

RIGHT OF ACCESS TO JUSTICE FOR CHILDREN IN STATE CARE



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INTRODUCTION

This special report was prepared from March to September 2023 and It reflects the results of research and monitoring on access to justice for children living in state care in Georgia.

“Child-friendly justice” refers to a justice system that guarantees the effective realization of a child’s rights, considering principles such as the protection of the child’s rights, individual development, and case-specific circumstances. It is, in particular, justice that is accessible, age appropriate, speedy, diligent, adapted to and focused on the needs and rights of the child, respecting the rights of the child including the rights to due process, to participate in and to understand the proceedings, to respect for private and family life and to integrity and dignity.¹

The development of a child-friendly justice system in Georgia commenced in 2009 with the adoption of the Juvenile Justice System Reform Strategy. As part of this reform, a diversion and mediation program was introduced, establishing an individualized approach to children in contact with the law, and initiating the specialization of professionals.² In 2015, the Code of Juvenile Justice was adopted, followed by the 2019 adoption of the Code of Children’s Rights. The latter outlined guarantees for the protection of the best interests of minors involved in the criminal, civil, and administrative law systems. It emphasized preferences for inclusion in the diversion program, the use of alternative forms of imprisonment, mandatory specialization of professionals, a multidisciplinary approach, and consideration of individual needs in the decision-making process.

According to Article 20 of the Convention on the Rights of the Child, a child who is temporarily or permanently deprived of a family environment must receive special protection and assistance from the state. National legislation dictates that they should be ensured alternative care, which may encompass foster care, adoption, or, if necessary, placement in an appropriate educational institution.³ When deciding on the form of care, it is crucial to consider factors such as the continuity of the child’s upbringing in the same environment, as well as their ethnic, religious, cultural, and linguistic characteristics. Among these considerations, it is of utmost importance to inform children in care and facilitate their effective access to protection mechanisms, given their heightened vulnerability to rights

¹ CoE Guidelines on Child-Friendly Justice, p. 17.

² Child-friendly justice, overview of legislation, UNICEF Georgia, 2017, p. 3 < <https://shorturl.at/aeil4> > [last accessed: 09.12.2023].

³ It is important to emphasize that residential care should be utilized for the shortest duration and only in exceptional cases when placing the child in foster care or adoption is not feasible.

violations. Therefore, the state should prioritize the dissemination of information to children while concurrently addressing their other needs, including individual considerations.

The United Nations Organization (UN) places special emphasis on children under alternative care. To elucidate the content of child care and the standards of legal protection, the United Nations has formulated a dedicated guide for member states. This guide serves to steer and facilitate the implementation of a correct and child-oriented state policy.

This underscores the significance of the matter at hand, as children deprived of parental care and not residing with their families often undergo considerable emotional stress and face heightened risks. These risks may be even more pronounced in countries where childcare systems are still in the developmental stages. Consequently, children in state care require special attention and continuous monitoring by human rights protection organizations. This is essential to ensure that the rights outlined by the Convention on the Rights of the Child are safeguarded, at a minimum comparable to the protection they would receive within their families and in the conditions of a secure living environment. In this context, rights pertaining to their psychological and emotional development, their security, freedom, and respect for their dignity assume particular significance.

The rationale behind conducting the present study is linked to the sensitivity of the topic and the potential risks associated with separating children from their families and placing them in alternative care.

Barriers to Access to Justice

When evaluating the children's rights and considering the numerous barriers they encounter, the Public Defender has consistently highlighted the myriad challenges within the country concerning access to juvenile justice, both in terms of legislation and practical implementation. This assertion is substantiated by studies conducted by various organizations.

Children rely entirely on adults to be informed about their rights, comprehend and utilize available legal remedies, and gain access to courts or other justice mechanisms. Regrettably, child-friendly procedures are only consistently implemented in isolated cases. There are limited or no mechanisms and resources in place to guarantee that the specific needs of children are considered within the justice system and to support development of their capacities.⁴ As mentioned earlier, children in state care constitute an

⁴ The United Nations Children's Fund (UNICEF) study, titled "Equal Access to Justice for Children in Albania, Georgia, Kyrgyzstan, and Montenegro," (2015).



especially vulnerable subgroup among minors. This vulnerability is heightened by their separation from their families, which already establishes a traumatic foundation and experiences for them.

Children's access to justice is frequently impeded by procedural barriers, including financial and geographical constraints on reaching protection systems, along with communication difficulties. Children may lack the financial means to engage the services of a lawyer or cover travel expenses. Additionally, the communication methods employed by specialists working with children are often not child-friendly, understandable, or simple, further complicating the accessibility of justice for children.

The complexity of the justice system is crucial as it complicates a child's understanding of the system. Minors are frequently uninformed about their rights and available support systems. They lack knowledge of where to seek legal advice or request legal aid.⁵ Legal procedures often lack a child-centered approach, neglecting factors such as the child's age, ethnicity, religion, or other characteristics, including their identity. This oversight often results in discriminatory consequences for minors, encompassing issues like the absence of specialized professionals and inadequate continuing and comprehensive education programs.⁶

It is particularly noteworthy that the justice system often intimidates children. They fear filing a complaint or seeking assistance because they believe that doing so may lead to intimidation, harassment, further stigmatization, abandonment, or threats directed at them and their families. Additionally, their trust in responsible individuals, agencies, or organizations is often low. They harbor concerns that they will not be taken seriously, believed, or listened to.⁷ Importantly, minors frequently require the support of adults to protect their rights, yet they may lack information about children's rights and protection mechanisms themselves.

The issue of access to justice for children residing in state care is particularly noteworthy. According to a report by the United Nations High Commissioner for Human Rights, children in state care face the heightened risk of experiencing various forms of stigma and discriminatory treatment, based on factors such as sex, disability, ethnicity, language, religion, social status, sexual orientation, and gender identity.⁸ Consequently, a justice system dedicated to facilitating access for juveniles must give special attention to supporting and empowering children living apart from their families.

⁵ Joint report of the Special Representative of the Secretary-General on Violence against Children and the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, Safe and child-sensitive counselling, complaint and reporting mechanisms to address violence against children, 2012, p. 6.

⁶ Human Rights Council, General Assembly, 16 December 2013. Access to justice for children, Report of the United Nations High Commissioner for Human Rights p. 7. para. 14.

⁷ Ibid, p. 7. Para. 15.

⁸ Ibid, p. 8. Para 17.

Methodology

The research into access to justice for minors in state care was conducted within the framework of the authority established by the Organic Law of Georgia on the Public Defender of Georgia and the Code on the Rights of the Child. Additionally, it was carried out in accordance with the guidelines developed by the United Nations Human Rights Commissioner.

The study aimed to evaluate the awareness levels of children residing in state care, particularly in residential institutions, of their caregivers and professionals in contact with them, regarding the rights of the child.

A research design incorporating desk and qualitative research methods was defined. Specific questionnaires were prepared, and the research included both individual and group interviews with children, specialists, and representatives of service providers.

Desk research encompasses the analysis of legislative regulations, information requested from agencies⁹, and data obtained from interviews. It also involves the examination of analytical documents prepared by local and international organizations on the research topic.

The interviews aimed to assess the understanding of children's rights and protection mechanisms among both children and professionals working with them. The questionnaire includes elements for verifying knowledge, using specific examples. Notably, it focuses on the equality of opportunities for accessing information among children and the uniformity of caregivers' awareness regarding children's rights and protection guarantees.

During both the planning and implementation stages of the meetings, a specific focus was placed on the ethical aspects of children's participation. This encompassed adopting child-centered approaches, obtaining informed consent, ensuring confidentiality, promoting voluntariness, prioritizing safety and sensitivity to risks, and maintaining accountability, among other considerations.

The fieldwork was conducted in multiple stages. In the initial phase, representatives of the Public Defender engaged with children residing in small family-type houses within various institutions, predominantly in residential facilities, using a pre-developed questionnaire to gather information directly from them. Subsequently, in the next stage of the research, interviews were conducted with

⁹ Correspondence sent to LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking: №10/8517, 25/08/2023; answer received №1000318 4 23 00983468, 18/09/23; Correspondence sent to the Ministry of Internal Affairs: №10/8516, 25/08/2023; answer received: MIA 1 23 02546842, 01/09/2023; MIA 5 23 02629646, 08/09/2023; Correspondence sent to LEPL Office of Resource Officers of Educational Institutions: №10/8515 25/08/2023; answer received: MES 5 23 0001060828, 01/09/2023; Correspondence sent to the chamber of notaries of Georgia: №10/8517, 25/08/2023; answer received: 16/10074, 31 /08/ 2023.



specialists working in these institutions, including caregivers, leaders, and managers. Following these interviews, additional information was sought from various state agencies, the necessity of which was determined by the research framework and the insights gathered from both the children and the professionals working in residential institutions.

Simultaneously, both individual and group interviews were conducted with various professionals who work with children¹⁰. This included social workers and psychologists from the LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking (ATIPfund), Ministry of Internal Affairs Police Patrol officers, social workers and psychologists from the psychosocial center of the Office of Resource Officers of Educational Institutions. Additionally, interviews were held with representatives and decision-makers from five different service providers.

As of August 2023,¹¹ the distribution of children in various care settings was as follows: 218 children in small family-type homes, 28 children in specialized family-type services designed for children with severe and profound disabilities or health problems, 10 in institutions under the Patriarchate of the Georgian Orthodox Church, 34 in the Tbilisi Orphanage, and 7 children in the non-profit (non-commercial) legal entity Children's Center in the Self-Governing City of Poti. Additionally, in 2023, within the framework of the sub-program for providing shelter to homeless children, 45 beneficiaries were enrolled in day care centers and shelters throughout the country. In total, 240 children benefited from the sub-program during the same year.

Within the framework of the research, visits were conducted to 38 child care and educational institutions, encompassing small family-type homes (30), day care centers for homeless children (3), shelters (2), and 3 large residential children's institutions (two of which were unlicensed). Face-to-face interviews were carried out with 74 children, comprising 41 girls and 33 boys. Additionally, individual interviews were conducted with 43 individuals employed in these institutions, including caregivers, housekeepers, leaders, and coordinators.

The obtained information was analyzed based on the primary elements of child-friendly justice, including:

¹⁰ Interviews were primarily conducted with professionals who work directly with children residing in residential institutions or in the territorial unit where these institutions are situated, coinciding with the locations visited during the monitoring process. The aim was to uncover the practical needs and challenges faced by children living in state care.

¹¹ LEPL Agency for State Care and Assistance for the (Statutory) Victims of Human Trafficking correspondence, №1000318 4 23 00983468, 18/09/2023.

- Priority consideration of the best interests of the child
- Child's participation in the proceedings
- Legal guarantees of child protection from discrimination
- Children's awareness of their rights and protection mechanisms¹²
- Protection of the child's personal data
- Specialization of professionals working with children, etc.

This information was equally gathered from both children and professionals, enabling a comparative assessment of their awareness levels.

Following processing of information, recommendations were formulated. Adhering to these recommendations is expected to significantly enhance the realization of the right of access to justice for children living in state care.

Main findings

Children

- Most children lack sufficient information about their rights;¹³ they are unfamiliar with the documents specifying these rights and often view rights solely in the context of duties.
- It is particularly concerning that, with few exceptions, children lack information about protection mechanisms, despite sharing experiences of violence within their families, on the streets, and in state care institutions, involving both children and adults.
- The majority of children, when seeking to protect their rights, have approached a social worker, the police, or the Public Defender. However, among available hotlines only the emergency number "112" was mentioned (with few exceptions), and they are unaware of activities of NGOs, Legal Aid Service, and Personal Data Protection Service;
- Most children are uninformed about the right to independently approach judicial and administrative bodies. Moreover, they are not acquainted with international mechanisms for the protection of rights.

¹² Including legal aid, right to a lawyer, right to appeal.

¹³ Among them, in the processes related to them, in decision-making, in terms of substantial involvement, and their right to participate. It should be noted that adults do not listen to children and do not consider their opinion.



- Number of the children,¹⁴ while talking about their experience with the police, focus on the challenges of attitude towards children and communication with them. However, the majority of children remember the experience with the court positively.

Caregivers

- Caregivers possess superficial knowledge about children's rights, alongside strong discriminatory attitudes and prejudices, particularly in matters related to upbringing. Many of them observe that children are more familiar with rights than duties.
- Most caregivers lack information about procedures for protecting children from violence.
- Caregivers generally believe that children cannot independently navigate the court system. While some have heard about the possibility for a child to seek external mechanisms for protecting their rights, they lack additional information.
- Caregivers are not well-informed about non-governmental organizations, free legal aid services, and personal data protection services.
- Based on the caregivers' responses, it is evident that children's opinions are predominantly considered in domestic matters, such as food choices.
- The majority of caregivers express negative experiences in their dealings with the police.

Specialists of state agencies working with children and service providers

- Representatives from nearly all agencies and service-providing organizations highlight resource scarcity, including human and financial resources. This scarcity extends to effective services in child protection, mental health, substance addiction, crime prevention,¹⁵ and the continuous training of professionals.
- There is a recognized need to enhance inter-departmental coordination and flexible communication concerning children living in state care.
- According to some of the representatives of the service providing organizations, the response to cases related to children is ineffective, and there are challenges in using

¹⁴ In 16 cases, children pointed to specific circumstances and talked about the negative experience of communicating with the police.

¹⁵ Service providers and law enforcement agencies emphasize the rising trend of criminal behavior among children. Additionally, they highlight the urgent need for mental health services, which are currently extremely scarce.

child-friendly approaches on the part of the police. On the other hand, according to the representatives of the law enforcement agency, an important challenge for them is the lack of various support specialists and the extreme unavailability of social workers and psychologists;

- Among specialists working with children, there is a lack of respect for children's rights, and child-friendly approaches are underutilized. Children are often subjected to moral criticism.
- Psychologists working with children lack information about the basic rules and regulations of child protection guarantees, and most social workers lack correct information about legislative novelties in the field of children's rights.¹⁶
- Despite the positive steps taken by the law enforcement agency, the need for additional training of agency representatives on child-friendly approaches was identified, in order to use a child-friendly approach in practice and to substantially improve relevant skills;
- Stigma against children in state care remains acute in public schools.

¹⁶ Among them, a significant number of social workers lack information regarding a child's ability to independently approach the court, secure legal representation, and so on. This concern aligns with the feedback from social workers, indicating that a considerable portion of them has not undergone professional training in recent years.



1. REVIEW OF INTERNATIONAL AND NATIONAL STANDARDS

1.1. Accessible Justice – An International Standard

Access to justice is not just a fundamental right but also a necessary prerequisite for the protection and development of human rights.¹⁷ According to the Convention on the Rights of the Child¹⁸ and other international documents, children’s access to justice encompasses vital aspects such as a clear, fair, and timely process for the protection of their rights.

The concept of children’s right to justice demands the empowerment of all children. They should possess the knowledge and capability to obtain information about all means of protecting their rights. This includes awareness of relevant legislation, available services, educational opportunities, and legal advice on children’s rights. It is crucial that children are not only informed but are also able to seek support from adults regarding legal matters.¹⁹

According to the definition provided by the Council of Europe, child-friendly justice entails a system wherein all the rights of every child are guaranteed and protected, and where the child’s opinion is given due weight. This involves justice that is accessible, age-appropriate, prompt, considerate, and tailored to the specific needs of the child. It also respects the child’s right to a fair trial, the right to participate in proceedings, receive comprehensive information, and ensures the right to privacy, family life, and dignity.²⁰

States are obligated to fully align their national legislation with internationally recognized rights. This necessitates amending ineffective legislation, adopting new regulations, allocating appropriate resources, maintaining education and training systems, and implementing all other necessary administrative measures to ensure fair, effective, and prompt access to rights protection for children.²¹

¹⁷ General Assembly resolution 67/1, paras, 14 and 17.

¹⁸ UN Approach to Justice for Children, p. 4.

¹⁹ Ibid, p. 4.

²⁰ Guidelines of the Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice, article II.a; for the purpose of this report, child-friendly and child-sensitive are considered as synonymous.

²¹ Article 2 of the International Covenant on Civil and Political Rights and article 4 of the Convention on the Rights of the Child; see also: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, article I. 2. b.

1.1.2. State Care – An International Standard

As mentioned in the introduction, the United Nations has developed a guide²² to guarantee the protection of the rights of children in state care. The obligations of persons taking care of children in state care are particularly significant,²³ namely:

- The person who takes care of the child must possess relevant knowledge, must be trained on children's rights, have relevant skills and act with the best interests of the child in mind;
- Every institution where a child resides must have clear and written regulations, including the obligation to report in case of violation of the rules of appropriate behavior by employees;
- The personal file of the child and its confidentiality must be strictly protected;
- The state should strictly regulate the selection of persons working with children;
- Training should be provided for everyone who interacts with the child. Professionals should know how to manage difficult behavior and conflicts, care for children, taking into account their specific needs, etc.

The guidance also outlines specific obligations for residential care facilities, including small family-type homes:²⁴

- Residential care should be temporary and entirely centered on the rights and needs of the child.
- Children who require alternative care, if necessary, should be separated from minors that exhibit deviant behavior or are in conflict with the law. Children should receive individual care to foster a healthy bond with the caregiver.
- The child must be guaranteed the opportunity for full access to legal protection systems, where their opinion and participation will be taken into account.
- The child should have contact with all organizations that will provide necessary services.
- The child should maintain a permanent relationship with their family, etc.

For these rights to be ensured for children, the state must provide all appropriate services, resources, and skills, which, in turn, must be accessible to organizations that provide care.²⁵

²² Guideline for alternative care, UN General Assembly resolution 64, 2010.

²³ Ibid, p. 16-17.

²⁴ Ibid, p. 18.

²⁵ Ibid, p. 19.



1.2. National Standard for Protection of Children's Rights

The UN Convention on the Rights of the Child²⁶ and its associated protocols are binding documents for everyone in the country. In 2016, Georgia embraced the third and the most recent protocol of the Convention, introducing another international mechanism for safeguarding the rights of minors.

Georgia's legal framework essentially aligns with the requirements outlined in the Convention on the Rights of the Child. This alignment gained further strength in 2019 when the Parliament of Georgia enacted the "Child's Rights Code."

This Code holds particular significance, especially in terms of ensuring the child's right to justice. Its main content is closely tied to a fresh perspective on how justice for children is implemented.

The Code on the Rights of the Child has eliminated the age limit for initiating legal proceedings, which previously restricted a child's ability to approach the court until the age of 14. Presently, every child, irrespective of age, possesses the right to seek recourse in the courts and administrative bodies for restoration of violated rights.

*"The child holds the right to approach the court and/or the relevant administrative body to safeguard their rights and avail themselves of a justice system that is accessible, tailored to their age, easily comprehensible, swift, impartial, consistent, and adapted to their rights and needs, upholding the child's dignity and show respect for their personal life. The child has the right to access any information and/or official document concerning them in a public institution in accordance with the law."*²⁷

The protection of the fundamental rights of children residing in state care and ensuring unhindered access to justice are of paramount importance.

*"All children placed in alternative care, including those with disabilities, should be integrated into the unified state systems of education, health, and social protection. They should enjoy the same access to justice as their peers."*²⁸

The Children's Rights Code affirms the right of children and their parents/guardians to free legal aid.

"The child has the right to receive consistent and qualified legal advice and/or legal assistance at the state's expense, considering their age, individual abilities, and needs, in a language they understand,

²⁶ Ratified by the Parliament of Georgia in 1994.

²⁷ Code on the Rights of the Child, Art 13.

²⁸ Ibid, Art 29.

with appropriate means of communication. The Legal Aid Service, a legal entity under public law, provides free legal consultation and/or legal assistance on matters related to the child's rights for the child and/or parent or other person responsible for the child's upbringing in accordance with the procedures established by the legislation of Georgia.”²⁹

The Code has introduced a legal obligation for specialized knowledge in children's rights.

„A professional working with children shall undertake necessary interdisciplinary training on matters related to the rights of the child, the needs of children of different ages, and matters related to child-friendly justice. In addition, a professional person working with children shall be retrained in the field of communication methods used with children of any age and level of development, in particular with vulnerable children. Any person participating in an administrative procedure or civil and administrative proceedings in courts related to the rights of the child shall be specialized in accordance with the specialization standards established by a relevant law.”³⁰

The obligation to listen to the child and consider their opinion has been established. Simultaneously, there is a guarantee that the necessary information for forming an opinion and participating in processes is accessible to the child.

„The child shall have the right to freedom of expression. Moreover, the child shall have the right to have his/her opinion heard when making decisions related to the child and to have his/her opinion taken into account depending on the age and the mental and physical development of the child. The child shall have the right to search, obtain and disseminate information freely through various means and forms. The child shall have the right to access to mass media and the Internet, and to freedom of use of the Internet.”³¹

The existence of an effective means of protection must be guaranteed for children in alternative care institutions.

“The standards set by the state for alternative care must encompass, among other things, the provision of an effective mechanism through which a child can report or file a complaint regarding the conditions or treatment within the alternative care. This mechanism should operate independently of the alternative care provider and the overseeing state agency, ensuring the ability to respond effectively and safeguard the child's interests impartially.”³²

²⁹ Ibid, Art 79.

³⁰ Ibid, Art 73.

³¹ Ibid, Art 14.

³² Ibid, Art 30.



In the context of children's right to justice, the aforementioned changes are foundational and establish legal guarantees for effective justice.

However, to gauge the effectiveness of these legal guarantees, it is essential to assess whether children and the professionals working with them possess adequate knowledge about these guarantees and whether they can effectively apply them in practice. The practical segment of the current study is designed to address these questions.

2. CURRENT SITUATION IN PRACTICE

As an integral component of the research, direct interactions took place with children residing in state care and their caregivers. The questionnaire is structured into three parts, each scrutinizing aspects of the right to access justice and the comprehension of these elements by children and their guardians.

This chapter consolidates the information derived from the interviews in a generalized format.

2.1. Knowledge of Rights

2.1.1. Children

Upon conducting interviews, it was revealed that a significant majority of children lack adequate, accurate, and comprehensive information about their rights. Specifically, 29.73% of the respondent children have no information about the rights of the child at all, while 70.27% possess only limited information. It is noteworthy that when discussing rights, children often articulate statements about their responsibilities. For instance, they express rights as: *"to be smart, to be educated, to achieve everything, and to have goals"* or *"to learn, to trust the caregiver, to behave decently."*

Additionally, it is observed that most children primarily associate rights with security aspects. They frequently mention protection rights such as safeguarding against violence, bullying, discriminatory treatment, etc. For instance, one child responded to the question *"What is your right?"* with *"It is my right to be peaceful and safe at home, not afraid that someone will stab me."*

Furthermore, it is evident that, in certain instances, children's understanding of rights is primarily shaped by personal experiences rather than through provided information or shared knowledge. In the section addressing rights violations, respondents frequently cite examples involving the actions of their peers or, in some cases, adults, leading to discomfort for them. In these situations, children may not fully grasp that it is the responsibility of adults to protect them.

When discussing rights, children tend to highlight behaviors desired by adults. In this context, based on the examples provided by children, the emphasis is placed on the child's obligations. For instance, according to one child, a violation of the child's right occurs if the child *"does not do as the caregiver says, behaves badly, destroys something, or refuses to go to school."* This example suggests that



children may receive information about their rights in a distorted manner, prioritizing the interests of adults rather than the child.

The majority of children possess fragmented knowledge about their rights, and the primary source of information is their school. In a few instances, only a handful of small family homes have the Convention on the Rights of the Child accessible to them.

When questioned about whether they refer to any legal documents or laws that regulate children's rights, only a few children, in exceptional cases, mention the Convention on Rights. Generally, children seldom discuss rights established by law or any conventions, and the words "by law," "according to the Convention," or "according to the Children's Code" rarely find a place in their vocabulary. The absence of these concepts in their spoken language serves as evidence of their limited knowledge about children's rights.

In certain institutions, a complete lack of knowledge about children's rights, child protection procedures, and relevant legal acts has been identified. For instance, in one unlicensed boarding school where 15 teenagers reside, as per the accounts of interviewed children, there is no discussion or information provided about these matters. The children have no knowledge of whom they can turn to in case of rights violations. According to the children's narratives, there seems to be a lack of importance attached to this issue. The children only have information about the "112" hotline, which they learned about at school.

Furthermore, the children state that representatives of State Agencies do not conduct information sessions with them. The police appear only when officially called, for example, when a child leaves the house without permission, as well as in cases of conflict, loss of an item, or other incidents.

The deficiency in informing children about children's rights issues is evident from the fact that the majority of interviewed children are either completely or partially unfamiliar with their individual plan. Some are unaware that it is their right to have specific goals or activities planned in agreement with the children.³³

According to the interviewed children, it would be beneficial if adults listened to their opinions before making decisions. Children emphasize the importance of being heard, stating that *"a child may not like something that an adult wants."*³⁴

³³ Even though caregivers inform us during interviews that individual plans are established in collaboration with the children, the information provided by the children suggests a misalignment with reality. This indicates that the development and execution of individual plans are primarily formal in nature.

³⁴ A quote from an 11-year-old boy.

According to the children, adults should take their opinions into account, although some of them also mention that their opinions are considered, primarily regarding the choice of food. According to one of the children, *“we all get served the same food – there’s no choice. If you don’t like it, you still have to eat it, or else you’ll go hungry. Meal times are strictly scheduled, and if you’re hungry outside those times, you can’t grab food or snacks yourself. The caregiver holds the key to the kitchen and won’t open it. However, if you’re hungry during the day, you can let the teacher know, and they’ll make sure you get something to eat.”* Another child mentioned that the children protested changes to the visiting hours, and as a result, the hours went back to the old schedule.

In terms of who primarily violates children’s rights, children believe that *“adults violate children’s rights the most because they think they have more rights just because they are older.”* 28.38% of respondents believe that parents violate children’s rights, 10.81% believe it’s caregivers, 4.05% believe it’s social workers, and 2.7% believe it’s the police. Additionally, 6.76% of children believe that children’s rights are generally violated by adults. Moreover, 10.81% of respondents believe that their rights are frequently violated by other children.

2.1.2. Caregivers

Interestingly, caregivers believe that children’s rights are carefully protected, and minors know their rights best. It is worth noting their reprimanding words that children do not know duties; they are only taught rights.

Also, the following attitude towards children was revealed: *“Children know their duties, but they use their rights in their favor”; “Obligations must be established for the child. For example, when a child is told to do homework and refuses, they should have some mechanism to hold the child accountable.”*

When asked what information they have about children’s rights, the caregivers themselves have superficial, incomplete, and sometimes incorrect information. They mainly name the rights to education, food, and healthcare. One of the caregivers noted that they spoke to her about the rights of the child during the trainings. However, she adds that *“there is a law, but for me, the moral approach is more important.”*

In discussions about rights, a distinct attitude among caregivers toward children with disabilities emerged. One caregiver expressed the belief that *“you could discuss many topics with those children, but with these, it’s a bit limited...,”* highlighting the perceived limitations in the abilities of these children.



A challenging case of fostering positive behavior in children and addressing conflicts in one of the small family-type homes is worth highlighting. According to the caregiver, *“children might wish to be friends with a specific child but he may or may not be suitable for friendship. There is a neighbor child of Azerbaijani „Tatar“ origin who is considered ‘a bit rude.’ Children were friends with him and he had a negative influence on them. That’s why I spoke separately with the child in our home, inquiring if there were issues with the behavior of the neighboring child and whether they should reconsider their friendship. I encouraged the child to communicate to the neighbor that, if the bad behavior continued, they couldn’t be friends. I also met with the neighbor child and clarified that the issue was with the behavior, not him personally. That’s why he could no longer be friends with the children. The situation has improved; the neighbor’s child no longer uses curse words and the children are now friends.”*

One of the caregivers believes that it is beneficial to close boarding schools (children’s large residential institutions). However, he suggests that children with poor academic performance and behavioral issues should not be housed with others. He also mentioned gipsy children of Romanian origin, suggesting that they *“have noise in genetics.”*

The level of awareness among caregivers varies. In exceptional cases, it is observed that they have sufficient information about the basic guarantees of children’s rights. It is worth noting that institutions where targeted training on the issue of children’s rights was conducted showed better awareness. Caregivers, during interviews, demonstrated a deeper understanding and different attitudes. Throughout the interviews, local and international organizations were identified that provide support to childcare facilities in this regard.

As mentioned by respondents, there are certain barriers to obtaining more information about the rights of the child. A caregiver provides an example, stating, *“Earlier, the organization was more able to conduct training for employees. Now, given the situation at the house, it is impossible.”³⁵*

In one of the unlicensed educational institutions that operates outside legal regulations and where 22 teenagers are enrolled, the caregivers claim they have never received any training on this matter. Conversations with the respondents reveal that the children in this institution lack a direct reporting mechanism for cases of rights infringement, relying solely on caregivers, teachers, and management. Due to the institution’s unlicensed status and activities beyond state regulation, it can be considered a risky environment in terms of neglecting children’s rights.

³⁵ As per the provided information, during the visit, a child in conflict with the law was admitted to the home, posing a threat to other children and educators. Regrettably, the response from the state, including the police and agency, was deemed inappropriate.

The lack of knowledge on the issue of children's rights is also evident in caregivers' misunderstanding of their professional role. They believe that responding to violations of children's rights is solely the responsibility of social workers and psychologists.

It is noteworthy that the leaders of the small family-type house have more information compared to the caregivers. For instance, one house leader mentions, *"In school, a child has the right to receive an education, to be protected from bullying. Individual plans should be created and evaluated for children with special learning needs, and training should be provided."* However, he acknowledges that not all the measures outlined in the individual plan may be implemented.

When discussing the police, the leader emphasized that they do not have the right to address children harshly or speak to them excessively. A warrant is necessary to search personal belongings. Regarding the court, the leader highlighted the importance of children receiving services from lawyers, with the involvement of psychologists and legal representatives in the process. He insisted that *"a child should not say a word without a lawyer present."* According to him, he knows this because it is *"widely known throughout the entire country"*. Furthermore, the leader stressed the mandatory consideration of children's opinions, emphasizing that they *"must feel that they are members of society."*

According to the same leader, the child has the right to education and health care, the opportunity to adapt to the environment. Children have the right to live in a healthy environment and eat healthy food. Among them, a child with special nutritional needs has the right to be happy. One of the caregivers says, *"I accept the child as he is."*

It is noteworthy that when asked whether children are listened to and whether their opinion is taken into account, one of the caregivers answered, *"Information received from children always needs to be verified; I may not believe them, as they know how to tell lies."* Regarding listening to the child in the decision-making process, one of the caregivers initially mentioned that they haven't needed it. However, he later recalled that the children's opinion is taken into account when preparing the food menu.

2.2. Information about child protection mechanisms

2.2.1. children

It is noteworthy that most children prefer to protect themselves on their own first and, if unsuccessful, seek help from others

Throughout the interview process, children expressed that they attempted to resolve issues independently. In the event of rights violations, if they couldn't resolve the problems on their own, they



were willing to turn to various sources for assistance, including a social worker, law enforcement, caregiver, parent, or the Public Defender.³⁶ However, some children expressed a lack of trust in social workers and the police, rooted in their past experiences.

The research revealed varying levels of knowledge about the functions and roles of social workers and the child care agency in general. Additionally, there is diversity in understanding what kind of support a child should expect from these professionals. While some cases indicate that children possess accurate information, can communicate effectively with social workers, and receive assistance, there are instances where the opposite holds true.

In the course of the conversation, one of the children pointed out that those in state care are the children residing in small family-type houses. He clarified that all parental obligations are limited, and parents can visit their child by submitting an application; he however lacked information about state care services. Another respondent expressed the view that social workers act on behalf of the state care agency, and a child can approach them. He also mentioned the possibility of the police referring a case to the agency.

However, regrettably, some children cannot recall the last time a social worker visited them. They speculate that the social worker „*might be overloaded with work*“, justifying the infrequency of visits. Additionally, the prevailing perception is that caregivers often act as a “bridge” between the child and the social worker, hindering direct communication. Challenges such as a lack of phones for contacting social workers or the need for caregiver presence during conversations („I need to know who you’re calling“) further contribute to this communication barrier.

In certain instances, children themselves recognize the necessity of safeguarding their rights. However, it becomes evident that responsible individuals, such as representatives of a small family-type home or the guardianship authority, struggle to ensure the safety and protection of the children. According to one respondent, most violations of his rights occur at the hands of one of the guardians in a small family-type home. He believes that the guardian is obligated to ensure his safety, but even the guardians themselves express fear of “this child.” They caution the children at night, advising them to report any problems to the home director, inform the home leader, and call the hotline (112). Another respondent disclosed that conflicts frequently arise at home, and on each occasion, the teacher and house leader resort to calling the police because they feel „unable to intervene“ directly.

³⁶ The majority of children, specifically 32.43%, believe that the social worker should protect the rights of the child. This is followed by 22.97% for the police, 20.27% for the caregiver, 17.57% for the parent, and 10.81% for the public defender.

According to 4.05% of children, the child's rights are most often violated by the social worker, and according to 2.7% – by the police and "their superiors". *"When the police come here, they don't shout directly in the house, but they shout outside and are aggressive."* Despite knowing that they have the right to contact the police directly without adult intervention, the children describe facing a certain barrier, as confirmed by their experiences with the police. They note that the police can sometimes address children rudely, disregarding their needs – for instance, speaking in a *"high tone when talking to children."* One child recalls an incident when the police came to their house and addressed the children rudely. Another resident points out that this behavior might be attributed to the police being overworked and tired, leading them to act rudely.

Nevertheless, an alternative scenario surfaced during the research – one respondent recounted being „taken to the police“ before entering the small family-type house, where they had a conversation with a policeman. The girl mentioned that the policeman clarified that it depended on the child's wishes whether they would be placed in a small family-type home or not. She expressed that prior to this encounter, she was afraid of policemen, but this particular experience with a „kind and warm male officer“ dispelled her fear.

Another girl recalls the experience of dealing with the police, who describes that a few years ago, she was accused of stealing money from the donation box of the church, about which she turned to the police and was later questioned at the police station. The child says that a social worker was also present at the interview. They took her to the police station with her father, offered her food, water, and the use of the toilet. During the survey, she had a break several times (she says 4-5 times, although she does not remember exactly). The child also indicated that she felt calmer because the social worker was by her side. However, she also added that there was no psychologist with her during this process. Although the involvement of a psychologist is not mandatory, the decision to involve a psychologist in the investigation process is made by the law enforcement agency according to the individual needs of the child. The child also explained that if a psychologist had attended her interview, she would have told the police to ask the questions in a different, more child-friendly tone.

One child recalled a case when a representative of a State Agency wrote through a social network and tried to communicate with her in a non-official format, to which the child explained that if he continued to communicate, she would contact the appropriate Authorities. According to the child, after that she did not receive any more messages from him.

According to one foster boy, *"when the police come to a small family-type house, they have a superficial attitude and laugh because they don't take the children seriously."* He recalled the case



of calling the police due to a conflict between the children, when the policemen told them that they had other cases and signed a letter.

In the same situation, the child mentions that most often the house manager violates the rights of children around them. *“When he enters the house, he shouts at the children. He also becomes aggressive when children make complaints or express some kind of displeasure towards him, and children have a feeling of mistrust in relation to the manager. They try to avoid conflict situations; however, when they need something at home, they still have to communicate with the manager.”* An interesting case was also revealed – almost all children have a mobile phone, although the administration of a small family-type home no longer covering the cost of the phone plan of one of the children.

According to one of the children, his teacher, tutor, as well as the current director of the school, had information about the violence inflicted by his father, but none of them responded. He felt the most support from the teacher he first talked to about the abuse. In the end, the child provided information to law enforcement officers through the hotline (112) about the violence inflicted on him by his father.

Regrettably, half of the interviewed children are unaware of legal aid and personal data protection services, and 52.70% are unfamiliar with non-governmental organizations.

The children believe that access to free legal aid is crucial. While they understand the general role of a lawyer, they are unaware that they are entitled to free legal representation, and they lack knowledge about where to find such information.

Regarding the court, children generally hold a positive attitude and have positive experiences with judges, even though they are not aware that they can independently approach the court without needing permission from others. Some respondents believe that the court environment is child-friendly. One of them shared an experience of dealing with the court in a case of separation from parents for a certain period, expressing fondness for the judge and the conversations they had.

Concerning the international protection of children’s rights, only a small number of children have heard about such a mechanism, but they lack knowledge about who to approach or how to utilize it. A significant portion of them is entirely unaware of this tool.

Everyone confirms the absence of an assigned advocate for children in small family-type homes to provide individual support and information. Although there are appeal boxes in these homes, the feedback and appeal mechanism are mostly considered ineffective and formal, with children seldom utilizing it: *“We have a letterbox at the house, but it remains empty.”*

In this segment of the study, the children's level of trust in various institutions was assessed. They responded to hypothetical questions, such as who they would confide in if facing a problem. It is noteworthy that the most common response was "nobody," although there were isolated cases where a caregiver, social worker, or psychologist was mentioned. One respondent emphasized, *"You should tell him everything; you shouldn't hide it. If he gives you advice, it will be useful. As many times as I listened, I won"* (referring to the psychologist). Another child expressed trust in the person responsible for protecting children, specifically the social worker. Furthermore, it's worth mentioning that one child contacted the school resource officer during the summer and reported experiencing violence, but the resource officer informed him that support would only be available during the school year. Additionally, one caregiver highlighted the perceived futility of reaching out to the school director and shared a negative experience of communication with them.

It is encouraging to note a positive trend among the majority of children regarding the handling of secrets – *"a person tells you something, shares a heartache that you keep, it's a secret, but for example, if they tell me that my father is violent, it shouldn't remain a secret." "Cases of mockery and humiliation are not allowed to remain a secret, it is not allowed to remain a secret when it is possible for someone to be harmed."*

2.2.2. Caregivers

Apart from the social worker and the police, the guardians do not know about the institutions to which the child can turn in case of a violation of rights. They have heard, but do not know the details about the Legal Aid Service and the Personal Data Protection Service. They also do not have information about NGOs where children can get legal services.

The position, attitudes, and professional perspectives of caregivers, which they express towards children with behavioral difficulties, are significant. In conversations with respondents, a common opinion emerged – the presence of children with challenging behavior, deemed "aggressive," was seen as a barrier to better protecting children's rights. Observations included comments like *"when these children exhibit aggression, others become stressed,"* and *"a child who, for example, was abused by his father in the family, should not see the bloody hands of another child with difficult behavior." "Children who have a sex life, have many partners and do not come home in the evening, have a negative influence on other children. They don't have self-care skills and there are hygiene challenges that have a negative impact on other children."* The study showed that 112 calls are



often made to children who are aggressive towards other children or are at high risk of anti-social behaviour, although the respondents mentioned that they often have to call the police, they also say that this does not solve the problem and often the police are also bothered by the calls. This may be related to the challenges of effective response from the law-enforcement agency, as well as the lack of awareness of specialists working with children about the work of this agency and, accordingly, wrong expectations.

Concerning the right to appeal to courts and administrative bodies, the majority of caregivers express doubt about a child's ability to appeal independently. However, there are isolated cases where a caregiver, with some knowledge, acknowledges the child's right to independent appeal.

Initially uncertain about whether a child can approach the public defender's office, one caregiver later recalled an instance from years ago when a child personally called the Office's hotline. At the same time, the caregiver offered a somewhat critical view of the child's behavior, mentioning that *"he was a bit attention-seeking and enjoyed being in the center of attention."*

According to one of the caregivers, *"children have a respect for the police. They come when called."* The caregiver also recalled one case when the police put the child in the car, talked to the child without a legal representative, and when the child requested to call to his caregiver, the police explained to him that there was no need to call the caregiver.

Speaking about the police, one caregiver expresses, *"In my opinion, they (children) shouldn't reach out [to the police], but they often do."*

In other instances, children first report problems to their guardians, who then inform the adults about the situation. Together, they make a joint decision on whether the child should involve the police. Regarding schools and the State Care Agency, the caregiver explains that children can directly approach them. However, when it comes to NGOs, the caregiver notes that, in the event of a rights violation, children don't have the opportunity to apply directly. Concerning legal aid service, he adds, *"I don't think children know that much."*

Another caregiver highlights that *due to not being of legal age, a child doesn't have the right to go to court, and someone else needs to be informed for assistance. Additionally, the caregiver notes that the child cannot directly approach the legal aid service and NGOs because they are not yet of legal age. The caregiver has not heard about the Personal Data Protection Service.*

The majority of caregivers lack accurate information about whether children can seek protection of their rights through mechanisms outside the country.

2.3. Awareness About Hotlines

2.3.1. Children

During the interview, questions were raised regarding the information children possess about hotlines available in the country, where they can seek assistance or obtain information.

It was discovered that the vast majority, constituting 60.81%, are aware solely of the hotline operated by the Public Safety Command Centre – “112,” primarily for contacting the police, fire department, rescue services, and emergency brigade in specific cases. Only 4.05% of the respondents mentioned knowledge of the Public Defender’s office, which they would contact in times of need, although they couldn’t recall the hotline number – “1481.”

Regarding other hotlines, such as the Ministry of Health’s hotline – “1505,” the children’s hotline – “111,” helpline for victims of violence – “116006” (mentioned by a single respondent, a girl), and others, children lack awareness about them.

2.3.2. Caregivers

The level of awareness about hotlines is consistent among both children and their caregivers. Similar to the children, caregivers primarily rely on the hotline of the Public Safety Command Centre – “112,” and this usage is limited to contacting the police in specific cases.

One caregiver shared, *“I’ve heard about hotlines in general; I know that 112 is available 24 hours. However, I don’t believe it’s appropriate for a child to directly call the hotline. Instead, it’s better to consult with the parent first, as they are the child’s legal representative. If the parent decides, then they can make the call.”*

Inadequate instructions and explanations regarding the mechanisms for protecting rights and the purpose of hotlines were also identified. For instance, one caregiver mentioned advising children, *“When you are oppressed or abused, you should defend yourself; otherwise, don’t seek help after two or three days.”* Additionally, children are informed that if they use the hotline, they must be able to prove their statements, as making a false call may lead to consequences. *“If you make a false call, you’ll have to answer for it,”* is what children are told.

When asked about how a child can call the hotline and inquire about confidentiality, an account from one small family-type home unfolds as follows: *“If a minor needs to contact the hotline, they can use a shared phone. However, the leader holds the phone, and its availability varies – sometimes*



he takes the phone with him, at the end of the shift (from morning till 17:00)." The respondent explained that initially, they inquire with the children about the reason for their call, aiming to determine if the staff can resolve the issue internally. If unsuccessful, then the children are encouraged to make the call. They tell the children, *'If it doesn't work out, you can call later.'* The respondent emphasized that children disclose whom they wish to call, and they make the call under the supervision of a caregiver, the caregiver is present to monitor the conversation. Although a child might be alone in the room, the caregiver remains close enough to be aware of the interlocutor. The caregiver further shared, *'they tell us they want to call their mother; you monitor where they call. We don't leave them alone; they're in the room, and I'm nearby. I don't pay explicit attention, but I'm aware of whom she's talking to.'* However, there are instances of a different experience, where phones are accessible, and communication remains confidential."

2.4. Results of interviews with specialists and service providers of state agencies working with children

Systemic challenges, identified as a result of focus groups with professionals, can be categorized into several issues.

2.4.1. Lack of resources

Representatives from almost all agencies and organizations express concerns about the scarcity of human and other³⁷ resources. They highlight that in previous years, the state placed greater emphasis on child care issues, leading to more available resources. One professional emphasized the current challenges: *"We find ourselves grappling with crises and challenging behavior. No matter how much we equip these professionals with theoretical skills and knowledge, there are cases, especially in recent times, where these children require a different level of service. They need extensive involvement from psychiatrists and psychotherapists, and despite our efforts in training educators and psychologists, they find it challenging to handle such complex cases."*

Service providers make efforts to seek support services for children with complex behavioral and emotional problems independently. They initiate referrals to state services, including the referral center and the psychological center of the Office of Resource Officers, as well as to NGOs. As per the infor-

³⁷ The representatives of the service provider organization, among other concerns, highlight the lack of financial resources, which affects the provision of effective services for children, including the challenge of attracting qualified personnel.

mation shared, the engagement of state organizations in this process is relatively infrequent, and it was noted that *“the most supportive link is probably the associations and coalitions, where NGOs empower each other; otherwise, we don’t have much hope for state agencies these days.”*

Information gathered from representatives of organizations indicates that the operations of day care centers and shelters for homeless children are complicated due to various external factors. One such factor is the complexity of the enrollment process, as expressed by a social worker: *“How is the enrollment done? The social worker simply could not take him anywhere, and therefore, he has to bring him into this service?!”* It appears that these centers admit children facing significant mental health challenges, legal conflicts, substance use, involvement in prostitution, and other complex situations. As one respondent highlighted, *“These are not children living and working on the street in the classical sense”;* instead, *“They say that these are children that live and work on the street but later it becomes clear that they have other needs.”*

The challenge lies in the fact that daycare centers and shelters are intended to provide specific types of services. However, due to the absence of targeted additional support services from the state that address the individual needs of children, these centers end up serving children with severe mental health or substance use problems. This, in turn, necessitates a completely different environment and/or additional services. For instance, one respondent pointed out the significance of detox aspects, stating, *“Detox aspects are a very important issue for those with substance addiction. We can’t actually do anything about it. I mean, for example, if a child living and/or working on the street is breathing gas 24/7 or using glue, marijuana, what can we do about it? This requires a different type of service.”* Another highlighted: *“The detox programs that exist, for 3-4 months, cost about 40-45 thousand, and therefore, no service provider, no matter how eager we are, will be able to finance it. So, it is crucial that the state takes care of introducing similar services for children.”*

Representatives of service-providing organizations also emphasize the necessity to increase labor remuneration and funding for individuals employed in these institutions. This is seen as a crucial step to reduce staff turnover, which poses a hindrance to the formation of institutional memory. One representative stressed, *“The state should allocate resources close to adequate so that we can retain those employees whose education and training we will take care of. A person has to work at the risk of his own life; sometimes a knife flies, sometimes a chair. They see that there is no supporting link, which should be, for example, the agency. They are saying: ‘Well, where can I take the child, I don’t have any other service,’ which is a great disappointment. Because the state does not have services, many children die.”*



According to employees of the law enforcement agency, the availability and timely involvement of social workers and psychologists during a child's interrogation pose challenges. One respondent expressed, *"I generally have someone, relatives, and they come on request, but overall, it is difficult for everyone to leave the house and work extra."*

Social workers and psychologists within the state care agency also acknowledge a shortage of resources, encompassing both human resources and support services, including rehabilitation. Additionally, they face challenges in providing legal advice to children within the agency. Social workers highlight that the problem of accessing a lawyer extends not only to children but also to them, due to the understaffing issue. In instances where a lawyer is unavailable, social workers, lacking specific legal knowledge, investigate and provide information to the child to the best of their ability.

2.4.2. Vocational education/retraining

From the perspective of protecting children's rights, representatives of service providers underscore the importance of providing staff with training on juvenile justice issues.

The representatives of the law enforcement agency also talk about the need for periodic, more intensive training on children's rights and point to the importance of both specialization and continuing education. It is noted that the lack of specialized employees prolongs the response time and challenges may arise when several calls are made at the same time. In addition, it was said that it is important that the training course for patrol officers, who are not authorized to interview a minor, be more tailored to their work. This may indicate the need to create a module tailored to the needs of police officers, focused on their job specifics, and the need for appropriate training beyond the existing specialization course. In relation to this challenge, it is important to develop measures aimed at increasing the number of employees specialized in juvenile justice and, if necessary, to additionally develop motivational mechanisms.

The day-to-day activities of psychologists within the state welfare agency involve working with children, yet it was observed that they have not undergone comprehensive training on juvenile justice issues. Psychologists highlighted the inadequacy of training, emphasizing the crucial need to have an in-depth understanding of children's rights. They noted that it is essential not only to provide detailed information about each stage of the justice administration to children but also to provide support in this process when necessary. One psychologist shared an example, stating, *"There was a case when the child was very tense before appearing at the court hearing. A psychologist is involved in this*

process, investigating the cause of the tension. For example, they often do not know what process they are involved in, and the psychologist describes the process, after which the child's anxiety decreases. They may be shown the courtroom, the judge's place, and the child's place in advance. The judge is given a recommendation to remove the abuser from the courtroom and to question the child in a separate room, same applies to interviews."

Regarding the issue of retraining social workers, they pointed out the limited opportunities to receive updated information and enhance their knowledge. Some social workers acknowledged having outdated information about the legal regulations that guide their work. According to their understanding, *"When a child is 10 years old and above, their position can be established officially, so to speak, considering his age or mental maturity, as the child can already state their opinion on various issues. But if the child is under ten years old and has the mental abilities to clearly express their opinion, it should be taken into account."* Another social worker added, *"It is also explained in the Code of Children's Rights that a 10-year-old child can already make a written statement [position]."* However, during the interview, one social worker mentioned that, as far as he knows, a child under the age of 14 does not have the right to apply to the court.

It's essential to highlight that the Code of Children's Rights explicitly rejects the imposition of restrictions on hearing and considering the child's opinion based on age. According to the Code, *"the child has the right to be heard in the decision of any matter that concerns or affects any of his rights, and to take into account the opinion of the child in accordance with his best interests... The right provided for in the first part of this article may not be limited based on age, disability, or other circumstances."*³⁸ Following the legislative amendments of 2019 and the adoption of the Code of Children's Rights, the age limit for filing a lawsuit (14 years) in the Georgian legislation was abolished. As of today, all children, regardless of age, have the right to file a lawsuit both in courts and administrative bodies.³⁹

Representatives of service providers also highlight the necessity for training psychologists and social workers within the State Care Agency. One representative mentioned, *"I would like to say a few words about the childcare system (of the agency) that it needs strengthening, both in terms of staffing and training. They have a lot of new staff, and the turnover is high, leaving them with little time for retraining."*

While heads of small family-type homes emphasize the attention given to informing children about their rights and protection mechanisms through organized meetings, provision of hotline informa-

³⁸ Code on the Rights of the Child, Art 8.

³⁹ Ibid, Art 75.



tion, and distribution of brochures listing organizations they can contact, service providers point out the lack of educational activities with children. A representative from one organization shares, *“We also have a child protection team within the organization, and they know that they can turn to this team, confidentially and anonymously.”* „*We also have boxes and materials posted in homes guiding children on who to contact. In general, we discuss all types of violence, present cases, and engage the children in discussions about what they would do and what problems they would identify. Although we don’t have a separate module, we conduct meetings with children on the subject of law, and we have invited trainers to provide sexual education sessions for the boys.*”

In general, service providers emphasize the direct focus on the importance of raising awareness among children, making efforts to share this knowledge through their internal resources. In addition, there are cases when they reach out to the relevant state agencies or non-governmental organizations, which does not always lead to results. However, he recalled the case when the prosecutor’s office was asked and they came and talked to them about their rights and obligations.

The head of one service provider highlights the leader’s role in informing and assisting both caregivers and children about their rights and necessary support persons. However, a related problem is raised concerning caregivers themselves. The demanding nature of their job, involving interaction with children with severe behavioral disorders, poses challenges. Despite conducting training sessions, some caregivers still struggle and they have to be dismissed. The head emphasizes the difficulty in finding new staff. The small family-type house is at the risk of closing. This situation is exacerbated by various challenges, including meager pay: *“If you give a person a salary of 500 GEL, it is not a salary; it is a mockery. I am down to three caregivers in one house, soon I’ll have two in the other, a predicament shared by all service providers.”*

No training has been conducted with caregivers on juvenile justice issues, and there is a recognized need for it. This is crucial because guardians should be well-versed in how to act in scenarios such as when a police crew visits a small family-type home and there is a need to question a child. It is emphasized that guardians must know who should be present during such processes. One participant noted, *“There have been cases where the agency itself called, and they said it’s okay for the caregiver to attend. We objected to this because the caregiver has not been trained in juvenile justice.”* Another participant added, *“Caregivers should be knowledgeable about the rights of children and themselves. For instance, when they took the caregiver, I didn’t know where she was for four hours. They took away her, when I called the department, they said she would be out soon. Ultimately, they didn’t let her out until I demanded the number of a superior.”*

2.4.3. Managing difficult behavior

Common challenges are identified concerning the rise in deviant behavior among children, posing risks to their life and health. Among these challenges, difficulties arising from unmet psychosocial needs were highlighted, which organizations struggle to address effectively.

According to representatives of the Ministry of Internal Affairs, responding to the criminal actions of minors becomes problematic when children are not of the age of criminal responsibility, and there is a lack of effective mechanisms for the prevention of and intervention in illegal actions.

Representatives of service-providing organizations emphasize the challenges linked to the scarcity of appropriate programs and services for children. They express the difficulty in managing children's behavior and protecting their rights, citing the call to 112 as the primary recourse for handling acute cases. However, they also highlight the inadequacies in the police response, stating, *"Our children are those who consistently pose challenges to the Ministry of Internal Affairs, often leading to calls to 112. If a child is not in the area after 10 o'clock, we are obligated to report. Every time, we hear phrases like, 'We're tired of you, what do you want? Why are you calling?!'"* They also highlight the shortage of services and the increasing cases of minors coming into contact with the law. One participant stated, *"There is a line that we cannot cross and we can't do anything for children. The police come in and talk to the child; the child uses some rude words, addresses them poorly, belittles them. The police endure it and then leave angry. They often throw insults at the social worker and caregivers, asking, 'What do you want? Why are you calling us? We can't do anything; we are powerless.' It used to be that the patrol was called to our house very often. The caregiver thought that the police should help us. Then we realized that this undermined the role of both the caregiver and the police, and the child was telling us: 'So, what did you do?!'"* *"We get really stuck in crisis and when dealing with difficult behavior, no matter how much we provide these people with theoretical skills and knowledge. There are cases, especially lately, where these children really need some other service. They need a lot of involvement of psychiatrists, they need a lot of involvement of psychotherapists. Our caregivers, psychologists, no matter how much we train them, cannot manage this kind of difficult cases that come to us."*

Service provider representative stated: *"We need specialized services for children with mental problems, as well as services for children in conflict with the law. Individual cases should be considered at the time of enrollment in the service to avoid jeopardizing the situation of other children already in the system. Without this, we fear that even the services we currently have will gradually be closed."*



Representative of a service provider: *“The issue of minors in conflict with the law is a very painful and urgent topic. Recently, criminal behavior has been a very serious problem.”*

Representative of a service provider: *“The reason why children under the age of 14 exhibit increased offending behavior is that, on the one hand, they know for sure that according to the Code they are not criminally liable. On the other hand, we need to focus on the way this information is delivered and how they use it.”*

Due to the information provided, homeless children’s centers and shelters often admit children who do not fit the target group of these institutions, or the services offered do not meet their specific needs. This mismatch exacerbates the behavioral problems of children, leading to an increase in illegal activities. The risk is not only to the individual child but also to others in the center. Caregivers who struggle to manage children’s behavior are also at risk. One caregiver expressed concern, stating, *“Because these children strongly influence each other, and other children are also involved in criminal activities... it feels like all the hard work we put in can be undone with one stroke. In this regard, I believe it is necessary to establish an independent, separate service specifically designed to cater to children with mental health problems and include a distinct justice component.”*

According to service providers, meeting the health needs of children with sexually transmitted diseases is challenging. There is no mechanism in place for a child who does not agree to treatment, fails to grasp the severity of the problem, or seeks help in any way. One participant noted, *“The child is not subjected to forced treatment, and there is no proper system tailored to minors in this direction. The form of care remains unchanged, and it is irrelevant to change it because of that.”*

According to survey respondents, the activities of the referral center and individual agencies or services alone cannot adequately meet the needs of children in conflict with the law. It is deemed necessary to reinforce a multi-team and coordinated approach at all levels, including the education system.

2.4.4. Mental health and services

According to the information gathered from interviewed professionals and service provider representatives, the issue of children in need of mental health services is particularly pressing, in order to provide them with status on time and to provide them with the appropriate services. As a result, their situation tends to worsen. A representative from an organization providing services for homeless children expressed concern, stating, *“I am very worried about one [child], as we’ve been shuttling him back and forth from the psychiatric institution to the center. We are aware of the type of treatment*

they receive there; these children are heavily medicated. The child, who initially weighed 28 kg, was taken out after the third admission and weighed 48 kg. The child exhibits significant swelling, and none of the clothes fit anymore. It is likely caused by drugs, but a proper examination is needed. However, the guardianship and care authority is often reluctant when we raise such concerns. The medications prescribed by the mental health center are removed everywhere when we consider global standards. Many medicines have not been studied for their impact on the child's psyche; only a few have been researched." Another respondent mentioned, "As they grow older, they start consuming harmful substances along with medicines because in the regions, this is not a problem at all; marijuana is planted everywhere. They know where to go and where they will need to pay money. They acquire this herb and smoke it regularly, further worsening its impact on their psyche."

When discussing the possibility of providing psychological services to children, social workers from the state care agency highlight the severe scarcity of resources. One social worker stated, *"We have only one psychologist for the entire Imereti region. The demand for neurologists and psychiatrists is frequent. Due to this demand, we often have to take the child to another region or district, where consultations come at a cost, and transportation is challenging. In general, finding a specialist in the regions is a problem; they often wait for a specialist in a specific field to visit the region. We specifically need a clinical psychologist."*

2.4.5. Court

Representatives of service providers highlight significant challenges in involving children in court proceedings. For instance, when dealing with the separation of a minor – a highly sensitive issue often associated with traumatic feelings for the child – there is a lack of emotional preparation for the process in advance. One respondent shared: *"How can I prepare the child when they called me yesterday at 7 o'clock, and I was already at home, and today at 11 o'clock they took the child away?" Another challenge is considering the opinion of the child, especially when the child is disabled or in a severe emotional state. The respondent mentioned, "Sometimes social workers manage to make it happen in absentia. Nowadays, there is such a trend that they take all children [to court]. They do not take into account vulnerability of the child and fail to explain in advance all the possible developments that the proceedings may lead to. For example, what it might cost the child to know in advance that his mother will also attend the court but she does not appear. They explain to the child that the parent was summoned but she didn't come. This was very painful for the child. It highlights once again how neglected they are by their parents."*



A representative of one of the organizations recalls a specific example highlighting a discriminatory approach in the child's relationship with the court. The representative emphasizes the problematic nature of drawing attention to the child's economic status and considers such practice discriminatory. She states, *"It's like labeling a child, saying, 'You poor thing, here's a pen for you, or here's a chocolate,' which is very wrong. They may express surprise upon learning that the child is involved in extracurricular activities, and they may say, 'That's great!' No, it's not great; it's an ordinary thing, and we should be doing even more. Similar attitudes are observed coming from judges."*

Psychologists of the State Care Agency emphasized the necessity of a child-oriented judicial system: *"The absence of a child-friendly space in the courts is particularly problematic. A child victim of sexual violence, accompanied by a psychologist, waited in the court corridor for 2 hours for the hearing to begin. During this time, 3 prisoners were brought into the courthouse with shackles, negatively impacting the emotional state of the child. The child wanted to go outside, but the abuser's side was there. So, the child had to enter the courtroom in an excited state."* Social workers also mentioned challenges with the court environment: *"Children had to wait for hours in the court's common area, leading to fatigue and stress."*⁴⁰ According to them, there are also attempts by lawyers to influence children, which social workers are unable to prevent, lacking effective leverage.

2.4.6. Relationship with law-enforcement authorities

According to service provider organizations, the police react ineffectively when a child refers to them about violence committed by another child. According to the explanation of the service provider organizations, there may be cases of alleged delayed response, as an example of which was the case when the police interviewed the child about the reported incident a year later – *"the MIA employee asked the child, do you have a complaint against that girl now, the child said, I don't even remember one what happened a year ago, and they wrote that there are no claims, that is, the case was actually closed very easily."* This may indicate both the challenge of effective response on the part of the law-enforcement agency, and the lack of information among service-providing organizations about the activities and work of the agency, which creates unrealistic expectations.

The explanation of the representative of the organization providing the service: *"The main concern is that the state cannot help, the investigations do not have results, the police are bothered by their callers, the children have difficult there is a need for the Ministry of Internal Affairs and the Prosecutor's Office to actively hold information meetings [in small family-type houses]. Additionally,*

⁴⁰ The challenge of having to wait in court was also highlighted by children themselves.

according to the respondent, service-providers are running out of resources and can no longer manage cases effectively.” The representative stressed out that, cases of child abuse require special attention. In particular, she recalled the case when she went to the police station, said that she suspected sexual abuse of a child in state care. However, since she could not describe a specific fact, they did not allow him to write a statement. According to the representative of the organization, this made her very angry, she explained that she had no obligation to have to a specific fact and that the law enforcement agency was obliged to act on the case. Only after that, she was given the opportunity to write a statement, and finally one of the persons she suspected in the mentioned case was arrested on charges of trafficking. According to the representative of the organization, they have to make a lot of effort and this is what causes their mistrust. The same representative also recalled the case when the child came home with bruises on the cheek, and after contacting the law enforcement agency, they only interviewed the educator, and no one interviewed the child.

The scarcity of child-friendly spaces in the units of the law enforcement agency, despite the steps taken by the agency, in certain cases creates challenges of protecting confidentiality in the process of intervention with the child, separating children from strangers and communicating. In particular, according to one of the service providers, during the questioning of children when they are transferred to state care, *“there is a chaotic situation in police stations, maybe different people are being questioned in the same space, and in this particular case, they were hearing each other’s cases, which is very depressing.”* According to her, in general, there was no child-friendly space and that’s why this problem arose.

The representative of the service providers also recalls the past years when *“there was one person designated at the Ministry of Internal Affairs, a community officer, who called us inquiring if the child had returned. So, the children knew that someone was checking up on them.”* The representative evaluated this positively and thought, That communication like this is important.

2.4.7. Views on Children’s Rights

It is important to highlight the knowledge and views of police officers regarding children’s rights. One officer expresses the belief that *“the rights of the child are adequately protected within our system. However, there is a call for a greater focus on the child’s responsibilities, especially considering that an individual is still considered a child until the age of 21.”*⁴¹ The officer emphasizes, *“Not only rights but duties are more important, believe me. From my direct observations, I can say that*

⁴¹ Note that, according to the legislation of Georgia, a person is considered a child until the age of 18.



a child, knowing only their rights, may overlook their responsibilities, leading to mistakes and uncomfortable situations. In this context, further efforts need to be made to ensure that both adults and children have a comprehensive understanding of their rights and obligations.”

Illustrating a case where a child asserted their rights but neglected their “obligations,” a police officer shared the following incident when the child sat with his back to the investigator during the interview and refused to look at him face to face, the child explained that he did not want to look the investigator in the face and that was his right. According to the representative of the law enforcement agency, the child’s “obligation” was to speak politely to the investigator, and his action was “not nice”. At the same time, it was noted, *“they are so confident in their rights that they forget and completely ignore their responsibility and the feeling of guilt, the feeling of having committed a crime. I repeat that they are so self-confident and bold in bringing their rights to the surface, so to speak.”*

During the meeting with the social workers of the School Resource Officers, cases of problematic attitudes of individual police officers were noted in terms of communication with children, understanding and protection of their rights. It was also stated that considerable efforts are needed in practice to adequately protect the rights of the child. The respondent also drew attention to the wrong attitude towards the child in state care and the disclosure of information of sensitive content in the presence of children.

Issues related to stereotypical attitudes in schools towards children in state care were also highlighted. According to a service provider representative, there is a tendency to emphasize that *“You have everything there, what’s driving you crazy?”* Furthermore, educators noted that *„children living in small family homes are often not enrolled in central schools due to the presence of complacent children from the city, increasing the likelihood of conflicts.”* One caregiver stressed that *„schools can be challenging for these children, where they experience oppression and exclusion. Much work remains to be done in the education system in that regard.”* A service provider representative noted: *“If something is broken, they are the ones suspected”, “We have admitted your children, while no other school would have taken them. But the truth is, these schools are obliged to admit them, especially given their proximity. These are the attitudes sensed by the children, making them feel like they are seen as secondary.”*

CONCLUSION

The study findings underscore that Georgia's legislation concerning child-friendly justice is, in theory, largely in line with international standards. However, as emphasized earlier, the critical factor lies in the practical implementation of these rights. This implementation should be rooted in comprehensive knowledge, a robust and effective child-centric system, and allocation of necessary resources.

The research outcomes indicate a lack of consistent and, at times, inaccurate or insufficient understanding of child rights and protective mechanisms among both children and the professionals dedicated to their welfare. Notably, there is an uneven distribution of knowledge regarding rights and related legal or international norms across various levels of responsible individuals, ranging from supervisors to caregivers. Particularly, caregivers in direct daily contact with children exhibit significant gaps in their understanding of these matters.

Children are predominantly treated with care and recognizing them as subjects of rights and establishing relationships based on respect remains challenging. Unfortunately, children's attempts to assert their rights are frequently met with reprimands from adults. The approaches and attitudes of professionals in this context are not rooted in human rights values; instead, they tend to be fragmented and primarily focused on controlling children.

The findings suggest that in residential institutions and day care centers, there is a risk of violating children's rights, exposing them to physical and psycho-emotional dangers, as well as potential experiences of violence and neglect. Additionally, it is noteworthy that there is a scarcity of preventive, supportive, rehabilitative, or intervention services within the examined context.

Representatives from service-provider organizations and government agencies consistently highlight acute resource shortages, emphasizing that without proper allocation of resources, the child protection and welfare system could further deteriorate. It is crucial to note, however, that professionals working with children often struggle to utilize the available resources effectively. These challenges may be interconnected with a lack of information and difficulties in retraining specialists dedicated to child welfare.

Ensuring professionals are well-versed in children's rights serves as a preventive measure against potential violations. It not only safeguards children but also contributes to their development, fostering positive self-perception, self-confidence, and facilitating their full integration into society. The study results highlight:



Low awareness of children's rights, among both children and specialists, poses a risk of not recognizing and addressing risky situations in a timely manner and not intervening appropriately, which increases the vulnerability of children. Inadequate awareness or indifference to children's rights among those responsible for children in state care, coupled with a lack of skills in managing children's behavior positively, and the ineffectiveness of external support services, creates a detrimental environment affecting not only individual children but the entire group.

RECOMMENDATIONS

For the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia:

- To enhance the effectiveness of services provided by children’s residential institutions, conduct a comprehensive study to identify the needs for additional, accessible, and targeted services for children, including mental health support, addiction recovery, and overall rehabilitation programs. Develop a specific, time-bound action plan based on the identified needs to implement these additional, child-friendly services.

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

- Collaborate with service providers to develop a periodic and essential training module for caregivers, covering topics such as positive parenting methods and managing challenging behavior.
- Implement comprehensive training on juvenile justice for all social workers and psychologists within the agency, establishing a continuous training system.
- Create information materials tailored to the needs of children in state care, conveying information about rights protection mechanisms in a simple and understandable manner.
- Establish effective feedback and appeal mechanisms in institutions based on direct involvement and active communication with children and service providers.

For the Ministry of Internal Affairs of Georgia:

- Conduct an information activities targeted at children in alternative care to enhance trust in law enforcement officers and promote referrals to the police. The activities should provide information about the role of law enforcement agencies, rights, and protection mechanisms tailored to children.
- Evaluate the effectiveness of the measures taken to increase the number of patrol inspectors and investigators specialized in juvenile justice according to the territorial units, and determine additional activities according to the identified issues, including conducting a study on the motivation of specialization and, based on this, take appropriate measures to support them and increase their motivation;
- Evaluate the guidance document created for the patrol police and other employees in contact with children, how it responds to the current challenges in practice and in



accordance with the identified needs, based on international and national standards on the rights of the child, improve, in order to among other things, to inform specialized officials on the communication with children, especially with vulnerable groups, in state care, to provide in-depth information on trauma-informed communication strategies, behaviors, and de-escalation techniques with children under the age of 14 in conflict with the law who have experienced violence;

● Before arranging child-friendly interview rooms in all territorial units, when interviewing a children, in each individual case, protect the privacy of the child to the maximum extent and conduct the interviews with children in a space separated from strangers.

For the Ministry of Education and Science:

● Incorporate training on stereotypes, prejudices related to children, unwavering respect for children's rights, personal life, protection of personal data, and children's harmonious psycho-emotional development into the school administration and teacher training program.

For LEPL Common Courts Department of the High Council of Justice of Georgia

● Develop a time-bound, specific action plan to create a child-friendly environment in all court buildings.

For the Personal Data Protection Service:

● Implement a child-friendly information campaign for children in alternative care about activities of the Service, and develop alternative, accessible referral mechanisms for children.

● Proactively assess the current situation regarding the processing of children's personal data in alternative care institutions for children.

For LEPL Legal Aid Service

● Conduct an information campaign about the activities of the service with children in alternative care in a child-friendly manner and develop alternative accessible mechanisms for children for referring to the Service.