

To: UN Special Rapporteur on adequate housing

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Coalition for Independent Living is a non-governmental organization protecting the rights of persons with disabilities. The Coalition was founded in 2003 and brings together 26 non-governmental organizations working on the issues of persons with disabilities. The Coalition is based in Tbilisi, Georgia.

Realization of the Right to Housing of Persons with Disabilities in Georgia

The Constitution of Georgia, adopted in 1995, does not recognize the right to housing.¹ Currently the only legislative act, which provides for ensuring the housing space for persons with disabilities, is the 1997 Law of Georgia on Social Protection of Persons with Disabilities.

According to Article 27 of the above Law, *the State shall provide accommodation to persons with disabilities according to their individual rehabilitation programs and taking into consideration their desires. The conditions provided to persons with disabilities at care homes or other social care inpatient facilities shall allow these persons to exercise their rights and legal interests.*² Under paragraph 2 of the Law, *if as a result of rehabilitation persons with disabilities no longer need to stay at care homes or other social care inpatient facilities, local self-government and administrative bodies shall provide them with accommodation, including disabled orphans or children without parental care, after reaching full legal age, under the legislation in force.*³ The justiciability of this right remains questionable.⁴

A number of factors have an impact on precarious living conditions of persons with disabilities. These include the lack of access to education for persons with disabilities and

¹ The Constitution of Georgia, available at: <https://matsne.gov.ge/en/document/view/30346>

² The Law of Georgia on Social Protection of Persons with Disabilities, available at: <https://matsne.gov.ge/en/document/download/30316/7/en/pdf>

³ *Ibid*

⁴ In 2016, the Coalition for Independent Living appealed at the Court the refusal of Rustavi Mayor's Office to provide social housing for a disabled person living in the residential institution, because of the lack of resources. To decide the case the Court ordered a forensic medical examination to determine whether the person, based on her health condition, was able to take care of herself. The expert examination costs at least 5 months of the social benefit money of the applicant. For one of the examinations, the forensic bureau sent the applicant to the clinic that is not accessible for wheelchair users and the clinic refused any help to the applicant to get inside the building.

discrimination in seeking employment. For years, persons with disabilities have experienced obstacles in accessing both secondary and higher education. Only since 2014, when the UN Convention on the Rights of Persons with Disabilities was ratified, the process of adaptation of school buildings intensified.⁵

Based on the above, the education level of persons with disabilities is low, making them less competitive in the labor market and leading to difficulties in finding employment in both public and private spheres. This problem has a direct connection to the economic well-being of persons with disabilities - they are in fact left to rely on the goodwill of their family members and the State social assistance, which cannot ensure either the improvement of the quality of independent living for persons with disabilities, nor the promotion of their dignified life. Moreover, the State-provided 'social package'⁶ is so small that it does not even meet the everyday needs of persons with disabilities.

The legal advocacy practice of Coalition for Independent Living found as follows on the realization of the right to housing for persons with disabilities:

- i. Both in urban and rural areas, persons with disabilities still remain isolated from the society, because of the prevailing stereotypes and attitudes, low awareness about the issues of disability and the lack of information about the State social programs, even though insufficient. The quality of living of persons with disabilities and their living conditions fully depend on the goodwill of their family members, who, in most cases, are not adequately informed about the needs related to disability.⁷
- ii. Economic situation in the families raising a disabled child is more severe than with other families. Here the likelihood of increased poverty is higher.⁸ To avoid placing

⁵ In most of the cases, adaptation only constitutes building ramps for wheelchair users. Under the information provided by the Ministry of Education, Science and Sport of the Autonomous Republic of Ajara on 4 April 2017, out of 31 public schools in Batumi only 4 have adapted toilets.

⁶ 'Social package' for persons with disabilities provides free health care insurance and monetary allowance – for persons with profound disability 180 GEL (73 USD, 67 EUR) per month; for persons with moderate disability – 100 GEL (40 USD, 37 EUR) and for persons with mild disability – only free health insurance.

⁷ The practice of Coalition for Independent Living revealed that in some cases families, instead of providing education and social integration, commit violence against disabled persons because of their low awareness and stereotypes. This is particularly true about women with psycho-social needs. Disabled women does not report violence mostly because they are scared of being kicked out of home. Because of the ineffective policy of the state on housing, everyone tries not make such cases known, as this might lead to the homelessness of the disabled person.

⁸ "Panel households that have fallen below the relative poverty threshold since 2013 are, on average, significantly more likely to live in rural areas, include a disabled person, and have less education", The well-being of Children and Their Families in Georgia, Welfare Monitoring Survey, Fourth Stage, 2015, 5.1.1. p. 72, available at: <http://unicef.ge/uploads/WMS-2015.ENG.pdf>

the child in a residential institution, the family members (mostly a mother) is forced to give up her personal life, education, work, career and devote all her life to taking care of the disabled child. As a result, she does not have any income (that contributes to the poverty of the family) and her potential at the labor market is lost. The situation becomes appalling when a disabled child is raised by a single parent. This means that the only source of income for the family is the State-provided insufficient social package for the child.

- iii. Maintaining the existence of residential institutions for persons with disabilities and the living conditions in these institutions remain alarming. The 2016 report of the Public Defender of Georgia reveals “challenges in the infrastructure and sanitary and hygienic conditions of the physical environment. In addition, the number of beneficiaries in the institutions largely supersedes the established upper limit. Requirements of universal design are not adhered to either.”⁹
- iv. The State does not have home-based services for persons with disabilities, which could potentially improve their living conditions and ensure their adequate level of health, safety and nutrition in their homes.

There are no official statistics in the country about the number of persons with disabilities that are homeless.¹⁰ Mostly those persons with disabilities, who are homeless, are being placed in the existing residential institutions for persons with disabilities and community care organizations. The State perceives placing persons with disabilities in large institutions as a housing solution for homeless disabled individuals. Under the information provided by the Ministry of Labor, Health and Social Affairs of Georgia,¹¹ in 2016, in the framework of the State Program of Social Rehabilitation and Child Care, 135 disabled persons, aged 18 and

⁹ See the report of the Public Defender of Georgia, 2016, p. 42, available at:

<http://www.ombudsman.ge/uploads/other/3/3958.pdf>

¹⁰ The State does not have any accurate statistics of the number of persons with disabilities. Statistics of the Social Service Agency only provide the number of disabled persons receiving social assistance (only persons with profound and moderate disability). The Agency has no statistics on the ones with mild disability, who do not receive social assistance from the State. The statistics also do not cover persons who, after reaching the age of pension, refused to receive disability assistance, as the pension amount is larger than the social assistance for persons with moderate disability. In addition, the statistics do not reflect those who refuse the official disability status because of the fear of stigmatization.

¹¹ Letter of the Ministry of Labor, Health and Social Affairs N01/17894, 23 March, 2017.

higher, received the services of community organizations. Under the 2016 statistics, 191 persons with disabilities are placed in the three existing institutions of the country.¹²

The practice of the Coalition for Independent Living shows that in some cases disabled persons, mostly women, are kicked out of home by their family members. These persons, relying on the kind help of their relatives, mates or neighbors, manage to move in empty apartments of various persons in different periods of time. These people are not registered and there is no statistics on them.

The State has in fact taken no steps and does not have a vision, either at the legislative or at a practice level, on the deinstitutionalization of persons with disabilities, who are of the age of 18 or higher. At the same time, the issues of deinstitutionalization and adequate housing are not covered by the Resolution #2315-II of 30 April 2014 of the Parliament of Georgia – National Strategy for the Protection of Human Rights in Georgia (2014-2020).¹³

In 2016 the State submitted its first State report to the United Nations Convention on the Rights of Persons with Disabilities. The report discusses community care provider organizations, aiming at the creation of the environment similar to the family for target groups and the promotion of their independent living. However, the information obtained from the Ministry of Labor, Health and Social Affairs reveals that in each of the community care organizations, the service is provided from 20 to 42 beneficiaries.¹⁴ This, in fact, means that the State is supporting new institutions, but with different names.

Up until today residential institutions remain the only alternative to ensure housing for persons with disabilities. There is no strategy and action plan for providing housing for disabled persons either at the central or even local government levels. The State refuses social housing to persons with disabilities, referring to its lack of material and financial resources.¹⁵

There is a low awareness of judges not only about deinstitutionalization, but also about other issues of disability. The judges, especially at the courts of first instance, sometimes

¹² Statistic of disabled children/beneficiaries of children's institutions by years available at: <http://atipfund.gov.ge/res/docs/statistika33.pdf>

¹³ National Strategy for the Protection of Human Rights in Georgia (2014-2020), para. 15, available at: <https://matsne.gov.ge/ka/document/view/2348314>

¹⁴ Letter of the Minister of Labor, Health and Social Affairs, N01/17894, 23 March 2017.

¹⁵ See above, footnote N4.

incorrectly interpret the European Court of Human Rights case-law and the international treaties while hearing disability rights cases.¹⁶

In cases concerning deinstitutionalization, judges additionally order a forensic medical expert examination to find out whether a person living in an institution “is able to live independently and take care of herself based on her health condition.”¹⁷ This kind of expert examination is not only irrelevant and unnecessary for cases of its kind, but also contravenes the principle enshrined in Article 27.2 of the Law of Georgia on Social Protection of Persons with Disabilities, which does not set any such preconditions for the realization of the right to housing.

The Public Defender of Georgia monitors the implementation of the rights of persons with disabilities in Georgia. In 2016, the Public Defender published his special report – Rights Situation of Persons with Disabilities in State Care Institutions.¹⁸ The Coalition is not informed about any other studies or reports concerning the realization of the right to adequate housing for persons with disabilities.

Based on the declared European foreign policy direction of the Government of Georgia, the authorities attach a high value to the views and recommendations of international organizations and UN instruments. Accordingly, we think that to improve the rights of persons with disabilities, the assessment of the situation and recommendations of the Special Rapporteur will be of utmost significance – as this is the issue, which does not fall under the State focus at present.

¹⁶ E.g. the Court wrongfully referred to the case of JEDAMSKI AND JEDAMSKI V. POLAND, app. no. 73547/01, ECHR, 26 July 2005, to substantiate its refusal to accept a case on restoring legal capacity of the person deprived of legal capacity.

¹⁷ See above, Footnote N4

¹⁸ Special Report of the Public Defender of Georgia, Rights Situation of Persons with Disabilities in State Care Institutions, 2016, available at <http://www.ombudsman.ge/uploads/other/3/3958.pdf>