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Meeting: 1514<sup>th</sup> meeting (December 2024) (DH)

Communication from NGOs (Georgian Young Lawyers' Association (GYLA); European Human Rights Advocacy Centre (EHRAC); Union Sapari) (22/10/2024) concerning the Tkhelidze group of cases v. Georgia (Application No. 33056/17).

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

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Réunion : 1514<sup>e</sup> réunion (décembre 2024) (DH)

Communication d'ONG (Georgian Young Lawyers' Association (GYLA); European Human Rights Advocacy Centre (EHRAC); Union Sapari) (22/10/2024) relative au groupe d'affaires Tkhelidze c. Géorgie (requête n° 33056/17) **[anglais uniquement]**

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

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DGI

22 OCT. 2024

SERVICE DE L'EXECUTION  
DES ARRETS DE LA CEDH

**Rule 9 (1)(2) communication to the Committee of Ministers of the Council of Europe in  
respect of the execution of the**

*Tkhelidze Group of Cases (№ 33056/17)*



**Georgian Young Lawyers' Association (GYLA)**

**European Human Rights Advocacy Centre (EHRAC)**

**Union Sapari**

October 22, 2024

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## 1. Introduction

1. This group of cases consists of the three femicide judgments against Georgia. The cases are representative of the systemic discrimination by the law enforcement authorities in Georgia in failing to adequately respond to protect victims of domestic violence, and State's failure to investigate the inaction of the law enforcement authorities (violations of Article 2 in its substantive positive and procedural limbs taken in conjunction with Article 14 of the Convention).
2. The Georgian Young Lawyers' Association (GYLA), Union Sapari and the European Human Rights Advocacy Centre (EHRAC), (altogether hereinafter- "The signatory organizations") as legal representatives of the applicants in these cases, present this communication pursuant to Article 9(2) of the Rules of Committee of Ministers ("CM") for the supervision of the execution of judgments for consideration at 1514<sup>th</sup> meeting (December 2024).
3. The submission provides an initial update on the status of individual measures, including the steps of the investigation. It further lists a number of further general measures necessary to be taken by the State as part of effective implementation of this group of cases. The submissions also provide comments to the Government's action plan of 3 October 2024.

### **The Adoption of the Law "On the Transparency of Foreign Influence" and Its Negative Impact on the Operations of Civil Society Organisations Submitting Rule 9 Communications**

4. The signatory Georgian CSOs, GYLA and SAPARI, have a long-standing practice of addressing systemic challenges such as domestic violence and protecting women and children from abuse. With our resources, we strive to promote better execution of Court judgments and, through Rule 9 communications, assist the Committee of Ministers by providing objective information about the real situation within the country.
5. However, our participation and ability to submit additional Rule 9 communications are in grave danger due to the actions of the Georgian authorities and the adoption of the Law on Transparency of Foreign Influence (TFI Law).<sup>1</sup> Therefore, the present submission may be one of the last, as the very existence of our organizations is under threat.
6. On May 28, the Parliament of Georgia overrode the President's veto and, despite harsh international<sup>2</sup> and domestic criticism,<sup>3</sup> mass protests,<sup>4</sup> the clear recommendations of the Venice Commission,<sup>5</sup> and the opinion of the Expert Council on NGO Law of the Conference of INGOs

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<sup>1</sup> Available at : < <https://matsne.gov.ge/en/document/view/6171895?publication=0> > [22.10.2024]

<sup>2</sup> Available at : < <https://civil.ge/archives/606480> > [22.10.2024]

<sup>3</sup> Available at : < <https://civil.ge/archives/590168> > [22.10.2024]

<sup>4</sup> Available at : < <https://civil.ge/archives/600995> > [22.10.2024]

<sup>5</sup> European Commission for Democracy Through Law (Venice Commission), [Urgent Opinion](#) on the Law on Transparency of Foreign Influence, CDL-PI(2024)013, 21.05.2024 ("CDL-PI(2024)013")

of the Council of Europe,<sup>6</sup> adopted the TFI Law, also known as the Russian Law. The law is referred to as the Russian Law due to its similarities to the Russian Foreign Agents Act (*see Ecodefense v. Russia*).

7. According to the TFI Law civil society organizations (CSOs) and media outlets that receive over 20% of their funding from abroad must register as organizations “pursuing the interests of a foreign power.” The failure to fulfill the requirements of the TFI Law entails monetary penalties. “Avoiding registration as an organisation pursuing the interests of a foreign power” or “failing to submit a financial declaration” results in a GEL 25,000 fine (approximately €8,300) (Art. 9(1)). The failure to comply with the requirements relating to the filing of an application (financial declaration) or subsequent annual declaration or to correct a “fault” will result in another GEL 10,000 fine (approximately €3,300) (Art. 9(2)). The repeated commission of any of the foregoing act/omission one month after imposition of the fine will result in a further GEL 20,000 fine (approximately €6,600) (Art. 9(3)) on each occasion it happens. Organizations can be fined every month continuously for up to six years (Art. 9(7)). The failure to provide information requested by the MOJ will result in a GEL 5,000 fine (approximately €1,650) for anyone, including individuals (Art. 9(4)). The TFI Law does not prevent authorities from re-requesting information from individuals/organisations and fining them upon non-compliance.
8. The humiliating administrative, financial, and bureaucratic requirements severely impact CSOs and media organizations, hindering their ability to carry out their work in their respective fields. This law will not only affect the organizations themselves but also harm the vulnerable communities they serve and restrict the broader enjoyment of rights by individuals in Georgia.
9. The aforementioned law undermines fundamental human rights guaranteed by the European Convention, stigmatizes CSOs and media outlets, and aims at their de facto elimination. During the adoption process of the TFI Law, the offices of GYLA, SAPARI, and numerous other CSOs were vandalized, as were the private properties of the chairpersons (such as cars and houses).<sup>7</sup> Posters labeling these organizations as agents of foreign interests were displayed across metro stations throughout the country, and employees received threatening phone calls.<sup>8</sup> A ruling party MP publicly admitted on his official social media account that the ruling party was behind these attacks.<sup>9</sup> Despite the organizers being known to the public, no one has been held accountable.
10. In light of these circumstances, it is becoming increasingly impossible for us to peacefully work on our Rule 9 submissions and provide this honorable Committee with the important information.

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<sup>6</sup> Available at: <<https://rm.coe.int/conf-exp-2024-2-en-opinion-on-georgian-transparency-law-/1680afb1d5>> [22.10.2024]

<sup>7</sup> Available at: <<https://civil.ge/archives/604767>> [22.10.2024]

<sup>8</sup> Available at: <<https://www.radiotavisupleba.ge/a/32962399.html>> [22.10.2024]

<sup>9</sup> Available at: <<https://www.radiotavisupleba.ge/a/32974367.html>> [22.10.2024]

## The adoption of “anti-LGBTQ+” law and its negative effect on gender-based violence

11. In a retrograde move for anti-discrimination, on 17 September 2024, the Georgian Parliament passed the Law of Georgia on the Protection of Family Values and Minors a.k.a “anti-LGBTQ+ propaganda” bill.<sup>10</sup> The legislative package legalizes censorship and interferes with the right to assembly. This decision creates a precedent of repressing one group of people,<sup>11</sup> deepening and strengthening the basis for hate crimes. This will impact not only the LGBTQ+ community and their supporters but also more widely sends a signal of tolerance of any hate crime including gender based offences and statements. According to CSOs the Government is aiming to “manipulate the public before the elections, cover up real problems, incite irrational fear and create another obstacle on the road to the country’s European integration”.<sup>12</sup>
12. The day after passing the above mentioned bill, Georgia’s one of the most famous transgender woman, Kesaria Abramidze, was stabbed to death in her own apartment. A 26 year old man has been charged with premeditated murder committed with cruelty and aggravating gender-based violence. President Salome Zourabichvili stated that “horrendous murder” raised urgent questions about hate crimes and discrimination..<sup>13</sup>

## 2. Brief summary of the Court’s judgements

13. The case of *Tkheldize v. Georgia (no. 33056/17)* concerns the femicide of M.T. by her ex-husband L.M., in 2014, following a continuous period of domestic violence. Although M.T. and her relatives had reported the violence and threats to the law enforcement authorities over eleven times in a six-month period, not a single protective measure had been imposed. In this case, the Court embedded its consideration of discrimination into the right to life complaints for the first time in a domestic violence case in Georgia. The Court found that the authorities had shown a flagrant disregard for the numerous protective measures that were accessible to them and had failed to take the necessary care to prevent gender-based violence against M.T., eventually leading to her death, and that action constituted a systemic failure (§57). The Court also held that, in the light of discriminatory overtones associated with violence against women, there was a pressing need to conduct a meaningful inquiry into the possibility that gender-based discrimination and bias had also been a motivating factor behind the alleged police inaction (§60).
14. The case of *A and B v. Georgia (no. 73975/16)* addresses the femicide of a 19-year-old woman by her former husband, a police officer, who shot her with his service weapon in a local park after a history of domestic violence. The Court ruled that the authorities violated Article 2 under its substantive positive and procedural limbs taken in conjunction with Article 14 of the Convention,

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<sup>10</sup> Available at: < <https://matsne.gov.ge/en/document/view/6283110?publication=0> > [22.10.2024]

<sup>11</sup> Parliament Adopts Anti-LGBT Legislation in Third Hearing, 17 September .2024, accessible at: <https://civil.ge/archives/624795>

<sup>12</sup> Ibid.

<sup>13</sup> Trans woman killed in Georgia day after anti-LGBT law passed, BBC, 20 September 2024, accessible at: <https://www.bbc.com/news/articles/cy0lnpn019xo>

due to their failure to implement protective measures after being alerted to the abuse and their ineffective investigation into the actions of police officers and prosecutors. This investigation also neglected to consider any gender bias that may have influenced law enforcements' behavior. The Court emphasized the urgent need for a thorough investigation into law enforcements' inaction, which may have stemmed from gender-based discrimination, especially given the perpetrator's police status, which likely contributed to his sense of impunity. Additionally, the Court negatively assessed the prosecution and conviction process for not addressing the role of gender discrimination in the murder or considering whether police tolerance of the violence was influenced by gender bias, nor whether officers had turned a blind eye to the perpetrator's abuse. The Court found it especially concerning that the perpetrator exploited his law enforcement position to commit the abuse, in a context of ongoing domestic violence that clearly posed an immediate danger to the victim.

15. The case *Gaidukevich v. Georgia (no. 38650/18)* marks the European Court of Human Rights' third ruling on domestic violence in Georgia, following *Tkheldidze v. Georgia* and *A and B v. Georgia*, where the Court found violations of Article 2 under its substantive positive and procedural limbs taken in conjunction with Article 14 of the Convention. The applicant's daughter was a domestic violence victim who had reported G.K.'s abusive behavior to the police sixteen times before her death in February 2017. The Court observed that *"the applicant's complaint under the procedural limb of Article 2 of the Convention is twofold: firstly, that the ongoing investigation into possible negligence on the part of the law-enforcement authorities has been deficient; and secondly, that the investigation conducted against G.I. concerning the continued abuse and death of the applicant's daughter was inadequate. The Court will address them in turn"* (§60). It again emphasized the systemic nature of domestic violence in Georgia, criticizing the authorities for failing to treat the victim's emergency calls as part of a larger pattern of violence, which contributed to a culture of impunity. Despite acknowledging the law enforcement's shortcomings, the investigation against them yielded no findings over five years. The ECtHR also expressed concern that G.K. was only convicted for a single incident of violence, dismissing the broader context of abuse. Although the civil courts recognized the failures of law enforcement, the Court criticised the failure to examine gender bias, and noted that the compensation awarded did not address the need for criminal accountability of those responsible.

### 3. Individual Measures

- **Individual measures concerning *Tkheldidze v Georgia***

16. As mentioned in the Government's Action Plan (para. 5), the investigation on the criminal case No074221121803 on the fact of neglect of official duty by employees of the Ministry of Internal Affairs was commenced on 22 November 2021, only after the final judgment of the ECtHR was adopted. The applicant's lawyers reviewed the given copies of the case files on 29 August 2023.



17. According to the Government's Action Plan,<sup>14</sup> one of the aims is to promote the elimination and prevention of all forms of violence against women and girls, including sexual and gender-based violence. To achieve the above mentioned goal, the Government planned awareness raising meetings, provided training to the employees and for legal aid services. Nevertheless, apart from what the Government has disclosed in their Action Plan, there is still no substantial progress revealed in the investigation.
18. According to the last written communication between Union Sapari's lawyer and the prosecutor's office, that took place on 23 October 2023, still no one has been charged. Further, Sapari's lawyer has not been notified subsequently of any other decisions. Based on the regular verbal communication between Sapari's lawyer and the investigative authorities, there have been no updates on the case.

○ **Individual measures concerning A and B v. Georgia**

19. In 2023, the Government of Georgia in their Action Plan submitted that “[t]he investigation into this case is ongoing under Article 332, paragraph 3, sub-paragraph (c) of the CCG (abuse of official powers), other necessary and subsequent investigative and procedural actions are planned in order to deliver final decision in the short order.”<sup>15</sup> In the same Action Plan, the Government further outlined and stated in front of the Committee of Ministers that “[d]uring the ongoing investigation, it was revealed that the policemen's inaction on the violence against the deceased S.J. went beyond the scope of neglect of official duties and **there may have been an intentional crime** - abuse of official powers which has resulted in substantial violation of the lawful interests of the public by offending personal dignity of the victim.”<sup>16</sup>
20. In 2023, the Committee of Ministers “[c]alled upon the authorities to redouble their efforts with a view to taking all the necessary investigative measures rapidly and diligently.”<sup>17</sup> However, the 2024 Action Plan of the Government of Georgia merely repeats the same investigative steps that had been included in the previous report. Despite the substantial evidence in this case, including prosecutors' decrees that clearly indicate the criminal actions of certain individuals, which is not also challenged by the Government, accountability for these actions still remains unestablished. It is crucial to highlight that the delays in the investigation by law enforcement and the inadequate investigative measures concerning employees of the Ministry of Internal Affairs and the Prosecutor's Office not only hinder the effective resolution of this case but also undermine efforts to combat systemic violence against women. Specifically, the lack of appropriate responses to the inaction of police and prosecutors creates a sense of impunity, which significantly impedes the progress needed to enhance the response to violence against women in our country. Therefore, the submission of the Georgian Government, compared to their previous year's submission, does not even formally attempt to list any investigative actions, and is not in compliance with the spirit of the ECtHR judgment.

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<sup>14</sup> 2022-2024 National Action Plan of Georgia for implementation of UN Security Council Resolution on Women, Peace and Security.

<sup>15</sup> Communication from Georgia concerning the case of Tkhelidze v. Georgia (Application No. 33056/17), Action Plan, 09.10.2023, para. 10.

<sup>16</sup> *ibid*, para. 12.

<sup>17</sup> Council of Europe, the Committee of Ministers, CM/Del/Dec(2023)1483/H46-14, 07.12.2023, para. 2.



21. In addition, the analysis of the criminal case materials provided to the victim's representative lawyers clearly **demonstrates that there are sufficient grounds to initiate criminal prosecution against law enforcement officials who contributed to the victim's death.** Therefore, in the present case, the authorities appear to be unwilling to initiate criminal prosecution.

- **Individual measures concerning *Gaidukevich v. Georgia***

22. The representative lawyers of the Applicant and the Applicant herself only found out from the Action Plan of the Government of Georgia that the case had been submitted to the Special Investigation Service. No information regarding this transfer had been provided to the Applicant and her lawyers. **The investigative authorities have not taken any investigative steps involving the victims heir or her representatives, nor have they informed them about any actions.** It is noteworthy that the Government of Georgia should have communicated this with the Applicant, involving the successor of the victim in the ongoing investigation and providing relevant information is the obligation of the Investigative Authorities.

#### **4. General Measures**

23. The signatory organizations welcome the commitments and measures taken by the Georgian Government in order to prevent and combat femicide and domestic violence. Nevertheless, it is submitted that these steps are not yet sufficient to address the prevailing systemic challenges, and their effective implementation in practice remains a challenge.
24. This section provides information regarding systemic issues, which call for structural, systemic solutions as general measures in the framework of this group of cases:

4.1. Risk assessment tools;

4.2. Restraining and protective orders;

4.3. Electronic surveillance system;

4.4. The accountability of the law enforcement officials for inadequate responses to victims of gender-based violence.

- **Regarding risk assessment tools**

25. Despite the adoption of the National Referral Procedures for Identification, Protection, Assistance and Rehabilitation of Victims of Violence Against Women and/or Domestic Violence document, which does not determine the coordinated steps taken by state agencies for the prevention of gender-based violence.<sup>18</sup> This deficiency coupled with unjustified refusal to assess the risk against women, improper/incomplete investigation of a number of cases of violence against women and

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<sup>18</sup> See Parliamentary report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2023, 2024, pg 157 <<https://ombudsman.ge/res/docs/2024052911382931838.pdf>> [22.10.2024]

domestic violence and taking no effective steps to increase the involvement of offenders in violent behaviour corrections programmes remain the problem.<sup>19</sup>

26. It should be noted that according to the 2023 report of the Public Defender, despite the absence of a legal basis for completing risk assessment documents, in practice, the authorized person requests such a basis before proceeding. This practice involves surveying women victims of violence to determine whether to complete the risk assessment document, potentially leading to an underestimation of the risks involved.<sup>20</sup>

○ **Regarding restraining and protective orders**

27. A significant challenge concerning restraining and protective orders arises from the inadequate response to violations of restraining orders. This includes situations where courts may not sufficiently assess the risk of violence, opting for lighter preventive measures instead of imprisonment for the perpetrator.<sup>21</sup>

○ **Regarding electronic surveillance system**

28. The increase in the rate of imposition of electronic surveillance in recent years should be positively evaluated,<sup>22</sup> however, the Ministry of Internal Affairs should ensure the strengthening of efforts in this regard, including taking care to raise awareness of electronic surveillance among victims and the general public, and providing information in such a way that victims do not have unfounded fears about electronic surveillance procedures, including the maintenance of electronic equipment.
29. The activation of electronic surveillance in recent years should be positively evaluated. From September 1, 2020, to February 19, 2024, electronic surveillance was implemented for 164 individuals.<sup>23</sup> Notably, in 2023, the number of electronic surveillance cases increased nearly sixfold compared to 2022.
30. As of 2024, there are 350 electronic devices allocated to the balance of the Public Security Management Center “112”. GYLA requested information regarding the insurance of these electronic devices and the liability for damages in case of destruction. According to the Ministry’s response, under Article 13, Clause 2 of Order No. 126 issued by the Minister of Internal Affairs of Georgia on August 26, 2020, any damage or destruction of electronic devices used for

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<sup>19</sup> *Ibid*, pg. 158.

<sup>20</sup> See Parliamentary report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2023, 2024, pg 157-158 <<https://ombudsman.ge/res/docs/2024052911382931838.pdf>> [22.10.2024]

<sup>21</sup> See State Response to Gender-Based Violence in Georgia: Legislation and Practice Analysis <[https://admin.gyla.ge/uploads\\_script/publications/pdf/genderi\\_eng.pdf](https://admin.gyla.ge/uploads_script/publications/pdf/genderi_eng.pdf)> pg.80 [22.10.2024]

<sup>22</sup> According to the data of the Ministry of Internal Affairs of Georgia, electronic supervision was established in 2020- for 6 persons; in 2021 - 15 persons; in 2022 - 18 persons; In 2023 - 104 people. Letter of the Ministry of Internal Affairs of Georgia dated March 7, 2024, MIA 7 24 00707921. See State Response to Gender-Based Violence in Georgia: Legislation and Practice Analysis <[https://admin.gyla.ge/uploads\\_script/publications/pdf/genderi\\_eng.pdf](https://admin.gyla.ge/uploads_script/publications/pdf/genderi_eng.pdf)> pg.11 [22.10.2024]

<sup>23</sup> Letter of the Ministry of Internal Affairs of Georgia dated March 7, 2024, MIA 7 24 00707921

electronic surveillance results in criminal liability. Compensation for damages is addressed through civil proceedings.<sup>24</sup>

31. It is important, given that electronic surveillance provides for the transfer of the receiving device to the victim, in connection with which the victim bears relevant obligations, that the devices are insured and that the victim and the general public are informed about this. Otherwise, the risk of incurring financial and other liabilities as a result of damage to the electronic device may frighten the victim and become one of the reasons for refusing electronic surveillance.
- **Regarding the accountability of the law enforcement officials for inadequate responses to victims of gender-based violence**
32. Referring to our submission of 20 October 2023, we note that to date, we are not aware of any convictions in domestic cases relating to investigation of discriminatory motive on the part of law enforcement officials for their failure to respond properly to complaints of gender-based violence, including femicide. Without effective investigations into discrimination on the part of the law enforcement bodies, the root causes of failures to act to prevent and protect against domestic violence and femicide will not be identified and addressed.
33. It is concerning that in certain cases, gender stereotypes prevalent in society, including among employees of investigative bodies, hinder the recognition of gender-based motives. For instance, in some cases, the prior relationship between the victim and the perpetrator is unjustly considered a mitigating factor in cases of sexual violence.<sup>25</sup> Similarly, when a woman is abducted for forced marriage, the context of gender discrimination rooted in tradition is often overlooked. Furthermore, in cases of abduction, the marriage of the perpetrator and the victim is sometimes viewed as a resolution rather than a criminal act, perpetuating harmful gender biases.<sup>26</sup> For Example the gender based intentional murder of 14 year-old Aitaj Shakhmirova was a clear example of gender discrimination rooted in tradition.<sup>27</sup>

## 5. Conclusions and recommendations

34. With respect to the individual measures, it is recommended to the Georgian authorities:
  - *With respect to the A and B v. Georgia (no. 73975/16) - To initiate criminal prosecution against law enforcement officials whose actions and omissions contributed to the victim's death.*
  - *With respect to the Gaidukevich v. Georgia (no. 38650/18) - To provide the applicant's lawyers with the criminal case materials and conduct further investigative steps, ensuring*

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<sup>24</sup> *Ibid*

<sup>25</sup> See State Response to Gender-Based Violence in Georgia: Legislation and Practice Analysis <[https://admin.gyla.ge/uploads\\_script/publications/pdf/genderi\\_eng.pdf](https://admin.gyla.ge/uploads_script/publications/pdf/genderi_eng.pdf)> pg.82 [22.10.2024]

<sup>26</sup> *Ibid*

<sup>27</sup> See Parliamentary report of the Public Defender of Georgia on the state of protection of human rights and freedoms in Georgia 2023, 2024, pg 26 <<https://ombudsman.ge/res/docs/2024052911382931838.pdf>> [22.10.2024]

the involvement of the victim's mother in the process.

35. The signatory organizations reiterate the need for the recommendations listed in Section 5 of Rule 9(2) (dated 26 October 2022) and Rule 9(2) (dated 20 October 2023), and request that the Committee of Ministers adopt the following additional recommendations for the Government's attention:<sup>28</sup>

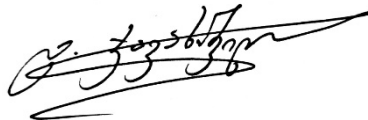
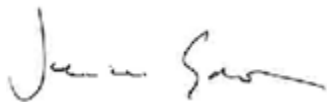
- Refrain from adopting laws and pursuing repressive policies that undermine the work of Georgian CSOs, including those involved in submitting Rule 9 communications and are working on protection of the women from violence.
- Ensure that the state sufficiently assess risk of gender-based violence, including by codifying the requirement for lethality risk assessments, and respond to violation of restraining orders adequately.
- Raise awareness of electronic surveillance, as one of the possible preventive mechanisms, among victims and the general public.
- Ensure the accountability of the law enforcement officials for inadequate and discriminatory responses to victims of gender-based violence
- Collect and publish statistics on how many law enforcement officials were held accountable for their omissions in the process of executing the Tkhelidze Group of Cases.

On behalf of all the signatory organizations

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Davit Javakhishvili  
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Baia Pataraia  
Director, Union Sapari



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<sup>28</sup> For additional detailed general recommendations, See State Response to Gender-Based Violence in Georgia: Legislation and Practice Analysis <[https://admin.gyla.ge/uploads\\_script/publications/pdf/genderi\\_eng.pdf](https://admin.gyla.ge/uploads_script/publications/pdf/genderi_eng.pdf)> [22.10.2024]