

## Public Defender of Georgia

### Written submission to the Committee on the Elimination of Discrimination Against Women (CEDAW)

by the National Human Rights Institution – Public Defender (Ombudsman) of Georgia

According to the mandate provided under the Organic Law of Georgia, Public Defender oversees observance of human rights and freedoms in the country, among them rights of women, addresses human rights violations either based on applications/complaints or on his own motion and carries out civic education and awareness raising activities. Pursuant to Article 14 (1) of the Law of Georgia on Gender Equality, Public Defender of Georgia ensures protection of gender equality monitors the given field and responds to violations of gender equality within the framework of its competences.

The Committee considered the combined fourth and fifth periodic reports of Georgia (CEDAW/C/GEO/4-5) at its 1227th and 1228th meetings, on 8 July 2014. The Committee requested the State party to provide, within two years, written information on the steps taken to implementation the recommendations contained in paragraphs 21 and 25.

#### Violence against women and domestic violence

**21. Recalling its general recommendation No. 19 on violence against women, the Committee urges the State party:**

**(a) To take measures to prevent the growing number of murders of women by their husbands and partners and other forms of domestic violence;**

The protection of women's rights and the achievement of gender equality remains a challenge in Georgia. Despite positive steps taken by the state, the situation in a number of spheres requires special attention. There is a problem of effective implementation of legal regulations and national action plans. Public Defender of Georgia has repeatedly underlined Georgia's signing of the Council of Europe's 2011 Convention on Preventing and Combating Violence against Women and Domestic Violence (back in June 2014) as a positive step. We firmly believe that the ratification of the Convention will significantly improve the ways of combating the violence against women and domestic violence and are concerned by the fact that it is still not ratified despite numerous commitments made by high-level government officials to do so during the spring 2016 session of the Parliament. We are also concerned that the draft package of legislative amendments prepared

with the leadership of the Ministry of Justice to harmonize Georgian legislation with the CoE Istanbul Convention has not been even initiated for the review in the Parliament.

According to the data of Chief Prosecutor's Office of Georgia, in 2015, investigations were launched into 26 criminal cases of murders and attempted murders of women. Fourteen of these crimes were committed in the condition of domestic violence, whilst 12 crimes seem to have other motives. Two incidents of harming the health of family members ended in death. Consequently, 28 cases of murders and attempted murders of women were registered in 2015.<sup>1</sup> In 2016<sup>2</sup>, investigations were launched into 20 criminal cases of murders and attempted murders of women. 10 (murders – 7; attempted murders – 3) of these crimes were committed in the condition of domestic violence, whilst 10 (murders – 8; attempted murders – 2) crimes seem to have other motives. One incidents of harming the health of women by husband ended in death.

The observation of the Public Defender's Office also has showed that in some cases police representatives could not prevent the crime. A clear example of such cases could be the facts, where calls have been made by the victims of domestic violence before the crime.

From the cases examined by the Public Defender's Office of Georgia particularly worrying is the incident of intentional murder of K.I., where the police representatives were reported about the possible violence a few hours before the murder, but it have not been prevented. Also, health damage of V. Sh. is notable, where the Ministry of Internal Affairs received 12 messages before the crime. According to the reports, domestic violence case has been taken place in the family. On the basis of the notifications, police representatives arrived at the place and they could not confirm the fact. In addition, investigation has been launched toward the former husband of M.P. on the basis of attempted murder, where the Ministry of Internal Affairs received 7 messages about the possible violence fact. According to the information provided, because the messages did not include the signs of criminal offense, respond has not been implemented by the law enforcement agencies.

Based on the abovementioned, Public Defender's Office of Georgia thinks that risk assessment and monitoring mechanism of response after a domestic violence has to be introduced.

The cases studied by the Public Defender's Office also revealed the instances where law enforcement officers ignore a characteristic feature of domestic violence – regularity and continuity. The history of reporting to law enforcement bodies by a victim often covers several years but each report is viewed as a separate case. Report on a separate case might seem less important but in its entirety, the violence against a victim over the period of several years prevents the victim from living peacefully which results in developing a grave psychological condition.

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<sup>1</sup> A letter of the Chief Prosecutor's Office of Georgia #13/11306; 24/02/2016.

<sup>2</sup> Statistical data reflects January 1<sup>st</sup> - July 31<sup>st</sup> period.

The Public Defender of Georgia fully supports the statement made by Dubravka Šimonović, the United Nations Special Rapporteur on violence against women, its causes and consequences, on 23 November 2015, in which she called on all the States to establish a “Femicide Watch”, and to focus on the prevention of gender-related killing of women and to publish data on femicides on each 25 November. Alongside cases of femicide, special attention must be paid to those women suicides which, according to reports, might be caused by systemic nature of domestic violence.

Based on all the facts mentioned above, unfortunately, parliament of Georgia didn't pass any legislative initiative, which would improve the situation regarding women's rights and achieving gender equality in the country. Parliament rejected a proposal by MPs from the majority faction to make a definition of the femicide in legislation. Hereby, in case of femicide, it is possible to use various articles from the Criminal Code of Georgia<sup>3</sup>: Article 108 (Premeditated Murder), Article 109 (Premeditated Murder under Aggravating Circumstance), Article 111 (Premeditated Murder under Sudden Heat of Passion), 2<sup>nd</sup> part of the Article 117 (Intentional Damage to Health caused by death) and Article 115 (Bringing to the Point of Suicide).

Alongside cases of femicide, special attention must be paid to those women suicides which, according to reports, might be caused by systemic nature of domestic violence. For example, it has been two years now that the investigation into a fact of possible incitement to suicide of Kh.J. has been in progress and the status of investigation of the case is still unknown.

A number of cases studied by the Public Defender's Office show that cases cannot be often qualified as the incitement to suicide because law enforcement bodies are not aware of facts of violence before the death. The above cited suicides as well as similar cases studied by the Public Defender's Office provide the ground to think that the incitement to suicide is yet another gravest consequence of violence against women while difficulties in punishing offenders is the most unfortunate trend.

Problem exists also in coordination and exchange of information among bodies authorized to respond to domestic violence. The study of cases revealed shortcomings in the assessment of measures implemented by law enforcement bodies and the Social Service Agency. On certain occasions, the information provided by both entities were contradictory and it was difficult for the Public Defender's Office to establish the truth.

**(b) To encourage women to report acts of sexual and domestic violence by raising awareness about the criminal nature of such acts, to ensure the effective investigation of cases of violence against women, to prosecute and**

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<sup>3</sup> The information is available at: [http://www.vertic.org/media/National%20Legislation/Georgia/GE\\_Criminal\\_Code.pdf](http://www.vertic.org/media/National%20Legislation/Georgia/GE_Criminal_Code.pdf)

**punish perpetrators with sanctions commensurate with the gravity of the crime and to provide victims with adequate compensation for damages suffered;**

Despite number of awareness campaigns, legislative and institutional safeguards, and criminalization of domestic violence, people still live in the world of stereotypes, where in most cases domestic violence against women is justified. There still is a widespread opinion that domestic violence does not tolerate intervention of the outsiders and that such issue must be solved in closed social circle – family.

Therefore, addresses regarding domestic violence issues to Ministry of Internal Affairs of Georgia still do not reflect the reality. In case of domestic violence, victims are hesitating to address police representatives due to distrust. The problem is also related directly to the victims, when they approach to the police but can't receive an adequate service. In this regard, we should mention case of R.V. Ministry of Internal Affairs could not identify the signs of of psychological violence despite of 8 appeals. Though, after the Public Defender of Georgia sent a proposal to the Main Prosecutor's Office, perpetrator was given the criminal responsibility. Based on this, victim was released from 6-year psychological violence. As well as, in accordance with the Public Defender's proposal, the Chief Prosecutor's Office has launched an investigation into the case of domestic violence committed against a woman with disabilities. As a result of the investigative activities, Ts. C. was recognized as a victim and appropriate measures were taken for the protection of her health. It should be noted that prior to preparing a proposal, the Public Defender had sent messages to the Social Service Agency and territorial units of the Ministry of Internal Affairs. The Social Service Agency confirmed the case of violence, including the alleged physical violence, but the law enforcement officers failed to identify the offence. Besides, it was not evident from the information provided by the Ministry of Internal Affairs whether or not the victim was questioned. All this refers to the need for raising the skills of law enforcement officers in identification of cases of domestic violence committed against persons with disabilities.

It is very important to involve social workers in the prevention of violence against women and protection against domestic violence. As well to establish a monitoring mechanism that will enable relevant entities to monitor the families where facts of violence occurred and at the same time, to build a database which will provide very important information for planning preventive measures in this direction.

**(c) To ensure that all women who are victims of violence have access to effective protection and assistance, including State-funded shelters, and to**

**improve cooperation with relevant non-governmental organizations in this respect;**

Considering the scale and acuteness of the problem of domestic violence, the service for victims of domestic violence is of crucial importance. Government of Georgia has 4 State shelters and 1 crisis center, as well as Interagency Council Implementing Measures to Eliminate Domestic Violence is operating to define a status of victim of domestic violence. However, this is not enough.

It is disturbing that often the victims had not addressed the law enforcement organs for help prior to the incidents. Ineffective implementation of the protection and assistance activities represents the major challenge along with indifference of the general public. Frequently, protection mechanisms for victims of violence provided by the law aren't used and respectively, their appeal for assistance is disregarded by law enforcers. That's why, victims of domestic violence are suffering from abuse from their husbands or partners and they are not appealing to the representatives of the law enforcement agencies until the situation is extremely hard. The problem is also, that victims are not being adequately explained to the existing services.

Nowadays, DV shelters provide the service of psychosocial rehabilitation and assistance to the victims of domestic violence. The mentioned recommendation was issued by the Public Defender for the aim to improve conditions of beneficiaries and to provide psychosocial rehabilitation for the victims of domestic violence. We can consider taking psychologist in staff as a good practice, because it helps beneficiaries and fastens psychosocial rehabilitation process. As for housing, in some cases local municipalities are helping the victims to find out place to live temporarily and they are responsible for the apartment rents. Unfortunately, operators of the DV hotline can provide assistance on Georgian language only.

**(d) To prohibit and adequately sanction the practice of virginity tests carried out on women in violation of their right to privacy.**

N/A.

**Women's political participation**

**25. The Committee recommends that the State party ensure the full and equal participation of women in political and public life, especially at the senior and decision-making levels, including in local legislative bodies. In particular, it recommends that the State party introduce mandatory quotas for political parties in order to significantly increase the representation of women in national and local legislative bodies. Furthermore, the Committee recommends that the State party involve women in the implementation of its**

**action plan and policies aimed at settling conflicts and promote the active participation of women in high-level meetings in this regard.**

The issue of equal participation of women in politics remains one of key challenges in protecting women's rights and achieving gender equality. According to the 2015 Global Gender Gap Report,<sup>4</sup> Georgia ranks 114<sup>th</sup> by women's political participation and 117<sup>th</sup> by women's representation in the parliament among 145 countries. By the data of inter-parliamentary union,<sup>5</sup> as of 1 December 2015, Georgia is 111<sup>th</sup> among 150 countries.

2015 was marked with the launch of parliamentary debates on the establishment of quota system. The Public Defender of Georgia supported the 50/50 initiative of Women's Movement, which implies the alternation between male and female candidates on party lists. Unfortunately, parliament of Georgia did not support any of the quota initiatives. Moreover, the number of parliament members disapproving of the recommendation adopted after the consideration of 4<sup>th</sup> and 5<sup>th</sup> combined periodic reports of Georgia by the Committee on Elimination of All Forms of Discrimination against Women,<sup>6</sup> calling on the state to adopt temporary special measures, including statutory quotas, in accordance with Article 4 (Paragraph 1), Article 7 of the Convention and general recommendations 23 and 25 of the committee, is quite high. Besides this, on July 29, 2013 paragraph 7<sup>1</sup> was added to article 30 of organic law of Georgian on political unions of citizens, which provided for additional 30% on party funding in case if in the party list submitted by the party, 30% of every ten members would be opposite sex. Regardless of this change, the gender statistics<sup>7</sup> of the results of local government elections published by the Elections' Administration of Georgia show that steps taken by parties for achievement of gender equality were not noticeable.

Office of Public Defender has analyzed activities of executive power and local self-government bodies, including the gender composition of employees at all levels and the existence and operation of a person or a structural unit in charge of gender equality issues. The study has shown that women represent the majority of employees in the offices of ministries and state ministries; however, their representation at a managerial level is not that strong. This must be attributed to the so-called glass ceiling, an unacknowledged barrier to the career advancement of women or their involvement in decision-making process. The results of the study has proved that none of the ministries has set up a structural unit (a department, a center) on gender equality; only three

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<sup>4</sup> The information is available at: <http://www3.weforum.org/docs/GGGR2015/cover.pdf> [Last accessed on October 4, 2016].

<sup>5</sup> The information is available at: <http://www.ipu.org/wmn-e/classif.htm> [Last accessed on October 4, 2016].

<sup>6</sup> The information is available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGEO%2fCO%2f4-5&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fGEO%2fCO%2f4-5&Lang=en) [Last accessed on October 4, 2016].

ministries have designated persons to do this job whilst the remaining entities either assign this task to a person as an additional duty or when need be, designate a person for this task.

Hereby, during the informational meetings in 2015, according to local population, women do not participate in any of the stages of planning and implementation of desirable projects with the amounts allocated within the rural development program. The reason of this is that, on the one hand, women's participation in these processes is perceived negatively by society and, on the other hand, representatives of local self-government body do not invite women to meetings. As well as, Public Defender of Georgia hold a monitoring of 2012-2015 State Action Plan for implementation of UN Security Council Resolutions ## 1325, 1888, 1820, 1889 and 1960 on "Women, Peace and Security". Monitoring results showed that the National Plan has not affected the population with special needs in this regard. Women residing in villages adjacent to occupied territories and compact settlements face lots of problems; however, a deficit of protection or rehabilitation measures is evident.

According to the study of National Democratic Institute (NDI), since 2014, 70% of Georgians believed at least 30% of parliamentarians should be women<sup>8</sup>. According to the same source, in 2016 only 17% of majoritarian candidates are women; in total party/blok list candidates only 37% are women.

We will continue our constructive work with Georgian government in the process of implementation of recommendations and we do hope that we will have significant improvements in all fields of gender equality which are challenged in Georgia.

**Public Defender's Office of Georgia recommends the government to consider the following:**

- Risk assessment and monitoring mechanism of response after a domestic violence should be introduced;
- Statistical data on cases of inciting women to suicide should be maintained and all necessary data about such facts should be analyzed;
- Access to hotline service for representatives of ethnic minorities should be ensured;
- The role and involvement of social workers should be strengthened for the response to violence against women and domestic violence;

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<sup>8</sup> The information is available at:

[https://www.ndi.org/files/NDI%20Georgia\\_October%202014\\_Gender%20poll\\_Public%20ENG\\_Final\\_0.pdf](https://www.ndi.org/files/NDI%20Georgia_October%202014_Gender%20poll_Public%20ENG_Final_0.pdf)

- Eradicate the problems regarding identification of the violence regarding women with mental health and disabilities;
- Recommendation by the Committee of Elimination of All Forms of Discrimination against Women should be considered and a temporary special mechanism – quota system should be adopted;
- Women's participation should be supported at every stage of planning and implementation of rural development programs;
- Planned programs should be analyzed and in identifying priorities, special attention should be paid to the consideration of gender aspects.