

PROBLEMS OF IMPLEMENTATION OF SOME EUROPEAN STANDARDS ON THE RIGHT TO LIFE AND HEALTH OF THE CHILD IN GEORGIA

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Abstract

Georgia has been a candidate country for EU membership since 2023, and the Association Agreement between Georgia and the European Union has been in force since 2016. Accordingly, Georgia is implementing reforms of the existing legislation and policies in the field of children's rights, with the aim of implementing European and international standards. For this purpose, the Code of Rights of the Child was enacted in Georgia, which protects the right to life and health of the child and obliges the state to create guarantees for the protection of rights. Legislative reform involves harmonizing Georgian legislation with EU legislation, reflecting the requirements of various EU directives in Georgian legislation. One of such important areas is food safety and food product control, creating a healthy environment, which affects the realization of the right to life and health of the child. Despite the changes made to the legislation, non-compliance with regulations remains a problem. This paper analyzes Georgian legislation, European Union and international standards, and Georgian judicial practice regarding violations of the child's right to life and health and presents specific recommendations for improving the protection of rights.

Keywords: *Child. European Union. Georgia, Healthcare. Food Safety.*

Introduction

One of the important aspects of protecting the right to life and health of a person is food safety and food security. Violation of the right to life and health of a person can be caused by the consumption of food products that are harmful to human health and life. To prevent this threat, there are various international and national institutions. Among them, the World Health Organization is noteworthy, which, in the form of global cooperation, helps states create a safe environment for human health and life at the national level. The goal of the World Health Organization is to achieve the highest possible standard of health for all people (Constitution of the World Health Organization, 1946).

WHO supports participating countries in building their capacity in the health sector. Georgia became a member of the World Health Organization on May 16, 1992. As in other countries of the world, the main strategic directions of the World Health Organization in Georgia are: reducing the growing mortality, morbidity and disability, especially among the poor and marginalized population, as well as establishing a healthy lifestyle and reducing those dangerous risk factors for human health that are related to environmental, economic, social and other factors (United Nations in Georgia, 2025). To achieve its purpose, WHO has many functions: to achieve a high level of health in various countries of the world, to act as a guide and coordinator of international health work, to establish effective cooperation with the specialized agencies of the United Nations Organization. Also, in cooperation with the specialized agencies, to promote the improvement of nutrition, housing, sanitation, recreation, economic or working conditions, and other aspects of environmental hygiene (Constitution of the World Health Organization, 1946).

At the national level, state bodies and organizations that are responsible for human life and health should, first and foremost, be guided by the norms of international law, enshrine them in national legislation, and ensure their implementation to the greatest extent possible.

This article discusses the problems of Georgia's implementation of European standards in the field of child life and health protection, especially regarding food safety, international and European legislation, important judicial precedents, and presents relevant conclusions and recommendations for further research.

1. European and International Law on Right to Life and Health of the Child

The right to life and health of the child is protected by international, European and national law. In this case, from the point of view of fulfilling the positive and negative obligations of the state, international conventions adopted within the framework of the UN are important, which are part of the legislation of Georgia and are mandatory for the state to fulfill. In relation to Georgia, the European Convention on Human Rights should be taken into account first of all, according to Article 2 of which, everyone's right to life is protected by law. No one's life may be intentionally violated (ECHR, 1950). The interdependence of the rights to life and health demonstrates that the realization of the right to life is impossible without health and normal living conditions, which requires the creation of living conditions that provide a safe environment, food, and a health care system. In this regard, states have a special obligation to take into account their obligations under international law.

Although Georgia is not currently a member of the European Union, as a candidate country, it must harmonise its national legislation with European law in the future. Article 2 (Right to life) of the Charter of Fundamental Rights of the European Union stipulates that: Everyone has the right to life. No one shall be condemned to the death penalty or executed. Article 35 (Health care) of the Charter also stipulates that: Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities (Charter of Fundamental Rights, (2000/C 364/01).

As for the UN system, the Universal Declaration of Human Rights adopted in 1948 defines in Article 3 that everyone has the right to life, liberty and security of person, and in Article 25 indicates that in order to maintain health, a person should have a standard of living that is adequate for food, clothing, medical care and social services (Universal Declaration of Human Rights, 1948). According to Article 6 of the UN Convention on the Rights of the Child, States Parties recognize that the child has the inalienable right to life and shall, to the maximum extent possible, ensure the preservation of life and healthy development of the child (UN Convention on the Rights of the Child, 1989). Of course, the preservation of life and healthy development are absolutely linked to a health care system. The Convention stipulates that States Parties shall strive to ensure that every child has access to the best possible health care system, so that no child is deprived of the opportunity to enjoy this right. To achieve this goal, States Parties shall take measures to ensure the provision of necessary medical care and health care, to reduce infant mortality, childhood diseases, including by combating hunger, and ensuring the supply of food and drinking water (UN Convention on the Rights of the Child, 1989).

The States Parties to the International Covenant on Economic, Social and Cultural Rights recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions (ICESCR, 1966). The States Parties to the said Covenant shall take appropriate measures to: improve methods of food production, storage and distribution, through the development of various systems and

reforms that achieve the efficient use of natural resources (ICESCR,1966). States Parties recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. With a view to achieving these standards, States Parties shall take appropriate measures necessary for the healthy development of the human person, and in particular of the child, for the creation of a healthy environment, for the provision of safe food and for the creation of ecologically balanced environmental conditions (ICESCR,1966).

According to General Comment 14 of the International Covenant on Economic, Social and Cultural Rights, health is a fundamental human right, indispensable for the realization of other human rights. Everyone has the right to the enjoyment of the highest attainable standard of health adequate for the enjoyment of his or her rights (CESCR General Comment No. 14). The right to health depends on the realization of other human rights as set out in the International Bill of Rights, including the rights to food, housing, work, education, human dignity, life, non-discrimination, equality, the prohibition of torture, and others (CESCR General Comment No. 14). The Committee defines the right to health as an inclusive right that extends not only to a timely health system, but also to the key determinants of health, such as access to safe drinking water, adequate sanitation, a safe food supply, and decent housing (CESCR General Comment No. 14).

It is particularly noteworthy that some norms of international law include definitions of adequate food and adequate living conditions, but the Covenant on Economic, Social and Cultural Rights is more complex and requires immediate steps by the state to ensure the immediate implementation of this norm (CESCR General Comment No. 12). The UN Committee believes that the content of the right to adequate food implies: access to food of a quality and quantity sufficient to meet the individual's nutritional needs, free from harmful substances, not harmful to the individual's health, and sufficient to maintain both mental and physical growth and development (CESCR General Comment No. 12).

1.2. European Union Directives and Regulations on Food Safety

In Georgia, in the field of food safety and the protection of the right to life and health of the child, it is important to take into account the European Union directives, which Georgia is gradually harmonizing. For example, Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002, which lays down the general principles and requirements of food law, establishes the European Food Safety Authority and lays down procedures in matters of food safety (Regulation (EC) No 178/2002). The said Regulation, in paragraph 2, stipulates that a high level of protection (Regulation (EC) No 178/2002, 2) of human life and health must be ensured in the implementation of Community policies, which is related to the provision of wholesome and safe food. In paragraph 10 of the Regulation, it considers it necessary to adopt food safety measures that will make it possible to identify food safety problems and prevent the placing on the market of dangerous products (Regulation (EC) No 178/2002, 10). It is also clarified in paragraph 11 that there should be a broader definition of food safety legislation, the provisions of which directly or indirectly affect the safety of food and feed (Regulation (EC) No 178/2002, 11). In paragraph 4 of the Regulation, the Regulation also considers it important to approximate the regulatory norms on food safety issues between states so that divergent regulations do not hinder the free movement of food (Regulation (EC) No 178/2002, 4). A high level of health protection is considered a priority when developing food legislation (Regulation (EC) No 178/2002, 8).

In addition, to achieve a high level of food safety and health protection, Georgia should take into account the European Commission Decision 2001/25/EC prohibiting the use of certain animal by-products in animal feed (Commission Decision 2001/25/EC). Also Directive 2001/95/EC of the European Parliament and of the Council of 3 December 2001 on general product safety. The provisions

of this Directive shall apply to Georgia from the date of entry into force of this Agreement (Association Agreement, 2014).

1.3. Association Agreement with the EU and Implementation of Food Safety Standards

Since Georgia has the status of a candidate country for the EU accession, it is important to introduce European standards in the country. Of particular note is the introduction of high standards in the healthcare sector. Where the right to life and health of every person will be protected. After Georgia signed an Association Agreement with the EU, the agenda has been to implement important reforms in various areas, including in the field of public healthcare. In Georgia, the protection of public health and the creation of a safe environment for health are considered the basic rights of every person.

The Association Agreement does not contain a separate chapter on food safety. However, it does have a chapter on "Sanitary and Phytosanitary Measures", which covers food safety, veterinary and phytosanitary matters. According to Article 55 (Progressive Approximation) of the Association Agreement, Georgia shall continue to approximate its sanitary and phytosanitary, animal welfare and other legislative measures, as set out in Annex IV to this Agreement, to the *acquis* of the European Union, in accordance with the principles and procedures set out in Annex XI to this Agreement (asocireba.ge Food safety).

The Parties shall cooperate towards gradual approximation and capacity building. 3. The SPS Sub-Committee shall regularly monitor the implementation of the approximation process set out in Annex XI to this Agreement with a view to making any necessary recommendations on approximation. No later than 6 months after the entry into force of this Agreement, Georgia shall submit a list of the sanitary, phytosanitary, animal welfare and other legislative measures of the European Union, as set out in Annex IV to this Agreement, which it will approximate to its legislation (asocireba.ge Association Agreement, Title IV).

Ensuring the safety of food on the market is one of the issues that was a prerequisite for the conclusion of the Association Agreement between the European Union and Georgia. In order to regulate this issue, the Georgian government issued Decree No. 1756 on 28 December 2010, even before the entry into force of the Association Agreement, "On the Approval of a Comprehensive Strategy and Legislative Approximation Program in the Field of Food Safety" (Decree No. 1756 of December 28, 2010). The program envisaged the gradual transposition of key EU food legislation into Georgian legislation in 2010-2014. Several acts envisaged under this program were indeed adopted in 2010. However, in subsequent years, a large part of the program was not implemented, and in 2014, the Georgian government postponed its implementation until 2020 (Decree No. 1756 of December 28, 2010). A legislative approximation schedule was prepared in February 2015 and, after agreement with the European side, approved in 2017 by Decision No. 1/2017 of the Georgia-EU Sanitary and Phytosanitary Subcommittee of March 7, 2017 (Decision No. 1/2017). Today, this schedule constitutes Annex XI-B to the Association Agreement (Association Agreement, 2014).

The Association Agreement also envisages the fulfillment of obligations on the implementation of reforms in the field of public health and the implementation of European standards in the legislation of Georgia. According to Article 355 of the Association Agreement, the parties agree to develop cooperation in the field of public health, in terms of improving the level of public health security and protecting human rights, which is a key component of sustainable development and economic growth (Association Agreement, 2014). According to Article 356 of the Association Agreement, cooperation covers areas such as strengthening Georgia's public health system, in particular through continuing health sector reform, ensuring high-quality healthcare, developing human resources in the health sector, improving health governance and healthcare financing (Association Agreement, 2014).

2. Georgian Legislation on Right to Life and Health of the Child

Article 10 of the Constitution of Georgia defines the rights to life and inviolability. Human life is protected by the Constitution (Constitution of Georgia, 1995). The right to life protects the biological and natural basis of human existence. The right to life belongs to the highest legal values (K. Kublashvili, 2008, 124-125). The right to life itself obliges the state to protect human life from encroachment by other persons.

Ensuring the right to life is conditioned by such grounds as the right to health, the right to live in a safe environment, the right to access a quality healthcare system, etc. Article 28 of the Constitution defines the right to health as the right of a citizen to accessible and quality healthcare services, while Article 29 defines the right of everyone to live in an environment that is harmless to health, to protect and possess information regarding environmental issues (Constitution of Georgia, 1995).

The list of these rights in the Constitution of Georgia generally refers to human rights and does not specifically focus on the rights of the child. As for the rights of the child to life and health, they are defined in the Code of the Rights of the Child of Georgia (Child Rights Code, 2019). The Code explains that a child has the right to life and personal development. The state, in accordance with the Constitution of Georgia and its obligations under international norms, shall take all necessary measures to protect the life of the child (Child Rights Code, 2019, 6). Life is a fundamental right and the realization of other rights also stems from the right to life, and the right to health is inextricably linked to the right to life. The Georgian Code of the Rights of the Child stipulates that a child has the right to have his or her health protected to the highest standard. The state implements the child's right to physical and mental health through access to health care services and institutions (Child Rights Code, 2019, 11), which means that the state is obliged to create all conditions for the child's health to be protected in every way. This will be a healthcare system, a safe environment, healthy food that will be of international standard quality. According to international law and the UN Convention on the Rights of the Child, it is the right of a child to live in a safe environment, where all conditions will be created for his or her development and well-being (Child Rights Code, 2019, 12).

It is also necessary to consider the Law of Georgia "On Health Protection", which defines "ensuring a safe environment for health as supervision over compliance with sanitary-hygienic rules and norms and sanitary-epidemiological rules determining labor, living, recreation, nutrition, education, upbringing, radiation and chemical safety, and issues related to state sanitary-hygienic and sanitary-quarantine supervision at the country's borders (Law of Georgia on Health Care, 10/12/1997).

In order to approximate European standards, Georgia adopted the Food/Feed Safety, Veterinary and Plant Protection Code, Article 10 of which (Principle of Protection of Consumer Interests) establishes that consumers must be provided with necessary, reliable, complete information related to food/feed, animals, plants, animal and plant products, veterinary drugs, pesticides and agrochemicals, which will allow them to make the right choice (Code 08/05/2012). Article 11 of the same Code establishes food safety requirements, which states that food placed on the market must meet the food safety requirements specified in the legislation of Georgia. It is prohibited to place harmful food on the market. Food is considered harmful if: a) it poses a threat to human life and/or health; b) it is not suitable for human consumption (Code 08/05/2012). Article 12 of the same law establishes the safety requirements for animal feed, according to which animal feed shall not be placed on the market or used as animal feed if it is not safe. Animal feed that meets the safety requirements for animal feed established by the legislation of Georgia is considered safe. Animal feed is considered harmful for its intended use if: a) this feed poses a risk to the health of the animal; b) food obtained from animals fed with this feed is harmful to human health (Code 08/05/2012).

As established by Article 11 of the Food/Feed Safety, Veterinary and Plant Protection Code, food safety requirements indicate that food placed on the market must meet the food safety requirements specified in the legislation of Georgia (Code 08/05/2012). Article 12 of the Code establishes requirements for the safety of animal feed: Animal feed is considered harmful for its intended use if: a) this feed poses a risk to the health of the animal; b) food obtained from animals fed with this feed is harmful to human health (Code 08/05/2012).

2.2. Government Decree on the Prohibition of the use of Poultry Manure

In order to comply with European standards in Georgia, the Georgian Government has adopted subordinate legislative acts. In particular, the Technical Regulation - “On the approval of the rules for the recognition of non-food products of animal origin (including animal waste) and by-products not intended for human consumption, health and business operators related to this activity”.

According to Article 22 of this By-law, special rules are established on animal feeding. A business operator may feed the animals specified in this paragraph with material of the second category, provided that such materials are obtained from animals that were not killed or did not die due to the presence or suspicion of an infectious disease transmissible to humans or animals, in accordance with the general requirements established in Article 108 of this Rule and any other conditions determined by the Agency: a) zoo animals; b) fur animals; c) dogs from kennels or search dogs; d) dogs and cats from shelters; e) worms and worms for fish bait; f) circus animals.

According to Article 41 of the same resolution, a business operator has the right to place on the market a secondary product other than the secondary product specified in Article 37, 38, and paragraph 1 of Article 40 of this Rule and paragraph 1 of this Article, if: a) this product is not intended: a.a) for feeding farm animals; a.b) or for application to the soil from which the said animals are to be fed or is intended for feeding fur animals (Resolution of the Government of Georgia, #605).

3. Precedent from Georgian Judicial Practice

International law and national legislation stipulate that the enjoyment of the highest standard of health protection includes such components as ensuring a safe environment and access to healthy food. Therefore, it is important to consider the current court dispute in Georgia, which was ongoing between the farm producing raw dairy products “Kvareli Baga” and the largest chicken meat company “Chirina”. As it is clear from the case materials, Kvareli Baga filed a complaint with the court against the company Chirina. The subject of the dispute was compensation for damages. Chicken manure purchased from Chirina LLC, which was used by Kvareli Baga LLC to feed cows on the farm, which led to the death of the cows and the spoilage of dairy products. Whereas, the applicant notes on the basis of the materials presented to the court that the chicken manure purchased from Chirina LLC contained the antibiotic tetracycline.

The Rustavi Court partially satisfied the dispute in favor of Kvareli Baga LLC. The court case was then continued in the Tbilisi City Court, where the judge ruled in favor of Kvareli Baga LLC and ordered Chirina LLC to pay 4.7 million GEL in damages. As a representative of Chirina LLC notes, they were selling chicken manure not for use as animal feed, but for fertilizer, so they are not responsible for the animals that died and spoiled dairy products at Kvareli Baga. However, the Tbilisi City Court still ruled in favor of Kvareli Baga LLC (Giorgi Mgeladze, March 31, 2025).

The above-mentioned court case reveals the important fact that Kvareli Baga Ltd. fed cows with chicken manure mixed with manure. Which led to the death of the animals. Food products obtained from such a farm are certainly harmful to human health. This is confirmed by the regulations and directives of the European Union. The mentioned products were sold on the Georgian market as food

for both children and adults. The court did not investigate whether the products produced by Kvareli Baga Ltd. were harmful or dangerous to human life and health.

It is important to understand that the state is obliged to protect the right to life and health of a person, especially the life and health of a child, and to ensure the protection of these rights to the highest possible standard. That is why the Association Agreement with the European Union stipulates that Georgia must gradually approximate its national legislation to that of the European Union, including the approximation of legislation on sanitary and phytosanitary and animal welfare (Decision No. 1/2017). In order to ensure food safety, Article 12 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 stipulates that it is necessary to consider all aspects of the food production chain as a continuous process, from primary production and animal feed production to the sale or supply of food to the consumer, as each element may have a potential impact on food safety (Regulation (EC) No 178/2002).

It should be noted that the above-mentioned court case has caused a great response from the citizens of Georgia, as it poses a threat to the health and life of every person. The state has not responded seriously to this fact, and doubts still exist regarding the safety of the products on sale. The state is obliged to provide citizens with comprehensive information on the safety of food products.

Conclusions

The right to life and health of a child is recognized by international, European law, as well as national legislation, and the state has positive and negative obligations to protect these rights. These rights can be particularly at risk in the case of a state's failure to uphold food safety standards, as evidenced by examples from various countries.

Georgia, as a candidate country for EU membership and having an Association Agreement with the EU, is obliged to gradually harmonise its legislation with European law. The analysis has shown that despite the adoption of a number of new pieces of legislation, Georgia has not yet fully approximated its existing legislation in this area with European legislation. Another significant problem is the implementation of already adopted legislation at the national level in accordance with European directives and regulations.

The companies involved in the production and sale of food and nutrition products must be informed about the legislative changes implemented in the country and the implementation of European standards. In this regard, the weakness of state institutions responsible for controlling this area was also revealed, both in terms of taking preventive measures and in terms of subsequent response.

In the field of food safety, in the field of protection of the right to life and health of the child, it is also important for Georgia that national courts apply precedential decisions of international courts in the field of human rights (European Court of Human Rights, Court of Justice of the European Union). In this regard, the precedents of the European Court of Human Rights are particularly important, the use of which is already mandatory for national courts by law.

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