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## **LANZAROTE CONVENTION**

Council of Europe Convention on the protection of children against sexual exploitation and sexual abuse

**Replies to the thematic questionnaire**

**GEORGIA**

**2<sup>nd</sup> thematic monitoring round**

**“The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs)”**

Replies registered by the Secretariat on 25 October 2017

## Prevention

### Question 1 Awareness-raising or educational activities/tools/materials/measures

- 1.1. Are there awareness-raising or educational activities/tools/materials/measures addressed to children, about the risks they face when they produce and/or share:
- self-generated sexually explicit images and/or videos?
  - self-generated sexual content?

#### *Awareness raising activities for school students:*

Ministry of Science and Education pays particular attention to perform preventive activities for juveniles via raising their awareness on risks-contained issues. In light of this, Ministry, in cooperation with relevant ministries (Ministry of Internal Affairs, Ministry of work, health and social care, Prosecutor's office etc.) implements several programs, projects, and conducts ad hoc campaigns.

In the scope of partnership of the Ministry of Internal Affairs, Ministry of Science and Education and international organisation PH International, specially trained police officers together with a teacher deliver lessons to 9th grade students according to the specially elaborated manual on "legal culture". The lessons aim to inform children about their rights, responsibilities, types of crimes, domestic violence, bullying, gambling, cybercrime, illicit drug trafficking, trafficking in persons etc. Lessons are followed by special session of discussion, where kids and professionals review and analyse real and hypothetical examples of crimes and misdemeanours. Bullying, domestic violence as well as cyber related crimes are subject of intensified interest of school students, consequently particular attention is paid to the aptitude of professionals in this regard.

<http://police.ge/en/shss-s-tsarmomadgenlebma-akhalsikhis-sadjaro-skolebshi-samartlebrivi-kulturis-gakvetili-chaatares/8177>

<http://police.ge/ge/shss-s-tsarmomadgenlebma-batumis-or-sadjaro-skolashi-samartlebrivi-kulturis-gakvetilebi-chaatares/7949>

Since the Convention of the Council of Europe on "protecting children from sexual exploitation and sexual abuse" (so called Lanzarote convention) entered into force in 2015, the Ministry of Internal Affairs of Georgia, in cooperation with relevant Ministries, has been organizing interactive events for juveniles by providing presentations on cybercrimes and social media, sexual abuse online and offline, violence and bullying, hotlines.

<http://police.ge/en/shss-shi-bavshvta-dzaladobisgan-da-seqsualuri-eqspluatatsiisgan-datsvis-dghestan-dakavshirebit-shekhvedra-gaimarta/10177#!prettyPhoto>

#### *Awareness raising activities for population:*

In order to raise awareness of population on cybercrime issues, special website [www.cyber.kvira.ge](http://www.cyber.kvira.ge) has been created. The website provides information for internet user on safety measures and existing challenges. News related to sexual abuse facilitated by information and communication technologies all over the world are published on the webpage <http://cyber.kvira.ge/22958/>

- 1.2. Are there awareness-raising or educational activities/tools/materials/measures specifically targeting children as bystanders/observers of other children producing and/or sharing:**
- a. self-generated sexually explicit images and/or videos?**
  - b. self-generated sexual content?**

Please see answer of point 1.1.

- 1.3. Are there awareness-raising activities/tools/materials/measures addressed to parents and persons who have regular contact with children (teachers, psychologists, health care professionals, etc.) about the risks children face when they produce and/or share:**
- a. self-generated sexually explicit images and/or videos?**
  - b. self-generated sexual content?**

Special joint trainings for police officers and school teachers are envisaged by the framework of the projects. In aim to certify their preparedness on the topics of subject - "legal culture", thematic trainings are provided by professionals.

**→ Please specify which entities carry out the above-mentioned awareness raising or educational activities (questions 1.1, 1.2 and 1.3) and how they coordinate their action.**

**→ Please share links to awareness-raising or educational materials (e.g. booklet, video, smartphone application, manual on non-formal education, tool-kit, internet tools) produced for the above mentioned activities (questions 1.1, 1.2 and 1.3).**

<http://police.ge/en/shs-saministros-da-ganatilebis-da-metsnierebis-saministros-tsarmomadgenlebs-/7692>

## **Question 2. Civil society involvement**

- 2.1. How do State authorities encourage the implementation of prevention projects and programmes carried out by civil society with regard to:**
- a. self-generated sexually explicit images and/or videos?**
  - b. self-generated sexual content?**
- 2.2. Please provide information on prevention activities (including awareness-raising and educational activities, research etc.) implemented by civil society (including those carried out by civil society at their own initiative) with regard to:**
- a. self-generated sexually explicit images and/or videos;**
  - b. self-generated sexual content?**

Government of Georgia and the ministry solely cooperate with civil society on the scope of various programs and projects (please see answers of points 1.1 and question 7)

## **Question 3. National curriculum**

- Does national curriculum (primary and secondary schools, and vocational education) include awareness-raising about the risks of:**
- a. self-generated sexually explicit images and/or videos?**
  - b. self-generated sexual content?**

National Curriculum of Education does not envisage dedicated teaching of risks of self-generated sexually explicit images and/or videos and self-generated sexual content.

#### **Question 4. Higher education curriculum and continuous training**

Do higher education curriculum and continuous training for those who will or already work with children include the issues raised by:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

#### **Question 5. Research**

5.1. Have public authorities or other bodies initiated/supported research on the issues raised by:

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

5.2. Have public authorities or other bodies conducted or supported research in particular on the psychological effects on those persons whose:

- a. self-generated sexually explicit images and/or videos as children have been shared online?
- b. self-generated sexual content as children has been shared online?

→ Please specify whether the public authorities or other bodies having initiated/supported the research above (questions 5.1 and 5.2) are aware of their outcomes.

Research on abovementioned issues has not been initiated or conducted by public authorities.

## **Protection**

#### **Question 6. Assistance to victims**

6.1. What specific reporting mechanisms, including helplines, are in place to ensure that child victims of exposure online of:

- a. self-generated sexually explicit images and/or videos are provided with the necessary support, assistance and psychological help?
- b. self-generated sexual content are provided with the necessary support, assistance and psychological help?

6.2. What legislative or other measures have been taken to ensure that child victims of online exposure of:

- a. self-generated sexually explicit images and/or videos are provided with the necessary support, assistance and psychological help?
- b. self-generated sexual content are provided with the necessary support, assistance and psychological help?

Joint answer for points 6.1 and 6.2

Protection of children, who are subject to abuse, neglect, or any other type of violence, is a key objective of the Georgian Government.

In order to improve prevention, detection and protection mechanisms against violence, in 2016 Government adopted new child protection (referral) procedures, which has extended the list of responsible entities to refer the child violence cases to relevant agencies. The document clearly determines all forms of violence against child, describes competence and responsibility of each public agency and defines mechanism of separation of a child from an abuser. Ministry of work, health and social care provides special assistance to the child victims of violence and abuse regardless of the type of the violence used against the child.

→ Please provide, if any, information on the number of victims who received support, assistance and psychological help in the above mentioned specific contexts (questions 6.1 and 6.2).

### **Question 7. Cooperation with civil society**

**Please describe cooperation with non-governmental organisations, other relevant organisations and other representatives of civil society engaged in assistance to victims of the offences covered by the present questionnaire (see questions 9-11) through e.g. child helplines, victim support organisations.**

Ministry of Internal Affairs of Georgia with local non-governmental organisation has conducted projects with the goal to enhance the system of child protection and welfare through developing the skills and knowledge of employees /professionals of law-enforcement agencies and through collaboration with governmental and non-governmental sectors.

<http://www.police.ge/en/ministry/structure-and-offices/international-relations-department/donor-coordination/proeqtebis-shesakheb/completed-projects/tanamshromloba-bavshvze-segsualuri-dzaladobis-tsinaaghmdeg>

## **Prosecution**

### **Question 8. Legislation**

### **Question 9. Criminalization**

Joint answer for questions under 8 and 9

According to Article 255 of the Criminal Code of Georgia purchase, storage, attendance on the demonstration, proposal, proliferation, transferring, advertising, making accessible of or using of a child pornographic work is criminalized and sanctioned by imprisonment up to three years. The production or sale of a child pornographic work is also punishable by imprisonment for five years (as a maximum sanction).

The present article also clarifies what should be considered as a child pornographic work and what does not fall within the scope of the present Article:

*“A pornographic work containing images of minors shall mean a visual or audio-visual material produced by any method, also a staged performance which, by using various means, depicts the participation of minors or of characters with the appearance of a minor in the actual, simulated or computer-generated sexual scenes or displays genitalia of a minor for the gratification of a consumer's sexual needs. A work shall not be considered to be pornography if it has medical, scientific, educational or artistic value.”*

Article 255<sup>1</sup> of Criminal Code of Georgia prohibits engaging of minor in illegal production of pornographic piece or other object, as well as in proliferation or advertising of such item or receiving benefit from such activities. Distributing, advertising of pornographic materials, making any commercial deals related to such materials or receiving any kind of benefit from this activity is also criminalized under Article 255<sup>1</sup> of CCG. Maximum sanction applied for these offences is also five years of imprisonment.

It should be noted that the above-mentioned crimes do not require any coercive means to be used against a minor for committing offences concerning child pornography. Therefore, the self-generated sexually explicit images and/or videos, sexual content and non-pictorial sexual contents fall under the definition of a pornographic work and committing any act determined under articles 255 and 255<sup>1</sup> of CCG by an adult or a minor from 14 years<sup>1</sup> is criminally sanctioned.

Apart from it, the Government of Georgia respectfully clarifies that the CCG criminalizes the distribution and transmit of a child pornographic work to both adults and minors.

Apart from this, Article 255<sup>2</sup> of CCG imposes criminal liability for proposing meeting to underage person through any means of communication for any sexual purposes (purpose of commission of crime stipulated by Article 140 (Sexual Intercourse with a child under Sixteen) or Article 255, paragraph 3 CCG (Knowingly making or selling pornographic work containing images of minors)). Maximum sanction applied for these offences is three years of imprisonment.

Georgian legislation does not envisage any special circumstances to release a person from criminal liability for committing a crime under articles 255, 255<sup>1</sup> and 255<sup>2</sup>.

**8.2. Does national law tackle the involvement of more than one child (i.e. consensual posing) in generating the:**

- a. self-generated sexually explicit images and/or videos?
- b. self-generated sexual content?

The CCG does not foresee the involvement of more than one child in pornographic work as an aggravated circumstance, however, if a person illegally makes or sales a pornographic work or other items with regard to a minor (article 255) or engages minors in illegal production and sale of pornographic works or other similar items (article 255<sup>1</sup>), he/she will be prosecuted for both episodes of crime and will be liable under the relevant provision.

**8.3. Are there specificities related to the fact that more children appear on the:**

- a. self-generated sexually explicit images and/or videos when these children accept that their image and/or video are produced and shared through ICTs?
- b. self-generated sexual content when these children accept that their image and/or video are produced and shared through ICTs?

There are no specificities related to the appearance of children on self-generated sexually explicit images and/or videos and/or sexual content when these children accept that their image and/or video are produced and shared through ICTs.

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<sup>1</sup> Under article 33 of CCG a person who has not attained the age of 14 at the time of the commission of an unlawful act provided for by the CCG shall be considered to act without guilt.

**Question 10. Production and possession of self-generated sexually explicit images and/or videos by children for their own private use**

**10.2. For Parties that have not made a reservation in accordance with Article 20(3) indent 2**

**Does national law criminalise the production and/or possession of self-generated sexually explicit images and/or videos when it involves children who have reached the age set in application of Article 18(2) where these images and/or videos are produced and possessed by them with their consent and solely for their own private use?**

Georgian legislation does not criminalize the production and/or possession of self-generated sexually explicit images that are produced and possessed by children with their consent and solely for their private use.

**Question 11. Reference in law to ICT facilitated sexual coercion and/or extortion**

**How does national law address ICT facilitated sexual coercion and/or extortion of children and/or other persons related to the child depicted on the:**

- a. self-generated sexually explicit images and/or videos?**
- b. self-generated sexual content?**

As mentioned above, Article 255 of CCG criminalizes purchase, storage, attendance on the demonstration, proposal, proliferation, transferring, advertising, making accessible of or using of a child pornographic work. If a child is forced to make self-generated sexually explicit images, videos or sexual content through ICT, a perpetrator will be liable under Article 255.

**Question 12. Jurisdiction rules**

**Please indicate which jurisdiction rules apply under which conditions to the offences described above (questions 9-11) when the victim is not present in the Party when the offence is committed or when the offender is not present in the Party when the offence is committed.**

According to Article 4 of CCG if a person regardless of his/her nationality has committed a crime in the territory of Georgia, he/she shall be criminally liable under the Criminal Code of Georgia. Furthermore, a person, who has committed a crime on or against a ship authorised to fly under the national flag or national insignia of Georgia, shall be criminally liable under the CCG, unless otherwise provided for by the treaties to which Georgia is a party.

In addition, Georgian Jurisdiction also applies to those Georgian nationals and persons having a status of stateless person in Georgia, who have committed abroad such an act that is criminalized in Georgia and that is considered to be a crime under the legislation of the state where it was committed. If such an act committed abroad, is not considered as a crime under the legislation of the state where it was committed but it is a crime under Georgian legislation, a Georgian national or a person having a status of stateless person in Georgia shall be liable only in case such an act constitutes a serious or particularly serious crime directed against the interests of Georgia or if criminal liability for this crime is prescribed by the treaties to which Georgia is a party.

Foreigners and stateless persons who commit crimes abroad shall be criminally liable under the Criminal Code of Georgia if an act constitutes a serious or particularly serious crime against the interests of Georgia or if criminal liability for this crime is prescribed by the treaties to which Georgia is a party.

### **Question 13. Specialised units/departments/sections**

**13.1. Are there specialised units/departments/sections in charge of dealing with ICT facilitated sexual offences against children, such as those referred to in this questionnaire (see questions 9-11),**

- a. in law enforcement?
- b. in prosecution?
- c. in courts?

#### Ministry of Internal Affairs

Taking into account that cybercrime and crimes committed by using ICTs constitutes one of the main challenges for 21st century, in December of 2012 Special Cybercrime Unit was established within the Central Criminal Police Department of the Ministry of Internal Affairs of Georgia (MIA). The Unit is responsible for detection, suppression and prevention of illegal activities committed in cyberspace including child pornography and online sexual abuse.

A special division on combating trafficking and illegal migration is functioning within the Central Criminal Police Department of the MIA. Investigators working on trafficking in human beings issues are trained according the Guidelines and Standard Operation Procedures (SOPs), which offer the proper standards for the investigation and interrogation/interview of THB victims, with specific focus on minors.

Moreover, Special Subunit for Computer-Digital Forensics was created within the system of MIA Forensics-Criminalistics Main Division, which has the function of first handling and further forensic examination of digital evidences.

#### Prosecutor's office

Prosecutorial supervision on the abovementioned divisions is conducted by the Georgian Chief Prosecutor's Office Department of Procedural Guidance of Investigation at the General Inspection, Central Criminal Police Department and Patrol Police Department of the Ministry of Internal Affairs.

**13.2. Please specify if there are specialised units/departments/sections in charge of dealing with ICT facilitated sexual offences against children committed by juvenile offenders.**

The new Georgian Juvenile Justice Code, based on the UNODC Model Law on Juvenile Justice and Related Commentary and Convention on the Rights of the Child and other international standards, was adopted by the parliament of Georgia on 12 June, 2015. The Code sets even higher standards for protecting juvenile victims/witnesses.

The Juvenile Justice Code provides for the better procedural guarantees for juvenile victims and juvenile witnesses giving the best interest of the child the utmost importance in every matter.

According to the code, to prevent secondary offences and re-victimization of a juvenile victim/witness, a legal representative and a counsel, as well as a psychologist, shall attend his/her examination. In order to protect a juvenile witness, judge can make a decision to:

- use image or sound substitute equipment, opaque screen or examine witness remotely;
- examine a juvenile witness before the court hearings and use the video-recording afterwards, rather than conduct the examination in the courtroom;



- close the court hearing in full or in part;
- Remove the accused person from the courtroom while examining the juvenile witness.

Most importantly, Juvenile Justice Code obligates relevant law enforcer agencies to specialize/train professionals according to the Code. In accordance to special curriculum, training courses are provided for investigators, prosecutors, and judges and for professionals tasked to work with juveniles.

**→ Please specify how the specialised units/departments/sections referred to above (questions 13.1 and 13.2) are organised (number of staff, structure, specialised in which areas within ICTs, etc.)?**

Cyber Crime Division of the Central Criminal Police Department at the Ministry of Internal Affairs of Georgia was established by the decree of the Minister of the Interior in December 2012. Currently, there are 15 detective-investigators within the Division who are responsible for investigation of cybercrime. The Division is competent to investigate cybercrime offences in narrow sense, in particular crimes provided for in Chapter 15 (Cybercrime) of the Criminal Code of Georgia; however, the Division also provides advice, guidance and technical assistance to other police units across Georgia in investigation of crimes committed using ICTs and handling of electronic evidence. The forensics team of the Ministry of the Internal Affairs handles the forensic examination duties.

**Main activities include:**

- Investigate cybercrime cases envisaged by Criminal Code of Georgia (Chapter XXXV)
- Conduct operative activities in order to identify perpetrators of the crime, to establish their whereabouts, criminal connections and achieve successful prosecution.
- Elaborate and implement the special measures in order to prevent and minimize such kind of crimes.

**→ As regards law enforcement, please indicate if:**

- there is a victim identification function?**
- there is an active contribution to the INTERPOL's International Child Sexual Exploitation (ICSE) image database? If not, why?**

In February 2014, Mutual Agreement was signed between National INTERPOL Bureau and the National Center for Missing and Exploited Children (NCMEC). NCMEC is subordinated to US Congress and constitutes the national resource center and information bank for missing and exploited children. Based on this, internal standards of the Ministry of Internal Affairs were adopted and correspondingly, MoIA has the access to sexually exploited children's database, which is elaborated by the Division of Exploited Children.

**Question 14. Challenges in the prosecution phase**

**What challenges do law enforcement, prosecution and courts face during the prosecution of ICT facilitated sexual offences against children involving the sharing of:**

- self-generated sexually explicit images and/or videos?**
- self-generated sexual content?**

During the investigation of child pornography cases the following difficulties take place:

1. Lack of awareness of children concerning the risks related to “sexting” and sharing self-generated sexual images;
2. Complications and expenses of expert examination leads to the investigation delay;
3. Child pornography appears as a transnational crime and often requires inspection information with other states, which is a time-consuming process itself;
4. Growing tendency to use ICTs for sexual abuse and exploitation.

### **Question 15. Training of professionals**

**Are the offences referred to in this questionnaire (questions 9-11) addressed in training for professionals such as:**

- a. **law enforcement agents (in particular for front desk officers)?**
- b. **prosecutors?**
- c. **judges?**

**→ If so, please share the details of the training offered, specifying whether the training is mandatory.**

#### Ministry of Internal Affairs

*Implemented projects with goal of capacity building of the MIA Cybercrime unit:*

<http://police.ge/en/ministry/structure-and-offices/international-relations-department?sub=5030>

- 2008-2009: Joint Cybercrime Project of Council of Europe and European Commission;
- 2011-2013: CoE-EU Joint Cybercrime Project for Eastern Partnership Countries (“Cooperation Against Cybercrime);
- 2012-2014: Bilateral Cybercrime Training Project With Estonia (Financed by European Union);
- Cybercrime@EAP II International cooperation: (regional and international co-operation on cybercrime and electronic evidence);
- Cybercrime@EAP III PPC: (To improve public/private co-operation regarding cybercrime and electronic evidence in the Eastern Partnership region);
- 2015-2018 EaP Police Cooperation Programme (EaP PCP) capacity building activities (trainings, study visits) on cybercrime issues.

#### Other Institutions

Active Cooperation with CoE While Elaborating SOPs;  
Cooperation with E.C.T.E.G for Training of MIA Cybercrime Personnel;  
Capacity Building Projects with IOM;  
OSCE organizing regional trainings with cooperation of E.C.T.E.G;  
NATO supporting MIA Cybercrime entities via PCM Trainings.

#### Prosecutor’s office

In 2016-2017, three training activities were carried out on the child pornography topic, during which 30 prosecutors were trained.

Training activities included:

1. Fight against children crime;
2. Working meeting of prosecutors, investigators and judges on the trafficking issues;

3. Training on children's sexual exploitation.

## Partnerships

### Question 16. International co-operation

**16.1. What measures have been taken to co-operate with other Parties to the Lanzarote Convention for:**

- a. preventing and combatting sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?**
- b. protecting and providing assistance to the victims of sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?**
- c. investigating and prosecuting sexual coercion and/or extortion resulting from the sharing of self-generated sexually explicit images and/or videos?**

**16.2. What measures have been taken to co-operate with other Parties to the Lanzarote Convention for:**

- a. preventing and combatting sexual coercion and/or extortion resulting from the sharing of self-generated sexual content?**
- b. protecting and providing assistance to the victims of sexual coercion and/or extortion resulting from the sharing of self-generated sexual content?**
- c. investigating and prosecuting sexual coercion and/or extortion resulting from the sharing of self-generated sexual content?**

Georgia has ratified The Convention on Cybercrime of the Council of Europe (known as the Budapest Convention). Georgia co-operate with other parties of the Convention.

[https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/185/signatures?p\\_auth=xRoG1Ke9](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/185/signatures?p_auth=xRoG1Ke9)

Referring to obligations set by the abovementioned convention, the 24/7 National Contact Point is operating at the Cyber Crime Division of the Central Criminal Police Department at the Ministry of Internal Affairs of Georgia.

In case of requests for preservation of data, the request is recorded and receipt is confirmed by email upon delivery/opening report (if requested by sender). The next step is an initial review as to dual criminality for which the judicial cooperation central authority may be consulted. If approved, the relevant ISP is approached and requested to preserve data, and if ISP confirms data preservation, requesting authority will be notified accordingly. If preservation is not available, requesting country is offered urgent MLA procedures.

Given the nature of preservation requests, they are all treated as urgent.

#### Notice

Agreement on Operational and Strategic Cooperation between Georgia and the European Police Office was signed in Tbilisi on 4 April 2017. The Agreement entered into force on 31<sup>st</sup> of July of 2017 after ratification by the Parliament of Georgia. Georgia became EUROPOL's operational partner state.