



FEMICIDE MONITORING REPORT

2020

Public Defender
of Georgia
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INTRODUCTION

Effective response to and prevention of the extreme form of violence against women, femicide, remain problematic in Georgia. Ineffective administration of justice in such cases is caused by the lack of preventive measures and absence of social and economic empowerment programmes for women to escape from domestic violence, which remains a significant gap in the protection of women's rights from year to year.

It is noteworthy that the rates of femicide and attempted femicide have not decreased but increased in recent years. Restrictions related to the novel coronavirus pandemic have significantly aggravated the situation of victims of domestic violence and increased the risks of domestic violence. For example, in 2020, 24 women were killed out of which in 15 cases signs of domestic crime were detected. In addition, there were 27 attempted killings of women, 17 of which contained elements of domestic crime,¹ whereas, in 2019, 19 cases of killing of woman were reported, 10 out of which contained elements of domestic crime. Out of the 22 cases of attempted killing of women, 18 of which were committed on the grounds of domestic crime.

The Public Defender of Georgia, in accordance with the recommendation of the UN Special Rapporteur on Violence against Women, Its Causes and Consequences, has been analyzing gender-motivated murders, attempted murders, infliction of bodily injuries and incitement to suicide since 2016 based on a special methodology.

This time, the Public Defender's Office drew up a report on the monitoring of cases of femicide and attempted femicide that took place in 2020. The legal analysis methodology includes the evaluation of the administration of justice and statistics, which allows to measure the progress made and to identify the shortcomings that hamper the fight against the problem.

It is welcoming that part of the recommendations, issued by the Public Defender of Georgia to the state agencies as a result of the monitoring carried out in previous years, has been implemented. It should be noted particularly that case law is being established in connection with gender-based murders and attempted murders, including in accordance with the standards set out in the Public Defender's previous reports. Investigations into almost all cases examine pre-violence circumstances.

Based on the legislative changes made in 2017-2019, commission of a crime against a family member or on the ground of gender have been defined as aggravating circumstances.² Based on this change, the courts use stricter sentences in case crimes are committed in the family, however, it should also be noted that the number of cases where gender motive of the crime has been established and consequently a stricter sentence has been used is still low. In addition, the identification of a crime as a gender-based crime by law enforcement agencies is still problematic.

The monitoring revealed cases where, before the occurrence of femicide and/or attempted femicide, the Ministry of Internal Affairs of Georgia had received calls relating to violence against women and/or domestic violence. However, there has not been proper assessment of risks or prevention of femicide or attempted femicide. Commission of femicide and/or attempted femicide after being released on parole or after serving a sentence for domestic crime is particularly alarming.

We hope that the present findings and recommendations will be taken into account when planning and implementing state policy against femicide.

¹ Letter No. 13/10486 of the Prosecutor General's Office of Georgia, 24.02.2021

² Law of Georgia on the Amendments to the Criminal Code of Georgia of May 4, 2017 and November 30, 2018.

1. RESEARCH METHODOLOGY

A methodological framework for monitoring gender-motivated killings of women (femicide) has been developed in the Public Defender's Office and it was used while drawing up this report as well.³

For the purposes of the research, considering the context of Georgia and based on the Latin American Model Protocol,⁴ the Public Defender uses the following definition of femicide: femicide is gender-related killing of women, namely the killing of women, the motive or context of which is related to gender violence against women, discrimination, subordination of women, which is manifested in men's sense of entitlement to or superiority over women, an assumption of ownership of women and a desire to control them, or other reasons related to the gender of a woman, as well as incitement to suicide for the above reasons.

The killing of a woman does not automatically mean femicide. According to the Latin American model Protocol for the Investigation of Gender-Related Killings of Women, femicide is when the killing or death of a woman is related to her gender, in particular, there must be some indications that the context or motive was related to gender-based violence and/or discrimination.⁵

As for the motive, when analyzing cases, the following elements were considered important for the present study:

- Discriminatory or sexist attitude towards the victim;
- Assumption of ownership;
- Controlling the behavior of the victim;
- Requesting the victim to obey stereotypical gender roles.⁶

The monitoring of femicide cases was conducted in three stages. The **first stage** involved requesting statistical information and verdicts related to femicide and attempted femicide from the common courts.⁷

3 Femicide Monitoring Report: Gender Killings of Women, analysis of the criminal cases of 2016, Public Defender of Georgia, 2017.

4 Latin American Model Protocol for the investigation of gender-related killings of women (femicide/feminicide) (hereinafter referred to as the Latin American Model Protocol), Office of the High Commissioner for Human Rights in Latin America, ISBN 978- 9962-5559-0-2, pp. 13-14.

5 Latin American Model Protocol for the investigation of gender-related killings of women (femicide/feminicide) (hereinafter referred to as the Latin American Model Protocol), Office of the High Commissioner for Human Rights in Latin America, ISBN 978- 9962-5559-0-2, pp. 13-14.

6 Detailed information on methodological issues can be found in the 2016 Femicide Monitoring Report. pp. 6-10, available online at: <https://bit.ly/2KrEn9k> [last accessed: November 26, 2020].

7 We requested information on the articles of the Criminal Code of Georgia, on the basis of which femicide/attempted femicide cases can be classified, namely: murder (Article 108 of the Criminal Code), murder under aggravating circumstances (Article 109 of the Criminal Code), murder in a state of sudden, strong emotional anxiety (Article 111 of the Criminal Code), intentional infliction of grave bodily injury (Article 117 of the Criminal Code), incitement to suicide (Article 115 of the Criminal Code), Articles 19,108 and 19,109 of the Criminal Code (attempted crime), as well as Article 118.2, in particular, intentional less grave damage to health, resulting in the loss of life. Cases classified under Article 118-4 (Intentional infliction of less grave bodily injury, crime committed on the ground of gender, against a family member, a pregnant woman, a minor or a helpless person, which resulted in the loss of life of the victim), as well as Article 121 of the Criminal Code (intentional infliction of grave or less grave health injury in a state of sudden, strong

At the **second stage**, in order to detect femicide or attempted femicide, guilty verdicts delivered by the courts of first instance, Court of Appeal and Supreme Court were analyzed.

At the **third stage**, the courts of all three instances were asked to provide full case materials relating to the verdicts delivered in cases concerning femicide and attempted femicide, which were selected according to the methodology. In addition, information on the mentioned cases were requested from the Ministry of Internal Affairs of Georgia in order to identify shortcomings in the administration of justice.⁸

As a result, the Public Defender's Office received 35 verdicts from the common courts relating to crimes committed in 2020. After analyzing the verdicts, materials were requested relating to 34 criminal cases. Out of them, elements of both femicide and attempted femicide were discovered in a total of 24 crimes committed in 2020. After thorough examination of the mentioned cases, femicide was revealed in 10 cases and attempted femicide in 14 cases. In one of the cases heard by Rustavi City Court, two people were convicted - one of them of femicide and the other one of attempted femicide. So, this particular case involves both femicide and attempted femicide.⁹ The report does not include 10 cases heard by Tbilisi City Court, which showed no signs of either femicide or attempted femicide. The same can be said relating to one case requested from Telavi District Court, which involved the murder of a woman for the apparent purpose of receiving some benefits.

One of the 24 cases reflected in the report concerns a woman acquitted of femicide by jury.¹⁰ The report does not reflect information about the above-mentioned woman or the relevant statistics. Nevertheless, the report addresses the shortcomings in the investigation into the aforementioned case, which led to the acquittal of a woman accused of committing murder with particular cruelty.

Gori District Court found an ex-husband guilty of attempted murder of his wife, after he stabbed her in several parts of her body.¹¹ The victim was taken to the hospital in an unconscious state and had been put on artificial respiration for several months. The victim was still alive when the case was sent to court. Because of this, the Prosecutor's Office sent an indictment to the court under Article 11¹-19-109-2d¹ (Attempted murder of a family member on the ground of gender). The victim died at the time of the hearing of the case and the autopsy report said that the death of the victim was directly related to the wounds inflicted by the accused with a knife. As cases can be reclassified only in favour of the accused during the hearing of a case, the court ultimately found the accused guilty of attempting to kill a family member on the ground of gender. Although we consider this decision to be legally correct, we reflected it in the statistics as femicide and not attempted femicide, as a case where a woman lost her life as a result of the gender-motivated attack.

emotional anxiety) and Article 122 (infliction of grave or less grave health injury beyond the scope of necessary repulsion). We also requested information about the articles of the Criminal Code, on the basis of which it is also possible to identify femicide. Namely: rape of a woman, which resulted in the loss of life of the victim (Article 137.4.b of the Criminal Code), other acts of a sexual nature, which resulted in the loss of life of the victim (Article 138.3.b of the Criminal Code), illegal abortion, which resulted in the loss of life (Article 133.3), sterilization without consent, which resulted in the loss of life (Article 133.1.3 of the Criminal Code), mutilation of the female genitals, which resulted in the loss of life (Article 133.2.3 of the Criminal Code), human trafficking, which resulted in the loss of life (Article 143.1.4.b of the Criminal Code), torture, which resulted in the loss of life (Article 144.1.3c of the Criminal Code).

8 Part of the cases materials were sent to the Public Defender's Office, while 4 cases and 2 rulings could be accessed only in the Tbilisi City Court.

9 Rustavi City Court Case No. 1/671-20

10 Kutaisi City Court Case 1/916-20)

11 Gori District Court Case No. 1/249-20

In a case¹² considered by Batumi City Court, 2 persons were convicted of attempted femicide. Because of reflecting this case in the statistics, some data relating to attempted femicide (e.g. relating to the crime scene) may be 14, while other data directly related to the persons attempting to commit femicide (e.g. education or employment of the convict) may be 15.

Based on the above, 23 criminal cases are considered as femicide and attempted femicide in the femicide monitoring report.

In addition, it should be noted that there is a problem with the production of statistics on femicide and attempted femicide in the common courts. The statistics produced by the Supreme Court of Georgia and the common courts do not match.¹³ It should be noted separately that Tbilisi City Court also incorrectly maintains statistics on femicide and attempted femicide cases. For example, in response to the Public Defender's written request - to provide cases of crimes committed against the life and health of women - Tbilisi City Court, in some cases, provided cases where a man was killed or attempted to be killed, or a woman was followed.¹⁴

12 Batumi City Court Case No. 1/425-20

13 For example, the Mtskheta District Court provided us with a ruling on the termination of criminal prosecution, which is not reflected in the general statistics of the Supreme Court of Georgia.

14 Tbilisi City Court Case No. 1/1392-20 and Tbilisi City Court Case No. 1/3364-20

2. STATISTICS OF FEMICIDE AND ATTEMPTS OF FEMICIDE

The Gender Department of the Public Defender’s Office analyzed 23 femicide and attempted femicide cases¹⁵ that took place in 2020. 10 of the cases concern femicide and 14 cases concern attempted femicide. (1 case concerns both femicide and attempted femicide)

Chart 1 Persons perpetrating femicide

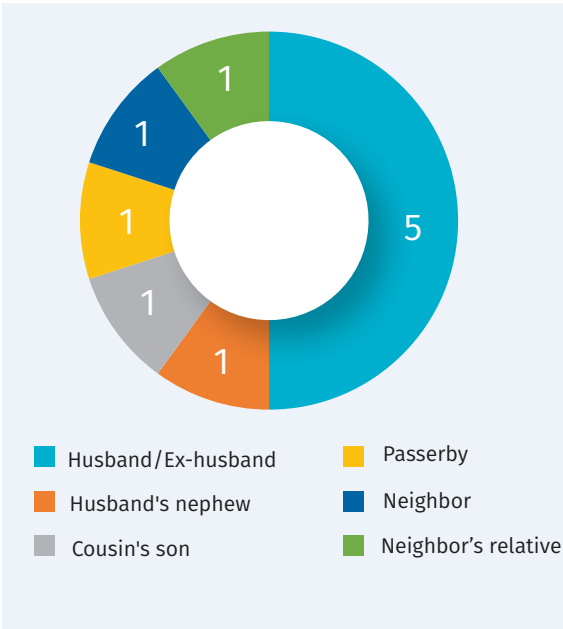
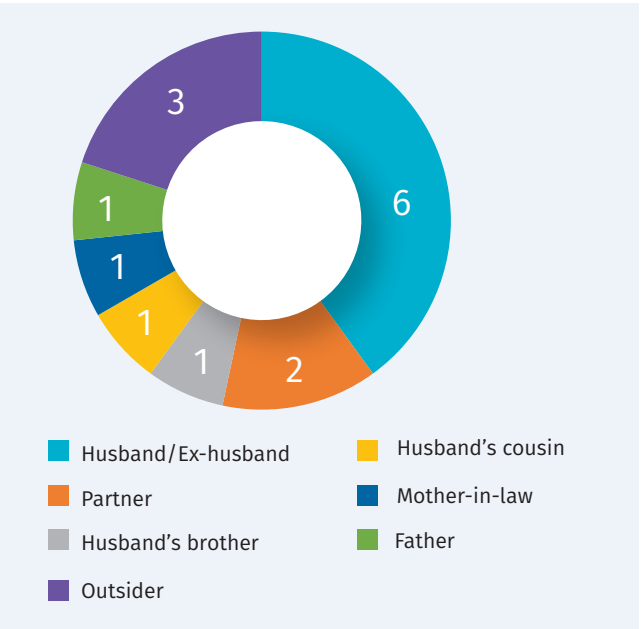


Chart 2 Persons perpetrating attempted femicide



According to the statistics, femicide and attempted femicide cases were most often committed by husbands and ex-husbands in 2020 as well, while the motive was “jealousy” or “revenge”. It is also noteworthy that there were femicide and attempted femicide cases in the reporting period where the courts identified the gender motive as well.

¹⁵ In one of the 24 cases, the accused was acquitted of murder, although the report refers to the shortcomings in the investigation of the case. Consequently, this case is not reflected in the femicide/attempted femicide statistics. In addition, one case of attempted femicide was committed by 2 people, respectively the number of attempted femicide cases is 14, while the number of perpetrators of attempted femicide is 15.

Chart 3: Ground of femicide¹⁶

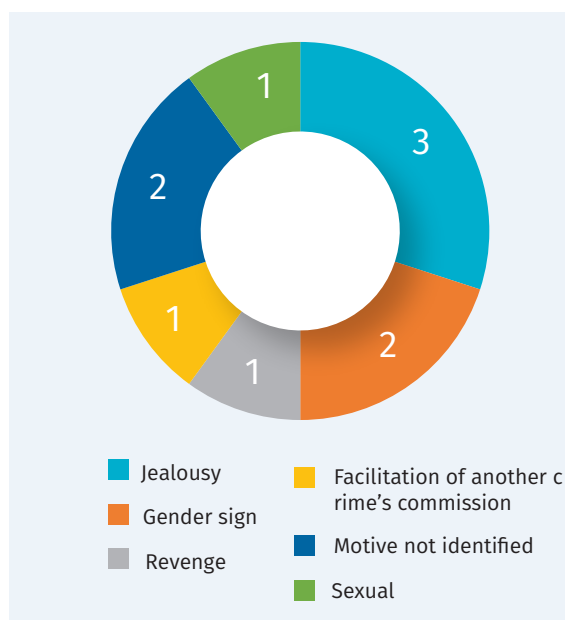


Chart 4: Ground of attempted femicide



The location of femicide, as in previous years, was mostly home, which is a common circumstance given the specifics of femicide.

Chart 5: Place of femicide

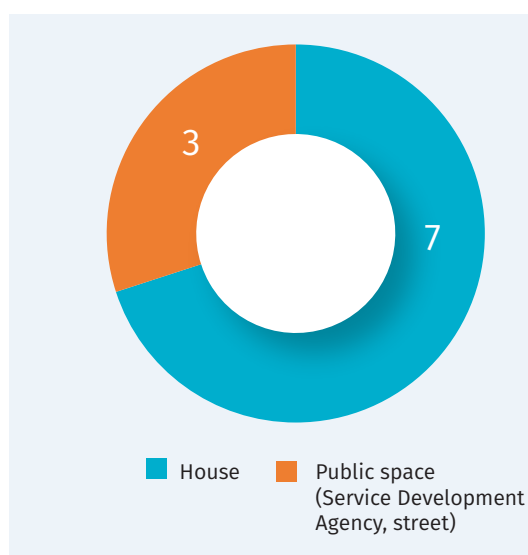
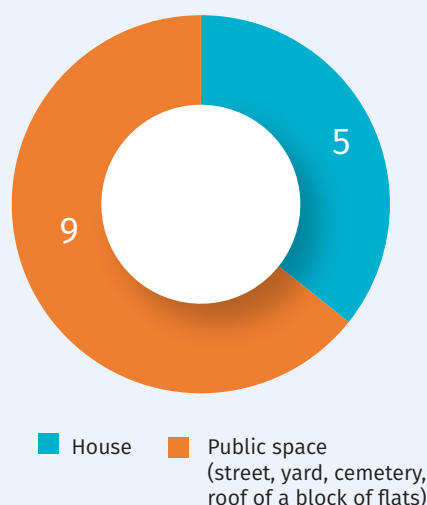


Chart 6: Place of attempted femicide



According to the cases analyzed, the **weapon of femicide** was a knife in 3 cases, a firearm in 2 cases, a wooden chair in 1 case, a wooden handle of an axe in 1 case, a pillow in 1 case, an axe in 1 case and a solid-blunt object in 1 case.¹⁷

¹⁶ The statistics on the motives for committing femicide and attempted femicide are counted according to the motives indicated by courts in judgments.

¹⁷ In the Mtskheta District Court Case No. 1/259-20, no specific weapon of crime could be established. The accused's version that he strangled the victim was not proved by the medical examination report. The examination concluded that the solid blunt object that caused the death of the victim could be any object or a human body.

The **weapons used in attempted femicide** cases were a knife in 7 cases, a firearm in 2 cases, physical and verbal abuse in 1 case, an attempt to jump off a roof in 1 case, poisonous chemical in 1 case, a razor in 1 case and petrol in 1 case.

It is still common to commit femicide/attempted femicide under the influence of alcohol. Of the 24 perpetrators of femicide/attempted femicide, 16 were drunk at the time of the commission of the crime.¹⁸

The study of cases identified a tendency, according to which, femicide/attempted femicide is mainly committed by unemployed people or people with low-paid jobs.¹⁹

As for the conviction of perpetrators, the statistics look like this:

Chart 7: Convictions of perpetrators of femicide

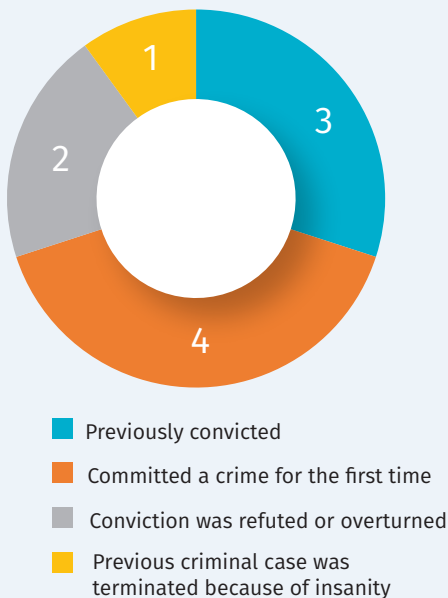
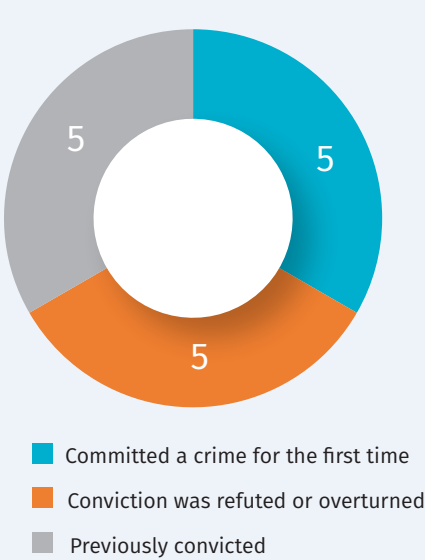


Chart 8: Convictions of perpetrators of attempted femicide



Out of the 23 cases analyzed, 8 perpetrators and 6 victims are representatives of ethnic minorities.

Punishment for femicide - 12 years in prison was the lowest sentence²⁰ and 20 years in prison was the highest sentence used. The highest sentence for attempted femicide was 18 years in prison and the lowest sentence was 2 years in prison. The classification of cases looks like this:

Femicide:

18 In one of the cases, the person was sober but had a behavioral disorder caused by chronic alcoholism. In the Gori District Court Case No. 1/490-20, an alcohol addict had not drunk alcohol before the murder. Because of this, he felt bad and used a transfusion device. He was in a state of white fever at the time of the murder. Even though two days had passed after the consumption of alcohol, the criminal act was still closely related to alcohol dependence, so we singled out this case.

19 **Education:** 5 perpetrators of femicide have received secondary education, 3 persons - incomplete secondary education, 1 person - vocational education, 1 person - higher education. As for the perpetrators of attempted femicide, 1 person has received technical education, 9 persons - secondary education, 3 persons - incomplete secondary education and 2 persons - higher education.

Employment: 9 of the perpetrators of femicide were unemployed and 1 was employed. As for the perpetrators of attempted femicide, 8 persons were unemployed, 5 persons were employed and 2 were self-employed.

20 Rustavi City Court Case No. 1/671-20

Classification of cases	Number of cases
Subparagraph “f” of part 2 and subparagraphs “b” and “e” of part 3 of Article 11 ¹ -109 the Criminal Code of Georgia (Murder of a family member with particular cruelty, committed several times)	1
Article 108 of the Criminal Code (Murder)	2
Subparagraph “e” of part 2 and subparagraph “a” of part 3 of Article 109 of the Criminal Code of Georgia (Murder committed by a group against two or more persons)	1
Subparagraph “c” of part 1 of Article 109 of the Criminal Code of Georgia (Murder aimed at concealing or facilitating another crime)	2
Subparagraph “f” of part 2 of Article 11 ¹ -109 of the Criminal Code of Georgia (Murder of a family member)	2
Subparagraphs “b”, “d ¹ ” and “e” of part 2 of Article 11 ¹ -109 of the Criminal Code of Georgia (Murder committed by a group knowingly against a minor or a helpless person, on the ground of gender)	1

Attempted femicide:

Classification of cases	Number of cases
Article 19-108 of the Criminal Code of Georgia (Attempted murder)	2
Subparagraph „a” of part 2 of Article 11 ¹ -115 of the Criminal Code of Georgia (Inciting a family member to attempt to commit suicide, on the ground of gender)	1
Subparagraph “e” of part 2 and subparagraph “a” of part 3 of Article 19-109 of the Criminal Code of Georgia (Attempted murder committed by a group against two or more persons)	2
Article 11 ¹ -115 of the Criminal Code of Georgia (Inciting a family member to attempt to commit suicide)	2
Subparagraphs “d ¹ ” and “f” of part 2 of Article 11 ¹ -19-109 of the Criminal Code of Georgia (Attempted murder of a family member, committed on the ground of gender)	3
Subparagraph “e” of part 3 of Article 11 ¹ -117 of the Criminal Code of Georgia (Intentional infliction of grave bodily injury on a family member)	1
Part 1 of Articles 11 ¹ -117 of the Criminal Code of Georgia (Intentional serious damage to health of a family member)	1
Part 1 of Article 11 ¹ -115 of the Criminal Code of Georgia (Inciting a family member to attempt to commit suicide)	1
Subparagraph “f” of part 2 of Article 11 ¹ -19-109 of the Criminal Code of Georgia (Attempted murder of a family member)	1
Subparagraph “b” of part 3 of Article 19-109 of the Criminal Code of Georgia (Attempted murder with particular cruelty)	1

3. IDENTIFIED CATEGORIES AND TYPES OF FEMICIDE

Several categories and types of femicide and attempted femicide were identified during the monitoring of femicide and attempted femicide cases. In 2020, in one of the cases, the motive for the murder of a wife by a husband became the rumor heard from a third party that the victim used to go to a restaurant with a stranger at night.²¹ Attempted femicide also took place due to the husband's unfounded jealousy towards his wife.²² One of the men incited his wife to commit suicide because he believed that she was his slave, should have tolerated any violence from him and should not have interfered in the affairs of her husband and his brother.²³ In another case, a woman committed suicide because her ex-husband had been asking for reconciliation, otherwise threatened to kill her brother and mother.²⁴ In one of the cases, the motive for femicide was the desire to divorce.²⁵ Another example of femicide was a case where the accused first raped a woman and then killed her to conceal the crime.²⁶ During interview, the accused named the threat of his son feeling ashamed as the reason for killing his ex-wife...as he had information that his ex-wife had relationship with an older man.²⁷

Some family members try to kill women because they think that they are friends with “women of immoral behavior”.²⁸ In one of the cases, the reason for attempted femicide was that the woman did not clean up the house and failed to properly perform the duties of the “housewife” assigned to her in patriarchal society.²⁹ In another case, the defendant attacked an unknown woman for being dressed “provocatively.”³⁰ Common reasons for femicide/attempted femicide is jealousy, relationship with another man,³¹ refusal to renew cohabitation with an ex-husband.³²

In the reporting period, there were cases of associated femicide when a woman was killed due to retaliation against a male member of her family. In particular, the accused shot the immediate object of his retaliation, who was standing close to his mother and thus he indirectly allowed the inevitability of the loss of the woman's life.³³ Similar murder was considered by Batumi City Court, when the attackers shot a man, who was the immediate object of their revenge, as well as his wife, against whom they had no interest of revenge, but she was together with her husband during the incident.³⁴

21 Rustavi City Court Case No. 1-671-20

22 Kutaisi City Court Case No. 1/665-20

23 Signaghi District Court Case No. 1b/1077-21

24 Rustavi City Court Case No. 1-557-20

25 Kutaisi City Court Case No. 1/333-20

26 Ozurgeti District Court Case No. 1-32-19; Mtskheta District Court Case No. 1/259-20

27 Gori District Court Case No. 1/181-20

28 Tbilisi City Court Case No. 1/4548-20; Tbilisi City Court Case No. 1/4487-20

29 Tbilisi City Court Case No. 2251-20

30 Tbilisi City Court Case No. 1/3246-20

31 Batumi City Court Case No.1-850/20

32 Tbilisi City Court Case No. 1/4332-20; Tbilisi City Court Case No. 1903-20; Gori District Court Case No. 1/249-20

33 Rustavi City Court Case No. 1/671-20

34 Batumi City Court Case No. 1/425-20

4. SHORTCOMINGS EXISTING AT THE INVESTIGATION STAGES

4.1 ESTABLISHING THE MOTIVE

In 2020, there were criminal cases where the investigation did not take appropriate steps to establish the gender motive of the crime. In one of 3 similar cases, no gender motive could be established due to the flawed investigation,³⁵ and in another case, a plea agreement was reached with the accused so that the motive for the attempted femicide remained completely unknown.³⁶

In a case³⁷ considered by Zugdidi District Court, accused I. A. had an argument with K. K. first and then with S. K. After getting angry during that argument, I. A. deadly hit S.K. in the abdomen, after which he ran away and intruded into K. K.'s house, where he saw an old woman unknown to him. I. A. took a small wooden chair standing in the room and hit the old woman with the chair on her head several times, as a result of which, the woman died. The murdered woman was the mother of K. K., with whom I.A. had an argument.

The murder of a woman because of her family affiliation may indicate a gender motive. The killer may perceive a woman as someone belonging to the man whom he wants to take revenge on. In such circumstances, the investigation is obliged to prove or rule out the existence of such a gender motive by asking clarifying questions to witnesses. The investigator of the said case did not ask witnesses whether the accused knew that the woman was the mother of K. K. By answering that question, it would have been possible to find out the motive for the crime. Failure to ask clarifying questions should therefore be considered as a significant gap in the investigation, which prevented the establishment of the gender motive. The motive for the crime could not be established during the court hearing either.³⁸ Consequently, the motive for this crime remained unknown.

Another case where the motive for the attempted murder could not be established was considered by Tbilisi City Court.³⁹ Defendant E. A. took his cousin's wife, A. G., to a cemetery in order the latter to clean up a grave. The woman and her husband's cousin had good relationship before the incident. However, at the cemetery, A. G. was approached and stabbed by E. A. After the woman started to scream, a woman living nearby and her granddaughter came to help. Timely medical assistance made it possible to save the woman's life.

The victim could not explain the reason why she was attacked. The accused himself exercised his right to remain silent. Eventually, without clarifying the motive for the attack, a plea agreement was reached

35 Zugdidi District Court Case No. 08-5/7948

36 Tbilisi City Court Case No.1/1832-20

37 Zugdidi District Court Case No. 08-5/7948

38 During the hearing of the case on its merits in Zugdidi District Court, the parties admitted the interrogation transcript of the victim's son as indisputable evidence. Due to this, the victim's son was not questioned at the trial, which made it impossible to establish whether the accused knew that the victim was K.K.'s mother.

39 Tbilisi City Court Case No. 1/1832-20

with the accused. He was found guilty under Article 19-108 of the Criminal Code and was sentenced to 9 years in prison.

When investigating femicide, like all other hate crimes, it is of particular importance to identify the motive. The European Court of Human Rights has stated: "When investigating acts of violence, in particular cases of loss of life, the state has an additional obligation to take steps to determine whether the motive of hatred played a role in the commission of this crime. Refraining from investigating these circumstances and responding to hate crimes in the same way as in the case of crimes that have no such motive means turning a blind eye to the specific nature of the action, which in particular destroys basic human rights. The separation of hate crimes from crimes which are not committed for that reason does not comply with Article 14 of the Convention."⁴⁰

In the case of *Korjanec*, the European Court of Human Rights stated: „In practice it is, admittedly, often extremely difficult to prove a racist motive. The obligation on the respondent State to investigate possible racist overtones to an act of violence is an obligation regarding the means employed rather than an obligation to achieve a specific result. The authorities must take all reasonable measures, having regard to the circumstances of the case“.⁴¹

In the *Nachova* case, the European Court of Human Rights said: “The authorities must do what is reasonable in the circumstances to collect and secure the evidence, explore all practical means of discovering the truth and deliver fully reasoned, impartial and objective decisions, without omitting suspicious facts that may be indicative of a racially induced violence.”⁴²

It can be said, particularly in a case considered by Zugdidi District Court, that no reasonable investigative techniques were used to identify a gender motive. Suspicious circumstances, the investigation of which may have established a gender motive, remained beyond the attention of the investigation.

No motive could be established in another case considered by Rustavi City Court, which concerned the murder of a woman by a passerby with an ax handle.⁴³ There was no confession in this case, and neither the witnesses nor the legal successor of the victim could name the motive for the murder. Tbilisi Court of Appeal stated in its verdict that the murder motive could not be established and that it was not necessary to classify the action under Article 108 of the Criminal Code.⁴⁴ The direct evidence in the case was not the testimonies of witnesses, but the reports of examinations appointed within the framework of the criminal case.

Unlike previous cases, in this case, the investigation took all possible steps to unmask the motive of the crime, however, given the objective circumstances, it became impossible to establish the motive. At the same time, conclusive evidence established that the murder was committed by the accused and not by someone else.

40 CASE OF NACHOVA AND OTHERS v. BULGARIA paragraph 160 <http://hudoc.echr.coe.int/eng?i=001-69630>

41 CASE OF ŠKORJANEC v. CROATIA paragraph 54 <http://hudoc.echr.coe.int/eng?i=001-172327>

42 CASE OF NACHOVA AND OTHERS v. BULGARIA paragraph 160 <http://hudoc.echr.coe.int/eng?i=001-69630>

43 Rustavi City Court Case No. 1-366-20

44 Judgment of the Tbilisi Court of Appeal of June 22, 2021

4.2 QUALIFICATION PROBLEM

Correct classification of a crime against a family member and on the ground of gender by the Prosecutor's Office was identified as a problem in a case considered by Batumi City Court, in which a man stabbed a woman, who was his unregistered wife, to death. The reason for the murder was the fact that the woman was going to meet another woman at night, after drinking alcohol. The Prosecutor's Office of Georgia charged the man with part 1 of Article 117 of the Criminal Code of Georgia (Intentional infliction of grave bodily injury on a family member).⁴⁵

On July 4, 2020, the case was reclassified by the decision of the prosecutor since the victim and the accused were engaged in a household and had been living together as a family for 5 years. In addition, life-threatening injuries were inflicted only on the woman. Due to this, the classification of the criminal case was changed and the investigation continued under part 1 of Article 11¹-117 of the Criminal Code (Intentional infliction of grave bodily injury on a family member).

With the amendments made on September 20, 2019, subparagraph "e" was added to part 3 of Article 117 of the Criminal Code, which provides for criminal liability for the intentional infliction of grave bodily injury on a family member. Subparagraph "e" of part 3 of Article 117 of the Criminal Code is a special norm in relation to the first part of the same article. Consequently, after the Prosecutor's Office established that one member of the family had seriously injured another member of the family, the action should have been classified under the very article that provides for liability for a special subject, a family member, for such an action.

Therefore, it is unclear why the Prosecutor's Office did not apply this special norm. It should be noted that part 3 of Article 117 of the Criminal Code provides for imprisonment from 5 to 8 years for similar cases, while part 1 of Article 117 provides for a lighter sentence - imprisonment from 3 to 6 years.

In addition to the above, the action of the accused contained elements of other criminal acts. On November 30, 2018, subparagraph "d" was added to part 5 of Article 117 of the Criminal Code, which provides for liability for intentional infliction of grave bodily injury on the ground of gender. In the given case, the gender element was evident. In particular, the grave bodily injury was inflicted on the ground of jealousy. The above indicates a gender motive as jealousy reflects ownership attitude towards a woman. In addition, before committing the crime, the accused forbade his girlfriend to go out at night and thus tried to control her behavior, to dominate the woman. Accordingly, the testimonies of witnesses provided more than sufficient evidence to classify the defendant's actions under subparagraph "d" of paragraph 5 of Article 117 of the Criminal Code as well. Intentional infliction of grave bodily injury on the ground of gender is punishable by imprisonment from 7 to 10 years. Subparagraph "d" of part 5 of Article 117 of the Criminal Code was in ideal conjunction with subparagraph "e" of part 3 of the same article. However, the investigation did not take into account the fact that the crime was of a specific nature or that it was related to gender-based domestic violence, and investigated this crime as a crime of infliction of grave bodily injury in general. Consequently, in this case, the State violated its obligation to take all steps to unmask a motive of intolerance, and not to treat hate crimes on an equal footing with cases of a general nature.⁴⁶

⁴⁵ Batumi City Court Case No. 1-850/20

⁴⁶ CASE OF NACHOVA AND OTHERS v. BULGARIA paragraph 160 <http://hudoc.echr.coe.int/eng?i=001-69630>

The above-mentioned case was investigated by the Prosecutor's Office under paragraph 1 of Article 111-117 of the Criminal Code. The Prosecutor's Office was the only state body empowered to classify the action under a stricter article. Under criminal law, judges have the right to change classification of a case only in favour of defendants.⁴⁷ Clearly, the judge was deprived of the opportunity to aggravate charges against the person and reclassify the action as a more serious crime under part 3 and subparagraph "d" of part 5 of Article 117 of the Criminal Code.

In such a case, when a certain circumstance is not a classifying element, according to Article 53¹ of the Criminal Code, a judge may use a stricter sentence by referring to that circumstance, which was partially done in this case. In particular, Batumi City Court considered the commission of a crime against a family member to be an aggravating circumstance of responsibility.⁴⁸ However, the commission of the action on the grounds of gender and sexual orientation remained beyond the court's attention. Thus the issue of incorrect legal classification of the action could not be resolved.

4.3 MISTAKE IN PERCEIVING THE IDENTITY OF THE VICTIM

In the reporting period, Tbilisi City Court heard a case,⁴⁹ in which the accused attempted to murder a woman on the ground of a wrong assumption that the victim was a sex worker. Nevertheless, the Prosecutor's Office did not classify the action as an attempted gender-motivated murder, a crime under subparagraph "d" of part 2 of Article 19-109 of the Criminal Code.⁵⁰

The factual circumstances of the above case show that the drunk accused saw a woman near a cafe-bar, who, according to the accused, was a "woman of immoral behavior". The latter worked as a waitress and was standing at the cafe entrance door. The accused approached the woman and called her a "whore." The waitress told the stranger to calm down and to enter the cafe if he wanted to drink coffee. The accused became even more aggressive and started swearing at the unknown woman. The waitress felt insulted and responded to the accused, after which, the accused took out a knife and stabbed the victim in the left ear area and then in the left chest area. After the woman started screaming, another employee of the cafe-bar rushed out to help, while the accused escaped.⁵¹

Later, the Prosecutor's Office charged the detainee with Article 19-108⁵² of the Criminal Code, while Tbilisi City Court, on November 11, 2020, found the defendant guilty and sentenced him to 10 years in prison.⁵³

In response to the question asked by the investigator during interview, the accused said the following: "I did not know the woman, who I stabbed after having a verbal and physical conflict, I do not know her name, but she **was standing so provocatively** that I thought she was a woman of immoral behavior."⁵⁴

47 Part 1 of Article 273 of the Criminal Procedure Code.

48 Batumi City Court Case No. 1-850/20

49 Tbilisi City Court Case No. 1/3246-20

50 Tbilisi City Court Case No. 1/3246-20

51 Tbilisi City Court Case No. 1/3246-20

52 Attempted murder.

53 Tbilisi City Court Case No. 1/3246-20

54 Tbilisi City Court Case No. 1/3246-20

On the ground of this statement and the testimony of the victim, who indicated that the attacker called her a “whore”, the investigation had sufficient grounds to see the gender motive in the crime. The defendant perceived the victim as a sex worker, particularly given the location of the crime. In a patriarchal society, sex work is considered an unsuitable and humiliating activity for women. It was for this reason that the accused decided to control the victim’s behavior and punish her for being a sex worker. The situation is not changed by the fact that the affected woman was not in fact a sex worker. Gender-motivated crime, like other crimes committed on the ground of intolerance, belongs to the subjective side of the crime. In similar cases, it is crucial whether a perpetrator perceives a victim to be a member of a particular group. The fact that the victim was not actually a member of a particular group should not have been a decisive circumstance to rule out the motive of intolerance. The main thing is that the perpetrator perceived the victim to be a member of a particular group, even mistakenly, and had intolerance towards her. Accordingly, there was sufficient evidence in the criminal case to classify the act as gender-motivated attempted murder, although the Prosecutor’s Office refrained from doing so.

Prosecuting Hate Crimes: A Practical Guide reviews a case in which a defendant was mistaken about the identity of a victim.⁵⁵ The perpetrator mistakenly perceived the victim to be a member of a particular group and committed a crime against the person on that ground. The OSCE Practical Guide considers the possibility of prosecuting a person for a hate crime in similar cases. According to the OSCE, in the majority of OSCE participating States, national hate crime laws allow cases of mistaken perception to be prosecuted as hate crimes.⁵⁶

According to the OSCE recommendation, to classify a mistake of the perpetrator regarding the victim’s identity as a hate crime, the prosecution must establish that the defendant believed that the victim belonged to a certain group, and that the crime was committed because of a bias against that group. According to the same recommendation, if an offender assaults a person under the mistaken belief that he or she is a “foreigner”, then the victim’s actual nationality is irrelevant for the classification of a case as a hate crime.⁵⁷

In the above-mentioned case, the defendant chose the victim as an object of crime because he mistakenly perceived her as a sex worker, because of “being dressed provocatively”. Accordingly, this crime should have been classified as a gender-based crime, even though the defendant committed the crime on the ground that did not actually exist.

4.4 TAKING SAMPLES FROM ALL PERSONS RELATED TO THE CASE

Kutaisi City Court, with the participation of jury, acquitted a Russian citizen accused of murdering a neighbor with particular cruelty⁵⁸ and convicted her of not reporting a particularly serious crime.⁵⁹

The victim in this case was a young woman, E. Ch., who was renting an apartment together with another woman. Defendant B. K. lived with her husband in a shed located near the same building. The above-

55 OSCE PROSECUTING HATE CRIMES a practical guide <https://www.osce.org/files/f/documents/0/0/124532.pdf> p. 34

56 Ibid.

57 OSCE PROSECUTING HATE CRIMES a practical guide <https://www.osce.org/files/f/documents/0/0/124532.pdf> p. 34

58 Crime under subparagraph “b” of part 3 of Article 109 of the Criminal Code.

59 Crime under part 2 of Article 376 of the Criminal Code.

mentioned women met and became friends with B. K. The accused used to often visit the young women's apartment, where she also used their bathroom.

On July 18, 2020, E. Ch. was found dead in her house, with 24 wounds on her body. B. K. was arrested for the mentioned murder. She pleaded guilty at the investigative agency and said that on July 18, 2020, she was in the yard of a block of flats, where her husband was drinking beer with other men. At that time E. Ch. looked out of the window and told the accused that she was alone at home. She offered B. K. to visit her. B. K. went to E. Ch.'s apartment. According to B. K., she was angry with E. Ch., as she used to wear mini dresses in the presence of her husband.

It is clear from the case file that B. K. asked E. Ch. why she treated her husband provocatively. To this question E. Ch. replied that she liked B. K.'s husband. The above made B. K. mad and they started arguing, during which B. K. took a knife and stabbed E. Ch. first in the lower back and then in the chest. E. Ch. then turned around and B. K. stabbed her near her ear. E. Ch. started screaming and asking for help. B. K. heard knocking on the door, she opened the door and saw her husband and several men with him. The couple went to their shed, where B. K. took her bloody clothes off and put her husband's clothes on. After that, B. K. threw the knife and the key of E. Ch.'s house into a river valley, where she also burned her bloody clothes and shoes. The remains of the burned clothes and shoes were found during the investigative experiment.

B. K. admitted to crime at the stage of the investigation. Several men, who saw how B. K. left the victim's house but did not inform the law enforcement agencies about it, were also charged for concealing the crime. According to the genetic (biological, traceological) examination report, which was published at the last stage of the investigation, the samples of stains looking like blood, found on the wall near the crime scene, were human blood that did not belong to the accused or the victim, but belonged to another female.

At the investigation stage, a number of investigative activities were appointed, including forensic examinations. The examination of evidence confirmed that the biomaterials on the clothes and other items belonged to the victim, the accused, another female and the husband of the accused, G. G.

During the search of the residential place of the accused and her husband, the investigation seized a jacket with reddish-brownish stains on it, which belonged to the victim. The same jacket also contained human biomaterials of mixed genetic profiles, belonging to the accused and her husband.

During the trial, the accused denied the murder of the victim. Thus, the admission of guilt during her interview at the investigation stage was dismissed. The defence presented an alternative draft verdict to jury, according to which, the accused should have been acquitted of murder committed with particular cruelty and should have been found guilty of not reporting a particularly serious crime. Finally, the jury shared the position of the defence and found the defendant not guilty of murder committed with particular cruelty, but convicted her of not reporting a particularly serious crime.

Given that the accused did not admit to murder committed with particular cruelty in court, the only direct evidence against her was the genetic examination report, which indicated that the victim's blood was found on the woman's clothes seized from the defendant's house. The genetic profile of the accused was also found on the same clothes.

The difficulty encountered by the law enforcement in the investigation of the mentioned criminal case should also be taken into account. Most of the witnesses, due to the criminal mentality, refused to cooperate with the investigation. Because of this, the investigation was forced to conduct covert investigative activities on the basis of a warrant. Nevertheless, the above-mentioned investigative activities did not bring the desired result, as the neighbors were repeating the version of the admission of guilt voiced by the accused at the interrogation stage.

It is true that the investigation was in a difficult situation due to the fact that witnesses did not cooperate with the investigation, but it still should be called faulty, which eventually led to the acquittal of the accused. After the genetic profile of an unknown woman was found in the victim's house, the investigation did not attempt to take samples from all persons allegedly related to the case. Precisely the failure to take samples from other persons and to conduct a biological (traceological, serological) examination led to the suspicion of the jury that the crime might be committed not by the accused but by another woman. The prosecution failed to present convincing arguments or evidence to dispel the suspicion, which is why the jury decided the suspicion in favour of the accused and acquitted her of murder.

It would be interesting to compare this case with a case considered by Mtskheta District Court,⁶⁰ where a young man killed his relative's wife and informed his brother about it by phone. To find out if the woman was alive, the defendant's brother went to the victim, entered the house through the window and made sure that the woman was indeed killed. Since both the accused and his brother had contact with the murder site, the investigation took samples from both of them and sent them for biological examination. Taking samples from persons linked with the crime site is a common practice to prove or rule out beyond a reasonable doubt that the crime was committed by a defendant and not by another person and that the presence of other persons at the crime scene was not related to the commission of crime.

In addition, it should be taken into account that in the case heard by Kutaisi City Court, after the admission of guilt by the accused, the investigation almost did not consider the version that the murder might be committed by another person. This explains why the investigation did not take samples from anyone except the accused, her husband and the body of the victim. In addition, the genetic (biological, traceological) examination report was published at the end of the investigation, when the case was to be heard at the pre-trial session. According to the report, before the murder, the victim had contact with many other people besides the accused, including the defendant's husband. As the parties had to exchange evidence at the pre-trial hearing, the investigation had virtually no time to work on other versions of the murder or obtain additional evidence to prove that other genetic material found in the apartment was left there before the arrival of the accused at the apartment.

The investigation also could not explain why the victim's DNA showed the participation of the defendant's husband when, according to other evidence, they had no contact with each other. The prosecution also failed to give a convincing answer to a question of whose blood was found near the murder scene if it did not belong either to the accused or to the victim. The questions would be easy to answer if samples had been taken at the early stage of the investigation from individuals directly or indirectly related to the murder. The above can be termed as a mistake made by the investigative bodies.

⁶⁰ Mtskheta District Court Case No. 1/259-20

Failure to answer these questions meant that the prosecution failed to prove beyond a reasonable doubt that the murder was committed by the accused. In such a situation, the jury decided the doubts in favour of the accused and issued a verdict of acquittal in the murder episode. It should be noted that when a person is threatened with life imprisonment, it is necessary for the prosecution to rule out all the doubts that the murder was committed by the accused and not by another person. However, in the given criminal case, the prosecution failed to present convincing arguments to dispel these doubts.

This case clearly indicates that it is inadmissible for the investigation to depend solely on the confession of the accused, especially given that the accused, as she declares, was severely beaten before confession,⁶¹ not to consider other versions of the murder and not to collect samples of persons directly or indirectly related to the murder for the DNA comparison.

4.5 DISCREDITATION OF THE VICTIM

In one of the femicide cases⁶² examined during the monitoring, the lawyer representing the accused addressed the investigator with a motion, noting that the victim had been “systematically committing perverted acts before murder.” The lawyer also claimed that the brother of the murdered woman had sent photos of “depravity” to the woman’s husband via Facebook. The lawyer petitioned to seize these photos from the computer system and attach them to the criminal case.

Even if such photos existed, they had nothing to do with the femicide case. Other testimonies in the case had already confirmed that the accused had killed his ex-wife because of an intimate relationship with an older man. The collection, storage and dissemination of these photos constituted a crime of infringing on personal information or personal data under Article 157 of the Criminal Code. This could have led to the defendant’s prosecution together with the victim’s brother. Clearly, this motion, which was detrimental to the defence itself, was intended solely to discredit the murdered woman.

It is true that the investigator did not take any procedural action in response to this motion, however, when questioning the victim’s brother and ex-boyfriend, the investigator asked whether such photos really existed.

According to the report⁶³ by UN Special Rapporteur on violence against women, its causes and consequences, Introduction of evidence regarding the victim’s past sexual history or behaviour should be generally prohibited at all stages of the legal process and should be permitted only when relevant and necessary.

61 The victim claimed that before arrest, she and her husband were attacked and physically assaulted by strangers on the street.

62 Gori District Court Case No. 1/181-20

63 Thematic report on ‘Rape as a grave, systematic and widespread human rights violation, a crime and a manifestation of gender-based violence against women and girls, and its prevention’. Available at: <https://bit.ly/37s88FK>

4.6 CHILDREN AFFECTED BY FEMICIDE

In 2020, it was a step forward when the Prosecutor's Office of Georgia identified the children of murdered women, who witnessed femicide or heard the voice of the victim, as affected persons.⁶⁴ In one of such cases, three children of the victim and the accused heard the sound of a firearm, when their father killed their mother, as a result of which, they suffered moral harm. Children are seen as victims under Article 26 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, which obliges States Parties to recognize children, who have witnessed domestic violence, as victims of violence. "Child witness to violence" is not only the one present at the violence scene, but also those who hear screaming or other sounds of violence or suffer from the effects of violence for a long time. The Prosecutor's Office of Georgia recognized three children of a killed woman as victims. At the same time, the grandmother of the mentioned juveniles and mother of the murdered woman received the status of victim's legal successor.⁶⁵

The legal successor of the victim exercises the rights granted to the immediate victim of the crime under the Criminal Procedure Code and performs his/her duties. As for the affected children, unlike legal successors, they participate in the criminal proceedings not due to the damage suffered by the victim of femicide, but the harm done to them. After receiving victim status, they shall get interviewed, considering the specifics of their age. For example, the investigator shall obtain information about crime from children through pictures made by them. Victim status gives children the opportunity to provide information to the court, through a lawyer or in person, about the harm they suffered as a result of femicide.

Although in one of the cases Gori District Court found that the murder had not taken place in the presence of children and, consequently, the crime did not constitute a crime committed with particular cruelty (Article 11¹, 100, part 3, subparagraph "b", Criminal Code), the trauma suffered by the children in another room, who heard the sound of shooting, was taken into account when sentencing the defendant.⁶⁶ Similarly, Gori District Court took into account the trauma suffered by a 5-year-old child, who was recognized as a victim after his father killed his mother with an axe.⁶⁷

4.7 INVESTIGATING THE PREVIOUS HISTORY OF VIOLENCE

To identify the murder or attempted murder of a woman as femicide or attempted femicide, it is critically important to establish whether there had been gender discrimination or violence against the victim by the perpetrator before the incident. In addition, it is necessary to study the pre-violence circumstances in order to investigate the motive for the crime and to provide adequate punishment.

The Public Defender of Georgia requested information from the Ministry of Internal Affairs on calls received by the agency before incidents of femicide or attempted femicide. According to the Ministry

⁶⁴ Gori District Court Case No. 1/490-20; Gori District Court Case No. 1/181-20

⁶⁵ Gori District Court Case No.1/490-20.

⁶⁶ Gori District Court Case No. 1/490-20

⁶⁷ Gori District Court Case No. (1/181-20

of Internal Affairs, out of 23 cases investigated, such prior calls were made by victims in 8⁶⁸ cases.⁶⁹ It is noteworthy that in all 8 cases, investigation paid attention to the calls, requested copies of restraining and other orders confirming the early reporting and attached them to the murder cases. In two cases, the victim made a call before femicide not against her husband, who then killed her, but against another family member. Nevertheless, the call and the restraining order issued on its basis have been attached to the criminal case.⁷⁰

In a case heard by Rustavi City Court, which concerned the murder of a wife by her husband, a prior call was made not by the victim, but by her mother, the mother-in-law of the accused. In this case, the mother-in-law accused her son-in-law of physical violence. In 2019, the son-in-law was found guilty of domestic violence against his mother-in-law in the presence of the defendant's children and was sentenced to one-year deprivation of liberty - 6 months to be served in a penitentiary facility and 6 months to be served in the community. The materials of this criminal case were then attached to the criminal case of the murder of the wife by the accused.⁷¹

One of the calls was made in a case considered by Mtskheta District Court, where a person with psycho-social needs killed his mother and sister.⁷² According to the Ministry of Internal Affairs, on May 5, 2018, it issued a restraining order against that person for committing psychological violence against his sister.

A case heard by Tbilisi City Court,⁷³ which concerns incitement to suicide of a daughter-in-law by a mother-in-law, contains information about a joint call made by the daughter-in-law and the mother-in-law on August 19, 2019, resulting in a restraining order issued against both of them.

In a case concerning the murder of a woman by her husband,⁷⁴ a prior call was made about alleged physical assault on the woman by her husband on February 4, 2020. Accordingly, Batumi City Division launched an investigation under part 1 of Article 126¹ of the Criminal Code. These criminal materials, the interrogation transcripts of the victim, the accused, the mother and the stepfather of the accused, together with the restraining order issued against the accused, were attached to the femicide criminal case. Finally, according to the verdict delivered by Kutaisi City Court on November 12, 2020, along with murder, the accused was found guilty of violating a restraining order (Articles 11¹-383 of the Criminal Code).

On March 5, 2020, an ex-wife, who was later stabbed to death by her husband, made a call twice:⁷⁵ first on February 4, 2016 and then on September 26, 2018. The first message concerned a conflict with her mother-in-law and the second message concerned a conflict with her husband and mother-in-law. The

68 In addition to the above 8 cases, a call was made in 1 case, where criminal prosecution was terminated due to the insanity of the accused.

69 It should be noted that in one of the cases, the agency has not received any call, although the accused had been serving a sentence for violence against his mother-in-law before the murder of the woman. In another case, violence against a woman was reported by other family members. One of the 8 cases concerns violence against a sister by a brother, but in the end the victim was killed by her husband.

70 Gori District Court Case No.1/181-20

71 Rustavi City Court Case No. 1-671-20

72 Mtskheta District Court Case No. 1/102-20

73 Tbilisi City Court Case No. 2251-20

74 Kutaisi City Court Case No. 1/333-20

75 Gori District Court Case No. 1/249-20

reason for the second conflict was that the husband and the mother-in-law refused the victim to take children with her. The third call was made by the accused against the victim. According to the latter, the victim called him and asked for reconciliation, which he refused. Because of this, the victim insulted the accused.

In a case⁷⁶ heard by Batumi City Court, which concerned the wounding of a woman by her unregistered husband on the basis of jealousy towards another woman on July 4, 2020, two prior calls were made: on August 28, 2017, concerning a conflict that could not be proved and on May 29, 2018, when the victim accused the male partner of violence. An investigation was launched into that incident under part 1 of Article 126¹ of the Criminal Code of Georgia.

The stabbing of an ex-wife by a man was preceded by a number of incidents of violence.⁷⁷ On November 17, 2019, a restraining order was issued against the accused for psychological violence against the victim. The offender violated the restraining order. In particular, despite the ban, he approached the victim and established communication with her by using technical means, which led to his arrest on November 21, 2019, but Tbilisi City Court released him on bail. The accused then again violated the restraining order and on 27 November 2019 arrived at the victim's house. The police arrested the accused again, but this time the court applied detention against him.

On October 5, 2020, an ex-husband inflicted life-threatening injuries on his ex-wife, which was preceded by a death threat against the victim and her child.⁷⁸ Due to this, the defendant was charged with subparagraph "d" of part 2 of Article 151 of the Criminal Code (Threatening a family member) and Tbilisi City Court applied a two-year conditional sentence on September 22, 2020.

76 Batumi City Court Case No. 1-850/20

77 Tbilisi City Court Case No. 1903-20

78 Tbilisi City Court Case No. 1/4332-20

5. SHORTCOMINGS AT THE TRIAL STAGE

5.1 FAILURE OF THE COURT TO PREVENT FEMICIDE

According to criminal legislation of Georgia, one of the purposes of punishment is to isolate a convict for a period that will prevent the recurrence of crime in the future. Prevention, along with resocialization and restoration of justice, plays an important role in the fight against femicide. In the reporting period, there were cases when courts used too light or short sentences, leaving the victim of violence vulnerable to recurrence of crime in case of the release of the abuser. In one of the cases,⁷⁹ the use of short-term imprisonment became one of the reasons for the death of the victim.⁸⁰ In addition, in terms of crime prevention, courts do not check whether the causes that led to attempted femicide have been eliminated or not, when sentencing a convict.

On the night of February 15, 2020, in one of the villages of Gardabani municipality, a person convicted on September 25, 2019 under subparagraph “b” of part 2 of Article 126 of the Criminal Code of Georgia (Violence against a family member in the presence of a minor) and part 1 of Articles 11¹-150 (Threatening a family member), slit his spouse’s throat on the ground of jealousy, in the presence of her minor child and sister. The accused had been released on parole at the time of the crime.

Prior to committing femicide, the accused was convicted of making threats and committing domestic violence against his mother-in-law. The accused was found guilty of violence against his mother-in-law in 2019 and was sentenced to one year in prison - 6 months to be served in a penitentiary facility and 6 months to be served in the community. The mentioned verdict was considered inappropriately mild by the Prosecutor’s Office, which requested the Court of Appeal to use a tougher sentence. The Court of Appeal dismissed the request, as the accused had not been convicted previously, pleaded guilty and cooperated with the investigation. The Court of Appeal did not see the risk of recurrence of violence as there had been no violence against the mother-in-law by the son-in-law in the past.

In one of the cases, a defendant was released on December 17, 2019 after serving his sentence and he resumed threatening his mother-in-law via social media, accusing her of being the reason for his divorce. The ex-wife was also afraid of her ex-husband and she wanted to flee abroad, where she would not be found by the accused. Eventually, the accused fulfilled his intention and stabbed his ex-wife to death on February 15, 2020.⁸¹ This case is a clear example of the fact that the actual sentence imposed by the court - 6 months in prison - was so short that it could not achieve the goal of prevention.

The case heard by Rustavi City Court was not the only case in which a person released from short-term imprisonment committed a more serious crime against his family member. 2 similar cases were also considered by Tbilisi City Court. On February 10, 2020, T. E. was attacked by her ex-husband G. B near one of the metro stations in Tbilisi. The ex-husband put his arm over her shoulder, whispered something in her ear and slit her throat with a stationery knife that he was holding in his right hand.⁸²

79 Rustavi City Court Case No. 1-671-20

80 Gori District Court Case No. 1/155-20

81 Rustavi City Court Case No. 1-671-20

82 Tbilisi City Court Case No. 1903-20

From March 15, 2019 T. E. moved in with G. B., with whom she registered her marriage on May 21, 2019. T. E. had two children from the previous marriage. G. B. became jealous of his wife, abusing her verbally and physically. The accused forbade his wife to work, to go out, to meet friends, or to go anywhere together with them. At the same time, G. B. mistreated his stepchildren, due to which T. E. took the children to Kakheti and left them with her parents. T. E. complained to the police about domestic violence, for which a restraining order was issued against her husband on November 17, 2019, and two days later, on November 19, 2019, T. E. divorced G. B. Nevertheless, G. B. violated the restraining order and arrived at T. E.'s house several times. He also contacted her by phone and asked for reconciliation. T. E. was convinced that G. B. would not change, so she refused to reconcile. Because of this, G. B. continued to abuse his ex-wife.⁸³

On November 20, 2019, G. B. was arrested for violating the restraining order, but was then released on bail of GEL 3,000. The released defendant drank alcohol, violated the restraining order, went to his ex-wife and verbally and physically abused her. The victim again called the police and on 27 November 2019 G. B. was again arrested for violating the restraining order. This time the measure of pre-trial detention was applied and on December 23, 2019, Tbilisi City Court convicted him of a crime under Article 111-381⁸⁴ of the Criminal Code. However, due to pleading guilty, the court applied a one-year conditional sentence and thus the convict was released from the penitentiary institution.⁸⁵

According to the Tbilisi City Court verdict of December 23, 2019, the main reason for applying a conditional sentence was "cooperation with the investigation, admission of guilt and sincere remorse. The fact that the accused has realized his guilt, which is proved by admitting the evidence as indisputable, has also been taken into account." According to the same verdict, the court took into account the mitigating circumstances of liability and considered that the goals of the sentence would be achieved even with a conditional sentence, without isolating the person from the community."⁸⁶

One of the purposes of sentencing a person is to prevent crime. The court in the above case had the opportunity to see that the bail did not turn out to be a deterrent factor in preventing the accused from committing violence again, by violating the restraining order. As the court did not isolate the accused in connection with the episode of November 17-20, 2019 and released him on bail, the accused was enabled to continue his criminal activities.

Violation of the requirements of the restraining order is a less serious offence. Nevertheless, the specifics of domestic crimes, which are characterized by chain continuity, must be taken into account. In some cases, the abuser resumes violence against the victim's family member as soon as he is released from a penitentiary facility. Because of this, the court had to exercise caution when mitigating liability for the systematic abuser due to his confession and admission of evidence. In similar circumstances, the court should break the chain of violent actions by selecting a strict sentence and thus ensure that the preventive goals of the sentence are achieved.

Since the judge was aware that the defendant again abused his ex-wife after being released on bail, Tbilisi City Court's assumption that the preventive purposes of punishment would be achieved without

83 Tbilisi City Court Case No. 1903-20

84 Non-fulfillment of the obligations and requirements of the restraining order against a family member.

85 Tbilisi City Court Case No. 1903-20

86 Tbilisi City Court Case No. 1903-20

isolating the convict was completely unfounded. The decision of the court was proved to be wrong 13 days later, when the released convict turned domestic violence into a particularly grave crime - attempted murder of his wife. Such an outcome should have been easily foreseeable by the judge, as the convict had been consistently violating both the restraining order and the bail conditions, repeating the action for which the above-mentioned non-custodial restrictions were imposed.

For the prevention of femicide, courts should refuse to use a conditional sentence in the event of a recurrence of a crime, in order to achieve one of the functions of punishment - crime prevention.

The second case heard by Tbilisi City Court concerned the stabbing of a wife by an ex-husband in the abdomen and neck area on October 5, 2020. The reason was that the woman did not want to speak on her cell phone in the presence of her ex-husband, so she went outside. Such a behavior of the ex-wife made the accused jealous and he inflicted life-threatening injuries on the victim with a kitchen knife. 2 weeks before the crime, Tbilisi City Court found the accused guilty of threatening to kill his wife and stepson.⁸⁷ The court sentenced the said person to 2 years of imprisonment, but he was released conditionally from the courtroom, as he had committed a less grave intentional crime and had pleaded guilty.⁸⁸

Although the defendant was addicted to alcohol and used to abuse his ex-wife under the influence of alcohol, the court ignored the preventive purpose of punishment when using a conditional sentence and released the accused from the courtroom on September 22, 2020. 2 weeks later, the defendant turned an act, which prompted the court to use a conditional sentence, into reality - he attempted to kill his ex-wife. By failing to assess the risks of recidivism, the court failed to prevent attempted femicide.

Another case where the sentence imposed by the court did not serve the purpose of crime prevention was considered by Gori District Court.⁸⁹ On January 4, 2020, a woman attempted to commit suicide. The reason for her decision was that since 2016 her husband had been drinking alcohol and expressing aggression by swearing at her. The accused was aggressive towards his wife under the influence of alcohol and did not shy away from insulting her dignity even in the presence of neighbors.

Gori District Court found the accused guilty, including of attempted suicide, and sentenced him to 3 years of imprisonment, but released him conditionally from a special penitentiary facility. Gori District Court also declared the sentences for domestic violence⁹⁰ and unlawful deprivation of liberty⁹¹ conditional. Gori District Court found that the mitigating circumstance of the defendant's liability was the admission of guilt by him, cooperation with the investigation, as well as the fact that the victim reconciled with the accused and no longer had complaints against him. According to Gori District Court, there were no aggravating circumstances.

The judgment of Gori District Court was appealed by the prosecution to Tbilisi Court of Appeal due to mildness of sentence, although the Court of Appeal only extended the conditional imprisonment to 6 months for unlawful deprivation of the liberty of a family member.

It is noteworthy that neither Gori District Court nor Tbilisi Court of Appeal considered the commission of criminal acts under the influence of alcohol as an aggravating circumstance. Numerous witnesses

⁸⁷ Crime under Article 11¹-151, part 2, subparagraph "d", Criminal Code.

⁸⁸ Tbilisi City Court Case No. 1/4332-20

⁸⁹ Gori District Court Case No. 1/155-20

⁹⁰ Article 1261 of the Criminal Code

⁹¹ Article 143 of the Criminal Code

unequivocally indicated that after consuming alcohol the accused used to become aggressive towards his wife, verbally and physically abusing her, threatening to kill her. The accused was addicted to alcohol, which was the main reason for his violent actions towards his wife. Even though the Court of Appeal justified the use of a conditional sentence by the purposes of punishment - crime prevention, restoration of justice and re-socialization of the offender - in this case the use of a conditional sentence questioned the achievement of these very goals.

The accused was arrested on January 11, 2020 and Gori District Court released him on May 28, 2020. No court of any instance showed interest in whether the accused had overcome alcohol addiction during that time. However, the fact that the wife forgave the abusive husband and supported the request for his release became crucial for both courts. Moreover, there was evidence in the case indicating that on May 28, 2018, due to physical violence, the victim called the police to intimidate her husband, but at the same time she concealed the fact of physical violence. Nevertheless, the police intervention neither eliminated the alcohol addiction of the accused nor corrected his violent behavior. The warnings by the law enforcement did not yield any result. After four months, two courts sent the systematic abuser back to a house where the victim was living, without assessing whether the causes that contributed to the domestic violence had been eliminated. By releasing the defendant, who was still addicted to alcohol and used to become abusive when drunk, the courts not only did not prevent crime but facilitated its re-occurrence. Doubtless information about elimination of alcohol addiction and correction of violent behavior would have proved re-socialization of the convict and his readiness for safe integration into society and, above all, with the family. Nevertheless, it is not clear from the judgments of the courts of two instances if they were interested in the issue of alcoholism at all.

Therefore, contrary to the findings of the Court of Appeal, we believe that the use of a conditional sentence in this case, when the re-socialization of the accused was not proved, not only did not meet the purpose of punishment, but also contradicted it and posed new risks to the victim.

As for a case where a victim of domestic violence demands the release of the accused, it should be borne in mind that this request may be triggered by the reaction of the patriarchal society, which punishes a woman for exposing her abusive husband or abuser. Therefore, forgiveness by the victim cannot always be considered a result of a free or informed choice. Criminal justice serves the protection of public rather than private interests. Accordingly, when selecting a sentence in domestic violence cases, it should be crucial for a judge to pay attention not to the fact of whether the victim has reconciled with the accused, but whether a conditional sentence can achieve the goals of punishment. The court should apply a conditional sentence if the causes or conditions that contributed to domestic violence have been eliminated. Otherwise the position of the victim does not always have to be decisive in ending the isolation of a person accused of domestic violence.

Common courts often cite Article 55 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, which obliges Georgia to ensure ex officio proceedings for the purposes of this Convention, which should not be “entirely dependent” on the application or complaint filed by the victim.⁹² This obligation is defined as an obligation of the judiciary to impose an adequate sentence on the abuser, regardless of whether it is requested by a member of his family member, who was affected by domestic violence.

⁹² Kutaisi City Court Case No. 1/665-20; Tbilisi City Court No. 1/4548-20

In addition, according to part 3 of Article 63 of the Criminal Code, the use of a conditional sentence for a convict, who committed a less grave crime, admits guilty and cooperates with the investigation, and has not been convicted of a grave or a particularly grave crime in the past, is a discretion and not an obligation of the court. This is evidenced by the words written in this norm - “the court is empowered”. The court should use this discretionary power in and not against the interests of the realization of the purposes of punishment.

5.2 ARGUMENTATION OF GENDER-MOTIVATED MURDERS IN VERDICTS

In the reporting period, only Gori District and Tbilisi City Courts had to consider the articles pertaining to gender-based murder in 6 criminal cases. The aforementioned courts of first instance acquitted defendants in 2 cases, while in 4 other cases defendants were found guilty of committing a gender-based crime. Analysis of the cases shows that the judges of acquittals and convictions understood the content of the gender motive differently from each other. Most judges do not consider jealousy, assumption of ownership, or prohibition of relationship with other men as circumstances proving a gender motive.

An exception in this regard is Tbilisi City Court, which, in one case, assessed the attempted murder on the ground of jealousy as a crime motivated by gender intolerance.⁹³ Most judges of the court of first instance interpret gender motive more narrowly and in order to establish such a motive, they try to find out whether the accused forbade the victim to use a telephone or social network, to work, to have contact with a certain circle of persons, or whether the accused controlled the victim’s clothing. If any of these questions is answered affirmatively, judges establish that murder or attempted murder was committed on the ground of gender.

As can be seen from the 6 cases analyzed, it is a problem to define a gender-motivated murder in the judgment and to assess the factual circumstances or evidence in accordance with that definition. For example, in a judgment of 4 September 2020, Gori District Court found the defendant guilty of all charges: subparagraphs “b” (Murder of a helpless person), “d” (Gender-based murder) and “e” (Murder of a family member) of part 2 of Article 11¹-109 of the Criminal Code of Georgia.⁹⁴ The indictment, which was fully shared by Gori District Court, provided explanations about the murder of a helpless person and the murder of a family member, but the same cannot be said about the gender-motivated murder.

Consequently, most of the judgments lacked legal substantiation of gender-motivated murder. It remained unclear as to whether the action was classified by the court as gender-motivated murder because the killing of the wife was the culmination of a series of years of violence by the husband or because the act was revenge against the wife for an intimate relationship with another older man, or whether the court considered both of the circumstances as a proof for the gender motive. In order to avoid such a misunderstanding, Gori District Court should have first formulated the notion of gender-motivated murder and then substantiate why that particular crime was gender-motivated murder, by referring to factual circumstance.

In contrast, in one of the judgments, Gori District Court referred to the Convention on preventing and combating violence against women and domestic violence to define the concept of gender-motivated

93 Tbilisi City Court Case No. 1/4332-20

94 Gori District Court Case No. 1/181-20

murder and considered a case, where an ex-husband stabbed his ex-wife after the latter refused to reconcile with him and told him that she was going to report violence to the police, as attempted gender-motivated murder. The court indicated in the judgment that the criminal acts were committed on the ground of gender intolerance, because the victim was a woman and was expected to act according to the will of the accused man. Thus, in this case, the crime was considered to be gender-motivated murder based on the Istanbul Convention and CEDAW, namely their reference to the subordinate position of women. It should be noted that the judgment was upheld by Tbilisi Court of Appeal, which agreed with Gori District Court on the classification of the crime as attempted gender-motivated murder.

In the verdict of June 1, 2021, Tbilisi City Court also faced the need to clarify the gender motive, stating: “There was a disagreement between the father and his daughter precisely because the defendant imposed certain restrictions on his daughter on the ground of sex; He forbade her to communicate with friends, to leave house, he controlled her behavior and demanded that she behaved as he wished. Therefore, in this case, the motive for gender discrimination is clear and proved.”⁹⁵ This can be said to be the most common explanation of the motive of gender intolerance.

There is a difference of opinion as to whether murder committed out of jealousy against a woman is a gender-motivated crime. The Tbilisi City Court verdict appeared to be the first during the reporting period, where attempted murder committed on the above ground was classified under subparagraph “d” of part 2 of Article 109 of the Criminal Code of Georgia. The case concerned the stabbing of a woman by her ex-husband in the abdomen and neck area because the woman did not want to talk on her cell phone in the presence of her ex-husband and went outside. Such a behavior of the ex-wife aroused the jealousy of the accused and the latter inflicted life-threatening injuries on the victim with a kitchen knife.⁹⁶

On May 17, 2021, Tbilisi City Court ruled in one of the cases: “The court also held that there was an element of gender intolerance in the defendant’s actions. In this regard, the court pays attention to the testimony of the victim, according to which, the accused was banning everything and was **jealous** of everything, which is why she had quit her job. The named motive was also indicated by the investigator, who said that the accused stated that the victim belonged to him. The court paid particular attention to the degrading and abusive attitude of the accused towards the victim during the trial, who said that she had many men and was a woman **of immoral behavior**, indicating that the victim, as an **immoral woman**, got what she deserved. The court considers that the above-mentioned circumstances collectively and unequivocally indicate the motive of gender intolerance towards the victim. According to the accused, the victim was obliged to live and behave as he wished, she **did not have the right to have intercourse with another man, and the fact that the victim did not obey his desire became the reason for the attempted murder** ... In this case, attempted murder was committed on the ground of gender. The accused was systematically jealous of the victim, forbade her to communicate with others, forced her to quit her job, and threatened to kill her if she left, which led to the attempted murder of the victim.”⁹⁷

Clearly such an explanation is a step forward in terms of legal assessment of the most common form of femicide. Nevertheless, there has been a different practice as well, where the murder committed on the motive of jealousy was not considered a gender offence. An example of the above was a case heard by

⁹⁵ Tbilisi City Court Case No. 1/4548-20

⁹⁶ Tbilisi City Court Case No. 1/4332-20

⁹⁷ Tbilisi City Court Case No. 1/4332-20

Gori District Court, where a husband killed his wife with a firearm in the bedroom during a behavioral disorder caused by chronic alcoholism.⁹⁸

With regard to the murder motive, Gori District Court said in its verdict of March 29, 2020: “As for the murder on the ground of gender, according to the testimonies of all the witnesses, including the children of the deceased, the spouses had a very good relationship, they did not even argue, or “argued very rarely” – as the son of the deceased said. It is unclear which evidence shows the gender motive of the murder, which desire or aspiration of the deceased was opposed by the accused, what he forbade or demanded from his wife, especially since he used to leave his wife and children alone in Tbilisi for several weeks when going to Surami. We have mentioned above the explanations of the witnesses at the stage of the investigation and the sister of the deceased also stated in the court that “The victim did not wear pants for some time, as I found out later, she was taking into account his husband’s desire, because the latter liked dresses. He did not forbid, but the victim had to take his desire into account.” The sister of the victim has never witnessed any fact when the husband forbade the deceased to work. The policeman who arrived at the crime scene mentions that the accused named jealousy as the motive for the murder (obviously murder on the grounds of jealousy does not mean that his wife was really unfaithful). The same was said by the accused in the secret recording. And against the background of all this, is the gender of the victim the main motive of the murder?!”⁹⁹

With this verdict, the judge established that the motive for the murder was jealousy, since the accused, who was in a state of white fever, after shooting his wife, was the one who told the police that his wife was cheating on him. Adultery was just the product of the defendant’s imagination. Nevertheless, the judge held that the dominant motive for the murder was jealousy, which is why the judge asked what jealousy had to do with the gender motive. As the judge could not receive a satisfactory answer to that question from the prosecution, Gori District Court dismissed subparagraph “d” of part 2 of Article 109 of the Criminal Code as excessive.

Committing murder on the ground of jealousy indicates the motive of gender intolerance. Murder committed out of jealousy, even unreasonable jealousy, is a classic example of femicide, as it is motivated by the husband’s assumption of ownership of a woman. Such an attitude is one of the indicators of femicide, i.e. gender-based killing.¹⁰⁰ Gori District Court offers a narrow definition of gender-based murder, according to which, gender-based murder is the killing of a woman for her disobedience to the husband’s desire - not to use a cell phone, to wear the kind of clothes that the husband deems appropriate, not to leave the house, not to have relationship with a certain circle of persons. Clearly, murder committed in the above circumstances is motivated by gender intolerance, however, such a narrow definition of the gender motive and the exclusion of jealousy caused by the assumption of ownership of a woman do not serve the effective fight against femicide. Gender motive is an aggravating circumstance not only for the elimination of the male-dominant and female-subordinate roles in the family, but also for the elimination of the stereotype that a woman is owned by a man and that she does not have the freedom to end relationship. By excluding jealousy from the gender motive, the goal of eliminating such a stereotype cannot be achieved.

98 Gori District Court Case No. 1/490-20

99 Gori District Court Case No. 1/490-20

100 Latin American Model Protocol

In another case¹⁰¹ concerning the burning of a former partner by a man out of jealousy, Tbilisi City Court acquitted the accused of attempted gender-based murder. The problem in this case is not only that the attempted murder committed on the ground of jealousy was not classified by the court as a gender-based crime, but also the disregard for the evidence that indicated the motive of gender intolerance. According to Tbilisi City Court: “The victim and her two friends did not mention at any stage of interrogation the fact that the accused discriminated the victim on the ground of gender. The victim herself mentioned the above circumstances only during the questioning in the court, which is unreliable for the court. Only alleging that the accused oppressed her on the ground of gender is unreliable. This fact needs to be proved and requires consistence of facts and circumstances.”¹⁰²

First, it is incorrect to argue that the victim and her two friends spoke about gender discrimination by the accused only in the court and that they did not say anything about it at the stage of investigation. On July 2, 2020, the victim said during her interview: “The accused thought that I was with my female friend. As I told you he could not stand my friend, as he said that she was a woman of immoral behavior and that I would also become like her in case of having relationship with her. That’s how the conflict started. **He (the accused) always thought he was a man and he knew better whom I had to communicate with and he used to get mad when I did not obey him unconditionally.**”¹⁰³ On July 28, 2020, the investigation questioned one of the friends of the victim. With regard to the gender motive, she said: “The victim lived together with her female friend, because she was scared to be alone. She was afraid that the accused would intrude into her house and beat her **as a man and as a person having rights on her, like her master, like he had the right to beat her, insult her, without her saying anything.**”¹⁰⁴ In the same interview, the witness recalls one episode that occurred two days before the crime, in particular how the accused controlled the movement of the victim. According to the witness, on July 28, 2020, the victim stayed at her house. In the evening, the accused wrote to the victim to send him photos in order to inform him where she was. The victim was unable to send photos because there was no power in the house. The victim also recalls this case in her interview, saying that the accused wanted to make sure that she was not at the house of the woman he considered to be a “woman of immoral behavior”.¹⁰⁵

The second witness, who was called by the accused a woman of “immoral behavior”, also points to the gender motive in a testimony given to the investigation on July 3, 2020. The witness states: “He used to call her while she was living with me. Initially, the accused threatened the victim to arrive here, burn and kill her, as she dared to leave his house, saying that **he (the accused) was a man and had to be a boss in the family.** He asked her what she wanted, why she lived with me, saying that she had nothing to do with me, because I lived in an area where, according to the accused, “women of immoral behavior” lived.”¹⁰⁶

Thus, the judge’s conclusion that the victim and her friends did not say anything about gender discrimination at the stage of the investigation is untrue. Their interview transcripts contain their statements about gender discrimination by the accused. The victim and her two friends indicated at the stage of the investigation that the accused had been controlling the victim’s movement. At the same time, their testimonies make it clear that the accused did not like his partner’s relationship with her

101 Tbilisi City Court Case No. 1/4487-20

102 Tbilisi City Court Case No. 1/4487-20

103 Criminal Case No. 002300620001, volume 1, p. 158

104 Criminal Case No. 002300620001, volume 1, p. 237

105 Criminal Case No. 002300620001, volume 1, p. 106

106 Criminal Case No. 002300620001, volume 1, p. 191

female friend, as she lived in an area inhabited by “women of immoral behavior.” Prohibiting a woman to communicate with friends and controlling the movement of a woman by a partner man is considered discrimination on the ground of gender. Consequently, it seems that the judge had not read the interview transcripts of the victim or her two friends, as one of the motives for the attempted murder was the victim’s relationship with her friend. The witnesses did not use the words “gender discrimination” during their interview, although they pointed to the circumstances that the court should have regarded as discrimination on the ground of gender.

Tbilisi City Court declared two friends of the victim as credible witnesses in the same verdict in connection with the episode of attempted murder committed with particular cruelty. To prove that the accused intended to kill the victim with particular cruelty, the judge cites the testimony of one of the victim’s friends, whom she declared unreliable in connection with the episode of the gender-based attempted murder.

Even if the testimonies of the victim and her two friends in the episode of the gender-based attempted murder are considered biased and unreliable, the fact that a conflict arose between the accused and the victim due to the victim’s friend, was confirmed by the defendant himself. The accused was questioned on June 30, 2020, shortly after his arrest, when he was still sane. We read in the transcript of his interview that the accused did not like the relationship between his partner and one of her friends because the latter was disposing his partner against him. Nevertheless, his partner used to talk to her friend on the phone when they were lying in bed, which was unpleasant for the accused.

Thus, it is completely unfounded and untrue to assert that the victim and two witnesses did not indicate gender discrimination at the stage of the investigation. The victim and the witnesses pointed not only to the gender motive but also to the specific factual circumstances of discrimination. At the same time, Tbilisi City Court is inconsistent, as on the one hand, it finds attempted murder committed with particular cruelty under part 3 of Article 19-109 of the Criminal Code and names revenge on the ground of jealousy as the motive for that action and on the other hand, it rules out the composition of gender-based attempted murder under subparagraph “d” of part 3 of Article 19-109, whereas jealousy indicates a man’s assumption of ownership of a woman, which is nothing more than a gender element.

It is a welcome step that at least Tbilisi City and Gori District Courts have started to actively use subparagraph “d” of part 2 of Article 109 of the Criminal Code. Nevertheless, as case analysis show, even in these courts there is a difference of opinion among judges as to whether a gender element covers murders committed out of jealousy. Therefore, it is important for the Supreme Court to eliminate the varied practices in the courts of first instance in this regard.

5.3 CONCEPT OF UNREGISTERED MARRIAGE

The notion of gender is not the only issue that causes varied practices in the courts. Another problematic issue revealed by the analysis of femicide cases is the establishment of unregistered marriage between the accused and the victim. It is important for the Supreme Court to develop a comprehensive definition of the concept of unregistered marriage in order to establish a uniform practice.

According to subparagraph “f” of part 2 of Article 109 of the Criminal Code of Georgia, commission of a crime against a family member is considered an aggravating circumstance. According to the first part

of the note of Article 11¹ of the Criminal Code, family members include a spouse (including the one in unregistered marriage), as well as a person who had been in unregistered marriage. Clearly, if the victim has a marriage certificate with the accused, it is easy to classify an action under subparagraph “f” of part 2 of Article 109 of the Criminal Code, just like there is no impediment to classifying an action under this norm when there is a court ruling¹⁰⁷ or a certificate from the Service Development Agency¹⁰⁸ relating to the divorce between the victim and the accused. The problem arises when the marriage between the accused and the victim was not officially registered.

Murder of a family member is punishable by imprisonment from 13 to 17 years, while when the victim is not a family member and there is no any aggravating circumstances under Article 109 of the Criminal Code, the action is classified under Article 108 of the Criminal Code, which provides for imprisonment from 7 to 15 years. Accordingly, the defence strategy for mitigating a sentence is to assert the absence of unregistered marriage between the accused and the victim.¹⁰⁹ Tbilisi City Court had different responses to this argument of the defence in two different cases - in one case the defendant was found guilty of attempted murder of a family member¹¹⁰ and in another case the defendant was acquitted.¹¹¹

One of the verdicts of Tbilisi City Court concerns the burning of a former partner by a man. The victim alleged that she had been in unregistered marriage with the accused and had been living together with him in a rented apartment. The defendant had been paying the rent and utility bills while the victim had been preparing food for him. After the pandemic started, the couple moved into the defendant’s house, which was left by the victim in two weeks because of violence. The defence argued that the accused and the victim had an intimate relationship with each other, but they did not share marital responsibilities. The defence called several persons as witnesses at the trial, who denied unregistered marriage between the accused and the victim, claiming that they only had an intimate relationship.¹¹²

In this case, the court shared the position of the defence and acquitted the defendant of charges under subparagraph “f” of part 2 of Article 109 of the Criminal Code, stating that the prosecution could not prove that the accused and the victim were in unregistered marriage. The court said that the accused and the victim had lived together in two different places for two weeks each time and that the two-week period was too short for a couple to be engaged in a household. The court questioned a person living next door to the victim, who could not confirm the fact that the accused and the victim were in unregistered marriage. The court also found the existence of unregistered marriage doubtful due to the fact that the accused was also meeting with another woman, who was called as a defence witness at the trial. The court questioned the defendant’s sister-in-law, who stated that the victim was considered a guest and not a family member during the cohabitation period.

The verdict attached a particularly high importance to the period of time - two weeks, which in the judge’s opinion was not so much time for a couple to be engaged in a household or for the neighbors to notice their cohabitation. Consequently, according to the court, unregistered marriage was impossible to establish.

107 Gori District Court Case No. 1/181-20

108 Tbilisi City Court Case No. 1903-20

109 Tbilisi City Court Case No. 1/4487-20 and Case No. 1/4332-20

110 Tbilisi City Court Case No. 1/4332-20

111 Tbilisi City Court Case No. 1/4487-20

112 Tbilisi City Court Case No. 1/4487-20

Unlike the above case, in the second case¹¹³ heard by Tbilisi City Court, the victim had lived with the accused for 12 years and their relationship was known to the neighbors. According to the verdict of Tbilisi City Court of September 22, 2020, the accused was found guilty of threatening his unregistered wife and step-son. The defendant admitted that he was in unregistered marriage with the victim as he was not expecting a strict sanction for this action. After being released conditionally, on October 5, 2020, the accused stabbed his unregistered ex-wife in the abdomen and neck area. The Prosecutor's Office charged the person with Article 19-109-2f of the Criminal Code (Attempted murder of a family member).

The defendant denied unregistered marriage with the victim at the trial and stated that he had used her services as a sex worker, for which he paid money. According to the accused, the victim had relationship with other men as well.¹¹⁴

The court did not share the defence's argument that the victim was not in unregistered marriage with the accused and that there had not been attempted murder of a family member. The Tbilisi City Court judgment of May 17, 2021 reads: The court relied on the testimony of the neighbor, who perceived the accused and the victim as a couple. Unregistered marriage was also confirmed by a relative of the accused summoned by the defence for questioning. Tbilisi City Court also attached judicial notice importance to the previous conviction, in which the defendant was referred to as the victim's husband and he pleaded guilty to domestic crime against his wife and stepson.

In both cases, two circumstances played an important role in establishing unregistered marriage: 1) the period of cohabitation 2) the neighbors' perception of the couple as a husband and a wife. In one case, the period of cohabitation was so short that the couple could not make a household or present themselves as one family to neighbors, while in another case, 10 years was considered enough for a couple to be perceived by neighbors as a husband and a wife and for the court not to question their household.

5.4 USE OF ARTICLE 53' OF THE CRIMINAL CODE BY COURTS

In the monitoring period, the toughening of punishment by courts for intolerance of the victim's gender and sexual orientation under Article 53' of the Criminal Code, when the mentioned element was not used for the classification of the action, remained a problem. Two cases of Gori District Court are noteworthy in this regard, where gender was used as an aggravating circumstance. In one of the cases heard by Gori District Court, the accused killed his ex-wife with an ax.¹¹⁵ In this case, the court not only considered gender to be an aggravating circumstance, but also used the word "femicide" when sentencing the defendant. The Gori District Court verdict reads: **"As a result of femicide**, not only the right to life of the victim, but also the fundamental right to physical, mental, moral and spiritual development and the right to live in a socially healthy, normal, free and dignified environment of the child of the accused and the victim, as a juvenile, were violated."

Due to the establishment of femicide and the severe psychological harm suffered by the minor, the court used the sentence of 15 years in prison. The minimum sentence for this act shall be 13 years in

113 Tbilisi City Court Case No. 1/4332-20

114 Tbilisi City Court Case No. 1/4332-20

115 Gori District Court Case No. 1/181-20

prison and the maximum shall be 17 years. Due to the admission of guilt, the court could not apply the maximum sentence, but due to femicide and psychological trauma of the juvenile, the court did not choose the minimum sentence either and so it used the average sentence - 15 years of imprisonment, which in combination with the previous sentence amounted to 16 years.¹¹⁶

On November 16, 2020, Gori District Court found a defendant guilty of attempted murder of his ex-wife. The motive for the murder was the victim's refusal to reconcile with the accused. The accused was found guilty of attempted murder of a family member¹¹⁷ and was sentenced to 15 years in prison. Gori District Court considered the defendant's confession and repentance as mitigating circumstances, while the commission of a gender crime against a family member was considered an aggravating circumstance of responsibility.¹¹⁸

The above-mentioned verdict was appealed by the defence. According to the lawyer, Gori District Court incorrectly toughened the sentence by referring to the commission of a crime against a family member on the ground of gender. The commission of a crime against a family member on the ground of gender was a classifying circumstance of the action and the judge had no right to use this circumstance to aggravate the action.

By a judgment of 17 June 2021, Tbilisi Court of Appeal upheld the appeal off the defence in the part of the mitigation of sentence. The Court of Appeal referred to part 3 of Article 53¹ of the Criminal Code, which states that if crime is committed on the ground of gender or against a family member, the term of imprisonment should be at least one year longer than the minimal sentence provided for in the relevant article of this Code or some part of that article. However, part 4 of Article 53¹ states that If mitigating or aggravating circumstances are considered as a component of corpus delicti under an article or part of an article of the special part of this Code, the rule set forth in part 3 of Article 53¹ of the Criminal Code shall not be taken into account when imposing a sentence. That is, in such a case, the term of imprisonment may not be one year longer than the minimal term. Accordingly, the Court of Appeal agreed with the defence and by referring to part 4 of Article 53¹ of the Criminal Code, it held that the defendant's sentence should not have been toughened because of the fact that he had committed a crime against a family member on the ground of gender. Because of this, the Court of Appeal reduced the length of sentence from 15 to 14 years in prison.

On October 26, 2020, Tbilisi City Court found a person guilty of attempted murder of a family member on the ground of jealousy, and although the verdict did not refer to the gender element provided by Article 53¹ of the Criminal Code, the sentence was toughened on the basis of the very gender element - because the victim was a woman. Finally, the court sentenced the accused to 15 years in prison for the attempted murder of a family member.¹¹⁹

Courts most often consider commission of a crime against a family member as an aggravating circumstance. Toughening a punishment on the basis of this circumstance is clearly more than consideration of the gender element as an aggravating circumstance of responsibility. In the reporting period,¹²⁰ commission

116 Gori District Court Case No. 1/181-20

117 Crime under Article 11¹- 19-109-2d¹ of the Criminal Code

118 Gori District Court Case No. 1/249-20

119 Tbilisi City Court Case No. 1903-20

120 Rustavi City Court Case No. 1-671-20; Gori District Court Case No. 1/181-20; Gori District Court Case No. 1/249-20, Tbilisi City Court Case No. 2251-20; Tbilisi City Court Case No. 1903-20; Tbilisi City Court Case No. 1/4332-20, Batumi City Court Case No. 1-850/20.

of femicide or attempted femicide with a knife was quite common. There was a case when the court used a stricter sentence due to the use of a knife.¹²¹ Under part 2 of Article 53¹ of the Criminal Code, committing a crime by using a weapon is considered an aggravating circumstance of responsibility like the commission of a crime against a family member.

The Batumi City Court verdict of January 18, 2021 is especially problematic in the sense that the crime was based on gender and sexual orientation. Nevertheless, the court did not take into account any aggravating circumstances when sentencing the defendant.¹²²

The defendant pleaded guilty and at the same time he did not dispute any of the evidence obtained by the investigation other than the interview transcript of his friend. Batumi City Court pointed out that according to the note of Article 11¹ of the Criminal Code, a family member may be a person in unregistered marriage, so the court additionally classified the crime under Article 11¹ of the Criminal Code, as the accused and the victim were in unregistered marriage.¹²³

Batumi City Court considered the defendant's confession and repentance, as well as his behavior after committing the crime, which indicated his understanding of his actions and sincere repentance, as a mitigating circumstance. The court considered the commission of a crime against a family member to be an aggravating circumstance. The court found no gender element in the case, even though the crime was committed out of jealousy and for the purpose of controlling the victim's behavior – in order to prevent her from going out at 11 pm without her husband's consent. As the gender element was not a classifying circumstance in the case, the court had the right to consider the commission of a crime on the ground of gender as an aggravating circumstance under part 1 of Article 53¹ of the Criminal Code.¹²⁴

In addition, the court did not properly assess the defendant's admission of the fact that the reason for the conflict was the victim's love affair with another woman. It is true that the victim did not say anything about her intimate relationship with another woman in her testimony, but the love affair was indicated by the only direct eyewitness to the crime, who was a friend of both the accused and the victim. At the same time, the accused indicates that he intentionally inflicted bodily injury on the ground of sexual orientation. In this case, the sexual orientation of the affected woman does not matter. If this circumstance was a motive for the criminal act, this should have been sufficient for the court to consider part 1 of Article 53¹ of the Criminal Code as an aggravating circumstance.

Although Batumi City Court admitted the defendant's interrogation transcript as indisputable evidence, it left the part of the transcript that dealt with the victim's sexual orientation and the consequent intentional grave bodily harm beyond proper legal assessment. So, the court did not consider sexual orientation as an aggravating circumstance of the crime referred to in part 1 of Article 117 of the Criminal Code – Intentional infliction of grave bodily injury.

It is welcome that the application of Article 53¹ of the Criminal Code by courts has been increased compared to previous years, nevertheless, courts use stricter sentences under this article when the victim is a member of family, but there are relatively few cases where courts do the same for crimes committed on the ground of gender intolerance. As the Batumi City Court case shows, the court still finds it difficult to properly understand the concept of the gender motive and to use it properly.

121 Rustavi City Court Case No. 1-671-20; Tbilisi City Court Case No. 1/4548-20

122 Batumi City Court Case No. 1-850/20

123 Batumi City Court Case No. 1-850/20

124 Batumi City Court Case No. 1-850/20

6. ANALYSIS OF RULINGS ON TERMINATION OF CRIMINAL PROSECUTION

The Public Defender of Georgia analyzed 5 decisions made in 2020 on the termination of criminal prosecution. In all 5 cases, the reason for the termination of criminal prosecution was the person's insanity.

The Public Defender is wary of classifying cases as femicide or attempted femicide, if they are committed by persons with psycho-social needs, in a state of insanity. The reason for this is the difficulty of determining the circumstances in which these individuals perceive the concept of gender.

Unlike previous years, the description of factual circumstances of a case became more detailed in the court rulings. For example, in one of the cases of Tbilisi City Court, it is stated that a young boy hit his sleeping mother in her head with an ax several times, after which his mother died on the spot. During the incident, the grandmother of the person that committed the illegal act woke up and the young man turned towards her and hit her with the same ax in different parts of her body several times in order to kill her. The grandmother also died as a result of injuries inflicted with particular cruelty.¹²⁵

Another ruling of Tbilisi City Court is also similar, stating that on March 2, 2020, after a conflict on domestic issues, the son intentionally stabbed his mother living with him in various parts of her body, resulting in the death of the woman on the spot.¹²⁶ Unlike the previous case, in this case the motive for the unlawful deprivation of life of the mother has been additionally indicated.

The detailed ruling of Mtskheta District Court reads that on February 28, 2020, a man shot his sister with a shotgun in front of her mother on the second floor of his house, after which he fatally stabbed the mother and sister in various parts. The mother died on the spot and the sister died at the hospital.¹²⁷

The Zugdidi District Court ruling of July 17, 2020 reads: On February 21, 2020, at his home, the husband stabbed his wife in different parts of her body after having an argument with her, as a result of which the wife received life-threatening injuries in the chest area.¹²⁸

The Batumi City Court ruling of April 29, 2021 has a similar content. The ruling says that on December 5, 2020, at another person's house, Sh. C. inflicted life-threatening wounds on N. I., in the abdomen and chest area, by using a knife, after having an argument with her.¹²⁹

It is true that the rulings on termination of criminal prosecution have become more detailed than in previous years, but it would be better to specify the motive for committing a crime in cases where the condition of persons with psycho-social needs allows the above. For example, when a court indicates that a dispute occurred between the assailant and the victim, it should provide the description of the conflict.

¹²⁵ Tbilisi City Court Case No. 1/2512-20

¹²⁶ Tbilisi City Court Case No. 1/1976-20

¹²⁷ Mtskheta District Court

¹²⁸ Zugdidi District Court Case No. 1/154-2020

¹²⁹ Batumi City Court 1-19

CONCLUSION

Undoubtedly, the definition of the concept of gender in the judgments of Tbilisi City and Gori District Courts was a step forward in the reporting period, as well as the identification of children, who heard the sound of violence during femicide against their parents, as victims. It is also welcome that law enforcement agencies pay attention to the pre-violence situation during the investigation and investigators ask clarifying questions to witnesses in order to identify gender motives.

However, flawed investigations were also conducted in the reporting period. The analysis of femicide cases revealed cases where investigators did not ask questions to clarify the motive of the crime and, consequently, the crime motive in two cases¹³⁰ of murder and attempted murder remained unknown. In addition to the above, it is also problematic for the Prosecutor's Office of Georgia to establish the gender motive and to classify actions under the relevant article. In case of a crime of intentional infliction of grave bodily injury on a family member on the ground of gender, the action is classified under the general article of the Criminal Code and not under the special article pertaining to the commission of the said crime. The investigation could not identify the gender motive even when the accused made a mistake regarding the identity of the victim and committed a crime against the victim only because she belonged to a specific group.

Another problem in the reporting period was the failure to conduct a thorough investigation, which ultimately led to the verdict of acquittal against a person accused of femicide.

The court does not assess the risks of recurrence of criminal acts against a family member when a person is released conditionally or when short-term imprisonment is applied in domestic violence cases. Moreover, conditional release was used in relation to offenders who had repeatedly violated the terms of the non-custodial measure earlier and abused their family members. In addition, before applying a conditional sentence, the court does not check whether the causes that led to domestic violence have been eliminated. The cases examined by us show that in order for a court to impose a conditional sentence on a systematic domestic abuser, it is sufficient to establish only that there was a less grave crime and that the accused cooperates with the investigation.

Although courts of first instance have begun to define the concept of gender, there is no uniform practice in this regard. For example, there is a difference of opinion as to whether the ground of gender covers crimes committed out of jealousy. Consequently, the Supreme Court definition on this matter would be important for the establishment of a uniform practice. The Supreme Court definition is also necessary relating to the establishment of unregistered marriage between a victim and an accused for the purposes of Article 11¹ of the Criminal Code.

It is true that courts actively consider the commission of a crime against a family member as an aggravating circumstance, however, the number of cases where judges use a stricter sentence for committing a crime on the ground of gender is still low. As practice shows, courts simply turn a blind eye to the legal assessment of crimes committed against women because of their sexual orientation or gender.

¹³⁰ Zugdidi District Court Case No. 1/142-20 and Tbilisi City Court Case No. 1/1832-20

RECOMMENDATIONS

To the Prosecutor General's Office and the Ministry of Internal Affairs:

- 1) Carry out all investigative activities to establish the gender motive, including by asking appropriate clarifying questions to victims' legal successors and witnesses, which will prove or deny the existence of such a motive;
- 2) Investigate thoroughly, without focusing on just one version of femicide/attempted femicide
- 3) When there is a risk of recurrence of crime, take timely measures to detain the accused and use a measure of restraint against him
- 4) Classify a criminal act, where the accused mistakenly thought a victim to be a member of a specific group, as a crime committed on the ground of intolerance
- 5) When the crime of intentional infliction of grave bodily injury is committed against a family member and/or on the ground of gender, classify the action under subparagraph "e" of part 3 of special Article 117 (Intentional infliction of grave bodily injury on a family member) and subparagraph "d" of part 5 of the same Article (Intentional infliction of grave bodily injury on the ground of gender), instead of part 1 of Article 11¹-117

To the common courts:

- 1) For persons convicted of domestic crimes, judges should select sentences, the duration and severity of which will adequately protect victims or other family members from the recurrence of crime/ commission of a more serious crime
- 2) When sentencing a convict, the position of the victim regarding reconciliation with the convict should be taken into account only if the conditions or reasons that contributed to domestic violence have been eliminated. The circumstances of the elimination of these conditions should be duly substantiated in the judgment if the court mitigates punishment
- 3) In order to establish a uniform practice, the Supreme Court should provide a definition as to whether the ground of gender covers murders committed out of jealousy
- 4) The Supreme Court should define the criteria for establishing unregistered marriage for the purposes of Article 11¹ of the Criminal Code
- 5) Courts should actively apply the requirement of paragraph 1 of Article 53¹ of the Criminal Code that the commission of a crime on the grounds of gender and sexual orientation is an aggravating circumstance of responsibility, if the evidence in the case indicates this motive and the gender element is not a classifying element

- 6) In the rulings on termination of criminal prosecution due to insanity, as far as the condition of a person with psycho-social need allows, courts should describe in detail the motive for the crime committed, if evidence in the case indicates this motive
- 7) Common courts should keep accurate statistics on murders of women, attempted murders and infliction of bodily injuries and provide accurate information to the Supreme Court of Georgia.
- 8) The Supreme Court of Georgia should keep proper statistics on the rulings and judgments provided by common courts relating to murders of women, attempted murders and infliction of health injuries.

ANNEX 1: STATISTICS OF THE GENERAL PROSECUTOR'S OFFICE OF GEORGIA

According to the Prosecutor General's Office,¹³¹ in 2020, 11 people committed **murder** of 13 women and all of the crimes contained **elements of domestic crime**. All the cases were investigated by the relevant territorial units of the Ministry of Internal Affairs of Georgia.

Criminal proceedings were launched against all of the 11 persons under Article 11¹-109 of the Criminal Code of Georgia. Of these, criminal proceedings against 3 persons were launched on the ground of gender intolerance.

Age of victims: under 18 - 1 woman; 18 to 30 years - 3 women; 30 to 40 years - 2 women; 40 to 50 years - 2 women; 50 to 60 years - 1 woman; 60 to 70 years - 2 women; over 70 - 2 women.

Place of crime: Tbilisi - 3 (3 women in 2 cases); Kakheti - 2; Shida Kartli - 4 (4 women in 3 cases); Western Georgia - 2; Kvemo Kartli - 2.

As for the relation between the accused and the victim, in 7 cases, murder was committed by a husband against a wife, in 3 cases - by a son against his mother, in 1 case - by a grandson against his grandmother, in 1 case - by a brother against his sister, in 1 case - by a father against a daughter. (It should be noted that 2 persons killed 4 women, while 1 person killed one and attempted to kill another woman).

In 2020, 9 women were **murdered** by 10 people for **other motives**. 8 out of 9 cases were investigated by the Ministry of Internal Affairs of Georgia and one was investigated by the Investigation Division of the Prosecutor's Office.

Criminal proceedings were launched against 3 out of the 10 persons under Article 108 of the Criminal Code of Georgia and 7 persons - under Article 109 of the Criminal Code of Georgia.

Age of victims: from 18 to 30 years - 3 women; 30 to 40 years - 1 woman; 40 to 50 years - 2 women; 50 to 60 years - 2 women; 60 to 70 years - 1 woman;

Place of crime: Tbilisi - 5; Adjara - 2; Samegrelo-Zemo Svaneti - 1; Kakheti - 1;

As for the relation between the accused and the victim, in 5 cases, attempted murder was committed by an acquaintance, in 2 cases - by a relative (spouse's cousin, cousin's spouse), in 2 cases - by a stranger, in 1 case the perpetrator has not been identified.

In 2020, 11 persons **attempted to murder** 11 women on the **ground of domestic crime**. 10 cases were investigated by the relevant territorial units of the Ministry of Internal Affairs of Georgia and one was investigated by the Investigation Division of the District Prosecutor's Office. Criminal prosecution was launched against all the 11 persons under Article 11¹-19-109 of the Criminal Code of Georgia. Of these, criminal prosecution was launched on the ground of gender intolerance against 6 persons (in one of these cases, the gender motive was ascertained in 2021).

¹³¹ Letter No. 13/10486 of the Prosecutor General's Office of Georgia, February 24, 2021.

Age of victims: 18 to 30 years - 6 women; 30 to 40 years - 1 woman; 40 to 50 years - 1 woman; 50 to 60 years - 2 women, over 70 - 1 woman;

Place of crime: Tbilisi - 6; Shida Kartli - 1; Kvemo Kartli - 1; Kakheti - 1; Samtskhe-Javakheti-1; Samegrelo-Zemo Svaneti - 1.

As for the relation between the accused and the victim, 6 cases of attempted murder were committed by husbands against wives, 2 cases of attempted murder were committed by ex-husbands against ex-wives, 1 case - by a son-in-law against a mother-in-law, 1 - by a father against a daughter, 1 - against a person in a household.

In 2020, criminal proceedings were launched against 9 persons for **attempted murder** of 9 women for **other motives** (of these, 2 persons were prosecuted in one and the same case, while no specific person was prosecuted in another case). Of these, 6 persons were prosecuted under Article 19-109 of the Criminal Code of Georgia and 3 persons - under Article 19-108 of the Criminal Code of Georgia.

Age of victims: 18 to 30 years - 3 women; 30 to 40 years - 1 woman; 40 to 50 years - 2 women; 50 to 60 years - 2 women; 60 to 70 years - 1 woman;

Place of crime: Tbilisi - 5; Adjara - 2; Samegrelo-Zemo Svaneti - 1; Kakheti - 1;

As for the relation between the accused and the victim, in 5 cases, attempted murder was committed by an acquaintance, in 2 cases - by a relative (spouse's cousin, cousin's spouse), in 2 cases by a stranger, in 1 case no perpetrator has been identified.

In 2020, criminal prosecution was launched against 7 people under Article 11¹ -115 of the Criminal Code of Georgia for inciting 6 women to **commit suicide** on the **ground of domestic crime**. Of these, criminal proceedings against 3 persons were launched on the ground of gender intolerance. All the cases were investigated by the relevant territorial units of the Ministry of Internal Affairs of Georgia.

Age of victims: under 18 - 1 woman; 18 to 30 years - 2 women; 30 to 40 years - 3 women.

Place of crime: Shida Kartli - 1; Tbilisi - 1; Kvemo Kartli - 2 (3 defendants); Kakheti - 1; Samtskhe-Javakheti - 1.

As for the relation between the accused and the victim, in 3 cases, the suicide attempt was incited by a husband, in 1 case - by a husband and a father, in 1 case - by an ex-husband, in 1 case - by a mother-in-law.

In 2020, criminal proceedings were launched for the **incitement to suicide** on the ground of **gender intolerance** by a partner under subparagraph "a" of part 2 of Article 115 of the Criminal Code of Georgia.

Age of victims: 30 to 40 years - 1 woman.

Place of crime: Kvemo Kartli - 1;

As for the relation between the accused and the victim, the suicide attempt was incited by a partner.

In 2020, relating to the **intentional infliction of grave bodily injuries** on 2 women on the **ground of domestic crime**, which resulted in the loss of life, criminal proceedings were launched against 1 person (Infliction of grave bodily injury on one woman; no criminal proceedings were launched in another case) under Article 11¹-117 of the Criminal Code of Georgia. No gender motive has been identified in any of the cases.

Age of victims: under 18 - 1 woman; over 70 - 1 woman.

Place of crime: Kvemo Kartli - 1; Western Georgia - 1.

As for the relation between the accused and the victim, in one case the serious damage to health, which resulted in the loss of life, was inflicted by a son against his mother, while in another case no perpetrator could be identified.

