

**Country session: Georgia OPAC & OPSC**

**Date of session: 17-18 September 2019 (82<sup>nd</sup> session)**

**Context:** The Committee notes that Abkhazia, Georgia and the Tskhinvali region/South Ossetia, Georgia, remain outside the effective control of the State party, which is a serious obstacle to the implementation of both Optional Protocols in those regions.

**Background information**

[OHCHR press release](#)

**Webcast:** [Part 1](#) and [Part 2](#)

[Audio file](#)

**Reporting**

**Reporting methodology**

Regular reporting procedure

Simplified reporting procedure

Concluding Observations with urgent measures

**State report**

<a href="#">Common core document</a>	
<a href="#">Initial submission</a>	12 November 1999
Updated document	-
Annexes	-

<a href="#">OPAC</a>	
No. of report	1 <sup>st</sup>
Due date	3 September 2012
Submission	24 January 2017

<a href="#">Written replies</a>	
Submission	9 September 2019
Due date	15 May 2019

<a href="#">OPSC</a>	
No. of report	1 <sup>st</sup>
Due date	28 July 2007
Submission	24 January 2017

<a href="#">Written replies</a>	
Submission	9 September 2019
Due date	15 May 2019

**Public reports from children's rights defenders**

<a href="#">Alternative reports and additional information</a>	
<b>NGOs</b>	<ul style="list-style-type: none"> <li>Juvenile Justice Advocate (OPAC)</li> <li>ECPAT International (OPSC)</li> </ul>
<b>NHRIs</b>	NHRI Office of the Public Defender (OPSC)

## State delegation

The [delegation](#) of Georgia was small and headed by the Deputy Minister of Foreign Affairs of Georgia. The delegation consisted of representatives of the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs, the Parliament of Georgia, the Georgian State Security Service, the Ministry of Justice, the Ministry of Education, Science, Culture and Sport, the Ministry of Internal Affairs, the Ministry for Reconciliation and Civic Equality, and the Permanent Mission of Georgia to the United Nations Office at Geneva.

## Committee's Task Force members

Name & Last Name	Country
<b>OPAC</b>	
<b>Gehad Madi</b>	<b>Egypt</b>
<b>Clarence Nelson</b>	<b>Samoa</b>
<b>OPSC</b>	
<b>Hynd Ayoubi Idrissi</b>	<b>Morocco</b>
<b>Velina Todorova</b>	<b>Bulgaria</b>

## Dialogue description

### i. Character of the dialogue

The dialogue was constructive and in depth.

### ii. General assessment made by the Committee

The Committee found the dialogue on the OPSC productive and commended the State party for its large number of initiatives in a short period although some gaps remained. As to the OPAC dialogue, the Committee expressed its satisfaction for the constructive and transparent discussion. In the same sense, the Committee reiterated the importance to have an explicit criminalization of the recruitment of children by non-state armed groups.

### iii. Main issues discussed:

#### **OPAC**

- **General measures of implementation:** The Committee commended the State party for having established the minimum age of recruitment to 18 and however noted that the recruitment of children below 18 has not been explicitly criminalized as required by OPAC; it asked how much time it will take the government to rectify this. The delegation responded that the Georgian regulations are in accordance with the State party's obligations under the OPAC and that requirements of both voluntary and compulsory recruitment are in line with OPIC. The delegation added that the rights enshrined in the OPAC applies to all individuals under the jurisdiction of the State party without discrimination.
- **Prevention:** The Committee asked a number of questions on children reportedly recruited in the Pankisi Gorge area and children who have gone to Syria and returned back to Georgia. First, the Committee noted that the State party's report affirms that there are no cases of children connected to terrorist groups while it has received different information; it therefore asked the delegation to comment on this. The delegation assured the Committee that the fight against terrorism is one of the key priorities of the government and that the State party is a low-risk according to the Terrorism Index. The delegation responded that there is a new Counter-Terrorism Strategy has been adopted recently, which outlines measures to be taken to combat terrorism and provides for cooperation with NGOs and the Ombudsman.

The Strategy puts an emphasis on prevention, especially children as they are one of the main targets of terrorist and extremist groups' recruitment campaigns. The delegation explained that the conflict in Syria has been a subject of interest for the Government; including early identification of children in the conflict zone. The delegation regretted that some of its citizens from Pankisi Gorge region have fled the country with their families.

- Children and Military schools:** The Committee noted that the State party's report states that a person under 18 years can enrol in a High Military Institution as an exception and asked about the exact age for such an exceptional reenrolment and the reasons as to why the legislation provides for such exception. The delegation responded that the National Defence Academy, -as an instance of a military school- does not solely provide for military education but also high civilian education. Since every citizen after secondary can decide to apply to such school, it is theoretically possible for an individual under the age of 18, who just graduated to apply for such school with the condition of providing parent's consent. About the enrolment of children after their 9<sup>th</sup> grade -around 15 years- in the cadets, the Committee was seriously concerned that these are trained on the use of weapons. Moreover, the Committee inquired the reasons as to why these pupils in the Cadets institutions if they are considered as civilians and not militaries -as per the State party's report - are trained to the use of the weapons. Are they subjected to military discipline? The delegation explained that under the Ministry of Defence, there's a specialized school "the Cadettes military Lyceum"; which provides secondary school activities and whose students have no military status. Although they are trained on the use of firearms, Cadets are not members of the military; they do not wear military uniforms. As Cadets are civilians, they are not subjected to military discipline but to a specific Code of Conduct. The delegation added that cadets have to study the military duties -including courses on international humanitarian Law and the safe use of weapons with simulation and no live arms when they are below 16 years of age- in case they wish to become members of the Georgian military forces.
- Protection:** The Committee asked about the measures taken by the government on the recruitment of children in ISIS or in any other armed groups, particularly in the Pankisi region. The Committee expressed the wish to better understand the situation in Georgia while fighting the radicalization of children as families with children have travelled to Syria. The delegation replied that for the recruitment of children in Pankisi Gorge, there has been arrests and convictions, with no juvenile among them. The Committee asked clarification on the fact that there exists a program for returning migrants to Georgia, which does not include children who are victims of armed of armed conflict abroad but can be extended to them; it then asked if there are measures in place to deal with children's reintegration who return from abroad. The delegation gave an example of three children who returned from Iraq; three children had gone to Iraq with terrorist organizations and had been living in Baghdad prison. The Georgian government has intervened, and the children have been rehabilitated and reintegrated in Georgia.
- Sanctions:** On a question of the existing criminal sanctions of recruitment and participation of individuals under 18 years in armed conflicts, the delegation replied that the punishment is an imprisonment from 9 to 13 years. In the Criminal Code, there also exist a number of legal provisions on the involvement in terrorist activities such as the imprisonment from 5 to 10 years and can go further if committed with aggravated circumstances.

#### OPSC

- General measures of implementation:** The Committee commended the State party with regards to the progress made in implementing the Convention in Georgia although the violations under the OPSC remained of a concern. While the Committee asked about the mechanisms in place to ensure adequate coordination of the OPSC among the different stakeholders, the delegation replied that an Inter-agency Commission has been established in 2016 to ensure the implementation of the CRC and its Protocols. The Committee also requested more information about what actions have been done to combat sale of children, child prostitution and child pornography. The delegation replied that there exists a National Human Rights Strategy -which contains 26 chapters including one on children's rights-. The strategy is implemented by translating it into a well-structured action plan, which includes timelines, indicators and information about the international bodies (CRC, UPR) that have recommended

each activity outlined in the plan. The Committee inquired about the level of awareness of the OPSC, notably among children and the ones who work with children in vulnerable situations. The delegation replied that human rights and civil education have been integrated in the school curriculum and that the number of psychologists, social workers, psychiatrists has increased. On data collection, the delegation clarified that the Secretariat of Inter agency Council on combatting human trafficking covers the sale of children and collects and analyses the data which gives the government an idea of the trends and which areas to put more accent.

- **Prevention:** The Committee commended the State party for referring to risk factors such as poverty and asked what measures have been taken to address them. The delegation responded that fighting poverty in general and child poverty in particular is on top of its agenda and that significant measures have been taken to support vulnerable families with children through Targeted Social Assistance (TSA). The Committee also asked about sexual exploitation in the area of tourism and travel and efforts made to protect children from online exploitation. The delegation responded that forced labour and trafficking is one of the priorities of the Labour inspection system; on which system the government is working to make it more transparent and efficient as well as digitalized. Activities under the anti-trafficking State fund have been conducted to protect children in street situations.
- **Prohibition:** The Committee commended the State party for its new legislation and for providing new services. The Committee noted that the government has put much efforts and achieved results on human trafficking although the OPSC does not only deal with this phenomenon. Moreover, a Committee member noted that the Georgian criminal Code does not explicitly prohibit the sale of children and emphasized that sale does not always takes place in the context of trafficking.
- **Prosecution:** While noting that the state party did not envisage extra-territorial jurisdiction with regards to child victims, the Committee inquired if the Georgian police would not take action if for instance, a Georgian child was a victim of sale in a foreign country. The Committee also showed concern about the issue of double criminality which is not adequately addressed in the Georgian legislation. The delegation responded that exists a legal framework to request a foreign State to investigate serious or grave crimes against Georgians; the condition for this request is when the crime is committed against the interest of the state, including the crime against the well being of Georgian citizens.
- **Protection:** The Committee raised concern about whether there exist mechanisms available for children to report violations under the OPSC; it also asked which efforts were made to combat culture barriers for parents and children to report. The delegation responded that there exists a hotline through which children can obtain counselling in seven languages on matters related to domestic violence and trafficking. The Committee was concerned about the process of identification of the victim could lead to re-victimization. The delegation responded that to prevent re-victimization, the government ensures that each state official who deals with children is trained to understand the specific needs and how they might vary based on a number of factors such as age.

## Recommendations of the Committee

In its Concluding Observations, the Committee drew attention to the need of measures concerning the following areas:

### OPAC

- **General measures of implementation:** The Committee recommends the State party to ensure that the Interagency Commission has a sufficient authority and a strong mandate and is responsible to coordinate all activities related to the implementation of the OPAC at the cross-sectoral, national, provincial and local levels; to ensure that the Commission is supported by the necessary human, technical and financial resources for its effective operation. The Committee also urges the State Party to ensure that sufficient and targeted resources, with relevant tracking mechanisms, are allocated for the effective implementation of all areas of the Optional Protocol; to enhance its efforts to make the principles and provisions of the OPAC widely known to the public at large, in particular children and their families;; To establish a mechanism for the comprehensive collection of data, disaggregated by

sex, age, nationality and ethnic origin, on all issues under the Optional Protocol, including on the number of children attending military education facilities.

- **Prevention:** The Committee encourages the State party to implement the National Strategy to Fight against Terrorism to tackle the root causes, including social, economic and ideological factors, and initiate effective campaigns, involving the media and community and religious leaders to prevent cases of radicalization and recruitment of children by terrorist groups, particularly in areas such as Pankisi Gorge; to increase its efforts to ensure the rehabilitation and reintegration of children who return from territories where armed conflicts were ongoing. The Committee recommends that the State party take measures to ensure that high military education students below the age of 18 years are exempt from military training which involves handling of firearms and military discipline; to closely monitor the program of such institutions and ensure that it is in compliance with the Optional Protocol; to ensure that the curricula of the LEPL Cadet Military Lyceum is in line with the general educational system and that students are not trained in the use of weapons and live ammunition; it also recommends that the students in the Lyceum have access to independent complaints mechanism.
- **Prohibition and related matters:** The Committee recommends that the State party explicitly criminalize the recruitment and use of children under 18 years of age in hostilities by armed forces, by introducing a relevant provision in its Criminal Code with a punishment commensurate to the gravity of the crime; To amend its Criminal Code in order to explicitly prohibit and criminalize the recruitment of children under the age of 18 years by non-State armed groups; to introduce aggravated criminal liability under articles 223 and 3271 of the Criminal Code on illegal formations, including recruiting persons to join such formations, and on recruitment of a person into a terrorist organization when such offences target children below the age of 18 years. On extraterritorial jurisdiction and extradition, the Committee urges the State party to (a) establish extraterritorial jurisdiction over acts prohibited under the Optional Protocol, including the conscription or enlistment of children into armed forces or non-State armed groups, or their use to participate actively in hostilities, if such crimes are committed abroad by or against a Georgian national or a person who otherwise has a close link with the State party, without the criterion of double criminality; and to (b) Ensure that extradition treaties concluded with other State parties to the Optional Protocol include all offences under the Optional Protocol.
- **Protection, recovery and reintegration:** The Committee recommends that the State party to : (a) Provide systematic training on the early identification of children who may have been involved in armed conflicts abroad to all professionals working with or for children, particularly to immigration personnel, law enforcement officers, judges, prosecutors, social workers and medical professionals; (b) Take all necessary measures, including careful assessment of the situation of children who may have been recruited to serve in armed conflicts abroad, to reinforce the legal advisory services available to them; and (c) Provide immediate, culturally responsive, child-sensitive and multidisciplinary assistance, to ensure that such children receive physical and psychological recovery and have access to rehabilitation and reintegration programmes.

#### OPSC

- **General measures of implementation:** The Committee recommends that the State party ensure that all acts and activities referred to in the Optional Protocol are fully covered under its criminal law, including all forms of sale of children; To ensure that its Strategy and national plans of action on human rights include measures for addressing specifically all issues covered under the Optional Protocol and provide adequate human and financial resources for their implementation; To strengthen its training and dissemination activities; To establish tracking mechanisms and ensure the allocation of resources adequate for combating the sale of children, child prostitution and child pornography, preventing offences under the Optional Protocol and providing appropriate care for child victims, and present information in this regard in its next report to the Committee.

- **Prevention:** The Committee encourages the State party to strengthen its efforts to identify and detect children at risk of falling victim to offences under the Optional Protocol; to take comprehensive measures to address the root causes for children at risk of becoming victims to offences under the Optional Protocol; to strengthen its social protection measures and mechanisms targeting children at risk of falling victims to such offences; To introduce additional safeguards to prevent the use of surrogacy for sale of children. The Committee urges the State party to regulate and engage with the tourism industry in the prevention, monitoring and reporting of cases of sexual exploitation of children in travel and tourism; To widely disseminate the World Trade Organization Global Code of Ethics for Tourism among travel agents and tourism agencies and to encourage those enterprises to become signatories to the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism. It also recommends enhancing corporate social responsibility, involving Internet service and content providers, telecommunications, the travel and tourism industries and the media, in order to strengthen child safety online and to prevent child sexual exploitation in travel and tourism. Moreover, the Committee recommends that the State party adopt a national response for preventing and addressing online child sexual exploitation and abuse, consisting at a minimum of: (a) A national policy to prevent and respond to online child sexual exploitation and abuse through an appropriate legal framework, a dedicated coordination and oversight entity, and specific analysis, research and monitoring capabilities; (b) The adoption of protocols between law enforcement and ICT companies to combat online child abuse and exploitation. (c) A strategy for preventing online child sexual exploitation and abuse, including a public education programme to raise awareness, mandatory school education on online behaviour and safety, and knowledge and reporting of online child sexual exploitation and abuse offences; (d) A dedicated, proactive, responsive and victim-focused criminal justice system with a trained police force, prosecution and judiciary; management of offenders to prevent reoffending, nationally and internationally; and a national database linked to the INTERPOL database.
- **Prohibition:** The Committee recommends that the State party define and criminalize the sale of children, in conformity with articles 2 and 3 of the Optional Protocol, and that it not limit the definition to cases of trafficking in children, in particular, to define and criminalize: (a) The sale of children, including for the purpose of sexual exploitation and forced labour; (b) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing of child pornography; (c) Online child sexual exploitation and grooming of a child above 16 years of age. On extraterritorial jurisdiction and extradition, the Committee recommends that the State party take all the steps necessary, including removal of the requirement of double criminality, to ensure that its domestic legislation explicitly enables it to establish and exercise extraterritorial jurisdiction over all offences under the Optional Protocol; to consider using the Optional Protocol as a legal basis for extradition in respect of such offences in the absence of bilateral extradition treaty with other State parties.
- **Protection:** In the light of article 9, paragraph 3, of the Optional Protocol, the Committee recommends that the State party: (a) Fully implement all the initiated legal and administrative measures in order to effectively protect child victims of offences under the Optional Protocol; (b) Establish mechanisms and procedures for the early identification of child victims and ensure that training on children's rights, child protection and child-friendly interviewing skills for those responsible for such identification is comprehensive and regular; (c) Provide all children with free or subsidized legal aid and the support of child psychologists and social workers, and ensure they have access to child- and gender-sensitive complaint mechanisms and appropriate procedures for seeking, without discrimination, compensation and redress; (d) Increase the number and geographical coverage of social workers and ensure that there is no room for conflict of interests in the functions and mandate of the Social Service Agency which should be guided by the best interests of the child.



## Next State report

CRC	
No. of report	5 <sup>th</sup> and 6 <sup>th</sup>
Due date	1 July 2022

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