



საქართველოს სახალხო
დაცველი

PUBLIC DEFENDER
(OMBUDSMAN)
OF GEORGIA

SUBMISSION OF THE PUBLIC DEFENDER OF GEORGIA TO THE UN COMMITTEE ON THE
ELIMINATION OF DISCRIMINATION AGAINST WOMEN

81ST PRE-SESSIONAL WORKING GROUP, 5-9 JULY 2021, LIST OF ISSUES

Introduction

The Public Defender's Office (hereinafter PDO) is an „A“ Status National Human Rights Institution mandated by the Constitution and Organic law of Georgia to oversee human rights situation in the country. The PDO's work combines the functions of examining complaints, reporting, awareness raising and research activities on human rights related issues.

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. Since 2013 special department has been working on the women's rights at the PDO representing a major women's rights monitoring mechanism in the country. The Gender Department was established based on the activities of the Center for the Rights of Children and Women operating since 2001 at PDO. The Department is guided by the Constitution of Georgia, relevant international conventions and treaties, Organic Law of Georgia on the Public Defender of Georgia, Law of Georgia on Gender Equality and other relevant national legislation in the field of gender equality. The aim of the Department is to oversee the protection of human rights and freedoms in the field of gender equality, to promote the integration of gender equality issues in regular human rights activities of the Public Defender and to raise public awareness in order to strengthen gender equality in Georgia.

Public Defender (Ombudsman) of Georgia provides the below information to the Committee on the Elimination of Discrimination against Women (the Committee) ahead of the adoption of the list of issues for the sixth periodic report of Georgia at its 81st pre-session. By referring to the specific paragraphs of the national report this submission sets out Public Defender's key concerns about Georgia's compliance with the Convention on the Elimination of All Forms of Discrimination against Women (the Convention).

Paragraphs 14 and 15 - National machinery for the advancement of women

- *Gender mainstreaming tools are formal, which means the creation of certain institutional mechanisms, although in practice effective steps are lacking*

Georgia made important steps to implement separate gender policy, however, gender mainstreaming policies are often misunderstood by policymakers; they are often seen as an aim themselves rather than tools to achieve final goal; This is reflected in the superficial, declarative use of gender equality tools and isolated policies in a variety of areas, including the lack of understanding of the need for a gender perspective in sectoral policies and programs, while gender mainstreaming requires to continue specific gender policy, in order to be sure that equality issues related to gender will not disappear and equality policies will not be overly fragmented.¹ The state fails to provide information to its employees at the central, especially at the municipal level, about its commitments. Raising staff awareness of the mechanisms needs to meet such commitments, which in turn significantly hinders the effective implementation of gender mainstreaming. . Establishment of a joint platform to coordinate gender equality issues among municipalities, for sharing good practices and for further communication is still challenging.²

- *Despite the essential importance of gender budgeting in the mainstream process, the use of this tool in Georgia is characterized with significant weaknesses*

Despite the essential importance of gender budgeting in the mainstream process, the use of this tool in Georgia is characterized with significant weaknesses. Georgia has not yet established gender-sensitive budgeting at the central and municipal levels, although the program budget should reflect gender-disaggregated indicators. Most of the Gender Council members are unable to identify the specific needs of women and have no knowledge of the impact that a gender-sensitive budgeting can make on the well-being of the local population, especially women. All programs and initiatives imply the establishment of concrete finances in budgets, which in many cases has been identified as a major problem. Consequently, it is important that action plans have subsequent budgets, which later will be positively reflected on gender equality.³

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

¹ For the detailed information, see the following link: <https://bit.ly/3cb0lf4>

² For the detailed information, see the following link: <https://bit.ly/3c69lwC>

³ For the detailed information, see the following link: <https://bit.ly/3c69lwC>

- Please provide information on the steps taken to enhance the capacity of public servants to use gender mainstreaming, gender impact assessment, gender budgeting and other gender mainstreaming tools;
- Please indicate steps taken/planned in terms of development of a state strategy on the introduction of gender budgeting in the management of public finances and its practical implementation.

Paragraphs 18 and 19 stereotypes and harmful practices

- *Adequate management of the cases of early marriages and engagements remain problematic*

Avoiding the practice of early marriage and engagement as well as the effective management of the specific cases is problematic. Study of the Public Defender of Georgia shows that a coordinated activity of the Ministry of Internal Affairs (hereinafter MIA), educational institutions and the Social Service Agency as well as smooth operation of reference mechanism remains problematic⁴. For the prevention of early marriage/engagement it is important to raise awareness of associated risks. In addition, integrating gender issues and vital skills/complex sex education into the education system is essential to prevent early marriages.

- **Additional attention should be given to the FGM, as the problem is characterized by the hidden nature**

Female genital mutilation (FGM) is one of the extreme forms of the violation of a woman's rights and is performed to have control over a woman and her body. This practice remains a challenge in Georgia.⁵ Despite certain positive steps,⁶ there is no information about the geographic area where FGM is practised. This raises questions about the effectiveness of the fight against this practice. The outreach meetings held by the Office of the Public Defender shows that after criminalisation of an act, the public is less vocal about the respective problem, whereas the preventive measures taken by the state, including in terms of raising awareness are not sufficient.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please provide detailed analysis of crimes related to early marriage, in particular, forced marriage, unlawful imprisonment, sexual intercourse with a person under 16, as well as relevant statistics segregated by sex and age.
- Please indicate awareness raising activities implemented in order to raise awareness about legislative obligation of persons engaged in the education sphere with regard to issues of early marriage.
- Please inform the Committee about the outcome of the preventive measures taken in terms of fight against FGM.

⁴ For the detailed information, see the following link: <https://bit.ly/2SMFgRs>

⁵ This damaging practice is discussed in detail in the chapter on gender equality in the 2018 parliamentary report of the Public Defender of Georgia, available at: <https://bit.ly/34UVpqQ>

⁶Communication for Behavioural Impact (COMBI) on preventing and eradicating harmful practice of early marriage, jointly elaborated by the Inter-Agency Commission on Gender Equality, Violence against Women and Domestic Violence and UNFPA is to be mentioned positively.

Paragraphs 20 and 21 - Violence against women

- *Rape and other sexual violence, punishable under article 137, and articles 138-139 of the Criminal Code of Georgia, respectively, do not consider the absence of the consent of a victim as an integral part of the definition of crime*

Despite the progress achieved, substantial challenges remain in the administration of justice in cases of sexual violence and the Georgian legislation still falls short of the requirements of the Istanbul Convention concerning the definitions of rape and other crimes of sexual violence. Furthermore, the legislation does not consider a broad spectrum of circumstances that may affect the victim's will and considers a disproportionately lenient punishment for a crime committed in certain forms. Also, the rule of timely, adequate and effective compensation for the women victims of violence and victims of domestic violence as enshrined under the Article 30 of the Istanbul Convention has not yet been developed.⁷

- *Challenges remain in the field of combating femicide as the most brutal form of violence against women, as the use of gender stereotypes and incorrect legal assessment of the crime have been problematic during investigation level*

According to the General Prosecutor's Office of Georgia, 24 facts of killing of women and 27 cases of the attempted killing of women were revealed in 2020. Statistics show that instead of decreasing, the number of femicide cases are increasing from year to year. For example, in 2018 22 facts and in 2019 19 facts of killing of women were detected. In 2020, the Public Defender of Georgia analyzed the cases of femicide and femicide attempts occurred in 2019. Case analysis shows that challenges remain in the fight against femicide and the administration of justice in femicide cases. Unfortunately, in 9 out of 10 cases analyzed, various shortcomings are revealed at the stage of investigation or trial.⁸

In addition, detecting different forms of violence still remains a challenge. The study of cases of violence against women and domestic violence shows that the correct identification of violence remains a problem, especially the detection of economic violence.⁹

- *Shortcomings of social service in the area of violence against women and domestic violence*

Concrete measures have not been implemented yet in the area of social work concerning the fight against violence towards women and domestic violence. As the cases studied by the PDO have shown, obligations assigned to the social service in the area of violence against women and domestic violence have not been fulfilled. Response from social workers is largely of one-time, formal nature; their activity is not aimed at combatting domestic violence and analyzing incidents. Scrutinized cases revealed a need to retrain social workers and develop social service guidelines in order to achieve success in the prevention and management of incidents of domestic violence.

⁷ For the detailed information, see the following link: <https://bit.ly/2TrUlrP>

⁸ For the detailed information, see the following link: <https://bit.ly/3p71l3T>

⁹ During the reporting year, the Gender Equality Department of the Office of the Public Defender of Georgia studied the criminal case of allegations of domestic violence allegations against N.B. as an exception. A review of the case file revealed that although much of the evidence was related to economic violence, the indictment did not initially address this form of violence. Systematic economic violence was later reflected in the indictment, in which case the prosecution shared the request of the victim's representative and clarified the charge (Case №75729/20). Also, according to other cases studied, in some cases the law enforcement agency finds it difficult to draw the line between private dispute and economic violence. The problem of detecting economic violence is also confirmed by the statistics of restraining orders, the rate of issuing warrants for this type of violence is low.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please provide information on the measures taken to improve the legislation on crimes of sexual violence for the purpose of harmonization with international standards;
- Please indicate the measures taken to retrain social workers in issues of violence against women and domestic violence;
- Please indicate whether the State party plans to develop special guidelines for social workers on dealing with instances of violence against women and domestic violence as well as early marriage;
- Please provide information on the steps taken/planned to develop the rule of issuance of timely, adequate and effective compensation in accordance with the obligation provided in article 30 of the Istanbul Convention;
- Please inform the Committee on the preventive measures implemented in terms of fight against femicide.

Paragraphs 22 and 23 Trafficking in women and exploitation of prostitution

- *Identification the cases of sex trafficking and making sure that victims are provided with effective and appropriate protection is a challenge*

Bearing in mind that Georgia is a transit country, the risk of sex trafficking doubles. In Public Defender's view, a great deal of attention should be paid to touristic regions and the seaside. Based on the monitoring¹⁰ conducted PDO concludes that the situation has not changed dramatically in terms of providing services to trafficking victims in comparison to past years. The low number of revealing of cases and low level of awareness remain challenging. Small number of services offered to the victims of trafficking is also noteworthy.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please provide information on planned informational campaigns for popularization and raising public awareness on services in the county, oriented to protection and assistance of victims of trafficking;

Paragraphs 24 and 25 - Participation in political and public life

- *Equal participation of women in political life remains a challenge, as the current political environment fails to ensure equality and is characterized by many barriers for women*

One of the impediments faced by socially active women is sexism that is encountered by female politicians on central and municipal/local levels as a tool of political controversy. It is an unfortunate tendency and, instead of assessing women's professionalism, quite frequently the criticism is focused on women's appearance aimed at humiliating and insulting them based on their personal characteristics or harmful stereotypes. One must note that the application of sexist statements against female opponents becomes especially active during pre-election periods. Sexist attitudes are revealed in various forms and include

¹⁰ More information is available at: < <https://bit.ly/3uWKOju> >

embarrassing statements spread through the internet as well as media, Parliament or other official platforms. In particular, in the 2020 parliamentary elections, the anti-gender discourse was significantly strengthened and the number of attacks on women politicians increased.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please inform the Committee on the targeted measures implemented to fight discriminatory and sexist attitudes against women in political environment.
- Please provide information on the activities implemented in order to promote equal participation of women in political life besides introducing of quota mechanism.

Paragraphs 26 and 27 – Education

- *Full integration of the comprehensive sexuality education into the formal education system and carrying out preparatory work for teachers to develop the teaching skills of this competence, remains problematic*

Lack of comprehensive sexuality education is preventing girls from being able and equipped to identify different types violence conducted towards them, also, being informed about their bodies and their rights related to sexuality and reproduction. Lack of CSE leaves girls without protection and under risk of being subjected to harmful practices.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please provide information on measures being taken/planned to integrate comprehensive sexuality education into the formal education system and carrying out preparatory work for teachers to develop the teaching skills for this subject.

Paragraphs 28 and 29 – Employment

- *Ensuring the realization of parental leave in private and public sector is challenging*

Public Defender welcomes the introduction of the new rule for determining and reimbursing maternity and childcare leave, as well as the one for adopting a newborn¹¹, although taking a leave by a father to take care of a child in public sector is still a challenge, as in 2020 only women enjoyed this right. Maternity leave is also a problem for women employed in the private sector, unlike public service, where women are entitled to six months of reimbursement of their salary.

In addition, in Georgia, women spend 3 times more on unpaid family work than men.¹² During the new coronavirus pandemic, the burden of unpaid domestic work has been exacerbated on women. According to a rapid gender assessment of the coronavirus situation in Georgia¹³, 42% of women say that in

¹¹ According to the amendments to the Labor Code of Georgia, maternity leave and child care leave are divided into two parts: maternity leave and leave for child care. Available at: <https://bit.ly/3kgRifE>

¹² Low economic activity of women and involvement in the informal sector in Georgia, 2018 UN Women 34; available at: < <https://bit.ly/36p3SDW> > [last visited on 24.03.2021].

¹³ Rapid Impact Assessment of the COVID-19 Situation in Georgia, 2020, UN Women, 35; available at < <https://bit.ly/39AjXZr> > [last visited on 24.03.2021].

comparison with the situation before the pandemic, they are now doing one more work. In addition, the closure of schools has reduced rest time for women by 31%. An additional challenge is that the spread of the virus has also limited the labor opportunities of migrant women, which leads to the loss of livelihood for them and their families.¹⁴

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please provide updated data on the percentage of men making use of paternity leave, childcare leave and flexible work arrangements, indicating whether the State party has developed incentives to promote the use of childcare leave by men.

Paragraphs 30 and 31 – Health

- *Ensuring the Integration of psychological support services in maternity programs for prenatal, labor and post-natal care levels is problematic*

Mental health is an integral part of sexual and reproductive health and mainly, maternal health. Maternal health program that is in place in Georgia does not include psychological support services in context of maternal health, which leaves an important aspect of maternal health inaccessible for underprivileged women. National Inquiry conducted by PDO on SRHR identified need of awareness raising on post-natal depression among pregnant women and medical service providers and the need of accessibility.

- *Implementing measures to abolish special barriers towards accessing contraceptives and family planning services for marginalized women is challenging*

Contraceptives and family planning services are not equally accessible to every group of women in Georgia. There are different barriers for different marginalized groups (besides financial). For women of non-dominant ethnic origin who don't speak Georgian and/or Russian language it is almost impossible to get confidential reproductive health services. Most medical service facilities are not equipped and adapted for women with disabilities for them to access this services independently and therefore, confidentially.

- *Carrying out measures to raise awareness on contraceptives and family planning is a problem*

According to Inquiries conducted by PDO and local NGO's, there is a lack of information among women about contraceptives and their effects. There are a lot of myths associated with different kinds of contraception and very often, these myths are being distributed by medical service providers themselves;

- *Abolishing barriers towards abortion services, including in terms of regulations is a problem*

A lot of women in Georgia don't have proper information on the legal status of abortion in Georgia, which puts them under risk of being subjected to illegal and therefore, unsafe abortion if needed. Abortion service is also not covered by any kind of public or private insurance that leaves underprivileged women under risk of not being able to afford it. In Georgia, there is a 5 day mandatory waiting period for woman who seek abortion, which according to inquiries does not achieve any kind of legitimate aim and only serves as a barrier towards abortion service. Abortion service is only available in big cities of Georgia which requires

¹⁴ COVID-19 and Women's Rights, 2020, Office of the UN High Commissioner for Human Rights, 9; available at: < <https://bit.ly/3j1TB5F> > [last visited on 24.03.2021].

service seekers to travel twice (considering the 5 day mandatory waiting period) in order to receive the service. In this case, rural women are especially underprivileged.

- *Accessibility to Sexual and Reproductive Health and Rights is problematic, especially in regions*

According to Inquiries conducted by PDO, qualities and nature of SRHR services differ between rural and urban areas of the country, which leaves women living rural areas at risk of receiving poor quality services. Accessibility of women to maternity hospitals is a problem in some cities in regions¹⁵. It is a common practice for residents in relatively small towns to access health-related services in the nearest major metropolitan area. The issue of transportation of family doctors to villages, which is also linked to timely and effective access to medical services is of a particular concern. In rural areas, family doctors usually have primary care medications; complications due to lack of medication are frequent. There are cases when family doctors purchase medicines themselves because there is no medication provided by the ministry or municipality. The general lack of infrastructure, amenities, including hygiene, cleanliness, access to water and lack of medicines, remain problematic. In some villages, access to internal roads and therefore access to emergency medical services have been cited as challenging, as a result of which oftentimes the patient had to be transported to the main road by hand. In addition, old emergency cars and those without relevant equipment endanger patient safety when moving.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please inform the Committee about measures taken to improve access to medical services for women, especially in context of maternal health;
- Please provide information on the steps taken/planned to raise awareness on contraceptives and family planning and to ensure the accessibility and confidentiality for the marginalized groups.
- Please indicate any progress made in terms of Accessibility to Sexual and Reproductive Health and Rights, especially in regions.

Paragraph 34 and 35 - Disadvantaged groups of women

- *Lack of national medical guidelines and protocols on trans specific healthcare services is a challenge*

In Georgia, there are no national medical protocols and guidelines in place for Trans specific healthcare. PDO has issued a recommendation towards the Ministry of Health requesting such documents to be elaborated. There are still no protocols and guidelines on this subject. Without such clear guidelines, Trans persons in Georgia, who require Trans specific health care services are under risk of receiving poor quality services, and being subjected to medical procedures without their fully informed consent or knowledge about the nature of procedures.

- *Harmful practice of requesting proof of undergoing sex reassignment surgery for legal gender recognition of trans persons is still problematic*

Absence of guidelines and protocols of trans-specific medical services must be viewed in the context of established practice whereby a sex reassignment surgery is a precondition for changing the entry about sex in a document certifying identity. With such practice, which in itself is a violation of human rights, instead of

¹⁵ For the detailed information, see the following link: <https://bit.ly/3ySY8io>

legal recognition of gender, the state forces Trans people to subject themselves to medical procedures of sex change in conditions when the state has no standards determined and mechanisms to monitor the quality of these procedures. Despite the recommendation of the Public Defender of Georgia, no working group has been set up to regulate the procedure for changing the gender record in civil acts.¹⁶

- *Lack of social services for older women is problematic*

Georgian government lacks of legal instruments, policies and programmes existed to address the particular challenges faced by older women. Older women face specific concerns in enjoying their economic, social and cultural rights (social protection, health, education, work, adequate standard of living, and land and property ownership). Older women may face multiple discrimination, mainly on two grounds: gender and age. Challenges for older women are also lack of access to health programs and medications, lack of a care system, and a stigma in society that detracts them from active lives. There are 41,995 socially vulnerable older persons, living alone in Georgia, most of that, 83% are older women. They live in difficult socio-economic and living conditions, they face threat of poverty and homelessness. The main challenges they come across, are lack of adequate targeted programmes and measures for the welfare.

Public Defender of Georgia recommends that the following is added to the list of issues for Georgia:

- Please inform the Committee on the whether the state party envisages the adoption of protocols and guidelines on trans specific healthcare services and if yes, in what timeframe;
- Please provide information on the measures taken/planned to improve the socio-economic and living conditions of older women.
- Please provide information on what measures are planned to establish a rapid, accessible and transparent procedure, that eliminates the requirement/practice of surgical intervention for individuals who wish to change gender in their official identification documents;

¹⁶ For the detailed information, see the following link: <https://bit.ly/3c3YKrB>