBSERVATIONS/CRC/GEO,4885cfab0,0.html>

# 1. Legal Instruments Used in the Monitoring Process

---

**Analysis of legal framework** - The following domestic and international acts represent a set of legal instruments for the monitoring of the rights of children in Georgia's Highland regions:

- The Constitution of Georgia
- The UN Convention on the Rights of the Child
- The Universal Declaration of Human Rights
- The Convention for the Protection of Human Rights and Fundamental Freedoms
- Council of Europe Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse
- The International Covenant on Economic, Social and Cultural Rights
- Law of Georgia on the Protection of Personal Data
- Law of Georgia on General Education
- The Order of the Minister of Education and Science of 11 November 2008 on *Approving the National Objectives for Preschool Education*
- The Joint Order N152/n-N496-N45/n of 31 May 2010 of the Ministers of Labour, Health and Social Protection, Internal Affairs and Education and Science
- The Order N308/n of 2001 of the Minister of Labour, Health and Social Protection on *Approving Sanitarian Rules and Norms for Organising, Equipping and Establishing Labour Regime of Preschool and General Education Institutions*
- The Resolution N78 of 15 January 2014 by the Georgian Government - Technical Standing Order for *Approving Sanitarian Nutritional Rules and Norms at Preschool Institutions*
- The Resolution 520-IS of 28 September 2000 on *Obligatory Health Certificate in Preschool, General Education and Higher Education Facilities*
- Action Plan for Child Welfare and Protection for 2012 – 2015 approved by the Resolution 762 of the Government of Georgia on 24 April 2012
- Council of Europe Convention on Access to Official Documents
- Other domestic/international legal acts on the rights of the child

**The monitoring team analysed the legislation based on the legal instruments mentioned above and comparison of the outcomes.**

## 2. The Methodology of Monitoring

---

### 2.1 Stages of Implementation

#### The First Stage:

- Selecting central/local authorities for monitoring purposes, developing instruments

- Selecting programmes and sub-programmes on central and local levels, identifying target groups and developing relevant instruments
- Requesting documentation, introducing and informing
- Accessing photo and audio materials, copies of documents required for proper implementation of the monitoring and evaluation
- Action points: Monitoring of institutions under central/local authorities, establishing a level and quality of compliance to existing standards and monitoring general education institutions and boarding schools while keeping in mind realisation of interest as well as capacities and psycho-social development of the beneficiaries.

**Actions taken:** 30 education and care institutions were monitored by the team based on visual and documentation assessment, while affairs were conducted and information requested on 80 more general education institutions were conducted

Action points: Workshops with the representatives of central/local authorities – discussing systemic problems, identifying individual violations.

**Actions taken:** 20 workshops in regional centres of the Ministry of Education and Science, the Ministry of Labour, Health and Social Protection, in executive agencies of local self-government

**Action points:** Special visits to the groups of the most vulnerable and unprotected children in order to assess the situation on the ground and identify impartial factual evidences

**Actions taken:** the representatives of the Public Defender visited households living below the poverty line, special education institutions for children with disabilities/special education needs. Thematic meetings with were also conducted with representatives of multidisciplinary teams, relevant information requested and individual cases studied and processed.

## 2.2 Processing the information/data obtained as a result of the monitoring mission and developing responses

Information obtained through the monitoring mission as well as cases of violation have been processed based on the following methods and activities:

- **Recommendations and Proposals**<sup>3</sup> –Develop relevant recommendations and proposals to submit to respective central and local authorities based on identification of individual/collective cases of violations of the right of the minors living in the highland regions. The recommendations and proposals aimed at eliminating and preventing further violations. Overall six recommendations and proposals have been developed based on the findings and observations;
- **Conducting Affairs**<sup>4</sup> – Conducting individual affairs on cases of violations revealed during the monitoring mission in order to request relevant documentation from responsible central/local authorities required for information/explanation and inspection – the team filed 190 cases and prepared up to 400 correspondence to be submitted to relevant state authorities;
- **Mmonitoring implementation** –Implementation of recommendations and proposals has also been monitored.
- **Report** –Mid-term and final reports have been prepared based on the findings of the monitoring mission

<sup>3</sup> Article 21 of the Organic Law of Georgia on the Public Defender

<sup>4</sup> Article 12 of the Organic Law of Georgia on the Public Defende

### 3. The Right of the Child to be Protected from Poverty and Inadequate Standard of Living

---

#### Existing Context

The right of the child to be protected from poverty and an inadequate standards of living as well the principles of social equality oblige the state to intervene effectively in order to ensure that the social and economic needs of the juveniles residing highland areas of the country are adequately met.

The analysis of the situation in regard to child protection as well as an assessment of respective state funded programmes (see Table 1) by the representatives of the Public Defender's Office during the reporting period have revealed a series of challenges related to the failure of protecting children from poverty and inadequate standard of living in highland areas of the country. Children living in an abject poverty experience multiple problems caused by malnutrition, poor living conditions, lack of adequate clothing and school items.

In highland regions a significant number of minors struggle with life in both absolute and relative poverty. In addition, actors in charge have failed to ensure systemic implementation of state programmes aimed at supporting early childhood development and perinatal care. The same refers to the implementation of inclusive and integrated policies and sub-programmes targeting all children from 0 to 6 years, in particular those who belong to the most vulnerable groups.

According to the data provided by the United Nations Children's Fund (UNICEF)<sup>5</sup> as early as in 2011 9.4 per cent of children were living in extremely impoverished households. The UNICEF report<sup>6</sup> argued that in order to diminish the child poverty within coming five years, measures had to be taken to improve social protection mechanisms to ensure better distribution of social benefits – adequate reflection of the children's needs in targeted schemes, increase in the overall coverage of social assistance and medical programmes to reach out every poor households.

On 14 April 2014 the Georgian Government with the Resolution 291 approved the state programme for social rehabilitation and childcare. Its sub-programme for emergency assistance for households with children in crisis stipulates provision of emergency aid to those households with children who live below the poverty line. However, a definition of the target group is too general and there are no tangible criteria for identifying beneficiaries on a statutory level. Moreover, the number of the programme beneficiaries, from the highland regions is extremely low: only 38 households from eight municipalities while the number of registered underage beneficiaries for social package and targeted social assistance are 150 and 8638 respectively<sup>7</sup> (see Table 1).

On 31 March 2014 the Government of Georgia set up the State Targeted Programme for Improving Demographic Situation (Resolution 262). During the reporting period 102 households were enrolled in the programme from highland regions except for Khulo, Shaukhevi and Keda municipalities in spite of the fact that these areas show quite a high rate of child poverty and risk factors (see Table 1).

---

<sup>5</sup> UNICEF, Georgia – Reduction of Child Poverty, Tbilisi, 2012

<sup>6</sup> UNICEF, 'Georgia and the Convention on the Rights of the Child', Tbilisi, 2011

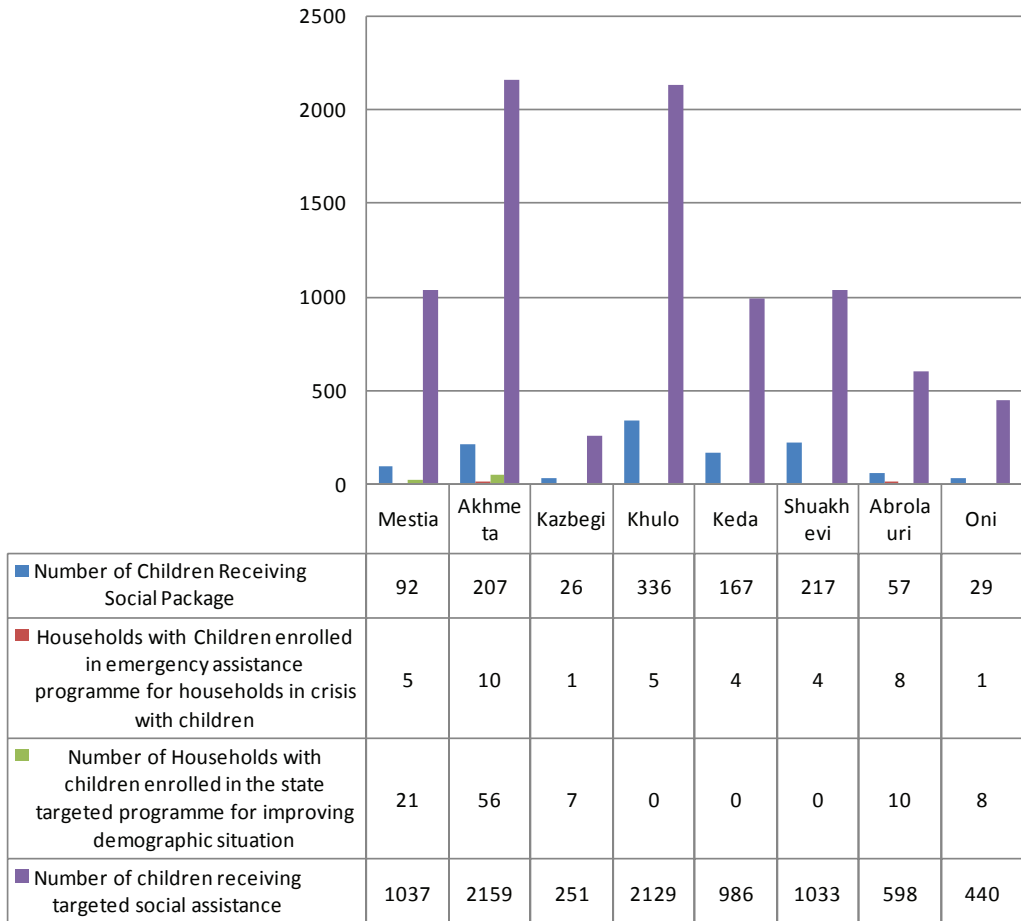
<sup>7</sup>[http://ssa.gov.ge/index.php?lang\\_id=&sec\\_id=882](http://ssa.gov.ge/index.php?lang_id=&sec_id=882)

[http://ssa.gov.ge/index.php?lang\\_id=&sec\\_id=766](http://ssa.gov.ge/index.php?lang_id=&sec_id=766)

[http://ssa.gov.ge/index.php?lang\\_id=&sec\\_id=775](http://ssa.gov.ge/index.php?lang_id=&sec_id=775)



**Table 1**



The inquiry into the state welfare programmes shows that they fail to adequately reflect socio-economic needs of children residing in the highland regions of the country. Nor are the interventions to ensure equal protection of the minors from poverty and inadequate living standard being implemented in these vulnerable areas.

The project team also looked into those social programmes, which have been designed to tackle the issues related to child poverty and poor quality of living standard on local self-government level. The analysis of the municipal programmes/sub-programmes has shown a stronger focus on families with more than three children. However, amount of financial aid is typically small so is the number of beneficiaries enrolled in such local programmes. For instance, Oni municipal programme on Social Assistance for the newborn to the families with more than three children and for minors being raised in households without breadwinners provides a non-recurring assistance in the amount of 80 GEL (as a non-recurring lump sum) for households with three children and 100 GEL for those with four children. Municipal soup kitchen in Khulo had only 3 underage beneficiaries throughout 2014.

Yet another problem aggravating the challenges related to protection of rights of households with more than three children residing in highland regions is a low level of awareness on

services provided by sub-programmes within the targeted social assistance system. The analysis has revealed a low awareness level in relation to both central and municipal programmes. On the barriers to the availability of information is a poor quality of communication between the central and municipal social services and the most vulnerable groups of population.

## Legal Framework

According to Article 31 of the Georgian constitution, the state is responsible for ensuring equal socio-economic development while Paragraph 2 of Article 36, the State shall support welfare of the family.

According to the Article 11 of the International Covenant on Economic, Social and Cultural Rights, 'the State parties recognize the right of everyone to an adequate standard of living for himself and his family', while based on the normative nature of Paragraph 1, Article 102, the signatory state undertakes to take steps to the maximum of its available resources to achieve the full realisation of the rights by all, appropriate means including the adoption of legislative measures. In its General Comments 12 (1999), the Committee on Economic, Social and Cultural Rights provided an explanation for the right to adequate food is realised when every child have physical and economic access at all times to adequate food or means for its procurement.<sup>8</sup>

According to Article 27, Clause 1 of the UN Convention on the rights of the Child, every child has the right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development, while Clause 3 based on its normative nature holds that the State parties are responsible to take appropriate measures and provide material assistance and support programmes particularly with regard to nutrition, clothing and housing in accordance with national conditions and within their means.

Article 54 of the Concluding Observations dated 23 June 2008 of the UN Committee on the Rights of the Child, says that the 'the State shall take all appropriate measures to eliminate child poverty especially for households residing in rural and highland areas.'

On 9 July 2014 with the Resolution 445 (Article 1, Paragraph A) the Georgian Government on Approving the State Action Plan on the Human Rights Protection (2014 – 2015) and on setting up the coordination interagency council for the implementation of the state action plan for human rights (2014 – 2015) and its statute, the Government of Georgia approved of the state action plan (2014 – 2015). Article 13.3.1.1 of the plan recommends that **child social protection system should be improved in order to eliminate child poverty. The improved system must adequately reflect every child's needs** (action plan 13.3.1.1)<sup>8</sup>.

### Recommendations to the Georgian Government:

**In order to eliminate child poverty and improve a standard of living in Georgia's highland areas the Government should:**

- **Develop a strategy and action plan to reflect the needs of the minors living in extremely poor households and relative poverty**
- **Improve the systems of targeted social assistance, design state programmes and sub-programmes in a manner that they reflect social and economic needs of children from highland regions**

<sup>8</sup> <http://www.refworld.org/type,CONCOBSERVATIONS,CRC,GEO,4885cfab0,0.html>

- **Implement effective interventions to raise awareness in households with children on social assistance programmes and sub-programmes**

## 4. Right to Healthcare in Highland Regions of Georgia

---

### Existing Context

The representatives of the Public Defender assessed the quality of the realisation of the child's rights in Georgia's highland regions, namely in Mestia, Akhmeta, Oni, Ambrolauri, Kazbegi, Khulo, Shuakhevi and Keda municipalities. The assessment revealed that there is scarcity of medical units and hospitals in some of these territorial units, also there are no paediatricians in most of the primary healthcare units which creates a barrier for minors to have continuous access to medical services (see Table 2). In addition, infrastructural location of local primary healthcare units, a gap between the number of the medical staff and the number of functioning primary healthcare units (see Table 2) and lack of necessary equipment also creates multiple problems for service provision.

20 doctors and 23 nurses work currently in Khulo municipality while in most of the Khulo villages there are no functioning child healthcare facilities (out-patient facilities, local primary healthcare facilities and other medical units).<sup>9</sup> The distance from these villages to the nearest medical facilities is average 6 – 8 km. The same situation prevails in territorial units and villages in Shuakhevi and Keda municipalities.

Though there is a hospital, but there is no personnel with adequate qualification. Nor is there medical equipment for running medical tests.

The same situation is in Mestia, Oni and Ambrolauri municipalities, in territorial units and villages of Kazbegi municipalities. Only 2 paediatrician and 1 nurse serve 10 local primary healthcare units in Oni municipality, while only 3 out of 5 territorial units of Kazbegi municipality has primary healthcare units though without proper medical equipment. In addition, villages are in particularly dire situation as because of defunct local healthcare units the minors residing in these villages have restricted opportunities to exercise their right to state funded medical services. For instance, primary healthcare units do not function in the villages of Tsakhi, Tola, Itsa of Ambrolauri municipality and patients are seen at residential home. The situation is similar in other municipalities with highland locations (see Table 2).

Based on the information requested from the Ministry of Labour, Health and Social Protection on 17 November 2014, the problems related to access to medical services are determined by the lack of doctors who specialise in deficit and priority fields of medicine. In order to address this problem, the government plans to provide funding for residency programmes. Although it is expected that this measure will support to realization of the right to healthcare, but it is also feared that it will be less effective for provision of continuous medical services for children and for implementing the quantitative ratio criteria.

As for the analysis of the healthcare programmes implemented by the local municipalities within the frames of their competences, it should be noted that there are multiple problems related to systemic health problem provision by both representative and executive bodies,

<sup>9</sup> Primary healthcare centres function only in 9 villages out of 78 of Khulo municipality

scarcity of municipal programmes and inadequate funding. For instance, Clause 5 of the resolution 2 of 20 January 2014 by Akhmeta municipality council (Sakrebulo) ‘on approval of the programme on population’s social assistance and its budget’, provides a list of target groups and priority directions which does not include services for minors’ healthcare provisions.

Part of the municipal level programmes is focused on providing children with medicament, however comes short under the funding. For instance, maximum 100 GEL can be allocated as a non-recurring lump sum to a beneficiary under the Mestia municipal programme on ‘provision of medicaments to sick children under the age 18’.

The project team also learnt that there are no programmes to address child malnutrition issues in highland regions. While there are high risks for deaths and illnesses caused by malnutrition, problems of physical and mental developments in these regions, UNICEF says 300 children under the age 5 die annually because of anaemia in mothers, low weight, congenital anomalies caused by folium acid deficit and suboptimal breast feeding<sup>10</sup>.

According to the Georgian Health System Performance Assessment by the WHO, the top national priority of healthcare must be availability of quality medical services through continuous development of medical infrastructure and quality human resources. Indicators of effectiveness of the mentioned priority are improvement of geographical accessibility of the healthcare system and cost-effective utilisation of healthcare resources of the country<sup>11</sup>. In spite of the fact that this issue has been prioritized by the Ministry of Labour, Health and Social Protection in its Assessment of the Healthcare System Performance for 2013, no practical measures have been undertaken to address this problem to date.<sup>12</sup>

Both international and legal norms oblige the respective state authorities to ensure equal access to medical services and facilities for every child and undertake effective measures to carry out their positive responsibilities. However, the state has failed to properly implement the principle of territorial and informational accessibility to healthcare.

**Table 2<sup>13</sup>**

### **Mestia Municipality**

<b>Village/Administrative Centre</b>	<b>Status quo</b>
The village of Becho	Primary healthcare facility needs complete rehabilitation
<b>The villages of Etseri, Lenjeri and Khaishi</b>	No primary healthcare facility. Patients are seen at private residence

<sup>10</sup> UNICEF, Improving Healthcare and Welfare: what should be done to decrease economic and human costs of malnutrition in women and children <http://unicef.ge/uploads/REPORT-ge.pdf>

<sup>11</sup> [http://www.healthrights.ge/wp-content/uploads/2011/07/2009\\_Shepaseba\\_Jand.-Sistemis-Angarishi\\_Georgia.pdf](http://www.healthrights.ge/wp-content/uploads/2011/07/2009_Shepaseba_Jand.-Sistemis-Angarishi_Georgia.pdf)

<sup>12</sup> <http://www.healthrights.ge/wp-content/uploads/2013/01/jandacvis-sistemis-efekturobis-angarishi.pdf>

<sup>13</sup> The table is based on the information provided by the Ministry of Labour, Health and Social Protection and executive branches of local authorities upon our request N01/98787–10/12/2014, N01/151815– 12/12/2014, N04–1321–19/12/2014, N20111/1–19/12/2014, N19961/1–17/12/2014, N19845/1–15/12/2014.

Number of primary healthcare units and personnel	3 paediatricians and 2 nurses are designated for 12 primary healthcare centres in Mestia municipality
--	---

## Oni Municipality

Village/Administrative Centre	Status quo
The villages of Lagvanta, Tsola, Khirkhonisi, Korta, Kristesi, Skhieri	No primary healthcare unit. Patients are seen at private residence
The village of Gvoli	Primary healthcare unit is located in the local council building with poor infrastructure
The number of primary healthcare units and personnel	2 paediatricians and 1 nurse are designated for 10 primary healthcare centres in Oni municipality

## Khulo Municipality

Village/Administrative Centre	Status quo
The villages of Dekenashvilebi, Kedlebi (old building), Zeda (upper) Vashlovani (old building)	Primary healthcare facility needs complete rehabilitation
The village of Ghorjomi	Primary healthcare unit is located in former hospital building. The premises need complete rehabilitation. Infrastructure is underdeveloped
The number of primary healthcare units and personnel	3 Paediatricians and 1 nurse serve 14 primary healthcare centres in Khulo municipality

## Kazbegi Municipality

Village/Territorial Centre	Status Quo
----------------------------	------------

The village of Sioni	Building of the primary healthcare is located in the local council building with poor infrastructure
The village of Sno	Building of the primary healthcare unit is located in the school building with poor infrastructure
The number of primary healthcare units and personnel	1 paediatrician and 1 nurse serve 3 primary healthcare centres in Kazbegi municipality

### Ambrolauri Municipality

Village/Territorial Centre	Status Quo
The villages of Tsakhi, Tola, Itsa	No primary healthcare building. Patients are seen at private residence
The village of Jvarisa	Primary healthcare unit is located in the library building. The situation is unsatisfactory
The villages of Kvishari-Chkvishi, Tlugh, Ghadishi, Chorjo	Primary healthcare unit is located in the local council building. The situation is unsatisfactory
The number of the primary healthcare units and personnel	3 paediatricians and 1 nurse serve 21 primary healthcare centres in Ambrolauri municipality

### Shuakhevi Municipality

Village/Territorial Centre	Status Quo
The village of Dghvani	The building is old and needs a complete rehabilitation. The infrastructure is poor.

The village of Baratauli	The primary healthcare unit is located in school building with poor infrastructure. It needs complete rehabilitation
Medical unit of the settlement	Primary healthcare unit is located in a district hospital with poor infrastructure. The building needs rehabilitation
The number of primary healthcare units and personnel	1 paediatrician and 1 nurse serve 11 primary healthcare centres in Shuakhevi municipality

### Keda Municipality

Village/Territorial Centre	Status Quo
The village of Dandalo	The building needs complete rehabilitation. The infrastructure is poor
The number of primary healthcare units and personnel	1 paediatrician and 1 nurse serve for 10 primary healthcare centres of Keda municipality

### Legal Framework

The right to healthcare, as a manifestation of a welfare state principle, is enshrined in Article 37 of the Georgian Constitution. The article obliges the state to make services available for realizing the right to healthcare on the one hand and grants the right to individuals to realize his/her right to healthcare on the other. However, if the services realizing the right to healthcare are unavailable, the right to healthcare will remain unrealized.

The right to healthcare guaranteed by Article 37 of the Georgian Constitution covers three interrelated criteria: geographical accessibility which implies alignment of primary healthcare units within accessible geographical units so that citizens are provided with emergency medical care in a timely manner; financial accessibility, which is provision of healthcare to every citizen by the state, universal and equal access to healthcare through state funded health programmes and access to information by patients on information related to health services. However, for children residing in high mountainous areas geographical and informational inaccessibility imposes serious problems.

According to Paragraph D of Clause 3 of Article 12 of the International Covenant on Economic, Social and Cultural Rights, States Parties must ensure realization of the right of everyone to physical and mental health and take all measures to create conditions which would assure to

all medical service and medical attention in the event of sickness.

Comment 14 of 11 August 2008 by the UN Committee on Economic, Social and Cultural Rights on 'The Right to the Highest Attainable Standard of Health' holds that the key elements of the right to health are availability, accessibility and quality. Within the frame of the fundamental principle of availability the state must ensure that functioning public health and healthcare facilities, goods and services as well as programmes have to be available in sufficient quantities. This will include, inter alia, trained medical and professional personnel.

In addition, as enshrined in the first clause of Article 24 of the UN Convention on the Rights of the Child, states parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilitate for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

The analysis of Paragraph 44 of the concluding observations by the UN Committee on the Rights of the Child<sup>14</sup>, dated on 23 June 2008, has revealed that many children have limited access to medical care as a result of geographic restrictions. In order to address this problem, the Committee recommends that appropriate authorities establish high standard of healthcare in the country through allocating increased resources.

Clauses (a), (b) and (j) of Article 4 of the Law of Georgia on Healthcare reinforce the right of individuals for universal and equal access to medical assistance, protection of human rights and freedoms in the field of healthcare, the recognition of patients dignity, honour and autonomy, priority of primary and emergency medical care, development of family medicine and an institute of general practitioners, and provision of healthcare availability based on it.

In order to ensure realization of the healthcare rights and universal accessibility to these rights, the State has approved a series of state funded programmes/sub-programmes with the major focus on financial availability rather than on territorial access. Resolution 279 of 31 October 2013 on Approving State Healthcare Programmes for the year 2013 of the Government of Georgia<sup>15</sup> and the Resolution 397 of the same year on 'determining those state programmes/activities/scope which fall under the State's commitment to continue uninterruptedly as per liabilities taken in 2013 till the approval of the healthcare programmes in 2014 by the Ministry of Labour, Health and Social Affairs, and/or fulfilment of responsibilities stipulated by the law of Georgia on 'State Procurement', according to the voucher conditions before an appropriate provider is identified', lay down the aspects of the financial availability of the right to healthcare but they do not cover the issues related to territorial availability. As outlined above, unavailability of medical services in the highland areas of Georgia, in particular for children, is a serious challenge and therefore, the state should develop all measures to ensure the enjoyment of right to health by minors living in highland areas.

### **Recommendations to the Ministry of Labour, Health and Social Protection of Georgia:**

- **Develop a strategy and an action plan on a state level to improve realization of the rights to healthcare for juveniles residing in highland regions of Georgia**
- **Undertake timely and effective measures for providing a permanent and continuous access to state medical services for children living in highland areas before the strategy mentioned above is developed**

<sup>14</sup> <http://www.refworld.org/type,CONCOBSERVATIONS,CRC,GEO,4885cfab0,0.html>



- Develop targeted state programmes for prevention of illnesses and conditions caused by malnutrition and determine effective mechanisms for their implementation in the highland regions of the country

## 5. Right to General Education

---

### Existing context

#### *General Overview*

At as a result of the assessment of education elements determined both by international and internal standards, as well as of realization of the child's rights in basic/general educational institutions, the project team revealed that public schools in highland regions of the country fail to meet the following fundamental criteria of general education:

- Universal implementation of inclusive education and adequate physical/educational environment for students with disabilities/special leaning needs (for details please refer to Chapter 7);
- Effective practical implementation of equal access to basic/general education, universal implementation of state funded programmes/sub-programmes accommodating above mentioned goal with consideration of geographical accessibility of general education institutions
- Provision of safe and adequate physical and infrastructural environment for students in basic/general education institutions;
- Right to efficient and quality education and improvement of teachers qualification.

***The Right to Access Basic/General Education*** - Problems related to implementation of equal accessibility standards for education in highland regions of Georgia are largely caused by lack of basic/general education institutions, issues linked to poor physical, infrastructural and territorial access, and low rate of public school engagement in *accessibility to school* programme (see Table 3).<sup>15</sup> Therefore, the right of the child to receive general education closer to his/her residence guaranteed by Clause 1 of Article 7 of the Georgian Law on General Education, is not fully realized.

Schoolchildren living in the village of Adishi, Mestia municipality face the problem related to physical/territorial access to general education. There is no public school in the village and the closest school is located in the village of Ipari, 9 km away from Adishi. Ipari schools has no transport and therefore, the minors residing in Ipari are limited in their right to receive general education.

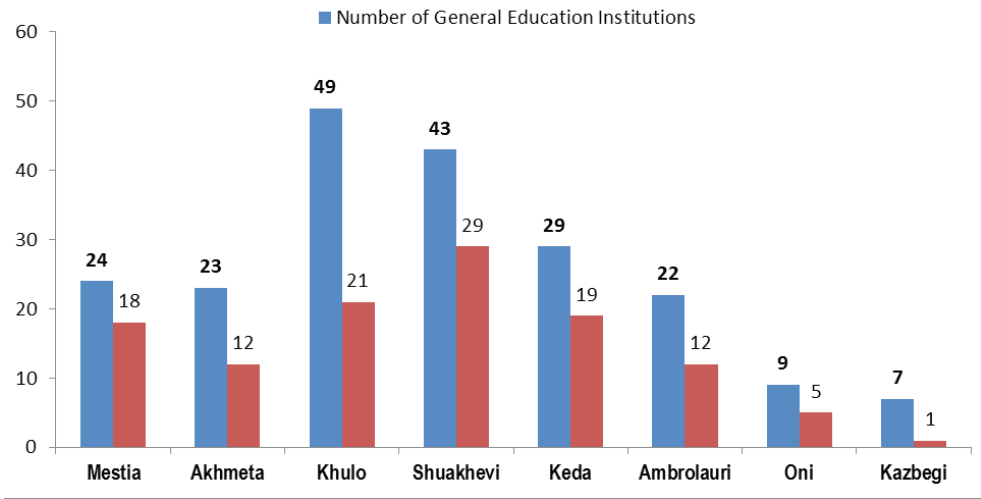
The situation in Mestia's public school #1 deserves special attention. Out of 160 students registered at the school 100 attends the school from the villages of Shgeti, Lalaili, Lanchvali, Lemkhali and Kakhri. As stated by the school representatives, the distance from these villages to

<sup>15</sup> Order 412 of 11 April 2014 by the Minister of Education and Science of Georgia on invalidation of Order 1171 of the Minister of Education and Science of Georgia on Approval of General Education Support Programme and on Amending Order 1124 of 30 December 2013 of the Minister of Education and Science of Georgia on Approval of General Education Support Programmes

the school ranges from 2.5 to 5 km. There is no school bus to accommodate the transportation needs of the students.

Situation in public schools of Kazbegi municipality is yet another case indicative of the problems related to accessibility to general education in highland regions. Out of the municipality's 7 general education institutions only 1 – Gudauri public school has been included in the *School Accessibility Programme*, even though a monitoring process revealed numerous barriers to physical accessibility and risk factors (physical location of institutions, a long distance between the school and students' residences, challenging geographical-physical road condition) in remaining 6 schools including ones in Stapandtsminda school #1 and education institutions of Arsha, Sno and Sioni.

Table 3



The situation in the village of Dzibakhevi, Akhmeta municipality resonates with the problems of infrastructural accessibility in Georgia's highland regions. There is no public school functioning in the village. In 2005 the local population advocated for opening a basic school as a result of which basic classes were 'opened' in a wooden hut. Three teachers taught 4 composite classes from first to fourth grades<sup>16</sup>. The nearest school was located in the village of Birkaini and classes functioning in Dzibakhevi were considered an extension of the Birkiani public school. Parents of Dzibakhevi schoolchildren had been long demanding that the classes have adequate infrastructure. However, in 2014 the basic school in Dzibakhevi was shut down.<sup>17</sup>

In order to ensure equal access to, accessibility and inclusiveness of basic/general education, the State should take measures to increase a geographical scope of general schools and enhance their quality. Increase in the amount of a state voucher must also be an option if the need be<sup>18</sup>. In addition, special targeted programmes should be developed to meet the international standards of education classification<sup>19</sup> to ensure effective implementation of both formal and informal educational practices.

**Right to Receive Quality and Effective Education** –implementation of efficient, inclusive and quality education is hindered by such challenges as lack of teachers' qualification and

<sup>16</sup> The correspondence with the Minsitry of Education and Science N10675/1, 22/05/2014.

<sup>17</sup> The correspondence with the Minsitry of Education and Science N13940/1, 30/07/2014.

<sup>18</sup> Article 7, Clause 2 of the Law of Georgia on General Education

<sup>19</sup> UNESCO, „International Standard Classification of Education“, 2011.

professional growth. This implies that efforts should be strengthened to attract high professional teachers and renew the teachers' cohorts as well as to ensure teachers' continuous professional development. The challenges also include a low quality of effectiveness of methodological system of teaching embedded in the national curriculum, as well as of the limited scope of implementation of state funded programmes designed for this specific purpose.

Realisation of the right to quality general education in highland regions is hindered by such problems as a level of teachers' qualification and the need for professional training/enhancing the level of qualification. One of the indicators of a low qualification level is a low number of certified teachers (See Table 5). For instance, only 34 out of 430 teachers employed in public schools in Mestia Municipality are certified while in Khulo municipality only 67 out of 1051 teachers have a certificate.

As for measures focusing on teachers' qualification and retraining, the following programmes were implemented by the Ministry of Education and Science in highland regions throughout 2014<sup>20</sup>:

- *School Based Programme for Teachers' Professional Development* which aims at providing training course to teachers based on needs assessment and learning by teaching method analysis as well as assessing attitudes and perceptions of the teachers towards teachers' professional development.

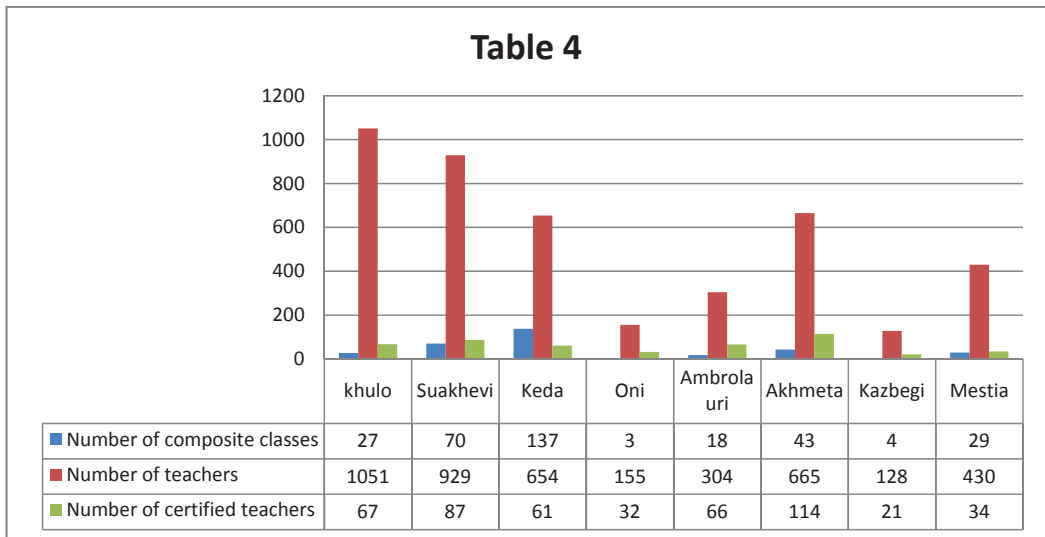
206 public schools from all regions of Georgia were involved in this programme in 2014, however, the overall success rate of the programme is challenged by the low level of **engagement of schools in highland regions**. More precisely, the scope of the programme coverage was limited to Khulo settlement and the village of Kedlebi from Khulo municipalities, settlement of Shuakhevi and the village of Purtio from Shuakhevi municipality, settlement of Keda and the village of Tsoniarisi from Keda municipality, settlement of Oni from Oni municipality, schools #1 and #2 from Ambrolari municipality, Akhmeta school #2 and Kvemo Alvani public

schools from Akhmeta municipality. In addition, **the programme did not cover in basic/general education institutions of Mestia municipality.**

- The programme on *Information-Communications Technologies for teachers* aims at supporting teachers to integrate ICT in teaching practice for implementing the national curriculum and teachers' professional standards. The programme also focused on building teachers' capacity by providing basic and intermediate courses in information-communications technologies. Though it is encouraging to implement such programmes and contribute to developing teachers' information and communications skills, however, **low level of engagement teacher and number of trainings (2 trainings were conducted in Kazgebi municipality and 6 trainings in Mestia) indicate to flaws of the implementation of the programme.** In addition, the quality of ICT integration in school curricula still remains poor.
- *Teachers Training and Retraining Programme* provides long term trainings in various subjects as well as in general professional skills. **However, level of engagement in this programme remains low.** For instance, only 10 out of Keda's 654 teachers took the training in enhancing professional qualification, 28 out of Mestia's 430 teachers did the same, while the number of teachers benefiting from the training in Shuakehvi municipality totalled 56 out of 929 local teachers.

<sup>20</sup> [http://www.tpdg.ge/uploads/pdf\\_documents/consolidated%20program%202014%20Inclusion%20May%201.pdf](http://www.tpdg.ge/uploads/pdf_documents/consolidated%20program%202014%20Inclusion%20May%201.pdf)

Yet another indicator hindering quality and efficient implementation of general education is a large number of composite classes in basic/general education institutions located in Georgia's highland regions (see Table 4). For instance, in Maghraani public school (Akhmeta municipality) there are 10 composite classes, 6 in Tunadze public school of Khulo municipality and there are 4 composite classes in each of the schools of the villages of Kveda Makhuntseti, October and Keda. Qualitative indicator of education is largely determined by the extent to which activities under the national curriculum are implemented and also by inclusiveness of learning process. The quality of this indicator is challenged by composite classes. Minimizing risk factors to inclusiveness, including those related to composite classes, is a pre-requisite for implementation of high quality basic/general education in public schools.



**Infrastructural conditions of general education institutions** – The assessment of infrastructural conditions of general education institutions revealed that infrastructure in most of basic public schools are not child friendly and fail to meet hygienic needs.

The conditions of infrastructure are particularly gruesome in Mestia's general education institutions. For instance, beginners in Karsgurishi extended basic school located in Zemo Marghi are taught at home. First graders in the village of Mushkeli (Mulakhi's extended school) are schooled in an abandoned house which homes 3 schoolchildren and 4 teachers.

A public school in the village of Sno in Kazbegi municipality is also in need of infrastructural improvement. Most of the school inventory have not replaced for decades, while visual clues displaced in classrooms go back to 1960s. The school, which was built 110 years ago, needs to be rehabilitated. Nor do hygienic conditions meet the minimum requirements.

During the monitoring mission the project team revealed that infrastructure in public school of the village Tvirmi is in a dire condition. 10 classrooms of the school contained physical threats to schoolchildren and teachers. Because of moist the walls of the schools had, as the teachers claimed, fungi. The level of the moist was so high that the windows of the building were in permanently wed condition. The floor was lowered and the wall of the library had collapsed. In order to improve the infrastructure of the school, the public defender addressed the Ministry of Education and Science with a recommendation (N10/9591, 22/07/2014). The Ministry responded by starting procedures for construction of a new school. .

Unsatisfactory hygienic conditions were also found in public schools of Karsgurishi community, the villages of Latali, Nakara and Mulakhi community (Mestia municipality) where there are no water closets inside the school buildings. One block, so called oriental toilets are located outside the buildings, used both by students and teachers other staff of the school. There is no running water in toilets and nor are there permanent water provision and collecting systems.

Based on the information provided by the Ministry of Education and Science<sup>21</sup> the following education institutions in the country's highland regions were rendered physical-infrastructure rehabilitation works throughout 2014:

- Akhmeta municipality – school #2 in Zemo Alvani, school #2 in Matani, school #2 in Akmeta and Ozhio school
- Oni Municipality –public schools of the villages Ghebi, Chiori, Ghari, Sheubani, Pipileti, Sori, Glola, Utsera and Oni settlement
- Ambrolauri municipality – public schools in the villages of Bugeuli, Velevi, Uravi and Bostani
- Mestia municipality – public school of Ushguli and that of Mestia settlement
- Khulo municipality – public school of Khulo settlement
- Kazbegi municipality – public school #1 of Stepantsminda

In spite of the fact that these public schools have been rehabilitated, the visual assessment of Stepantsminda school #1 and Khulo public school yielded that there are still failures in terms of infrastructure and implementation of hygienic norms.

Based on the above said, in order to ensure safe and adequate physical environment for schoolchildren in highland regions of Georgia, wide-scale rehabilitation works need to be carried out. The rehabilitation works must be tailored to the needs of each of the school and should include improving hygienic conditions for schoolchildren.

## Legal Framework

According to the Constitution of Georgia, Article 35, Clause 4, the State shall support educational institutions in accordance with procedure established by law. At the same time, Georgian Law on Education Article 3, Clause 2, Paragraph (a), in order to fulfil key policy objectives, the state shall ensure transparency of and equal access to general education.

Based on the analysis of the Articles 3, 4 and 29 of the UN Convention on the Rights of the Child, every signatory country to the Convention shall ensure that child's best interests are protected in practice through responsible authorities and agencies. As per Article 28 of the Convention, signatories shall ensure availability and accessibility of general and higher education within their jurisdiction.

In its concluding observation for Georgia of 23 June 2008, Clauses A, B, C of Article 57, the UN Committee on the Rights of the Child<sup>22</sup> recommends that the state party continue to increase budget allocations to the educational sector (Clause A), also, focus on an overall improvement of the quality of education provided, particularly in regions (Clause B) and improve the quality of education in schools through improving material provisions and infrastructure.

<sup>21</sup> The correspondence with the Ministry of Education and Science N19908/1, 16/12/2014.

<sup>22</sup> <http://www.reworld.org/type,CONCOBSERVATIONS,CRC,GEO,4885cfab0,0.html>

In addition to the First Additional Protocol to the Convention on Human Rights and Fundamental Freedoms ( Article 2), the right to education on international legal level is further reinforced by the International Convent on Economic, Social and Cultural Rights (Paragraphs B and C of Clause 2 of Article 13) in which the principle of accessible and quality education is embedded.

At the same time, in accordance with Paragraph H, Clause 2 of Article 3 of the Georgian Law on General Education, the State shall ensure implementation of inclusive education in order to achieve the major policy objectives in the sphere of education. On the other hand, Articles 17 and 18 of the law of Georgia on Social Assistance to Persons Living with Disabilities, obliges the state authorities to ensure necessary and effective measures on legislative, executive and judiciary levels to ensure the right to general education to students with disabilities.

Accessibility and quality represent the imminent elements of the right to education. In order to ensure these two elements the State has established respective instrument on a normative level. From these state instruments Order 412 of 11 April 2014 by the Minster of Education and Science of Georgia on invalidation of Order 1171 of the Minister of Education and Science of Georgia on Approval of General Education Support Programme and on Amending Order 1124 of 30 December 2013 of the Minister of Education and Science of Georgia on Approval of General Education Support Programmes. The Order 412 of the Minister of Education and Science entailed renewal of a series of state funded sub-programmes designed to support improvement of access to general education. Also, the order mentioned above approved General Education Support Programmes (programme code 320211) targeting students residing in Georgia's region (Clauses 2 and 3 of the programme). According to Clause 4 of the programme, a sub-programme on accessibility of schools (programme code 320211) is one of the means to improve accessibility to general education. One of the components of sub-programme on accessibility to schools is to provide students with school transport.

#### **Recommendations to the Georgian Ministry of Education and Science:**

- **In order to implement international and state standards of general education in highland regions of Georgia, state funded programmes should be developed to improve accessibility of education and ensure inclusiveness of the system;**
- **In order to enhance teachers' qualification and support professional growth, the State must ensure implementation of wide-scale and systemic sub-programmes and an increase in the geographical scope of those programmes which are already being implemented.**
- **Infrastructure of general education institutions as well as hygienic conditions must be improved, while school inventory needs to be renewed.**

## **6. Violence against Children and other Inappropriate Treatment in Highland Regions of Georgia**

---

### ***Existing Context***

Issues related to prevention and elimination of violence against children as well as victims



protection and assistance represent a serious challenge in the country.<sup>23</sup> The findings of the UNICEF's 2013 survey on *Violence Against Children in Georgia* further backs up this common assumption.

Assessment of the rights of the children by the representatives of the Public Defender in Georgia's highland regions, namely in the municipalities of Mestia, Akhmeta, Oni, Ambrolauri, Kazbegi, Khulo, Shuakhevi and Keda uncovered a series of violations of children's rights including violence against children and other forms of mistreatment.

According to child protection referral procedures<sup>24</sup> detection and prevention of cases involving violence against children, as well as witness protection is the responsibility of patrol police and neighbourhood police representatives.<sup>25</sup> Therefore, a desk research also probed into effectiveness of the Ministry of Internal Affairs to identify and respond to violence against children, as well as the data registered on such cases. According to the official statistics provided by the Ministry of Internal Affairs<sup>26</sup> which on its turn relies on the statistical information provided by the Ministry's territorial units, 208 cases were registered in six months period (January-June 2014) under Article 126<sup>1</sup> of the Criminal Code of Georgia and investigation started on all of them. The regional breakdown of the underage victims of domestic violence is as follows: Samegrelo-Zemo Svaneti – 0; Adjara Region – 2, Imereti, Racha-Lechkhumi – 3; Mtskheta-Mtianeti – 7.

Information on the number of cases of violence against children in highland regions of Georgia was requested from the Analytical Department of the Ministry of Internal Affairs.<sup>27</sup> however, no correspondence was received within the time frame determined by the legislation.<sup>28</sup>

As for identification and protection of child victims of violence, the assessment showed that many cases of violence against children in highland regions of the country remain largely undetected (in particular when it comes to domestic violence including psychological intimidation and coercion), and therefore no effective proceedings and protection measures are undertaken. A case of 16 year-old A.C. from one of the villages of Keda municipality is one of them. Based on the information provided by the Social Service Agency at the Ministry of Labour, Health and Social Protection to the Centre for the Child's Rights at the Public Defender's Office upon the latter's request, A.C. was regularly subjected to psychological violence and the child attempted suicide on several occasions. However, law enforcement agencies never stepped in to undertake protective measures for the child victim of violence. The Social Service Agency conducted an in-depth investigation of A.C.'s case as a result of which respective preventative measures were taken to protect child from future abuse and mistreatment.

Activities carried out by the Social Service Agency of the Ministry of Labour, Health and Social Protection of Georgia, are of utmost importance especially for undertaking effective preventative measures. According to referral procedures<sup>29</sup> the Agency's social workers are responsible for assessing a child victim or alleged victim of violence, managing cases, providing consultation, placing a child under the relevant type of care and following up to his/her

<sup>23</sup> Report of the Public Defender of Georgia on the Protection of Human Rights and Fundamental Freedoms in Georgia, 2013, p 454.

<sup>24</sup> Joint Order of the Minister of Labour, Health and Social Protection, the Minister of Internal Affairs and the Minister of Education and Science N152/n- N496 – N45/n on Approving Child Protection Referral Procedures, 31 May 2010

<sup>25</sup> Ibid, Article 4, Clause 2

<sup>26</sup> [http://police.ge/files/pdf/9%20%E1%83%9D%E1%83%AF%E1%83%90%E1%83%AE%E1%83%A3%E1%83%A0%E1%83%98%20%E1%83%AB%E1%83%90%E1%83%9A%E1%83%90%E1%83%93%E1%83%9D%E1%83%91%E1%83%90%202007-2014--6%20%E1%83%97%E1%83%95%E1%83%94\\_.pdf](http://police.ge/files/pdf/9%20%E1%83%9D%E1%83%AF%E1%83%90%E1%83%AE%E1%83%A3%E1%83%A0%E1%83%98%20%E1%83%AB%E1%83%90%E1%83%9A%E1%83%90%E1%83%93%E1%83%9D%E1%83%91%E1%83%90%202007-2014--6%20%E1%83%97%E1%83%95%E1%83%94_.pdf)

<sup>27</sup> Letters N10 – 2/14449 of 17 December 2014 and N10 – 2/14441 of 16 December 2014

<sup>28</sup> Paragraphs A and C, Article 18 of the Organic Law of Georgia on Public Defender.

<sup>29</sup> Joint Order of the Minister of Labour, Health and Social Protection, the Minister of Internal Affairs and the Minister of Education and Science N152/n- N496 – N45/n on Approving Child Protection Referral Procedures, 31 May 2010

situation.<sup>30</sup> However, because of various impeding factors, these responsibilities often remain unfulfilled. Here are just few of these factors: deficit of psychologists at district centres of the Social Service Agency, need for training and retraining of social workers to assess and evaluate a child's condition, problems related to planned and unplanned visits (including inadequate infrastructure including lack of transportation means which poses a considerable barrier for conducting home visits by a social worker), failure to timely file a case and examine factual circumstances on a timely manner.

As mentioned above, the State has both a negative (not to violate human rights) and positive responsibilities (respond effectively to facts of violations). Therefore, it is critical that each and every case be detected and uncovered by medical facility staff, general practitioner working in the village, children's specialised institution, neighbourhood and patrol police officers.<sup>31</sup>

## **The Case of N.C, T.C and D.C**

The case of N.C, T.C, and D.C belongs to typical cases of domestic violence against children. As a result of the monitoring in Georgia's highland regions, the representatives of the Public Defender were provided with the information<sup>32</sup> on the protection of child's rights of three minors residing in one of the municipalities in Svaneti. While gathering information on the children, it was determined that the children were the victims of domestic violence and they had been long subjected to systematic physical and psychological abuse.

Besides, the children had been suffering from inadequate living conditions and inaccessibility to safe and adequate physical environment. As a result of neglect from their parents, the children did not attend school and did not have personal identification documents. Based on factual circumstances of the case, no measures had been taken by local units of both Social Service Agency and the Ministry of Internal Affairs to protect the rights of the children.

The Centre for the Child's Rights addressed<sup>33</sup> to the Ministry of Labour, Health and Social Protection with a request to undertake child protection measures and referral procedures. Following the communication, a social worker from the local centre of the Social Service Agency conducted several planned visit to the residence of the minors.<sup>34</sup> An Assessment of the condition revealed that the minors had been long time victims of abuse and other types of violence including neglect and coercion. Based on the observation by the social worker, it was evident that the children be placed under the state care and subsequently there were included in the foster care sub-programme<sup>35</sup>.

## **Legal Framework**

When it comes to a legal framework the Georgian Constitution must be mentioned in the first place. Article 17, Clause 1 of the document states that honour and dignity of an individual is inviolable while according to the following clause, torture, cruel, inhuman treatment, or treatment and punishment infringing upon honour and dignity are impermissible. The aforementioned article imposes both positive and negative responsibilities over the state.

<sup>30</sup> Ibid, Article 4, Clause 3

<sup>31</sup> Joint Order of the Minister of Labour, Health and Social Protection, the Minister of Internal Affairs and the Minister of Education and Science N152/n- N496 – N45/n on Approving Child Protection Referral Procedures, 31 May 2010

<sup>32</sup> Case N12507/1.

<sup>33</sup> The Correspondence N 10-2/10099, 05/08/2014.

<sup>34</sup> The Correspondence N14277/1, 04/09/2014.

<sup>35</sup> The Correspondence N19923/1, 23/12/2014.



According to Article 19 of the UN Convention on the Rights of the Child, States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation.

In 2014 Georgia became a signatory country to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse. Article 4 obliges the signatory state to take necessary legislative or other measures to prevent all forms of sexual exploitation and ensure protection of the minors.

Necessary procedures for child protection from domestic violence are outlined in the Georgian Law on Elimination of Domestic Violence, Protection of and Support to its Victims<sup>36</sup>.

Articles 3 and 20 of the Law of Georgia on General Education highlight the State's responsibility for eliminating violence in general education institutions.

One of the most important domestic document for protecting children against violence is a joint Order of the Minister of Labour, Health and Social Protection, the Minister of Internal Affairs and the Minister of Education and Science N152/n- N496 – N45/n on *Approving Child Protection Referral Procedures of 31 May 2010 on Approving the Referral Procedures for Child Protection*. The instrument aims at strengthening coordination with issues related to protection of children against violence.

In Paragraph 2 of its General Comment 8 the UN Committee on the Rights of the Child underscored the responsibility of the state parties to eliminate all forms violence. The CRC in its Concluding Observations of 23 June 2008 (Paragraphs 31-33)<sup>36</sup> pointed out to the responsibility of the Government of Georgia to undertake all measures to eliminate violence against children, especially against domestic violence.

A project of the national violence prevention strategy developed in 2014<sup>37</sup>, sets the prevention of violence against children especially at homes, schools and streets as one of its priorities. **A positive feature of the strategy** is that it stipulates the preparation of guidelines for law enforcement staff in order to ensure effective response to domestic violence as well as development of methodology for joint evidence harvesting and for identification of and making decision on forms of violence. In addition, the strategy also stipulates to further strengthen the role of medication-restriction in criminal proceedings and establish civic education, mediation and specific mechanisms of rehabilitation-re-socialisation as preventative mechanism. **Shortcomings of the strategy** include the fact that the strategy does not cover beneficiaries under state care – under foster care and small group home placement. Besides, the document fails to fully elaborate on mechanisms for preventing violence against minors and therefore it is feared that legal-proceedings mechanisms may not be effective to considerably downsize the rate of violence etc.

**Recommendation to the Ministry of Education and Science of Georgia, the Ministry of Labour, Health and Social Protection and the Ministry of Internal Affairs:**

- **Take adequate measures to ensure that the respective staff at the Ministry of Labour, Health and Social Protection, the Ministry of Education and Science and the Ministry of Internal Affairs on Usage of Referral Mechanism as per the joint order of the**

<sup>36</sup> <http://www.refworld.org/type,CONCOBSERVATIONS,CRC,GEO,4885cfab0,0.html>

<sup>37</sup> <http://police.ge/files/pdf/dzaladobis%20strategia%20saitze%20dasadebi.pdf>

## Ministers of the aforementioned ministers N152/n – N 496 – N45/n on Approving the Child Protection Referral Procedures

### Recommendation to the Ministry of Labour, health and Social Protection:

- Undertake adequate steps to improve efficiency of the social workers at social service centres in highland regions of Georgia especially in the field of identifying cases of violence against children and responding to them;
- Undertake measures to add a position of a psychologist to every social service centre in highland regions of Georgia and to ensure his/her effective work in identifying facts of violence.

### Recommendation to the Ministry of Internal Affairs:

- Develop effective mechanisms for identifying and protecting children victim of violence, as well as for effective proceedings

## 7. Realization of the Rights of the Minors with Disabilities

---

### *Existing Context*

An assessment of the quality of protection of the rights of the child by the representatives of the Public Defender of Georgia in the highland regions of Mestia, Akhmeta, Oni, Ambrolauri, Kazbegi, Khulo, Shuakhevi and Keda municipalities, revealed that minors with disabilities face serious problems in realizing their rights in particular to education and healthcare.

Granting a status of a person with disabilities seems particularly problematic especially in Mestia municipality. Meetings held with the representatives of the local social service agency, head of education resource centre of the Ministry of Education and Science and the staff of the resource centre as well as with the directors of the municipality school corroborated to this observation.

There are several underlying factors to this problem. First of all this has to do with low awareness level of child's legal representatives on pressing needs and best interests of children. On the other hand, legal representatives are also to blame as they often prevent a child from being assessed and granted a status. Yet another of the key contributing factors is inefficiency of the staff at local social service agency. For instance, interviews with Mestia based social workers made it clear that the latter had limited knowledge on the number and needs of the minors with disabilities living in their municipality. In addition, they do not volunteer home visits to minors reportedly with disabilities. Kazbegi municipality is better off in this regard as a local social worker visits minors with disabilities at their homes, assesses their needs and puts together plans for individual development.

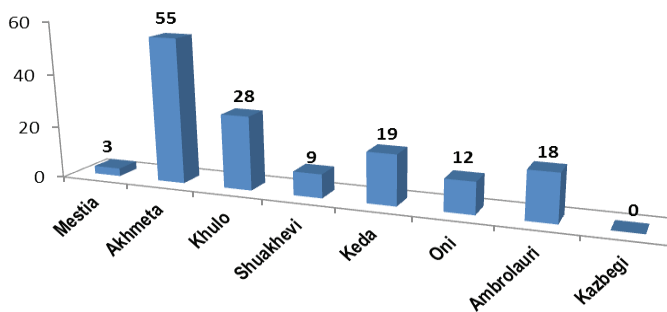
### **Realization of the rights for schoolchildren with disabilities/special education needs.**

Major problems in terms of exercising the right to education for students with disabilities and special needs in highland regions of Georgia, are linked to inadequate implementation of programmes of inclusive education, lack of teachers with special skills for inclusive education and poorly adapted infrastructure to accommodate the needs of students with special needs. For instance, six students with disabilities receive education in public schools of Kazbegi

municipality (in Stepantsminda, Gudauri and Sno). However, there are no specialized teachers in any of these schools. Nor is there adapted infrastructure to support inclusive learning process. The same situation is in Mestia municipality, where there are limited, if any, opportunities for children with disabilities to get engaged in social activities and educational processes.

During 2014 fifteen members of a multidisciplinary team of the Ministry of Education and Science were assessing the special education needs of schoolchildren residing in the regions of Mtskheta-Mtianeti, Kakheti, Racha, Samegrelo-Zemo Svaneti and Adjara. The assessment revealed the following statistics of granting a status of special education needs (See Table 5) :

### Number of Children with Special Education Needs



Based on the statistical data, there are no children with special needs in Kazbegi municipality, while there are only three children with such needs in Mestia municipality. In fact, there are 7 and 22 children with disabilities registered in Kazbegi and Mestia municipalities respectively. In addition, the method of home schooling is not adequately used in the country. In fact only 8 students with disabilities are homeschooled in Georgia.<sup>38</sup>

It should be noted that children with disabilities often experience problems while exercising their rights to healthcare. They find it difficult to access services and medicaments provided free of charge under the universal health insurance scheme. Lack of specialised medical personnel also creates barriers to exercise their right to health.

The Centre of the Child's Rights at the Public Defender's Office assessed a level of engagement of the local authorities in providing social assistance to children with disabilities. Some of the municipalities of the highland regions allocate a non-recurring lump sum to these children (see Table 6). However, this amount even if it is coupled with the state funded social allowance<sup>39</sup> is not enough to provide children with disabilities with adequate living conditions.

In singular cases above mentioned municipal assistance does not cover all minors with disabilities. For instance, in Akhmeta municipality's social assistance budget for 2014 covered the age group of up to 16 years<sup>40</sup> while **the budgets for 2014 in Shuakhevi, Keda and Khulo municipalities did not stipulate any kind of non-recurring social assistance for children with disabilities (see Table 6)**<sup>41</sup>

<sup>38</sup> The correspondence with the Ministry of Education and Science N19908/1, 12/12/2014

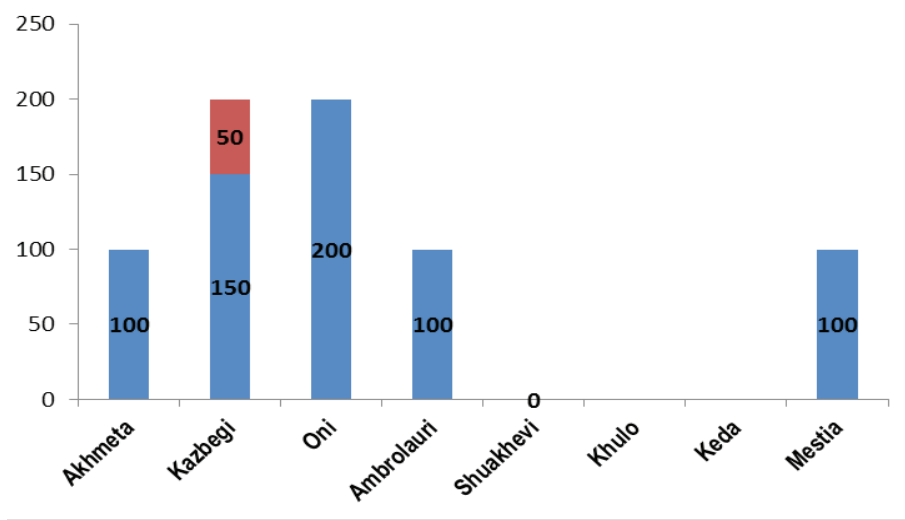
<sup>39</sup> See the Resolution 279 dated 23 July 2013 on Determining the Volume of Social Package

<sup>40</sup> Resolution 2 of the Akhmeta municipality of 20 January 2014 on Approving the Social Assistance Programme for the Akhmeta Municipality Residents for 2014 and its Budget art. 5.

<sup>41</sup> See Decree No14 of 25 December 2013 of Shuakhevi Municipality Council on Approving the Budget for 2014 of Shuakhevi

Table 6

The Amount of Non-recurring Financial Assistance to Children with Disabilities<sup>42</sup>



Note: Decree 16 of the Kazbegi municipality on Approving procedures for Rendering Additional Medical and Social Assistance from the budget to the registered residents of Kazbegi municipality and those residing permanently stipulates a non-recurring financial assistance in the amount of 160 GEL to persons with vision impairment of second category and 200 GEL and those who are unable to move independently.

Legal Framework

Both international instruments and domestic laws oblige the State to protect the rights of the minors with disabilities.

In the order of importance, the Georgian Constitution is the first instrument to mention. According to its Article 39, the Constitution of Georgia shall not deny other universally recognized rights, freedoms and guarantees of an individual and a citizen, which are not referred to herein but stem inherently from the principles of the Constitution. The mentioned article guarantees those rights that are enshrined in the constitutional principles of democratic, legal and welfare state. Protection of persons with disabilities is one and the foremost of these principles.

Even though the Constitution does not specifically refer to protection of their rights, however, due to the principles of the welfare state, the State is responsible for protecting, supporting and creating adequate conditions for those individuals who cannot actively participate in social life because of their limited abilities.<sup>43</sup>

Municipality, Decree No 4 of 14 April 2014 of Khulo Municipality Council on Amending Decree No15 of 20 December 2013 on Approving Khulo Municipal Budget for 2014; Decree No20 of 25 December 2013 of Keda Municipality Council on Approving Keda Municipal Budget for 2014.

<sup>42</sup> Decree No2 of 20 January 2014 of Akhmeta municipality on Approving the Social Assistance Programme for 2014 for the Population of the Municipality and its Budget; Decree No3 of 16 January 2014 of Oni Municipality on Approving Procedures for Social Assistance Allocation from the Oni Municipal Budget; Decree No32 of 1 September 2014 of the City of Ambrolauri Municipality Council on Approving Procedures for Allocating Social Assistance from the Local Budget; Decree No16 of Kazbegi Municipality Council on Approving Procedures for Allocating Additional Medical and Social Assistance from the 2014 Budget to Those Registered in Kazbegi Municipality and to Permanent Residents; Decree No14 of 25 December 2013 of Shuakhevi Municipality Council on Approving the Budget for 2014 of Shuakhevi Municipality; Decree No38 of 17 December 2013 of Mestia Municipality Council on Approving the Mestia Municipal Budget for 2014.

<sup>43</sup> The Commentary to the Georgian Constitution, Chapter 2: Citizenship of Georgia, Fundamental Human Rights and Freedoms, 2013. P. 483

In accordance to the Paragraph H, Clause 2 of the Article 3 of the Georgian Law on General Education, the State shall ensure implementation of inclusive education throughout the country. According to Clause 2(G), Article 33 of the same law, the State grants authorities to a general education institution to create conditions for inclusive environment.

One of the most important documents related to protection of rights of the minors with disabilities is a decree #76 of the Government of Georgia of 20 January 2014 approving of the *National Action Plan for 2014-2016 for Ensuring Equal Opportunities for Persons with Disabilities*. The action plan provides a list of measures to be undertaken in relations to minors including assessing children's needs, inclusion in rehabilitation programmes and ensuring realisation of the right to education.

The Georgian Government enacted a decree #445 on 9 July 2014 on Approving the State Action Plan for 2014 -2015 and Setting up an Interagency Coordination Council for Implementation of the State Action Plan on Human Rights Protection for 2014 – 2015. Article 20 of the document refers to the protection of rights for persons with disabilities including minors. From the measures to be taken harmonization of domestic legal framework and practice with international standards, awareness raising and ensuring an universal access to education, healthcare and social protection stand out with their importance.

The responsibilities outlined above were reflected in the Resolution No3337, 13 February 2004 of the Government of Georgia on Major Directions of Protection of the Rights of Children with disabilities in Georgia.

As for the international standards, the most significant instrument is the UN Convention on the Rights of the Child. According to Article 23, Clause 1 'States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community. According to the Clause 2 of the same article, States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension to the eligible child and those responsible for his or her care, of assistance which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child. Cause 3 the signatory countries must make sure that the child with disabilities has effective access to and receives education, training, health care and rehabilitation services.

The importance of universal implementation of inclusive education programmes as well as of universal healthcare coverage for minors with disabilities is also underlined by UN Committee on the Rights of the Child in its concluding observations of 23 June 2008, Paragraphs 42-46,<sup>44</sup> as well as in General Comments 9 of 2006 referring to the rights of the children with disabilities.

Yet another international document of utmost importance relating to the protection of the rights of the children with disabilities is the UN convention on the Rights of the Persons with Disabilities adopted in 2006. Article 4 of the document the signatory countries shall take responsibility to ensure effective realisation of human rights and fundamental freedoms by the persons with disabilities without being subjected to any kind of discrimination that may arise from their limited abilities.

### **Recommendation to the Ministry of Education and Science:**

- **Take all relevant measures to improve realisation of the rights of students with disabilities and special education needs, effectively implement inclusive education programme and adapt school infrastructure and classrooms to tailor to the needs of students with special education needs**

<sup>44</sup> <http://www.refworld.org/type,CONCOBSERVATIONS,CRC,GEO,4885cfab0,0.html>

### Recommendation to the Georgian Ministry of Labour, Health and Social Protection:

- Undertake effective measures to ensure that every minor with disabilities registered in highland regions of Georgia has an access to medical services provided under universal health insurance as well as to services of specialised doctors;
- Undertake appropriate measures to ensure that minors with disabilities registered in highland regions have an improved access to medicaments

### Recommendations to the Social Service Agency of the Ministry of Labour, Health and Social Protection of Georgia:

- Undertake relevant interventions to improve effectiveness of social service centres of the agency and build their capacity to identify minors living with disabilities, assess and address their needs and regularly monitor their situation;
- Create and update database of individual cases of minors with disabilities by the social service centres in highland areas of the country.

### Recommendations to Khulo, Shaukhevi and Keda Municipal Councils:

- Assess the needs of the minors living with disabilities on the territory of the municipality and adequate reflection of these needs in the local budget by respective authorities

### Recommendation to Akhmeta Municipality:

- Assess the needs of the minors with disabilities from 16 to 18 years registered in the municipality and adequately reflect their need in the local budget by the relevant services..

### Recommendations to Ambrolauri and Mestia Municipality Councils:

- Adequately reflect the needs of the minors with disabilities registered in the territory of the municipality and therefore, increase the amount of a non-recurring financial assistance

## 8. Implementation of Foster Care and Reintegration Sub-Programmes in Georgia's Highland Regions

---

### *Current Situation*

An assessment of the rights of the child by the representatives of the Public Defender in highland regions of the country, namely in the municipalities of Akhmeta, Oni, Ambrolauri, Kazbegi, Khulo, Shaukhevi and Keda, revealed some gaps in implementation of foster care and reintegration sub-programmes.

Implementation of foster care and reintegration sub-programmes is not effective in Georgia's highland regions. The number of children enrolled in these sub-programmes totals 16 from all eight municipalities, The number includes three minors with disabilities (see Table 7). In spite of a dire need, foster care sub-programme **is not being implemented in Mesita, Khulo and Shaukhevi municipalities** partially because there are no registered foster families in these municipalities.

As for the sub-programme for reintegration into biological families, it should be noted that overall 12 families and 21 children are involved in it from eight municipalities (see Table 8).

The effectiveness of Social Service Agency's local centres represents one of the key challenges



for the implementation of the sub-programmes for foster care and reintegration. Social workers fail to implement frequent planned/unplanned visits to foster families (or biological families in case of reintegration) mostly due to the fact that social service centres do not enjoy the benefits of special transportation which is only accessible to only regional coordination centres. Therefore, social workers often have to cover transportation fees at their own expenses and subsequently they may not always afford frequent visits to the families. This problem is coupled with issues related to territorial accessibility typical for highland and high mountainous regions especially in winter thus making a job of a social worker impossible to do.

Impediments to social workers activities ultimately translate into problems related to effective assessment of the needs of the minors in foster care/reintegration into biological families sub-programmes and planning adequate responses.

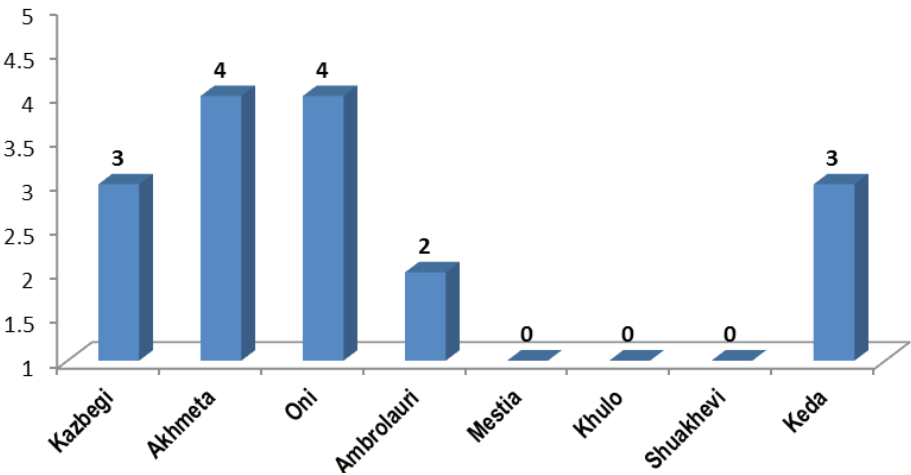
**L.M’s and L.P’s Case**

The case of L.M and L.P can be considered as a typical example of flaws in the implementation of foster care sub-programme. Further to monitoring in one of Georgia’s highland municipalities , the representatives of the Public Defender were provided with the information on minors with disabilities currently placed in foster families together with two other minors.

Examination of the case has traced serious gaps in activities carried out by the Social Service Agency’s local territorial unit. A social worker failed to fulfil his/her responsibilities determined by the Order on Adoption and Foster Care and the Law of Georgia on Adoption and Foster Care. To put it more precisely, s/he failed to systematically visit the foster family resulting in failure to identify the needs of the minors. Further to the correspondence by the Child Protection Centre at the Public Defender’s Office, it was decided to place L.M in another foster family. However, the problem still remains unresolved as there no other family registered for foster care in the municipality.

**Table 7**

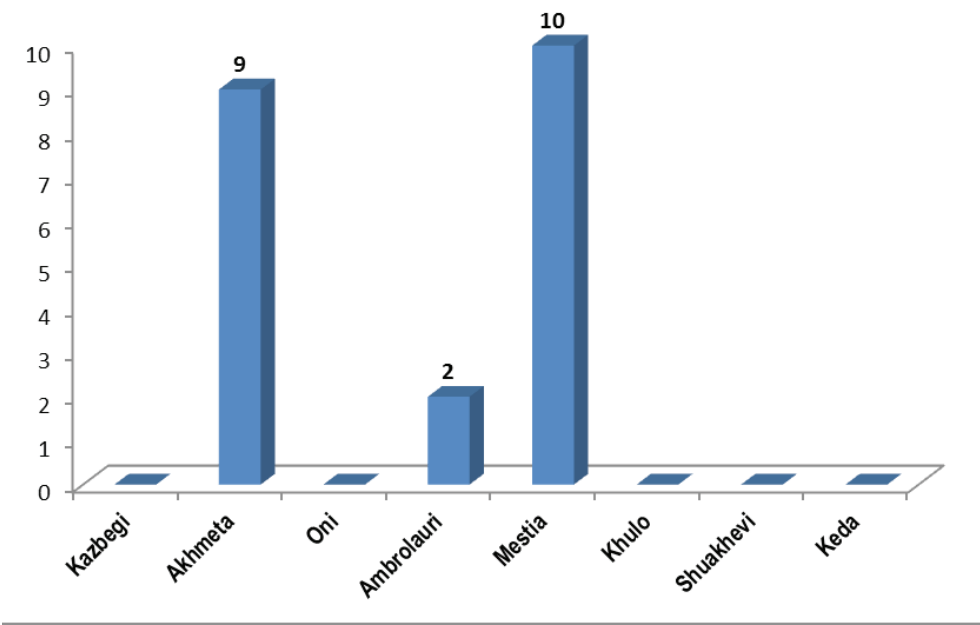
**Number of Children in Foster Care<sup>45</sup>**



<sup>45</sup> The letter N 04/99066 from the Department for Guardianship-Care and Social Programme of the Social Service Agency at the Ministry of Labour, Health and Social Protection of Georgia dated 11 December 2014.

**Table 8**

**Number of Children in Reintegration Programme <sup>46</sup>**



**Legal Framework**

The institute of foster care and integrations of the child into his/her biological family represents one of the most complex and specific issues in the field of child’s rights. This issue is regulated by a number of state and international acts.

Among the domestic regulations the most important is the Law on Adoption and Foster Care<sup>47</sup>. Article 11 of the mentioned law determines the competences of guardianship and child care authorities in foster care placement including development and monitoring of the implementation of the child’s individual development plan, living standards of the minor, care, development , healthcare and monitoring of carrying out responsibilities of adopted parent(s).

Order 51/O of 26 February 2010 by the Minister of Labour, Health and Social Protection on Approving Procedures and Forms of Foster Care Placement focuses on the competences of territorial units of the legal entity of public law Social Service Agency. According to the order a social worker shall visit a foster family either upon prior notice or without it at least once a week during the first months of the child’s placement in a foster family. After one month from the child’s placement, a social worker shall visit a foster family at least one a month during the period outlined in an agreement between the Agency and a foster family.

Resolution 291 of 14 April 2014 by the Government of Georgia is an important document which approves the State Programme on Social Rehabilitation and Childcare for 2014. Addendum 1.9 of the document regulates a sub- programme on foster care. The latter stipulates, inter alia, measures which aims to support raising a child deprived of family care in an environment close to that of family, ensure care of a child relevant to his or her age and abilities and tailored for a child’s individual development and needs, psycho-social support to a child and preparation for his or her independent life, reinforce a child’s contact with a biological family unless it is

<sup>46</sup> Ibid



against a child's best interests.<sup>47</sup>

Another important document is the Resolution 445 of 9 July 2014 of the Government of Georgia on Approving Human Rights Action Plan (for 2014-2015) and Setting Up a Coordination Interagency Council and Approving its Statute for Implementation of the Human Rights Action Plan (for 2014-2015). Article 13 of the aforementioned document stipulates strengthening a mechanism for monitoring the rights of the child and coordination, which, on its turn, envisages developing and perfecting regulatory norms for foster care and reintegration sub-programmes.

According to Article 9 of the UN Convention on the Rights of the Child, states parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance, with applicable law and procedures, that such separation is necessary for the best interests of the child. Article 20 of this instrument states that a child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the state. Article 39 of the Convention holds that recovery and reintegration of a child shall take places in an environment which fosters dignity of a child.

In Paragraph 37 of its Concluding Observations of 23 June 2008 the UN Committee on the Rights of the Child highlighted the need for improving procedures stipulated by the sub-programmes for foster care/reintegration.<sup>48</sup> Paragraph 34 of the same document underlines the need for effective social work in this area.

#### **Recommendation to the Ministry of Labour, Health and Social Protection of Georgia:**

- **The Ministry should take adequate measures to ensure that local social service centres of the Social Service Agency are provided with transportation**

#### **Recommendation to the Social Service Agency of the Ministry of Labour, Health and Social Protection:**

- **Take adequate steps towards expediting the work of the social workers within the foster care/reintegration sub-programme**
- **Take relevant measures to seek, evaluate and register potential foster families in the highland regions of Georgia**

<sup>47</sup> The Resolution 291 of 14 April 2014 of the Government of Georgia on Approving the State Action Plan for Social Rehabilitation and Child Care for 2014, Annex 1.9, M.2.

<sup>48</sup> <http://www.refworld.org/type,CONCOBSERVATIONS,CRC,GEO,4885cfab0,0.html>