

## UNIVERSAL PERIODIC REVIEW FOR GEORGIA

### SUBMISSION BY THE UNITED NATIONS COUNTRY TEAM IN GEORGIA

JULY 2010

#### I. Background and Framework

A. Scope of international obligations (international human rights legal obligations etc.)

B. Constitutional and legislative framework (charters, laws and regulations etc.)

- In November 2009 a law on HIV Infection / AIDS was adopted with the support from GFATM, UNDP and UN Theme Group on HIV/AIDS, to improve the legislation, to bring it to conformity with international treaties and agreements ratified in Georgia, and to enhance the efficiency of the national instruments to address the human rights dimensions of access to HIV prevention, treatment, care and support. The Law covers a range of issues, including HIV testing and counselling, confidentiality and non-discrimination, and State obligations in relation to prevention and treatment, and do much to provide an enabling political and legislative framework for the national response to HIV, as well as protect the rights of individual citizens who are affected by HIV. However, the law does not adequately address a number of critical issues, such as the particular vulnerability and needs of migrants, sex workers and men who have sex with men; the taxation, importation, regulation and production of HIV-related commodities and medicines; legal protections and social assistance to families and organizations providing services. While some or all of these issues may already be addressed under other legislation, UNAIDS recommends a legislative audit be carried out to ensure that all laws, regulations and policies in Georgia support an effective, evidence-informed and human rights-based response.

- Georgia is planning to adopt new drug legislation / anti-narcotics laws that are relevant to drug use and preventive work among IDUs and prisoners. The current laws on drug addiction and its control are not adequate for implementing effective interventions aimed at addressing HIV/AIDS related issues (in both public and penal sectors). The situation was reflected with drug legislation initiatives in 2007/08: two alternative packages of proposed legislative amendments of the drug laws were elaborated and the process was officially initiated in the Parliament of Georgia. Removal of criminal responsibility for drug use, differentiated approach towards drug crime (separation of drug use from drug dealing), abolition or at least alleviation of the extreme practice of forced drug testing and other relevant issues are tackled in both proposed packages of legislative changes.

C. Institutional and human rights structure (institutions, bodies and committees etc.)

- Under the new Georgian Law on HIV/AIDS (2009), the National AIDS Coordinating Authority (established in 2002/3) - the Country Coordinating Mechanism (CCM) of Georgia, is authorized to coordinate concerted actions of the State, local, public and other organizations (institutions), and to promote the expansion of international cooperation to ensure the national process of addressing HIV/AIDS, including issues of human rights relating to HIV. Currently, the work on the new bylaws for the CCM is in progress, where the further arrangements to guarantee the smooth implementation of the legislation need to be found. The exercise will allow the national authority to designate responsible

agency within the executive branch of the government that has to assure effective implementation of the national response and assume responsibilities for its outcome(s). The country's national human rights institution (e.g. Office of the Ombudsman) can also have an important role to play

D. Policy measures (national action plans, strategies and human rights education. etc.)

- Built on the first Georgian National Strategic Plan of Action (NSPA) framework (2003) and the Universal Access initiatives and commitments (2006), the plan was renewed in 2007, to reflect major trends from the Country Progress Report on Monitoring the Declaration of Commitment on HIV/AIDS (UNGASS) for previous years. The 2006-2010 National Plan envisaged comprehensive evidence-based & sustainable approach response for ensuring attainment of as close as possible universal access to HIV/AIDS prevention, treatment, care and support services by 2010. In 2009 the need for new NSPA to address country response challenges and emerging issues, and guarantee all-inclusive, multi-sectoral, well coordinated and adequately budgeted implementation, was intensively discussed with all national and international stakeholders in Georgia, including through the National Consultations in October 2009, on operationalizing of UNAIDS 2009-2011 Outcome Framework and achieving consensus on top national priorities. As a result, with technical and financial support from UNAIDS, the process of development of the new HIV/AIDS 2011-2016 National Strategic Plan of Action (NSPA) for Georgia was initiated. The plan will be completed and officially endorsed by the end of 2010.

## **II. Promotion and protection of human rights on the ground**

A. Cooperation with international human rights mechanisms

- Georgia is committed to time-bound pledges (including on human rights relating to HIV), which have been made during the decade in the Millennium Declaration, and in the Declaration of Commitment adopted by the UN General Assembly Special Session on HIV/AIDS in 2001 and confirmed and expanded by the Political Declaration of the 2006 High Level Meeting on AIDS at the General Assembly. In 2008 the country presented its first progress report (2006) on United Nations General Assembly Special Session on HIV/AIDS. UNAIDS traditionally provided financial and technical support to the CCM of Georgia and national stakeholders to develop 2008-09 Country Progress Report for UNGASS 2010. With the purpose to ensure the inclusiveness of partners, the preparation of the country progress report has involved national consultation meetings, actively engaging with key national and international stakeholders, including the Government, UN and non-state actors.

B. Implementation of international human rights obligations, including with regard to:

### *Equality and non discrimination*

- Article 10 of the Georgian AIDS law aims to ensure that people living with HIV cannot be legally discriminated against solely because of their seropositive status. The law also provides for an individual's right to obtain comprehensive information and access to necessary HIV-related medical services. However, though the law is ideal in theory, there are major enforcement challenges in practice.

*Right to life, liberty and security of the person*

- Georgia has made significant progress in increasing antiretroviral treatment coverage that spans about 88% of the targeted population.

*Administration of justice and the rule of law*

- Georgia currently has laws that criminalise the trafficking, cultivation, possession, sale, and use of illicit drugs. The implementation of the law veers towards repression, with forced drug tests and high fines for possession. Such laws and enforcement hinder the ability of programmes to reach people who use drugs in the HIV context.

*Right to privacy, marriage and family life*

- Starting from 2005, Georgia implemented a national programme for Prevention of Mother to Child Transmission (PMTCT). The country provides free PMTCT services for pregnant women and their families.

- Georgian law also guarantees anonymous and confidential HIV testing and counselling. HIV testing also includes the idea of informed consent. However, there are significant reports of mandatory tests and failure to inform the individual of the test results.

*Freedom of movement*

*Freedom of religion and belief, expression, association and peaceful assembly, and the right to participate in public and political life*

*Right to work and to just and favourable conditions of work*

- The Georgia AIDS law would prohibit discrimination within employment based solely on HIV status, except “for specialities that entail high risk for infecting other people in contact.” It would be preferable to specify that such situations only arise in highly invasive surgical procedures, and in such cases, accommodation should be made.

*Right to social security and to an adequate standard of living*

*Right to education and to participate in the cultural life of the community*

- HIV education is not automatically encompassed within Georgian education. However, the government has approved a programme called the Life-Skills Based Education curriculum (LSBE). This programme consists of 8 modules, including one on HIV and AIDS, one on illicit drug use, and another on reproductive health. This curriculum targets adolescents aged 15-17. However, it is optional.

*Rights of the child*

*Rights of minorities and indigenous peoples*

*Rights of migrants*

*Internally displaced persons, refugees and asylum seekers*

*The situation in or in relation to specific regions or territories.*

*Other rights*

- Right to Health- Georgia provides HIV testing services for key populations (people who use drugs, men who have sex with men, prisoners, and people with sexually transmitted infections). The country also started supporting methadone substitution therapy. However, the scope of this therapy is limited, especially within the prison system. In addition, there is a prohibition against needle exchanges within the penitentiary system.

- Georgia has established palliative care programmes for people living with AIDS and has secured nutritional support for some seropositive individuals through the World Food Programme.

### **III. Achievements, best practices, challenges and constraints**

Examples of best practices which have emerged;

acknowledgement of difficulties encountered by the State in the implementation of its human rights obligations.

- The Government of Georgia makes an effort to responsibly put into action the international commitments made during the decade in the Millennium Declaration, and in the Declaration of Commitment adopted by the UN General Assembly Special Session on HIV/AIDS in 2001 and confirmed and expanded by the Political Declaration of the 2006 High Level Meeting on AIDS at the General Assembly, through relevant policies (HIV/AIDS NSPA 2011-16), legal developments (new law on HIV/AIDS, draft legislation on drug control), and enhancement of institutions to implement the national response. However, much still needs to be done to take further concrete steps to protect human rights in the context of HIV.

- Efforts to decriminalize drug use and create more conducive environment for interventions are not rendering expected results. Moreover, none of the two progressive drug legislative packages, initiated in 2007, has been approved and thus neither of them entered into force in Georgia so far. As a consequence, critical need to adjust drug legislation according to the relevant international conventions and human rights principles remains an issue raised frequently by relevant international and national bodies.

#### **IV. Key national priorities, initiatives and commitments**

Areas where further progress is required and proposed solutions and plans for overcoming obstacles; priorities; strategies recommended to address the challenges highlighted in the previous section.

- As defined through the new HIV/AIDS strategic priorities for 2011-16, following objectives are envisioned: **Reducing legal and regulatory barriers for drug users and prisoners** through supporting multisectoral work on legal and regulatory issues and elaborating policies aimed at eliminating legal barriers to effective HIV/AIDS interventions among IDUs and prisoners; also, achieving **greater involvement of people living with or affected by HIV/AIDS** (GIPA) in the national response, providing opportunities for public participation and awareness-raising with regard to HIV prevention, treatment, care and support. The national human rights institution, - the Office of the Ombudsman of Georgia can also have an important role to play.

#### **V. Capacity-building and technical assistance**

Technical assistance provided and/or recommended by UN entities.

- UNDP: the TA provided for elaborating on the new HIV/AIDS Law adopted in 2009; UNAIDS: the TA provided for the new NSPA 2011-16 and strengthening institutions in charge for effective HIV/AIDS response, including protection of rights of those affected by epidemic; WHO: Support implementation of Opioid Substitution Treatment (OST) guidelines countrywide.