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Date: 08/11/2022

DH-DD(2022)1182

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Meeting: 1451st meeting (December 2022) (DH)

Communication from NGOs (26/10/2022) (Georgian Young Lawyers' Association, Union Safari, European Human Rights Advocacy Centre, International Partnership for Human Rights) in the case of Tkhelidze v. Georgia (Application No. 33056/17).

Information made available under Rule 9.2 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1451e réunion (décembre 2022) (DH)

Communication d'ONG (26/10/2022) (Georgian Young Lawyers' Association, Union Safari, European Human Rights Advocacy Centre, International Partnership for Human Rights) dans l'affaire Tkhelidze c. Géorgie (requête n° 33056/17) ***[anglais uniquement]***

Informations mises à disposition en vertu de la Règle 9.2 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

DGI
26 OCT. 2022
SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

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26 October 2022

COMMUNICATION

In accordance with Rule 9.2. of the Rules of the Committee of Ministers regarding the supervision of the execution of judgments and of terms of friendly settlements by the Georgian Young Lawyers Association, Union Sapari, European Human Rights Advocacy Centre and the International Partnership for Human Rights

concerning the ***Tkhelidze v Georgia*** **group of cases**

(Application No. 33056/17)

1. Introduction

1. This group of cases consists of the first two femicide judgments against Georgia. Both cases are representative of the systemic discrimination by the law enforcement authorities in Georgia in failing to adequately respond to protect victims of domestic violence, and State's failure to investigate the law enforcement authorities' inaction (violations of Article 2 in its substantive positive and procedural limbs taken in conjunction with Article 14 of the Convention).

2. This submission is communicated by the Georgian Young Lawyers Association (GYLA), Union Sapari, European Human Rights Advocacy Centre (EHRAC) and the International Partnership for Human Rights (IPHR) as non-governmental

organizations under Rule 9(2) of the Rules of the Committee of Ministers (CM) for the supervision of the execution of judgments for consideration at the CM-DH 1451st meeting on 6-8 December 2022. GYLA, Union Sapari and EHRAC acted as legal representatives of the applicants in these cases.

3. The submission provides an initial update on the status of individual measures, including on the obligation to effectively investigate. It further lists a number of general measures necessary to be taken by the State as part of effectively implementation of this group of cases. The submission also provides comments to the Government's action plan of 12 April 2022.

2. Brief summary of the Court's judgments

4. The **Tkhelidze case** concerns the femicide of M.T., a university professor, by her ex-husband L.M. after a prolonged period of domestic violence. Despite more than eleven reports of violence and threats made to the police by M.T. and her relatives in a six-month period, not a single protective measure was put in place. This case is representative of the systemic discrimination by the law enforcement authorities in Georgia in failing to adequately respond to victims of domestic violence. In this case, the Court embedded its consideration of discrimination into the right to life complaints for the first time in a domestic violence case, and was robust in its criticism of the authorities' 'major failings', representing a highly progressive judgment. The Court found that '[i]n flagrant disregard for the panoply of various protective measures that were directly available to them, the authorities failed to display special diligence to prevent gender-based violence against the applicant's daughter, which culminated in her death' and that this action constituted a systemic failure (57). The Court also held that, in the light of the discriminatory overtones associated with violence against women, there was a pressing need to conduct a meaningful inquiry into the possibility that gender-based discrimination and bias had also been a motivating factor behind the alleged police inaction (60).

5. The **A and B case** relates to the murder of a 19 year old woman by her former partner, a police officer, who fatally shot in a local park with his police firearm, following a prolonged period of domestic violence. She was represented by her mother and minor son in this case. In its judgment, the Court found violations of both Articles 2 (in its substantive and procedural aspects) and 14 ECHR, arising from the authorities' failure to take protective measures after being notified of the perpetrator's abuse of the victim, and the failure to conduct an effective investigation into the conduct of the police officers and prosecutor, including the failure to examine the gender-bias that may have motivated the conduct of the law enforcement officials. The Court determined that there was a "pressing need to conduct a meaningful investigation into the response of law enforcement and their inaction, which might have been motivated by gender-based discrimination, in the face of the

victim's complaints", and underlined that the fact that the perpetrator was a police officer and abused his position as such to embolden his self-determined "impunity", meant that the need for an effective investigation was "all the more pressing".

6. The Court also found it inadequate that the perpertrator's prosecution and conviction did not examine the role of gender-based discrimination in his murder of the victim; nor did the domestic courts consider whether the tolerance of his violence against the victim was conditioned by gender bias, or whether the relevant police officers had acquiesced or connived in the perpetrator's gender-motivated abuses. The Court found it "particularly troubling" that the perpetrator was able to use his position in law enforcement to carry out the abuse, in what was "*clearly a lasting situation of domestic violence which means that there could be no doubt about the immediacy of the danger*" to the victim.

3. Individual measures

3.1. Individual measures concerning Tkhelidze v Georgia

7. The Court gave judgment in the case of Tkhelidze v Georgia on 8 July 2021, which became final on 8 October 2021. As noted by the Government in its action plan, on 22 November 2021, the Prosecutor's Office launched an investigation into the neglect of official duties by employees of the Ministry of Internal Affairs under Article 342, paragraph 2 of the Criminal Code of Georgia.

8. Shortly after the investigation was launched, the authorities re-interrogated the applicant. The applicant provided them with the information she could recall regarding the violence her daughter had been subjected to by her abusive husband, as well as on the measures taken by the law enforcement authorities in this regard. The applicant could clearly recall the surname of one of the high-ranking law enforcement officials, Mr. Maghradze (as it was the same of that of the perpetrator) whose inaction could have contributed to the death of her daughter,. During the interview, the applicant stressed that her primary expectation has always been an effective investigation and punishment of those who were accountable for her daughter's death.

9. On 14 December 2021, a Union Sapari lawyer sent a letter to Zurab Samkharadze – an investigator of particularly important cases at the investigation department of the Office of the General Prosecutor of Georgia. In the letter, the lawyer clarified that in order to enforce the judgment of the Court in the present case, it was crucial to a) investigate inaction of any of the law-enforcement officials involved and hold them responsible; and in doing so, b) conduct a meaningful inquiry into the possibility that gender-based discrimination and bias had also been a motivating factor behind the police inaction. Attached to the letter was a request of the applicant to conduct an investigation and hold respective police officers accountable. After the phone call

with Mr. Samkharadze, for the sake of expediency and effectiveness of the investigation, the lawyer additionally submitted Information on this case which was kept in the archive of the organisation.

10. It has been almost a year since the investigation was launched into the present case. It is submitted that the investigative and procedural actions enumerated by the Government in paragraph 5 of its Action Plan should have disclosed the identities of those law enforcement officers whose inaction could have contributed to the escalation of the domestic abuse into the killing of the victim. Nevertheless, as of today, no one has been indicted in the present case. Given that the procedural measures taken by the Government have, thus far, failed to lead to the establishment of the identities of the persons involved, to holding them sufficiently accountable for their inaction, and investigating any discriminatory motive in their passivity, these measures fall short of the procedural obligations under Article 2 of the Convention.

3.2. Individual measures concerning A and B v. Georgia

11. After the judgement of A and B v. Georgia entered into force on May 10, 2022, the case was transferred to the General Prosecutor's Office of Georgia (GPO) for the investigation. On August 2, 2022, mother of the victim was granted victim status within the renewed investigation initiated on the basis of Paragraph 1 of Article 342 of the Criminal Code of Georgia (neglect of official duty). This article stipulates, that: "Neglect of official duties, i.e. non-performance or improper performance of official duties by an official or a person equal thereto due to the careless attitude to the duties, which has resulted in substantial breach of the rights of a physical or legal person or of the lawful interests of the public or state, - shall be punished by a fine or imprisonment for up to three years."

12. At the end of May, the applicant (victim's mother) was contacted by the investigator, who explained that based on the above-mentioned judgement, the investigation was renewed, and it was necessary for the applicant to come to Tbilisi for the purposes of interviewing her. In addition, during this telephone conversation, it was also explained to her that the investigative body needed the materials of the proceedings before the European Court. On June 03, 2022, the applicant sent the statement to the GPO and asked the interview process not to be conducted at the prosecutor's office due to the psychological trauma stemming from the particularities of the case, which was satisfied. However, no response has been received in respect to the questions posed in the letter, as to whether since February 10 / May 10, 2022 (the day of entry into force of the judgement): (i) any investigative actions have been carried out and anyone has been interviewed during this period; (ii) whether the investigative body requested the materials of the case conducted in the European Court from the Ministry of Justice of Georgia; and (iii) what investigative activities have been planned to be carried out in the next 3 months. The parents of the victim

have been interviewed at GYLA's regional office in the city of Kutaisi on August 3, 2022. The interview lasted almost 2 hours *in toto*.

13. With respect to the classification of the case under Article 342.1 of the Criminal Code, it is not clear why the authorities chose this Article as opposed to Article 342.2, as they did in Tkhelidze. Article 342.2 prescribes the same act prescribed under Article 342.1 (see para 11 above), however, that has resulted in death or in other grave consequences. The Court itself notes in paragraph 47 of the judgement, that *"Like the leading case of Tkhelidze, the circumstances of the present application confirm that there was clearly a lasting situation of domestic violence, which means that there could be no doubt about the immediacy of the danger to the victim, and that the police knew or certainly ought to have known of the nature of that situation. Although they were put on alert about the seriousness of the risks, the police failed to display the requisite special diligence and committed major failings in their work such as inaccurate, incomplete or even misleading evidence gathering and not attempting to conduct a proper analysis of what the potential trigger factors for the violence could be".* Despite this assessment, the classification of the case under Article 342.1 (this qualification is indicated in the victim status resolution issued on August 2, 2022 and other renewed information has not been communicated with the applicants) provides for a lenient penalty, and therefore contributes to trivialize the state's responsibility to fight against gravest crimes of domestic violence and especially in cases, where it failed to prevent femicide,[1] provide adequate response to such occasions to ensure they will not be repeated again.

14. In respect to the scope of the investigation, as it was explained to the legal representative of the victim, currently the investigation is solely focused on acts/inaction of police officers. Since it is established fact that the prosecutor grossly failed to respond to the victim's complaint, it is alarming that the investigation is only focused on the acts of the police and still refrains from assessing the acts of the prosecutor. As of the date of submission of this report, the representatives of the applicants cannot provide additional substantive information to the Committee, however, certain steps are planned in respect with communication with the GPO to check the stage of implementation of this judgment proactively and provide information to the CM.

4. General measures

15. This section focuses on the following systemic issues, which call for structural, systemic solutions as general measures in the framework of this group of cases:

[1] See A and B v. Georgia: para 27 (see also paras 43-9): "By a judgment of 24 July 2015, the Tbilisi City

4.1. Police failure to appropriately/accurately record victim statements
4.2. Police failure to follow/complete risk-assessment checklist
4.3. Effective use of electronic monitoring bracelets
4.4. Alarming statistical data on femicide cases in Georgia

4.1. Police failure to appropriately/accurately record victim statements

16. Police failure to appropriately record victim statements is a recurring problem leading, among others, to a series of re-interrogations, which along with the risk of retraumatisation, jeopardises the overall investigation. This was an issue specifically emphasised by the Court in Tkhelidze: '*As regards the requirement of special diligence, the Court discerns several major failings on the part of the law-enforcement authorities. Firstly, there are indications of inaccurate or incomplete evidence-gathering by the police officers. In this connection, the Court considers that shortcomings in the gathering of evidence in response to a reported incident of domestic violence can result in an underestimation of the level of violence actually committed, can have deleterious effects on the prospects of opening a criminal investigation and even discourage victims of domestic abuse, who are often already under pressure from society not to do so, from reporting an abusive family member to the authorities in the future.*' (para 53).

17. As the practice of Sapari has shown, police officers do not comprehensively examine the violent act or record the evidence in the protocol of the incident or the restraining order. Eventually, such restraining orders are annulled by the court since frequently, neither the authorities nor the victim can confirm the existence of facts indicated therein. Such a practice leaves the victims of violence unprotected thereby encouraging the abuser. It is also problematic that in recording episodes of violence in the protocols of restraining orders, police officers refrain from fully recording the information provided, neglect some and/or make erroneous statements. This is often with a view to avoiding granting the situation high scores, qualifying for the application of electronic monitoring bracelets for perpetrators, an issue that is discussed below.[2]

18. The absence of important factual circumstances also serves as a barrier to identifying the discriminatory gender motive or other aggravating circumstances.[3] Although the index of identifying the discriminatory gender motive has been increasing, it nevertheless remains low in the Prosecutor's Office. According to GYLA's research, of the 102 judgments examined in 2017, the Prosecutor's Office identified gender discrimination as a motive in only two cases (2%). In 2018, gender

[2] GYLA, SIGNIFICANT ISSUES of DOMESTIC VIOLENCE and VIOLENCE AGAINST WOMEN, available at: https://bit.ly/30dgSMp

[3] Report of the Coalition for Equality and other NGOs to the Pre-sessional Working Group of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW) 81st Session, para 6, available at the following link.

discrimination was considered a motive in three cases (2%) out of 131 decisions examined. Data from the first nine months of 2020, reveal the motive of gender discrimination in 120 cases (which equals to the data of full 2019), and 126 women were recognised as victims of gender discrimination. In 2020, gender discrimination was considered a motive in femicide cases for the first time.[4]

4.2. Police failure to follow/complete risk-assessment checklist

19. The risk assessment tool is integrated into the restraining order protocol, which was approved by the order of the Minister of Internal Affairs No. 81 of July 13, 2018. The restraining order protocol consists of 7 blocks/sections. In order to assess the risk, along with the relevant questions, appropriate graphs have been allocated in which information about the alleged abuse should be indicated, including personal information about the survivor and the alleged perpetrator, about their connection or family relationship and other necessary information about the circumstances of the case which the police officer considers relevant to record.[5]

20. In the thematic research, carried out by the Parliament of Georgia on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence, it is also emphasised that irrespective of the unification of risk assessment procedure police officers still do not have enough skill/experience to fully and correctly evaluate circusmtances/risks and fill out the documentation correctly.[6]

21. This position is shared by the Georgian Government, as stated in paragraph 17 of the action plan presented to the Committee of Ministers. The Georgian Government maintains that "it is important to improve the skills of law enforcement officers involved in the risk assessment process in terms of communicating with victims, in the process of forming and developing appropriate skills."

22. As Union Sapari's practice shows, police officers do not ask all of the relevant questions included in the risk-assessment checklist and fill out some parts of the assessment by themselves. Such a superficial approach serves as a barrier to effectively identifying risks and providing necessary protection to victims.

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[4] GYLA, SIGNIFICANT ISSUES of DOMESTIC VIOLENCE and VIOLENCE AGAINST WOMEN, available at: https://bit.ly/30dgSMp; See also, SHADOW REPORT OF THE COALITION FOR EQUALITY AND OTHER NGOS TO THE Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), at 33.

[5] Khatiashvili G. Combating Violence against Women and Children and Domestic Violence, 2021, availeble at http://bitly.ws/vo2G

[6] Parliament of Georgia, Thematic research on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul convention), pg.43

23. These issues were highlighted by the Court in its judgment in Tkhelidze (and endorsed in *A and B*) and were also noted by the Special Rapporteur on Violence Against Women, its causes and consequences in her 2016 Country Report on Georgia (paras 89, 92-93 and set out at para 40 of the judgment in *Tkhelidze*).

4.3. Challenges related to applying Electronic Monitoring Bracelets

24. In the case of *Tkhelidze v. Georgia*, the Court mentioned that "*whilst the domestic legislative framework provided for temporary restrictive measures in respect of the abuser, the relevant domestic authorities did not resort to them at all*".[7] The same conclusion was reached by the court in the case of *A and B v. Georgia*, as well.[8] It is noteworthy that according to the two-pronged standard established by the Court, after it is determined whether the domestic authorities were aware, or ought to have been aware, of the violence to which the applicant had been subjected and of the risk of further violence, if so, the Court then looks at *whether all reasonable measures had been taken to protect her and to punish the perpetrator*.[9]

25. In this respect, certain amendments aiming at introducing reasonable measures to protect the victims have been entered into force since September 1, 2020 particularly in respect with electronic monitoring bracelets. According to the current legislation, the wearing of an electronic bracelet can be imposed alongside with applying the restrictive order in cases where there is a real risk of repeated violence. Article 10^1 (1) of the Law of Georgia on Violence Against Women and/or Elimination of Domestic Violence, Protection and Support of Victims of Violence stipulates that – "*In the presence of violence against women and / or domestic violence, an authorised police officer may impose electronic surveillance on the abuser in order to ensure the implementation of a temporary victim protection measure provided for in Article 10 (3^2) (e) of this Law*".[10] According to the 2nd paragraph of this article – "*Electronic surveillance of an abuser may be carried out to ensure the provision of a temporary protection measure for a victim provided for in Article 10 (3^2) (e) of this Law, especially if there is a real risk of recurrence of violence from the side of an abuser.*"

26. As mentioned, the amendments were intended to allow for real-time monitoring of the perpetrator in order to detect possible violence, restrict proximity to the victim and the victim's home, workplace, or other areas and, thus, provide preventative effective measure. We welcome this amendment, since it is also noteworthy, that electronic monitoring increases the possibility of detection when violations occur, and

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[7] *Tkhelidze v. Georgia*, no. 33056/17, 08/10/2021, § 55.

[8] *A and B v. Georgia*, no. 73975/16, 10/05/2022, § 48.

[9] B. v. The Republic of Moldova, no. 61382/09, 2013, § 51.

[10] Law of Georgia "*On the Elimination of Violence Against Women and/or Domestic Violence, and the Protection and Support of Victims of Such Violence*", Law No 761, 4 May 2017, article 10^1 (1), available at - <https://matsne.gov.ge/en/document/view/26422?publication=18>, accessed on 26.09.2022.

also the possibility of further punishment.[11] Electronic monitoring technologies enable judicial and executive authorities to restrict, regulate and enforce a suspect or offender's spatial and temporal activity (their locations, movements and schedules), at a distance, often in "real-time", potentially in a very finely calibrated way, for periods of variable duration.[12] The meta-analyses[13] have found that, in general, Electronic Monitoring does reduce reoffending whilst being monitoring.[14] Electronic supervision measures (wearing appropriate bracelet) is considered as the good practice in responding to domestic violence.[15] The effective use of electronic monitoring bracelets could have been one of the effective measure in preventing the cases of femicide and to contribute to ensuring that the systemic failure of the state witnessed in *Tkhelidze v. Georgia* and *A and B v. Georgia*, will not be repeated.

27. However, it is worrisome, that the MIA is reluctant to apply the electronic monitoring bracelets and often convinces the victim that it will be inconvenient for her.[16] In general, such bracelets are usually applied in relation to high-risk perpetrators only and mostly by virtue of the involvement of the Human Rights Department,[17] however, it is also considered that it could be an effective tool in regards to medium risk offenders as well.[18] According to information provided by the MIA, as of 12 October 2022, the Ministry has 350 electronic monitoring devices at its disposal.[1920] Between the period of 1 September 2020 and 1 September 2021, electronic monitoring bracelets were applied only for 17 abusers,[21] while between 1 September 2021 to September 2022, the electronic monitoring bracelets were applied for 11 abusers only.[22] The recent annual report of the Public Defender of Georgia attests, that

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[11] See, Council of Europe - European Committee on Crime Problems (CDPC) and Council for Penological Cooperation (PC-CP), *Draft Commentary to Recommendation on Electronic Monitoring*, Strasbourg, 4 December 2013; Rule 8.

[12] Nellis M., *Standards and Ethics in Electronic Monitoring - Handbook for Professionals Responsible for the Establishment and the Use of Electronic Monitoring* (Council of Europe), p. 10.

[13] Aos, S., Lee, S., Drake, E., Pennucci, A., Klima, T., Miller, M., Anderson, L., Mayfield, J. & Burley, M.. *Return on Investment: Evidence-based options to improve statewide outcomes* (Olympia: Washington State Institute of Public Policy (2012)); et al. Also see, Roman, J., Liberman, A., Taxy, S. & Downey, P., *The Costs and Benefits of Electronic Monitoring for Washington, D.C.* (Washington: Urban Institute (2012)), et al.

[14] New Zealand Government, *Electronic monitoring for adult offenders – Evidence Brief*, p. 2.

[15] Good practices in responding to domestic violence : a comparative study [Lori Mann]. - Sarajevo : UN Women, CO in BiH, 2019, pg. 14, 24, 41.

[16] *Shadow Report of the Coalition for Equality and Other NGOs to the Group of Experts on Action against Violence against Women and Domestic Violence* ("GREVIO Report"), October 2021; p. 34.

[17] Ibid.

[18] See, *Draft Commentary to Recommendation on Electronic Monitoring*, Strasbourg; Rule 8. Also see, Renzema M and Mayo-Wilson E, *Can Electronic Monitoring Reduce Crime for Medium to High-Risk Offenders* (2005). Journal of Experimental Criminology 1(2) 2005 215-237; Renzema M (2012) Evaluative Research on Electronic Monitoring. in Nellis M, Beyens K and Kaminski D (eds) Electronically Monitored Punishment: international and critical perspectives London: Routledge.

[19] The letter of the Ministry of Internal Affairs of Georgia, #MIA 1 22 02861483, dated 12.10.2022.

[20] GREVIO Report; p. 34.

[21] The letter of the Ministry of Internal Affairs of Georgia, #MIA 4 21 02616605, dated 04.10.2021.

[22] The letter of the Ministry of Internal Affairs of Georgia, #MIA 1 22 02861483, dated 12.10.2022.

"despite the fact that an electronic surveillance system has been introduced for potential perpetrators, there are few cases where law enforcement officers use electronic bracelets against potential abuser in addition to issuing of a restraining order."[23] For example, the report in accordance with the data provided by the Ministry of Interior Affairs, cites, that "in 2021, 9,376 restraining orders were issued for domestic violence and 744 restraining orders for violence against women. Electronic surveillance was imposed on only 14 persons on the facts of domestic violence, and on 1 person on the facts of violence against women."[24]

4.4. Situation in respect of Femicide/Femicide attempt cases in 2019-2022

28. According to the General Prosecutor's Office of Georgia, 13 women were killed in the first 8 months of 2022.[25] It is alarming that after publishing this statistical data, information about 3 new femicide cases was broadcast through media during a single week recently.[26] According to the Public Defender's Office, in 2021, 22 women were murdered (including 2 cases of incitement of suicide by a family member and 2 cases of damage to health that resulted in the death of the victim), of which 50% were committed by a family member, and in the remaining cases other motives for committing crimes were revealed.[27] Furthermore, the fact of attempted murder of 31 women (among them, 10 cases of inciting attempted suicide by family member and 3 other cases of leading a woman to attempt suicide) was identified, out of which more than half (16) were committed on the grounds of domestic crime, and the rest (15) - on other motives.[28]

29. In 2020, the Gender Department of the Office of the Public Defender of Georgia analysed 23 cases of femicide and attempted femicide. Out of the 23 analysed cases, 10 refer to femicide, and 14 to attempted femicide (1 case refers to both

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[23] Annual Report of the Public Defender of Georgia, The Situation in Human Rights and Freedoms in Georgia 2021, 2022, pg. 119, available at: https://www.ombudsman.ge/res/docs/2022070612391254904.pdf, accessed on 05.10.2022.

[24] Ibid.

[25] The statement of General Prosecutor's Office, "Prosecution Service Implements Harsh Criminal Justice Policy In Terms Of Domestic Violence Offenses, Confirmed By Significant Increase of Annual Prosecution Rate in Recent Years," 10.09.2022, p.4, available at: https://pog.gov.ge/uploads/e6dfe7ad-Femicide.pdf, accessed on 05.10.2022.

[26] See the relevant news articles, Radio Freedom: Another woman was killed in Tbilisi, 09.10.2022, available at: https://www.radiotavisupleba.ge/a/32072135.html, accessed on 10.10.2022, Interpressnews, Young woman killed in Telavi, 09.10.2022, available at: https://www.interpressnews.ge/ka/article/729842-telavshi-axalgazrda-kali-mokles, accessed on 10.10.2022; Interpressnews, The body of a young woman was found on Vazha-Pshavela Avenue, available at: https://www.interpressnews.ge/ka/article/729830-vazha-pshavelas-gamzirze-axalgazrda-kalis-cxedari-ipoves, accessed on 10.10.2022; Radio Freedom, "The Ministry of Internior Affairs publishes a statement on the case of the murder of a woman in Didi Dighomi," 08.10.2022, available at: https://www.radiotavisupleba.ge/a/32070495.html, accessed on 10.10.2022.

[27] Public Defender of Georgia, *Report of the Public Defender of Georgia On the Situation of Protection of Human Rights and Freedoms in Georgia* (2021) ("Report on the situation of Protection of Human Rights and freedoms in Georgia of 2021"), p. 121, available at - <https://www.ombudsman.ge/res/docs/2022070612391254904.pdf>, accessed on 27.09.2022.

[28] Ibid.

femicide and attempted femicide).[29] Out of the 10 cases of femicide, half had been committed by a spouse or an ex-spouse, and as for the attempted femicide cases, 8 out of 14 had been committed by a spouse/ex-spouse or a partner.[30]

30. Statistics, as in previous years, clearly show that femicide and attempted femicide against women are more often committed by husbands, both in registered marriages and unregistered marriages, as well as by ex-husbands.[31] In the statistics, there are husbands with whom the relationship of the woman was actually over, although the divorce was not signed yet.[32] The most common motive for femicide/femicide attempt is jealousy, which is followed by gender and revenge.[33]

31. *According to the report of the Public Defender of Georgia, as in previous years, no tendency seems to be showing of femicide/femicide attempts decreasing*.[34] Furthermore, compared to previous years, the number of cases leading to female suicide and attempted suicide has increased (as in 2019, 2 out of 19 cases of femicide were related to suicide and 6 out of 22 attempted murders led to suicide attempts. In 2020, none of the 15 cases of femicide was a case of incitement to suicide and 7 from 27 attempted murders of women, were of fact leading to suicide attempts. As for 2021, 2 of 22 murders were suicides, and 13 from 31 attempted murders were suicide attempts).[35] Also, the statistics of attempted murder of a woman have increased (as in 2019 22 attempts were made, in 2020 – 27, and in 2021 this number went up to 31).[36]

32. The report welcomes the fact that in accordance with the recommendations of the Public Defender of Georgia, issued within the Femicide Monitoring Mechanism, the court practice has been established and the judgments made by the court discuss the murders or murder attempts committed on the basis of gender.[37] Although, the number of cases where the crime was identified as committed on the grounds of gender and thus the aggravation of punishment is still low.[38] Also the establishment of a gender motive for a femicide attempt , identification of an action against a family member and identification of committing it on the ground of gender, and qualification of it according to a special norm (e.g., with the amendments made on September 20, 2019, Article 117, Part 3 of the Criminal Code was supplemented

[29] Public Defender of Georgia, *Femicide Monitoring Report 2020* (UN Women, 2021), p. 10, available at - <https://ombudsman.ge/res/docs/2022070609293527273.pdf>, accessed on 27.09.2022.
[30] Ibid.
[31] Public Defender of Georgia, *Femicide Monitoring Report 2019* (UN Joint Programme for Gender Equality, 2020), p. 8, available at - <https://ombudsman.ge/res/docs/2021061415064722095.pdf>, accessed on 27.09.2022.
[32] Ibid.
[33] *Femicide Monitoring Report 2020*, p. 11.
[34] *Report on the situation of Protection of Human Rights and freedoms in Georgia of 2021*, p. 121.
[35] Ibid.
[36] Ibid, p. 121-122.
[37] Ibid, p. 122.
[38] Ibid.

with sub-paragraph "e", which provides for criminal liability for intentional grievous bodily harm to a family member) by the Prosecutor's Office of Georgia is problematic.[39] The report considers especially worrying the cases identified in 2020, when one of the causes of femicide and attempted femicide was the use of too short and lenient punishment for the perpetrator of violence against women and / or domestic violence.[40] Another recent alarming precedent reveals that the police arrested the man on the charge of violence against the woman on October 2, 2022 and although the prosecution demanded his imprisonment as a preventive measure, on October 6, the judge released him on bail. Several days later, on October 9, 2022 he was arrested as he had, under the influence of alcohol, inflicted a fatal wound to the throat of M.G., his wife in an unregistered marriage in Telavi.[41]

33. It is noteworthy that in the courts of first instance there is no unified vision of the definition of a crime committed on the ground of gender and the "gender sign" is narrowly defined.[42] There is also a diverse practice regarding definition of the term "unregistered marriage", which hampers introducing aggravating grounds within the domestic violence criminal cases.[43]

5. Conclusions and recommendations

Effective prevention of and response to domestic violence

- Ensure full and verbatim recording and storage of statements by victims when reporting incidents of domestic violence. To this end, consider audio/video recording of the victim.
- Ensure that reports of separate incidents in relation to the same victim and perpetrator are collated and referred to when a new complaint is made.

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[39] Ibid. Also see, *Femicide Monitoring Report 2020*, p. 16-28

[40] *Report on the situation of Protection of Human Rights and freedoms in Georgia of 2021*, p. 122. Also see, *Femicide Monitoring Report 2020*, pp. 13, 41-44.

[41] See the Media News, Rustavi2, A man who killed a 26-year-old girfriend in Telavi was arrested - the Ministry of Internal Affairs reports, available at: https://rustavi2.ge/ka/news/239844, accessed on 10.10.2022.

[42] *Report on the situation of Protection of Human Rights and freedoms in Georgia of 2021*, p. 122.

[43] Ibid.For example, one verdict of the Tbilisi City Court refers to the burning of the former partner by the accused (this action did not result in the death of the victim).. In this case, the victim claimed that she was in an unregistered marriage with the accused and lived with him in a rented apartment. The defense argued that the accused and the victim had intimate relations with each other, and marital duties were not distributed between them. The court shared the defense's position, acquitted the defendant of the charges presented under Article 109 of the second paragraph of the Criminal Code, sub-paragraph "v" and stated that the prosecution failed to prove that the accused and the victim were in an unregistered marriage. According to the court, the accused and the victim lived together in two different places for two weeks and a two-week period was too short of a time for the couple to have a common life together. Therefore the short period of cohabitation was deemed one of the key factors for the Court to deem that they were not in the unregistered marriage. Since the fact, that the existence of an unregistered marriage was not attested, the aggravating ground for the criminal liability was not also introduced in respect with the accused. see Tbilisi City Court case No. 1/4487-20. for other examples, see also the Femicide Monitoring Report 2020, p.33-5.

- Require and ensure police thoroughly and rigorously fill out the risk-assessment checklists (including consideration of trigger factors) and decide on necessary protective measures accordingly, and ensure monitoring and quality control of this recommendation by the Ministry of Internal Affairs
- Apply electronic monitoring bracelets more actively and ensure that victims, the police and the public are properly informed about the aim and benefits of this measure (as opposed to their use being discouraged by misinformation);
- Ensure investigation of discriminatory motive for all femicide cases.

Effective response to failures to prevent femicide

- Incorporate the definition of femicide into Article 4 of the Law of Georgia on the Elimination of Violence against Women and/or Domestic Violence, and the Protection and Support of Victims of Such Violence;
- Establish an inter-agency femicide review mechanism, which, taking into account the recommendations of and in collaboration with the Femicide Watch at the Public Defender's Office, will examine and report on how each incident of femicide was handled at each stage of the criminal justice system and social support services, including: whether the authorities (be it the law enforcement or social service agency) were aware of the risks, whether they took all necessary measures, why they were unable to prevent the femicide and what should be the learnings for preventing and properly responding to future incidents;
- Ensure that police and prosecutors are investigated and held accountable for failures to prevent and respond to domestic violence and consequential femicide and that any discriminatory bias informing their inaction is revealed and addressed.

On behalf of all the signatory organizations,

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