

# BARRIERS, REMEDIES AND GOOD PRACTICES FOR WOMEN'S ACCESS TO JUSTICE IN GEORGIA



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AND GOOD PRACTICES  
FOR WOMEN'S  
ACCESS TO JUSTICE  
IN GEORGIA**

This national study, “Barriers, remedies and good practices for women’s access to justice in Georgia,” was first prepared in 2017 and updated in 2022 by Babutsa Pataraiia in the context of the EU/Council of Europe joint programme, the Partnership for Good Governance.

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# ACRONYMS AND ABBREVIATIONS

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<b>CEDAW Committee</b>	Committee on the Elimination of Discrimination against Women
<b>CEPEJ</b>	European Commission for the Efficiency of Justice
<b>CRRC</b>	Caucasus Research Resource Center
<b>GBV</b>	Gender-based violence
<b>GEL</b>	Georgian lari
<b>GED</b>	Gender Equality Department of the Public Defender's Office
<b>GGGI</b>	Global Gender Gap Index
<b>GII</b>	Gender Inequality Index
<b>GeoStat</b>	National Statistics Office of Georgia
<b>GYLA</b>	Georgian Young Lawyers' Association
<b>IDP</b>	Internally displaced person
<b>LAB</b>	Legal Aid Bureau
<b>LEPL</b>	Legal Entity of Public Law
<b>LGBT</b>	Lesbian, gay, bisexual and transgender
<b>NGO</b>	Non-governmental organization
<b>PDO</b>	Public Defender (Ombudsman) of Georgia
<b>UNDP</b>	United Nations Development Programme
<b>UNFPA</b>	United Nations Population Fund
<b>UNICEF</b>	United Nations International Children's Fund

# GENERAL INTRODUCTION TO THE NATIONAL STUDIES

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The regional project on improving women's access to justice in five Eastern Partnership countries (Armenia, Azerbaijan, Georgia, the Republic of Moldova and Ukraine), which is part of the Partnership for Good governance, co-funded by the European Union and the Council of Europe and implemented by the latter aims to identify and support the removal of obstacles to women's access to justice and to strengthen the capacity of national partners in each country to ensure that the justice chain is gender-responsive. Key results of the project, which is presently at the conclusion of its third phase, include national studies that map the obstacles to women's access to justice; a training manual and guidance materials addressed to judges and prosecutors as well as other legal practitioners; an open-access online course on Access to Justice for Women<sup>1</sup> and an interactive checklist for gender mainstreaming of law school curricula; and a pioneering mentoring programme for legal professionals in order to build capacity and increase gender-sensitivity through peer-to-peer learning.<sup>2</sup>

From its inception, the project has placed emphasis on increasing awareness of and identifying the critical barriers that stand in the way of women accessing justice. Thus, in 2017, the Gender Equality Division of the Council of Europe commissioned national studies to map the barriers, remedies and good practices for women's access to justice in the five partnership countries.<sup>3</sup> The objectives of each of these studies were to provide:

- ▶ an analysis of the main obstacles to women's access to justice, both legal and procedural, as well as socio-economic and cultural;
- ▶ a set of recommendations for measures to improve women's access to justice in the respective countries, including examples of good practices, where they exist;
- ▶ background information for the subsequent organisation of training for legal professionals (judges, prosecutors, lawyers, and when relevant law enforcement).

Since the time that these analyses were conducted, the world, the region and each country have experienced a number of positive changes but also the negative consequences of unforeseen events, namely the global Covid-19 pandemic and Russia's full-scale aggression against Ukraine. In many complex ways, these recent events have challenged the functioning of justice systems and raised new impediments to justice users. In order to assess how the balance has tipped for women as users of justice systems, the Gender Equality Division saw the value in revisiting the original national studies and updating them to reflect the situation in 2022. The process of revising the studies, for Azerbaijan, Georgia, the Republic of Moldova and Ukraine, also contributed to a stand-alone publication on how Covid-19 has impacted women's access to justice throughout the member states.<sup>4</sup>

Women's right to access to justice is fundamental to the realisation of gender equality as well as all other human rights. Foremost, the Council of Europe core gender equality standards are articulated in its foundational treaties: the European Convention on Human Rights and the European Social Charter (revised), and the two "new generation" treaties, the Convention on Action against Trafficking in Human Beings<sup>5</sup> and the Convention on Pre-

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1. Prepared in the framework of the Council of Europe Human Rights Education for Legal Professionals (HELP) Programme and available at <https://help.elearning.ext.coe.int>.

2. Project materials and publications can be accessed at <https://www.coe.int/en/web/genderequality/strengthening-access-to-justice-for-women-victims-of-violence-2019-2021->.

3. The five country studies of 2017 are available in English and each national language at [https://www.coe.int/en/web/genderequality/equal-access-of-women-to-justice#%2214965347%22:\[0\]](https://www.coe.int/en/web/genderequality/equal-access-of-women-to-justice#%2214965347%22:[0]).

4. *Impact of Covid-19 on Women's Access to Justice*. 2022, <https://rm.coe.int/pgg-waj-research-final-covid-2022/1680a9cb8f>

5. Entered into force on 1 February 2008.



venting and Combating Violence against Women and Domestic Violence (the Istanbul Convention).<sup>6</sup> In addition to recommendations of the Committee of Ministers on gender equality, adopted during the last four decades, recent recommendations have drawn attention to persistent manifestations of inequality, in the form of sexism and sexist norms,<sup>7</sup> and to women and girls that are in situations that render them especially vulnerable to human rights violations, namely as migrants, refugees and asylum-seekers.<sup>8</sup>

The Council of Europe Gender Equality Strategy 2018–2023<sup>9</sup> builds upon the achievements of the first such strategy (for 2014–2017) and aims to address both long-standing and new challenges. The current Gender Equality Strategy serves as the framework for member states to implement gender equality standards, and it is significant that one of the six strategic objectives is ensuring the equal access of women to justice. In fact, this strategic objective is mutually reinforcing with others on preventing and combating gender stereotypes (in this case, gender bias in the legal system), preventing and combating violence against women and domestic violence and gender mainstreaming (here, implicating methods to increase the gender-sensitivity of the justice sector). The strategy establishes specific actions, including the identification and dissemination of good practices among the member states to facilitate women’s access to justice and supporting research and standardised data collection to tackle gaps.

The 2019–2022 regional project “Women’s access to justice: delivering on the Istanbul Convention and other European gender equality standards,” a joint EU–Council of Europe programme, Partnership for Good Governance II, contributes to the overall implementation of the Gender Equality Strategy and in particular the realisation of Strategic Objective 3 on ensuring the equal access of women to justice by strengthening access to justice for women, especially women victims of violence in line with the Council of Europe gender equality standards and contributing towards the Eastern Partnership countries’ ratification of the Istanbul Convention.

Four independent national experts updated the research, focusing on where developments have occurred related to the following core issues of the first studies: (i) the most critical gender gaps in access to justice in the particular country; (ii) the extent to which the justice system responds to women’s needs, in other words, how gender-responsive it is; and (iii) recommendations for areas of improvement. All studies retained their original structure, with new findings and analysis added where relevant. Thus, the studies begin with an assessment of gender gaps and obstacles to women’s access to justice, considering legislative and policy frameworks, implementation of laws and socio-economic and cultural barriers that affect women as justice users. Here, the impacts of Covid-19 on women’s access to justice and gender equality are addressed. The studies include a discussion of the gender responsiveness of the justice systems of each country, covering such issues as the influence of gender stereotyping, availability of specialised training and education for justice sector professionals and public perceptions of and trust in the justice system. The final part of each study presents the available remedies, highlights emerging promising practices and formulates a set of recommendations that are relevant to each national context.

On the whole, the studies reveal that significant gaps in women’s access to justice remain and are common for the Eastern Partnership countries. Yet, despite the unprecedented challenges to health, well-being and security brought about by the Covid-19 pandemic and tensions in the region, that have “turned back the clock” on gender equality, there have also been moments of brightness and important progress in the region.

Each country adopted specific legislation on gender equality more than a decade ago, but efforts to strengthen the laws and the institutions responsible for their implementation are ongoing. In Georgia, 2018 and 2020 amendments to the national gender equality law established the Standing Parliamentary Council on Gender Equality as a permanent body, as well as municipal Gender Equality Councils, to improve coordination around gender policy between the central and regional levels. In Ukraine, the State Strategy for Equal Rights and Equal Opportunities for Women and Men until 2030 was approved in 2022, with a corresponding operational plan for 2022–2024. A government Commissioner for Gender Policy position was created in 2017. Since it was established in 2013, the Council on Preventing and Eliminating Discrimination and Ensuring Equality of the Republic of Moldova has proven to be an effective mechanism for combatting discrimination. In 2021, for example, the Equality Council reported that based on a review of its cases in which discrimination was identified, discrimination on the basis of sex or gender is the second most common form; this appears to be an increase from the decisions of five years ago. On the other hand, experts in Azerbaijan call for amendments to the Law on Gender Equality in

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6. Entered into force on 1 August 2014.

7. Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism.

8. Recommendation CM/Rec(2022)17 of the Committee of Ministers to member States on protecting the rights of migrant, refugee and asylum-seeking women and girls.

9. Council of Europe Gender Equality Strategy 2018–2023, available at <https://www.coe.int/en/web/genderequality/gender-equality-strategy>

order to bring the definition of “discrimination against women” into compliance with international law (specifically, to recognize both direct and indirect discrimination).

Despite the existence of anti-discrimination laws, women still very seldom invoke them when their rights have been violated, due to factors such as the high burden of proof and legal professional’s lack of familiarity with the norms of indirect discrimination.<sup>10</sup> Thus, legal precedent on either sex- or gender-based discrimination remains limited. Furthermore, progress has been slow in repealing discriminatory provisions in the law, most specifically concerning restrictions on women’s employment. At the same time, in both the Republic of Moldova and Georgia, the understanding of hate crimes, motivated by either sex or gender, has improved and led to an increase in the number of cases concerning women victims.

One of the areas in which progress has been the most apparent is the amendment of national law and adoption of policy that have increased the protection of women who have experienced gender-based violence. For instance, the adoption of the Law of Ukraine on Prevention and Counteraction of Domestic Violence, as well as amendments to the Criminal Code, have expanded the legal understanding of victims of varied forms of domestic violence as well as sexual violence. Likewise, in Georgia, the Law on Violence against Women and Elimination of Domestic Violence, Protection and Support of Victims of Violence now covers all forms of gender-based violence against women in compliance with the Istanbul Convention, and sanctions for failure to comply with a protective or restraining order have been increased. In the Republic of Moldova, legal amendments have improved access to legal aid and to emergency protection for victims of gender-based violence.

Ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) has undoubtedly been a catalyst for legal reform in this area. Since the first national studies were published, three of the beneficiary countries have ratified the Istanbul Convention: Georgia (2017), the Republic of Moldova (2022), and Ukraine (2022). Georgia and the Republic of Moldova submitted their first (baseline) evaluations to the Council of Europe Expert Group on Action against Violence against Women and Domestic Violence (GREVIO) in 2020 and 2022, respectively. Azerbaijan has not yet signed the Istanbul Convention, but the government adopted a National Action Plan on Combating Domestic Violence for 2020–2023.

The institutions that respond to cases of violence against women have taken steps to becoming more gender-responsive. Amendments to the Republic of Moldova law on preventing and combating family violence called for updating regulations and instructions that would guide the police, social services and medical institutions in coordinated interventions. In 2022, the Instruction on the Mechanism for Intersectoral Cooperation on intervention in cases of domestic violence was approved by the Ministry of Labour and Social Protection, the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Health, and the National Council for State Guaranteed Legal Aid of the Republic of Moldova. In both Georgia and Ukraine, law enforcement has introduced tools for standardized risk assessments in cases of domestic violence. The Prosecutor’s Office of Georgia created a unit of investigators and prosecutors, specializing in domestic violence and domestic offences, in 2018. In all of the countries that were reviewed a general trend in an increase in the number of protection orders issued for women victims of domestic violence has been observed. This finding does not necessarily indicate an increase in the occurrence of domestic violence incidents but, rather, improved confidence in and use of protection measures. Still, it should be noted that this measure is more often used by the police than prosecutors or judges, and such orders are not always used effectively (for instance, not issued in a timely manner).

Among society at large, attitudes appear to be changing, gender norms are becoming less rigid and stereotypes are starting to dissipate, as seen in a Georgian population survey that suggests a growing receptivity to the idea of a more equitable future. However, the legal systems seem slower to adapt. The studies also reveal that gender stereotypes persist in the justice system, especially concerning victims of violence against women.

The studies find that when the Covid-19 pandemic reached the Eastern Partnership countries, its impacts on women’s access to justice were significant. First, when emergency measures were implemented to stop the spread of the virus, legal processes were impacted. In each country, courts closed their doors for months at a time, and legal proceedings were transferred to online systems or postponed. Each country determined the priority for cases to be heard under quarantine conditions, but by in large, this process itself was not gender-sensitive. As a result, civil cases, concerning divorce, child custody, alimony and protective orders in domestic violence cases, for example, were frequently deprioritised or were even suspended. Yet these are also the cases in which women are the majority of those who are seeking assistance through the legal system.

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10. For example, the national study for Azerbaijan recommends that legislation be amended to include a definition of indirect discrimination; the national study for Ukraine notes that while indirect discrimination is defined in the law, courts very rarely refer to this concept.

Second, lockdown measures had direct and negative consequences for women who were experiencing domestic violence, essentially isolating them in the home with an abuser. Each study identifies some of the most serious impacts on women. In the Republic of Moldova, for example, a significant reduction in calls to specialised telephone hotlines was observed during quarantine periods at the same time as an increase in texting for assistance, which is an indication of the level of control that perpetrators were exercising over victims. In Georgia, law enforcement classified gender-based violence as a less important police matter, and no mechanism for remote legal procedures was introduced. Social services for women who were experiencing violence were greatly reduced or inaccessible. In the Republic of Moldova, shelters were required to change how they operated and could not accept new clients; some had to suspend their activities. The study for Ukraine points out that public sector funds were diverted from social services to address the Covid-19 pandemic. In Azerbaijan, state-funded social services were not suspended generally, but restrictions on travel made women's access to shelters, which are only located in large cities, de facto, impossible.

Third, the pre-existing socio-economic and cultural barriers that had previously complicated women's access to justice, were exacerbated by the pandemic and measures introduced to contain it. Before the pandemic, women's economic dependence and economic inequality meant that they had more limited access to the resources needed for legal proceedings. The studies show that women's economic situation deteriorated further, as in each country they are the majority of healthcare workers and over-represented in sectors in which economic declines have been the most significant. In both Azerbaijan and Ukraine, for instance, women represent a large share of individual entrepreneurs and small business owners, but due to difficulties operating under Covid-19 restrictions and lack of support measures, many were forced to stop working. In the Republic of Moldova, women employed in service provision and small trade lost their livelihoods when their activities were suspended. In addition, the pandemic highlighted the disproportionate role that women play in unpaid domestic work. Stay-at-home measures had a discriminatory impact on women in increasing this burden, and yet this effect seems neither to have been considered in planning nor in subsequent assistance measures. In many ways, the Covid-19 pandemic highlighted the structural sex and gender discrimination that persists in the studied countries.

Access to justice is central to the rule of law and integral to the enjoyment of human rights. It is also an essential precondition to social inclusion and a critical element of a well-functioning democracy. The requirement of equality, including gender equality, is at the centre of the scope, exercise and fulfilment of the right to justice. The national studies confirm that progress toward gender equality had generally been moving at a steady yet slow pace. However, recent events such as the global health crisis and war in Ukraine have halted, if not reversed, this progress, in key ways. It is ever more critical that gender equality not be further undermined, which also requires dedicated efforts to strengthening women's access to justice.

# GEORGIA

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*Initial 2017 report and 2022 update prepared by Babutsa Pataraia*

## 1. INTRODUCTION

As a developing democracy, Georgia has been undergoing major reforms since its independence from the Soviet Union in 1991. The Rose Revolution of 2003 was a breakthrough for Georgia including from the perspective of gender equality and women's rights, strengthened with important reforms in political, social and economic life. The reforms aimed not only at structural changes, but at transforming communist-era mindsets to more liberal, western thinking ones. Despite some shortcomings, the reforms undertaken were unique in terms of the speed and degree of innovation, and the extent of institutional restructuring (World Bank 2009). Despite these reforms implemented by the Government of Georgia, some barriers and challenges still remain in terms of women's access to justice, such as women's economic dependence; cultural barriers and traditional practices; fear and shame of reprisals and social rejection for reporting violence; lack of awareness regarding women's rights and legal safeguards; gender stereotypes; and multiple forms of discrimination, in some cases that involve women with disabilities, women belonging to national minorities and elderly women and internally displaced women.

Georgia ranks 55 out of 146 in the countries listed in the 2022 Global Gender Gap Index of (World Economic Forum 2022), which is a significant improvement compared to 2016 when it ranked 90 of 144 countries. The GGGI measures a country's progress toward gender equality based on four subindexes (economic participation; educational attainment; health and political empowerment). According to the United Nations Development Programme (UNDP) Gender Inequality Index (GII), Georgia ranked 66 of 170 countries in 2021. Georgia has a GII value of 0.280 (Gender Inequality Index 2022). Note that the GII is a gender *inequality* metric based on three dimensions (reproductive health, empowerment and the labour market); a score of 0 indicates that women and men fare equally, while 1 means that one gender fares as poorly as possible. According to Women Peace and Security Index, compiled by Georgetown University's Institute for Women, Peace and Security and the Peace Research Institute Oslo, Georgia ranks 40 out of 170 countries (Women Peace and Security Index 2021/2022). The Women Peace and Security Index measures women's inclusion in decision-making and peace-building processes, post-conflict resolution, justice and security.

Violence against women remains widespread and one of the most challenging problems the country faces. At the same time, it should be mentioned that violence is so stigmatised and related to shame in Georgian society, as demonstrated by various perception studies discussed in this study, that in many cases victims of violence prefer not to reveal it, unless long-term trust relations develop with a supportive professional.

As recognised by the European Parliament, a significant proportion of Georgia's territory is under Russian occupation (European Parliament 2011), and as a result of the armed conflict between the Russian Federation and Georgia in August 2008, over 290 000 persons have been granted IDP status.<sup>11</sup>

According to the World Bank, the population of Georgia is 3.7 million, and the GDP per capita is US\$5 015. The poverty rate measured by the international upper-middle-income line (US\$5.50 per capita per day, 2011 purchasing power parity [PPP]) declined from 59% in 2011 to 42% in 2021. Measures of human capital remains to

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11. SG/Inf(2023)15, p.12, paragraph 59.

be weak, with poor learning outcomes. Though, the swift post-pandemic rebound has demonstrated the growing maturity and resilience of Georgia's economic institutions (World Bank 2021).

This study is based on the understanding that access to justice is central to the rule of law and integral to the enjoyment of basic human rights. It is also an essential precondition to social inclusion and a critical element of a well-functioning democracy. Access to justice can be construed as the ability of people, including people from disadvantaged groups, to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards, without legal, procedural, socio-economic or cultural obstacles. The requirement of equality, including gender equality, is at the centre of the meaning, the exercise and the fulfilment of the right to justice.

This study was undertaken using a methodology that employed qualitative and comparative research to provide an overview and analysis of research papers produced by local and international organisations. The study also makes use of information provided by relevant state institutions, obtained through official correspondence, and an analysis of relevant legislative and policy documents.

As a whole, the study reviews Georgian legislation, recent developments, the cultural context and specific legal aspects related to gender and sex. It also reviews implementation mechanisms of the laws and identifies shortcomings. Major stakeholders of the justice system are characterised and assessed. Based on an analysis of state policies and practices, the study highlights barriers and good practices. In addition, to further understand the local context, the study offers an overview of selected research, including opinion polls, which reflect the socio-economic and cultural specificities of Georgian society. The study updates and compares the situation in 2022 to that described in the original 2017 report on barriers, remedies and good practices for women's access to justice in Georgia. Thus, the present report provides an overview of how the legislation and practices have changed within the last five years. In its conclusion, the study provides a number of recommendations to improve the Georgian justice system in order to make it more accessible for women.

## 2. GENDER GAPS IN ACCESS TO JUSTICE

### 2.1. Analysis of the national legal and policy frameworks

#### 2.1.1. Constitutional law

The Constitution of Georgia was amended in 2018 and the notion of equality of all persons has changed. According to Article 11, "All persons are equal before the law" and "Any discrimination [...] on any grounds shall be prohibited."<sup>12</sup> In addition, the new amendment guarantees substantive equality for men and women and points out the need for special measures. Article 11(3) states: "the State shall provide equal rights and opportunities for men and women. The State shall take special measures to ensure the substantive equality of men and women and to eliminate inequality."<sup>13</sup> Hence, very strong language of equality between sexes is assured by the amendment, which should be considered a positive development in Georgian legislation.

In addition to the above-mentioned amendment, the only other article mentioning "women" is Article 30 (1). With the new amendment, "Marriage, as a union of a woman and a man for the purpose of founding a family, shall be based on the equality of rights and the free will of spouses." Previously, marriage was not defined as a union between a man and a woman; Article 36(1) of the Constitution formerly stated that "marriage shall be based on the equality of rights and free will of spouses." The new formulation of the constitution focusing on the sex of the spouses now excludes the possibility of same-sex marriages. This amendment was assessed as a constitutional ban on same-sex marriage by lesbian, gay, bisexual and transgender (LGBT) and human rights organizations, in other words, a constitutional ban on gay marriage without the introduction of legally recognized civil partnerships.<sup>14</sup>

The above-mentioned Article 30(2) maintains a safeguard regarding mothers and children as it was guaranteed previously by Article 36(3), "the rights of mothers and children shall be protected by law."<sup>15</sup>

12. Constitution of Georgia, Article 11, Available at [matsne.gov.ge/ka/document/view/30346?impose=translateEn](https://matsne.gov.ge/ka/document/view/30346?impose=translateEn) [Georgian orig. საქართველოს კონსტიტუცია], accessed 13 September 2022.

13. Ibid.

14. "Georgian Dream Doubles Down on Same-Sex Marriage Ban", RFE/RL, 2017, Available at <https://bit.ly/3RGU8KO>, accessed 13 September 2022.

15. Constitution of Georgia, Article 30, Available at: [matsne.gov.ge/ka/document/view/30346?impose=translateEn](https://matsne.gov.ge/ka/document/view/30346?impose=translateEn) [Georgian orig. საქართველოს კონსტიტუცია], accessed 13 September 2022.

### 2.1.2. Criminal law

In 2012, the Criminal Code of Georgia introduced the motive of hate as a ground for imposing a higher sanction for committed crimes, including hatred based on sexual orientation and/or gender identity and disability.<sup>16</sup> However, for years implementation of this article has been problematic. Recently the situation has improved.

In 2012, the Criminal Code was amended and domestic violence became a separate crime within it. Article 126 criminalizes certain forms of domestic violence, namely, “violence, systematic humiliation, blackmail, degrading treatment which causes pain or suffering.”<sup>17</sup> Thus, some aspects of psychological violence is foreseen, but no criminal liability is envisaged for systematic economic violence.

In September 2017, Georgia ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) and progressive changes have been applied to the Criminal Code of Georgia. New articles were introduced, including stalking (Article 1511), which states, “Illegal monitoring, personally or through a third person, of a person, his/her family member or a close relative, or establishment of an undesirable communication by telephone, an electronic or other means, or any other intentional action conducted regularly and causing mental torture to a person, and/or a reasonable fear of using coercion against a person and/or his/her family member or a close relative, and/or of destroying property, which makes the person substantially change his/her lifestyle, or creates a real need for changing it.”<sup>18</sup> The crime of female genital mutilation (Article 1332) was also added, as follows “Under the influence of a religious, ceremonial, ethnic or another tradition, or without such influence, complete or partial cutting, infibulation or another mutilation of female genitals, or coercion or persuasion of a woman to undergo such an operation.”<sup>19</sup>

Moreover, the article on rape has been amended. Previously it applied only to vaginal penetration, but according to the current redaction rape is defined as “any form of penetration of a sexual nature of the body of a person with any bodily part or object, committed with violence, under the threat of violence or by abusing a helpless condition of a person affected.”<sup>20</sup> Thus, the definition has been expanded and improved as it now applies to oral and anal penetration. Still, the definition is not in line with the Istanbul Convention as the crime of rape is not understood to be based on lack of consent, but rather as an action committed with violence, under the threat of violence, or by abusing the helpless condition of the victim. Similar criticism applies to all sexual crimes which should be based on lack of consent, but are not. It should be noted that marital rape is not defined as a separate article in the Criminal Code of Georgia. A new Article 11 was introduced in the Criminal Code in 2012, which included a new typology of crimes committed within the family, defining them as domestic crimes. This article enumerates a variety of crimes that are considered domestic crimes if committed by family members, and sexual crimes, including rape, are included under Article 11. Therefore, it follows that rape committed by a spouse is also considered a crime.

### 2.1.3. Law on Violence against Women

The Law of Georgia on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence was adopted by the Georgian Parliament in 2006, but in 2017 after ratification of the Istanbul Convention its title was altered. The current legislation is the Law of Georgia on Violence against Women and Elimination of Domestic Violence, Protection and Support of Victims of Violence. Thus, the law now covers not only domestic violence but generally all gender-based violence against women.<sup>21</sup> In addition to the definition of domestic violence and its forms, the new amendments now offer a definition of violence against women, which “involves all actions in the public or private life that are characteristic to violence against women committed on the grounds of sex, which entail or may entail physical, mental or sexual abuse of women, and which cause or may cause economic damage to women, including the threat of committing such actions, coercion of women, or unauthorized deprivation of liberty of women.”<sup>22</sup> It is worth mentioning that economic violence, while included within the definition as amended, has no effective remedy. The enforcement of sanctions against economic violence is not covered by Georgian legislation.

16. Criminal Code of Georgia, Article 53(3), Available at [matsne.gov.ge/ka/document/view/16426](https://matsne.gov.ge/ka/document/view/16426) [Georgian orig. საქართველოს სისხლის სამართლის კოდექსი], accessed 13 September 2022.

17. Ibid. Article 126.

18. Ibid. Article 1511.

19. Ibid. Article 1332.

20. Ibid. Article 137.

21. The Law of Georgia on Violence against Women and Elimination of Domestic Violence, Protection and Support of Victims of Violence, 2006, art.1, available at [matsne.gov.ge/ka/document/view/26422?impose=translateEn](https://matsne.gov.ge/ka/document/view/26422?impose=translateEn) [Georgian orig. ქალთა მიმართ ძალადობის ან/და ოჯახში ძალადობის აღკვეთის, ძალადობის მსხვერპლთა დაცვისა და დახმარების შესახებ], accessed 13 September 2022.

22. Ibid. art.31 (1).

In recent years, the law on violence against women has been improved multiple times. Currently the law requires that “a police officer assess the risk of recurrence of violence against women.”<sup>23</sup> In addition, electronic surveillance of the abuser is possible, on the basis of the risk assessment questionnaire,<sup>24</sup> and failure to comply with a protective or restraining order, or electronic surveillance, is punishable directly under the Criminal Code of Georgia.<sup>25</sup> These recent changes have strengthened protection of the victims of violence against women.

#### 2.1.4. Family law and property rights

As mentioned above, constitutional changes define marriage as “a union of a woman and a man for the purpose of founding a family.”<sup>26</sup> Previously, the Constitution of Georgia stated that marriage shall be based on the equality of rights and free will of spouses,<sup>27</sup> without mentioning the sex of the persons in marriage. The Civil Code of Georgia specifies that marriage is a voluntary union of a woman and a man for the purpose of creating a family.<sup>28</sup> The Civil Code of Georgia defines all aspects of marital rights and duties. It states that only registered marriages shall give rise to marital rights and duties.<sup>29</sup> Article 1108 of the Civil Code sets the marital age at 18. Based on recent amendments, civil marriage is not possible at an early age and neither courts nor parents can grant permission for marriage before the age of 18.

However, the problem of early marriage still remains one of the most widespread violations of children’s rights in Georgia, affecting girls disproportionately. According to the United Nations Children’s Fund (UNICEF), 14% of women aged 20–24 married when they were underaged and almost half of them did not complete compulsory education.<sup>30</sup> Thus, early marriage remains one of the prevalent reasons for girls’ early dropout from school.<sup>31</sup> The office of the Public Defender (Ombudsman) of Georgia (PDO) has reported that state actions directed against early marriages are not coherent, systemic or comprehensive.<sup>32</sup>

Article 1152 of the Civil Code guarantees equality in personal and property rights and the responsibilities of spouses in domestic relations. Article 1153 prohibits discrimination when entering into a marriage, and rights may not be restricted in domestic relations. The Civil Code defines the following rights and duties of spouses: joint settlement of family affairs (Article 1155); freedom of choice of occupation (Article 1156); and freedom of choice of place of residence (Article 1157). Article 1157 states that “each spouse may choose his or her place of residence at his or her discretion unless doing so contradicts the family interests.” The Civil Code Commentaries do not clarify what is meant by “family interests,” although it states that this article does not oblige a wife to live with a husband, and that spouses can live separately.<sup>33</sup>

The Civil Code regulates property issues between spouses. Article 183 states that acquisition of ownership of immovable property should be agreed in writing and registered in the Public Register. Furthermore, Article 1158 states that “any property acquired by the spouses during their marriage shall be treated as their joint (matrimonial) property, unless otherwise determined by the marriage contract.” Paragraph 2 of the same article guarantees the right to matrimonial property to the spouse who does not have an independent income for valid reasons. The law also states that the care of children and the running of a household qualify as valid reasons. Notwithstanding, despite the fact that spouses have equal rights to matrimonial property (Article 1159) and that matrimonial property should be administered by their mutual agreement (Article 1160 (1)), the transaction of matrimonial property cannot be voided even if one of the spouses had no knowledge or disagreed with the transaction (Article 1160 (2)). This last provision disproportionately affects women as administration of property and transactions are mainly performed by men in their traditional role as head of the family.

The Civil Code also regulates issues related to inheritance. In case of intestacy, the first-degree heirs are the decedent’s spouse, children, including those born after death, and parents (Article 1336). Civil Code Article 1371 states

23. Ibid. art.10 (12).

24. Ibid. art.101.

25. Criminal Code of Georgia, Article 3811 (1), Available at [matsne.gov.ge/ka/document/view/16426](https://matsne.gov.ge/ka/document/view/16426) [Georgian orig. საქართველოს სისხლის სამართლის კოდექსი], accessed 13 September 2022.

26. <https://uni.cf/3RYOTWx> [Georgian orig. ბავშვობის ასაკში ქორწინება, საქართველო, 2018], accessed 13 September 2022.

27. Constitution of Georgia, Article 36, available at [matsne.gov.ge/ka/document/view/30346?impose=translateEn](https://matsne.gov.ge/ka/document/view/30346?impose=translateEn) [Georgian orig. საქართველოს კონსტიტუცია], accessed 13 September 2022.

28. Civil Code of Georgia, Article 1106, available at [matsne.gov.ge/ka/document/view/31702?impose=translateEn](https://matsne.gov.ge/ka/document/view/31702?impose=translateEn) [Georgian orig. საქართველოს სამოქალაქო კოდექსი, 2018], accessed 13 September 2022.

29. Ibid. Article 1151.

30. Georgia, child marriages, 2018, UNICEF, Available at: <https://uni.cf/3RYOTWx> [Georgian orig. ბავშვობის ასაკში ქორწინება, საქართველო, 2018], accessed 13 September 2022.

31. Child Rights in Georgia, Report Card 2019, Coalition for Children and Youth, 2019, available at: <https://phr.ge/documents/Report%20Card.pdf.pdf>, accessed 13 September 2022.

32. Early/child Marriages Harmful Practice in Kvemo Kartli, PDO, 2021, available at: <https://ombudsman.ge/res/docs/2022050510314114907.pdf> [Georgian orig. აღრეული/ბავშვობის ასაკში ქორწინების საზიანო პრაქტიკა ქვემო ქართლში], accessed 13 September 2022.

33. Commentaries to the Civil Code of Georgia, volume five (2000), pp. 106–7.

that regardless of the content of a will, the children, parents and spouse of a testator shall be entitled to a compulsory portion that shall be one half of the portion to which each of them would have been entitled by inheritance on intestacy (compulsory share).

### 2.1.5. Labour law

In 2020, major changes were introduced into the Labour Code of Georgia, which have increased protections for women. Previously, the sex of a person was mentioned only in Article 2 referring to the prohibition of discrimination based on sex in labour and pre-contractual relations.<sup>34</sup> Currently, an entire chapter is dedicated to the prohibition of labour discrimination, which is defined as including on the basis of sex, and additionally it defines sexual harassment as “conduct of a sexual nature towards a person, with the purpose and/or effect of violating the dignity of the person concerned and creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her.”<sup>35</sup> The regulation of sexual harassment is a novelty in Georgian legislation introduced by these amendments. This chapter also contains articles on burden of proof (Article 7); special protection and support measures (Article 8) and reasonable accommodation (Article 9). However, the concept of “gender” is not integrated into the Labour Code of Georgia.

In addition, under the new amendments, a person who was convicted of committing a crime against sexual freedom and inviolability is banned from employment in educational and foster care institutions and in service agencies for victims of violence against women for their lifetimes.<sup>36</sup>

There are women-specific provisions in the Labour Code. Namely, the law prohibits contracting women who have recently given birth or are breastfeeding for arduous, hard, harmful or hazardous work. This prohibition is introduced as a protective measure.<sup>37</sup>

As a measure of protection, the Labour Code foresees that pregnant women and women who have recently given birth should not be permitted to undertake overtime work.<sup>38</sup> In addition, night work, from 10 p.m. to 6 a.m., is prohibited for pregnant women, women who have recently given birth, nursing mothers and persons who babysit children under the age of three.<sup>39</sup> Employers shall be obliged to prevent a pregnant woman from performing work endangering her welfare and physical or mental health, or the health of her foetus.<sup>40</sup> Employing pregnant women, women who have recently given birth or are breastfeeding, persons with disabilities, minors, legal representatives or supporters of persons with disabilities, or persons who have children under the age of three, to work overtime without their consent is prohibited.<sup>41</sup> The right to medical examinations is also safeguarded in the code and remuneration should be retained.<sup>42</sup>

New positive development in the Labour Code concerns facilitation of professional development for mothers. Namely, the law states that “after the end of a period of maternity leave, parental leave, or newborn adoption leave, upon the request of the employee, the employer shall ensure that the qualifications of the employee are upgraded if this is necessary for the performance of the work under the employment agreement, and does not impose a disproportionate burden on the employer.”<sup>43</sup>

A new Chapter VII on Maternity, Parental, Newborn Adoption, and Additional Parental Leave was added to the Labour Code in 2020. According to the new regulations, paid maternity leave of 126 days (and in case of twins or complications it is 143 days) should be granted upon request during pregnancy or the postnatal period. An employee can receive parental leave up to 604 calendar days, out of which 57 shall be paid, and which may be enjoyed in whole or in part by the mother or the father of the child, although the father of the child has a right to enjoy the days of said leave which have not been used by the mother.<sup>44</sup> This is a new approach and a positive development in the legislation. Moreover, employees who have adopted an infant under the age of 12 months shall, upon their request, be granted a period of newborn adoption leave of 550 calendar days from the birth of the child; 90 calendar days of which shall be paid.<sup>45</sup>

34. Labour Code of Georgia, Article 2(3), available at: <https://matsne.gov.ge/en/document/view/1155567?publication=21>, accessed 13 September 2022.

35. Ibid. Article 4(5).

36. Ibid. Article 10(6).

37. Ibid. Article 10(5).

38. Ibid. Article 17 (2).

39. Ibid. Article 18.

40. Ibid. Article 35(7).

41. Ibid. Article 27 (6).

42. Ibid. Article 29.

43. Ibid. Article 22 (2).

44. Ibid. Article 37.

45. Ibid. Article 38.



The cash allowance for a period of paid maternity leave and paid parental leave, as well as paid newborn adoption leave, shall be a maximum of 1 000 Georgian lari (GEL) in total and shall be paid from the State Budget of Georgia.<sup>46</sup> It is positive development that fathers are entitled to receive paid childcare leave, but the fact that the entire amount is still only GEL 1 000 (approximately €300) is problematic as it is an insufficient amount to cover the expenses of raising a child. It should be noted that civil service employees are paid their full salaries for maternity and childcare leaves,<sup>47</sup> but the same does not apply to private sector employment where extra pay for such periods of leave remains underregulated and upon the agreement of employers and employees.

In addition, an employee may, upon request, be granted, not less than two weeks a year, additional unpaid parental leave of 12 weeks until the child turns five; additional parental leave may be granted to any employee who actually takes care of the child.<sup>48</sup>

The right to retire and receive a pension is connected to the retirement age, which is 65 for men and 60 for women.<sup>49</sup>

### 2.1.6. Anti-discrimination law

In 2014, Georgia adopted the Law on Elimination of All Forms of Discrimination, the purpose of which is to ensure equal rights and eliminate all forms of discrimination. The law enumerates all protected grounds, including sex and gender.<sup>50</sup> The law has a wide scope as it applies to the actions of public institutions, organizations, and natural and legal persons in all spheres of life.<sup>51</sup>

Initially, only direct and indirect discrimination were defined, but in 2019 amendments were introduced to the law. New forms of discrimination were added, namely harassment, sexual harassment and refusal of reasonable accommodation. Harassment is defined as persecution, coercion and/or unwanted conduct on any ground, with the purpose or effect of violating the dignity of a person and creating an intimidating, hostile, degrading, humiliating or offensive environment. Sexual harassment is defined as any form of unwanted verbal, non-verbal or physical conduct of a sexual nature, with the purpose or effect of violating the dignity of a person and creating an intimidating, hostile, degrading, humiliating or offensive environment.<sup>52</sup> Article 2 of the law defines temporary special measures as measures designed to “accelerate *de facto* equality, especially in gender, pregnancy, and maternity issues, also, with respect to persons with limited capabilities.” The law stipulates that such measures “shall not be considered discrimination.”

The Public Defender is entitled to “examine acts of discrimination based on applications or complaints, as well as on his/her own initiative and make appropriate recommendations.” In addition, it can prepare general proposals and propose legislative changes to the Georgian Parliament.<sup>53</sup> It should be highlighted that following recent legislative amendments, the Public Defender is entitled to refer to the national courts and demand the enforcement of its recommendations, addressed to both public authorities/institutions and legal persons of private law, in discrimination cases in which the perpetrator fails to take into consideration and fulfil the recommendations of the PDO. This change has increased the effectiveness of this mechanism.<sup>54</sup>

### 2.1.7. Law on Gender Equality

The Law on Gender Equality was adopted in 2010 to prevent and eliminate discrimination and create proper conditions for the realization of equal rights.<sup>55</sup> The law offers a definition of gender (“a social aspect of relation between sexes which is expressed in all spheres of public life and implies opinions formed about different sexes through socialization”). In addition, it defines discrimination, special measures, equal opportunities (“a system of means and conditions for achieving equality of rights and freedoms for men and women”) and equal treatment (“recognition of equal rights and opportunities for both sexes in family relations and other aspects of social and

46. Ibid. Article 39.

47. Law on Civil Service, Article 41.

48. Labour Code of Georgia, Article 40.

49. Law on State Pensions, Article 5, available at [matsne.gov.ge/ka/document/view/27946?impose=translateEn](https://matsne.gov.ge/ka/document/view/27946?impose=translateEn) [Georgian orig. სახელმწიფო პენსიის შესახებ], accessed 13 September 2022.

50. Law of Georgia on the Elimination of All Forms of Discrimination, 2014, Article 1.

51. Ibid. Article 3.

52. Ibid. Article 2.

53. Ibid. Article 6(2).

54. Ibid.

55. Law of Georgia on Gender Equality, 2010, Article 2. Available at: <https://matsne.gov.ge/en/document/view/91624?publication=9>, accessed 13 September 2022.

political life when determining education, labour and social conditions, as well as the inadmissibility of discrimination on the grounds of sex”).<sup>56</sup>

The law identifies the spheres in which gender equality should be guaranteed: labour relations (Article 6), education and science (Article 7); access to information (Article 8); health care and social security (Article 9); family relations (Article 10); and equal suffrage (Article 11). The law also obligates state institutions to produce sex-disaggregated data (Article 5).

New amendments were introduced in the law, in 2018 and 2020, and new national mechanisms for the promotion of gender equality were established. Namely, the Standing Parliamentary Council on Gender Equality became a permanent organ of the Parliament of Georgia. Additionally, the Government of Georgia has an obligation to establish an Interagency Commission on Gender Equality, Violence Against Women and Domestic Violence in order to ensure systematic and coordinated work on gender and other issues provided for by Georgian legislation.<sup>57</sup> Supreme representative bodies of the autonomous republics,<sup>58</sup> shall also set up a Gender Equality Council in order to ensure systematic and coordinated work with the Standing Parliamentary Council on Gender Equality established by the Parliament of Georgia in the relevant autonomous republic.<sup>59</sup>

According to the new amendments, the municipal sakrebulo (representative government) shall establish a Municipal Gender Equality Council to ensure systematic work on gender-related issues within the municipality and to coordinate collaboration with the Standing Parliamentary Council on Gender Equality established by the Parliament of Georgia. Moreover, municipal mayors shall designate a public servant responsible for gender-related issues within city government, with functions to assess the situation concerning gender-issues, schedule activities to be performed and to coordinate appropriate measures within the municipality.<sup>60</sup> These recent amendments have created new mechanisms at the local level for defining and coordinating gender policies.

The creation of permanent gender machinery at the national and municipal levels is a clear indication of progress, although implementation of the above-mentioned reforms on the municipal level remains problematic.

Overall, the law is not an entirely effective mechanism as it does not include comprehensive obligations for the appropriate agencies. It does not require gender mainstreaming, gender impact assessments, gender budgeting, gender audits, the collection of sex/gender-disaggregated data or gender training, all of which are needed to ensure effective implementation.<sup>61</sup>

### 2.1.8. The negative impact of gender-neutral legislation

Most laws in Georgia are gender-neutral. Georgian legislation treats citizens equally and so it lacks gender sensitivity to effectively address gender imbalances and male-dominated social structures. Gender-neutral legislation is not enough to overcome the inherent inequality between women and men, which is observed in every sphere of social, economic and political life in Georgia. Substantive equality will not be achieved with gender-neutral legislation, as gender-neutrality means ignoring gender-specific situations and power relations between women and men.<sup>62</sup> In fact, since men constitute the norm, gender-neutral laws are constructed based on the opinions, values and needs of men (Council of Europe Gender Equality Commission 2013: 9).

It is necessary to assess the impact of gender-neutral legislation on women, but the practice of gender impact assessment of legislation has been used only a few times by the Georgian Parliament and with the assistance of international organizations. It is vital for the parliament to develop its in-house experts and conduct gender impact assessments of every legislative act without donor support. The following gender impact assessments were conducted in Georgia with the financial support of the US Agency for International Development: Georgia's drug policy reform; labour legislation reform; physical education and sport.<sup>63</sup>

56. Ibid. article 3.

57. Ibid. article 12.

58. There are two autonomous Republics in Georgia, the Autonomous Republic of Ajara and the Autonomous Republic of Abkhazia. Constitution of Georgia, Article 3, available at [matsne.gov.ge/ka/document/view/30346?impose=translateEn](https://matsne.gov.ge/ka/document/view/30346?impose=translateEn) [Georgian orig. საქართველოს კონსტიტუცია], accessed 13 September 2022.

59. Law of Georgia on Gender Equality, 2010, Article 121.

60. Ibid. article 13 (11)(12).

61. Gender Equality in Georgia: Barriers and Recommendations, (Part I), Gender Equality Council of the Parliament, 2021, available at: <https://bit.ly/3QEYNeE>, accessed 13 September 2022.

62. European Institute for Gender Equality, Gender-neutral Legislation, available at: <https://bit.ly/3BikWdd> accessed 13 September 2022.

63. Official website of the Parliament of Georgia, available at: <http://pbo.parliament.ge/ge/costestimates/regulatory-impact-assessment.html> [Georgian orig. რეგულირების გავლენის შეფასება], accessed 13 September 2022.

### 3. ANALYSIS OF PRACTICES AND MECHANISMS FOR THE IMPLEMENTATION OF LAWS

#### 3.1. Implementation of laws and policies on violence against women

The Criminal Code has recognized a gender-based (hate) motivation as an aggravating factor since 2012.<sup>64</sup> The practice of identifying a gender-based motivation in crimes committed against women has dramatically improved during 2021. In this year, 732 cases of hate crimes based on gender were identified, as compared to only 208 in 2020 and just three cases in 2016.<sup>65</sup>

Domestic violence is a widespread crime in Georgia. The police hotline (112) receives more than 18 000 calls related to family conflicts annually. The police also issue a large number of restrictive orders, as seen in the table below.

**Table 1. Comparison of calls to police, restrictive and protective orders and prosecutions related to domestic violence, by year**

	2019	2020	2021
Number of calls made to police “112” line related to family conflicts	18 842	18 482	18 007
Number of restrictive orders issued by the police	10 266	10 321	9 376
Number of protective orders issued by the courts	106	104	92
Number of prosecutions under Criminal Code Article 126 <sup>1</sup> on domestic violence	4 579	4 637	5 144

Source: *The situation of Human Rights and Freedoms in Georgia 2021*, Public Defender of Georgia, p.151, available at: <https://www.ombudsman.ge/res/docs/2022040413242699860.pdf>

[Georgian orig. საქართველოში ადამიანის უფლებათა და თავისუფლებათა დაცვის მდგომარეობის შესახებ, 2021 წელი], accessed 13 September 2022.

It should be noted that the grounds for initiating a criminal investigation is any information provided to an investigator or a prosecutor, information revealed during criminal proceedings, or information published in the mass media.<sup>66</sup> Thus, a victim’s complaint is not necessarily required for initiating an investigation for any type of crime, including the crime of violence against women. However, in practice investigation usually begins after victims submit complaints to the police or prosecution. This is a reason for the significant difference between the number of hotline calls to the police on domestic violence and the number of prosecutions under Article 126<sup>1</sup> on domestic violence, as noted in the table. Despite the fact that Georgia has adopted a risk assessment tool for cases of violence against women, in practice police officers do not always ask all the questions included in the risk assessment checklist and at times even fill out some parts of the assessment themselves.<sup>67</sup>

The number of protective orders issued by courts is extremely low, especially when compared to the number of police-issued restrictive orders. Restrictive orders are issued by police for one month, while protective orders issued by court can last for up to three to six months. Furthermore, the victim has to prove an existing threat from the abuser during a court hearing, and the procedural differences likely explain why there is such variation between the numbers of restrictive and protective orders.

Despite these significant areas of weakness, the number of prosecuted domestic violence cases has increased in recent years, and this trend corresponds to measures taken to strengthen the internal capacity of the Prosecutor’s Office of Georgia to address domestic violence. Among other initiatives, in 2018, the office introduced specialized prosecutors and investigators who deal with offenses of domestic violence (Criminal Code Article 126<sup>1</sup>) and domestic offenses (Criminal Code Article 111) and who are required to undergo training courses on national and international standards.<sup>68</sup> The functions of the Witness and Victim Coordinator Service, within the prosecutor’s office, were also expanded in 2018. In domestic violence cases, as well as others concerning gender-based violence

64. Criminal Code of Georgia, Article 531, Available at [matsne.gov.ge/ka/document/view/16426](https://matsne.gov.ge/ka/document/view/16426). [Georgian orig. საქართველოს სისხლის სამართლის კოდექსი], accessed 13 September 2022.

65. Prosecutor’s Office of Georgia, report 2021, available at: <https://bit.ly/3xiMoGD> [Georgian orig. გენდერული დისკრიმინაციის მოტივი ქალთა მიმართ და ოჯახში ძალადობის სისხლის სამართლის საქმეებში], accessed 13 September 2022.

66. Criminal Procedure Code of Georgia, article 101, available: <https://matsne.gov.ge/en/document/view/90034?publication=137>, accessed 13 September 2022.

67. Patariaia, Urchukhishvili, *The Challenges in the Provision of Services to Female Victims of Domestic Violence by the Ministry of Internal Affairs during the COVID-19 Pandemic*, Sapari, 2021. Available at: <https://bit.ly/350E143>, accessed 13 September 2022.

68. Official website of the Prosecutor’s Office of Georgia: <https://pog.gov.ge/en/interesting-info/family-violence>, accessed 08 December 2022.

and hate crimes, coordinators have an important function in attending investigative processes that involve the victim, provide information and support to the victim and assist with referrals to available services, such as temporary shelter and medical or legal assistance.<sup>69</sup> It is quite possible that both victim support and specialization within the prosecutor's office have contributed to more domestic violence cases reaching prosecution.

In a study by the Caucasus Research Resource Center (CRR) on the judicial system, prosecutors highlighted the issue of victims of domestic violence changing their testimony, which, consequently, complicated resolution of such cases. The prosecutors suggested questioning victims in front of the magisterial judge so that this testimony could be used as evidence in the case.<sup>70</sup>

Sex crimes are one of the most problematic forms of violence against women in Georgia. When compared to incidents of domestic violence, the number of prosecuted sexual crimes is significantly low, as depicted in the table below.

**Table 2. Comparison of number of prosecuted cases of sex crimes, by year**

	2020	2021
Number of prosecutions for rape under Criminal Code Article 137	44	84
Number of prosecutions for acts of a sexual nature under Criminal Code Article 138	11	41
Number of prosecutions for bodily penetration of a sexual nature of a minor (below age 16) under Criminal Code Article 140	47	70

Source: Prosecutor's Office of Georgia, report 2021, available at: <https://bit.ly/3xiMoGD>  
 [Georgian orig. გენდერული დისკრიმინაციის მოტივი ქალთა მიმართ და ოჯახში ძალადობის სისხლის სამართლის საქმეებში], accessed 13 September 2022.

However, the number of prosecutions has been increasing in the last year, which is due to specialized trainings and guidelines adopted by the prosecutor's office with the help of international organizations.<sup>71</sup>

A coalition report submitted by Equality Now and other Georgian non-governmental organizations (NGOs) to the Committee on the Elimination of Discrimination against Women (CEDAW Committee) highlights serious shortcoming in combating sex crimes in Georgia, including: burdensome evidence and corroboration requirements to prove sexual violence; gender stereotyping and discriminatory investigation procedures; and intersecting forms of discrimination against vulnerable women victims of sexual violence.<sup>72</sup> One of the distinct challenges in the investigation of sex crimes is the lack of female forensic experts at the state-run Levan Samkharauli National Forensics Bureau. The PDO has assessed this situation to be discriminatory.<sup>73</sup> Georgian legislation allows the transfer of a person under examination to another branch or invitation of an expert of the same sex if the person so requests, but according to the Coalition for Equality report this practice is almost never used.<sup>74</sup>

In addition, according to the PDO, authorities investigate sexual violence crimes only when the perpetrator has used physical force and the victim has physically resisted. This results in a high attrition rate of sexual violence crimes and is a primary reason why a vast number of cases never reach the stage of prosecution.<sup>75</sup> In addition, the same report finds that stereotypical approaches toward sex crimes and gender stereotypes that are damaging to the victim are used during the investigation and at the trial. For instance, victims have been asked the following questions: whether it was the victim's first sexual act; whether the victim experienced pleasure during the sexual act; how the victim was dressed; and whether the victim was taking boys home. Witnesses have also been asked questions about the victim's moral character, only for the purpose of causing humiliation.<sup>76</sup> Unfortunately, when defence lawyers use humiliating and stereotypical language against women victims of violence

69. Official website of the Prosecutor's Office of Georgia: <https://pog.gov.ge/en/interesting-info/coordinator-of-the-witness-and-victim>, accessed 08 December 2022.  
 70. The Judicial System in Georgia: Views of Legal Professionals, CRR, 2021, p. 5, available at: <https://bit.ly/3d9C3pD>, accessed 13 September 2022.  
 71. Prosecutor's Office of Georgia, report 2021, available at: <https://bit.ly/3xiMoGD> [Georgian orig. გენდერული დისკრიმინაციის მოტივი ქალთა მიმართ და ოჯახში ძალადობის სისხლის სამართლის საქმეებში], accessed 13 September 2022.  
 72. Information on Georgia for consideration by the Committee on the Elimination of Discrimination against Women at the Pre-Sessional Working Group of its 81th Session (5 July – 9 July 2021), Equality Now, available at: <https://bit.ly/3eLmZPf>, accessed 13 September 2022.  
 73. Public Defender of Georgia, 2020, available at: <https://bit.ly/3eHXgY8>, accessed 13 September 2022.  
 74. Report of the Coalition for Equality and Other NGOs to the PRE-SESSIONAL WORKING GROUP OF THE CEDAW 81st SESSION, 2021, p. 4, available at: <https://bit.ly/3RV8MxG>, accessed 13 September 2022.  
 75. Public Defender's Office and Council of Europe, Administration of Justice for Sexual Violence Crimes against Women in Georgia, 2020, pp. 23–25. Available at: <https://rm.coe.int/sexual-violence-research-eng/1680a17b78>, accessed 13 September 2022.  
 76. Ibid. p.28.

publicly, the Ethics Commission of the Georgian Bar Association considers this a tactic of the defence and has not imposed any disciplinary sanctions. The fact that the Ethics Commission demonstrates tolerance towards lawyers who humiliate women victims of gender-based violence poses a serious barrier to women's access to justice (see *Todadze v. Kublashvili*).<sup>77</sup>

Rehabilitation services for the victims of violence against women is provided by the State Fund for Protection and Assistance of (statutory) Victims of Human Trafficking (Atipfund) operating under the Ministry of Internally Displaced Persons from Occupied Territories, Labour, Health and Social Affairs. Currently Atipfund runs state shelters in Gori, Kutaisi, Signaghi and crisis centres in Tbilisi, Kutaisi, Gori, Marneuli, Ozurgeti.<sup>78</sup> In recent years, around 400 beneficiaries a year have received services from the state shelters. In comparison, the state-run Crisis Centre, which has no temporary shelter facilities, served 242 beneficiaries in 2019 and 474 in 2020.<sup>79</sup> A study conducted by the Equality Coalition on social services revealed that a major challenge is the lack of available services for victims of domestic violence and their short-term character, which is not sufficient to empower victims.<sup>80</sup> Moreover, an additional key problem is that to receive services from state Atipfund one has to have the formal status of a victim, which is quite problematic to receive. This requirement should be abolished. The CEDAW Committee has also recommended that all barriers to victims of domestic violence be abolished and that their access to services be guaranteed.<sup>81</sup>

According to the law, a protective order may instruct the abuser to complete mandatory training courses that are focused on changing their violent attitudes and behaviours.<sup>82</sup> However, corrective services for abusers are poorly developed and are available only in special penitentiary services and during the probation period. In 2019, only ten convicted persons voluntarily undertook the corrective course in two detention facilities. In 2018, 212 probationers undertook the course. In 2019, 151 people were involved in such corrective courses. In 2020, this figure was 99 people, but then all the corrective programs were suspended due to the Covid-19 pandemic.<sup>83</sup>

Since 2016, the PDO has operated Femicide Watch to analyse and report gender-based murders, attempted murders and suicides of women in Georgia based on a special methodology.<sup>84</sup> The 2020 femicide report underlines shortcomings in investigations and gathering of evidence resulting in defendants being found guilty of a relatively lesser crime. Moreover, stereotypical attitudes towards the victim have been demonstrated. For instance, information about victims' personal and sexual life, which was not essential in determining the circumstances of the case, has been revealed. In addition, the study highlights that courts do not have an understanding that attempted femicide is the culmination of pre-existing domestic violence that has been preceded by other violent acts.<sup>85</sup> The 2021 femicide report states that "courts simply turn a blind eye to the legal assessment of crimes committed against women because of their sexual orientation or gender."<sup>86</sup>

In 2020, 24 women were killed, of whom 15 were domestic violence cases and 9 of which had other motivations.<sup>87</sup> The majority of femicide crimes were motivated by jealousy, controlling behaviours or demands for obedience and were committed by male partners or former partners of the victims.

### 3.2. Implementation of law and policies on gender equality

The effectiveness of the work of the Gender Equality Council in the parliament is heavily dependent on its chair. If she prioritizes gender work, the council is active; if not, then the council becomes passive. For this reason, the

77. Shadow Report of the Coalition for Equality and other NGOs to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), 2021, available at: [http://equalitycoalition.ge/files/shares/Coalition\\_For\\_Equality\\_Report\\_Georgia.pdf](http://equalitycoalition.ge/files/shares/Coalition_For_Equality_Report_Georgia.pdf), accessed 13 September 2022.

78. Official webpage of Atipfund, available at: <http://atipfund.gov.ge/eng>, accessed 13 September 2022.

79. The Main Challenges of the Social Protection System for Various Vulnerable Groups in Georgia, Equality Coalition, 2022, p. 42, Available at: [http://equalitycoalition.ge/files/shares/160x230mm\\_ENG\\_Pages.pdf](http://equalitycoalition.ge/files/shares/160x230mm_ENG_Pages.pdf), accessed 13 September 2022.

80. Ibid. p. 44.

81. List of issues and questions in relation to the sixth periodic report of Georgia, CEDAW/C/GEO/Q/6, 16 July 2021, §10 (f).

82. The Law of Georgia on Violence against Women and Elimination of Domestic Violence, Protection and Support of Victims of Violence, 2006, Article 10 (7), available at: <https://bit.ly/3U4im30> [Georgian orig. ქალთა მიმართ ძალადობის ან/და ოჯახში ძალადობის აღკვეთის, ძალადობის მსხვერპლთა დაცვისა და დახმარების შესახებ], accessed 13 September 2022.

83. Parliamentary Thematic Research Report on Istanbul Convention, Parliament of Georgia, 2022, pp. 59–60, available at: <https://info.parliament.ge/file/1/BillReviewContent/296148> [Georgian orig. თემატური მოკვლევების ანგარიში "ქალთა მიმართ ძალადობისა და ოჯახში ძალადობის პრევენციისა და აღკვეთის შესახებ" ევროპის საბჭოს კონვენციის (სტამბულის კონვენცია) ვალდებულებების კანონმდებლობაში ასახვის და მათი აღსრულების ეფექტიანობის შესახებ], accessed 13 September 2022.

84. PDO official website, available at: <https://ombudsman.ge/eng/monitoringis-mekanismis-shesakheb>, accessed 13 September 2022.

85. Femicide Monitoring Report, PDO, 2020, available at: <https://ombudsman.ge/res/docs/2021061415064797521.pdf>, accessed 13 September 2022.

86. Femicide Monitoring Report, PDO, 2021, p.39.

87. Country Gender Equality Profile of Georgia, UN women, 2021, p. 65. Available at: <https://bit.ly/3DIs8rU> accessed 13 September 2022.

work of the Gender Equality Council has not been consistent. Moreover, a majority of the work performed by the Council relies on international donor support.

Recently, the council has strengthened its research activities and has published a number of thematic reports and policy papers. In addition, the council publishes all of its papers, meeting minutes, action plans and activity reports on its webpage, and this ensures transparency and accountability to the public.<sup>88</sup> However, the Gender Equality Council and other mechanisms envisaged by the gender equality law do not have the capacity to conduct gender mainstreaming in the work of other relevant institutions, such as gender audits, gender budgeting, gender assessment and analysis and the introduction of gender sensitive policies.<sup>89</sup>

Despite the fact that municipal-level gender equality councils exist, research shows that these councils have a formal character and they do not work effectively to elaborate gender equality action plans, nor do they monitor and evaluate implementation of these action plans. No gender mainstreaming is performed in municipalities, and existing action plans tend to be generic, they resemble each other, and do not have budget allocations.<sup>90</sup>

### 3.3. Implementation of anti-discrimination law in cases of discrimination based on sex and gender

The Law on Elimination of All Forms of Discrimination was adopted in 2014, and the PDO is the implementation mechanism for this law in Georgia. The PDO publishes special reports on a yearly basis regarding its own work and on other specific issues related to equal treatment.<sup>91</sup> In its report of 2021, the PDO underlines that sexual harassment, especially in the workplace, remains a challenge. In 2021, 16% of all applications to the PDO were received from women employed in various fields; in 2020 this figure was 18%. Overall, the PDO received 113 new cases related to discrimination in 2021 and 161 cases in 2020.<sup>92</sup> It is interesting to note that of the complaints to the PDO about discrimination, 66% of are made against public agencies and 34% against private entities in both 2020 and 2021.

The PDO has received sexual harassment cases in labour relations and on social networks and the behaviour of harassers has included “verbal and physical sexual acts, asking personal questions, requesting a phone number, sending abusive messages with sexual content, discussing the applicant’s life with another employee in a sexual context, forcing a kiss, offering sex, etc.”<sup>93</sup> The PDO identifies single women (unmarried, divorced, separated, widowed) and single mothers as one of the most vulnerable groups who are subjected to sexual harassment. It is worth noting that the PDO assesses not only the behaviour of the harasser, but also the response of the employer to the cases of sexual harassment in the workplace. The PDO, in its report, focuses on sexual and reproductive health and rights of women with visual impairments and physical disabilities as one of the groups facing specific barriers when receiving antenatal services. The report expresses concern that pregnancy-related services will still be provided in facilities, some of which do not meet the environmental requirements for persons with disabilities, until 2023.<sup>94</sup>

Moreover, the PDO reports on incitement to discrimination on the ground of sex and discusses the attempt by male members of parliament to neutralize female opponents by the use of physical force and sexist speech. The PDO notes that this behaviour has a negative impact on women’s participation in politics and “reinforces the stereotype that a woman is not a creator or a participant in processes, but an inanimate object that can be controlled by men by completely neglecting her will and dignity.”<sup>95</sup> The PDO also criticizes the Gender Equality Council which failed to provide an adequate response in the aforementioned case (*Bokuchava v. Papuashvili*).

88. Official webpage of the Parliament of Georgia, available at: <https://parliament.ge/parliament/councils/51090/about> accessed 13 September 2022.

89. Gender Mainstreaming – A Review of the Obligations Recognized by Georgia and the Status of Their Fulfilment, 2021, available at: <https://ombudsman.ge/res/docs/2021031012092173973.pdf> [Georgian orig. გენდერული მენისტრინგი საქართველოს მიერ აღიარებული ვალდებულებებისა და

მათი შესრულების სტატუსის მომხილვა], accessed 13 September 2022.

90. Gender Equality Action Plans and their Implementation in Lagodekhi, Borjomi and Marneuli Municipalities, Sapari, 2022, available at: <https://sapari.ge/wp-content/uploads/2022/04/munits.pdf>, accessed 13 September 2022.

91. PDO official website, available at: <https://ombudsman.ge/eng/190308041856angarishebi>, accessed 13 September 2022.

92. Special Report of the PDO of Georgia on the Situation of Equality and Combating and Preventing Discrimination, PDO, 2022, p. 46–47, available at: <https://ombudsman.ge/res/docs/2022022413261538101.pdf> accessed 13 September 2022.

93. Ibid. p.10.

94. Ibid. p.16.

95. Ibid. p. 41.

The Equality Coalition, consisting of 11 NGOs, also prepares yearly reports on the implementation of the anti-discrimination law and assesses the situation of different vulnerable groups annually.<sup>96</sup> In 2021, the report identifies major challenges with regard to equal treatment for women and outlines the following problematic areas: sex crime definitions and inadequately high standard of proof; refusals to grant victim status to victims of sex crimes; inadequate criminalization of economic violence; and violations of labour and other rights of women who are involved as party coordinators in local self-government elections.<sup>97</sup>

In 2021, the Committee on the Elimination of Discrimination against Women issued a decision on *Khanum Jeiranova v. Georgia*, a case of gender and honour-based violence, stating that Khanum Jeiranova “was the victim of intersecting discrimination related to her ethnicity and the stereotypical attitudes of the police and judicial authorities.”<sup>98</sup> This is the first time that an international body has found multiple discrimination based on both gender and ethnicity against Georgia.

In 2021, the European Court of Human Rights ruled on the simultaneous violation of Article 2 (right to life) in conjunction with Article 14 (prohibition of discrimination) of the European Convention on Human Rights in *Tkheldze v. Georgia*. This case is also a precedent, as it is the first case of femicide against Georgia in which discrimination was established for domestic violence in relation to both material and procedural parts of the violation of the right to life. The European Court of Human Rights concluded that “the general and discriminatory passivity of the law-enforcement authorities in the face of allegations of domestic violence such as the present case had created a climate conducive to a further proliferation of violence committed against women. That being so, the respondent state’s failure to take preventive operational measures had undermined the rights of the applicant and her daughter to equal protection before the law.”<sup>99</sup>

## 4. SOCIO-ECONOMIC AND CULTURAL BARRIERS TO WOMEN’S ACCESS TO JUSTICE

### 4.1. Gender attitudes and stereotypes in Georgia

#### 4.1.1. Attitudes on women’s place in society and career

Despite the fact that gender roles are still highly dichotomized in Georgia, receptivity to the idea of a more equitable future is growing, as compared to the situation in previous years. For example, a United Nations Population Fund (UNFPA) study reveals that traditional views of gender roles are becoming less common; only 60% of men (80% in 2013) and 38% of women (66% in 2013) believe that a woman’s main duty is to take care of the family rather than to seek a professional career.<sup>100</sup> Younger women (aged 18–24) overwhelmingly disagree (83%) that women’s main duties are to their family rather than to professional aspirations. The generational gap in attitudes is evident when comparing these responses to those of the older generation. Despite this progress, however, patriarchal attitudes prevail in all spheres of life, as discussed below.

Notwithstanding the fact that more than three of four men and women agreed that a man should be equally involved in housework, these responsibilities are blatantly gender-segregated with women doing nearly all the cooking and cleaning tasks. Childcare responsibilities also remain the primary domain of women with more than two of every three women reporting being “always” or “usually” responsible for childcare. However, more men (43%) report equally sharing childcare, with only about 28% of women reporting that they do this task together. Still, no definite role in child care has been allocated to fathers by the respondents. From 41%–44% of men reported that they have never changed a diaper or bathed their child. More than half (54%) of respondents did not know that paternity leave is guaranteed by legislation. Just over a third (39%) of women and around a quarter (24%) of men reported that they “sometimes” or “often” slap or beat their child.<sup>101</sup>

Housework responsibilities affect women more than men. Only the task of buying food is somewhat shared equally between women and men. Paying bills is done equally according to one in three men and women. However, 67% of women and 63% of men are satisfied with the existing allocations of duties. The report concludes

96. Equality Coalition official website, available at: <http://equalitycoalition.ge>, accessed 13 September 2022.

97. The Right to Non-discrimination in Practice for Various Groups in Georgia, Equality Coalition, 2021, pp. 37–42. Available at: <https://bit.ly/3BB8yX9>, accessed 13 September 2022.

98. Khanum Jeiranova v. Georgia, CEDAW, 2021, para. 7.6. available at: <https://bit.ly/3Bdw8rr>, accessed 13 September 2022.

99. Tkheldze v. Georgia, ECtHR, 2021, available at: <https://bit.ly/3xiQL4A>, accessed 13 September 2022.

100. Men, Women, and Gender Relations in Georgia: Public Perceptions and Attitudes, UNFPA, 2020, p. 27, available at: <https://georgia.unfpa.org/sites/default/files/pub-pdf/unfpa-research-eng.pdf>, accessed 13 September 2022.

101. Ibid. pp. 50–51.

that the home continues to be perceived as women's domain and perhaps that is why women prefer to retain more control and influence in this sphere.<sup>102</sup>

According to the study, 60% of men (in comparison to 72% in 2013) and 30% of women (56% in 2013) agree with the statement that a good woman never questions her husband's opinions and decisions even if she disagrees with him.

With regard to attitudes on sex, 40% of men and 9% of women think that men need other sexual partners even if they are in a relationship or marriage; 65% of men and 35% of women think that men are always ready to have sex; and 38% of men and 29% of women consider it a woman's responsibility to avoid pregnancy.

#### 4.1.2. Attitudes towards violence against women

Around half (52%) of men and 35% of women consider domestic violence a private matter in which others should not intervene, and 18% of men and 13.6% of women say that there are times when a woman deserves to be beaten. Around two-thirds of women (65%) and almost half of men (47%) believe that domestic violence is common in Georgia. One in every five women reports having experienced emotional violence at the hands of their partners. About one in five women have experienced economic violence by a partner, and approximately one in three men report having perpetrated it.<sup>103</sup>

With regard to sexual violence, 5% of women today (6% in 2013) have experienced sexual violence in their lifetime, and 3% of men (19% in 2013) have perpetrated it. Still, one in three men agree that women cannot refuse to have sex with their husbands, while one in four women agree with the statement. The UNFPA study also collected information regarding perceptions of rape, which indicate that 50% of men and 29% of women think that if a woman does not physically resist, it is not a rape; 33% of men and 14.6% of women think that in some cases women actually want to be raped; and 16% of men and 14% of women say that "you cannot really say that it was rape" if the woman has a mental disability. On the other hand, two in three respondents confirmed that it is a criminal offence for a husband to force his wife to have sex against her will.<sup>104</sup> The above-mentioned statistical data shows how patriarchal stereotypes prevail in attitudes towards sexual relationships. Having no formal sexual education in schools is definitely a major contributor to the lack of information regarding consensual sex. Moreover, deficient legislation on rape is also an important factor in the formation of incorrect perceptions of sex crimes among the public.

## 4.2. Brief overview of key statistics concerning women's position in society, the economy and politics

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### 4.2.1. Women in the economy

Data of the National Statistics Office of Georgia (GeoStat) indicates that gender inequality is apparent in several spheres, for example regarding income, expenditures, salaries and agriculture. Unemployment is higher among men (12.5%) than for women (6.6%), because fewer women are searching for jobs. Women in Georgia are more often economically inactive, as compared to men. The average wage difference between men (GEL 1 407) and women (GEL 952) remains significantly high at 32.4% in 2020. In previous years, the wage gap was 36%. The greatest wage difference is in the financial and insurance sector where men earn twice as much (GEL 3 016) as compared to women (GEL 1 643). There is no sector in which women earn more than men. Even in education, which is a feminized and low paid sector, men earn slightly more than women (GEL 786 as compared to GEL 731).<sup>105</sup> The hourly unadjusted gender pay gap in Georgia is 18%, while adjusted gender pay gap is 25%, because women less often work in paid jobs. Furthermore, women's considerably high educational qualifications do not explain the gender pay gap. In fact, the contrary appears to be the case- women's qualifications amplify the pay gap.<sup>106</sup>

Having family responsibilities significantly affects labour market outcomes especially for women. For around a third (30%) of women who are willing but unable to work, family responsibilities are the critical factor. Among unemployed women, 29% cite the unavailability and unaffordability of childcare services as reasons for being

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102. Ibid. pp. 34–36.

103. Ibid. pp. 37–39.

104. Ibid. pp. 40–41.

105. Women and Men in Georgia, National Statistics Office of Georgia, 2021 available at: <https://bit.ly/3RZvXH7> [Georgian orig. ქალი და კაცი საქართველოში], accessed 13 September 2022.

106. Analysis of the Gender Pay Gap and Gender Inequality in the Labour Market in Georgia, UN Women, 2020, p. 43, available at: <https://bit.ly/3L9eXMh>, accessed 13 September 2022.



unemployed; these women belong to the poorest households (with below GEL 500 monthly household income).<sup>107</sup> Household structures show that women mostly perform unpaid family work. For example, a mother of two children experiences a six-time higher economic inactivity rate compared to fathers of two.<sup>108</sup>

Almost all domestic workers (99%) are women who have only verbal employment agreements; 82% of them work overtime. Around 70% of them are married and living in urban areas and they suffer poor and/or unsafe working conditions.<sup>109</sup>

In 2019, the Parliament of Georgia conducted a Thematic Inquiry on Women's Participation in State Economic Programs. According to the inquiry, women are less likely to benefit from these economic programs because the programs themselves do not consider the structural gendered barriers that women face.<sup>110</sup>

Income provided through maternity leave benefits is insufficient in Georgia. According to the legislation, the cap of benefits for six months is GEL 1 000 for a woman and her child. This is below the subsistence minimum (it amounts to 65% of the subsistence minimum), and furthermore the amount decreases as time passes. It is worth mentioning that leave compensated at 100% is only available for women working in the civil service, which is equivalent to only 3% of all employed women.<sup>111</sup>

Thus, national data indicate that women are less engaged in the economy as compared to men. When employed, women earn less, on average, and often do not benefit from economic guarantees during pregnancy, childbearing or childcaring. Economic policies in Georgia are not designed in a way to achieve economic equality between men and women.

#### 4.2.2. Women in politics

Women are underrepresented in Georgian politics. Despite the fact that a majority of Georgians (78%) support the idea that women should make up at least 30% of the national parliament,<sup>112</sup> there are only 27 women (18%) among Georgian parliamentarians.<sup>113</sup> However, this is a slight increase compared to previous years (up from 14%) due to mandatory gender quotas that were adopted in 2020.

According to amendments introducing mandatory gender quotas, the Election Code states that party lists for the parliamentary elections to be held before 2024 shall be determined by the political party in such a manner that at least one person of every four candidates is a representative of the opposite sex. If there is no such gender balance, the list shall be returned to the party which then has three days to rectify the defect. If the party list is not amended, it shall not be registered.<sup>114</sup> In addition, if a member of parliament withdraws, her seat shall be occupied by the next candidate in the party list of the same sex and if there is no candidate of the same sex elected to the parliament on the submitted party list, the seat shall be cancelled. All of these preconditions guarantee that the quotas will be affective and mitigate against manipulation by political parties.

Women's representation in municipal councils grew almost two-fold after the 2021 local elections in Georgia, reaching a historical 24% due to the gender quotas. The Election Code states that a party list for the general municipal elections to be held before 2028 shall be determined by a party in such a way that at least one of every three candidates on the submitted list is a representative of the opposite sex.<sup>115</sup> It is worth mentioning that initially in 2020, the law envisaged better representation of women in municipalities, with a requirement of having every second candidate of the opposite sex. However, this change was included in the draft law in 2021, at the stage of the second hearing, whereas at the first hearing, this issue was not raised at all. Consequently, the issue was not discussed publicly during either committee or plenary sessions.<sup>116</sup> As a result, the mandatory gender quota for municipal elections was softened before the elections took place. Adoption of mandatory gender

107. Policy Brief: Regulatory Impact Assessment on C156 – Workers with Family Responsibilities, UN Women, ISET, 2022, available at: <https://bit.ly/3LaQuq2>, accessed 13 September 2022.

108. Analysis of the Gender Pay Gap and Gender Inequality in the Labour Market in Georgia, UN Women, 2020, p. 39, available at: <https://bit.ly/3L9eXMh>, accessed 13 September 2022.

109. Policy Brief: Regulatory Impact Assessment of ILO C189 – Domestic Convention, UN Women, ISET, 2021, available at: <https://bit.ly/3BAmZdT>, accessed 13 September 2022.

110. Country Gender Equality Profile of Georgia, UN Women, 2021, p.75, available at: <https://bit.ly/3DIs8rU>, accessed 13 September 2022.

111. Policy Brief: Towards Better Maternity Protection in Georgia: which policies would work best for the Country? Un Women, ISET, 2021, available at: <https://bit.ly/3LgXL7J>, accessed 13 September 2022.

112. Public Attitudes in Georgia, NDI, 2019, available at: <https://caucasusbarometer.org/en/nj2019ge/BESTPRP/>, accessed 13 September 2022.

113. Official website of the Parliament of Georgia, available at: <https://parliament.ge/parliament-members> [Georgian orig. პარლამენტის წევრები], accessed 13 September 2022.

114. Election Code of Georgia, Art. 203. Available at: <https://matsne.gov.ge/en/document/view/1557168?publication=69>, accessed 13 September 2022.

115. Ibid.

116. Special Statement of Women's Movement, June 23, 2021. Available at: <https://bit.ly/3dfnvVu>, accessed 13 September 2022.

quotas is a positive step forward, although the quotas should be raised in order to ensure the critical number of women in electoral bodies (which is usually considered to be 30%).

During municipal elections of 2021, violations of the labour and other rights of women who were working as party coordinators in local self-government elections were assessed to be particularly problematic. Apparently, women agree to work as party coordinators due to poverty and lack of other economic opportunities. While working, they are sometimes forced to engage in illegal activities, such as vote buying, influencing the will of the voter and threatening insolvent voters.<sup>117</sup>

### 4.2.3. Social life of women

According to GeoStat, the sex ratio at birth is 109 boys for 100 girls (note the biologically normal ratio ranges from 102 to 106 male births for every 100 female births). With regard to the practice of sex selective abortions, there have been positive developments when the birth concerns the third child in the family. Compared to 2006 when the sex ratio at birth for third children was 141 boys for every 100 girls, today the figure is 114 boys for 100 girls, coming closer to the biological norm.<sup>118</sup> This improvement could be related to a decrease in sex-selective abortions in general as doctors refrain from revealing the sex of the foetus before 12 weeks of pregnancy, taking into consideration that legal abortion is only possible until 12 weeks of pregnancy.<sup>119</sup> In addition, according to GeoStat, the number of registered abortions is decreasing steadily; in 2012 it was 39 000, in 2020 it was 19 000. The statistical data still suggests, however, that boys are preferred over girls even at the prenatal stage.

In Georgia, direct or indirect control of female reproduction is common because pregnancy and motherhood are encouraged. Women must constantly justify and explain why they are not having children. They sometimes hide their pregnancies or the fact that they are using contraceptives. Moreover, many women are deprived of the opportunity to freely, without coercion, control when, how much and at what interval to have children. This situation is especially characteristic for ethnic minority women and is related also to the unequal geographical distribution of reproductive services and women's economic dependence- all of which constrain women from exercising their reproductive rights.<sup>120</sup> Reproductive knowledge and services are frequently not available to women, amplified by intersectionality and the fact that decisions about reproductive health are often controlled by family members and not by women independently.

Early marriages and early motherhood remain a persistent problem for girls, although both are decreasing. Today, the adolescent fertility rate in Georgia (average number of births per 1 000 women ages 15–19) is 43, while in 2014 it was 50.<sup>121</sup> In 2021, the police initiated investigations in 101 criminal cases alleging early marriage of a child (there were 132 investigations in 2020), and schools reported 36 children dropping out due to marriage (as compare to 20 in 2020).<sup>122</sup>

## 5. GENDER RESPONSIVENESS OF THE JUSTICE SYSTEM

### 5.1. Legal aid

The Law of Georgia on Legal Aid regulates the functioning of an independent body, the Legal Entity of Public Law (LEPL) Legal Aid Unit, which is not subordinated to any state body and is accountable only to the Parliament of Georgia. The LEPL comprises the central office, Legal Aid Bureaus (LABs) and Consultation Canters.<sup>123</sup> The number of regional offices has increased recently, and currently the Legal Aid Unit has 13 LABs in large cities

117. The Right to Non-discrimination in Practice for Various Groups in Georgia, Equality Coalition, 2022, p.43. available at: <https://bit.ly/3S0MfzG>, accessed 13 September 2022.

118. Women and Men in Georgia, National Statistics Office of Georgia, 2021 available at: <https://bit.ly/3RzvxH7>, accessed 13 September 2022.

119. Order #01–74/n on Rules on Artificial Termination of Pregnancy, 2014, available at: <https://matsne.gov.ge/ka/document/view/2514236?publication=0> [Georgian orig. ორსულობის ხელოვნური შეწყვეტის განხორციელების წესების დამტკიცების თაობაზე], accessed 13 September 2022.

120. Assessment of Sexual and Reproductive Health and Rights of Women and Girls from Non-dominant ethnic Groups in Georgia, PDO, 2022, p. 19, Available at: <https://www.ombudsman.ge/res/docs/2022050510323493390.pdf>, accessed 13 September 2022.

121. Adolescent fertility rate, the World Bank, available at: <https://data.worldbank.org/indicator/SP.ADO.TFRT?locations=GE>, accessed 13 September 2022.

122. The situation of Human Rights and Freedoms in Georgia 2021, Public Defender of Georgia, p.123, available at: <https://www.ombudsman.ge/res/docs/2022040413242699860.pdf> [Georgian orig. საქართველოში ადამიანის უფლებათა და თავისუფლებათა დაცვის მდგომარეობის შესახებ, 2021 წელი], accessed 13 September 2022.

123. Law of Georgia on Legal Aid, Article 8, available at: <https://matsne.gov.ge/en/document/view/21604?publication=16>, accessed 13 September 2022.

and 32 Consultation Centres covering all of Georgia.<sup>124</sup> Legal aid is provided through public lawyers, legal aid providers or lawyers included in the registry.<sup>125</sup> As of 2019, the total budget for legal aid services amounted to around GEL 6.5 million, in 2021 the budget increased to GEL 7.3 million.<sup>126</sup> It is a positive development that the funds allocated for the Legal Aid Service are increasing.

According to Article 3 of the Law on Legal Aid, the Legal Aid Unit provides the following services: drafting legal documents such as applications, claims, complaints, statements of defence, motions and other documents; defending an accused, convicted or acquitted person in criminal proceedings; protecting victims in criminal proceedings when conducting a defence in cases provided by the Criminal Procedure Code of Georgia at the expense of the state; providing representation in court with respect to administrative and civil cases; and providing representation before an administrative body.<sup>127</sup>

Free legal aid is provided by the Legal Aid Unit only if an accused, convicted and/or acquitted person is insolvent. Furthermore, the Legal Aid Unit ensures that legal documents on any issue with respect to civil and administrative cases are drafted for an insolvent person regardless of the importance or complexity of a case. Since 2018, legal aid is available to the party who is a beneficiary of support in a civil and/or administrative proceeding. Moreover, the Director of the Legal Aid Unit can also decide on the provision of services for a non-insolvent person, who is nevertheless socially indigent and who, due to difficult socio-economic conditions, cannot afford a lawyer's services.<sup>128</sup>

From August 2022, new amendments came into force regarding legal aid for victims of domestic violence. According to the changes, the Legal Aid Unit will provide legal aid and court representation in civil and administrative cases for victims of domestic violence regardless of insolvency status, if the victim does not have private lawyer and if the case is related to domestic violence and concerns real estate, social assistance, pension, state compensation and state scholarships, health protection, veterans, social help for victims of political repressions, disabilities or labour rights.<sup>129</sup> Moreover, victims of domestic violence can receive legal aid in criminal cases related to domestic violence if they do not have a private lawyer; if their income did not exceed GEL 6 000 during the last year and currently they do not have more than GEL 500 in a bank account, or the victim has financial hardships and is otherwise acknowledged by the Legal Aid Council.<sup>130</sup> These recent changes have improved accessibility of justice for victims of domestic violence.

Insolvency is defined by the Georgian Government as applying to a member of a family registered in the unified database of socially vulnerable families. According to the relevant government resolution:<sup>131</sup>

- ▶ a socially vulnerable person is deemed insolvent if his/her ranking amounts to 70 000 or fewer points;
- ▶ a socially vulnerable person is also considered insolvent if she/he has 100 000 or fewer points and belongs to one of the categories listed below:
  - member of a family with many children: three or more children under 18 years old;
  - veteran of war or the military forces;
  - a person with limited capacity status under 18 years of age;
  - an adult with the status of distinct or significant limited capacities;
  - an individual with the status of distinct, significant or moderate limited capacities, if this limitation of capacities has existed since childhood;
  - an orphan under 18 years of age;
  - an IDP as a result of the 2008 armed conflict between the Russian Federation and Georgia.

It should be highlighted that insolvency is determined based on family income. This practice could create problems for those women who do not have an independent income or do not have access to the family's financial resources, especially when the woman has a conflict with or is in the process of divorcing the breadwinner of the family.

124. Official website of the Legal Aid Unit, available at: <http://www.legalaid.ge/en/p/1/offices>, accessed 13 September 2022.

125. Law of Georgia on Legal Aid, Article 18–19, available at: <https://matsne.gov.ge/en/document/view/21604?publication=16>, accessed 13 September 2022.

126. Access to Justice in Georgia, Social Justice Center, 2021, p. 52, available at: <https://bit.ly/3RWTSHd>, accessed 13 September 2022.

127. Ibid. Article 3.

128. Ibid. Article 5, See also, Decision N10 of Legal Aid Council, dated 11 July 2014.

129. Ibid. Article 5 (25).

130. Ibid. Article 5 (26).

131. Government of Georgia, Resolution No. 424.

In exceptional cases, a public lawyer shall be appointed to the persons who are not registered in the database of socially indigent persons, but due to difficult socio-economic conditions they cannot afford lawyer's service, namely:<sup>132</sup>

- ▶ Persons who met the criteria of insolvency and their data is available in the archives of the unified database of socially vulnerable families;
- ▶ Persons whose difficult social-economical condition is proved by a certificate issued by the local self-governing institutions;
- ▶ Persons with an incurable and serious disease;
- ▶ Single mothers who have juvenile children;
- ▶ Persons acknowledged as a victim of political repression;
- ▶ Pensioners;
- ▶ Lawyers employed by the Legal Aid Service, his/her family members and relatives;
- ▶ Families who have lost the breadwinner;
- ▶ Beneficiaries of the Program on Rehabilitation and Resocialization of Former Prisoners of the LEPL "Crime Prevention Centre;"
- ▶ Beneficiaries of the international humanitarian union "Catharsis" (Charity House);
- ▶ Juveniles who are a party to civil administrative cases.

According to the data provided by Legal Aid Unit in 2020–2021 the following services were offered to its beneficiaries:

**Table 3: Number of cases dealt with by the Legal Aid Service**

Type of service	Number of clients	
	Women	Men
<i>2020:</i>		
Consultations	13 929	7 820
Court representation	2 554	10 943
Preparation of documentation	782	501
Restrictive and protective orders on domestic violence	38	9
Legal aid to domestic violence victims in criminal cases	2	18
<i>2021:</i>		
Consultations	9 908	5 587
Court representation	1 290	14 278
Preparation of documentation	791	499
Restrictive and protective orders on domestic violence	44	11
Legal aid to domestic violence victims in criminal cases	134	109

Source: Letter from the Legal Aid Service #LA 4 22 00022708, dated 18 July 2022.

According to a study on access to justice, 67% of respondents have heard of services of the public Legal Aid Unit and half of them have used its services. In addition, 54% of respondents have heard about legal aid provided by NGOs. In terms of perceptions about legal aid, 31% of respondents trust the Legal Aid Service, 23% trust NGOs and 13% trust neither of them.<sup>133</sup>

132. Decision #27 of the Legal Aid Service Board adopted on September 9, 2015. Available at: <http://www.legalaid.ge/en/p/122/service-for-insolvent-persons>, accessed 13 September 2022.

133. Access to Justice, public survey results, EMC, IDFI, CRRC, 2020, pp. 17–18, available at: <https://bit.ly/3QI9JZ4> [Georgian orig. სასამართლოს ხელმისაწვდომობა], accessed 13 September 2022.

## 5.2. Courts

Georgia has a three-instance common court system: 26 city courts, 2 appellate courts and 1 Supreme Court (cassation).<sup>134</sup> In addition, Georgia has a Constitutional Court. The city courts are based in all regions of Georgia; the appellate courts in Kutaisi (west Georgia) and in Tbilisi (east Georgia).

According to the European Commission for the Efficiency of Justice (CEPEJ), in 2020 of a total of 25 court presidents in Georgia only four were women,<sup>135</sup> and this low representation of women in managerial positions remains a problem. NGOs have negatively assessed the court management model and the “vicious practices” associated with it (for instance, the power distribution and appointment policies). Unfortunately, in recent years the legislation has expanded the circle of the judges holding administrative positions, strengthened hierarchies in the court and increased the group of privileged judges. Judges involved in the management of the court enjoy significant privileges in terms of consideration of cases and the opportunity to influence the legislative or appointment processes; these factors are named as the main causes of the unhealthy environment created within the court system.<sup>136</sup> No specific provisions for facilitating gender equality within the framework of the procedures for recruiting and promoting women exist in the judiciary. There is no national programme or an orientation document to promote gender equality within the judicial system. Moreover, there is no specific person or institution dealing with gender issues in the justice system on the above-mentioned issues. In addition, no information was provided by Georgia to the CEPEJ report regarding any planned measures to improve gender balance in different judicial professions and no official reports were presented to evaluate the main causes of inequalities. Lastly, there has been no particular assessment of gender issues regarding the public and users of justice.<sup>137</sup>

Given the overall poor economic situation of the country, as well as the economic inequalities affecting women in particular, court fees often become a barrier to accessing courts for many women. The fees are regulated under the Civil Procedure Code of Georgia. Article 39 defines the fee as constituting up to 3% of the disputed object, but no less than GEL 100. For non-pecuniary claims, it is GEL 100. For the appellate court, the fee is GEL 150, and for the court of cassation it is GEL 300.<sup>138</sup> The law envisages several instances in which the applicant is exempt from paying court fees: alimony; damages caused by illness, injury or death of the breadwinner; damages incurred due to crime; violations of the rights of children; persons registered as socially vulnerable; cases related to the return of wrongfully retained or removed children or the exercise of the right to access a child.<sup>139</sup> In 2019, an amendment was adopted according to which victims of domestic and gender-based violence are freed from court fees while suing perpetrators.<sup>140</sup> The law also envisages the possibility that the court can decide on exemptions from court fees on a case-by-case basis, if the applicant proves to the court an incapacity to pay them.<sup>141</sup>

In addition, the Administrative Procedure Code of Georgia also grants an exemption from court fees when the case is argued in terms of social vulnerability and in administrative procedures regarding domestic violence.<sup>142</sup>

According to a CRRC study, the majority of judges and prosecutors say that the justice system is affordable for citizens, while only about a third of lawyers report the same.<sup>143</sup> The majority of the Georgian population thinks that participation in court processes is expensive, and this fact constitutes a barrier to accessing justice,<sup>144</sup> especially for women who have lower economic status, on average.

As previously indicated, all legal professionals identify prolonged cases in violation of requirements set for the disposition of cases in a proscribed and timely manner terms as one of the main challenges. Moreover, some of the judges say that heavy caseloads damage the quality of justice.<sup>145</sup>

134. Official website of Courts of Georgia, available at: <https://www.court.ge> [Georgian orig. საქართველოს სასამართლოები], accessed 13 September 2022.

135. Evaluation of the Judicial Systems (2018–2020), CEPEJ, pp 27–28, available at: <https://rm.coe.int/en-georgia-2018/16809fe324>, accessed 13 September 2022.

136. Judicial System Reform in Georgia 2013–2021, Georgian Young Lawyers’ Association, 2021, p. 62, available at: <https://www.gyla.ge/files/news/გამზედი/2021/JUDICIAL%20SYSTEM%20REFORM-2.pdf>, accessed 13 September 2022.

137. Evaluation of the Judicial Systems (2018–2020), CEPEJ, pp 30–31, available at: <https://rm.coe.int/en-georgia-2018/16809fe324>, accessed 13 September 2022.

138. Civil Procedure Code of Georgia, Article 39.

139. Ibid. Article 46.

140. Ibid. Article. 46 (1) (j).

141. Ibid. Article 47.

142. Administrative Procedure Code of Georgia, Article 9.

143. The Judicial System in Georgia: Views of Legal Professionals, CRRC, 2021, p. 4, available at: [https://crrc.ge/uploads/tinytce/documents/Projects/CRRC-PROLog\\_StudyofLegalProfessionalsReport\\_25Oct2021\\_ENG.pdf](https://crrc.ge/uploads/tinytce/documents/Projects/CRRC-PROLog_StudyofLegalProfessionalsReport_25Oct2021_ENG.pdf), accessed 13 September 2022.

144. Access to Justice, public survey results, EMC, IDFI, CRRC, 2020, p. 7, available at: <https://bit.ly/3QI9JZ4>, accessed 13 September 2022.

145. Ibid. p. 5.

### 5.3. Lack of trust in law enforcement and the justice system

A study on accessibility of justice, conducted in 2020 by several NGOs, indicated that interest towards the judiciary is declining. Compared to a previous study, 13% fewer people are interested in this topic. Half of the population of Georgia assesses the work of the judiciary as “average” and thinks that the judiciary is neither politically free nor independent. One third says that the judiciary has not changed in the last six years. The majority of the population name the following barriers to accessing justice: court expenses, prolonged court processes, lack of trust in the judiciary, risk of revenge by perpetrators, and preparation of court documentation.<sup>146</sup>

In 2020, the appointment of Supreme Court justices by the Georgian Parliament was publicly debated, and the hearing process was conducted with live transmission by media. A telephone survey was conducted to measure public attitudes to the newly appointed justices. While more than half of the public had heard about the Supreme Court appointment process, they had little trust in it, and largely had not heard of the new justices. More than half (55%) of those who had heard about the appointments reported that they did not trust the process. Similarly, 53% of the people who had heard of the process thought that the parliament carried out the appointment process unfairly. According to the survey, the public was divided about whether they trusted the High Council of Justice, Supreme Court and the court system in general. About half of the public either trusts or distrusts each of these institutions. Only 6% of respondents have applied to the courts in last six years.<sup>147</sup>

In 2021, the CRRC conducted a study of legal professionals to assess whether there is balance between parties in courts; whether citizens (including minorities and vulnerable groups) can benefit from the protection the justice system offers; and about the performance of different judicial institutions. NGO lawyers were the most critical in assessing the system. They highlighted unequal treatment of the LGBT community and criticized judges for their lack of sensitivity towards women in cases of sexual harassment at work. In focus groups, some of the lawyers said that in domestic violence cases, the prosecutor’s office and representatives of the police lacked sensitivity toward female victims.<sup>148</sup>

The study on access to justice in Georgia identifies problems highlighted in focus groups, such as the problem of police treatment of women. In the opinion of participants in the study, the attitude of the police towards women victims of domestic violence is callous and superficial. Sometimes police officers themselves sexually harass women who turn to them for help, which is reflected in their conversations and the way they look at women. In addition, one of the NGO focus group participants pointed out the sexist attitudes of judges.<sup>149</sup>

According to recent court monitoring reports, the prosecution’s approach to requesting a restraining order is usually proportional to the alleged crime, while courts sometimes unreasonably impose a lighter restraining order on the accused and ignore the safety of the victim.<sup>150</sup> This situation leaves women victims of domestic violence vulnerable to further abuse.

## 6. ACCESS TO JUSTICE FOR WOMEN DURING THE COVID-19 PANDEMIC

On 28 January 2020, the Special Interagency Coordination Council was created to decide upon issues related to the Covid-19 pandemic. The council introduced the following restrictions: suspension of air and land traffic; suspension of the educational process and the transition to a remote mode of operation; prohibition of travel by car; strict quarantine in individual municipalities; restriction of public transport; restrictions in penitentiary facilities; a curfew; restrictions on the number of people who could gather (first limited to ten and then reduced to three); restrictions on entering or leaving large cities; and restriction of economic activities.<sup>151</sup>

The following assistance measures were also introduced to mitigate the initial effects of the pandemic: three months’ of utility bills were funded for subscribers whose monthly consumption of power was less than 200 kilowatts and of the natural gas below 200m<sup>3</sup>; the Government of Georgia insured prices against nine basic food products caused by exchange rate fluctuations to ensure that there was no significant rise; citizens were given a three-month credit repayment deferral; employees who lost their jobs or were on unpaid leave received GEL 1 200 assistance for six months (i.e. GEL 200 per month). Various categories of self-employed persons

146. Ibid. p. 6–7.

147. Appointment of Supreme Court Justices: What People in Georgia Know and Think about The Process, CRRC, 2020, available at: <https://bit.ly/3Lh2beP>, accessed 13 September 2022.

148. The Judicial System in Georgia: Views of Legal Professionals, CRRC, 2021, p. 3, available at: <https://bit.ly/3d9C3pD>, accessed 13 September 2022.

149. Access to Justice in Georgia, Social Justice Center, 2021, p. 110, available at: <https://bit.ly/3RWTSdH>, accessed 13 September 2022.

150. Ibid. p.106.

151. Measures Implemented by the Government of Georgia Against Covid-19 Report, Government of Georgia, 2021, pp. 19–27, available at: [https://stopcov.ge/Content/files/COVID\\_RESPONSE\\_REPORT\\_ENG.pdf](https://stopcov.ge/Content/files/COVID_RESPONSE_REPORT_ENG.pdf), accessed 13 September 2022.

received one-time assistance in the amount of 300 GEL. To retain jobs, employers received various tax cuts; for six months, salaries not exceeding GEL 750 were exempt from income taxes, and GEL 750 out of the salaries of GEL 1 500 were exempted from income taxes.<sup>152</sup>

According to a study conducted by the NGO Sapari, the situation concerning gender-based violence worsened significantly due to measures taken to address the pandemic.<sup>153</sup> Specifically, mobility became a problem especially during curfews. Police officers were absent due to coronavirus infections or quarantine, and this prolonged law enforcement procedures. As the research shows, during the pandemic, law enforcement deemed GBV to be less important than other police matters. The Ministry of Internal Affairs did not introduce any new mechanisms that would enable some legal procedures to be conducted remotely using video recordings or similar technologies.

The already existing police hotline mobile app (112) was widely advertised to promote digital solutions during the pandemic. In addition, Sapari launched a new mobile application SAFE YOU,<sup>154</sup> although the police did not cooperate to allow them to receive SOS messages directly from the app.

According to a study by Rights Georgia, the Georgian judiciary, having no experience of working under force majeure conditions, did not have a strategy for the transition to e-justice, although the judiciary did adapt to the new reality rather promptly. A significant share of cases was adjourned by the end of the pandemic, and the remainder were given priority to be heard online. However, adjournment of cases increased the caseload and further delayed the hearing of cases. Moreover, the lack of technological infrastructure worsened the overall quality of justice and resulted in violations of justice users' rights in the process of administration of e-justice.<sup>155</sup> A study conducted by the Georgian Young Lawyers' Association (GYLA) found that remote court hearings had technical obstacles resulting in delays in starting, or postponement of, trials. There were cases in which witnesses questioned during the court hearing were physically present in a police unit under the risk of psychological pressure by law enforcement officers. In addition, it was found that there was a high risk that confidential information voiced in closed sessions could have been leaked.<sup>156</sup>

The pandemic had a significant impact on the working conditions of women healthcare workers, particularly those working in Covid-19 clinics and special fever centres. Their shifts changed, in that their working hours increased; the number of patients they had to treat and/or consult increased, and they had to take on additional responsibilities. The government introduced a new initiative to provide financial support to medical staff, but the information about increased salaries or compensation is vague. According to one study, nurses do not report having experienced sexual harassment in the workplace. However, they do note physical and verbal abuse and aggressive behaviour from their patients, which increased during the pandemic.<sup>157</sup>

## 7. REMEDIES, GOOD PRACTICES AND RECOMMENDATIONS

### 7.1. National good practices to promote equal access of women to justice

#### 7.1.1. Parliamentary Gender Equality Council

The Parliamentary Council on Gender Equality is now a permanent organ of the Parliament of Georgia. Throughout the years, it has broadened its capacities and initiates numerous thematic research and legislative initiatives. The council is composed of members of parliament and representatives of various political parties, and so it creates a space for interparty collaboration on topics related to gender equality. It also serves as a strong lobbying institution within the parliament to promote gender equality.

152. Ibid. p 45.

153. Challenges of Services Provided by Ministry of Internal Affairs to the Victims of Domestic Violence during Covid-19 Pandemic, Sapari, 2020, available at: <https://bit.ly/3RFalQJ>, accessed 13 September 2022.

154. Official website of the mobile app Safe You, available at: <https://safeyou.space> accessed 13 September 2022.

155. The Effectiveness of Electronic Justice during the Pandemic, Rights Georgia, 2020, pp 36–38, available at: <https://bit.ly/3qxdfL9>, accessed 13 September 2022.

156. The Court During the Pandemic, Special Court Monitoring Report, GYLA, 2020, pp. 9–11, available at: <http://ewmi-prolog.org/images/files/1342GYLA.CourtduringPandemic.pdf>, accessed 13 September 2022.

157. Assessment of Covid-19's Impact on Women in the Health-care Sector in Georgia, UNFPA, UN Women, 2020, pp. 34–36, available at: <https://bit.ly/3U9nSBt>, accessed 13 September 2022.

All documents prepared by the Gender Equality Council are available on the parliament's official webpage, such as thematic enquires on various issues, including on implementation of the Istanbul Convention, updated publications such as *Gender Equality in Georgia: Barriers and Recommendations*, and self-assessment reports.<sup>158</sup>

### **7.1.2. Gender Equality Department of the Public Defender's Office**

The Gender Equality Department of the Public Defender's Office (GED), established in 2013, still plays an important role in the promotion of gender equality in Georgia. The GED monitors shelters and assesses work of various state institutions. It also reviews complaints and individual cases of violations of human rights. The GED prepares a special report on women's rights on a yearly basis. In addition, it conducts various studies on topics related to women's rights and the situation in Georgia, including about vulnerable women. Since 2016, the GED operates Femicide Watch and provides relevant assessment and reports on this phenomenon.

### **7.1.3. Human Rights Protection and Quality Monitoring Department in the Ministry of Internal Affairs**

The Human Rights Protection and Quality Monitoring Department was established in 2018 within the Ministry of Internal Affairs to ensure a prompt response to and quality investigation of domestic violence, hate crimes, violence against women, human trafficking, crimes committed by/towards minors, crimes against life and crimes against health.<sup>159</sup> The department elaborates methodologies of investigation of various crimes and recommendations regarding prevention. It also manages the work of witness and victim coordinators and coordinates review and implementation of the recommendations provided by the PDO and NGOs. Due to its effective work, the quality of crime investigation has significantly improved.

### **7.1.4. The Prosecutor's Office of Georgia**

In recent years, the prosecution service of Georgia has prioritized combating violence against women and increasing the effectiveness of the investigation and prosecution of such crimes. Investigators and prosecutors, specializing in domestic violence and domestic offences, were introduced in 2018. The Department of Strategic Development and the Division of Human Rights within the prosecutor's office regularly monitors and analyses the handling of cases of violence against women and domestic violence, and it also supports in-service trainings.<sup>160</sup> The functions of the Witness and Victim Coordinator Service, within the prosecutor's office, were expanded in 2018 to increase their role in supporting and providing information to victims of domestic violence and other forms of gender-based violence (for instance, sexual assault, human trafficking and hate crimes) during investigations and trials.<sup>161</sup> In 2021, the prosecutor's office conducted a participatory gender audit that assessed the extent to which the prosecution service promotes gender equality and mainstreams gender in its work. The audit produced recommendations, and an internal working group was formed to develop and implement an organizational gender equality strategy and action plan in 2022. An additional outcome of the audit was the approval by the Prosecutor General of an internal mechanism to prevent and respond to sexual harassment in the workplace and establish disciplinary measures should it occur.<sup>162</sup>

## **7.2. Recommendations to improve women's access to justice**

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In order to improve women's access to justice, the Government of Georgia should:

- ▶ Improve the legislative framework to protect women from gender-based violence in line with the Istanbul Convention (amend definitions of sex crimes, remove barriers to access to services for all victims of GBV, etc.);
- ▶ Improve legislation to protect the rights of victims;
- ▶ Increase awareness of women's human rights among the general population, through various educational activities and awareness-raising campaigns. Increase knowledge among women regarding available services and protection mechanisms from violence;

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158. Official website of the Parliament: <https://parliament.ge/en>, accessed 13 September 2022.

159. Official website of MIA: <https://bit.ly/3RGFUJF>, accessed 13 September 2022.

160. Official website of the Prosecutor's Office of Georgia: <https://pog.gov.ge/en/interesting-info/family-violence>, accessed 08 December 2022.

161. Official website of the Prosecutor's Office of Georgia: <https://pog.gov.ge/en/interesting-info/coordinator-of-the-witness-and-victim>, accessed 08 December 2022.

162. Official website of the Prosecutor's Office of Georgia: <https://pog.gov.ge/en/news/naTia-merebashvili-mnishvelovania-adamianuri-resursebis-marTvashi-ganisazRvros-swori-genderuli-pol>, accessed 08 December 2022.



- ▶ Increase the gender sensitivity of the justice system through professional development programs and educational institutions;
- ▶ Elaborate an effective national mechanism for the prevention of gender-based violence and strengthen capacities and roles of social workers;
- ▶ Institutionalize gender impact analysis of laws and policies;
- ▶ Develop gender-sensitive legislation and policies to overcome the low participation of women in social, economic and political life;
- ▶ Combat stereotypes and harmful traditions that violate women's and girls' rights;
- ▶ Introduce the collection of sex-disaggregated data in the justice system and provide analysis to develop evidence-based policies.

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In 2017, the Gender Equality Division of the Council of Europe commissioned national studies to map the barriers, remedies and good practices for women's access to justice in the five Eastern Partnership countries (Armenia, Azerbaijan, Georgia, the Republic of Moldova and Ukraine). Since that time, events such as the Covid-19 pandemic and conflict in the region have raised new challenges for justice systems on the whole and for women as justice users. Yet, in the last five years, there are also examples of progress in each country in terms of removing some of the most critical barriers, in the legislation and in legal practice, that prevent women from accessing justice. These updated national studies revisit core questions of the previous research and present new information about both promising practices and areas of regression as a result of health, economic and security crises. These studies contribute to the EU-Council of Europe joint programme, Partnership for Good Governance II regional project on "Women's access to justice: delivering on the Istanbul Convention and other European gender equality standards", which supports the strategic objective of the Council of Europe Gender Equality Strategy 2018–2023 on ensuring the equal access of women to justice across the member states.

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