

**Group of Experts on Action against Violence  
against Women and Domestic Violence  
(GREVIO)**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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**Comments submitted by Georgia  
on GREVIO's final report on the implementation  
of the Council of Europe Convention  
on preventing and combating violence  
against women and domestic violence  
(Baseline Report)**

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OFFICE OF THE STATE MINISTER OF GEORGIA FOR RECONCILIATION AND CIVIC EQUALITY

PARA. 21

*The lack of information, the lack of access to services, opportunities and means of economic empowerment and to employment, as well as their lack of trust in law-enforcement agencies, all constitute barriers for women in rural areas who need help and support for gender-based violence.*

Ethnic minority representatives have access to information and services. A large-scale information/awareness-raising campaigns in the frames of the State Strategy for Civic Equality and Integration 2021-2030 are regularly conducted on the state programs and services, also in minority languages.

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MINISTRY OF ECONOMY AND SUSTAINABLE DEVELOPMENT OF GEORGIA

PARA. 28

The Ministry of Economy and Sustainable Development of Georgia is actively implementing efficient policy measures in the direction of strengthening women economic empowerment. Promotion of Women Entrepreneurship is one of the priority directions in the “Small and Medium Entrepreneurship Development Strategy of Georgia 2021-2025” adopted by the Government of Georgia in 2021.

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NATIONAL STATISTICS OFFICE OF GEORGIA

PARA. 68

*With the support of UN Women, Geostat launched at the end of 2018 an online Gender Statistics Portal, that repackages available data using infographics and interactive data visualisations. The portal offers gender statistics but does not offer specific data on violence against women.*

The publication "NATIONAL STUDY ON VIOLENCE AGAINST WOMEN IN GEORGIA, 2017" is published on Gender statistics portal: [http://gender.geostat.ge/gender/img/publicationspdf\\_en/National%20VAW%20Study%20Report%20ENG.pdf#view=fit](http://gender.geostat.ge/gender/img/publicationspdf_en/National%20VAW%20Study%20Report%20ENG.pdf#view=fit)

Administrative data on domestic violence is available on the portal: <http://gender.geostat.ge/gender/index.php?action=crime>

Besides it GeoStat has prepared and adopted the gender statistics strategy for 2021-2023. The purpose of the document is to define a general vision for the development of gender statistics in Geostat that takes into account national and international needs; responds to data requirements for policy development; determines the priority directions for the development of gender statistics; ensures the reasonableness of conducting statistical measures and the allocation of financial resources; covers all stages of the data production process; and meets modern international standards.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 69

The Ministry of Internal Affairs of Georgia has clearly stated its position regarding certain issues. Unfortunately, our position was not reflected in the document returned in October 2022.

The Georgian government has already approved the action plan for 2022-2024, where it is written that the Ministry of Internal Affairs of Georgia should ensure the segregated processing of statistical data related to restraining orders in order to fight against violence in the family and against women and to protect victims, for which a group of independent experts criticizes the state.

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## COMMON COURTS

### PARA. 107

Mandatory training of judges according to specialization is one of the priority areas of the High School of Justice, which includes only two areas: Juvenile Justice and the Code on the Rights of the Child. Regarding domestic violence, training in this areas is not mandatory, however, depending on the need (according to the programme approved by the High School of Justice, which incorporates the trainings of judges) judges are systematically trained in this direction as well.

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## MINISTRY OF EDUCATION AND SCIENCE OF GEORGIA

### PARA 113

*As regards social workers, there is no specific information on initial and systematic in-service training on any forms of violence within the scope of the convention, which GREVIO notes with some concern. However, between 2016 and 2018, a total of 244 social workers received training on domestic violence as part of a project funded by USAID and implemented by the Agency for State Care.*

For the first time in the educational institutions of Georgia, in 2021, Office of the Resource Officers of Educational Institutions started to introduce a model of social work in schools, which has been developed together with local and European experts. More than 60 social workers have been hired by the Office of Resource Officers of the Ministry of Education and Science of Georgia and deployed to 57 public schools. All of them have received basic in-house training as well as demands-led training on sexual abuse, sexual harassment, stalking, economic violence, violence against girls, women, most vulnerable groups/monitories. Before, social work was carried out as needed, within the framework of intervention, and now the social workers already perform their functions and duties directly at schools as well.

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## MINISTRY OF JUSTICE OF GEORGIA

### PARA. 119-124

In relation to the paragraphs 119, 120, 121 of the GREVIO's Baseline Evaluation Report, it should be once again underlined that within the penitentiary system three behavior correctional/rehabilitation programs - the rehabilitation module "Step towards Change", the information campaign "Role of Positive Behavior in Family Relations" and violent behavior change program - "Development of Useful Skills" is being implementing since 2015. Most importantly, behavior correction program for perpetrators in penal system is mandatory under the law. Simultaneously, in 2015, the course of "Violent Behavior Management Rehabilitation

Program" was established for perpetrators with support of UN Women and with the involvement of the National Probation Agency. In 2017, a multi-sectoral working group was established with the initiative and support of UN Women to improve the Violent Behavior Management Rehabilitation Program". In the process the members of local NGOs "Anti-Violence Network of Georgia" and "Georgian Young Lawyers Association" were actively involved with the staff of the Penitentiary Service and the Probation Agency. Within the framework of this working group, in 2018-2019 an improved behavior correction program – "Training Course Focused on Changing Violent Attitudes and Behavior" was introduced to the probation and penitentiary systems (was piloted in 2 penitentiary establishment), which is tailored to the target group of both agencies. This program is common to both the probation and penitentiary systems. Accordingly, "Training Course Focused on Changing Violent Attitudes and Behavior" is updated, improved and the main behavior correctional program for penitentiary and probation system since 2019.

In addition, it is crucial to highlight that behavior correctional program "Training Course Focused on Changing Violent Attitudes and Behavior" consists of 10 stages, 25 sessions, not 18 sessions as it was indicated in paragraph 119 of the GREVIO's Baseline Evaluation Report and its duration is up to 6 months.

In connection with the paragraph 120 of the GREVIO's Baseline Evaluation Report, it should be mentioned that numbers of perpetrators involved in behavior correctional program "Training Course Focused on Changing Violent Attitudes and Behavior" enshrined under this paragraph covers only penitentiary system. Moreover, perpetrator numbers described in paragraph 121 covers statistical data of the involvement of perpetrators with the rehabilitation program "The essence of violence and legislative mechanisms" within the probation system and not numbers of perpetrators who took part in the behavior correctional program "Training Course Focused on Changing Violent Attitudes and Behavior". Statistical data of perpetrators participating in this correctional program is given in paragraph 123 of the GREVIO's Baseline Evaluation Report.

In connection with the paragraph 122 of the GREVIO's Baseline Evaluation Report, it is worth underlining that behavior correctional program - "Training Course Focused on Changing Violent Attitudes and Behavior" which is same for probation and penitentiary system is based on the best international practices and is founded on cognitive-behavioral therapy, a feminist/gender approach and a good life model. The goal of the program is to reduce/eliminate violent behavior. Raising awareness of participant perpetrators about gender roles, managing emotions, developing empathy for victims of violence, changing irrational thoughts and

beliefs, developing prosocial skills for conflict resolution, and teaching behavioral norms based on equality and respect in partnerships plays an important role in perpetrators programs. As for perpetrators involvement in behavior correctional programs, 558 persons joined and completed the program in the probation system from 2018 to July 2022. In the penitentiary system behavior correctional program “Training Course Focused on Changing Violent Attitudes and Behavior” was completed by 10 perpetrators in 2019 and 67 is involved in this program as of November, 2022. Considering the total number of beneficiaries involved in behavior correction programs, the numbers of beneficiaries is progressive and increasing over the years.

With regard to the paragraph 123 of the GREVIO’s Baseline Evaluation Report, it should be pointed out that “Training Course Focused on Changing Violent Attitudes and Behavior” is perpetrator behavior correction program, not a training course for psychologists and facilitators of probation and penitentiary system. Moreover, the figures prescribed under paragraph 123 covers not probation officers who were involved in this behavior correction program but perpetrators within the probation system.

In relation to paragraph 124 of the GREVIO’s Baseline Evaluation Report, it is crucial to once again highlight that behavior correction programs in the probation system are available in 11 central regions of Georgia: Tbilisi, Mtskheta, Kvemo Kartli, Shida Kartli, Samtskhe-Javakheti, Imereti, Adjara, Racha, Samegrelo, Guria and Kakheti. As for penitentiary system, it should be underlined that in 2022, the implementation of the behavior correction program began in 8 penitentiary establishments (N2, N6, N8, N10, N12, N15, N16 and N17;). Geographical distribution of the penitentiary establishments are the following:

- N2 penitentiary establishment is located in Kutaisi (Western Georgia);
- N6 is located in Gardabani (Eastern Georgia);
- N8 is located in Tbilisi (Eastern Georgia);
- N15 and N10 are located in Ksani (Eastern Georgia);
- N12, N16 and N17 are located in Rustavi (Eastern Georgia);

Accordingly, equal inclusion of beneficiaries in behavior correction courses in terms of geographical distribution is ensured.

Moreover, in relation to the cooperation with victim support NGOs, it should be emphasized that the development/support and practical implementation of all behavior correction programs in the probation and penitentiary system is carried out by active involvement of the international organizations such as UN Women, EU thematic projects and relevant local non-

governmental organizations, including "Anti-Violence Network of Georgia" and "Georgian Young Lawyers Association".

In addition, with regard to the assessment of efficiency of behavior correctional programs it should be pointed out that in penitentiary and probation systems behavior correctional program is accompanied by a framework document that outlines the program's purpose, objectives, resources, and outcomes. In the framework there is a review of participant's eligibility, appropriateness and exclusion criteria for the program. A semi-structured pre- and post- questionnaire is integrated into the behavior correction program. In addition, an interim/long-term evaluation tool is used, which focuses on evaluating the results of the intervention.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 144

Witness and victim coordinators of the Ministry of Internal Affairs of Georgia, for example, were involved in 1,682 (one thousand six hundred and eighty-two) criminal cases in 2021 alone, which means that the same number of victims received support and information regarding services in the country. It should be also noted here that the witness and victim coordinators of the Ministry of Internal Affairs, in addition to criminal cases, are also involved in the issuance of restraining orders by a police officer and they refer victims to the appropriate services.

It is also advisable to integrate the above mentioned information.

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## MINISTRY OF EDUCATION AND SCIENCE OF GEORGIA

### PARA 162

*(...) The monthly salary of a social worker increased to GEL 1 200 (approximately €327) in 2020.72 On average, each social worker works on 100-150 cases per month.*

Since 2021, the monthly salary of each social worker under the Psychosocial Service Center of the Office of Resource Officers of the Ministry of Education and Science has been increased to GEL 1500. On average, each social worker works on average 15 cases per month.

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## OFFICE OF THE STATE MINISTER OF GEORGIA FOR RECONCILIATION AND CIVIC EQUALITY

## PARA. 213

*Women belonging to ethnic minorities lack interpretation services at the General Inspection of the MIA, while women living in remote areas have difficulty travelling to Tbilisi.*

Not clear. It needs to be specified why do the women living in the remote areas need to travel to Tbilisi and what makes difficult for them to travel to the capital.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 249

In addition, In Article 137 and 138 of the Criminal code of Georgia, it is stated that methods of sexual penetration into a person's body and other sexual parts, apart from violence and /or threats of violence, indicate that the victim is in helpless state, which means taking advantage of the victim's condition by the person who committed the crime, when it is impossible for the victim to express consent or refusal to sexual penetration or any other sexual action.

Today, the analyses of the current practice in Georgia reveals that rape and other acts of a sexual nature qualify as cases when the fact of violence and /or threats of violence are not clearly identified and the consent of the victim is not expressed at all or it is expressed and the act was preceded by a suppression of the will.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 260

The Criminal Law Code of Georgia fully covers the requirements of Article 37, Part 2 of the Istanbul Convention. According to the Code, a crime that started, continued, stopped or ended on the territory of Georgia is considered to have been committed on the territory of Georgia. Forced marriage is considered to be a completed crime as soon as the force is committed, and the occurrence of the result does not matter for the initiation of criminal prosecution. Thus, the coercion of marriage committed against a citizen of Georgia, even if it is subsequently followed by deceiving the victim abroad, is subject to the initiation of criminal prosecution.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA



## PARA. 265

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## THE PROSECUTOR GENERAL'S OFFICE OF GEORGIA

### PARA. 268

*Reports about female genital mutilation practices among the Avar community in the Kakheti region of Georgia were brought to the attention of the Georgian authorities in 2016. They were confirmed by the Public Defender and the Prosecutor's Office of Georgia. According to the authorities, such reports of female genital mutilation accelerated the adoption of legislation to criminalise this form of violence against women. However, there are no specific statistics on the practice of female genital mutilation in the country. Moreover, there are no data recorded about investigations into female genital mutilation under Article 133<sup>2</sup> of the Criminal Code.*

The Prosecution Service of Georgia keeps statistics of prosecutions and any other conclusive decisions made by the prosecutor for all articles of the Criminal Code of Georgia, including Article 133<sup>2</sup>. After female genital mutilation (Article 133<sup>2</sup> of the Criminal Code of Georgia) became punishable by law, only one investigation was launched under the Article 133<sup>2</sup>, in 2017. The investigation was conducted thoroughly, but female genital mutilation was not confirmed and the investigation was terminated due to the absence of elements of corpus delicti.

It should be noted, that investigation on female genital mutilation has not been launched since 2017, therefore no specific person was granted victim status or prosecuted.

Therefore, the argumentation provided for by the above-mentioned paragraph of GREVIO's report, which states that: "there are no data recorded about investigations into female genital mutilation under Article 133<sup>2</sup> of the Criminal Code"- doesn't describe given matter in a comprehensive manner.

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## THE PROSECUTOR GENERAL'S OFFICE OF GEORGIA

## PARA. 274

*Forced sterilisation is criminalised under Article 133<sup>1</sup> the Criminal Code. It consists of performing an operation or manipulation on a person with the purpose of destroying his/her ability to reproduce and is punishable by imprisonment for a term of two to six years. The same act committed by a group of persons, committed knowingly by an offender against a minor, a helpless person, a person with disability or a pregnant woman, or committed repeatedly is punishable by imprisonment for a term of three to seven years. The same act that causes death or other serious consequences shall be punished by imprisonment for a term of 7 to 11 years. It is not known whether there have been any prosecutions based on this Article.*

The information provided by the Prosecution Service of Georgia regarding the statistical data of criminal prosecutions initiated under the Articles 133 (illegal abortion) and 133<sup>1</sup> (*forced sterilisation*) of the Criminal Code of Georgia, is presented in paragraph 275 of GREVIO's report.

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## THE PROSECUTOR GENERAL'S OFFICE OF GEORGIA

### PARA. 275

*According to the statistical data collected by the authorities, between 2018 and 2021 there were no prosecutions or investigations for illegal abortion and forced sterilisation and no victim status granted in connection with such cases.*

Therefore, last sentence of the paragraph 274, which states that: „*It is not known whether there have been any prosecutions based on this Article*“ – doesn't fully align with the content of the paragraph 275 and revising abovementioned sentence would be beneficial.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 278

*GREVIO notes the conduct described in the Administrative Offences Code is more limited in scope than the definition foreseen by Article 40 of the convention (the physical conduct is limited to exposing one's genitals).”*

According to the note of Article 166<sup>1</sup> of the Administrative Offences Code of Georgia for the purposes of the article, behaviors considered as of a sexual nature are verbal - saying phrases and/or addressing of a sexual nature and non-verbal - showing genitals and/or any other non-

verbal physical conduct of a sexual nature. The law does not limit the physical (non-verbal) conduct to exposing one's genitals, it merely gives an example. Exposing one's genitals is one case that will fall into the scope of the law as a non-verbal sexual behavior, however the law also states that there are/could be „*other non-verbal physical conduct of a sexual nature*“ that are not namely given in the law. The article has a broad formulation that can cover a variety of actions, including, but not limited, a contact with the body of the victim.

2. General obligations, immediate response, prevention and protection (Articles 49 and 50): Effective investigation and prosecution.

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## MINISTRY OF ECONOMY AND SUSTAINABLE DEVELOPMENT OF GEORGIA

### PARA. 279

In 2021, a sexual harassment prevention and response mechanism was defined in the Ministry of Economy and Sustainable Development of Georgia, which was approved by the Minister's order and integrated into the employee handbook.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 280

The Ministry of Internal Affairs, within the scope of its competence, in any case concerning the possible fact of sexual harassment, implements the measures envisaged by the law.

It is interesting which research is the mentioned information about sexual harassment reporting statistics being low based on?

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## THE PROSECUTOR GENERAL'S OFFICE OF GEORGIA

### PARA. 285

*GREVIO also notes that Article 55 of the Criminal Code allows for the imposition of more lenient sentences than the minimum sentence foreseen by the law for any offence in the Criminal Code if a plea bargain is concluded between the parties. Thus, indications from women's rights organisations suggest that plea bargains are even used in relation to cases of rape and sexual violence, in particular those against minors with the purpose of marriage (Article 140 of the Criminal Code), frequently leading to fines instead of prison terms. Rape*

*committed as a result of bride kidnapping is often not treated as rape if the victim did not physically resist, as when there is no material evidence of physical resistance. Such lenient sentences do not act as a deterrent and appear neither proportionate nor dissuasive. GREVIO recalls that for all forms of rape and sexual violence, criminal liability arises from the lack of consent to the act, whether or not it was carried out with evidence of physical force, and should give rise to dissuasive sanctions.*

The prosecution service adopts a decision to conclude a plea agreement in cases where voluntary sexual intercourse with a person under the age of 16 is committed during family cohabitation. Mostly investigative authorities become aware of such cases after the birth of a common child as a result of an unregistered marriage. Bearing in mind the severity of penalty when such crimes are adjudicated on merits (imprisonment with the term from 7 to 9 years, without any alternatives), in such cases the prosecution service signs a plea agreement with a defendant on conditional sentence. As concerns other instances of voluntary sexual intercourse with a person under the age of 16, approach employed by the prosecution service is incomparably stricter.

The opinion, according to which only the victim's physical resistance is considered as the proof of rape, does not correspond to the established practice. Although, under Article 137 of the CCG, violence, threats of violence and use of helplessness are means of rape, this does not instantly imply that the law or prosecutorial practice requires the victim to prove physical resistance, and otherwise the act is not regarded as rape. During investigation, due attention is paid to contextual evidence assessment, conducting investigative and procedural activities with the victim-oriented approach in mind, studying circumstances that suppressed the victim's will and others. The mentioned approaches are enshrined in the prosecution service guidelines and in the specialization training module, accordingly they are implemented in the prosecutor's practice.

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## **THE PROSECUTOR GENERAL'S OFFICE OF GEORGIA**

### **PARA. 296**

*As regards the criminal proceedings, alternative dispute resolution mechanisms are not compulsory but are quite often used by the judiciary. The use of plea agreements and diversion in cases of violence against women and domestic violence is very common in Georgia irrespective of the seriousness of the offence. An analysis of several court judgments delivered in relation to early marriages has shown that plea agreements were signed in most of the cases examined concerning sexual intercourse by an adult with a person who has not attained the*

*age of 16 (Article 140 of the Criminal Code). The same report indicates that in 2018 the rate of plea agreements in domestic violence cases decreased compared to 2017. Thus, while in 2017 plea agreements were signed with defendants in 36 (37%) cases out of 98 guilty verdicts, in 2018 plea agreements were signed in only 17 (14%) cases out of 124. Such a trend is an indication of the tightening of the state policy in relation to domestic violence. Moreover, in order to ensure a uniform criminal law policy in the prosecution service, the Georgian authorities have developed guidelines that set out the criteria to be considered for diversion and plea agreements.*

In order to ensure uniform and proper criminal law policy in the prosecution service, guidelines have been developed, which are documents for official use only. These internal documents regulate the criteria to be considered when signing the diversion and plea agreement. Accordingly, the opinion, that the policy and criteria of the plea agreement are not determined strictly and in line with priorities, lacks accuracy. The practice of developing and implementing guidelines in the Prosecution Service in order to implement uniform and proper policy has been established for more than ten years.

In order to implement uniform policy, in June 2019, the Prosecution Service developed a recommendation "On signing a plea agreement in domestic violence cases", which was updated in 2021. The recommendation strictly lays down the criteria of entering plea agreement with the perpetrator of domestic crime. The recommendation requires a detailed assessment of the perpetrator's action, of the expected risks and dangers, and allows only in minor cases of violence conclusion of plea agreement for conditional sentence or imprisonment and a conditional sentence contemporaneously.

The data by year are as follows:

In 2017, 66% of cases were concluded after adjudication on merits, 34% of cases - with a plea agreement;

In 2018 - 89% of cases were concluded after adjudication on merits, 11% - with a plea agreement;

in 2019 - 95% of cases were concluded after adjudication on merits, 5% - with a plea agreement;

in 2020 again 95% of were concluded after adjudication on merits, 5% - with a plea agreement;

In 2021, 89% of cases were concluded after adjudication on merits, 11% - with a plea agreement and after adoption of detailed recommendations, the rate of signing plea agreements has increased, and in 6 months of 2022, 86% of cases were adjudicated on merits, and 14% - were concluded with a plea agreement.

Information on the reasons for signing plea agreements on crimes under Article 140 of the CCG is given in the comment on paragraph 285.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

The report (pg.8) states: *„Furthermore, GREVIO has identified a number of additional areas in which improvements are required in order to comply fully with the obligations of the convention. These relate, among other things, to the need to align the Criminal Code of Georgia more closely with the requirements of the Istanbul Convention, for example by criminalising the conduct of stalking...“*

It should be noted that the conduct of stalking is already criminalized under Article 151<sup>1</sup> of the Criminal Code. According to the named article an 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 a 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 is punished by a fine or community service for a term of 120 to 180 hours, or by imprisonment for a term of up to two years, with or without restriction of the rights regarding weapons. The report itself (Article 34 on pg.49 and other parts of the report) also emphasizes that the conduct of stalking is criminalized. It is recommended to eliminate the named technical inaccuracy.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 307

*„Although according to Georgian legislation evidence has no predetermined value (Article 82, paragraph 2, of the Code of Criminal Procedure) and should be evaluated in terms of its relevance, admissibility and credibility for each criminal case (Article 82, paragraph 1), and*

*given that no legal provisions provide for any mandatory evidence in relation to cases of sexual violence, prosecutors and the judiciary interpret the legislation in a sense that requires two pieces of direct evidence on which to base an indictment or a conviction for sexual violence. In view of indications made by civil society regarding a strict application of this rule in practice, GREVIO is concerned that this may result in high evidentiary requirements for rape, as this rule is not only applied for a conviction but also for an indictment”.*

According to the Criminal Procedure Code of Georgia a judgment of conviction shall be based only on a body of consistent, clear and convincing evidence that, beyond reasonable doubt, proves the culpability of a person.<sup>1</sup> Beyond reasonable doubt refers to a totality of evidence required for a court to pass a judgment of conviction, which would convince an objective person of the culpability of the person.<sup>2</sup> The evidential standard of beyond reasonable doubt indeed requires two pieces of direct evidence. Regarding the indictment, no such high threshold is required. According to the legislation, charges shall be brought against a person if there is a probable cause indicating that he/she has committed a crime.<sup>3</sup> In addition, the accused means a person against whom there is a probable cause suggesting that he/she has committed a crime provided for by the Criminal Code of Georgia.<sup>4</sup> Probable cause refers to a totality of facts or information that, (together) with the totality of circumstances of a criminal case in question, would satisfy an objective person to conclude that a person has allegedly committed a crime, an evidential standard for carrying out investigative actions and/or for applying measures of restraint directly provided for by this Code.<sup>5</sup> Thus, the evidential standard for conviction and indictment is different: while, two pieces of direct evidence are required for a conviction, no such obligation is set for an indictment.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 307

It is necessary to additionally note that the evidentiary standard, which implies the impossibility of a court to issue a guilty verdict based on circumstantial evidence, was established in Georgia by the decision of the Constitutional Court of Georgia dated January 22, 2015 No. 1/1/548.

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<sup>1</sup> Section 2 of the Article 13 of Criminal Procedure Code of Georgia

<sup>2</sup> Ibid. Section 13 of Article 3

<sup>3</sup> Ibid. Section 1 of Article 17

<sup>4</sup> Ibid. Section 19 of Article 3

<sup>5</sup> Ibid. Section 11 of Article 3

Regarding the basis of the guilty verdict on at least two direct evidences, according to the decision 510AP-14 of April 16, 2015, the Supreme Court of Georgia did not consider one direct evidence and several circumstantial evidences to be sufficient to prove the accused's guilt beyond a reasonable doubt.

Therefore, the courts have established a legal standard with the above-mentioned decisions that in order to convict the accused, it is necessary for the prosecution to present at least two pieces of direct evidence to the court.

Accordingly, the discussion regarding the criticism of the evidentiary standard cannot be directly related to the proceedings carried out by the investigative agency.

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## THE PROSECUTOR GENERAL'S OFFICE OF GEORGIA

### PARA. 307

*As regards the investigation of sexual violence, GREVIO notes that law-enforcement and judicial bodies are using strict requirements and corroboration rules for evidence to establish sexual violence. Although according to Georgian legislation evidence has no predetermined value (Article 82, paragraph 2, of the Code of Criminal Procedure) and should be evaluated in terms of its relevance, admissibility and credibility for each criminal case (Article 82, paragraph 1), and given that no legal provisions provide for any mandatory evidence in relation to cases of sexual violence, prosecutors and the judiciary interpret the legislation in a sense that requires two pieces of direct evidence on which to base an indictment or a conviction for sexual violence. In view of indications made by civil society regarding a strict application of this rule in practice, GREVIO is concerned that this may result in high evidentiary requirements for rape, as this rule is not only applied for a conviction but also for an indictment.<sup>153</sup> Although certain exceptions may apply, GREVIO concerned that the strict application of this rule of two pieces of evidence may result in low levels of indictments and, subsequently, convictions*

The guideline developed in 2021 by the Prosecutor General's Office of Georgia - "On investigation and procedural supervision of crimes against sexual freedom and inviolability" focuses on the nature of sexual crimes, according to which crimes of the mentioned category usually are not public and are not characterized by high number of eyewitnesses. Respectively, in cases of crimes against sexual freedom and inviolability, consistency of the victim's testimony and its congruence with other evidence is particularly important. Reliable and



coherent testimony provided by the victim may be sufficient for both indictment and conviction.

According to the instruction given to the prosecutors, it is noteworthy, that conflicting and inconsistent testimony by the victim of sexual crimes may be induced by the stress resulting from the crime or another objective reason, and it should not be an obstacle to the launching of prosecution, especially when the victim is a minor or a disabled person.

Within the framework of the specialization on sexual crimes, the guidelines on these crimes do not endorse such assessment and interpretation of evidence as well. In addition, prosecutorial practice does not establish such an approach. Prosecutors and investigators of P/S are provided with information on best international experience and standards both through specialization and guidelines.

The investigation on a criminal case should be conducted without any delay, thoroughly and objectively, taking into account the victim-oriented approach. This applies to ongoing investigations of any category of crime, including cases of domestic violence and sexual abuse against women. In cases of violence against women and especially in cases of sexual abuse, it is important to conduct context-based investigation giving consideration to the victim-centered approach. All necessary investigative and procedural actions must be conducted in criminal cases, in order to collect both direct and indirect evidence proving the crime.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 308

It would be more appropriate and valid to bring the statistics of the evaluation period and refer to them in the report, because from 2019 to 2021, the detection rate of sexual crimes (Articles 137-141) ranges from 45% to 50%. Thus, reference to 2017 and 2018 data does not reflect the current picture.

<https://info.police.ge/uploads/5e3a6b603887b.pdf>

<https://info.police.ge/uploads/61f817960be02.pdf>

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## THE PROSECUTOR GENERAL'S OFFICE OF GEORGIA

### PARA. 311

*Stereotypes and drawing negative inferences from the condition of the victim's hymen also prove to be a problem. Lack of injuries on the hymen often leads to the conclusion that penetration or rape did not occur. In some cases, forensic psychological examinations are ordered by prosecutors or judges to check whether or not the victim is "prone to lying". In this context, victims are often met with bias and disbelief and are subjected to victim blaming, unethical and sometimes humiliating questions and comments, which GREVIO notes with concern.*

Forensic medical examination, which implies the examination of genitals to determine the fact of sexual penetration, is not mandatory and can be conducted only when necessary.

In addition, it should be noted that under the criminal procedural law in force in Georgia, neither a prosecutor nor a judge is authorized to appoint a forensic examination and only an investigator is authorized to do so at the stage of the investigation.

During the investigation, it is essential to conduct all possible investigative and procedural actions, to appoint relevant forensic examinations.

Although various organizations often point out the appointment of a forensic examination for the purpose of checking the state of the hymen, the Prosecution Service of Georgia cannot agree with this view due to the following circumstances:

On the facts of sexual violence, a forensic medical examination is appointed in order to detect possible signs of injuries on the victim's body and to determine their infliction time. In addition, within the scope of examination, a forensic may be asked whether the victim has injuries in the genital area. After taking statements from the victim, the advisability of appointing a forensic medical examination is assessed. If a certain period of time has passed since the act of violence, it may be irrelevant to appoint such an examination.

Furthermore, the fact of violence is not evaluated according to the state of the hymen, there are cases when the hymen has not been not torn despite the violence, but the act was still assessed as rape and a guilty verdict is delivered.

If the victim cannot realize the nature of sexual violence due to health conditions or age, and there is suspicion of violence, a forensic medical examination may be appointed to detect the traces of injuries, and not to determine virginity.

If during the investigation there is no suspicion about the state of mental health of a person, a forensic psychiatric examination is not appointed.

Under Article 51 §3 of the Criminal Procedure Code of Georgia, it is not allowed to conduct an expert examination on the reliability of a witness, accordingly, conducting such an examination will be illegal and it is not conducted. As for the psychological examination, it may establish the presence of severe psychological trauma, representing additional (though not mandatory) evidence in this category of cases.

As concerns the attempt to discredit the victim at the hearing, great attention is paid to this issue in the recommendations developed by the prosecution service. In particular, the recommendation states that it is important for the victim to feel safe during the trial, to take into account her wish for remote interrogation and removal of the abuser from the courtroom; It is also emphasized that the prosecutor should take timely measures to challenge humiliating and irrelevant questions. In addition, there is indicated, that the prosecutor together with the coordinator should inform the victim/witness in advance about the progress of the trial and her rights, which will significantly reduce the risks of secondary victimization of the victim.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 313

The Ministry of Internal Affairs of Georgia provided GREVIO with information based on statistics, from which it can be seen that victims, their family members and relatives contact the police in connection with crimes committed with the motive of marriage at an early age. Also, the investigation is started on the basis of the crime information spread in the mass media. Therefore, reasoning that the investigation is started only on the basis of the information provided by the public defender or non-governmental organizations, is baseless.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 315

According to Article 100 of the Criminal Procedure Code of Georgia, upon receiving information about a crime, the investigator is obliged to start an investigation. Based on the above, if the notification/appeal received by the Ministry of Internal Affairs contains signs of a crime, based on the above-mentioned procedural obligation, an investigation is started.

We think that the mentioned proposal should be removed altogether or specify which source it is based on.

In terms of the investigation of this category of crimes, the identified tendency and the challenge that can be seen is the delayed appeal to the police, which makes it difficult to conduct investigative and procedural actions, in order to obtain evidence.

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## THE PROSECUTOR GENERAL'S OFFICE OF GEORGIA

### PARA. 316

*One of the main challenges concerning the investigations into and prosecutions of cases of domestic violence is that they do not always cover the full history of violence within a case (for example, where a victim has reported domestic violence several times to police or a case file only contains information on one or two incidents). The same applies to cases that are already open; further incidents of violence are not examined together with the initial recorded incident, but are dealt with as separate cases. However, according to the authorities, new tools have been made available to improve this situation, such as a violence risk-assessment tool and detailed rules for monitoring restraining orders.*

The above-mentioned paragraph of the assessment and monitoring report of the independent expert group (GREVIO) responsible for monitoring the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), relies on the report on femicide of the Public Defender in relation to cases in 2017. The report analyzes crimes committed in 2017.

It should be noted, that Georgia ratified the Council of Europe Convention on the Preventing and Combating Violence against Women and Domestic Violence in 2017. Convention entered into force on September 1, 2017. Accordingly, progress evaluation reports on carrying out the obligations undertaken by the state regarding investigating into the previous history of violence, are presented in the Public Defender's Femicide Monitoring reports of the following years.

It is worth noting, that in the 2020 report of the Public Defender on femicide monitoring, the reflection of the previous history of violence in criminal cases is appraised positively, in particular, in the report the Public Defender states: "It is also welcome that law enforcement agencies pay attention to the pre-violence situation during the investigation and investigators ask clarifying questions to witnesses in order to identify gender motives."<sup>6</sup>

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<sup>6</sup> <https://www.ombudsman.ge/res/docs/2022070609293559140.pdf> p. 39;

In recent years, considerable attention has been paid to the investigation of previous history of violence, in cases of violence against women, domestic violence and sexual violence as well as to the use of administrative or criminal law mechanisms against the abuser in the past, accordingly, to the identification of regular violence and the qualification of indictment as multitude of crimes, which is also evidenced by the recent statistics.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 322

Regarding the management of perpetrators, it is important for GREVIO to have information that the Ministry of Internal Affairs prioritizes the prevention of crimes against sexual freedom and inviolability, which means taking measures that will help prevent such crimes. In particular, according to the Law of Georgia "On Combating Crimes Against Sexual Freedom and Inviolability", a person convicted of a sexual crime has certain obligations, for the fulfillment of which case managers are assigned by the territorial bodies of the Ministry of Internal Affairs. Case managers are trained and competent to supervise sex offenders.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 324

Unfortunately, the comment of the Ministry of Internal Affairs of Georgia, which is based on statistical data, is not taken into account. The expert commission shared only a one-sided position based on information provided by non-governmental organizations, which may be based on individual cases in their production. In order to assess the progress and the real situation, it is important to take into account the official positions expressed by the state along with individual cases.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 327

Unfortunately, the comment of the Ministry of Internal Affairs of Georgia on the mentioned issue was not taken into account, and the commission of experts shared only a one-sided position, which is based on the information provided by non-governmental organizations. Accordingly, I present the same comment.

It is not clear what the position of the non-governmental organization mentioned in the report is based on when making the stated conclusion. Therefore It is advisable to remove this particular information from the report

It is significant that from September 2020 the mechanism of electronic supervision was introduced in the Ministry of Internal Affairs. Electronic monitoring is a risk assessment tool and can only be used if the victim answers the specified questions in the affirmative during the assessment.

In addition, the employees of the Human Rights Protection and Investigation Quality Monitoring Department of the Ministry of Internal Affairs are also involved in the decision-making process regarding the issuance of a restraining order and the establishment of electronic surveillance and, if necessary, give appropriate recommendations to the police officers.

In addition, the witness and victim coordinator is involved in the process of issuing a restraining order and provides information to victims regarding the need for electronic monitoring.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 336

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 337

Unfortunately, the comment of the Ministry of Internal Affairs of Georgia on the mentioned issue was not taken into account, and the commission of experts shared only a one-sided position, which is based on the information provided by non-governmental organizations. Accordingly, present the same comment.

It is also unclear what this record is based on. In particular, it should be noted that the Ministry of Internal Affairs does not process statistical data on cases of recurrence of violence after the expiration of the restraining order. If the case of Article 381 prima is meant, the record needs to be corrected.

Regarding the issue of proper monitoring by the police during the period of validity of restraining orders, it is notable that there is a monitoring mechanism in the Ministry of Internal Affairs, in particular, the N100 order of the Minister of Internal Affairs spells out the rules for supervising the fulfillment of the requirements and conditions stipulated by protective, restraining and weapon-related rights restriction orders. The order clearly describes the measures to be taken by the police officers during the period of validity of the warrants. Violation of the mentioned order causes the responsibility of the police officer in the appropriate manner.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 338

The statistical data in the footnotes cannot be interpreted to mean that all revoked restraining orders were flawed and/or lacked evidence, as some of the revoked restraining orders are the result of criminal investigations. (Based on the existing evidentiary standard, a summary decision was made, in the part of the decision to arrest and/or charge the perpetrator) Orders issued in progress. As you know, a much higher evidentiary standard is required to decide a criminal case than to issue a restraining order.

As you know, police officers are guided by a risk assessment tool when making the decision to issue a restraining order. The tool is a structured questionnaire in the restraining order protocol. Each question is given a corresponding score of 1, 3, and 5 according to the risk of lethality. All questions in the protocol must be marked with a positive or negative answer, and risks are identified by the positive answers given by the victim.

Therefore, it is clear that the risk of recurrence of violence is not determined by the evidence presented by the victim and/or obtained by the police officer, but, according to the order of the Minister of Internal Affairs N81, there is a high risk of recurrence of violence, if there is a positive answer to at least one 5-point question in the protocol, Medium risk is present if there is a positive answer to at least one 3-point question, and low risk is present if there is a positive answer to at least one 1-point question. The police officer is obliged to make a decision on issuing a restraining order based on the risks.

Here, not only the information provided by the victim, but also the assessment of the situation by the policeman is of great importance. Despite the appeal, the alleged victim may not cooperate with the police. However, the police officer, by assessing the current situation and the condition of the victim, will get the impression that violence really took place. Therefore, operationally, to ensure security, the discretion allows for a restraining order to be issued.

When issuing restraining orders, the police officer makes a decision based on the above-mentioned point system, based on the assessment of the risks of violence recurrence, therefore, all revoked orders do not mean that the police officer issued the order without justification.

Based on the above, the reasoning given in the paragraph should be changed, as it is not based on a correct assessment of the circumstances.

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## COMMON COURTS

### PARA. 340

The data indicated in the above-mentioned paragraph (and its scholium below) is expedient to be formulated/clarified as the following:

In 2018, a total of 141 protection orders were issued by courts of first instance, including 139 issued in cases of domestic violence; Of the 141 protection orders issued in 2018, 130 were issued for cases of violence against women, including 128 for cases of domestic violence against women.



In 2019, a total of 112 protection orders were issued, including 106 - in cases of domestic violence; Of the 112 protection orders issued in 2019, 102 were issued for cases of violence against women, including 98 for cases of domestic violence against women.

In 2020, a total of 104 protection orders were issued, including 97 - in cases of domestic violence; Of the 104 protection orders issued in 2020, 94 were issued for cases of violence against women, including 90 for cases of domestic violence against women.

In 2021, 95 protection orders were issued, including 92 - in cases of domestic violence; Of the 96 protection orders issued in 2021, 88 were issued for cases of violence against women, including 84 for cases of domestic violence against women.

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## MINISTRY OF INTERNAL AFFAIRS OF GEORGIA

### PARA. 358

Unfortunately, the comment of the Ministry of Internal Affairs of Georgia on the mentioned issue was not taken into account, and the commission of experts shared only a one-sided position, which is based on the information provided by non-governmental organizations. Accordingly, we present the same comment.

Witness and victim coordinators of the Ministry of Internal Affairs of Georgia, for example, were involved in 1,682 (one thousand six hundred and eighty-two) criminal cases in 2021 alone, which means that the same number of victims received support and information about the relevant services in the country. Additionally, it should be also noted that the witness and victim coordinators of the Ministry of Internal Affairs, in addition to the criminal cases, are also involved in the issuance of a restraining order by a police officer as well as they refer victims to the appropriate services.

It is advisable to integrate the above mentioned information.

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## THE PROSECUTOR GENERAL'S OFFICE OF GEORGIA

### PARA. 358

*The number of beneficiaries of services provided by victim and witness co-ordinator offices has remained high over the last few years. While in 2016 a total of 8 573 individuals benefited from their services, in 2017 the number of beneficiaries (witnesses, victims) increased to 9 913, in 2018 to 9 292, 8 348 in 2019, 3 006 in 2020 and 5 280 in 2021. However, it is not clear how many among the beneficiaries were victims of violence against women. According to*

*information provided by the authorities in 2020, 843 victims of domestic violence used the services of witness and victim coordinators.*

The Prosecution Service of Georgia would like to emphasize the following once again:

In 2020, 3,006 individuals benefited from the service of witness and victim coordinator, on 982 cases of domestic violence and domestic crime (the reduced number was attributed to the restrictions imposed due to the Covid pandemic).

In 2021, 5,280 individuals benefited from the service of the witness and victim coordinator, on 1,572 cases of domestic violence and domestic crime. Since 2022, the Prosecution Service of Georgia has also started collecting statistical information on the share of victims of violence against women among individuals who benefited from the witness and victim coordinator service.

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## **THE PROSECUTOR GENERAL'S OFFICE OF GEORGIA**

### **PARA. 359**

*GREVIO welcomes the provision in the Criminal Procedure Code of Georgia of procedural rights for victims (Article 57), which include the right to be informed about the criminal proceedings at any stage of the administration of justice, to request special protection measures in case of threat and intimidation and the right to request to hold the hearing in camera. Furthermore, when testifying in court, the victim enjoys the status of witness with all the rights and obligations granted under Article 47, paragraph 1, and Article 56 of the CCP. This includes the right to be informed about the case, the right to refuse to testify against herself/himself or his/her close relatives, and the right to access the services of interpreters/translators, among other things. However, GREVIO notes with concern that in practice victims are not informed about their rights and obligations in a comprehensive manner.*

The Prosecution Service of Georgia would like to emphasize the following once again:

In the course of 2021, exercising of the right provided for by the Article 50, Section 5 of the Criminal Procedure Code of Georgia (a close relative of the accused in the criminal case for domestic violence under Article 126<sup>1</sup> of the Criminal Code of Georgia, or in the criminal case for domestic crime under Article 11<sup>1</sup> of the same Code, who has directly sustained moral and physical injury and property damage as a result of the said crime, before enjoying the right provided for by paragraph (1) of this article (person shall not be obliged to be interrogated as

witnesses, and to transfer an item, a document, substance or other object that contains information essential to the case, is they are a close relative of the accused) shall be offered by a person conducting examination of a witness the consultation with a victim and witness coordinator and the enjoying of a 3-day period for making a decision) was offered by prosecutors to 466 victims in 28 structural units of the Prosecution Service of Georgia. Among them, in such district prosecutor's offices, where the services of witness and victim coordinator is not provided. Such districts use the witness and victim coordinator resources of the relevant regional Prosecutor's Offices.

The Prosecution Service of Georgia, using the resources of witness and victim coordinators and with their highest possible engagement, will more actively carry on using the opportunity provided for by Article 50 of the Criminal Procedural Code of Georgia in order to inform the victims of domestic crimes about the consequences of their refusal and threats of re-victimization, before they refuse to testify, also, to exclude, as much as possible, uninformed decision-making or decision, that is undesirable for the victim, made as a result of illegal influence brought upon them.

In cases of violence against women and domestic violence, as well as sexual crimes, the decision to grant a person victim status is made promptly, so that the victims can enjoy the rights granted by the law and have timely and correct information about the outcome of the criminal case. These topics are also covered in the relevant guidelines and within the specialization training courses.

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## LEGAL AID SERVICE

### PARA. 369

*GREVIO also notes that internally displaced women as well as asylum seekers and women seeking international protection whose claims are challenged in court are entitled to legal assistance from the Legal Aid Service. However, it is not clear whether there are any eligibility criteria and what the procedure is for accessing it.*

The Legal Aid Service (hereinafter, the LAS) assists asylum seekers and individuals seeking international protection in specific circumstances which are directly stated **in the Law of Georgia on Legal Aid**, article 5 § 2<sup>3</sup>. Regarding Eligibility criteria, free legal aid is provided to an asylum seeker, as well as to a person with international protection, with respect to whom a dispute on the application for international protection is to be resolved by a court in

connection with a case stipulated in Chapter VII<sup>6</sup> of the Administrative Procedure Code of Georgia. Furthermore, for asylum Seekers and individuals seeking international protection, their solvency is irrespective unless this person has a lawyer of his/her own choice.

Regarding the procedures for accessing assistance, free legal aid is provided in cases directly prescribed by law and the bylaws of the LAS. Beneficiaries can access all the above-mentioned information through:

- Reading mentioned legislative documents;
- Calling our consultants- 14 85 (working time 10:00-18:00);
- Using our social media pages;
- In-person visiting our bureau and getting help from our consultants.

Consultation is provided free of charge and is accessible to everyone.

#### **RELEVANT DOMESTIC LEGISLATION:**

##### **Law of Georgia on Legal Aid**

##### **Article 5 – Conditions for rendering legal aid**

2<sup>3</sup>. The legal aid under Article 3(a) and (d) of this Law shall be provided to an asylum seeker, as well as to a person with international protection, with respect to whom a dispute on application for international protection is to be resolved by a court in connection with a case stipulated in Chapter VII<sup>6</sup> of the Administrative Procedure Code of Georgia, irrespective of his/her ability to pay, unless this person has chosen a lawyer according to the general procedure.

#### **LAW OF GEORGIA**

##### **ADMINISTRATIVE PROCEDURE CODE OF GEORGIA**

##### **Chapter VII<sup>6</sup> – Administrative Legal Proceedings Concerning an Application for International Protection or for Granting Asylum**

##### **Article 21<sup>24</sup> – Application to a court**

A person with international protection or an asylum seeker shall have the right, in accordance with the procedure established by the legislation of Georgia, to apply to a district (city) court, in the language understandable to him/her, in the case of disputes related to an application for

international protection or in the case of disputes related to granting asylum, within 1 month after receiving the relevant individual administrative legal act.

**Article 21<sup>25</sup> – Procedures for resolving disputes related to an application for granting international assistance or to issues related to granting asylum**

1. A district (city) court shall consider a dispute related to an application for granting international assistance or a dispute related to granting asylum and shall transmit the decision to the parties within two months after the claim has been filed with the court.

2. An appeal for annulling the decision specified in paragraph 1 of this article shall be filed with the district (city) court that rendered the decision within 15 days after the decision is handed to the party. The judge shall immediately forward the appeal, together with the case material, to the court of appeals.

3. Failure of the parties to appear before the court of appeals shall not hinder the consideration of the appeal.

4. The court of appeals shall consider the case and render a decision within one month after the appeal is filed. The decision of the court of appeals is final and shall not be appealed.

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**OFFICE OF THE STATE MINISTER OF GEORGIA FOR RECONCILIATION AND CIVIC EQUALITY**

**PARA. 406**

*Besides bureaucratic obstacles, such as the requirement of obtaining victim status, additional factors such as ethnicity, poverty, social origin and disability still limit women's access to existing services, including domestic violence shelters.*

It needs to be clarified how the factor of ethnicity limits women's access to the services, including domestic violence shelter. Pls. give an explanation.