



## Special Report

On the Rights of Children in NNLE Javakheti Ninotsminda St. Nino Boarding School

Tbilisi

2021

## Acronyms

UN – United Nations

UNCRC– United Nation’s Child’s Rights Committee

CRC – Child’s Rights Committee

IDP – Internally Displaced People

NNLE – Non-entrepreneurial, Non-commercial Legal Entity

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## Introduction

Every child has the right to be grown up in his or her own family, and if this is not possible or if this is contrary to his or her interests, the State shall ensure that he or she is transferred to a form of care which is as close as possible to the family environment.<sup>1</sup> Large institutional facilities that still operate in Georgia are fundamentally inconsistent with this principle and run counter to the best interests of the child.

The present special report deals with a number of human rights violations and alleged violence against children at NNLE Javakheti Ninotsminda St. Nino Boarding School,<sup>2</sup> which once again clearly indicates the dire condition of state care in the country.

The Public Defender's Office constantly examines the situation in the Ninotsminda Boarding School, the rights of its former beneficiaries and the needs of children currently living in the institution. In this regard, the Public Defender has communicated with all the relevant agencies, national and international child protection mechanisms. It is noteworthy that the monitoring results explicitly indicate systemic violations of the rights of children and behavior that may be equated with torture, degrading and humiliating treatment of children over the years. It is also noteworthy that the institution failed to protect the health of children, to care for their psycho-emotional condition, to provide proper food, to ensure age-appropriate development and education. Children were virtually isolated from the outside world, which ultimately made them particularly vulnerable to violence and neglect, which affected the aspects of their readiness for independent living.

The present special report discusses each action taken by the Public Defender's Office to protect beneficiaries of the Boarding School and the results achieved. In addition, the report provides information on the living conditions and protection of the rights of children obtained through communication with all the relevant agencies, cooperation with national and international mechanisms, examination of criminal case materials, interviews with current and former beneficiaries of the institution, as well as with social workers and representatives of the Boarding School, and inspection of physical environment in the building. The special report also includes recommendations issued by the Public Defender to all the relevant state agencies relating to the protection of the rights of former and current beneficiaries of the Ninotsminda Boarding School.

### 1. General information about the Boarding School

#### Legal regulation

In 2016, after the new edition of the Law of Georgia on Licensing of Educational Activities took effect, licensing of all child care institutions became mandatory. Based on the above, the Javakheti Ninotsminda St. Nino Boarding School, in accordance with the Law of Georgia on Licenses and Permits and the Law of Georgia on Licensing of Educational Activities, was granted a care license by the relevant agency of the Ministry of Labour, Health and Social Affairs in 2016. This implies that the institution must meet the requirements set by the State Child Care

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<sup>1</sup> United Nations Convention on the Rights of the Child, 1990, Preamble; See also the Code on the Rights of the Child, 2019, Articles 24, 29.

<sup>2</sup> Old name of the Boarding School: NNLE Javakheti Ninotsminda St. Nino Boarding School of the Patriarchate of Georgia for the Homeless, Orphans and Children without Parental Care.

Standards and is subject to the child care legislation of Georgia, including the Code on the Rights of the Child and the relevant monitoring mechanisms.<sup>3</sup> Violation of this requirement shall result in the liability under the Law of Georgia on Licences and Permits, which may include fining or revocation of the licence through simplified administrative proceedings.<sup>4</sup> Subsequent chapters of the report address these very issues, including violations of specific Child Care Standards and hindrances to the monitoring mechanism.

### Information about the Ninotsminda Boarding School

NNLE Javakheti Ninotsminda St. Nino Boarding School is a residential child care institution, which has been licensed since 2016.<sup>5</sup> The Boarding School provides 24-hour service to juveniles under state care. Children were last admitted to the Boarding School in 2016 (127 children). Throughout this period, a psychologist from LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking worked with only 19 children living in the Boarding School.<sup>6</sup>

According to the data of May 2021, in 2016-2021, a total of 71 children were transferred from the Boarding School: 36 children returned to their biological families, 24 reached full age; a caregiver was assigned to 1 child; 4 children were placed in foster care, while 6 children were transferred to a small group home.<sup>7</sup>

According to the information received from the State Care Agency, as of May 28, 2021, when the Public Defender's representatives were not allowed to enter the Boarding School, there were 56 children in the institution, 8 of which were children with disabilities.<sup>8</sup> It is noteworthy that the social workers of the State Care Agency are present in the facility for 24 hours and assess the needs of children. However, despite their six-month efforts to transfer beneficiaries to biological families or, if this is impossible, to an alternative, family-like care service, as of September 13, 2021, when Public Defender's representatives monitored the institution, there were 14 children living in the Boarding School,<sup>9</sup> while as of November 22, 17 children remain in the Boarding School, 15 of whom actually live in the facility.<sup>10</sup> It should be noted that one of the children living in the Ninotsminda Boarding School,

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<sup>3</sup> Law of Georgia on Licensing of Educational Activities, 2016, Article 6.

<sup>4</sup> Law of Georgia on Licenses and Permits, 2005, Article 22.

<sup>5</sup> Correspondence No. 07/4344, 28/05/2021 of LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking.

<sup>6</sup> Ibid.

<sup>7</sup> Correspondence No. 07 / 4344 - 28/05/2021 received from the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking.

<sup>8</sup> Despite the official dissemination and provision of information on the number of children registered at the institution, the visit and examination by the Public Defender's representative revealed that the number of children did not correspond to the reality. In particular, there were more children in the institution during the given period than reflected in the official sources.

<sup>9</sup> One of the children was undergoing rehabilitation after medical intervention in Tbilisi, where she was accompanied by a caregiver for 24 hours.

<sup>10</sup> On September 13 and November 22, 2021, Public Defender's representatives monitored the Ninotsminda Boarding School, during which they received information about the number of children living and registered in the facility, both from the employee of the facility and representative of the territorial unit of the State Care Agency. As of September 13, 2021, there were still 24 children officially registered in the Boarding School, and 14 of them actually lived in the facility. According to the monitoring conducted on November 22, 2021, 17 children are registered in the Ninotsminda Boarding School, 2 of them are virtually no longer living in the facility, procedures for discharging them from the facility are currently underway.

at the time of the monitoring on November 22, has disability status, which was granted in 2015. All the children living in the institution are of school age and go to Ninotsminda Public School No. 4.<sup>11</sup>

The Ninotsminda Boarding School has been repeatedly fined for violating the provisions of Technical Regulation on Child Care Standards and license conditions. In particular, the monitoring conducted in 2017 and 2018 by LEPL Regulation Agency for Medical and Pharmaceutical Activities revealed violations relating to the absence of a report on compliance with license conditions, provision of food, leisure activities, protection against diseases and compliance with the limitation on maximum number of children in a room.<sup>12</sup>

It is alarming that a social worker of the State Care Agency, due to the decision of the head of the Boarding School, had been unable to conduct monitoring in the facility for 11 months, from June 2020 to April 2021. The social worker was given the opportunity to enter the facility only on April 26, 2021, after the Public Defender made the problem public and appealed to the relevant agencies.<sup>13</sup> However, even after that, the visit of the social worker was of a formal nature, she was unable to fully monitor the institution, examine documentation or interview children individually, without the involvement of caregivers.

The Public Defender's monitoring results has also indicated systemic violations of the rights of the child and inadequate living conditions in the Boarding School over the years. In particular, the special reports of the Public Defender issued in 2015 and 2018 state that LEPL Social Service Agency does not conduct a full monitoring of the protection of the rights of children living in boarding schools. It has been repeatedly indicated in the reports that children in boarding schools often did not have the opportunity to express their opinions freely. Restrictions, institutional arrangement of the facility and the high number of children are less likely to create an inclusive family-like environment.<sup>14</sup> In addition, the forms of punishment and the strict rules of upbringing are fundamentally against the interests of the child. Problems with the production of mandatory documentation and allocation and maintaining of information were also identified in 2015 and 2018.<sup>15</sup> The monitoring conducted by the Public Defender's Office also revealed that there were issues concerning beneficiaries' mental health, although they were not properly assessed or provided with necessary services.<sup>16</sup>

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<sup>11</sup> Correspondence No. 07/4344, 28/05/2021 of the Agency for State Care and Assistance for Victims of Trafficking; as well as information received as a result of the monitoring conducted on November 22, 2021 in the Boarding School and Ninotsminda Public School No. 4.

<sup>12</sup> Correspondence No. 01/6875 of the Ministry of Internally Displaced Persons from the Occupied Territories of Georgia, Labour, Health and Social Affairs, 13/05/2021.

<sup>13</sup> The first visit to the Ninotsminda Boarding School after 11 months of inactivity by the social worker of the Ninotsminda territorial unit of the State Care Agency, before June 2021, when the social workers of the State Care Agency started working for 24 hours in the facility.

<sup>14</sup> Special Report on the Monitoring of Child Care System - Efficiency of Alternative Care, 2018, p. 45. Available at: <https://ombudsman.ge/res/docs/2019051414365614815.pdf> [last accessed: 01/06/2021].

<sup>15</sup> Ibid, p. 46. See also the Report of the Public Defender of Georgia on the Rights of Children in the Boarding Schools of the Georgian Orthodox Church and the Muslim Confession, 2015, p. 11, available at: <https://ombudsman.ge/res/docs/2019040514142996306.pdf> [last accessed: 01/06/2021].

<sup>16</sup> Ibid. p 14.

## Current situation in the Ninotsminda Boarding School

As already mentioned, as of May 2021, 8 children with disabilities lived in the facility. However, during the monitoring conducted on September 13, 2021,<sup>17</sup> Public Defender's representatives were informed by the staff of the institution and were also explained during numerous communications with the representatives of the State Care Agency that none of the children living in the institution had a status of a person with disability. As of September 13, 2021, as a representative of the facility noted, one child with a physical disability was still living in the Boarding School but did not have status of a person with disability. This was confirmed by the social worker of the territorial unit of the Agency as well. The Public Defender's Office examined the case, communicated with the State Care Agency and requested documentation of the child,<sup>18</sup> as a result of which, it was established that the child was assessed on January 28, 2020 and was granted status of a person with disability on the same date. The decision to transfer the child from the Ninotsminda Boarding School to another form of care was made by the Regional Council of the State Care Agency only on September 24, 2021, while according to the decision of Tbilisi City Court, children with status of a person with disability should have been immediately removed from the Boarding School from June 5, 2021.

It is also disturbing that on November 22, 2021, during the visit paid by the Public Defender's representatives to the Boarding School, as a result of studying the individual development plans of the children, it was revealed that another child, who was granted disability status in 2015, still remained in the facility.<sup>19</sup> The child's condition was last assessed on 31 January 2020.

According to the assessment of the Public Defender's Office, after the changes carried out in the management of the Boarding School, the health condition of children was checked by the relevant health specialists. In addition, the institution compiled a four-component menu and according to the staff of the facility, the opinion of children was taken into account in this process.

The facility provides children with season-appropriate clothes and girls are no longer prohibited from wearing pants. Children were given computers and entertainment equipment. It is important that children are also provided with recreational opportunities, in particular, they were taken to a seaside resort in September 2021. In addition, according to the available information, children are given the opportunity to go to school independently and to leave the premises of the institution and socialize, in accordance with their age and safety measures. Despite this, the number of challenges still remain, both in terms of processing the documentation of the caregivers and beneficiaries and assessing and meeting children's individual needs, including bio-psycho-social needs. Children living in the institution need continuous involvement of specialists of supportive professions, including a psychologist, which has not been ensured so far. The psychologist invited by the Boarding School has visited the institution twice in total. The State Care Agency failed to meet children's needs as regards to provision of psychological or psychiatric services, despite the fact that the Agency itself identified such a needs.

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<sup>17</sup> During a visit paid on September 13, 2021, quarantine was in place at the facility due to the possible case of Covid-19 infection, which prevented the inspection of the children's documentation on the spot.

<sup>18</sup> Correspondence No. 07-22-3-39489 of the Agency for State Care and Assistance for Victims of Trafficking, 29/10/2021.

<sup>19</sup> The juvenile's condition was last assessed on 31 January 2020.

## Measures implemented by the Public Defender's Office

Since April 2021, after the Public Defender's Office, the major independent body monitoring the enjoyment and protection of the rights of the child, was not allowed to enter the facility, in order to protect the interests of the beneficiaries of the Boarding School, the Office appealed to all the relevant state agencies, court and international organizations.

In order to facilitate the exercise of powers granted to the Public Defender and to obtain information on the protection of rights of the children living in the Boarding School, the Public Defender's Office sent a total of 30 correspondences to all relevant state agencies, including to the Ministry of IDPs, Labour, Health and Social Affairs, the Ministry of Internal Affairs, the General Prosecutor's Office, the Ministry of Justice and the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking.

Since April 2021, in addition to examining systemic problems relating to the protection of rights of the child in the Boarding School, the Public Defender has examined up to ten individual cases of alleged violations of the rights of the child in the Boarding School, as well as the matter of protection of the rights of current and former beneficiaries. The Office has already addressed all the relevant state agencies; in particular, the Office issued two individual recommendations and one proposal on the protection of the rights of former beneficiaries.<sup>20</sup>

The Public Defender's Office submitted its opinion on the lawsuit filed by a non-governmental organization - NNLE Partnership for Human Rights - to Tbilisi Court of Appeal. The Office also submitted its opinion to the UN Committee on the Rights of the Child, where the complaint of the Partnership for Human Rights is currently being considered. In addition, the Public Defender's Office addressed the UN Committee against Torture in writing and informed it of alleged cases of ill-treatment of children living in the Ninotsminda Boarding School, which may be equated to torture and inhuman treatment.

On June 17, 2021, the Public Defender of Georgia met with the new head of the Ninotsminda Boarding School. The existing situation in the Boarding School and future visions were discussed at the meeting. Inter alia, both parties agreed on the matter that social workers would work intensively to assess the needs of children remaining in the Boarding School, while the Public Defender would monitor the process.<sup>21</sup> On June 28, 2021, the Public Defender of Georgia and her representatives visited the Ninotsminda Boarding School. During the visit, the Public Defender met with the head of the facility, inspected the building and talked to children, while Public Defender's representatives examined the documentation of the facility and talked to children together with a psychologist. The following monitoring visits were conducted on September 13 and November 22, 2021.

Public Defender's representatives also examined in detail the full materials of each criminal case relating to alleged violence against children in the Ninotsminda Boarding School. Currently, 4 criminal cases are being investigated,

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<sup>20</sup> The Public Defender issued two recommendations to the Agency for State Care and Assistance for Victims of Trafficking and one proposal issued to the Prosecutor General's Office of Georgia.

<sup>21</sup> Source: <https://bit.ly/3iBtvYh> [last accessed: 06/10/2021].



3 of which are being investigated under Article 126 of the Criminal Code, and one is being investigated under Article 137 of the Criminal Code.

The Public Defender's Office continues to closely monitor and evaluate the process of transferring the children currently living in the Boarding School to their biological families or, if the above is not possible, to another form of alternative care. In addition, the Public Defender's Office continues to assess the protection of the rights of each child who has already left the Ninotsminda Boarding School.

## 2. Monitoring mechanism and violation of the mentioned obligation by the Ninotsminda Boarding School

NNLE Javakheti Ninotsminda St. Nino Boarding School, as a licensed child care institution, is subject to the monitoring mechanisms provided for by the legislation of Georgia. Children living in the Boarding School are living under the state care and the State has a primary obligation to care for them, properly protect and ensure children's enjoyment of their rights.

Article 34 of the Code on the Rights of the Child establishes the obligation of the State to periodically, at an interval of no more than three months, monitor the condition of children placed in alternative care and verify the compliance of the care service with the state standards. In addition, subparagraph "f" of paragraph 1 of Article 6 of the Law of Georgia on Licensing of Educational Activities explicitly indicates that the institution shall meet its obligations under the Child Care Standards. According to Child Care Standard No. 1, the service provider is obliged to allow the monitoring institutions, the guardianship and custodianship body, the Public Defender's Office and the agency responsible for supervising the license conditions to access documentation relating to the facility and its beneficiaries.

It should be noted that according to Article 83 of the Code on the Rights of the Child, the Public Defender is a body authorized to monitor and evaluate the protection of the rights of the child in the country. Article 97 of the same law explicitly describes the powers of the Public Defender in relation to any agency, legal entities/persons under public or private law. In addition, in accordance with the Organic Law of Georgia on the Public Defender of Georgia, the Public Defender shall oversee the protection of human rights on the territory of the country and within its jurisdiction. Article 18 of the same law refers to the authority of the Public Defender to conduct monitoring, request any kind of information and documentation, and describes the procedure for the provision of such information.

Despite the above-mentioned legal grounds, as already mentioned, Public Defender's representatives were not allowed to monitor the Ninotsminda Boarding School on April 15 or May 19, 2021, while the social worker of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking had not been allowed to enter the facility from June 20, 2020 to the end of April 2021. This is confirmed by the correspondence of December 4, 2020 received from the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking, as well as the information provided by the social worker employed in the territorial unit of the Agency. The telephone conversation between the social worker of the Ninotsminda territorial unit and the supervisor of the Boarding School was held only on April 19, 2021 and the supervisor of the Boarding School said

that the social worker would not be hindered.<sup>22</sup> The social worker paid her first visit to the institution on April 26, 2021.

On May 19, 2021, during a visit to Ninotsminda, Public Defender's representatives met with the state social worker, who said that she was not allowed to conduct full monitoring in the facility, including to access the documentation, processing and presentation of which is a requirement under the Technical Regulation on the Approval of Child Care Standards.<sup>23</sup> The social worker has neither talked to beneficiaries individually, without the attendance of caregivers. Consequently, apart from the fact that the social worker had not been allowed to enter the care institution for almost a year, which is a direct violation of Georgian legislation and Technical Regulation on Child Care Standards, neither the monitoring carried out by the social worker in April 2021 can be considered effective or in accordance with the relevant regulations. It is noteworthy that on the day of the visit paid by the Public Defender's representatives, May 19, 2021, none of the beneficiaries of the Boarding School attended school. However, neither the school administration nor the social worker had any information about the reason for the children's absence. The social worker was informed of the above by the Public Defender's representatives, which indicates the problem regarding communication between the institution's caregivers, the school administration and the State Care Agency.

It should be noted that the Technical Regulation on the Approval of Child Care Standards<sup>24</sup> explicitly specifies the obligation to develop an individual development plan for every child living under the state care and to act in accordance with the measures outlined in it. It is according to the individual development plan the child should be cared. According to Child Care Standard No. 4, the plan should be developed once in 6 months and its elaboration should involve a multidisciplinary team, caregivers of the institution and most importantly children, along with their social worker. Nevertheless, the State Care Agency's social worker, who is a legal representative of children under the state care, was not allowed to enter the institution or assess the living conditions of children, care provided to them or protection of their rights for 11 months.

Consequently, the State not only failed to manage the process of care for the beneficiaries, but was not even informed about the living conditions of children and protection of their rights, which is fundamentally contrary to the obligations set out in the Technical Regulation and represents a violation of the rights of the child by the State. The actions of the Boarding School, namely not letting the social worker of the State Care Agency into the institution, restricting or obstructing her communication with children, as well as obstructing the Public Defender's monitoring mechanism, formed the basis for the application of Article 4<sup>1</sup> of the Law of Georgia on Licenses and Permits, which provides for the revocation of a license through simplified administrative procedure in case the fine for the violation of the license conditions does not yield results. However, the State did not use this mechanism and children, for almost a year, were left without any monitoring or the opportunity to communicate with those directly responsible for assessing their needs and protecting their rights.

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<sup>22</sup> Correspondence No. 07/4343 of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking, 28/05/2021.

<sup>23</sup> Resolution No. 66 of the Government of Georgia, Technical Regulation on Approval of Child Care Standards, January 15, 2014, Article 1.

<sup>24</sup> Resolution No. 66 of the Government of Georgia, Technical Regulation on Approval of Child Care Standards, January 15, 2014, Article 4, paragraph 2, subparagraph "f".

### 3. Violation of child care standards in the Boarding School

#### 3.1. Education and socialization

In order to ensure children's preparation for the independent life, it is necessary to support their socialization and integrate children with the outer world. The obligation of the care institution to prepare children for independent living and to support them in this regard is established by both international and national legislations. In particular, the United Nations Convention on the Rights of the Child<sup>25</sup> and international child care standards<sup>26</sup> explicitly indicate the need to prepare children for independent living. Preparing a child for independent living is also mentioned by the Code on the Rights of the Child<sup>27</sup> as one of the obligations and goals of alternative care. The obligation of institutions in this regard is defined in more detail by the Technical Regulation on Child Care Standards, which stipulates that within the framework of alternative care, children should be allowed to develop skills necessary to live independently, receive education and be engaged in the process of devising future plans after leaving the state care (Standard No. 13). In addition, it is necessary to inform children about the process of leaving state care and setting future plans.<sup>28</sup> Particular importance is given to the detailed recording of these issues in children's individual development plans and consequently, the effective monitoring of its implementation.

Children's access to education is one of the most important aspects of the rights of the child under both international and national laws. The United Nations Convention on the Rights of the Child is committed to providing a comprehensive, accessible education for all. A similar obligation is set out in the Constitution of Georgia, the Code on the Rights of the Child and the Child Care Standards. In addition, special importance is given to assessing the individual needs of children with disabilities and children with special educational needs and ensuring their access to education.

It should be noted that according to the information received from the Agency, none of the beneficiaries of the Boarding School had special educational needs,<sup>29</sup> whereas on May 19, 2021, according to the principal of Ninotsminda Public School No. 4, 12 students had the status of a person with special educational needs and the multidisciplinary team had drawn up an appropriate individual development plan for them, although neither the social worker nor caregivers were informed about this plan, which is fundamentally contrary to the obligation to protect the rights and interests of the child. Currently, according to the monitoring results of November 22, 2021,

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<sup>25</sup> United Nations Convention on the Rights of the Child, 1994, Preamble.

<sup>26</sup> Resolution adopted by the General Assembly, Guidelines for the Alternative Care of Children, Support for aftercare, 24 February 2010, available at: <https://bettercarenetwork.org/sites/default/files/2021-03/GuidelinesAlternativeCareofChildrenEnglish.pdf> [last accessed: 12/07/2021].

<sup>27</sup> Code on the Rights of the Child, 2019, Article 30.

<sup>28</sup> Resolution No. 66 of the Government of Georgia, Technical Regulation on Approval of Child Care Standards, January 15, 2014, Article 13, <https://matsne.gov.ge/ka/document/view/2198153?publication=5> [last accessed: 12/07/2021].

<sup>29</sup> Correspondence No. 07/4344 of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking, 28/05/2021.

2 students have the status of a person with special educational needs and two special teachers have been assigned to them. However, as already mentioned, the Boarding School also has a child with status of a person with disability, whose individual development plan explicitly states that the child has a mild intellectual disability and behavioral disorder and constantly needs assistance in doing homework. However, the administration of Ninotsminda Public School No. 4 does not consider it necessary to assess if the child has special educational needs.

It should be noted that the monitoring conducted in the Boarding School on September 13, 2021 found that the documentation of several children had directly indicated for years the need for the evaluation of the child by a multidisciplinary team, although this measure had not been listed in the individual development plan and the institution's representative had no information about it. Examination of the documentation and interviews with the state social worker and representatives of the public school and Boarding School reveals that children's educational needs have been neglected for years by all parties involved. Consequently, it can be said that the children living in the Boarding School did not have access to a quality education tailored to their needs. Even now, despite the fact that social workers have been working intensively for several months to assess the individual needs of children, the issue of education is still not given a profound attention.

The assessment and interviews with representative of the State Care Agency, the principal of Ninotsminda Public School No. 4 and the staff of the Ninotsminda Boarding School revealed that the issue of socialization and integration of children with the outside world was especially acute. On May 19, 2021, the conversation between Public Defender's representatives and the social worker, as well as the school principal, made it clear that beneficiaries were not allowed to leave the institution independently, play with their peers or participate in other entertaining activities without being accompanied by caregivers. In addition, they not only were accompanied by caregivers while going to school, but some of the caregivers remained in the school building until the end of classes, which is fundamentally against the interests of the child, violates the requirements of socialization, establishment of relations with the community and preparation for independent living. The strict institutional regime of the facility was revealed as a result of studying the criminal cases of alleged violence against the children of Ninotsminda Boarding School as well, which will be discussed in more detail in the next chapter of the report.

The fact that the institution did not take care of children's education, health or preparation for independent living was confirmed by the information received during the meetings with former beneficiaries of the Boarding School as well. The meetings were held by the Public Defender and her representatives, with the involvement of a psychologist, after the first transfer of children from the facility.<sup>30</sup> The issue of preparing children for independent living is especially acute. In particular, interviews with children and social workers revealed that some children had never been to a store to buy food or other items. They obeyed the rules set by caregivers and never participated in the decision-making process. They were not involved in the selection of their clothes either. They were given clothes donated to the Boarding School.

Additionally, during the monitoring conducted on September 13, 2021, Public Defender's representatives established that caregivers planned to accompany beneficiaries of all ages to school and stay in the building until

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<sup>30</sup> By the stage, Public Defender's representatives, together with a psychologist, have met and talked with about 30 former children of the Ninotsminda Boarding School.

the end of lessons in 2021 as well. However, as such an approach and hindrance to the socialization of children was particularly hampering the development of skills needed for independent living, the Public Defender's Office launched an individual examination of the case, addressed the Ministry of Education and Science with a letter, provided information about the presence of caregivers in the school building during the education process and requested information about the measures taken in this regard. As a result, the Public Defender's Office was informed by the Ministry of Education and Science of Georgia that a number of violations had been identified in Ninotsminda Public School No. 4.<sup>31</sup> Inter alia, it was detected that the school did not follow the rules for developing individual plans for children with special educational needs and children's legal representatives did not participate in this process, which once again indicated the problem with communication regarding the needs of children. In addition, the Internal Audit Department found that the movement of strangers in the school building was not properly controlled. The school has not taken appropriate measures to create a safe environment for health, life or property on the school premises or to adequately protect the rights and freedoms of students, parents or teachers on the school premises, or to prevent violations.

During a visit to Ninotsminda Public School No. 4 on November 22, 2021, after interviewing an employee of the Ninotsminda Boarding School and a social worker of the State Care Agency, Public Defender's representatives established that the social worker, as a legal representative of children, was a member of the multidisciplinary team and was informed about the individual development plan of children with special educational needs. However, despite the fact that two children have the status of a person with special educational needs and the role of caregivers in assisting them in doing homework is indicated in their plans, as the social worker explained, neither the State Care Agency nor the school has so far provided the Boarding School with information contained in the individual development plans, even though the institution has already sent a similar request to the school.

During the monitoring conducted by the Public Defender's representative at Ninotsminda Public School No. 4 and the Boarding School on November 22, 2021, it was revealed that caregivers were no longer on the school premises during the education process and they accompanied only young children to school. According to the employee of Ninotsminda Boarding School, children have more freedom to leave the institution if they wish so.

## 3.2 Nutrition and health care

### Nutrition

In a care facility, it is essential to provide proper food to children, oriented to their full-fledged growth and development.<sup>32</sup> The facility should offer each beneficiary food that is tailored to his/her needs, is adequate, healthy and of appropriate nutritional value. In addition, it is necessary to take into account the individual nutritional needs of the beneficiaries (Standard No. 6). In UNCRC General Comment No. 13,<sup>33</sup> the Committee pays particular

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<sup>31</sup> Correspondence MES 0 21 0001109407 received from the Ministry of Education and Science of Georgia, 19/10/2021.

<sup>32</sup> Resolution adopted by the General Assembly, Guidelines for the Alternative Care of Children, General conditions applying to all forms of formal alternative care arrangements, 24 February 2010, available at: <https://bettercarenetwork.org/sites/default/files/2021-03/GuidelinesAlternativeCareofChildrenEnglish.pdf> [last accessed: 12/07/2021].

<sup>33</sup> General comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1); Committee on the Rights of the Children; 29 May 2013.

attention to neglect as a form of violence and identifies key features of neglect, such as neglect of the child's physical, mental and educational needs.

Although according to the data of September 13, 2021 and later information, children's menu includes a four-component dinner and the institution took into account the wishes of the children in the process of compiling the menu, the provision of proper food has been a problem for years and children have not been able to take adequate food for their development. Inadequate nutrition was also confirmed as a result of interviews with children. They said that they did not like the food provided in the facility. They did not receive meat products, mainly ate beans and soup, while during breakfast and supper, they only had tea and bread, rarely together with butter or halva. At the same time, according to them, their views and wishes have never been taken into account.<sup>34</sup>

The above was confirmed by the correspondence received from the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia<sup>35</sup> as well, informing the Public Defender's Office that one of the numerous violations identified by the Regulation Agency for Medical and Pharmaceutical Activities during the monitoring of the institution in 2017 and 2018 was the inadequate nutrition of children.

## Health care

According to international standards and Georgian legislation, one of the important responsibilities of the children's residential institution is to protect the health of the beneficiaries and to meet their needs in this regard.<sup>36</sup> The facilities, where children grow up, should provide a safe environment for health, establish a healthy lifestyle, and provide immunization and regular preventive screening. In addition, it is important to inform beneficiaries about personal hygiene, sexual health education, various diseases and the expected consequences of the use of harmful substances (Standard No. 9).<sup>37</sup>

The monitoring of June 28, 2021 showed that there were a number of challenges in the Boarding School in terms of assessing and meeting the individual needs of children, including their bio-psycho-social needs. Children were in need of continuous involvement of specialists of supportive professions, including a psychologist, which was made clear as a result of interviews with children themselves. In addition, the facility did not regularly check the health condition of children. A recommendation on the need to involve a psychologist was given verbally to the new management of the institution during the meeting with the head of the Boarding School after the monitoring on June 28. However, during the visit of 13 September 2021, it was revealed that no such involvement had been ensured, while according to the State Care Agency, the facility was planning to meet this need in the future. During the visit paid on November 22, 2021, as already mentioned, Public Defender's representatives were informed by the facility that the Boarding School had invited a psychologist, who visited the facility only twice in October 2021. It is particularly noteworthy that the individual development plan of many beneficiaries directly

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<sup>34</sup> The above was revealed as a result of interviews with the former beneficiaries of the Boarding School.

<sup>35</sup> Correspondence No. 01/6875 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, 13/05/2021.

<sup>36</sup> Resolution adopted by the General Assembly, Guidelines for the Alternative Care of Children, General conditions applying to all forms of formal alternative care arrangements, 24 February 2010, available at: <https://bettercarenetwork.org/sites/default/files/2021-03/GuidelinesAlternativeCareofChildrenEnglish.pdf> [last accessed: 12/07/2021].

<sup>37</sup> Resolution No. 66 of the Government of Georgia on Technical Regulation on Approval of Child Care Standards, available at: <https://matsne.gov.ge/ka/document/view/2198153?publication=5> [last accessed: 12/07/2021]

mentions the need for the services of a psychologist and even a psychiatrist in one case, however, this resource has not been allocated by the State Care Agency so far.

It should be noted that the monitoring also revealed a violation of another Child Care Standard by the Boarding School, namely the leisure and recreational opportunities (Standard No. 7). The Barding School has not taken children to any resort for years. Consequently, children had to be in a closed environment for most of the year, which not only contradicts the commitment of caring for the child's physical health, but also has a substantial negative impact on the child's emotional state and development.

In addition, children in the Ninotsminda Boarding School were less involved in sports or cognitive activities, and the facility did not provide adequate opportunities to ensure that they could properly rest or be engaged in leisure activities according to their wishes.

According to the newest information, children living in the Boarding School were taken to a sea resort for two weeks in early September this year. They were also given computers and entertainment equipment.

#### 4. Protection from violence

Monitoring of the Ninotsminda Boarding School, interviews with children and young persons, examination of documents and criminal case materials revealed that the facility's actions equated with torture and ill-treatment for years. Forms of punishment integrated into upbringing methods were degrading and traumatic for the children. This chapter of the report presents the information in this regard.

UNCRC General Comment No. 14<sup>38</sup> gives the child the right to have his or her best interests assessed and taken into account as a primary consideration in all actions or decisions that concern him or her, both in the public and private sphere. The assessment of the best interests of the child shall consider the child's safety and protection from any form of violence. In addition, according to the Technical Regulation on the Approval of Child Care Standards, all beneficiaries shall be protected from any form of violence (physical, psychological, sexual, economic, coercion, neglect) both in and outside the service. The delivery of services should be carried out in an environment that is appropriate for the purpose of the service and adequately meets the needs of each child. Accordingly, the obligation to protect a child from violence implies the creation of a safe environment, as well as an environment in which the child can address relevant persons or agencies in case of alleged abuse, in order similar cases to be responded in a timely manner. Resolution No. 437 of the Government of Georgia on the Approval of Child Protection Referral Procedures defines the child protection referral system, which includes identifying a child victim of violence, assessing his/her condition, informing the relevant agencies about the alleged violence, and, if necessary, separating the child from certain persons or removing him or her from certain place and supervising the case. Article 5 of the same resolution defines the state agencies responsible for referral procedures. In this regard, the obligations of the Agency for State Care are particularly important in terms of detecting, preventing and responding appropriately to the cases of child abuse. Article 13 of the same resolution stipulates the need to

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<sup>38</sup> General Comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1); Committee on the Rights of the Child; 29 May 2013.

monitor the condition of the child, the purpose of which should be to rehabilitate the child victim of violence and, consequently, to prevent repeated violence.

It is important for the service provider to be guided by the relevant legislation, to have internal regulations in place to protect children against violence, and to keep records of both incidents of violence and actions taken in response (Standard No. 11). In accordance with the Child Care Standards, it is particularly important that persons with appropriate qualifications be involved in the process of working with and caring for children (Standard No. 16).

As already mentioned in this report, representatives of the Public Defender visited the Ninotsminda Boarding School three times and checked the documentation processed in the institution. Problems with documentation were detected in all three cases, which is a systemic problem in the Boarding School. Inter alia, the licensed care institution did not draw up a report on compliance with the license conditions for two years in a row, which became one of the grounds for fining the facility in 2018.<sup>39</sup> The Public Defender's representative was not able to see internal regulations of the Boarding School, which would describe the mechanism for responding to incidents of violence.<sup>40</sup> The journal of records on cases of violence only indicates cases of conflicts between children, who ultimately reconciled with each other. The Boarding School does not have an effective response mechanism, although the examination conducted by the Public Defender's Office revealed a number of cases of child abuse in the Boarding School over the years.

Currently, state social workers are working in the Boarding School 24 hours a day,<sup>41</sup> which creates a guarantee for the protection of children to some extent. However, it is also noteworthy that as an interview with the social worker of the Ninotsminda territorial unit of the State Care Agency on September 13 made it clear, the children currently living in the Ninotsminda Boarding School, as well as former beneficiaries, have a particularly negative attitude towards her. In the future, this will make it especially difficult for the social worker of the territorial unit to have effective and trust-based communication with children, which, in turn, will make it impossible to accurately study the living condition and state of children and identify cases of alleged violence. Nevertheless, during the paid visit on 22 November 2021, Public Defender's representatives were informed that no appropriate measures had been taken even several months after the identification of the problem, including through the transfer of this obligation to another social worker in case of ineffectiveness of other interventions.

### Publicly spread information about violence against children

Particularly alarming and disturbing information about the violation of rights of children living in the Boarding School is that the institution used a number of forms of punishment against children that can be equated to

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<sup>39</sup> Correspondence No. 01/6875 of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, 13/05/2021.

<sup>40</sup> During the monitoring conducted by Public Defender's representatives on 13 September and 22 November 2021, representative of the Boarding School explained that the internal regulations of the facility were kept with the lawyer in order to make certain changes to them.

<sup>41</sup> The process was suspended during the last two visits of the Public Defender's representative. In particular, on September 13, 2021, due to the Covid-19 infection and the children's summer holidays, and on November 22, due to the alleged Covid-19 infection of one of the children, whose condition was being examined.



abuse and torture. Children themselves cite<sup>42</sup> kneeling for hours on corn and wheat grains, being left without food, not being allowed to sleep at night, as well as other degrading treatment as a form of punishment, beating with sticks and rulers, blindfolding with stockings to make them sleep during the daytime, alleged bullying and harassment based on their skin color or health status.

Alleged cases of violence and oppression of children were once again clearly indicated and confirmed in a stories told on the TV,<sup>43</sup> where children spoke about violence against them, including the incident that occurred on June 1. One of the child said that on the eve of the St. Nino holiday, when entering a room, she saw that another child was massaging a lying caregiver's feet. The statements about cases equated torture and inhuman treatment are of particular concern. When talking about violence in the TV story, children and young persons spoke of forms of punishment such as kneeling for hours, squatting, holding a large chair while standing on one leg. As they pointed out, the punishment lasted from one meal to another. One of the beneficiaries said that she was forced to get down on her knees and stay like this all night long, and that children were told to cover the caregiver up with a blanket if she/he dropped it, and that they would be beaten in case they fell asleep. While watching TV, caregivers put their legs on children's knees and forced them to give a massage. One of the beneficiaries indicates that she/he was thrown on the bed, so that she/he injured her eye the head of the bed. In case of reporting to the supervisor, the latter would reprimand the caregivers, although children would be treated in a worse manner after that. Therefore, children were afraid to tell anyone about similar cases, including the former head of the institution. During one of the visits to the Boarding School, the child's bruised eye was covered up by powder, so that the guests would not notice anything.

The response made by the state social workers to the alleged cases of abuse against children indicates not only ineffective assessment of the situation, but rather alleged violation of children's rights from their side. In particular, the video<sup>44</sup> released by the media shows the process of alleged psychological violence against children, when the former head of the Boarding School talked to the crying children about leaving the facility, telling that children did not want to leave the facility. In addition, children were videotaped and broadcasted via live stream. The process was presumably attended by social workers, who had entered the facility to assess the living condition of children, although they did not immediately respond to the case. Based on this, the Public Defender's Office addressed the Agency for the State Care with a letter and requested to examine the case, including the alleged misconduct of social workers. The Public Defender's Office was informed by the correspondence<sup>45</sup> received from the State Care Agency that the Monitoring and Evaluation Division of the Monitoring and Project Design Department had established the identity of each social worker involved in the process and conducted an official inquiry, but could not detect any misconduct during the execution of official duties by the employees.

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<sup>42</sup> Source: <https://www.facebook.com/watch/?v=980950469380813> [last accessed: 04/06/2021].

<sup>43</sup> Source: <https://www.facebook.com/tvmedi/posts/4225052984253254> [last accessed: 04/06/2021].

<sup>44</sup> Source: <https://tinyurl.com/e7bm3swd> [last accessed: 07/06/2021].

<sup>45</sup> Correspondence 07/9561 of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking, 08/11/2021.

## Applications received by the Public Defender's Office and information obtained as a result of general inquiry

Systematic violence by caregivers was confirmed by former beneficiaries of the Boarding School. The Public Defender's Office launched individual case proceedings on the basis of applications of six former beneficiaries.

As it has been mentioned previously, Public Defender's representatives conduct meetings with former beneficiaries of the Ninotsminda Boarding School and their social workers, and assess their needs. According to the information obtained, various forms of violence were used in the Boarding School. In particular, corporal punishment, very strict control, labour exploitation (labour for punishment), emotional pressure, "preparation" of children for talking with the Public Defender and social workers. At the same time, children in the institution answered questions identically - "It's good here, we have everything, food, clothes, and no one punishes us." Such answers were heard even when a representative of the Public Defender did not ask similar questions. At the same time, one of the former beneficiaries of the Boarding School, when asked "What did you learn in this facility?", repeated the same answer, namely that she/he was well, had everything, etc. This child does not have any communication with the biological family or relatives, currently lives with one of the caregivers of the Ninotsminda Boarding School, who is registered as a person authorized to take the child with her/him for certain period of time, and according to the social worker, there is a positive emotional connection between the child and the caregiver.

The behaviors observed while interviewing children are noteworthy. In particular, body tension, dissociation reactions, lack of eye contact, scarce vocabulary, self-harm practices (sewing one's own hand), as well as information obtained by social workers regarding regressive behaviors (sucking a finger until it hurts) may indicate developmental trauma. In addition, in one of the cases, on which the Public Defender's Office conducts individual proceedings and has visited a former beneficiary of the Ninotsminda Boarding School, it was revealed that the child had behavioral difficulties and asked the caregiver to tie him up in order to punish him. Consequently, it is necessary to assess the neuropsychological condition of all children of the Ninotsminda Boarding School in order to establish how living in a large institution affected their cognitive, emotional and social development. This will be crucial in the process of promoting the rehabilitation and further development of the children.

The examination conducted by Public Defender's representatives revealed that a child currently living in the institution expresses readiness to be interviewed about violence that took place in the past. In particular, during a visit to the territorial unit of the State Care Agency on November 22, 2021, as a result of examining the individual development plans of the Ninotsminda beneficiaries, it was found out that one of the individual development plans indicated that the child had information about alleged violence that took place against other children in the Boarding School, which she/he did not mention during an interview, but was ready to be interviewed again. Although the individual development plan was drawn up in July 2021, as of November 22, 2021, the child's legal representative had not referred the case to the law enforcement agency, nor did she/he had any information if any other social worker working for 24 hours at the Ninotsminda Boarding School had contacted the law enforcement authority. This indicates not only the lack of information about the obligation to immediately refer the cases of violence against children, but also problems with communication and exchange of information between social workers.

## Instances of systematic violence identified on the basis of studying materials of criminal cases

The systematic nature of violence against children in the Ninotsminda Boarding School is also indicated in the materials of criminal cases, namely in the transcripts of interviews with children. Children reported degrading and humiliating treatment, often equated to torture and inhuman treatment. According to them, physical violence, prohibition of sleep and food were used as a form of punishment. Children recalled how their caregiver punished the whole group and did not allow them to eat, as caregivers ate themselves and made children watch it while standing on their knees. One of the children was made to stand naked in the corridor for urinary incontinence at night, while another child was made to put on torn clothes for the same reason. One of the caregivers made a child stick her tongue out and hit her with a comb. In one of the cases, when children woke up in the afternoon, the caregiver forced them to stand up, remove the mattress, lie down on the bed plank, and cover themselves up with the mattress. The children used to be addressed with the following words: "animal", "street child", "abandoned by mother". In case of refusing to eat, caregivers used to splash food on their heads. One of the caregivers poured tea on the child's head and then forbade her/him to bathe. As a form of punishment, one of the caregivers tied up the child's hands and left him like that all night long. Children also talked about being hit in the head with a chair or being forced to stand on a cold floor. According to one of the child, he/she was told to perform prostrations ten times just because she/he accidentally hit a window with a ball while playing. One of the children, who addressed the former head with obscene words, was placed in a psychiatric clinic. Another former beneficiary of the Ninotsminda Boarding School explained that crying during the occurrence of violence was forbidden, which is why she still has the fear of crying and is unable to express emotions.

### 5. Pending criminal cases of violence against beneficiaries of the Boarding School

#### Legal substantiation

In accordance with the absolute prohibition of ill-treatment under Article 3 of the Convention on Human Rights, the positive obligation of the State includes a procedural obligation of a positive nature, which implies an effective investigation to identify and punish perpetrators.

As regards the types of "treatment" which fall within the scope of Article 3 of the Convention, the Court's case-law refers to "ill-treatment" that attains a minimum level of severity. The assessment must take into account the content, nature, form, duration, physical and spiritual damage, sex, age and state of health of the victim.<sup>46</sup> Where treatment humiliates or debases an individual, showing a lack of respect for, or diminishing, his or her human dignity, or arouses feelings of fear, anguish or inferiority capable of breaking an individual's moral and physical resistance, it may be characterized as degrading.<sup>47</sup>

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<sup>46</sup> Judgment of the European Court of Human Rights of 28 October 1998, *Assenov and others v. Bulgaria*, application No. 90/1997/874/1086, §94.

<sup>47</sup> Judgment of the European Court of Human Rights of 29 July 2002, *Pretty v. The United Kingdom*, application No. 2346/02; §52; Judgment of June 10, 2001, *Price v. the United Kingdom*, application No. 33394/96, §30.

Article 144<sup>3</sup> of the Criminal Code of Georgia prohibits degrading or inhuman treatment - degrading or coercing a person, or exposing a person to inhuman, degrading and humiliating conditions, as a result of which he/she suffers severe physical and psychological pain.

In addition, it is noteworthy that crimes of sexual violence are of a specific nature and it is particularly important to use victim-centered approaches to protect and support victims when investigating such cases. Stereotypical attitude, stigma and prejudice towards the victim are particularly problematic, which, in addition to increasing the risk of secondary victimization, hinders the effective conduct of the investigation.<sup>48</sup> Therefore, it is especially important to consider international standards and practices relating to the administration of justice on crimes of sexual violence when conducting investigations into such cases.<sup>49</sup>

In addition, the European Court of Human Rights reinforces the importance of context-based investigations into rape and other sexual crimes. In the case of *M.C. v. Bulgaria*, the court notes that when there are little "direct" evidence, the relevant authorities should "explore the available possibilities for establishing all the surrounding circumstances and assess sufficiently the credibility of the conflicting statements made".<sup>50</sup> The court also indicates that in the absence of "direct" proof of rape, the authorities must nevertheless explore all the facts and decide on the basis of an assessment of all the surrounding circumstances.<sup>51</sup>

It should also be noted that during the investigation of cases of sexual violence against children, the conduct of forensic medical examination for the purpose of examining the integrity of the "hymen" and existing injuries contains a particularly high risk of secondary victimization and trauma. The World Health Organization describes the so-called "virginity testing" as a "degrading and discriminatory" practice lacking "scientific validity".<sup>52</sup> In addition, there is no factual, scientific or medical grounds to believe that examination of the hymen makes it possible to establish exactly whether vaginal penetration has taken place into the woman's body.<sup>53</sup> Therefore, in the process of defining and carrying out investigative activities, it is necessary to consider the best interests of the child and to take all measures to protect her/him from secondary victimization.

## Criminal cases

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<sup>48</sup> Public Defender of Georgia, Administration of Justice on Sexual Violence Crimes Against Women in Georgia, 2020, available at <https://bit.ly/3CXQgx2> [last accessed: 16/09/2021].

See also the Special Report of the Public Defender of Georgia on Administration of Justice on Cases of Sexual Abuse and Sexual Exploitation, 2021, available at: <https://bit.ly/3ATbewy> [last accessed: 29/09/2021].

<sup>49</sup> Judgment of the European Court of Human Rights, 2002, *Kunaracet al.*, Appeal Judgment, IT-96-23 & IT-96-23/1-A, §127, see also World Health Organization, *Eliminating Virginity Testing: An Interagency Statement*, 2018

<sup>50</sup> Judgment of the European Court of Human Rights, *M.C. v. Bulgaria*, no. 39272/98, ECHR, 03.12. 2003, §176-178.

<sup>51</sup> *Ibid.* §181.

<sup>52</sup> World Health Organization, *Health care for women subjected to intimate partner violence or sexual violence*, Clinical handbook, 2014, p. 46, available at: <https://www.who.int/reproductivehealth/publications/violence/vaw-clinical-handbook/en/> [last accessed: 02/04/2021]. See also Independent Forensics Group (2015), *Statement on virginity testing*, *Journal of Forensic Medicine*, 33, 121-124; -- to be checked; General Recommendation No. 35 of the CEDAW Committee, para. 29 (c) (ii), see the link <https://undocs.org/CEDAW/C/GC/35>

<sup>53</sup> Physicians for Human Rights, *Through evidence, change is possible*, p. 1, available at: [https://s3.amazonaws.com/PHR\\_other/virginity-and-hymen-testing.pdf](https://s3.amazonaws.com/PHR_other/virginity-and-hymen-testing.pdf) [last accessed: 02/04/2021].

On July 7-8 and August 9-10, 2021, representatives of the Public Defender's Office examined the materials of four criminal cases of alleged crimes committed against beneficiaries of the Ninotsminda Boarding School at the Samtskhe-Javakheti Police Department of the Ministry of Internal Affairs of Georgia. In two of the criminal cases, the basis for launching an investigation was correspondence received from the Public Defender's Office, and in the other two cases - a letter from the State Care Agency. In particular:

- On December 23, 2016, the Ninotsminda Police Department of the Ministry of Internal Affairs launched an investigation into alleged violence against children in the Boarding School under part 1<sup>1</sup> of Article 126 of the Criminal Code.<sup>54</sup> The investigation was based on letter No. 10-3/12823 of the Public Defender of Georgia dated 27.10.2016.
- On November 15, 2019, on the basis of a call made by a social worker, the Samtskhe-Javakheti Police Department launched an investigation into alleged rape of a child at the Ninotsminda Boarding School, which took allegedly place in 2018, under subparagraph "d" of part 3 of Article 137 of the Criminal Code.<sup>55</sup> According to the case materials, the juvenile talked about the fact with the social worker after leaving the Ninotsminda Boarding School.
- On December 11, 2020, the Ninotsminda District Division, on the basis of the application of the State Care Agency, launched an investigation into alleged violence committed against children in the Boarding School and alleged violence committed against one of them by a teacher of Public School No. 4 under part 1<sup>1</sup> of Article 126 of the Criminal Code. The investigation was based on the application of the State Care Agency, the representatives of which talked to the children after they left the Boarding School.
- On February 9, 2021, the Ninotsminda Division launched an investigation into violence committed against one of the children and others in 2018-2019 under subparagraphs „a" and "c" of part 1<sup>1</sup> of Article 126 of the Criminal Code.<sup>56</sup> The investigation was based on letter No. 10-3/1283 of the Public Defender's Office.

According to the Public Defender's Office, all the instances of alleged violence against children in the Ninotsminda Boarding School, which became known in 2021, are being investigated jointly within the framework of a new criminal case.

Examination of the case materials revealed a number of violations, including the fact that the investigative activities did not take into account the best interests of the child, no appropriate measures were taken to protect children, and no investigative activities had been conducted for years. The investigation of one of the criminal cases of alleged abuse of children started only two months after reporting. In the same case, juveniles were interviewed in violation of the procedural law; despite the need, no procedural representative, instead of a legal representative, was appointed for the child. In addition, during an interview, children and their parent denied violence that they had previously mentioned with another agency. The reason for the above might be the attempt of the investigator and two other officers of the Ninotsminda Division of the Police Department to make them change their testimony by threatening to prosecute them in case of false testimony and using other forms of

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<sup>54</sup> Violence that caused physical pain to the victim but did not have the effect provided for in Article 120 of this Code. Committed with prior knowledge against a child.

<sup>55</sup> Rape committed with prior knowledge against a child, person with disabilities, or pregnant woman, the 2018 edition.

<sup>56</sup> Rape committed with prior knowledge against a child, a helpless person, a person with disabilities, or a pregnant woman; beating or other kind of violence committed with prior knowledge against two or more persons.

intimidation. Based on the above, an investigation is currently ongoing against the investigator for abuse of power under part 1 of Article 333 of the Criminal Code of Georgia, due to which he was removed from the criminal case. It is noteworthy that the children's lawyer pointed to three police officers. Accordingly, there were signs of alleged offences committed not only by one employee of the Ninotsminda Police Department (the investigator), but other employees as well, which casts doubt on the objectivity and impartiality of the mentioned department. The same view is backed by the fact that the investigation was launched in 2016, but no investigative or procedural activity had been carried out for four years, in particular, until the end of spring and the beginning of summer 2021 - when the Public Defender spoke about the violations of children's rights in the Ninotsminda Boarding School in her public statements.<sup>57</sup> On May 4, 2021, the prosecutor issued a detailed instruction on the conduct of investigative and procedural activities. However, the prosecutor's instruction, given the four-year inaction of the investigative and prosecution bodies, should be considered delayed.

The reason for such inefficiency of the investigation may be explained by the interest of the investigative body. The investigation made no attempt to question individuals who might have information about the case, and did not request important documents or information. Neither forensic examination of the children was scheduled. According to the medical documents, no psychological examination of the alleged victims was scheduled, although according to the case materials, the violence affected the children's psychological state as a result of which the social worker even referred them to a psychologist. In addition, in 2017 and 2021, despite three appeals, the investigation did not receive information from the Boarding School, nor did it conduct any activity to obtain information relevant to the case in accordance with Articles 112, 119 and 120 of the Criminal Code.

Another criminal case also shows one-year inaction of the investigative body. After a year of inaction, the continuation of the investigation in an intensive mode coincided with the release of public statement by the Public Defender and wide coverage of the issue by the media. Lack of coordination between the territorial bodies of the investigative body is also evident. At the same time, no relevant people have been interviewed and no questions have been asked about the relevant issues. The case also lacks measures oriented to the protection and rehabilitation of the victim. The juvenile was interviewed several times over the same case, during which she had to talk about the same traumatic issue several times. The case also shows stereotypical attitudes towards the victim.

According to the case files, the testimonies given by the children remaining in the Boarding School and those transferred from the Boarding School to another service are different. This indicates that the investigation did not take appropriate measures to protect children from physical violence in order to enable them to speak freely about alleged offences. The children remaining in the institution are not protected from influence, are not able to cooperate freely with the investigation and, consequently, are not able to provide accurate information. In general, the interview with children about alleged violence in the Boarding School was attended by an employee of the Boarding School, which is fundamentally against the interests of the child and once again shows that not all circumstances preventing children from talking freely were eliminated. In addition, the employee of the

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<sup>57</sup> Source: <https://bit.ly/2YlJaTZ> [last accessed: 05/10/2021]; See also the source: <https://bit.ly/3a7fODp> [last accessed: 05/10/2021]; See also the source: <https://bit.ly/3lb3790> [last accessed: 05/10/2021]; See also the source: <https://bit.ly/3uHnPAu> [last accessed: 05/10/2021]; See also the source: <https://bit.ly/3aclpPK> [last accessed: 05/10/2021].

Boarding School, who attended the interview, refused the attendance of the lawyer. It is noteworthy that the procedural representation of several children living in the Boarding School was carried out by the social worker, who had not entered the institution or fulfilled the obligation to protect children for almost a year.

It should also be noted that the case materials reveal alleged violation of child protection referral procedures by the State Care Agency, namely an almost one-month delay in responding to alleged abuse.

In addition, the protracted investigation and numerous interviews resulted in the distrust and feeling of hopelessness of alleged child victims towards the investigative agencies and their refusal of examination and cooperation with the law enforcement agency and the State Care Agency,<sup>58</sup> as well as the lack of coordinated work between the Ministry of Internal Affairs of Georgia and the Agency for State Care and Assistance for Victims of Trafficking - the case materials do not make it clear what measures were taken by these agencies to address the refusal of the juvenile witnesses to be interviewed.

In the mentioned cases, the testimonies of children refer to the violent methods of treatment and punishment (beating, starvation, prostrations, etc.), which were of a permanent nature and were applied not to specific but almost all children. Under these circumstances, the classification of a case under Article 126 (violence) of the Criminal Code is insufficient, as it does not cover alleged inhuman and degrading treatment. Accordingly, it is important to conduct a systemic investigation of the alleged crimes committed in the Barding School under Article 144<sup>3</sup> of the Criminal Code, to ensure a thorough study of the facts and to obtain evidence collectively. In particular, all kinds of documents should be obtained from the Boarding School and other state agencies.

In addition, due to the alleged interest and bias of the Ninotsminda Police Department, the ineffective and protracted investigation, it is necessary that the mentioned cases, after unification, be transferred to another structural unit of the Ministry of Internal Affairs for effective and thorough investigation, taking into account the specificity of the issue and the density of the region.

It is also important to consider the application of special measures to protect the children remaining in the institution from influence, in order to ensure effective, trust-based communication with them.

It should be noted that the Public Defender's Office shared information about the challenges identified with the Prosecutor General's Office of Georgia and issued relevant recommendations to conduct an effective investigation and protect the best interests of the children.

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<sup>58</sup> Criminal case No. 2 - The alleged victim has a feeling no one believes her and that she cannot prove the violence committed against her. In a conversation with psychiatrists and psychologists, the juvenile often repeats that nothing makes any sense any longer, as she failed to prove her truth and no one believes her; Criminal case No. 1 - The juveniles were interviewed several times. Inter alia, they were alleged victims of pressure by the investigator and are currently refusing to communicate with the law enforcement agency or the State Care Agency; Criminal case No. 3 - The alleged victims twice refused a psychological examination, one of them denied the violence against her during an interview and spoke of the fact as an accidental injury and not as violence.

## 6. Domestic and international legal disputes relating to the Boarding School

### Domestic court dispute

#### *Court of first instance*

On April 15, 2021, Public Defender's representatives were not allowed to exercise the powers granted to the Public Defender under legislation of Georgia - to monitor NNLE Javakheti Ninotsminda St. Nino Boarding School. Based on this, NNLE Partnership for Human Rights, an organization with the status of a special plaintiff, applied to the court to issue an interim ruling.

The Partnership for Human Rights requested on April 19, 2021:

1. To instruct the Javakheti Ninotsminda St. Nino Boarding School for the Homeless, Orphans and Children without Parental Care<sup>59</sup> and the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia to take all measures to ensure immediate and unhindered monitoring of the human rights situation in the Boarding School by the representatives of the Public Defender's Office.
2. To instruct the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia to study the compliance of the protection of the rights of children in the Boarding School with the requirements of Article 7 of the Law of Georgia and the requirements of the Technical Regulation on Child Care Standards.

The court did not grant the request of the organization and on 26 April 2021 issued a ruling dismissing the motion based on several circumstances, including:

1. The argument submitted to the court on alleged violations of the rights of children living in the Boarding School was not convincing.
2. Information on the enrollment of the beneficiaries with disabilities in the Boarding School was not confirmed.
3. The status of a special plaintiff of the Partnership for Human Rights applies only to cases of collective violation of the rights of persons with disabilities or alleged violations of their rights.

After verifying information about the children with disabilities in the Ninotsminda Boarding School, on June 5, 2021, Tbilisi City Court partially satisfied the claim of the non-governmental organization and ordered the State to immediately remove children with disabilities from the Ninotsminda Boarding School. The decision of the court was appealed by the Patriarchate of Georgia to the Court of Appeal, however, this has not hindered the execution of the decision of the court of first instance.

#### *Court of Appeal*

The Public Defender's Office submitted its opinion to Tbilisi Court of Appeal. The Office noted that, given the recent reports of the violation of the rights of children living in the Boarding School, as well as information provided by the Public Defender in parliamentary and special reports for years, the urgency and importance of

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<sup>59</sup> Currently the institution is called NNLE Javakheti Ninotsminda St. Nino Boarding School.



the problem was evident. It was also noted that the efforts of the Public Defender's Office to ensure the protection of rights of children in the Boarding School, unfortunately, did not lead to an effective response by the State. Given the fact that instead of eliminating the violations identified at that stage, the fact that the Boarding School became an even more closed institution and the fact that a number of public statements were made by the its management that the Public Defender would not be allowed to conduct monitoring, the danger of the violation the rights of children increased even more and it became necessary to respond to the issue urgently.

It was indicated in the document that despite the issuance of interim measures by the United Nations Committee on the Rights of the Child on May 7, 2021, which instructed the State to immediately allow the Public Defender to conduct monitoring of the facility, the state agencies did not respond in a coordinated or effective manner. Inter alia, despite the communication made by the Public Defender to all the relevant state agencies, on May 19, 2021, Public Defender's representatives were still not allowed to enter the institution.

It should be noted that the Public Defender's Office provided the Court of Appeal with information and necessary documentation that children with a status of a person with disabilities lived in the Boarding School, which is confirmed by letter 2807/43 of the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking of May 28, 2021. The document also noted that the inability to monitor the facility indicated obvious shortcomings in assessing the individual needs of children, which once again referred to the need for timely monitoring for the purpose of assessing the children's situation and identifying their needs in a timely manner.

It is worth noting that the Partnership for Human Rights has the status of a special plaintiff, which applies only to cases of collective violations of the rights of persons with disabilities or alleged violations of their rights. The Public Defender focused on this issue as well. In particular, the fact that there were children with a status of a person with disabilities in the Boarding School, as already mentioned, was confirmed and was not disputed. In addition, even though it is true that Article 19 of the Law of Georgia on the Rights of Persons with Disabilities grants the Partnership for Human Rights the status of a special plaintiff in terms of the protection of the rights of persons with disabilities, it would have been a formal approach by the plaintiff with the special status to request the monitoring of the rights situation of only persons with disabilities in the given case, as the Public Defender is obliged to supervise the rights situation of all children in the boarding schools.

Accordingly, Tbilisi City Court assessed the general situation in the Boarding School as a threat and its decision cannot be understood in such a way as if this threat only applies to persons with disabilities.<sup>60</sup> In accordance with Georgian law and the status of a special plaintiff of the Partnership for Human Rights, the court was limited to making a decision relating to all the beneficiaries living in the Boarding School.

The document explicitly stated that the situation in the Boarding School not only did not meet the interests of children or the relevant standards, but also endangered children in terms of the protection from violence, full development, socialization and preparation for independent living. The Tbilisi City Court ruling on the lawsuit of the non-governmental organization regarding the removal of children from the Ninotsminda Boarding School

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<sup>60</sup> See the statement of the Public Defender of Georgia, 05/06/2021, source: <https://bit.ly/3uIAkvM> [last accessed: 06/10/2021].

also clearly indicated the real risk and danger in terms of the protection of children in the facility and required timely and coordinated action by the state agencies.

Tbilisi Court of Appeal, by its decision of November 1, 2021, upheld the Tbilisi City Court ruling to immediately remove children with the status of persons with disabilities from the Ninotsminda Boarding School. As already mentioned, as of June 5, 2021, there were two children with disabilities in the Boarding School, one of whom was transferred to another form of state care only on September 24, 2021, while the second child still lives in the Boarding School as of November 22, 2021, which refers to the non-fulfilment of the court decision.

## International legal disputes

### United Nations Committee on the Rights of the Child

After Public Defender's representatives were not allowed to enter the Ninotsminda Boarding School on April 15, 2021, the Partnership for Human Rights applied to the UN Committee on the Rights of the Child (CRC) on May 5, 2021. On May 7, 2021, the Committee issued an interim measure instructing the State to allow the relevant agencies to monitor the Ninotsminda Boarding School.<sup>61</sup>

On May 24, 2021, the Public Defender of Georgia referred to the United Nations Committee on the Rights of the Child and in order to provide information on the basis of the application of the Partnership for Human Rights on May 5, 2021, requested involvement in the case before the Committee relating to the protection of the rights of children living in the Ninotsminda Boarding School. On June 16, 2021, by the correspondence received from the UN Committee on the Rights of the Child, the Public Defender of Georgia was granted the permission to intervene in the case.

The issuance of interim measures by the United Nations Committee on the Rights of the Child, which called on the State to immediately ensure the monitoring of the rights situation in the Ninotsminda Boarding School by the relevant monitoring authorities clearly indicates the real risk existing in the facility.<sup>62</sup> In general, the main purpose of issuing interim measures is to protect the rights and interests that may be irreparably damaged. These measures are implemented only in exceptional cases and their effectiveness depends directly on the timely implementation of measures by the State.

The communication of the United Nations Committee on the Rights of the Child is also noteworthy, as it explicitly states that the Public Defender should be given the opportunity to assess the matter concerning the protection of rights of children.<sup>63</sup>

In her intervention sent to the Committee on September 15, 2021, the Public Defender spoke about the violations of children's rights at the Ninotsminda Boarding School and the ineffectiveness of the measures taken by the state agencies. The communication described in detail the facts of alleged violence against children for years, the violation international and national legislation and the existing situation in the institution. Inter alia, special

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<sup>61</sup> Source: <https://bit.ly/3DfSHeJ> [last accessed: 04/10/2021].

<sup>62</sup> Rules of procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, Rule 7.

<sup>63</sup> Petitions and Urgent Actions Section, Communication, 10 May, 2021.

attention was paid to the uncoordinated and delayed actions by the state agencies in terms of ensuring the entry of both the representatives of the Public Defender and the legal representative of the children, the social worker, into the institution. The Public Defender's Office also indicated the importance of removing children from the Ninotsminda Boarding School, reintegrating them into biological families or transferring them to alternative form of care, as well as delays in this process.

## United Nations Subcommittee on Prevention of Torture

On June 8, 2021, the Public Defender wrote a letter to the UN Subcommittee on Prevention of Torture (SPT) regarding the events developed in the Ninotsminda Boarding School and requested an assessment of the cases of violence against children, alleged torture and inhuman treatment.

In a correspondence sent to the UN Subcommittee on Prevention of Torture, the Public Defender described in detail the violations identified in the Ninotsminda Boarding School over the years. The letter specifically referred to the cases of child abuse, which are currently under investigation. The Public Defender also provided information to the Subcommittee about alleged treatment of children that may be equated with inhuman and degrading treatment.

### 7. Rights of former beneficiaries of the Boarding School

The Public Defender's Office is studying the situation of former children of the Ninotsminda Boarding School. By this time, a total of 12 juveniles have been transferred from the facility to biological families, while 22 children have been placed in other forms of care. 15 of the children transferred from the Boarding School to other forms of care have been placed in a small group home and 7 – in foster families.

The Public Defender and her representatives, along with a psychologist, have already met with about 30 children, who have left the Ninotsminda Boarding School. Children, their social workers and current caregivers were interviewed during the meetings. The living environment of the children, care provided to them and their condition, including their psycho-emotional state, are assessed based on the conducted interviews.

### The needs of children transferred from the Ninotsminda Boarding School to other forms of care

Interviews with juveniles and their social workers once again proved that the children living in the Ninotsminda Boarding School had a severe, traumatic experience. Children were in a violent environment, growing up in poor conditions. The facility did not study their health condition or development needs, did not take appropriate measures based on the above, did not meet the basic needs of children, and did not prepare them for independent living. All of this points to the negative impact that the institutional care facilities have on children. It is therefore imperative for the State to take all steps in a timely manner and implement all appropriate measures to ensure the timely removal of children from the institutional environment, where they were likely subjected to violence and ill-treatment. It is important that all agencies coordinate efforts to ensure that children are provided with a safe and reliable environment. It is also necessary to work intensively with former beneficiaries of the Boarding School to assess their health, study their psycho-emotional state and, if necessary, ensure their

rehabilitation. It is especially important to support the education of former beneficiaries of the Ninotsminda Boarding School and prepare them for independent living.

Interviews with the children transferred from the Ninotsminda Boarding School to other forms of care once again showed the importance of assessing their individual needs and granting status, although this has not been done so far. At the same time, it is important to protect the mental health of children transferred in alternative forms of care and to identify and meet their needs in this regard.

It is noteworthy that in one of the cases, juveniles were not transferred to an environment tailored to their best interests, where persons working with them would be adequately trained, which led to severe problems with difficult behavior management.

### [The process of returning former beneficiaries of the Ninotsminda Boarding School to their biological families](#)

As already mentioned, part of the children, despite being registered in the Ninotsminda Boarding School, were moved to their biological families or other authorized persons, while the State Care Agency worked on their reintegration. However, in the process of reintegration, in addition to assessing and ensuring the individual needs of the children, special importance should be regarded to strengthening and supporting their biological families, considering both material and non-material components, in order to enable them to create a safe living environment that meets child development needs. Inter alia, it is important to inform family members about the behavioral characteristics of deinstitutionalized children and children victims of abuse, as well as positive forms of upbringing and correct forms communication with them. Unfortunately, this process is quite problematic both due to the matter concerning the readiness of biological families and the scarcity of services focused on supporting and strengthening children and their families. Therefore, the issue of reintegration of children is a challenge, which was especially evident when returning children from the Ninotsminda Boarding School to their biological families and keeping them there.

The Public Defender's Office is closely monitoring the process of children's return from the Boarding School to their biological families. According to the information received from the representative of the Ninotsminda territorial unit of the State Care Agency, it was not planned to return children from families, or other authorized persons, back to the Ninotsminda Boarding School. Nevertheless, in July 2021, one child returned to the Ninotsminda Boarding School. In this case, the biological family could not be properly strengthened to take full care of the child. It is also noteworthy that Public Defender's representatives were in the territorial unit of the State Care Agency to check the child's living condition, and the social worker only at the time of this visit discovered that the mother had let the child in the Ninotsminda Boarding School without informing the social worker. During the monitoring conducted on November 22, 2021, it was found out that another child had returned from her family to the Ninotsminda Boarding School.

## 8. Living conditions and protection of rights of children currently living in the Boarding School and determining an alternative form of care for them

As of November 22, 2021, there were 17 children registered in the Ninotsminda Boarding School, 15 of whom were actually living in the facility. The social workers of the State Care Agency are present at the facility on a regular basis and assess the needs of the beneficiaries, including their return to the biological families and, if this is not possible, their transfer to alternative care.

It should be noted that according to the information received from the representative of the Boarding School, it is planned to retrain caregivers of the institution, after which they will pass exams and will be employed in the Boarding School only on the basis of the exam results. In addition, the new management of the Ninotsminda Boarding School plans to build small group homes on the territory of the Ninotsminda municipality. The existing building will be used as an out-of-school education facility to facilitate the education of young people living in Ninotsminda. However, at the time of the monitoring conducted on 22 November 2021, the process of training caregivers had not yet begun and the staff of the facility had no information when it would start.

It is noteworthy that following the events developed in the Ninotsminda Boarding School, almost half of the children were quickly removed from the facility. However, despite the intensive efforts for the following six months, it was not possible to remove all the children from an environment, the physical and institutional arrangement of which does not meet the best interests of the children. It is inadmissible to leave children in an environment where they were allegedly abused. It is also noteworthy that one of the children, according to the individual development plan drawn up in September 2021, expresses a willingness and desire to change the form of care. However, the child remains in the Boarding School until now.

It is necessary to immediately assess the situation of each child and his/her family with a multidisciplinary approach. The priority should be given to the return of children to their biological families and, if necessary, to support and strengthen their families and, if this is not possible, to transfer them to another, family-like form of care. It is important that the process of removing children from the Boarding School and placing them in alternative care be carried out with maximum protection of the safety and interests of the children, in order to minimize the aggravation of their psycho-emotional state.

### Conclusion

The events surrounding the Ninotsminda Boarding School have once again highlighted the vicious nature of large, institutionalized care facilities that have devastating effects on children. It is particularly alarming that it is very difficult to detect cases of violence against children in such closed institutions. The result of the inefficient efforts of the state agencies is that children living in similar types of institutions not only do not have trust-based communication with their social workers, but do not have any form of contact with them for months.<sup>64</sup>

The State, which has a primary obligation under international and national legislation to protect children placed in state care from all forms of violence and to provide them with adequate living conditions, as well as to ensure

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<sup>64</sup> See the Report of the Public Defender of Georgia on the Monitoring Carried out in the Peria Assisted Living Facility.

their development and preparation for independent living, is often unaware of the needs of children living in boarding schools. It is also unfortunate that even if such cases are detected, the state agencies fail to take timely or coordinated measures to provide minimum guarantees for the protection of children. The state agencies have not entered the licensed care facility for months and this has not resulted in any joint, coordinated effective response, especially considering that the Public Defender's Office had repeatedly pointed to alleged violence against children in the institution and the fact that there was a real threat to their safety and development.

According to international and national laws and the study of the issue by the Public Defender's Office, even living in the Ninotsminda Boarding School is a violation of the rights of the child, is not in the best interest of the child and represents an example of an ineffective policy pursued by state agencies in terms of providing a child-centered family-alike environment.

The State is obliged to close large residential institutions and replace them with foster care services, family and community-based care services, including for children with disabilities. However, despite a number of challenges and obvious inconsistencies, the State has not yet developed a specific deinstitutionalization plan. The issue is particularly negatively affected by the lack of specialists working with children and services focused on supporting and strengthening children and their families, as well as the lack of rehabilitation services. This makes it difficult to timely assess and identify the individual needs of children, as well as to address the identified challenges.

The Public Defender continues to closely monitor and evaluate the process of assessing the needs of children by the State Care Agency, including their return to biological families and, if this is not possible, their transfer to alternative care, as well as to hold meetings with former beneficiaries of the Ninotsminda Boarding School and to study their needs. The Public Defender's Office plans to visit the Ninotsminda Boarding School in the near future to continue to thoroughly study the situation there, to assess the needs of the children and to observe the deinstitutionalization process.

## Recommendations

### To the Government of Georgia:

- Develop and approve a unified state strategy and plan for deinstitutionalization in an expedited manner.

### To the Prosecutor General's Office and the Ministry of Internal Affairs of Georgia<sup>65</sup>

- Unify all cases of alleged crimes committed against children in the Boarding School in one case
- Specify the classification of cases and investigate alleged violence against children in the Boarding School under Article 144<sup>3</sup> of the Criminal Code and alleged sexual violence against children in the Boarding School under Articles 137, 138 and 141

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<sup>65</sup> On December 7, 2021, the Public Defender's Office addressed the Prosecutor General's Office of Georgia with proposal No. 15-5/11525, based on the challenges identified as a result of studying the full materials of all four criminal cases of alleged violence, including sexual abuse, against children in the Ninotsminda Boarding School. In the interests of the investigation and protection of the privacy of children, the report provides only part of the problematic issues identified and the recommendations developed on this basis.

- The cases of violence against children in the Boarding School should not be investigated by the Ninotsminda District Division or the Akhaltsikhe Police Department but should be transferred to other structural and territorial units of the Ministry of Internal Affairs for investigation. In addition, the supervising prosecutor should be replaced
- Request or seize complete documentation available in the Boarding School, as well as other agencies (State Care Agency, LEPL-112, etc.), covering the full period of the operation of the Boarding School, relating to all beneficiaries and employees, as well as medical records and documents containing important information for the case
- Obtain (seize or request) all the relevant records about children from Ninotsminda Public School No. 4, including medical records, identities of classmates and teachers
- Interview all persons with relevant information, in particular, all the beneficiaries, employees and supervisors (including clergyman), parents of children, teachers, classmates, social workers and psychologists who had contact with children.
- Persons subjected to questioning should be asked detailed questions on the facts, as well as whether they have any kind of proof of alleged crimes (written, audio, photo, video)
- As part of the investigation, interview the management of the Boarding School (including clergyman) and ask questions about whether they were aware of the methods of treatment and punishment, whether they supported such methods, whether they took measures to eliminate such practices, and if so, what kind of measures they took, and whether they informed investigative bodies
- Take protective measures, including by ensuring physical security, separating children from the alleged abuser and alleged violent environment (Ninotsminda Boarding School), so that children can freely talk about the instances of alleged violence without any pressure
- Ensure that all interviews with juveniles are attended by a procedural/legal representative, a psychologist and a lawyer
- Ensure the involvement of a witness and victim coordinator with former and current beneficiaries of the Boarding School
- Exclude the social worker of the Ninotsminda representative unit of the State Care Agency and Assistance for Victims of Trafficking from the investigative activities
- Appoint forensic (to detect the traces of injury or the relevant medical records) and psychological examinations of former and current beneficiaries of the Boarding School
- Ensure that during the investigation, law enforcement agencies cooperate with the Agency for the State Care, including for the referral procedure relating to the children's protection and support measures
- Conduct investigation into alleged sexual harassment in a manner free from stereotypes and prejudices in order to establish objective circumstances. In this regard, it is necessary to apply the principles set out in the Manual for Georgian investigators, prosecutors and judges on cases of sexual violence crimes
- Provide information to the society on the results of the investigation, considering the interests of the investigation, once every 3 months.

To the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking :

- Immediately transfer the child with a status of a person with disabilities currently living in the Ninotsminda Boarding School to another form of care, in accordance with child's best interests
- Refer information on alleged violence reflected in the individual development plan of one of the children and the information on the willingness of the child to be interviewed by the law enforcement agency in accordance with the obligation established by the legislation of Georgia, if the case has not already been referred to relevant authorities
- Assess the needs of children currently registered at the Ninotsminda Boarding School, but actually living in their biological families, as well as the needs of their families, and support them in order to prevent their return to the Ninotsminda Boarding School
- In order to ensure a safe environment for the children reintegrated with their biological families, in accordance with their best interests, assess the individual needs of each child in a timely and multidisciplinary manner, and on this basis, continue efforts to strengthen biological families, taking into account both material and non-material components. Inter alia, it is important to inform family members about the behavioral characteristics of deinstitutionalized children and the correct forms of communication with them
- Timely assess the needs of the children currently living in the Boarding School, reintegrate them with their biological families and, if this is not possible, transfer them to another form of family-alike care
- Timely assess the individual educational needs of the children living in the Boarding School, including their special educational needs
- Assess the psycho-emotional condition of the children living in the Boarding School and ensure individual and continuous involvement of the relevant specialist with them
- Assess the psycho-emotional condition of former beneficiaries of the Boarding School and ensure involvement of the relevant specialists with them
- Offer appropriate services to children transferred from the Ninotsminda Boarding School to other forms of care in a timely and multidisciplinary manner, in accordance with the individual needs of each child, in order to fully ensure the protection of their rights
- Train caregivers involved with children transferred from the Ninotsminda Boarding School to other forms of care on the topics relating to the prevention and management of children's difficult behavior and aggravation of their emotional state, as well as other specific issues
- Assess the individual needs of the beneficiaries of the Boarding School, including in order to determine the need for granting the status of special educational needs and/or status of a person with disability
- Add a new position of the social worker in the Ninotsminda territorial unit of the State Care Agency to facilitate more effective and trust-based communication with children currently living in the Boarding School
- Assess the timeliness of actions taken by the State Care Agency relating to the application received by the territorial unit of the Agency on the alleged case of child abuse.