



**MONITORING THE
INTERROGATION OF
FEMALE VICTIMS OF
DOMESTIC VIOLENCE
AT THE COURT**

SPECIAL REPORT



Monitoring the Interrogation of Female Victims of Domestic Violence at the Court (Special Report)

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Introduction

The structural and system-wide inequality deeply rooted in the society, stereotypical and stigmatizing attitudes towards the social role and function of women and other circumstances could be considered as the main causes/drivers of the violence against women and domestic violence. Furthermore, the violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.¹

The criminal law is an important instrument for female victims of violence to exercise/enjoy their rights, including the right to access the justice. Therefore, in order to avoid stigmatization and secondary victimization of female victims of violence, it is necessary that the state takes efficient measures and applies a gender-sensitive approach in the process of interrogation, collection of evidence or implementation of other procedures related to the criminal investigations.²

Georgia has made significant progress in recent years in combating violence against women and domestic violence: it has ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (hereafter - Istanbul Convention); the national legislation has been harmonized with the Convention; mechanisms for the prosecution of this category of crime, as well as protection and support mechanisms for victims have been improved. Despite the progress achieved, still a small number of women apply to the law enforcement bodies for assistance.³ Furthermore, many of them refuse to testify in court against a close relative/family member.⁴

¹ The Preamble of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

² The Training Manual for Judges and Prosecutors on Ensuring Women's Access to Justice, Country Chapter for Georgia, 37; [available on: <https://bit.ly/3tOWR9K>; accessed: 21.09.21].

³ National Study on Violence against Women in Georgia 2017, UN WOMEN, 2018, 98; [available on: <https://cutt.ly/BRdagYw>; accessed: 21.09.21].

⁴ Only in the framework of this monitoring 12 instances/cases (40%) of refusing to testify against close relative have been recorded.

One of the main barriers for the access to justice is the environment in courts, which fails to meet the requirements for the protection of victims of violence from the secondary victimization. It should be mentioned that the risks and challenges associated with the secondary victimization of victims in the process of the interrogation have not been addressed and studied. Furthermore, it has not been analyzed whether the court infrastructure meets the requirements of the protection of women victims of domestic violence and domestic crime from the secondary victimization.

Consequently, the aim of the above-mentioned report is to examine the gender-sensitive approach of the justice system towards the protection of female victims of domestic violence and domestic crime against their stigmatization and secondary victimization.

The study was conducted jointly by the Public Defender of Georgia and the non-governmental organization "Rights Georgia" in the framework of the project - "Ensuring the Fair Trial for Female Victims of Violence through Monitoring of Interrogations during Criminal Proceedings and Advocacy Campaign". The project is supported by the USAID Program "Promoting Rule of Law in Georgia" (PROLoG) implemented by the East-West Management Institute (EWMI).

Methodology

The main topic of the report is to evaluate the process of interrogation of female victims of domestic violence and domestic crime in courts. In particular, whether female victims of domestic violence and domestic crime are interrogated in an environment that ensures prevention of their secondary victimization, on the one hand, and, whether there are an adequate environment and infrastructure in courts, on the other hand. Furthermore, whether all the above-mentioned in combination create barriers for the access to justice for female victims. The report analyzes the compliance of the factual circumstances identified as a result of the monitoring with the international standards defined by the United Nations (UN), the Council of Europe and the European Union and the requirements of the national legislation.

The study is based on the results of the monitoring of criminal proceedings at Tbilisi and Rustavi City Courts. The authorized representatives of the Public Defender attended 30 criminal cases in Tbilisi and Rustavi City Courts in order to evaluate the process of interrogation of female victims of domestic violence and domestic crime.⁵ Taking into account the number of cases, the regularity and intensity of interrogations, 10 cases were monitored at Rustavi City Court and 20 cases at Tbilisi City Court. The monitoring was instituted in the period of May-August 2021 and focused on criminal cases, which were qualified as domestic violence⁶ and domestic crimes⁷ and affected adult women. The authorized representatives of the Public Defender of Georgia attended only the process of interrogation of the victim.

⁵ In 21 cases out of 30, the authorized representatives of the Public Defender of Georgia monitored the process of interrogation in the courtroom, while in 3 cases they were involved in the remote hearing of the case and in 6 cases the relevant audio recordings were requested.

⁶ The Criminal Code of Georgia, Article 126¹.

⁷ The Criminal Code of Georgia, Articles 11¹ – 109; 115; 117; 118; 120; 126; 133¹; 133²; 137-139; 143; 144-144³; 149-151¹; 160; 171; 187; 253-255¹; 381¹ and 381².

The initial methodology envisaged requesting the information about the schedule of interrogations of victims on the above-mentioned cases from Tbilisi and Rustavi City Courts and attending/monitoring the trials on the basis of random selection principle. The comprehensive information provided by Rustavi City Court made it possible to identify the date and time of the interrogation of the victims. However, Tbilisi City Court failed to provide the information about the schedule of interrogations on the ground that it did not process the above-mentioned data.⁸

The above-mentioned fact led to the partial change of the initial methodology and the Public Defender of Georgia requested the information about those judges who examine criminal cases on the merits.⁹ Afterward, the authorized representatives of the Public Defender of Georgia received the updated information about the dates of the interrogations of the victims from the assistants of the judges of Tbilisi City Court on a daily basis.

The representatives of the Public Defender of Georgia, for the monitoring purposes, either attended in person at court or participated remotely in the process of interrogation of all female victims of domestic violence and domestic crime about whom they had received information from the court in advance. In those cases when monitors acquired the information about the interrogation at a later stage, they requested audio recordings of the interrogations. The description-documentation of the information obtained as a result of the monitoring was carried out through predefined questionnaires.

Apart from the monitoring of the interrogations of the victims, the authorized representatives of the Public Defender of Georgia examined the infrastructure and environment at Tbilisi, Kutaisi, Batumi and Rustavi City Courts and Telavi District Court on the basis of predefined questionnaires. In addition, the information on concrete practical issues related to the infrastructure was collected

⁸ The Letter No. 10369 of April 14, 2021 of Tbilisi City Court.

⁹ The Letter No. 08-5/4591 of May 14, 2021 of the Public Defender of Georgia; The Letter No. 14784 of May 24, 2021 of Tbilisi City Court.

directly by the authorized representatives, when attending the interrogations of female victims of domestic violence and domestic crime in the building of the court.¹⁰

The monitoring has identified tendencies, as well as concrete cases, which were evaluated as deficient and malpractice, failing to comply with existing standards. In response, the recommendations have been developed which, if reflected in the legislation or practice, will contribute to increasing access to justice for female victims of domestic violence and domestic crime.

¹⁰ For example, the monitor who attended the interrogation process also monitored how the victims entered the court building or the courtroom, the waiting period before the interrogation, the protection of confidentiality and other circumstances.

Key Findings

The monitoring led to the identification of the following key findings:

- The judges explained the rights and obligations to the victims in an incomprehensive manner;¹¹
- The judges in most cases did not explain to the victims their rights and obligations in a simple and understandable manner, using non-legal language. The explanation of rights and obligations to the victims had only a formal nature;
- In most cases, the judges did not inform the victims about the possibility of holding proceedings privately in whole or in part, organizing the interrogation without the presence of an alleged perpetrator, conducting interrogation remotely, and applying the special protection measure;¹²
- The judges did not inform the victims about the facilities for victims of violence (shelters and crisis centers) and services at their disposal;
- The Georgian criminal procedure legislation does not provide for the possibility of a remote interrogation of a female victim of violence or testifying in the courtroom without the presence of an alleged perpetrator in order to prevent her intimidation, secondary victimization and exertion of psychological impact on her;
- By referring to main principles/standards of the Istanbul Convention, the prosecutor did not file a motion and the judge did not take the decision himself/herself to remove/exclude the alleged perpetrator from the courtroom in the concrete cases when there was a real need due to the victim's severe emotional and psychological condition. The judge

¹¹ In the process of monitoring only in 3 cases (10%) the victims were interpreted/explained their rights and obligations in comprehensive manner.

¹² Various judges explained to the victim of domestic violence in only 4 (13%) cases about the possibility of closing the hearing, in 3 (10%) cases about the possibility of testifying at the trial without the participation of the alleged perpetrator, in 2 (7%) cases about the possibility of applying a special protection measure. The application about the closing of the hearing or testifying without the participation of the alleged perpetrator was not filed by the prosecution.

considered and decided to remove/exclude the alleged perpetrator from the courtroom in only one case. The judge also discussed the option of closing the hearing with the victim on his/her own initiative at the same hearing;

- The Georgian legislation does not envisage the possibility of provision of a free legal aid to a female victim in the criminal proceedings. The above-mentioned practice does not comply with the international human rights standards. It could be assumed that based on the above-mentioned, the legal support to the victim was provided by the private lawyer only in the process of one interrogation. The lawyer was sitting in the place intended for attendees and did not have the possibility to communicate with the victim;
- Witness and Victim Coordinators mostly did not participate/attend the process of interrogation of the female victims of violence, even in those cases, when the victim refused to testify against the close relative or was in a severe psychological and emotional condition;¹³
- The victim was not offered to consult Witness and Victim Coordinator and did not have the opportunity to enjoy the reflection period in the most cases;¹⁴
- The judges and prosecutors were delicate and sensitive towards the victims. However, in some cases, the number of judges displayed an unethical and ironic attitude and there was a fact of addressing the victim with a harsh and loud voice/tone;
- The alleged perpetrators themselves took part in the process of interrogation in the most cases. Namely, they asked questions and/or

¹³ The witness and victim coordinator attended the trial only in one case. However, even in this case, he/she was sitting away from the victim in the place intended for the attendees and did not have the possibility to communicate with her. It can be said that his/her participation in the process was of a formal nature.

¹⁴ There was only one case in the process of monitoring when the judge offered to the victim to consult the witness and victim coordinator.

voiced their position, being insulative and degrading for the victims. In a number of cases, the alleged perpetrator instead of asking questions, was making an assessment and was trying to justify his action and/or accuse the victim. The instances of verbal or non-verbal communication with the victim were observed in process of concrete hearings. The prosecutor and judge did not take efficient actions with regard to the confrontation between the alleged perpetrator and victim, and, consequently, the conduct of the alleged perpetrator did not lead to any response/reaction;

- The lawyers of the alleged perpetrators asked questions unrelated to the factual circumstances of the case in the process of concrete interrogations. Furthermore, there were instances when the questions/assessments/remarks were directed towards the discreditation of the victim and were of an offensive and degrading nature;
- There were instances when the lawyers of the alleged perpetrator asked incriminatory questions in the process of concrete interrogations.¹⁵ Most of these questions could be considered as an attempt to accuse the victim of non-reporting to the law enforcement bodies, despite being subject of violence for many years;
- The tendency to refuse to testify against a close relative by the victims has been revealed.¹⁶ The judges generally clarified the motive behind the refusal, *in alia* whether the decision was taken without any intimidation and/or influence. However, in some instances the questions asked by the judges to the victims were formulaic and the identification of possible reasons of refusal to testify was a mere formality;
- Hearings were often delayed, increasing the risk of the exertion of psychological impact and secondary victimization, as well as refusal to participate in justice through unwanted communication between the victim and the alleged perpetrator/his relatives;

¹⁵ As a result of monitoring of 8 hearings.

¹⁶ In 12 cases out of 30 (40%).

- The infrastructure in courts is less tailored to the needs of female victims of violence and fails to meet the existing challenges. The courts do not have the area, where the physical or verbal communication between the victim of violence and the alleged perpetrator/his relative/friend could be avoided. In particular:
 - The courts do not have special isolated waiting areas for victims of violence, including female victims of domestic violence and domestic crime. In case of necessity, the use of other area/space to serve the above-mentioned purpose is vague, due to the lack of similar precedents;
 - There is no separate isolated entrance to the court building and courtroom, which could also be used by victims of violence. Existing alternative entrances (e.g. entrances for court staff or judges) are not often used in practice;
 - There is no separate, isolated space for ensuring remote interrogation, whereas in some cases, technical deficiencies were revealed during the hearings conducted remotely;¹⁷
 - There is no space in the courts where nursing mothers and/or mothers of minors can feed their children, change diapers and/or leave their children until the completion of the interrogation.

¹⁷ Rustavi City Court is an exception, where there is a space for a remote interrogation of a victim.

Chapter I. The Evaluation of the Process of Interrogation of Adult Women Who Are Victims of Domestic Violence and Domestic Crime

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence states that in order for victims to enjoy the best possible protection, their rights, needs and safety/security should be at the core of any intervention. It incorporates offering protection and support to women at risk when they need it most, treating them with sensitivity and respect, and empowering them to make informed decisions that best reflect their interests. The above-mentioned circumstances were in focus in the process of the assessment of the monitoring results.

1.1. The Interpretation of Procedural Rights and Obligations to Victims

1.1.1. The International Human Rights Standard and National Legislation

The victims of domestic violence and/or domestic crime often do not have information about their criminal procedural rights. Furthermore, given that female victims of violence are often confused and are under a stress on the proceedings, it is important to interpret procedural rights and obligations to them, using an understandable, non-legal language.

According to the international human rights standards,¹⁸ the state shall take all necessary measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of investigations and judicial proceedings. The Istanbul Convention also states that the victims shall be informed about their rights and the follow-up given to their complaint, the charges, the general progress

¹⁸ The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Article 56, Paragraph 1.

of the investigation or proceedings, and their role therein. Notwithstanding the fact that the Istanbul Convention does not explicitly state this, the parties shall ensure the provision of this information to the victim in a language that she/he understands.¹⁹ In addition, it is not recommended just to read the legislative list of rights to the victim, and it is more efficient to enter into dialogue with her/him, thus granting the opportunity to the victim to ask questions.

The European Court of Human Rights in the case *E.B. v. ROMANIA* notes that the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence requires the contracting parties to take the necessary legislative and other measures to protect the rights and interests of victims. Such measures involve, informing the victims about their rights and the services at their disposal and providing them with appropriate support services so that their rights and interests are duly presented and taken into account.²⁰

In compliance to the international standards, the victim shall be informed about the details of the criminal proceedings instituted as a result of the complaint with regard to a criminal offence suffered by her and any final judgment in a trial.²¹ The victim is entitled to receive comprehensive information from their first contact with a competent authority.²²

¹⁹ Council of Europe, Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 11 May 2011, Paragraph 286; [available on: <https://rm.coe.int/16800d383a>; accessed: 21.09.21].

²⁰ *E.B. v. Romania*, European Court of Human Rights, Application no. 49089/10, 19 March 2019, Paragraph 65. In the above-mentioned case, the applicant alleged, in particular, that the criminal proceedings concerning the sexual assault against her had been ineffective and had exposed her to traumatic experiences as a victim of rape, thus violating her personal integrity. The applicant alleged that the state had failed to protect her as the victim and had exposed her to traumatic experiences, as the state had failed to inform her of her procedural rights and to provide her with free legal assistance and counselling.

²¹ Directive 2012/29/EU of the European Parliament and of the Council, Minimum standards on the rights, support and protection of victims of crime, 25 October 2012, article 6; [available on: <https://cutt.ly/aRdgQ5j>; accessed: 21.09.21].

²² *Ibid*, article 4.

The Criminal Procedure Code of Georgia defines the rights of a victim at the national level.²³ It defines the right of the victim to be informed about the details of criminal proceedings at any stage of the administration of justice, use a special protection measure in case of threat, request a full or partial closure of hearing at the court and receive detailed information about her rights and obligations, etc.

Furthermore, it should be noted that in the process of giving testimony at the court, the victim enjoys the status of the witness and all rights and obligations granted to the witness.²⁴ It incorporates the right of the witness to be informed about the case she/he has been summoned to the court for, refuse to testify against herself/himself or his/her close relatives, have access to the services of interpreter/translator, etc.

The Georgian legislation²⁵ defines the general rule for the interrogation of the witness and states that prior to the launch of the interrogation, the court shall establish the identity of the witness, interpret to her/him his/her rights and obligations and warn him/her about the criminal liability for refusal to testify or for giving a false testimony. The court shall also inform the witness that she/he is not obliged to give incriminating testimony against himself/herself or his/her close relative.

1.1.2. The Results of the Monitoring

The monitoring of the process of interrogation of adult female victims of domestic violence and domestic crime has identified that the information about their rights and obligations is not provided to the victims in a comprehensive manner.²⁶ It

²³ The Criminal Procedure Code of Georgia, Article 57.

²⁴ Ibid, Paragraph 1 of Article 47 and Article 56.

²⁵ Ibid, Article 115.

²⁶ Only in three cases, the judges interpreted to the victims their rights in a relatively comprehensive manner. It is also noteworthy that in all cases the judges interpreted to the victims their right that they are not obliged to testify against their close relative.

should be noted that apart from few exceptions,²⁷ the victims do not have information about the details of the case she is summoned to the court for, as well as about the charges brought against the alleged perpetrator. The judges mainly ask the victims if they know the details of the case they have been summoned to court for, and after receiving a positive answer, they no longer interpret the essence of the case/charges.

It should be noted that judges usually provide information to victims using a legal, technical language, which might be difficult for them to understand and digest. In one of the cases, the judge monotonously read the list of rights provided by the Criminal Procedure Code of Georgia, warned the victim about the criminal liability for giving false testimony or refusing to testify, without knowing the victim's position whether she wanted to testify against her close relative or not.²⁸

The example to demonstrate the interpretation of the rights in an incomprehensive manner

The Judge: *"You are being interrogated at the proceedings as the victim in the criminal case against G.Sh. You have the right to refuse to testify against a close relative and the spouse is considered as the close relative. Otherwise, I warn you about the criminal liability for giving false testimony or refusing to testify. Swear that, with all your conscience, you will only tell the truth and conceal nothing".*

The Victim: *"Yes, I swear!"*

The Judge: *"Please, tell us who is the alleged perpetrator for you?"*

The Victim: *"The spouse."*

The Judge: *"Do you want to give testimony to the court?"*

²⁷ In the above-mentioned case, the judge read the formulation of the charge to the victim and the disposition and penalty of the norm of the Criminal Code of Georgia, by which the action was qualified by the prosecutor.

²⁸ The victim was interrogated on June 04, 2021 at Tbilisi City Court.

The Victim: "Yes".

The Judge: "Please answer the questions of the prosecutor first and then the alleged perpetrator."²⁹

1.2. The Protection Mechanisms Against the Secondary Victimization of a Victim

1.2.1. The International Human Rights Standards and National Legislation

The protection of the victim from the secondary victimization is a sole responsibility of the state. According to the international standards, the state shall ensure the protection of the victims, as well as that of their families and witnesses, from intimidation, retaliation and secondary victimization.³⁰ The justice tailored to the needs of victims shall be carried out in a way, as to minimize inconvenience to victims, protect their privacy.³¹

The states are urged to review, evaluate and update their criminal procedures, as appropriate and taking into account all relevant international legal instruments, in order to ensure that women subjected to violence are enabled to testify in criminal proceedings through adequate measures that facilitate such testimony by protecting the privacy, identity and dignity of the women; ensure safety during legal proceedings; and avoid secondary victimization.³²

²⁹ Tbilisi City Court, Case No. 1/606-21.

³⁰ The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Article 56, Paragraph 1, Sub-paragraph "a".

³¹ UN Declaration for Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, paragraph 6 (d); Please also see: Council of Europe, Recommendation Rec (2002)5 of the Committee of Ministers to member states on the protection of women against violence, Paragraph 44.

³² Resolution adopted by the General Assembly, Strengthening crime prevention and criminal justice responses to violence against women, A/RES/65/228, 31 March 2011, Annex, Paragraph 15 (c). [available on: <https://cutt.ly/XRdkeqN>; accessed: 21.09.21].

The UN Committee on the Elimination of Discrimination against Women has approached the member states with the recommendation that when there is necessity to protect women's privacy, safety, and other human rights, ensure that legal proceedings can be held privately in whole or in part, or testimony be given remotely or via communication equipment, in a way that only the concerned parties are able to access their content.³³

The Istanbul Convention notes that the states shall take relevant measures to protect the privacy and the image of the victim.³⁴ The Convention also defines the right of victims to testify in the courtroom without being present or at least without the presence of the alleged perpetrator, notably through the use of appropriate communication technologies.³⁵ Furthermore, in order to limit as far as possible the psychological impact on the victim of being in the same room as the perpetrator, she or he could give testimony where the perpetrator does not appear in the court room.³⁶

It is possible to organize the interrogation in a remote format for the efficient application of the protection measures provided by the international standards. Some legal systems allow victims to appear before the court by videoconference. To limit as far as possible the psychological impact on the victim of being in the same room as the perpetrator or being with them by videoconference, the sightlines of both can be restricted so that the victim cannot see the perpetrator and/or vice versa.³⁷ If, for instance, the victim were to appear at the hearing, she or he could give evidence from behind a screen or give evidence where the

³³ Committee on the Elimination of Discrimination against women, General Recommendation on Women's Access to Justice, CEDAW/C/GC/33, 23 July 2015, Paragraph 18 (f); [available on: <https://cutt.ly/ORDjN3L>; accessed: 21.09.21].

³⁴ The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Article 56, Paragraph 1, Sub-paragraph "f".

³⁵ Ibid, Sub-paragraph "i".

³⁶ Council of Europe, Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 11 May 2011, Paragraph 292; [available on: <https://rm.coe.int/16800d383a>; accessed: 21.09.21].

³⁷ Ibid.

perpetrator does not appear in the court room. The UN Committee on the Elimination of Discrimination against Women has approached the member states with the recommendation to ensure giving of the testimony remotely or via other communication equipment, if it is necessary for the protection of privacy, safety and other human rights.³⁸

The European Court of Human Rights in the case *Mraović v. Croatia*³⁹ noted that in criminal proceedings concerning such a serious and intimate crime as rape, the exclusion of the public from part or from the entire proceedings may be necessary for the protection of rape victims' private life, in particular their identity, personal integrity and dignity, as well as for preventing her/his secondary victimization.⁴⁰ The court has also reiterated that the justice system should operate in a manner that does not increase the suffering of victims of crime or discourage them from participating in it. However, due regard must also be had to the rights of the alleged perpetrator, including their right to public scrutiny of the criminal proceedings against them.⁴¹

Thus, the international human rights standards implicitly or explicitly refer to the factors for protecting the victim from the secondary victimization, such as holding the proceeding privately in whole or in part, testifying without the presence of an alleged perpetrator in the courtroom, organizing a remote interrogation, and applying special protection measures.

³⁸ Committee on the Elimination of Discrimination against Women, General Recommendation on Women's Access to Justice, CEDAW/C/GC/33, 23 July 2015, Paragraph 18 (f); [available on: <https://cutt.ly/ORdjN3L>; accessed: 21.09.21].

³⁹ *Mraović v. Croatia*, European Court of Human Rights, Application no. 30373/13, 14 May 2020;

⁴⁰ *Ibid*, Paragraph 49.

⁴¹ The European Court of Human Rights considers that due to the severity and nature of the crime, as well as taking into account the obligation of the state to respect dignity and privacy of the victim, the closing only part of the proceedings would not have sufficed to protect her rights in the particular circumstances of the present case. Consequently, the Court ruled that the discretion which the state exercised with regard to the closure of the proceedings entire in the present case was not incompatible with the applicant's right to a public hearing.

The Criminal Procedure Code of Georgia on the national level provides for the principle of publicity and oral nature of the hearing, based on which the court hearing is usually held in public and orally.⁴² However, upon the motion of the party or on the initiative of the court, the hearing might be closed in exceptional cases, including for the protection of the interests of the victim of a domestic crime.⁴³

According to the international standards, if the victim is afraid to meet the alleged perpetrator and there are certain safety risks, it is possible to enable victims to testify in the courtroom without the presence of the alleged perpetrator or otherwise avoid their confrontation. The Istanbul Convention foresees the temporary exclusion/removal of the alleged perpetrator from the courtroom “in compliance with the norms of the internal law.” However, the Georgian legislation does not contain any specific reference to the removal of the alleged perpetrator from the courtroom and/or the use of other alternative protection measures⁴⁴ in the process of interrogation of an adult victim, with the aim to prevent his/her secondary victimization. The above-mentioned could be considered as the gap in the Georgian legislation. It is important that, in case of necessity, the judge acts and takes decision on the basis of the Istanbul Convention.

The Criminal Procedure Code of Georgia provides for the rule for the remote interrogation of the witness.⁴⁵ However, it should also be noted that the national legislation defines the remote interrogation in general terms⁴⁶ and there is no special norm in the Code, which will regulate the organization of the remote

⁴² The Criminal Procedure Code of Georgia, Article 10.

⁴³ In compliance with Sub-paragraph “d” of Paragraph 3 of Article 182 of the Criminal Procedure Code of Georgia, the court might take the above-mentioned decision on the basis of the motion of the party or on its own initiative.

⁴⁴ In compliance with Paragraph 1 of Article 40 of the Criminal Procedure Code of Georgia, the judge in the process of the interrogation of the witness might refuse the attendance of the alleged perpetrator if one of the special measures of protection of a witness is applied.

⁴⁵ The Criminal Procedure Code of Georgia, Article 243.

⁴⁶ Paragraph 3 of the above-mentioned Article states that on the basis of the motion of a party, the court might decide to interrogate a witness remotely, by using technical means from the same or another court or any other place, of which the parties shall be notified in advance.

interrogation with the aim of protecting the victim from the secondary victimization.⁴⁷

Furthermore, the Criminal Procedure Code of Georgia foresees the use of special protection measures for persons participating in the proceedings.⁴⁸ The special protection measure is applicable if: the public hearing, due to its nature, substantially harms the privacy of the participant in proceedings; making the identity of the participant of the proceedings and his/her involvement in the case public, considerably endangers his/her or his/her close relative's life, health or property; the participant of the proceedings depends on the alleged perpetrator.⁴⁹

1.2.2. The Results of the Monitoring

Holding Legal Proceedings Privately in Whole or in Part

As a result of the monitoring, it has been identified that in most cases, judges do not inform the victim prior to the launch of the process of interrogation about the possibility of holding legal proceedings privately in whole or in part.⁵⁰ Furthermore, no motion was filed on holding legal proceedings privately in whole or in part. However, in one case, based on the initiative of the judge, first the alleged perpetrator was excluded/removed from the courtroom and then the discussion was held about organizing criminal proceeding privately.

⁴⁷ It should be noted that due to the Pandemic, the interim rule has been added to the transitional and concluding provisions of the Criminal Procedure Code of Georgia. The interim rule states that before January 1, 2022 in case of existence of pandemic or epidemy, posing eminent threat to the society, the court is authorized to take decision about organization of the hearing in a remote mode in particular cases, using digital means of communication.

⁴⁸ The decision about the above-mentioned is taken by a prosecutor, with the consent of the General Prosecutor of Georgia or his/her deputy. The Criminal Procedure Code of Georgia, Article 68, Paragraph 2.

⁴⁹ Ibid, Article 67.

⁵⁰ There were 4 exception cases, when the judge informed the victim of domestic violence about the protection mechanism provided by the legislation.

The victim entered the courtroom before the launch of the hearing and took a front sit in the wing for attendees (citizens), behind the defendant. It was vivid that the victim was nervous and she left the courtroom soon. She was followed by the bailiff, who upon the return stated that the victim was nervous and had problems to express herself/himself. The prosecutor left to talk with the victim. The prosecutor also stated that the victim felt bad and she was not able to speak. At the end, the victim herself entered into the courtroom, said that she felt bad and wanted to leave again, when the judge stopped her.

The Victim: *"I have not seen him for a long while and got nervous. I had no idea that there would be so many people"*⁵¹

The Judge: *"You should be more daring, do not allow your emotions to take control over you. If it is emotionally difficult for you to handle situation, we can hold the criminal proceeding without the alleged perpetrator being present or close the hearing."*

The victim agreed to close the hearing. The judge postponed the discussion of the case without taking the decision on the above-mentioned issue.⁵²

The Exclusion/Removal of the Alleged Perpetrator from the Courtroom Temporarily

Prior to the interrogation, the victim is not usually informed about the possibility of organizing the interrogation without the presence/participation of the alleged perpetrator, which might be preconditioned by the absence of a specific provision in the Criminal Procedure Code of Georgia.⁵³ The monitoring has identified that

⁵¹ The victim in lot of people most probably meant the two monitors, who were attending the proceeding.

⁵² The victim was interrogated on June 01, 2021 at Rustavi City Court.

⁵³ As a result of the monitoring, 3 cases were identified, where the judge offered/interpreted to the victim that she/he had the right to testify without the participation of the alleged perpetrator in the proceedings. In one of these cases, the judge decided to remove the alleged perpetrator from the courtroom. In addition, there was a case when the alleged perpetrator attended the criminal proceeding from the penitentiary institution remotely and the judge still offered to the victim to

the prosecutor has never filed a motion to remove/exclude the alleged perpetrator from the courtroom temporarily and to prevent his/her communication with the victim, even when the victim refused to testify.⁵⁴ The victim has also never voiced similar request in the process of the monitoring.

It should be noted that in the process of the interrogation of victims during two proceedings, the need to remove the alleged perpetrator temporarily from the courtroom arose, as the victim of the crime was in a severe emotional condition and did not want to be in a close contact with the alleged perpetrator. Nevertheless, no decision was made to remove the alleged perpetrator from the courtroom.

To illustrate the above-mentioned the relevant examples are provided

The man was accused of violence against his wife. Namely, the man under the influence of alcohol, grabbed his wife in arms, shook her and threw her against the wall. A few months later the physical violence was repeatedly committed and in that time it was accompanied by the threat of homicide. It was also revealed that during their many year-old marriage, it was quite common for the man to consume alcohol and commit similar actions.

Prior to the launch of the interrogation, the prosecutor informed the judge that due to the victim's emotional condition it was not reasonable to keep her close to the alleged perpetrator and asked her/him to allow the victim to take a sit in the place assigned for the prosecutor, while he would stand in front of the tribune/podium and conduct the interrogation from there.

Although the judge satisfied the prosecutor's request, it did not appear to be sufficient to neutralize abusive and degrading messages of the alleged perpetrator towards the victim, thus increasing the risks of secondary

testify without the participation of the alleged perpetrator in the criminal proceedings. The offer was denied by the victim.

⁵⁴ It should be noted that it was impossible to file such motion, because the alleged perpetrator was expelled from the courtroom.

victimization of the victim. In the process of the interrogation, the alleged perpetrator made some gestures with his hands and whispered traumatizing and insulting words, but in a tonality that he could be heard: “Look at her”, “You have to listen what she is talking about”, “Rotten” (dampalo), etc.⁵⁵

The facts of physical violence and the threat of homicide by placing the knife on the throat, committed by the man against the mother of his wife, were discussed on one of the hearings. The victim repeatedly stressed her severe emotional condition:

“Please, I looked death into the eyes, I can no longer look at this boy/man, I can no longer. Please, please. If he doesn’t remember anything, I do remember everything very well.”⁵⁶

It should be noted that in one case, when the victim refused to testify, the judge explained to her that if she was afraid of the alleged perpetrator, the court would serve as a guarantor of creating safe environment for her and after giving testimony the prosecutor would be obliged to monitor and control her safety.

The decision of the judge in one of the monitored cases to remove the alleged perpetrator from the courtroom temporarily due to the emotional condition of the victim can be assessed positively. The prosecutor also shared the judge’s position. However, it should be noted that the judge neither provided legal justification for the decision, nor indicated the relevant legal basis.⁵⁷

⁵⁵ Tbilisi City Court, the case No. 1/606-21.

⁵⁶ The victim was interrogated on June 07, 2021 at Tbilisi City Court;

⁵⁷ The victim was interrogated on June 01, 2021 at Rustavi City Court.

The Remote Interrogation

The monitoring has identified that there was no single case, when the judge provided information to the victim about the possibility of organizing the interrogation in a remote format with the aim to protect her from the secondary victimization. Furthermore, no motion was filed by parties in this regard. It should be noted that in order to reduce the risks posed by the pandemic, 10 interrogations were organized in a remote format. Consequently, the alleged perpetrator and victim were not exposed to have direct physical contact with each other.

The Application of Special Protection Measures

The monitoring has not identified any single case when a special protection measure was applied in order to ensure the protection of the victim. The judge interpreted to the victim only in two instances that in case of threat she could request the special protection measure.

It should be also noted that the monitoring has identified the cases, when the victims were frightened and nervous as they feared about the recurrence of the violence. For example, the victim expressed dissatisfaction on one of the criminal proceedings that the alleged perpetrator had been released on bail and she still had to live in fear.⁵⁸ In another case, the victim asked the judge about the possible measures to be undertaken against the alleged perpetrator: *“Will not you make sure that he will not touch/affect us?”*⁵⁹ On another hearing, the victim said: *“When I called the police, I requested the anonymity. I was deadly scared of this person and I am still, he is unbalanced.”*⁶⁰ There was a case when the victim was crying, while saying: *“I am sure he will kill me, when he is released”.*⁶¹

⁵⁸ The victim was interrogated on July 28, 2021 at Tbilisi City Court.

⁵⁹ The victim was interrogated on June 07, 2021 at Tbilisi City Court.

⁶⁰ Tbilisi City Court, Case No. 1/4340-20.

⁶¹ Tbilisi City Court, Case No. 1/3838-20.

In the above-mentioned cases, the victims' fear and nervousness were left without any reaction/response by the judge and prosecutor. The judge did not even inform them about the possibility to use special protection measures.⁶²

1.3. The Victim Support Mechanisms to Prevent Her Secondary Victimization

1.3.1. *The International Human Rights Standards and National Legislation*

It is essential for most of the victims to receive/enjoy the support, it could even be the presence of a trustworthy person in the courtroom, in the process of interrogation. The provision of psychological and/or legal aid/support might become necessary in the process of giving testimony in the court. The psychological support is important both in overcoming the trauma and in alleviating fear and stress in the process of interrogation, while the support of a lawyer is important to ensure that victims receive comprehensive information about their rights and the ways to enjoy them.⁶³

According to the Istanbul Convention, states shall take relevant measures in order to provide victims with appropriate support services so that their rights and interests are duly presented and taken into account.⁶⁴ It also states that victims shall be informed about the protection and support mechanisms at their disposal.⁶⁵

⁶² It is also important, to take into account the victim's condition when sentencing the alleged perpetrator, on the one hand, and to inform the victim about the possibility of using the support mechanisms available in the framework of the services offered at special shelters and crisis centers, on the other hand.

⁶³ M. Shalikhvili, *Victimology – The Science about the Crime Victim*, Tbilisi, 2011, P. 125, P. 128-129.

⁶⁴ The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Article 56, Paragraph 1, Sub-paragraph "e".

⁶⁵ *Ibid*, Sub-paragraph "c".

A crucial element in guaranteeing that justice systems are economically accessible to women is the provision of free or low-cost legal aid, advice and representation in judicial and quasi-judicial processes in all fields of law. According to the international standards, the contracting parties shall institutionalize systems of legal aid and public defense that are accessible, sustainable and responsive to the needs of women; and ensure that these services are provided in a timely, continuous and effective manner.⁶⁶

The Istanbul Convention also notes that the parties shall provide for the right to legal support and to free legal aid for victims under the conditions provided by their internal law.⁶⁷

The European Court of Human Rights in the case *Airey v. Ireland*⁶⁸ noted that the escape from the violence was only possible via the use of effective and accessible legal remedy. Consequently, only this remedy ensured practical protection of the victim. The court interpreted that an effective access might require the provision of legal aid by reason of the complexity of the procedure or of the case, as the victim might not have any experience in dealing with criminal proceedings or she/he might have minor opportunity to represent herself/himself, taking into consideration her/his emotional condition.

The Georgian criminal procedure legislation does not foresee the provision of the legal protection to an adult victim, which does not fully meet the requirements of

⁶⁶ Committee on the Elimination of Discrimination against women, General Recommendation on Women's Access to Justice, CEDAW/C/GC/33, 23 July 2015, Paragraph 36-37; [available on: <https://cutt.ly/bRdzWqH>; accessed: 21.09.21]; Please also see: Committee on the Elimination of Discrimination against women, General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28, 16 December 2010; Directive 2012/29/EU of the European Parliament and of the Council, Minimum standards on the rights, support and protection of victims of crime, 25 October 2012, article 13.

⁶⁷ The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Article 57.

⁶⁸ *Airey v. Ireland*, European Court of Human Rights, Application no. 6289/73, 9 October 1979.

the international standards.⁶⁹ The Criminal Procedure Code of Georgia does not ensure the involvement of a psychologist in order to provide the support to a victim, not even in special cases with the aim to protect victims from the secondary victimization.

The only party/participant of criminal proceedings, who is in charge of the provision of support and protection to a victim of domestic violence from the secondary victimization, is Witness and Victim Coordinator. The goal of the involvement of Witness and Victim Coordinator is to facilitate the participation of a victim and alleged perpetrator in the proceedings, reduce the stress inflicted by the crime, prevent recurring and secondary victimization, and ensure the provision of information to them during the investigation and court proceedings.⁷⁰

Witness and Victim Coordinator might be involved in the criminal case by the decision of a prosecutor or investigator⁷¹ and he/she shall:

- provide a witness and a victim with the necessary information about the progress of the investigation and the court hearing;
- communicate to a witness and a victim, in the language understandable to them, their rights and obligations, and explain to them the legal procedures for investigation and court hearing;
- during the investigation, be present at an investigative action and a procedural action carried out involving a witness and a victim, to provide emotional support to the witness/victim;

⁶⁹ It should be noted that according to Sub-paragraph "c" of Article 3 of the Law of Georgia on Legal Aid, types of legal aid shall be to protect victims in criminal proceedings when conducting a defense in cases provided by the Criminal Procedure Code of Georgia at the expense of the state. It should also be noted that this Law provides for the protection at the expense of the state, only in case of representing a victim of domestic violence in an administrative body or court during an administrative hearing.

⁷⁰ The Criminal Procedure Code of Georgia, Article 58¹, Paragraph 2.

⁷¹ Ibid, Paragraph 4.

- during the court hearing, be present at the interrogation of a witness and a victim in the courtroom, and at the examination of evidence involving them, to provide emotional support to the witness/victim;
- provide a witness and a victim with information about the necessary legal, psychological, medical and/or other services and, when needed, assist in contacting an appropriate body/organization.⁷²

Furthermore, it should be also noted that the Georgian legislation foresees the existence of special shelters and crisis centers for the provision of psycho-social and legal support to victims of domestic violence.⁷³ Consequently, it is important that the court prior to the launch of the process of interrogation reminds a victim that the state provides for certain support measures.⁷⁴

1.3.2. The Results of the Monitoring

Provision of Legal Support to a Victim

The monitoring has identified a single case when the legal support to the victim was provided by a private lawyer. However, it should be noted that the lawyer was assigned to take a sit in the place, which is intended for the attendees in the courtroom and is away from the victim.⁷⁵ Being away from the defendant allegedly

⁷² Ibid, Article 58², Paragraph 1.

⁷³ Please see the Law of Georgia on “Violence against Women and/or Elimination of Domestic Violence, Protection and Support of Victims of Violence”, Article 4, Sub-paragraph “i” and “k”, Article 17, Article 18 and Article 18¹.

⁷⁴ However, the monitoring did not reveal any instances, when a judge provided information to a victim about the possibility of receiving psycho-social and legal support in shelters and crisis centers. It was voiced only one of the proceedings that the victim actively enjoyed the support of a psychologist from the service facility for victims of violence (crisis center). However, the victim did not benefit from neither legal assistance nor the assistance of the witness and victim coordinator in the process of interrogation.

⁷⁵ Notwithstanding the fact that the infrastructural of the first courtroom of Tbilisi City Court enabled the defender to be in the vicinity of the victim and at the same time effectively realize his/her function.

affected his/her ability to be involved in the proceedings, thus the lawyer was not actually involved in the process of interrogation.

Support Provided by Witness and Victim Coordinator to a Victim

The monitoring has identified that, generally Witness and Victim Coordinator does not attend the process of interrogation, including in cases when the victim refuses to testify against a close relative. There was only one single case when the coordinator attended the proceedings, although even in this case he/she did not have the opportunity to communicate with the victim.⁷⁶ In fact, the coordinator was formally involved in the proceedings.⁷⁷

It should be noted that in the process of the victim's interrogation, the judge was mostly not interested in the involvement and participation of Witness and Victim Coordinator in the case, not even in cases where the victim refused to testify. Nevertheless, there was a positive development in this regard in one case, where the judge asked the victim whether she had communicated with the coordinator and after receiving a negative response from the prosecutor, he/she considered reasonable to involve the coordinator in this case and postponed the hearing.

To illustrate the above-mentioned the relevant examples are provided

It was made clear during the hearing that the man was accused of violating the restraining order and threatening his wife with homicide. The victim refused to

⁷⁶ It should be noted that in this particular case the victim was standing next to the tribune/podium and the coordinator could not communicate with her/him partially due to the infrastructure of the courtroom itself. The hearing was held at Tbilisi City Court on June 08, 2021.

⁷⁷ Besides, the information has never been provided about the involvement of Witness and Victim Coordinator in different stages of the proceedings at other court hearings. It is therefore unknown whether the coordinator was involved in other stages of proceedings (e.g., investigation stage). It was found out during one proceeding that Witness and Victim Coordinator was involved in the case, although she/he was unable to attend the hearing.

testify in the above-mentioned case. Apart from clarifying the motives for refusal to give the testimony, the judge was also interested about the involvement of Witness and Victim Coordinator in the above-mentioned case.

The Judge: *"Has the Coordinator had the contact with the victim?"*

The Prosecutor: *"As far as I know – no"*

The Judge: *"Were there any circumstances which hindered you to meet the coordinator?"*

The Prosecutor: *"I was informed that the victim was ready to testify today. However, now I have learnt that she refuses to do so. Therefore, I will ask this question to the victim now – when did you decide to exercise this right? Because in the conversation, you confirmed the facts and expressed readiness to testify, did not you?"*

The Judge: *"You should know that cases related to domestic violence differ from other cases. Victims often have mood swings and they can change their position at any moment. There are certain risks in every individual case. Therefore, you have to anticipate those risks and involve the coordinator. We can postpone the proceeding, allow her to meet Witness and Victim Coordinator and have more clear position for the next proceeding."*

The prosecutor shared the judge's view with regard to postponing the proceeding. At the end the judge took the decision about postponing the proceeding and addressed the victim:

"Let us not to be in rush today. The communication with you assures me that you are hindered, you want to say something, but you cannot. Let's postpone the proceeding, you will meet the coordinator and will have more clear position for the next proceeding."

The monitor also attended the next hearing on this case. The victim confirmed to the judge that she had communication with Witness and Victim Coordinator, nevertheless her position on the refusal to testify was unaltered.⁷⁸

1.4. The Participation of a Judge and Parties in the Process of Interrogation of a Victim

1.4.1. *The International Human Rights Standards and National Legislation*

One of the significant problems in the process of interrogation of a victim on the criminal proceedings is the lack of sensitivity and empathy towards a victim expressed by a judge, prosecutor and lawyer. It is important that judges, prosecutors and lawyers demonstrate a careful and human attitude towards victims, which should be manifested in the process of interrogation of victims first of all.⁷⁹ The international human rights standard requires to treat victims with compassion and respect for their dignity.⁸⁰ A judge should listen to a victim attentively and carefully and shall not ask unjustly intrusive, embarrassing, or overly repetitive questions. She/he should pay attention to his/her verbal or non-verbal communication and shall refrain from displaying facial or body expressions, which assess the conduct or narrative of a victim. A judge should tolerate the fact that a victim might forget important details and give her/him the opportunity to tell her/his story using his/her own words.⁸¹ The same is valid for a prosecutor and lawyer.

⁷⁸ The victim was interrogated on June 30, 2021 at Tbilisi City Court.

⁷⁹ M. Shalikashvili, *Victimology – The Science about the Crime Victim*, Tbilisi, 2011, P. 126.

⁸⁰ UN Declaration for Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, Paragraph 4; [available on: <https://cutt.ly/9RdFPyM>; accessed: 21.09.21].

⁸¹ Anna Costanza Baldry and Elisabeth Duban, *Improving the Effectiveness of Law Enforcement and Justice Officers in Combating Violence against Women and Domestic Violence, Training of Trainers Manual*, 2016, 65-67; [available on: <https://bit.ly/3tRpmE0>; accessed: 21.09.21].

A judge and prosecutor should do their utmost to protect a victim from harassment and intimidation in the courtroom, which might manifest itself in the submission/examination of evidence that is harmful, discriminatory or shameful.⁸² The interrogation of a victim/witness that reinforces stereotypes should be stopped through an objection by a prosecutor or ruling by a judge. Prosecutors should be attentive to signs that a victim/witness is becoming upset or overwhelmed during the interrogation and request a short break.⁸³

The increased risk of secondary victimization of a victim of domestic violence in the criminal proceedings stems directly from verbal or non-verbal communication of an alleged perpetrator and his/her lawyer. It is therefore important to control behavior in the courtroom and prevent any attempt of an alleged perpetrator directed towards manipulating a victim or disrupting the proceedings.⁸⁴ If the judge notices the alleged perpetrator using such tactics, she/he should state it for the record and advise the perpetrator to stop the behavior or risk contempt of court. Furthermore, a judge shall make clear to all parties that emotional outbursts and facial or body expressions (such as sighing, eye rolling, etc.) will not be tolerated. If such behavior occurs, stop the proceedings to warn the party that they will be removed from the courtroom and remove the party if they continue.⁸⁵

The case law of the European Court of Human Rights clearly sets out the standards for violence against women, including the right to respect the private life of an applicant. When considering whether a fair balance is struck between the right of an alleged perpetrator under Article 6 of the European Convention and the right

⁸² For example: asking a victim question about her/his sexual life or alcohol and drug abuse in the process of interrogation.

⁸³ Anna Costanza Baldry and Elisabeth Duban, *Improving the Effectiveness of Law Enforcement and Justice Officers in Combating Violence against Women and Domestic Violence, Training of Trainers Manual*, 2016, 77; [available on: <https://bit.ly/3tRpmE0>; accessed: 21.09.21].

⁸⁴ For example: interrupting a victim or accusing him/her.

⁸⁵ Anna Costanza Baldry and Elisabeth Duban, *Improving the Effectiveness of Law Enforcement and Justice Officers in Combating Violence against Women and Domestic Violence, Training of Trainers Manual*, 2016, 78; [available on: <https://bit.ly/3tRpmE0>; accessed: 21.09.21].

of a victim under Article 8 of the European Convention, the European Court takes into account the standards defined in the relevant international instruments.

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence requires the contracting parties to take the necessary legislative and other measures to protect the rights and interests of victims. Such measures involve, inter alia, protection from intimidation and repeat victimization, enabling victims to be heard and to have their views, needs and concerns presented and duly considered, and enabling them, if permitted by applicable domestic law, to testify in the absence of the alleged perpetrator.⁸⁶

The European Court of Human Rights in the case *Y. v. Slovenia* noted that as a rule, the alleged perpetrator's rights require that he/she be given an adequate and proper opportunity to challenge or question a witness, who testified against him/her. However, a person's right to defend himself/herself does not provide for an unlimited right to use any defense arguments.

The Court reiterated that personal cross-examination should not be used for the intimidation and humiliation of a victim.⁸⁷ It is the responsibility of a judge to ensure the respect towards the personal integrity of the applicant in criminal proceedings, namely to protect him/her from inconvenient and irrelevant statements, which could be considered as an adequate protection measure/intervention that elevates the trauma inflicted to the applicant.⁸⁸

Although the awareness about the victim vulnerability has increased over the time, the risks of secondary victimization of the victim of crime in the process of communication with a judge and parties in a courtroom remain still high due to

⁸⁶ *Y.v. Slovenia*, European Court of Human Rights, Application no. [41107/10](#), 28 May 2015, Paragraph 104; also see: *E.B. v. Romania*, European Court of Human Rights, Application no. 49089/10, 19 March 2019, Paragraph 65.

⁸⁷ *Y.v.Slovenia*, European Court of Human Rights, Application no. [41107/10](#), 28 May 2015, Paragraph 108; please also see: Council of Europe, Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence, Paragraph 43.

⁸⁸ *Ibid*, Paragraph 112.

stereotypical attitudes firmly rooted in the society. The Georgian legislation does not foresee special guarantees for the protection of a victim from the secondary victimization in the courtroom, including in the process of direct or cross-examination. Nevertheless, in accordance with the international standards and recommendations, it is essential to ensure a gender-sensitive and impartial environment for female victims of domestic violence in the process of interrogation at court. Judges and parties shall take into account that the questions asked to the victim must be formulated so as they do not make the victim feel trauma or offense; the victim should not be asked questions which are not linked to the circumstances of the case.⁸⁹

1.4.2. The Results of the Monitoring

The Participation of a Judge and Prosecutor in the Process of Interrogation of a Victim

The monitoring has demonstrated that in general judges and prosecutors were sensitive towards victims, although there were some exceptions. Namely, in one particular case the judge demonstrated unethical attitude towards the victim, and in 3 cases the judges, together with unethical attitude, addressed the victims ironically and in a strict and loud tone. For example, the victim was tensed and cried both at the beginning and at the end of the interrogation. It is true that the judge tried to comfort the victim, but addressed her with the following words lately: “if you came here to weep, it would have been better to weep at home and come here afterwards.”⁹⁰

There was the case in the process of monitoring, when the Secretary of Judicial Session displayed unethical and offensive attitude towards the victim. The victim

⁸⁹ The Training Manual for Judges and Prosecutors on Ensuring Women’s Access to Justice, Country Chapter for Georgia, 38; [available on: <https://bit.ly/3tOWR9K>; accessed: 21.09.21].

⁹⁰ The victim was interrogated on May 06, 2021 at Rustavi City Court.

left the courtroom nervously in the above-mentioned case.⁹¹ The Secretary of Judicial Session made an ironic comment on her behavior: *“Maybe, the alleged perpetrator could calm her down?”*⁹² On another hearing, when the victim refused to testify, the judge addressed the victim: *“With your decision you are encouraging the alleged perpetrator. It is an encouragement.”* The words of the judge made the impression of administering justice and imposing the burden of penalty/punishment on the victim.

The monitoring has also identified the instance of non-verbal ironic communication between the victim and the judge. The victim of the crime refused to testify against her spouse. The judge addressed the victim and asked what she was going to do in case of repeated violence. In response to the question, the victim stated that she believed the alleged perpetrator would not commit such action again. At this very moment the judge, with a mimic change of lips, openly expressed the ironic attitude towards the position of the victim and demonstrated her/his position that she/he was less confident about this.⁹³

As opposed to the above-mentioned cases, there were cases when the judges demonstrated ethical and considerate/caring attitude towards the victims. The judges encouraged the victims, comforted them and offered them a break, a chair, water. For example, in one case, the judge addressed an 86-year-old woman with the following words: *“If you are tired or you need water, please let us know. We will offer you water and announce a break. We will try our best not to keep you long.”*⁹⁴ The protocol/minutes of other court hearing show that the judge offered water and a chair to the victim, who became nervous in the process of interrogation: *“Please do not be nervous, would you like some water or do you need a chair?”*⁹⁵ Also in another case, the judge expressed support to the victim, who was in a severe

⁹¹ The above-mentioned issue is described in more details on page 23.

⁹² The victim was interrogated on June 01, 2021 at Rustavi City Court.

⁹³ The victim was interrogated on May 18, 2021 at Rustavi City Court.

⁹⁴ The victim was interrogated on June 11, 2021 at Tbilisi City Court.

⁹⁵ Tbilisi City Court, Case No. 1/4980-20.

emotional condition: *“Ms. Kh., the court asks and recommends you not to be nervous. You are a young woman and have a whole life ahead of you. Trust me! Do not worry - this is the advice of the court; the court can express support in this way. Do not worry, everything will be fine, believe me!”*⁹⁶

The Participation of an Alleged Perpetrator in the Process of Interrogation of a Victim

The monitoring has identified that the risks of secondary victimization of victims were posed by alleged perpetrators in particular. The instances of verbal or non-verbal communication of the alleged perpetrators with the victims were observed in 11 cases. The alleged perpetrators were directly involved in the process of interrogation, they asked questions and/or voiced their position, which in most instances were offensive and degrading. For example: *“Why are you lying?”*⁹⁷ *“You are talking nonsense (bullshit), are not you ashamed?”*⁹⁸ *“Are not you ashamed, could you swear to god?”*⁹⁹ *“Look! What is she talking about?”*¹⁰⁰ etc.

There was a case, when the alleged perpetrator was laughing, while the victim was giving a testimony. The prosecutor asked the judge to take measures to stop the alleged perpetrator from behaving likewise. However, the judge only looked at the alleged perpetrator without giving him any remarks or having any other reaction.¹⁰¹ On another hearing, the alleged perpetrator laughed when the victim said she was very scared and could not reveal her address. The alleged perpetrator was also laughing when the victim was talking about the threat of homicide. The judge and the prosecutor left this case without any reaction/response as well.¹⁰²

⁹⁶ Tbilisi City Court, Case No. 1/3838-20.

⁹⁷ The victim was interrogated on July 13, 2021 at Tbilisi City Court.

⁹⁸ The victim was interrogated on June 7, 2021 at Tbilisi City Court.

⁹⁹ The victim was interrogated on June 8, 2021 at Tbilisi City Court.

¹⁰⁰ Tbilisi City Court, Case No. 1/606-21.

¹⁰¹ The victim was interrogated on June 28, 2021 at Tbilisi City Court.

¹⁰² The victim was interrogated on June 8, 2021 at Tbilisi City Court.

The monitoring has identified the fact of confrontation between the victim and the alleged perpetrator during 5 hearings. There were also cases when instead of asking questions to the victim, the alleged perpetrator made assessments, told his own version of the case and tried to justify his actions and/or blame the victim. No efficient measures have been undertaken to prevent confrontation at the proceedings. Notwithstanding the fact that the judge appealed to the alleged perpetrators to ask questions to the victims, they continued to make offensive and incriminatory assessments.

A different approach was monitored in one of the cases - the alleged perpetrator, instead of asking questions, made assessments and talked about everyday issues that had nothing to do with the circumstances of the case. The judge repeatedly explained to the alleged perpetrator to ask questions, use polite form of address in relation to the victim and offered him that his lawyer could continue the interrogation. The alleged perpetrator stopped talking and the interrogation of the victim was continued by his lawyer. The judge played a positive role in preventing the victim-perpetrator confrontation and secondary victimization of the victim.¹⁰³

Positive approaches were also observed. For example: the judge gave a notice to the alleged perpetrator for his impolite comment - *"You are lying"*. The judge said: *"I give you a notice! Keep order! Otherwise, you will be expelled from the courtroom!"*¹⁰⁴ On another hearing, when the alleged perpetrator stated that the victim was lying, the judge addressed him: *"Mr. R., I give you a notice! Please obey the rules and regulations of the court! If you repeatedly act likewise, you will be expelled! Be Civil! Be Polite! and please restrain, restrain! Otherwise, you will be expelled!"*¹⁰⁵ There was also an instance when the alleged perpetrator declared, while the victim was talking, that there was no conflict between them, but the judge stopped him.

¹⁰³ Tbilisi City Court, Case No. 1/4340-20.

¹⁰⁴ The victim was interrogated on June 8, 2021 at Tbilisi City Court.

¹⁰⁵ Tbilisi City Court, Case No. 1/4340-20.

The Participation of a Lawyer in the Process of Interrogation of a Victim

The monitoring has demonstrated that in most cases lawyers representing the interests of alleged perpetrators posed risks of secondary victimization of victims.¹⁰⁶ There were facts of lawyers asking irrelevant questions. Those questions were not linked to the factual circumstances of the case and were aimed at discrediting the victim. However, the victim still had to answer those questions.

To illustrate the above-mentioned the relevant examples are provided

The man was accused of threatening his wife with homicide and repeated psychological violence. The lawyer of the alleged perpetrator asked the questions to the victim, which were not related to the factual circumstances of the case and aimed at disclosing a special category of personal data.

The Lawyer: *"Do you consume either alcohol or drugs?"*

The Victim: *"Me? No, I can not drink alcohol."*

The Lawyer: *"Could you explain why you cannot drink alcohol? I can not understand, sorry."*

The victim named the concrete health problem that prevented her from consuming alcohol.

The Lawyer: *"And you have never drunk, right?"*

The Victim: *"Never"*

.....

In response to one of the questions in the same case, the victim stated that she had neurosis, Her statement was followed by irrelevant questions asked by the lawyer.

¹⁰⁶ Similar facts were observed in 7 cases.

The Lawyer: *“Do you have mental problems as well?”*

The Victim: *“I have been suffering from neurosis since the operation”*¹⁰⁷

The Lawyer: *“What type of operation did you have?”*

The victim indicated the type of operation she had had.

The judge stopped the lawyer, when his/her questions became completely unrelated to the circumstances of the case.¹⁰⁸

In another case the Lawyer of the Alleged Perpetrator Asked the Following Question to the Victim:

The Lawyer: *“Ms. Kh. Do you smoke marijuana, by chance?”*¹⁰⁹

The monitoring has identified 8 instances of asking incriminatory questions. Most of these questions could be considered as attempts to accuse the victims of refusing to report to the law enforcement bodies about their many-years experience of violence. The instances of abuse of the victim by the lawyer were also identified.

To illustrate the above-mentioned the relevant examples are provided

According to the circumstances of the case, the alleged perpetrator, who was under the influence of alcohol, physically abused his wife, in particular, he hit her into the face with a clenched hand. The victim interpreted that it was not the first

¹⁰⁷ Presumably, the victim explained with this her neurosis.

¹⁰⁸ The victim was interrogated on June 8, 2021 at Tbilisi City Court.

¹⁰⁹ Tbilisi City Court, Case No. 1/3838-20.

case of violence and noted that the conflicts occurred mainly when the alleged perpetrator was under the influence of alcohol. When the alleged perpetrator again demanded money from the victim to buy alcohol, the woman felt that she might be in danger and decided to report to the police.

The lawyer of the alleged perpetrator initially asked how the victim learnt that the alleged perpetrator was planning to drink alcohol from the morning. The victim replied that she herself had given money to the alleged perpetrator to buy alcohol. The lawyer laughed ironically at the victim's statement and continued the interrogation:

"If you were afraid of the person, when he consumed alcohol and why did you still finance him?" The way you talk makes it impossible for us to understand anything! Do you support him to do things you were afraid of?"

In the process of the same interrogation, the victim noted that the alleged perpetrator went to sleep after the physical violence and she decided to report to the police only in the morning, when the alleged perpetrator again demanded money for alcohol.

The Lawyer: *"You tell us that this person is dangerous for you. How could you tolerate this for whole night? If he used violence against you, hit you and you suffered, why did you wait for the whole night then? Why did you call the police in the morning? Were not you afraid at night? Now you are saying that he is dangerous and your answers contradict to reality."*

The Victim: *"Because every time he drinks, he beats me. He is drunk all the time. I am also a human."*

It should be noted that the lawyer repeatedly asked the victim why she decided to report to the police only in the morning. At the end, the prosecutor objected to these questions, saying that these questions had already been answered. The judge granted the prosecutor's request.¹¹⁰

¹¹⁰ The victim was interrogated on May 6, 2021 at Rustavi City Court.

The man was accused of physical violence and threat against his wife and mother-in-law, namely: the alleged perpetrator while being at home, threw his wife on the bed, placed knife on the throat and threatened to kill her. When the mother of the victim overheard the noise, she entered into the room. The alleged perpetrator nudged her and she fell down on the couch. The man also threatened her with homicide and placed a knife on the throat.

In the process of interrogation of the mother of the alleged perpetrator's spouse, the lawyer asked the incriminatory questions several times.

The Lawyer: *"Ms. Ts. do you know what we are interested in? You are saying that you have been under influence for 8 years, right? Why have not you approached and reported to the police about it?"*

The Victim: *"Do you know how many times I wanted to approach the police? You can not even imagine! My daughter stopped me, asking not to disrupt her marriage/family. It made me stop! Nothing else, you should know how I suffered?!"*

With regard to this issue, the lawyer said later: *"I would not have tolerated this for 8 years. I understand your position."*¹¹¹

The man was accused of physical and psychological violence against his spouse, as well as of threat of homicide. The lawyer of the alleged perpetrator had repeatedly addressed the victim in an abusive/humiliating context.

The Lawyer: *"Is this J. [is he the victim], or other one?"*

The Judge: *"Please, this is offensive/insulting Ms. I."*

The Lawyer: *"Mr. Judge, he is saying something completely different, against the background of something completely different."*¹¹²

¹¹¹ The victim was interrogated on June 7, 2021 at Tbilisi City Court.

¹¹² Tbilisi City Court, Case No. 1/4340-20.

The man was accused of threat of homicide of the former spouse. The lawyer of the alleged perpetrator objected in a rather aggressive tone to the prosecutor's questions asked to the victim and made a number of incriminatory and traumatizing remarks towards the victim.

The Lawyer: *"If something happened in 2016, what prevented her from going, reporting She was told fairytales. She was instructed and now she is here – telling those. She is an actor, a real actor."*

.....

The Lawyer: *"This guy/man is innocent. So many things can be invented/fabricated."*

.....

The Lawyer: *"Why did not you cry/shout? You had so many opportunities."*¹¹³

The lawyer asked ironic and frivolous question to the victim on one of the proceedings while hearing the case related to the domestic violence.

The Lawyer: *"When you reported to the police, did he [the alleged perpetrator] kill you or your family member?"*

The Victim: *"It is obvious that he has not done it yet."*¹¹⁴

The tendency of asking one and the same questions to the victim has been identified as a result of the monitoring. In particular, in 11 (65%) out of 17¹¹⁵

¹¹³ Tbilisi City Court, Case No. 1/4914-20.

¹¹⁴ Tbilisi City Court, Case No. 1/3838-20.

¹¹⁵ Where the victim had testified.

hearings, the parties asked the victims the same questions repeatedly, notwithstanding the fact that the victims had already answered those questions. Mostly, the questions were asked repeatedly by the lawyer of the alleged perpetrator, although a similar practice was also followed by the prosecutor.

The prosecutor had filed a motion in 26 cases in order to divert the repeated question from the victim. In most of these cases, the judge satisfied the objection.¹¹⁶ It should be mentioned that in one case the judge with his/her own initiative, without any objection, addressed to the lawyer: *“One minute, Mr. G.! I have one request to you: Please, do not ask the same questions because the woman has already spoken in detail both when she was narrating her story herself, as well as when the prosecutor asked questions. Now you make her repeat the same for the third time.”*¹¹⁷

In another case, when the lawyer of the alleged perpetrator was asking the victim questions that had already been answered, the judge called on the lawyer to take into account the victim’s emotional condition and let her to leave the courtroom in a timely manner. According to the lawyer, the questions were asked to check the credibility, objectivity and authenticity of the testimony of the victim. With regard to the above-mentioned, the judge noted: *“The credibility test can not be verified in this way, by asking one and the same questions and discrediting the victim. The victim has been standing in front of the podium for more than an hour, she is nervous. She has been interrogated already for more than an hour. You see the emotional background! Ask questions, I do not limit you, but do not ask the same question!”*¹¹⁸

¹¹⁶ **Remark:** There was a case when the lawyer repeatedly asked one and the same question, consequently the prosecutor can object several times in order to divert the same question.

¹¹⁷ The victim was interrogated on June 7, 2021 at Tbilisi City Court.

¹¹⁸ Tbilisi City Court, Case No. 1/4914-20. The prosecutor repeatedly filed a motion to divert the alleged perpetrator’s lawyer from questioning, as the victim had already answered the similar questions. The judge largely granted the protest and called on the lawyer to refrain from asking the same questions. The judge in most cases satisfied the objection and asked the lawyer to refrain from asking one and the same question.

In addition to the above-mentioned, there were cases of attempts to discredit the victim by the lawyers of the alleged perpetrator.

To illustrate the above-mentioned the relevant examples are provided

The man was accused of threat of homicide of his former spouse. The lawyer of the alleged perpetrator told the victim that it was all fabricated while she was answering one of the questions. The judge immediately addressed the lawyer that she/he should not discredit the victim.

The Judge: *"This is direct desecrating of the victim in presence of the judge. To leave everything aside, this contradicts to the rules of ethics."*¹¹⁹

There was a special case, where the information about alleged criminal action committed by the alleged perpetrator's lawyer against the victim was voiced. Namely, prior to the interrogation the victim provided to the court important information that the lawyer of the alleged perpetrator intimidated her, threatened her with alleged retaliation and pressure (by the alleged perpetrator). According to the victim, about a month later after the arrest of the abuser, his lawyer contacted him and asked for a meeting. The lawyer of the alleged perpetrator told the victim on the meeting that her fate and future depended on what she would have said in the court: *"I promise I will manage to release him [the alleged perpetrator] within a year and then you do not want to live?!"*¹²⁰ According to the victim, she reported about it to the police.

¹¹⁹ Tbilisi City Court, Case No. 1/4914-20. The lawyer of the alleged perpetrator was particularly aggressive towards the victim, asking irrelevant questions while the judge urged him to be civil and polite. The lawyer filed a motion about the recusation of the judge in the process of interrogation of the victim as he/she considered the proceedings to be biased. The judge listened to the views and opinions of the parties and dismissed the motion as lacking the justification and argumentation.

¹²⁰ Tbilisi City Court, Case No. 1/3838-20.

The above-mentioned case presumably demonstrates the attempt to exercise a pressure on the victim, it surpasses the interest protection strategy and represents a severe attempt to persuade the victim to refuse to testify.¹²¹

It should be noted that the monitoring has also revealed a good practice, when the lawyer of the alleged perpetrator displayed an ethical and sensitive attitude towards the victim in the process of interrogation, taking into account her emotional condition and asking only questions related to the case.¹²²

1.5. The Refusal to Give Testimony by a Victim

The domestic violence, due to its nature and place of commitment, is not characterized by a large number of witnesses, making the collection of a lot of evidence difficult. Therefore, it is important to take this specificity into account when rendering a judgment. Furthermore, the refusal of a victim to testify requires a careful examination/evaluation. Consequently, it is important to examine the motives behind the victim's refusal when considering a case in the court.

According to the Criminal Procedure Code of Georgia,¹²³ a close relative of an alleged perpetrator 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.¹²⁴ Furthermore, a judge shall reveal patience and shall refrain from expressing disappointment even, when a victim does not cooperate with the

¹²¹ It should also be noted that the lawyer continued the discussion around the above-mentioned issue during the interrogation of the victim. According to the protocol/minutes of the hearing, the prosecutor objected and requested not to ask the questions around the issue. The judge satisfied the objection and diverted the question on the grounds that it was beyond the scope of the case and was the subject of a different dispute. The lawyer further made a statement on the matter and assessed the victim's action as a provocation, encouraged with the alleged support and assistance of the prosecutor. Furthermore, the lawyer noted that she/he was not able to carry out his/her activities properly during the proceedings.

¹²² The victim was interrogated on June 28, 2021 at Tbilisi City Court.

¹²³ The Criminal Procedure Code of Georgia, Article 50, Paragraph 1, Sub-paragraph "d".

¹²⁴ According to Paragraph 2 of Article 3 of the Criminal Procedure Code of Georgia, close relative is considered to be a parent, an adoptive parent, a child, a foster child, a grandfather, a grandmother, a grandchild, a sister, a brother, a spouse (including a divorced spouse).

investigation/refuses to testify.¹²⁵ A judge shall explain to a victim/witness the importance of his/her testimony so as not to accuse the latter.¹²⁶

In 2019, a large number of decisions on acquittals (66%) were made on cases related to domestic crimes, where the close relatives of alleged perpetrators refused to testify at the substantive hearing of cases.¹²⁷ However, there have been cases in the court practice, when criminal indictments were rendered notwithstanding the fact that the victims refused to testify.¹²⁸ The similar practice has been observed in the process of the monitoring as well.

In 12 cases out of 30 (40%), the victim exercised her statutory right and refused to testify.¹²⁹ In 3 cases out of several, the victims were not released from the obligation to testify as the alleged perpetrators were not their close relatives, while in 2 cases the victim neglected the testimony given by her at the stage of investigation.¹³⁰

The Relevant Examples to Illustrate Reasons Used by Victims to Refuse to Testify

The Victim: *"I do not want to testify, I do not want to tell anything, I just want his release. We have two children. I forgave him."*¹³¹

¹²⁵ Please see P. 37 about the expression of discontent in a non-verbal form by the judge.

¹²⁶ Improving the Effectiveness of Law Enforcement and Justice Officers in Combating Violence against Women and Domestic Violence, Training of Trainers Manual, 2016, 65-66, [available on: <https://bit.ly/3tRpmEO>, accessed: 17.09.2021].

¹²⁷ The Activity Report of the Prosecutor's Office of Georgia of 2019, 2020, 15; [available on: <https://bit.ly/2WPj5w6>, accessed: 04.09.2021].

¹²⁸ G. Khatishvili, Important Clarifications of the Common Courts of Georgia on Cases Related to Women and Domestic Violence, 2016-2018, 2019, 45-70; [available on: <https://bit.ly/2YhUCjy>, accessed: 04.09.2021].

¹²⁹ In 6 cases the victims were spouses of the alleged perpetrator, in 2 cases the victims and alleged perpetrators were in unregistered marriage, in 2 cases the alleged perpetrators were former spouses and in 2 cases - children. In one case the hearing was postponed with the hope that the victim will give testimony on the next hearing.

¹³⁰ For example, in the process of interrogation at one of the hearings, the victim said that she actually fell down and that the investigator composed/fabricated this information. In the above-mentioned case, the alleged perpetrator was the wife (daughter-in-law) of the victim, who was accused of physical violence against 86-year-old woman (mother-in-law).

¹³¹ The victim was interrogated on May 18, 2021 at Rustavi City Court.

The Victim: *"I want to be reconciled with my husband because of the children. When the children saw their father, they got excited and cried."*¹³²

The Victim: *"I do not want to give any evidence against my son/daughter, we have recorded the reconciliation. There was a conflict, but I forgive. I am the mother, whose one son/daughter is in intensive care and the other is in prison. It is very difficult for me, believe me."*¹³³

The Victim: *"I forgive as he is the father of my children."*¹³⁴

The monitoring has identified that the judges mainly study the reasons for the victim's refusal to testify, whether the decision was taken on the basis of any influence, threat, coercion or intimidation. However, the questions asked to the victim sounded banal in some cases, studying the possible reasons for refusal to testify was more of a formal nature and did not intend to establish real causes.

The person was accused of violence against his wife on the grounds of gender discrimination, premeditated minor damage of health and threat of homicide. The victim refused to testify on the hearing.

The Judge: *"Has anybody forced, coerced or threatened you?"*

The Victim: *"No, this was a mistake I made and I forgive him. I have three children."*¹³⁵

The Prosecutor: *"You mentioned that you made a mistake and what do you mean in a mistake?"*

¹³² The victim was interrogated on May 17, 2021 at Rustavi City Court.

¹³³ The victim was interrogated on June 30, 2021 at Tbilisi City Court.

¹³⁴ The victim was interrogated on May 18, 2021 at Rustavi City Court.

¹³⁵ The translator/interpreter interpreted the victim.

The Lawyer of the Alleged Perpetrator: *"Mr. Judge I object to the question."*

The Judge: *"I can not interrogate her Ms. Prosecutor. We cannot accept her explanations apart what she tells us, if there was no coercion or something."*

The Prosecutor: *"I am wondering whether she gave us a false testimony."*

The Lawyer of the Alleged Perpetrator: *"No, no. Please do not go into details in this regard. If you want you can investigate separately. At this stage she refuses..."*

The Judge: *"Was there any coercion and threat or something similar?"*

The Victim: *"No."*

The Lawyer of the Alleged Perpetrator: *"Let's release (him), in fact she refuses to testify" (laughs).*

The Judge: *"that she does not make up her mind Mr?"*¹³⁶

The victim also attended the conversation, as after the conversation the judge told her that she could leave the courtroom.¹³⁷

It should be noted that in 2 cases the lawyer of the alleged perpetrator interfered rudely when the judge studied the reasons for the victim's refusal to testify. However, the judge highlighted that she/he was obliged to study the reasons for the refusal to testify. The lawyer interfered in the following manner: *"Let's identify whether there was influence or not. Let's not make her change her mind."*¹³⁸

The fact that the judges explained to the victims that they could report to the police in case of repeated violence, should be evaluated positively.¹³⁹ The judge addressed the victim at one of the hearings, when the victim refused to testify

¹³⁶ The judge asked this question laughing and the lawyer laughed on this as well.

¹³⁷ The victim was interrogated on April 27, 2021 at Rustavi City Court.

¹³⁸ The victim was interrogated on May 18, 2021 at Rustavi City Court.

¹³⁹ There were three instances when the judges interpreted this right to the victim.

against a person with whom she was in an unregistered marriage: *“Despite your decision today, if a similar case occurs again in the future, you should definitely report to the police and seek assistance. You should not be afraid to reveal the violence committed against you in the future. Please, remember this, okay?”*¹⁴⁰

As a result of the monitoring, 2 cases of the refusal to testify by the victims have been identified, where the judge studied whether the reason for refusal, among other issues, was material/financial dependence on the alleged perpetrator. And in 5 cases the judge explained to the victim that her testimony in a similar category of cases was important, but not decisive evidence and in case of existence of other evidence, the conclusion on indictment might still have been made.¹⁴¹

According to the Criminal Procedure Code of Georgia,¹⁴² a close relative of a person accused of domestic violence under Article 126¹ or a domestic crime under Article 11¹, who suffered a direct moral, physical or property damage as a result of the committed offense, prior to exercise the right of refusal to testify should be offered by a person in charge of the interrogation to consult Witness and Victim Coordinator and enjoy three-day reflection period before taking the relevant decision. It aims to provide relevant information to victims of domestic violence and domestic crime about available services and possible legal consequences of their decision to cooperate or refuse to cooperate with the investigation.¹⁴³

The application of the above-mentioned approach is specifically important during the proceedings, where the likelihood that a victim will refuse to testify is the highest, while the person in charge of the interrogation is mostly a prosecutor, whose list of evidences also includes the victim. Therefore, the prosecutor should

¹⁴⁰ The hearing was held at Rustavi City Court on May 17, 2021.

¹⁴¹ It should be admitted that in one case, notwithstanding the fact that the victim refused to testify, the judge made the conclusion on indictment and found the alleged perpetrator guilty in violating a restraining order and threat of homicide.

¹⁴² The Criminal Procedure Code of Georgia, Article 50, Paragraph 5.

¹⁴³ The explanatory note on the draft law of Georgia on “Introducing Amendments into the Criminal Procedure Code of Georgia” [available on: <https://bit.ly/2VSiPMm> accessed: 15.08.2021].

offer to consult Witness and Victim Coordinator if a victim of domestic violence and domestic crime refuses to testify in the court. This is confirmed by the fact that Paragraph 5 of Article 50 of the Criminal Procedure Code of Georgia, which imposes the obligation to consult Witness and Victim Coordinator, mentions the word “interrogation”, referring also to the stage of proceedings, as the victim is questioned and not interrogated on the stage of investigation.

The monitoring has showed that most of the victims are not offered to consult Witness and Victim Coordinator and use the deliberation period.¹⁴⁴ The judge explained to the victim only in one case that she had the right to use the deliberation period. However, the victim neglected to use the deliberation period. In another case, the judge postponed the hearing on grounds that the victim meets Witness and Victim Coordinator.¹⁴⁵

1.6. Late Start of Hearing

The late start of hearings where a victim is to be interrogated has a negative influence on the victim’s emotional conditions and further increases the risks of unwanted communication between the victim and the alleged perpetrator or his/her relatives.

The monitoring has revealed that court hearings started mostly (in 20 cases) late.¹⁴⁶ The monitoring has identified that the late start of hearings was caused by the judge or party (prosecutor, lawyer of alleged perpetrator) being late (in 8 cases), delay in transportation of the alleged perpetrator to the court or delay in

¹⁴⁴ The prosecutor interfered in 5 cases to find out the reasons for the victim’s refusal to testify, although she/he did not offer to the victim to consult Witness and Victim Coordinator.

¹⁴⁵ Please see the examples on Pages 32-33.

¹⁴⁶ Only hearing in one case start started on time, and in 9 cases the issue could not be assessed by the monitor as the exact starting time of the hearing was neither known in advance nor was displayed on the board. In 9 cases out of these 20, the start of the hearing was delayed by more than an hour.

connecting the alleged perpetrator from the penitentiary institution remotely (in 4 cases), lack of free courtroom (in 1 case) etc.¹⁴⁷

The hearing started 2 hours and 17 minutes late in one of the cases.¹⁴⁸ As the judge noted after the hearing, it is quite difficult to secure the connection of an alleged perpetrator from the penitentiary institution remotely and it has a significant influence on the start of the hearing. In another case, where the hearing started 4 hours and 10 minutes late, the initially cited reason was difficulties associated with ensuring the connection of the alleged perpetrator from the penitentiary institution remotely.¹⁴⁹

Late start of hearings makes a victim more prone to additional stress, as she might have to abandon house work and job-related activities. All the above-mentioned hinders effective access to justice and the risks of the victim refusing to participate in the proceedings are high.

¹⁴⁷ In one case the victim did not know the location of the court and she went to the prosecutor's office.

¹⁴⁸ During delay the victims waited either at the entrance of the building or at the stairs next to the entrance.

¹⁴⁹ The victim, who was waiting at the entrance of the court building, went home to eat. Then they were waiting for the return of the victim to start the hearing.

Chapter II. Court Infrastructure Focused on Protection of Adult Female Victims of Domestic Violence and Domestic Crime from Secondary Victimization

The protection of female victims of domestic violence and domestic crime from secondary victimization can not only be ensured through a comprehensive interpretation of their rights or through existence of protective and supportive mechanisms. The risks of secondary victimization do not only stem from the conduct/behavior of judges and parties to the proceedings. Therefore, it is important to arrange the infrastructure of the court in a way as to reduce or balance the possibility of inflicting damage to the victim.

On the one hand, it is important that security personnel equipped with relevant knowledge, experience and skills work in the court, who will be able to examine (screen) entrants and passers-by in the court properly, as well as monitor those in the waiting area, timely identify and manage risks. On the other hand, the court infrastructure should also enable to avoid physical meeting of opposed parties as much as possible, as it might lead to the continuation of violence or inflict additional stress and trauma to the victim.

Consequently, court infrastructure and environment are important components in assessing access to justice for female victims of domestic violence. The problems associated with insecure environment and infrastructural might not only deteriorate the quality of justice, but also increase the risks of secondary victimization of victims. As a result, a victim might become pessimistic about the functioning of the justice system as her protective mechanism and refuse to have any contact with it in the future.

The Istanbul Convention defines general rules that state shall provide for their protection, as well as that of their families and witnesses, from intimidation,

retaliation and repeat victimization.¹⁵⁰ The Convention goes into more details, saying that contact between victims and perpetrators within court and law enforcement agency premises is avoided where possible.¹⁵¹ According to the directive of the European Parliament and the Council, states shall establish the necessary conditions to enable avoidance of contact between victims and their family members, where necessary, and the offender within premises where criminal proceedings are conducted, unless the criminal proceedings require such contact. States shall ensure that new court premises have separate waiting areas for victims.¹⁵²

Taking all the above-mentioned into consideration, it is important to arrange independent waiting areas, entrances, spaces and software for remote interrogations, as well as organize other secure areas in courts. Consequently, this constituted the main subject of infrastructure monitoring.

2.1. Waiting Areas

The monitoring has identified that none of the inspected court buildings has an isolated space for victims, where female victims of domestic violence and domestic crime can wait for a hearing/interrogation. All inspected court buildings have a common waiting area, although all these spaces are mainly intended for other parties to the proceedings as well, including lawyers and prosecutors.

Witnesses/victims have to wait in the common lobby of the building for the start of the interrogation, thus failing to ensure the avoidance of an unwanted meeting between witness/victim and alleged perpetrator or his/her family members.

¹⁵⁰ The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Article 56, Paragraph 1, Sub-paragraph "a".

¹⁵¹ The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Article 56, Paragraph 1, Sub-paragraph "g".

¹⁵² Directive 2012/29/EU of the European Parliament and of the Council, Minimum standards on the rights, support and protection of victims of crime, 25 October 2012, article 19. [available on: <https://cutt.ly/sRT0r5y>; accessed: 21.09.21].

However, the court representatives explained that in case of necessity and on the basis of an application submitted by a victim and/or prosecutor, the space assigned for lawyers and prosecutors can be used.¹⁵³ It should be noted that a victim might find it difficult to apply to the court and/or the bailiff service in advance, or might not have information about possible presence of close relatives of an alleged perpetrator at the proceedings, as well as about possible dangers. It is therefore important that a prosecutor examines the need of special measures to ensure safety of a victim in every single case and provides information to the court in advance.

Telavi District Court also follows the practice of using common waiting area for female victims of domestic violence.¹⁵⁴ In case of a problem, a victim can wait in a different free area rather than common. It is also possible that a victim of a crime enters the courtroom early, where she will wait for the launch of the interrogation.

A mediation room is provided for waiting for female victims of domestic violence at Rustavi City Court.¹⁵⁵ Moreover, in order to prevent the spread of the virus during the COVID 19 pandemic, chairs have been removed from the common area of the court building and people waiting for the proceedings do not have the opportunity to sit.¹⁵⁶

Batumi and Kutaisi City Courts have only the room for lawyers and prosecutors, which is also used by witnesses.¹⁵⁷ It should also be noted that the room for

¹⁵³ However, it should be mentioned that the representatives of the court, in response to the question of the Public Defender's representative, could not name a single case when a similar need arose.

¹⁵⁴ The central entrance opens up directly into a relatively small common waiting area, where everybody is waiting for the launch of proceedings together, both parties and other interested persons.

¹⁵⁵ According to the interpretation of the court representatives, there have been no single case, when a victim used the above-mentioned room.

¹⁵⁶ Taking into account all the above-mentioned, victims usually wait for the launch of interrogation outside the building, in the adjacent area.

¹⁵⁷ The representative of the court explained that according to the established practice, if a witness uses the room, other persons are not allowed to enter.

lawyers, prosecutors and witnesses has tinted windows and it is impossible to identify the person inside from the outside.¹⁵⁸

The monitoring has also confirmed the practice of using common waiting area by female victims of domestic violence and domestic crime.¹⁵⁹ There were cases when the alleged perpetrator (his/her family members) and the victim were waiting together for the start of the interrogation in the vicinity of the court building as well as in the common area and nothing restricted their close physical and/or verbal communication.

In conclusion, it should be noted that the risk of secondary victimization of victims of domestic violence and domestic crime in court buildings, as well as confrontation with alleged perpetrators and their family members is increased, as there is no separate waiting area. Female victims of violence can only use the area, which is actually used for other purposes, upon prior request and/or motion. The use of other areas to serve the above-mentioned purpose is vague, due to lack of similar practice and special internal regulation/rules.

2.2. Entrance to Court Building and Courtroom

The monitoring has identified that none of the inspected court buildings has a separate entrance that would allow female victims of domestic violence to enter the building without having physical contact with an alleged perpetrator and/or his/her family/friends.¹⁶⁰

¹⁵⁸ However, the representatives of the court do not specify whether the area is used directly by female victims of violence.

¹⁵⁹ In the process of monitoring separate interrogations in Tbilisi and Rustavi City Courts, the representatives of the Public Defender also monitored the situation while waiting for the start of the proceedings.

¹⁶⁰ All five courts have at least two or more entrances, usually used by the escort service to bring an alleged perpetrator into the building, on the one hand, and staff and/or other interested actors wishing to enter the building, on the other hand.

According to established practice, witnesses and victims of all types/categories of crime, including female victims of violence, use the common central entrance for citizens to enter into the court building. Other entrances are used by court staff or escort service. According to the court representatives, in order to ensure their security and safety, female victims of violence may use these alternative entrances, if considered necessary.¹⁶¹

The monitoring has identified that the courtrooms for criminal proceedings usually have three entrances. One of the entrances is used by a judge, the second is used by escort services to bring detainees into the courtroom, and the third entrance is used by all other interested persons. Female victims of domestic violence, as well as other witnesses/victims, enter the courtroom through the common entrance. There is no separate safe/secure entrance for them to enter into the courtroom.¹⁶²

In the above-mentioned case as well, according to the court representatives it is possible that in case of necessity a witness/victim, including a victim of domestic violence, enters the courtroom not via a common entrance but via entrance intended for judges or escort services in order to avoid communication/physical contact between a victim and an alleged perpetrator and/or his/her family member/relative. Consequently, if they apply to the court or the prosecutor files a motion, there is a possibility and resource in courts that a female victim of violence

¹⁶¹ The building of Tbilisi City Court has several entrances. The central entrance is used by witnesses/victims. In case of necessity, in order to serve security/safety purposes it is possible to use the entrance for staff. The same situation is in Batumi City Court, which, in addition to the central entrance, has three other entrances. In the latter case, the court representatives recall the case when, due to a real threat to life and health, as well as a confrontation, the witness of the case related to the thief in law was brought into the court building and courtroom via an alternative entrance. Telavi District Court building has two entrances, the one is used by escort services, and the other is used by all other interested parties, including court staff, parties, participants of proceedings, as well as victims of domestic violence. According to the court representative, if they receive information about the threat directly from a judge, prosecutor or other source, it is possible that a female victim of domestic violence uses the entrance usually used by escort service. A similar situation and approach are found at Rustavi and Kutaisi City Courts.

¹⁶² It should be noted that only Telavi District Court has courtrooms with two entrances: one for general use, and the other for judges and escort service.

enters the courtroom without having any contact with anybody.¹⁶³ According to the information provided by the representative of Telavi District Court, in case of necessity a victim can be brought to the courtroom via the common entrance, where she/he waits for the start of the proceedings if parties have not arrived yet, or in other cases the entrance intended for escort services can be used as well. However, even in the above-mentioned cases, the lack of internal regulation/rule creates ambiguity regarding the use of alternative entrances for this purpose.

2.3. Area and Technical Infrastructure for Remote Interrogations

The monitoring has highlighted the problems related to allocation of area/space and technical support for remote interrogations. Tbilisi, Batumi and Telavi courts do not have special rooms for remote interrogations. However, it is technically viable to interrogate a witness/victim remotely from the court building if such necessity arises.¹⁶⁴

Rustavi City Court has arranged a space to serve the above-mentioned purpose. However, the area/space is used not only for the remote interrogation of female victims of violence, but for other cases too. It should be noted that Batumi, Kutaisi, Tbilisi City and Telavi District Courts have areas/space for remote interrogations,

¹⁶³ According to the representative, Rustavi City Court had an experience in this regard, but at the end it turned out that the threat was not real and other persons did not attend the court hearing. There was also a case in Batumi City Court when a witness in the case related to the affiliation to the criminal (thieves') world or a witness enjoying the special protection measure were brought to the courtroom using the entrance for judges. It should be mentioned that during the monitoring of separate interrogations at Tbilisi and Rustavi City Courts, the Public Defender's representatives also monitored which entrance were used by victims to enter the court building and the courtroom. In the reported cases, female victims used common entrance to enter the court building and courtroom.

¹⁶⁴ For example: the representative of Tbilisi City Court explained that different courtroom was used for remote interrogation in the case related to domestic violence. The representative of Telavi District Court highlighted the use of similar approach. The employee's room is used for remote interrogations at Batumi City Court.

although these rooms are also used for other purposes.¹⁶⁵ These rooms are mainly used for remote interrogations, when a person herself/himself does not have relevant conditions.

The monitoring has highlighted that undertaken measures aimed at preventing the spread of the pandemic played a role in ensuring the provision of technical infrastructure for remote interrogations in courts. There was an appropriate software system in courts, used for the organization of remote legal proceedings in the process of monitoring.

It should be specifically mentioned that in the process of monitoring of particular interrogations at Tbilisi and Rustavi City Courts, the Public Defender's representatives attended 7 interrogations, held remotely in whole or in part (using the so-called "hybrid" format), while in 3 cases the organization of remote interrogation was identified from the protocol/minutes. The monitoring has identified some technical problems related to the suspension of the interrogation due to software shutdown or other reasons, the audio and visual problems, and so on. In one case, it was impossible to conduct the interrogation due to a software malfunction and it became necessary to postpone the hearing.

2.4. Complying with Confidentiality Requirements

To ensure privacy is often essential for victims of violence. The spread of information about a domestic violence is specifically traumatizing for female victims. Consequently, the closing of hearing is not quite often enough. Furthermore, it is essential that information about proceedings is not publicized, courtrooms are acoustically secure and conversation/narration is not heard outside the courtroom.

¹⁶⁵ For example: Kutaisi City Court has two rooms for remote interrogations, which at the same time are used as waiting areas for lawyers and prosecutors. Witnesses are interrogated remotely from the rooms of employees at Batumi City Court.

The monitoring has identified that information about the active proceedings in courts is made public by posting relevant data on billboards and/or information boards. However, the published information does not contain data about a victim, ensuring the protection of confidentiality.

Moreover, the court's bailiff service ensures bringing of a witness/victim to the courtroom.¹⁶⁶ Noteworthy/notable practice has been revealed at Tbilisi and Rustavi City Courts. As it was mentioned above, in order to prevent the spread of the pandemic, persons have to wait for the start of the proceedings outside. Secretary of Judicial Session at Tbilisi and Rustavi City Courts often passes the information to the bailiff service, which looks for the relevant person in the waiting area or outdoors and brings her/him to the relevant courtroom. It should be noted that the above-mentioned practice contains some risks related to the breach of confidentiality, although no instances of breach of confidentiality have been identified in the process of monitoring.

The monitoring has identified the following problem with regard to the acoustic security of the courtrooms. During the monitoring of particular interrogations at Tbilisi City Court, the representatives of the Public Defender observed cases when noise coming from common waiting areas reached the courtroom. Based on the above-mentioned, it could be assumed that the courtrooms are not soundproof and a person behind closed doors can follow the conversation/narration at the proceedings.

There was a case at Rustavi City Court, when the conversation/narration from the courtroom, where the case of domestic violence was discussed, could be heard clearly at the entrance of the court building. There were also cases at Rustavi City Court, when the doors of the courtroom were open during the proceedings and

¹⁶⁶ For example: Secretary of Judicial Session at Batumi, Kutaisi and Telavi City Courts contacts a representative of bailiff service, provides her/him with relevant information and the latter accompanies a victim to the courtroom.

the conversation of the parties of the proceeding could be heard in the corridor of the court building.

2.5. Special Area for Nursing Mothers and Mother of Minors

The fact that the court building does not have a relevant special area allocated for mothers of minors emphasizes the inaccessibility of court infrastructure for female victims of violence. A slightly different situation is at Tbilisi City Court, where there is a special area allocated for children in the building of the Citizen Service Center. However, this area is not appropriate for nursing mothers as it is mostly used for entertainment and playing.

According to the representative of Rustavi City Court, there is a special room for minors in the building, which could be also used by women and their young children for waiting. This room is isolated and infrastructure friendly, including for nursing mothers. However, it is rarely used in practice.

There was an instance, when the witness¹⁶⁷ was accompanied by the child in one of the cases discussed at Batumi City Court and the child had to stay with the representative of bailiff service, while the interrogation was ongoing.

The lack of a special area at Kutaisi City Court is preconditioned by antique and inconvenient infrastructure of the court building. According to the representative of Telavi District Court, there has never been the need of such area.

All the above-mentioned indicates that the gender-specific needs of female victims are not taken into consideration, creating barrier to access to justice, as this might prevent women from participating in the justice.

¹⁶⁷ The victim was not a woman.

2.6. Courtroom Infrastructure

The environment in courtrooms was also studied in the process of monitoring. The monitoring has identified that the courtrooms have an identical structure and organization/set-up. It should be noted that relevant tribunes/podiums for testifying of witnesses are arranged and victims have to remain standing during an entire interrogation process.

The existence of tribunes/podiums makes it infrastructurally impossible to have persons supporting a victim, especially lawyers and/or Witness and Victim Coordinators in the vicinity in the process of interrogation.¹⁶⁸ Furthermore, there are courtrooms, which do not allow for the adequate/proper separation of a victim and an alleged perpetrator in the process of interrogation due to their small size.

In addition, the monitoring has highlighted that the courtrooms do not have natural lighting and ventilation and that artificial ventilation is mainly ensured through air conditioner. All these can be assessed as an additional stimulus for stress and does not create a favorable environment for a female victim.

¹⁶⁸ The courtroom for Grand Jury could be considered as an exception, for example: the courtroom No. 1 at Tbilisi City Court.

Conclusion

To conclude, it should be noted that the examination/study of the international human rights standards and national legislation led to the identification of some inconsistencies. In particular, the Criminal Procedure Code of Georgia does not envisage the possibility of organization of interrogation in a remote format or removing an alleged perpetrator from courtroom in the process of interrogation in order to prevent the intimidation, exertion of psychological impact and secondary victimization of a female victim of violence. No legal aid is provided to adult female victims of crime at the expense of the state.

The monitoring of interrogations of female victims of violence has identified that judges did not provide at all and/or provide only partially to female victims of violence the information about their rights and obligations, protection and support mechanisms to shield them from secondary victimization, the facilities for victims of violence (shelters and crisis centers) and available services. Witness and Victim Coordinators and lawyers are not involved in the interrogation process apart from exceptional cases. Furthermore, no protective mechanisms, such as: right of victims to testify in the courtroom without the presence of an alleged perpetrator and organization of interrogation privately in whole or in part, were applied or discussed, except single cases.

The attitudes and approaches demonstrated by parties towards female victims of violence should be mentioned separately. Judges and prosecutors were sensitive towards victims, except number of revealed unethical cases. The direct involvement of alleged perpetrators and their lawyers in the process of interrogation created the risks of secondary victimization. In many cases, alleged perpetrators asked questions and/or voiced a position, which were offensive and degrading. In addition, the lawyers of the alleged perpetrators asked the victims irrelevant questions, unrelated to the factual circumstances of the case. There were cases when the lawyer's questions/assessments/remarks were aimed at the

discreditation of the victim, were offensive and degrading. There were also instances of asking incriminatory questions by the lawyers of the alleged perpetrator.

It should also be noted that the current infrastructure of courts is less adapted to the needs of female victims of violence and fails to respond to the existing challenges. The courts do not provide for areas to avoid physical or verbal communication between the victim of violence and the alleged perpetrator/his/her relative/friend. Namely, the courts do not have special isolated waiting areas for victims of violent crimes, including female victims of domestic violence/domestic crime. The court building and courtroom do not have isolated entrance and the use of an alternative entrance and area/space is unclear due to the lack of appropriate internal regulations/rules. The provision of spatial infrastructure for remote interrogations is not ensured. Furthermore, there is no special area/space where nursing mothers would have a possibility to breastfeed their children or replace their diapers.

Recommendations

To Parliament of Georgia

- In compliance with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, to introduce amendments in Article 40 and Article 58 of the Criminal Procedure Code of Georgia, enabling a judge on her own initiative with indication of a concrete justification to take decision on allowing a victim to testify without the presence of an alleged perpetrator or apply other protective measure on the basis of a motion filed by a lawyer of an alleged perpetrator and/or appeal of a victim, in order to minimize the possibility of the exertion of psychological impact on women and/or female victims of domestic violence (domestic crime) and/or to protect them from secondary victimization;
- To introduce the amendment in Article 5 of the Law of Georgia on “Legal Aid”, ensuring the provision of free legal aid to adult female victims of domestic violence and/or domestic crime at all stages of criminal proceedings, irrespective of their ability to pay, unless this person has chosen a lawyer according to the general procedure.

To Supreme Court of Georgia

- To train judges of the Common Courts of Georgia in order to create an environment focused on the protection of victims of domestic violence/domestic crime from exertion of psychological impact and secondary victimization, as well as efficiently shielding them from an alleged perpetrator’s traumatizing, incriminatory and discriminative verbal and non-verbal communication in the process of interrogation;
- To equip new court buildings and adapt old infrastructure, ensuring provision of safe waiting areas and alternative entrances to the courtroom, in order to avoid an unsafe communication between a victim of domestic violence and alleged perpetrator and/or her/his family members/relatives;

- To create the manual/special operation procedures for court bailiffs on ensuring safety and security of female victims of violence both in the building and adjacent area of the court;
- To ensure allocation of area/space in the court building for remote interrogation of a victim, which will be equipped with relevant technical infrastructure;
- To develop the manual/guide for judges, ensuring that:
 - Judges interpret to victims in a clear and comprehensive manner (using non-legal terminology) their rights granted by the law, including the right to organize proceedings privately in whole or in part, as well as to apply for special protection measure, etc.;
 - Judges inform victims about available state services focused on protection and support of female victims of domestic violence;
 - Judges examine thoroughly whether the reasons of victim's refusal to give testimony is a result of exercising coercion/pressure on the witness. Furthermore, a victim should be informed that notwithstanding her refusal to testify, an alleged perpetrator might still be found guilty on the basis of other evidence collected with regard to the case;
 - Judges request to stop misconduct in all cases, including in the process of interrogation, when any participant of the proceeding manifests discriminative, stereotypical and/or unethical attitude towards a victim, and in case of disobedience remove (expel) him/her from the courtroom;
- In compliance with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, to enable a judge on her own initiative with indication of a concrete justification to take a decision on allowing a victim to testify in the courtroom without being present or at least without the presence of the alleged perpetrator on the basis of a motion filed by a lawyer of an alleged perpetrator and/or appeal of a victim;

- To prioritize and prevent the late start of the process of interrogation of a victim;
- The court bailiff on the basis of the information provided by the prosecutor and/or on its own initiative, shall ensure provision of an alternative entrance to the court building and the courtroom for a victim and keeping her in an isolated area prior to the start of the process of interrogation, if considered necessary.

To Prosecutor's Office

- To train prosecutors on issues related to the protection of female victims of violence from secondary victimization, which includes ensuring safe entry of a victim in the court building and the courtroom, interrogation of a victim remotely or without presence of an alleged perpetrator, objection to irrelevant/offensive questions voiced by an alleged perpetrator;
- To file a motion on organization of an interrogation remotely or without the presence of an alleged perpetrator in case of identification of risks;
- To prioritize the involvement of Witness and Victim Coordinators in challenging cases related to domestic violence and domestic crimes;
- To file a motion on diversion of irrelevant and degrading questions asked by the lawyer of an alleged perpetrator to a victim;
- To offer a victim to consult Witness and Victim Coordinator and enjoy three-day reflection period before taking the decision on refusal to testify in all cases;
- To study whether there is a need of special measures in order to ensure the safety of a victim before bringing the victim to the court, and cooperate with the court in this regard.

To Georgian Bar Association and Legal Aid Service

- To reflect issues related to the ethics for lawyers in relevant curricula, which are particularly relevant and important in the process of communication with female victims of violence;
- To train lawyers on a permanent basis on issues related to the violence against women and domestic violence, including the psychological characteristics of victim behavior;
- The behavior of lawyers towards female victims of violence should be ethically. Lawyers should take into account international standards on violence against women and domestic violence, which prohibits discreditation of a victim when formulating a defense strategy.

