

# FEMICIDE MONITORING REPORT FOR 2014-2015

PUBLIC DEFENDER OF GEORGIA | 2020







UN JOINT PROGRAMME  
FOR GENDER EQUALITY



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# INTRODUCTION

In 2014, the number of gender-related killings of women was particularly high. Due to the tragic scale of the murders of women, this year marked a turning point in raising public awareness about femicide; from this period on, active work has begun to improve the response to violence against women and domestic violence.

Along with the indifferent attitude of the society, the challenge included both the improper legislative framework, the defective protection and assistance mechanisms, as well as the inefficient application of the existing mechanisms in practice. In particular, during this period, the legal framework did not allow to use protection and assistance mechanisms outside the family. From a number of cases studied by the Office of the Public Defender of Georgia, it was established that during the response to the facts of domestic violence, the so-called “written acknowledgements” were used; although such a form was not envisaged at all by then the legal norms aimed at protection from violence. The written acknowledgements were completely ineffective means and could not ensure the protection of the victim as they had no consequent legal outcomes, moreover, they could not ensure the prevention from the recurrent violence, or the imposition of responsibility on the perpetrator in the event of an incident.

In 2014-2015, Article 53 (3<sup>1</sup>) of the Criminal Code was the only legal norm in relation to femicide and attempted femicide, which considered all crimes committed on the grounds of gender and sex as an aggravating circumstance; although in practice, the application of this article and the definition of gender motivated crime was almost non-existent.

In 2013, the UN General Assembly adopted a resolution on femicide. The resolution called on member states to take all possible measures to eliminate gender-based killings of women and girls, including collection and analysis of statistics as one of the tools against femicide.

In 2015, Dubravka Šimonovic - the UN Special Rapporteur on violence against women, its causes and consequences called on states to establish a “femicide monitoring mechanism” to collect and publish femicide case data on November 25 each year;

In order to implement the recommendation of the UN Special Rapporteur, the Public Defender of Georgia has been monitoring femicide cases since 2016, based on a specially developed methodology. The purpose of the monitoring is to analyze each case of murder, attempted murder and incitement to suicide on the basis of gender,

in order to identify the shortcomings of the protection mechanism for victims of violence for their further refinement and development.

Pursuant to the recommendation of the Advisory Board<sup>1</sup> established under the Femicide Monitoring Mechanism, the Public Defender monitored the cases taking place in 2014-2018, with the aim of assessing the dynamics of the administration of justice and statistics, measuring progress made and identifying gaps.

The criminal cases analyzed in this report reflect crimes committed in 2014-2015. From this period to date, as a result of joint efforts of agencies, international and non-governmental organizations, a number of steps

have been taken to combat violence against women and domestic violence. In 2017 Georgia ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) and brought much of its legislation in line with the requirements of the Convention; it has also improved the system of protection and assistance to victims of violence, and monitoring mechanisms.

Accordingly, only the issues that remain challenging so far have been addressed in the recommendations of the report. We express our hope that the presented findings and recommendations will be taken into account in the planning and implementation of the state policy against femicide.

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<sup>1</sup> Information is available on the following website: <http://www.ombudsman.ge/geo/femitsidze-zedamkhedvelobis-meqanizmis-sakonsultatio-sabchos-shesakheb> [last visited on March 11, 2020]

# 1. RESEARCH METHODOLOGY

A methodological framework for monitoring gender-related killings of women (femicide) was developed by the Office of the Public Defender, which we also used in the preparation of this report.<sup>2</sup>

For the purposes of the study, based on the context in Georgia and based on the Latin American Model Protocol<sup>3</sup>, the Public Defender uses the following definition of femicide:

*Femicide is a gender related killing of a woman, in other words, killing of a woman the motive or context of which is related to gender-based violence, discrimination, or subordinate role of a woman, manifested by a sense of entitlement to or superiority over women, by an assumption of ownership of women, by controlling her behavior or any other reason related to gender, also incitement to suicide based on the above grounds.*

The fact that a woman is murdered does not automatically mean that a femicide was committed. According to the Latin American Model Protocol for the investigation of the gender-related killings of women femicide constitutes when murder or the death of a woman is linked to a

woman's gender, in particular, there must be some indication that the motive or context for the killing was related to gender-based violence and/or discrimination.<sup>4</sup> As for the motive of crime, during the analysis of court cases, we considered the following signs of the motive of femicide important for the present study, namely:

- Discriminatory or sexist attitude towards the victim;
- Sense of entitlement;
- Control of the behavior;
- Demanding obedience to stereotypical gender roles.<sup>5</sup>

Disobedience to and going against the gender roles assigned to the victim is seen as the reason/motive for the perpetrator to commit the crime.

The monitoring of femicide cases was carried out in three stages. **The first phase of the study** involved requesting statistical information and convictions related to femicide and femicide attempts from common courts,<sup>6</sup> as well as requesting statistical information, decrees on prosecution and termination of investigations from the General Prosecutor's Office of Georgia.

2 "Femicide Monitoring Report: Gender related killings of women" Analysis of 2016 Criminal Cases, Public Defender of Georgia 2017.

3 Latin American Model Protocol for the Investigation of Gender-related Killings of Women (femicide/feminicide), High Commissioner for Human Rights, Latin American Office. ISBN 978-9962-5559-0-2, pp. 13-14.

4 Latin American Model Protocol for the Investigation of Gender-related Killings of Women (femicide/feminicide), High Commissioner for Human Rights, Latin American Office. ISBN 978-9962-5559-0-2, pp. 13-14.

5 Detailed information on methodological issues can be found in the 2016 Femicide Monitoring Report. P. 6-10. Available online at: <https://bit.ly/2KrEn9k> [last viewed on April 23, 2020].

6 We have requested information regarding the Articles of the Criminal Code of Georgia, which are applied for the qualification of the femicide cases, in particular: Intentional killing (Article 108), Intentional killing under aggravating circumstances (Article 109), Intentional murder in a state of sudden, strong emotional excitement (Article 11<sup>1</sup>), Intentional infliction of grave injury, that caused death (Article 117.2), Incitement to suicide (Article 115), Articles 19, 108 and 19, 109 of the Criminal Code (attempted crime). In 2018, Article 117.1 of the Criminal Code was added to the list of articles - Intentional serious damage to health, i.e. bodily injury that is dangerous for life, and Article 118.2, an intentional less grave bodily injury which has caused the loss of life, where femicide can also be detected. In addition, we have requested court rulings in relation to articles of criminal law which, where possible, could also identify different types of femicide. In particular, rape of a woman that caused death of a person affected (Article 137.4.b), Another action of a sexual nature that caused death of a person affected (Article 138.3.b), Illegal abortion resulting in death (Article 133.3), Sterilisation without consent that caused death (Article 133<sup>3</sup>.3), Female genital mutilation that caused death (Article 133<sup>3</sup>.3), Human trafficking that caused death (Article 143<sup>4</sup>.b), Torture that caused death (Article 144<sup>3</sup>.c). However, none of the cases under these articles were considered. Letter from the Supreme Court of Georgia: 12.02.2019, №P-115-19.

The first phase of the monitoring identified a problem with the production of statistics on femicide cases by agencies, due to the lack of a unified methodology of statistics; statistics on gender killings of women often contradict or do not coincide each other, which in turn complicates coordination and complex work between agencies. For example, the prosecutor's office provided us with the information that incitement to suicide was not recorded in 2014, when in the same year the Khelvachauri District Court considered a case of a woman committing a suicide on the gender ground and found the person guilty of committing this act.

**During the second phase** of the study convictions obtained from the first instance and appellate courts were analyzed to identify a femicide or attempted femicide.

**On the third stage of the study,** we requested from the court the full materials of the case on the verdicts of femicide and attempted femicide cases selected according

to the methodology; we have also requested information on the mentioned cases from the Ministry of Internal Affairs to identify shortcomings in the administration of justice.<sup>7</sup>

Given the above peculiarities, this report does not reflect the results of a quantitative study; therefore the statistical information presented in the study is an information obtained from court materials and should not be construed as accurate statistics of killings and attempted killings of women in 2014-2015.

The Office of the Public Defender was provided with 69 court decisions on femicide and attempted femicide in 2014-2015; out of this number femicide (attempted femicide) was identified in 38 cases based on the research methodology. In all cases crimes occurred in 2014-2015. Each of them had a gender motive in one way or another, and the investigation had the opportunity to identify a gender ground.

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<sup>7</sup> Some of the cases were submitted to the Public Defender's Office in a material form, and some of the cases were reviewed in the archives of the LEPL Department of Common Courts under the High Council of Justice of Georgia.

## 2. STATISTICS ON FEMICIDE/ATTEMPTED FEMICIDE

The information provided by the General Prosecutor's Office of Georgia<sup>8</sup> on cases of gender-related killings and attempted killings shows that the highest rate of women

murders happened in 2014 (35 cases in total); this number decreased in the following year.

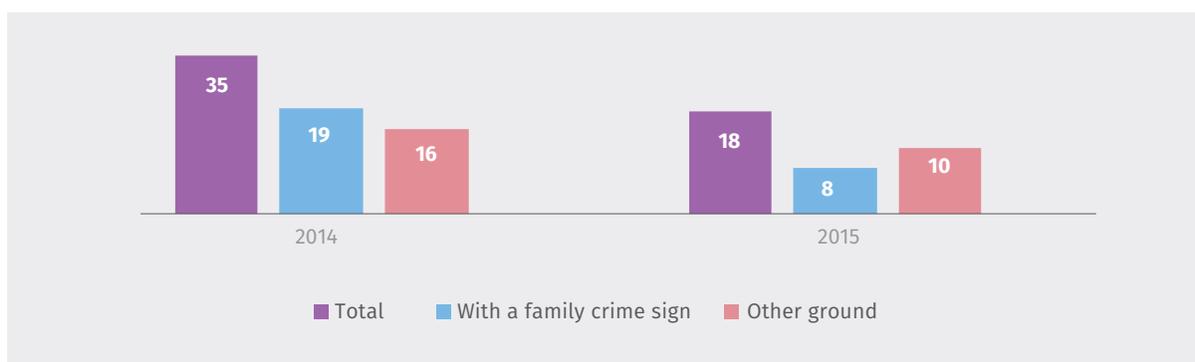


Chart #1: Women Killings: Official Statistics of the Prosecutor's Office 2014-2015

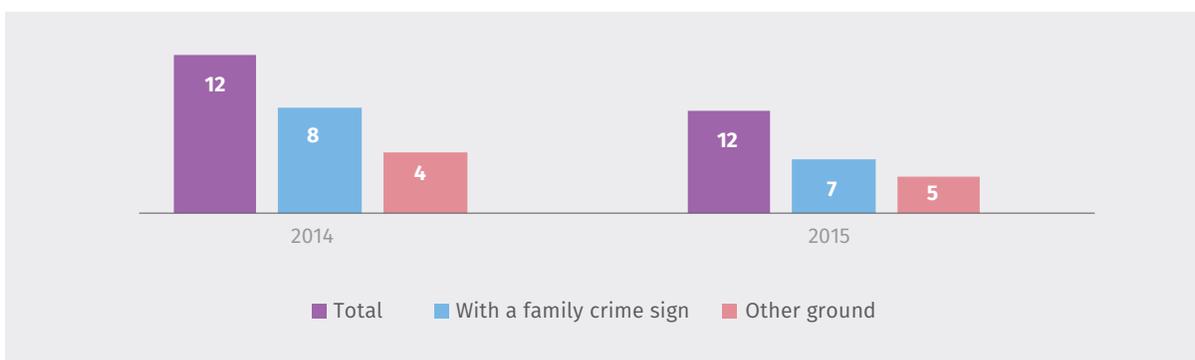


Chart #2: Attempted Killing of Women: Official Statistics of the Prosecutor's Office 2014-2015

The Gender Department of the Public Defender's Office of Georgia has analyzed a total of 38 cases of femicide and attempted femicide perpetrated in 2014-2015. Out of 38 cases analyzed, 24 cases occurred in 2014 and

14 in 2015 respectively. Out of the 38 cases, 22 related to femicide and 16 to attempted femicide cases:

<sup>8</sup> Letters of the Human Rights Protection Division of the General Prosecutor's Office of Georgia: №13 / 58062, 09/08/2019; №13 / 86342, 10/12/2019; №13 / 86239, 09/12/2019; №13 / 1865, 14/01/2020.

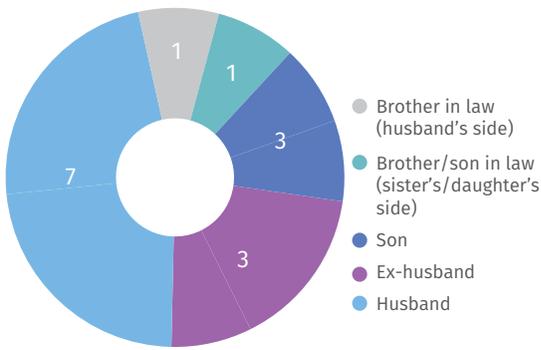


Chart #3: Family members perpetrating femicide

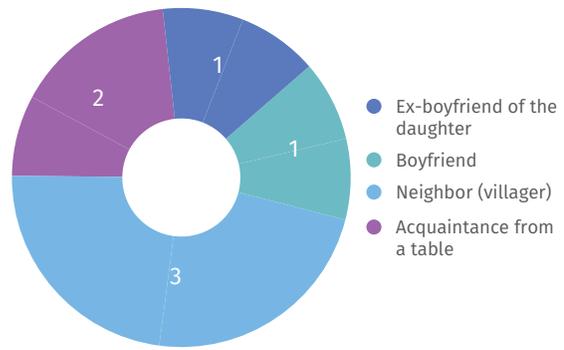


Chart #4: Perpetrators of femicide outside the family

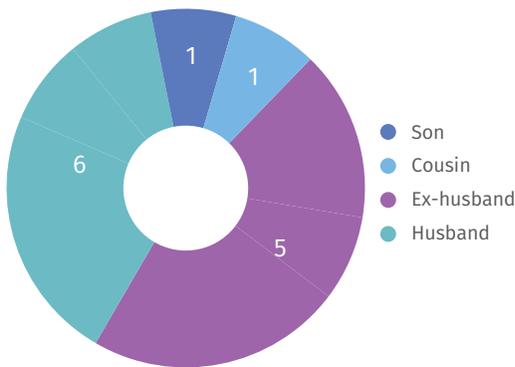


Chart #5: Family members perpetrating attempted femicide

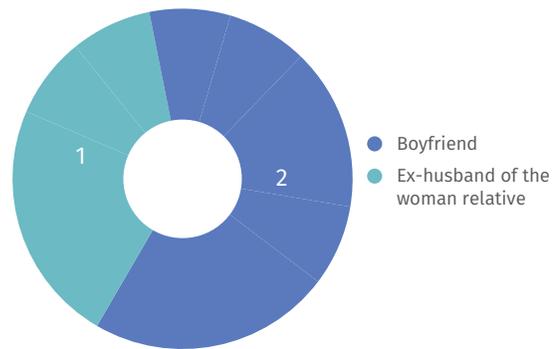


Chart #6: Perpetrators of the femicide attempt outside the family

Statistics show that both femicide and attempted femicide are most often committed against women by husbands or ex-husbands. Also, in several cases both the femicide and the attempted femicide were committed by the boyfriends<sup>9</sup>, regardless of whether they ever lived together with the victim or whether the victim sympathized them at all.

The gender motive for the crime is read in the testimonies of the accused, the victim and other witnesses, where the use of gender-defined vocabulary is frequent. Nevertheless, both at the investigation and court stages, it is problematic to identify and discuss gender motives. "Revenge" and "jealousy" are most often defined as motives for both femicide and femicide attempts.

<sup>9</sup> The term "boyfriend/girlfriend" refers to persons who, as far as the case file shows, did not have sexual relations with each other, as well as persons who unilaterally loved the other person in a way that was known to the other party but the latter did not sympathize him.

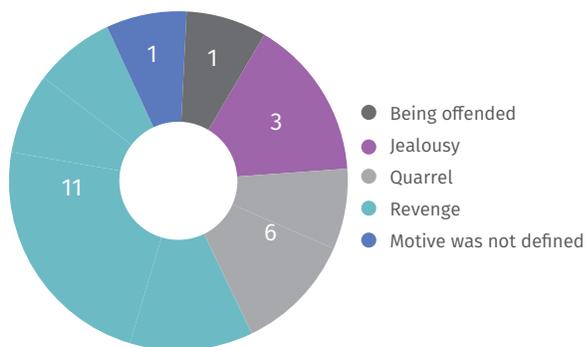


Chart #7: Ground of Femicide

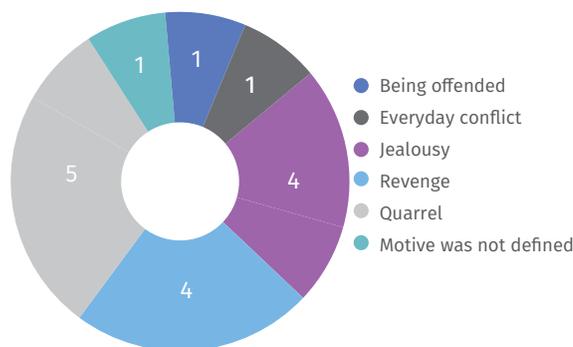


Chart #8: Ground of Femicide Attempt

The materials of the analyzed criminal case show that the house is most often the place of committing the crime, which is natural, if we consider the nature of femicide as a gender crime. In addition, it should be noted that many

cases of femicide and femicide attempts were related to the performance or failure of a woman to play a “family role”, which directly preceded the crime.

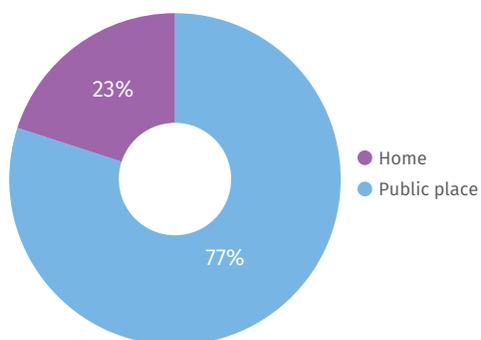


Chart #9: Place of Femicide

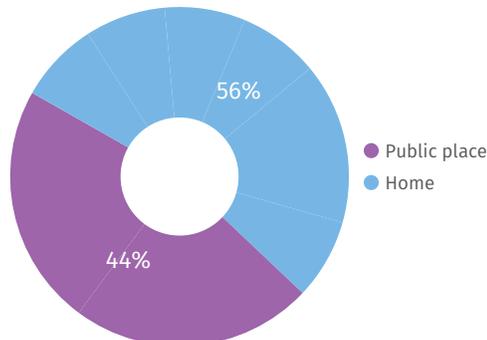


Chart #10: Place of Femicide Attempt

The weapon of both the femicide and the attempted femicide was, for the most part, a knife.<sup>10</sup> Most of the perpetrators of femicide or attempted femicide were vigilant during committing crimes, however, the difference

is small.<sup>11</sup> The analyzed cases show that the vast majority of perpetrators are with secondary education, and at the time of the crime - unemployed.<sup>12</sup> As for the convictions of perpetrators, the statistics

10 The weapon used to commit the femicide in 1 case was a metal object, in another case a car crossing over, in one case a hammer, bottles in 2 cases, stifle with the hand in two cases, wooden stools in two cases, axes in two other cases, firearm in 3 cases, a knife in 9 cases respectively. As for the cases of attempted femicide, in 1 case the weapon of the crime was a blunt object, a vase in one case, sword in another case, a stone in one case, gasoline in the other case, ax in one case, beating in two cases, a knife in 7 cases, and in 1 case there was an incitement to suicide attempt.

11 In femicide cases, 11 defendants were sober at the time of the crime, or it was unclear whether they were drunk or not, in 11 cases the perpetrator was under the influence of alcohol at the time of committing a crime. As for the attempted femicide cases, 9 defendants were sober at the time of the crime, or it was unclear whether they were drunk or not, while 7 defendants were under the influence of alcohol at the time of the crime.

12 18 out of the total number of femicide perpetrators had secondary education, 3 had higher education, and 1 had incomplete higher education. As for the employment data, 13 defendants were unemployed, 3 - retired, 4 - employed, 2 self-employed, respectively. 11 perpetrators of femicide attempts had secondary education, 4 had higher education, and 1 had incomplete higher education, respectively. As for their employment, 10 defendants were unemployed, 4 - employed and 2 self-employed, respectively.

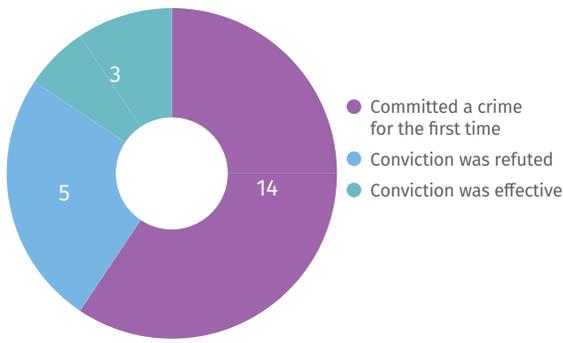


Chart #11: Conviction of perpetrators of femicide



Chart #12: Conviction of perpetrators of femicide attempt

The number of women and men accused of ethnic minority background was also analyzed in terms of statistics. We considered both subjective and objective criteria when considering a person as an ethnic minority. The objective criterion includes the lack of knowledge of the Georgian

language or having the citizenship of another country by both the victim and the accused. The subjective criterion is when a person knows Georgian and has the citizenship of Georgia, but states at the investigating bodies that she/he is a representative of ethnic minority.<sup>13</sup>

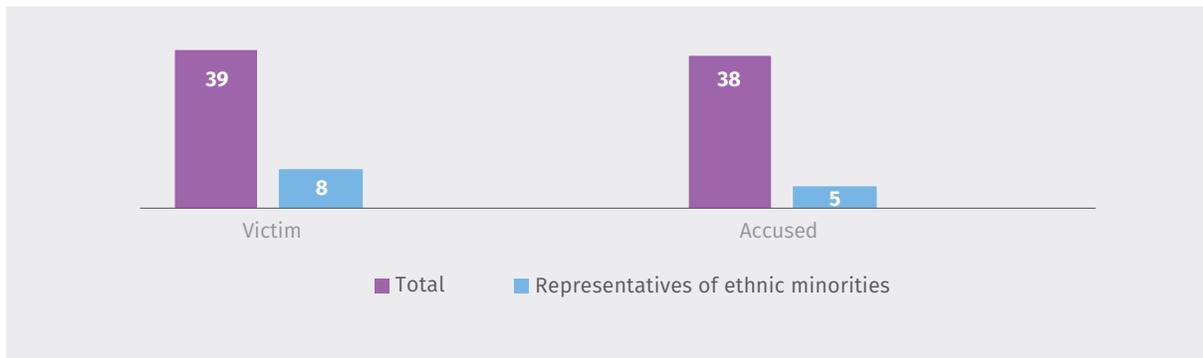


Chart #13: Representatives of ethnic minorities in cases of femicide/attempted femicide

As for the sentences, the most severe sentence - 17 years imprisonment was imposed by the Tbilisi City Court for cutting the ears of a wife with a sword.<sup>14</sup> The lightest

sentence for femicide (3 years of imprisonment) was applied in 4 cases, by Tbilisi and Batumi City Courts and Zugdidi District Court.<sup>15</sup>

13 In the absence of either objective or subjective criteria, neither the accused nor the victim was included in the ethnic minority statistics. Consequently, although in some cases there were defendants and victims with non-Georgian surnames, they were not considered to be representatives of ethnic minority group as there was neither a subjective nor an objective criterion for considering them as such.

14 Case #1/5013-14 of Tbilisi City Court

15 Case #1/664-15 of Zugdidi District Court; Case #1-1197/14 of Batumi City Court; Case #1/6028-14 of Tbilisi City Court

### 3. CATEGORIES AND TYPES OF FEMICIDE

In all cases of femicide and attempted femicide analyzed for the research purposes, the offender is jealous of the victim; also, possessive attitude, controlling behavior and/or demanding obedience to the gender role is detected.

The motive for committing a crime is the victim's disobedience to the perpetrator, the failure to fulfill the gender role assigned to the woman in the patriarchal society, the denial by the victim to live with a male committing the crime. Also, in some cases, the death occurs in order to obtain sexual satisfaction from a woman's body.

There are also cases of associative femicide where men who commits a crimes chooses women and girl family members of the object of jealousy as victims. Femicide or attempted femicide is sometimes linked to economic violence against a woman, in particular, hindering a woman's right to use a home by her husband or ex-husband.

Gender motive is more often expressed in the confessions of the accused himself. Defendants explain the murder committed by them by the fact that the victim refused to marry or the ex-wife refused to reconcile. Murder was a kind of punishment by a man for a free choice of a woman. There are also cases when ex-husbands punish their wives for having relationship with other men. In a patriarchal society, having a boyfriend by a married or a divorced woman is a questionable act, whereas the same act by a married (divorced) man is not disputed in such a society. In such case, the so-called "killings in the name of honor" occur - punishing a woman for committing incompatible acts against the patriarchal society.

Also, the reasons for the attempted murder are failure to duly perform a housewife's role and to properly serve a man: e.g., a case when a husband tried to kill his wife because of burning a bread. Also noteworthy is the case of attempted murder of a woman for disobeying the instructions of the husband regarding family matters as that of the "head of the family": for example, a case where the husband tried to burn his wife with gasoline because the wife disobeyed her husband's instructions and brought second-hand clothes.

## 4. CHALLENGES AT THE INVESTIGATION STAGE

### 4.1 Recognition as the victim

In 2014-2015, timely identification of the victim or her legal successor was problematic. A detailed analysis of the case materials shows that despite the fact that in all the cases under consideration, the relevant person was declared a victim/legal successor, the decision was in most cases delayed for several months.

### 4.2. Applying the measure of restraint

As a positive trend for 2014-2015, it should be noted that in most cases of femicide and attempted femicide, the prosecution requested detention as a measure of restraint against the accused, and the court granted this motion in all cases. However, there was 1 case, when the prosecution requested bail against the accused in such a way that the accused himself did not attend the hearing and the court did not hear his opinion on whether he would be able to pay the bail.<sup>16</sup>

It is also noteworthy that before committing the crime for which the prosecution requested imposition of the bail, V.B. systematically abused his wife. Accordingly, there was a likelihood that after imposing the bail, the accused V.B. would continue abusing his ex-wife. The court had no choice but to grant the motion for bail. However, after the court decision, the accused neither paid the bail nor cooperated with the investigation. As a result, the defendant was changed the measure of restraint and was sentenced to imprisonment. Consequently, it remained unclear why the prosecution did not request the detention of the accused from the outset.

### 4.3 Studying pre-history of violence

Femicide and attempted femicide are often the culmination of gender inequality and systematic gender-based violence; therefore when qualifying a crime as femicide or attempted femicide, it is of fundamental importance to investigate whether the victim experienced gender-based discrimination and violence before the murder. Examining a previous history of violence is important to investigate the motive of the crime and to impose the sentence.

The analysis of the cases shows that in 2014-2015, the investigation was clearly not interested in the violent incidents that preceded the femicide or the attempted femicide. Sometimes femicide was caused by the fact that the police did not respond to domestic violence in a timely and effective manner.

In 2014-2015, criminal cases were usually not accompanied by evidence on the victim addressing the police or on the police taking action. Nevertheless, the victim and witnesses indicated a history of violence in the interrogation protocols. The investigation did not try to verify this information in other sources, such as those received from the victim and the witness, at the relevant police station.

The Office of the Public Defender of Georgia requested information from the Ministry of Internal Affairs of Georgia on previous allegations of violence in the cases analyzed in the study. According to the information provided, before the femicide/attempted femicide was committed, the victim reported the violent act committed by the accused - in 4 cases out of total number of cases in 2014, and in one case in 2015, respectively.<sup>17</sup>

<sup>16</sup> Case №1-1197/14 of Batumi City Court on V.B.

<sup>17</sup> Letters of the Ministry of Internal Affairs of Georgia MIA 0 19 02918078, 01/11/2019; MIA 4 19 03205090, 29/11/2019. The given information on previous appeals is based only on the written information provided by the Ministry of Internal Affairs of Georgia

It is important to note that the studied criminal cases have revealed cases of alleged inappropriate response by police to violence against women, followed by femicide.<sup>18 19</sup> The analyzed cases show that the lack of timely and effective police response led to more severe violence by the perpetrator - femicide and/or attempted femicide against the victim.

#### 4.4. Qualification of crime

It is very important for Femicide cases that qualification of crime should correspond to the severity of the committed action. Otherwise, existence of gender sensitive criminal

justice system, where prosecution and court recognize, qualify and punish crimes committed against women, will be impossible.

The problem of qualification took place in one case related to the beating of women with bottles and her rape. The case was heard by Tevali Court.<sup>20</sup> In this case, woman died because of respiratory failure. The accused person was charged based on paragraph 2, Article 117 of Criminal Code of Georgia (intentional hard damage of body that caused negligent loss of life). The norm foresees imprisonment from 4 to 6 years. The accused person was charged for 5 years due to existence of his previous criminal record.

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18 Case №1/688-14 of R.K. of Kutaisi City Court.

19 Case №1/642-15 of I.S. of Tbilisi City Court.

20 Case of Telavi District Court, of August 11, 2014 #1/80-14

## 5. GAPS REVEALED DURING COURT PROCEEDING

### 5.1. Specifics related to the use of Article 53-3<sup>1</sup>

During reporting period paragraph 3<sup>1</sup>, of Article 53 of Criminal Code of Georgia was in force. The mentioned article was imposing obligation on judge to consider gender motivation as aggravate circumstance in cases of murders or attempts of murder; and aggravate measure of punishment in such cases. Despite the mentioned fact, in cases related to crimes motivated with gender issues, punishment was aggravated only in 5 cases from all 38. It should be mentioned that in none of those cases court referred to the paragraph 3<sup>1</sup>, Article 53 of Criminal Code of Georgia.

The gender motive was taken into account while imposing sentence, in the verdict of Bolnisi District Court - Husband throw his wife out of balcony based on family conflict.<sup>21</sup> Bolnisi District Court imposed imprisonment for 8 years and 6 months for attempt of murder (Minimum punishment for this crime is imprisonment for 7 years). The Court explained the punishment with the following argument: "Crime is committed against universally recognized right to life and health. The specifics of the case includes high level of danger to the society, as the crime is committed by one family member against the other one - in this particular case against the spouse - this becomes frequent on local, as well as on county levels". Despite this fact the paragraph 3<sup>1</sup>, Article 53 of Criminal Code of Georgia was not mentioned at all.

Tbilisi Court of Appeals altered the sentence imposed by the first instance court, for the murder of young women (The girl was killed because she rejected of loving affairs and on the basis of jealousy by her boyfriend). Rustavi City Court had imposed imprisonment for 10 years for femicide.<sup>22</sup> Tbilisi Court of Appeals aggravate the sentence with 2 more additional years, with the following reasoning: "The chamber considered actual circumstances of the

case and the fact that very serious crime was committed, namely murder against young women, the court should use more heavier punishment". We welcome the fact that the court imposes more heavy punishment because of femicide, but it might be possible to do so without stressing the age of women. Femicide is the dangerous crime despite the age of the victim.<sup>23</sup>

One more case, in which court aggravate the sentence for femicide, was verdict of Kutaisi City Court, the case was related to the murder of the woman 23 years older than accused person, for satisfaction of sexual needs and the sexual contact with corpse. The person was imposed for imprisonment for 13 years. The Court took into account the fact that the victim was 23 older than murderer; and the fact that the woman had family - husband and three children, and not the fact that the murder was committed for sexual pleasure. According to the court: "The criminal action of the accused person was against the person whose age and family status required special respect from the side of the accused person".<sup>24</sup> So very often, the court itself becomes the actor motivating patriarchal views, in those views the murder of married woman and mother should be punished heavier than the murder of women who has no family and children. On the other hand, this is case, where the punishment for crime was aggravated for femicide, even without mentioning of paragraph 3<sup>1</sup>, Article 53 of Criminal Code.

Despite the fact that the paragraph 3<sup>1</sup>, Article 53 of Criminal Code was not mentioned, the argumentation of the decision of Tbilisi City court might be considered as the best practice. The case was related to the murder of woman by her boyfriend because the woman asked to stop their relationship. Tbilisi City Court mentioned in its decision: "While imposing the punishment court will pay special attention to the motive of the crime - S.A killed A.O only for the reason that he was jealous for her and A.O decided to stop their relationship based on her free will".<sup>25</sup> Besides the court imposed imprisonment

21 Case of Bolnisi District Court #1/146-14

22 Case of Rustavi City Court #1/285-15

23 Verdict of Tbilisi Appeals Court of December 18, 2015

24 Case of Kutaisi City Court #1/324-2016

25 Case of Tbilisi City Court #1/3408-14

for 14 years and took into account mentioned gender motivation. The punishment was heavy and adequate for the crime motivated by gender sign.

Despite this fact, there are many cases, when gender motivation is not considered while imposing the punishment. Plea agreement was approved in 11 of 38 cases of fomicide/ attempt of fomicide. When prosecution makes agreement with the accused person on punishment and the size of punishment falls into the scope of appropriate sanction of Criminal Code, the court has no other function than to approve such agreement. In such cases, the court just checks legitimacy of punishment imposed by plea agreement and does not discuss the proportionality of such punishment. The punishment falling in the scope of law is legal and judge has no opportunity to refuse the approval of such agreement on the basis that the punishment agreed in the plea agreement is very lenient in cases with gender motivation.

The situation is other in such case if accused person and prosecution will agree on sanction that is lower than minimum foreseen punishment by criminal code. In two cases with obvious gender motive, judge approved the plea agreement despite the above-mentioned fact. In one case, the person was sentenced to 11 years of imprisonment,<sup>26</sup> and in the other case person was sentenced to 15 years; but according to part 3, Article 109 of Criminal Code, minimal sentence for the crime is imprisonment for 16 years,<sup>27</sup> and the maximum is imprisonment for undefined term. Accordingly, judge was able not to approve petition of prosecution based on inappropriate lenient punishment for crime with gender motive. However, such action did not take place.

The court substantively discussed 27 cases with gender motive, and sentence was aggravated for gender motive only in 4 cases. In 23 cases, gender motive was obvious, but courts did not aggravate punishment based on this fact. Furthermore in cases where gender motivate was obvious the court claimed that there were no aggravating circumstances in place.

In 2014-2015, there were examples, when punishment for husband was reduced, when he attempted to kill his wife by pouring fuel.<sup>28</sup> In relation to the mentioned case, Zugdidi District Court considered close relative relations

between accused person and victim as the mitigating circumstance and imposed minimal sentence foreseen by the Article 108 of Criminal Code – imprisonment for 7 years. As to reason for avoiding the usage of the paragraph 3<sup>1</sup>, Article 53 of Criminal Code of Georgia it comes to the low level of awareness of judges related to the meaning of term “Gender sign”. When murder is committed with gender sign - this is already the special part of the Article 109 of CC. In the future, we might face same problem regarding the usage of paragraph d<sup>1</sup>, part 2, Article 109 of Criminal Code in the cases of fomicide.

## 5.2. Circumstances taken into account by court while imposing the sentence

According to the part 3, of Article 53 of Criminal Code of Georgia, while imposing sentence court takes into account mitigating and aggravating circumstances. Namely, motive and aim of the crime, explicit illegal will of action, type and size of breach, type of action, tools and unlawful results, past life of the offender, private and economic circumstances, result of the action, especially his/her will to refund the damage and to reconcile with the victim.

In absolute majority of decisions made by court, the court indicates admission of the crime by accused person, cooperation with the investigation and his positive characteristic as the mitigating circumstances of the crime. Generally, it is not obvious in court decisions in what aspect the accused person is characterized positively. In one case there are attached signatures of the neighbors; and they declared that accused person is positive as he had assisted them in different kinds of work.

There is the verdict of Kutaisi City Court, where court did not consider admission of crime and cooperation with investigation as mitigating circumstances, but those circumstances were taken into account while defining sentence.<sup>29</sup>

We should mentioned such situations where admission of crime and cooperation with investigation are considered as mitigating circumstances, when the fomicide took

26 Case of Tbilisi City Court 1/5043-15

27 Case of Tbilisi City Court 1/4605-14

28 Case of Zugdidi District Court 1-467-14

29 Case of Kutaisi City Court #1-349-14

place in public space, in presence of numerous witnesses. In such case there are a lot of direct evidences that do not leave any other chance to accused person except admission; and all existing evidences, even without admission would be enough for guilty verdict.

It is important that admission, taking into account specifics of femicide, , should not be used as mitigating circumstance, when accused person does not regret committed crime and thinks that the murder is not enough for his victim. We should mention that Tbilisi Appeals Court altered the decision of lower instance<sup>30</sup> in one case, and reduced punishment for one year, only because the accused person admitted the crime and cooperated with investigation.

Besides, there are some cases, where limited liability of accused person (insults), caused by mental disease, is indicated as the mitigating circumstance.<sup>31</sup> In some cases accused persons were suffering from such mental diseases not excluding perception of unlawfulness of action and controlling of their actions.

Most interesting of cases was consideration of drunkenness as mitigation for punishment for man who killed his wife.<sup>32</sup> Taking into account the fact that persons drink alcohol voluntarily, and became more aggressive because of this, consideration of drunkenness as mitigating circumstance for punishment and not as aggravating one is arguable. Very often while defining sentence social status of accused person is taken into account as well as the fact whether he has other persons dependent to him.

As to the circumstances aggravating the crime, the crime record of the accused person is often considered as such. In one case Tbilisi City Court aggravated the sentence, based on fact that accused person had prone to violence, besides of gender motive. The aggravating in this case were numerous wounds inflicted on victim and the fact that accused person used to wear cold weapon.<sup>33</sup> Such circumstances were not considered as aggravating in none of other cases.

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30 Case of Tbilisi City Court #1/3408-14

31 Case of Akhaltsikhe District Court #/292-14; Case of Tbilisi City Court #1/3503-15

32 Case of Zugdidi District Court #1-467-14

33 Case of Tbilisi City Court #1/3408-14

## 6. ANALYSIS OF DECISIONS ON TERMINATION OF PROSECUTION AND INVESTIGATION

In 2014-2015, the Public Defender's Office received 19 rulings related to termination of prosecution and investigation.<sup>34</sup> In 13 cases, prosecution was terminated due to insults of accused person, in 3 cases due to death of the accused person, in 3 cases due to death of person considered to be accused.

Public Defender's office also inquire information on such cases which might be considered as notification of possible expected violence, received by the Ministry of Internal Affairs. In 2014, Ministry of Internal Affairs received only 1 notification,<sup>35</sup> and in 2015 there were 2 notification<sup>36</sup> on the cases were prosecution or investigation was terminated before murder or before attempt of murder of woman.

Public Defender treats carefully cases of murders committed by person with psychosocial needs, in state of insults, while qualifying them as femicide or attempt for femicide. The reason for this is difficulty to identify

whether those persons understand the concept of gender and social roles based on it.

In addition, we should mention, that provided rulings related to termination of prosecution and imposing obligatory mental treatment, often do not include any description of actual circumstances of case. Namely, in such rulings, there are no indications of actual circumstances in which person in state of insults tried to kill woman or killed her.

Femicide signs were revealed in 3 cases received from the prosecution. In all three cases, the reason for termination of investigation was death (suicide) of person to be accused. In all cases, decision of prosecution was based on the paragraph g, part 2, Article 105 of Criminal Code of Georgia. According to this article, the prosecution should not take place or if already started, it should be terminated in case if accused person is dead.

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34 Cases are mainly qualified by Articles 108, 109, 19.109, 11', 19-108

35 Letter of the Ministry of Internal Affairs: MIA 9 19 03066775, 15/11/2019.

36 ibid

## 7. CONCLUSION

Case analysis related to femicide and attempts of femicide, in 2014-2015, reveals that on the cases related to violence against women and domestic violence, fight against femicide and femicide, there were numerous challenges in process of execution of law.

During case study, such gaps as incorrect qualification of crime, dismissing previous history of violence, granting status of victim timely were revealed. We should mention separately practice of making plea agreements in

femicide/femicide attempt cases that makes punishment for accused persons very mild.

Despite the fact that in vast majority of cases gender motive is obvious, not prosecution and nor court never mentioned paragraph 3<sup>1</sup>, Article 53 of Criminal Code as aggravate circumstance for crime or attempt for crime with gender motive. Besides, while imposing sentence court was referring to some vague criteria.

# RECOMMENDATIONS

## To Georgian Government:

- Adequate, effective and time efficient rules on compensation giveaways in accordance with obligations defined in Article 30, Council of Europe Convention on preventing and combating violence against women and domestic violence, should be elaborated.
- Elaborate unified methodology for collection and analysis of statistics/administrative data of violence against women and domestic violence and ensure its effective execution.

## To the Inter-Agency Commission on Gender Equality, Violence against Women and Domestic Violence Issues focuses

- Create special workgroup, which will analyze critically existing prevention system on the cases of gender-based murders and murder attempts and will work specifically on creation of femicide prevention system and its improvement.

## To High School of Justice

- The Judges with criminal specialization should be trained on the issues of identification of cases on gender-based crimes in relation to the actions falling within the scope of first part of Article 53<sup>1</sup> and paragraph d<sup>1</sup> part 2, Article 109 of Criminal Code of Georgia.

## To Supreme Court of Georgia

- Recognize and consider cassation complaints related to definition of gender based crimes in the scope of part one, article 53<sup>1</sup> and paragraph d<sup>1</sup>, part 2, article 109 of Criminal Code, in order to support uniform practice on definition of such cases.
- Create identification method for femicide and attempts of femicide cases and carry out exact statistics.

## For Common Courts:

- The judges should provide detailed arguments in their decisions, regarding the meaning of existence of gender motive in crimes and the gender-based crime. Besides, in case of quotation of second part, article 53<sup>1</sup> provide detailed arguments why using this norm is relevant in such case, taking into account actual circumstances of the case.
- The judge should ensure that authority granted by the article 55 of Criminal Code is not used on femicide cases; and in case if plea agreement is made, accused person should not be sentenced for the punishment less than minimum foreseen by the Criminal Code provisions, in cases when there is obvious gender sign in the action.
- The provisions of new redaction of article 53<sup>1</sup> of Criminal Code of Georgia and the Istanbul Convention demand, under which domestic violence should be considered as the circumstance aggravating (and not mitigating) the crime, should be considered as a guidance.

### **To State Prosecutor of Georgia**

- When dealing with cases of gender-based murders or murder attempts, any possible cases of service negligence should be revealed, in relation of cases where before the criminal action there was preliminary notice from the side of woman on violence to law enforcement bodies.

### **To Ministry of Internal Affairs**

- Continue trainings on violence against woman and domestic violence issues in local units of Ministry of Internal affairs. Moreover, create training evaluation document, which will make it possible to measure the progress gained by the trained staff.
- Define specialization rule for cases of violence against women and domestic violence for effective protection of victims of violence.
- Improve analysis of statistics on violence against women and domestic violence. Namely statistic data on violence against women and domestic violence should be analyzed, as well as statistic data on violence between sexual partners, including the partners of the same gender to study specific signs of violence.

# APPENDIX #1: STATISTICS OF GENERAL PROSECUTOR'S OFFICE<sup>37</sup>

According to data provided by prosecution, there were 53 cases of murder of women in 2014-2015, among them in 27 cases domestic crime was identified, and in 26 other cases there was other motive.

There were 24 cases of murder attempts in the same years, in 15 cases crime was committed within family, and in 9 cases there was other motive.

## **Murders based on domestic issues (27 cases)**

In 17 cases related to murders based on domestic issues prosecution started based on the article 11<sup>1</sup>-208, in two cases based on article 11<sup>1</sup>-109, in 3 cases bases on part 2, article 117, in one case based on article 108 and in one other case based on article 109.

In two cases, death/suicide of the person to be accused took place, in 5 cases prosecution terminated due to the insults, in 1 case accused person died.

**Territorial distribution of crime:** Tbilisi – 8 cases, western Georgia – 5 cases, Kakheti – 4, Shida Kartli – 3, Adjara – 3, Kvemo Kartli – 2, Samegrelo-Zemo Svaneti – 2.

**Age of the Victims:** under the age of 18 – 1, from 18 to 30 – 3, from 30 to 40 – 8 women, from 40 to 50 – 3 women, from 50 to 60 - 2 women, from 60 to 70 - 6 women, older than 70 years old – 4 women.

**Relationship between the accused person and the victim:** murder of wife/ex-wife by husband/ex-husband – 18; murder of grandmother by the grandchild – 1; murder of mother by the son – 4; murder of daughter in law by the father in law – 1; murder of minor niece by the uncle – 1; murder of sister in law -1; murder of mother in law by the son in law – 1.

## **Attempts of murders based on domestic issues (15 cases)**

In one case of murder attempt based on domestic issues, prosecution was started based on article 19,108, in two cases based on article 19-109, in 11 cases - based on article 11<sup>1</sup>-19-108, and in one case based on article 11<sup>1</sup>- 19-109.

In six cases, prosecution was terminated due to the state of insults, in one case because of the death.

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<sup>37</sup> Letters of the Human Rights Department of the General Prosecutor's Office of Georgia: №13/58062, 09/08/2019; №13/86342, 10/12/2019; №13/86239, 09/12/2019; №13/1865, 14/01/2020

**Territorial distribution of crime:** Tbilisi – 4, west Georgia – 4, Kakheti – 1, Shida Kartli – 1, Adjara – 1, Kvemo Kartli – 1, Samegrelo-zemo svaneti – 3.

**Age of the victims:** from 18 to 30 – 5 women, from 30-40 – 7 women, from 40 to 50 - 1 woman, from 50 to 60 – 1 woman, from 60 to 70 - 1 woman.

**Relationship between the accused person and the victim:** In 11 cases, crime was committed by the husband or ex-husband; in two cases by brother; in two cases by son.

**Murders of women committed with other motive (26 cases)**

Prosecution started based on the following articles of Criminal Code of Georgia: article 108 – prosecution started towards 12 persons, article 109 - towards 11 persons.

Prosecution did not start as in two cases, as investigation was not able to reveal person who committed the crime, and in one case due to death. In two cases, prosecution was terminated based on the state of insults of the accused person.

**Territorial distribution of the crime:** Tbilisi – 7, West – 4, Kakheti – 3, Shida Kartli – 3, Adjara – 1, Kvemo Kartli – 3, Samtskhe-javakheti – 5.

**Age of the Victims:** under the age of 18 – 3 women, from 18 to 30 – 4 women, from 30 to 40 – 2 women, from 40 to 50 – 4 women, from 50 to 60 – 4 women, more than 70 – 5 women.

**Relationship between the victim and the accused person** – in 12 cases the murder was committed by the acquaintances, in 4 cases by the neighbors, in 5 cases by the strangers, in one case by the sexual partner, in 2 cases by the assumed partners, in 2 cases by the persons not identified by the investigation.

**Murder attempt of women committed with other motive (9 cases)**

Prosecution started based on article 19.108 against 3 persons, and based on article 19.109 against 4 persons.

In one case, prosecution was terminated due to death of the accused person.

**Territorial distribution of crime:** Tbilisi – 1, Shida Kartli – 1, Adjara – 5, Kvemo Kartli – 1, Samtskhe-javakheti – 1.

Age of the victims: under the age of 18 -1, from 18 to 30 -4, from 30 to 40 – 1, from 40 to 50 – 1, from 50 to 60 – 1, from 60 to 70 – 1.

**Relationship between the accused person and the victim:** In three cases, murder attempt was committed by the acquaintances, in one case by the neighbor, in 4 cases by the strangers, in one case by the cousin.

# ANNEX 2: DETAILED ANALYSIS OF CASES REVIEWED

Here is overview of considered cases of femicide and femicide attempts. However, not only cases qualified under Articles 108 and 109 of the Criminal Code, but also cases qualified under Article 117, Part 2 (Intentional grave bodily injury resulting in negligent death of the victim) of the Criminal Code are considered as femicide cases, since such violence resulted in death of the victim woman.

As to the cases of femicide attempts, cases qualified in relation to Article 19 -108 (intentional murder attempt), 10-109 (intentional murder attempt with the aggravating conditions), as well as Article 117, part 1 (intentional grave bodily injury) are considered as such in the report, since in these particular cases despite the damage caused to victims, it became possible to save their lives.

## Analysis of criminal cases occurred in 2014

### Femicide

#### 1. Case of T.R. (Ozurgeti District Court, case №085021014001)

According to the indictment, of October 2, 2014, T.R. had quarrel with his wife N.R. because of jealousy. After the dispute T.R. struck his wife in the head with an ax. N.R. died immediately. T.R. was accused under Article 11<sup>1</sup>-108 of the Criminal Code.

On October 5, 2014, the Ozurgeti District Court satisfied demand of the prosecutor and used pre-trial detention against T.R.

On February 26, 2015, the Ozurgeti District Court convicted T.R. He was found guilty for committing a crime under Article 111-108 of the Criminal Code and sentenced to 9 years in prison. It relied on the forensic report and noted that at the time of committing the crime the accused person could have realized the actual nature and illegal nature of his action and control it (admissibility). Subsequently, in condition of isolation, T.R. developed a mental disorder. This state continued even at the time of conviction. Because of this, accused person was transferred to B. Naneishvili National Center for Mental Health.

According to the information of the Ministry of Internal Affairs of Georgia<sup>38</sup>, on October 2, 2014, before the fact of the murder of N.R., by her husband T.R. The notice was made to the agency on November 10, 2012, according to which T.R. and his wife had a conflict over their minor son, both parties were questioned and warned verbally.

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38 Letter of the Human Rights Protection and Investigation Monitoring Department of Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

## 2. Case of I.Ch. (Telavi District Court, case №1/305-14)

In the indictment of the accused person of October 20, 2014 states: On October 18, 2014, I.Ch., used a cold weapon to inflict injuries on his wife, N.J. in the throat and neck area, aiming to kill her in his own house. The infliction caused the death of N.J. The action was qualified under Articles 11<sup>1</sup>-108 of the Criminal Code (intentional murder of a family member).

I.Ch. was arrested on August 18, 2014 at 9:35 p.m. According to the decision of the Telavi District Court of October 21, 2014, at the first hearing of the accused person, I.Ch. was sentenced to pretrial imprisonment. According to the judgment of the Telavi District Court of June 25, 2015, I.Ch. was found guilty and sentenced to 12 years in prison. This verdict was upheld by the Tbilisi Court of Appeals on October 7, 2015.

According to the information provided by the Ministry of Internal Affairs of Georgia, on October 18, 2014, before the fact of murder of N.J. by her husband I.Ch. there was not any notice received by the agency related to these persons on the possible act of violence.<sup>39</sup>

## 3. Case of Z.T. (Telavi District Court, case №1/80-14)

According to the Indictment of February 6, 2014 against Z.T; he committed the intended murder of T.C. On February 2, 2014, at night, Z.T. and T.C. had quarrel in the apartment of A.Sh. Z.T. was heating T.C. to the abdomen area and chest with his legs and arms. This attack T.C. caused injury and her death. The crime was qualified under Article 108 of the Criminal Code (intentional murder).

On February 7, 2014, Z.T. together with A.Sh. (the person in whose apartment the murder took place and who covered the fact, the crime is foreseen under Article 376 of the Criminal Code), were imposed pretrial imprisonment by the ruling of Telavi District Court, at the first hearing of the accusation.

The report of the Levan Samkharauli National Forensics Bureau of February 27, 2014 states: T.C.'s body has the following injuries: Closed blunt trauma of the chest, 9-10 ribs in the left half of the chest were broken, indirect fracture of the anterior axillary line 1-2-3-4-5-6-7 fracture of ribs, ruptured wound of left lung, hemo-pneumothorax. Injuries - in the area of the right thigh and right knee joint, bruises in the area of the left eye and vagina. Superficial wounds on the mucosa. These injuries are life-threatening and are caused by blunt object, collectively they are attributed to the severe degree of injuries and considered as life-threatening. The death of T.C. was caused by respiratory failure, developed with a blunt trauma closed in the middle of the chest.

After receiving the mentioned report, on 10 March 2014, Z.T.'s action was re-qualified and he was accused for act foreseen in Article 117 part 2 of the Criminal Code (inflicting life-threatening injuries that caused the negligent loss of life)

On August 11, 2014, the Telavi District Court found Z.T. guilty for the crimes in which he was accused and he was sentenced to 5 years in prison. A.Sh. was also found guilty for covering up a crime (Article 376 of the Criminal Code) and he was sentenced to 2 years in prison.

According to the Ministry of Internal Affairs of Georgia, on February 2, 2014, before the fact of grievous injury of T.C by Z.T. (that caused death) police was not notified on facts of possible violence related to the mentioned persons.<sup>40</sup>

## 4. Case of E.E. (Telavi District Court, case №1/16-15)

On December 6, 2014, E.E., in order to kill his wife, M.G, took a firearm from the house and drove his wife with Mercedes car to a nearby village. E.E. stopped the car in the field, forced his wife, M.G. to get out of the car and tried to kill her with

39 Letter of the Human Rights Protection and Investigation Monitoring Department of Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019

40 Letter of the Human Rights Protection and Investigation Monitoring Department of Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019

a firearm. The gun went out of order and E.E. was unable to fire. Afterwards E.E., in order to fulfill the intention, crashed the car towards M.G. several times, as the result of this action she died.

E.E. committed the crime foreseen in Article 11<sup>1</sup>-108 of the Criminal Code (intentional murder of a family member). E.E. was also accused for committing a crime under Article 236, part 2 of Criminal Code (unlawful carrying of firearms and ammunition).

E.E. was arrested on December 6, 2014, at 1:50 p.m. On December 8, 2014, at the first hearing of accusation Telavi District Court sentenced him to pretrial imprisonment. On August 5, 2015, the Telavi District Court upheld the plea agreement between E.E. and the Prosecutor's Office, without a substantive hearing. E.E. was found guilty in relation to both accusations. He was sentenced to 7 years in prison for murder, and 1 year for illegal carrying of firearms and ammunition. The harsh sentence absorbed the lighter one and eventually, as a result of combination of crimes, E.E. was sentenced to 7 years in prison.

According to the Ministry of Internal Affairs of Georgia, before the fact of the murder of M.G., on December 6, 2014 by E.E., the police did not receive any notice related to the concerned persons on possible facts of violence.<sup>41</sup>

## 5. Case of T.A. (Telavi District Court, case №1-59/15)

On December 17, 2014, approximately at 2:00 a.m., T.A. intentionally killed his wife, E.M., using cold weapon, in his own house, based on jealousy. E.M. was wounded in the chest area that caused the death of E.M. The crime was qualified under Articles 11<sup>1</sup>-108 of the Criminal Code (intentional murder of one family member by another).

T.A. He was arrested at the hospital on December 17, 2014, at 4:45 p.m. At the first hearing of Telavi District Court, sentenced T.A. to pretrial detention as a measure of restraint. Telavi District Court on June 9, 2015, found T.A. guilty for murder and he was sentenced to 9 years in prison.

The verdict of the Telavi District Court was appealed. The appellant was insisting on cancellation of the verdict of the Telavi District Court and alteration of accusation from Article 11<sup>1</sup>-108 of the Criminal Code (premeditated murder of a family member) to Article 117, Part 2 of the Criminal Code (intentional grievous bodily harm which by negligence caused the death of victim). On October 8, 2015, the Tbilisi Court of Appeals upheld the verdict of the first instance court.

According to the Ministry of Internal Affairs of Georgia, on December 17, 2014, before the fact of the intentional murder of E.M., by her husband T.A. There were not any kind of notices to the police regarding possible facts of violence related to the mentioned persons<sup>42</sup>

## 6. Case of G.I. (Akhaltzikhe District Court №1/292-14)

On July 10, 2014, approximately at 19:30, M.K. and her husband G.K. were walking with their eight-month-old grandchild E.N.; G.I., resident of the same village, who fell in love with M.K.'s daughter a few years ago; she refused to marry him and married R.N., with whom she had daughter E.N. G.I. decided to take revenge because of refusing to marry him. He brought from home firearm of "SKS" system and fired several times towards parents and minor child of his ex-lover, after the firing M.K. was wounded, as well as her eight-month-old grandchild E.N., grandfather was holding her. Z.G., resident of the village, tried to seize the firearm from G.I. Despite this, G.I. fired again. Eventually, two of G.I.'s sisters were able to seize the firearm from him and bring him home. As a result of the inflicted wounds the grandmother M.K. and her granddaughter, 8-month-old E.N. died at the hospital.

The action of the G.I. was qualified in relation to the Article 236, part 1 (illegal purchase and storage of firearms) and part 2 (illegal carrying of firearms), as well as in relation to Article 109, part 1, "g" (intentional murder through the means,

41 Letter of the Human Rights Protection and Investigation Monitoring Department of Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

42 Letter of the Human Rights Protection and Investigation Monitoring Department of Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

which preliminary threatens others' lives and health), Article 190, part 2 "b" (Premeditated murder of a juvenile with prior knowledge of the offender) and article 109, part 3, "a" (intentional murder of two or more people) of Criminal Code. The accused was arrested on July 12, 2014. On 14 July 2014, the Akhaltsikhe District Court sentenced G.I. to imprisonment as a measure of restraint. On August 21, 2014, according to the decision of the Akhaltsikhe District Court, the accused was placed for and expertise in appropriate institution for 20 days to determine his admissibility.

According to the case materials, the accused was suffering from schizophrenia. The Akhaltsikhe District Court took into account conclusion of the forensic psychiatric examination submitted by the prosecution, which stated that the accused was in a state of limited admission at the time of committing of the crime, which did not release him from criminal liability. Finally, the Akhaltsikhe District Court founded G.I. guilty for all accusations. As the result, Article 109, Part 3, Subparagraph "a" of the Criminal Code (premeditated murder of two or more persons), as the most severe sanction, absorbed all other criminal offenses and G.I. was convicted to 20 years in prison. Convicted was placed to the Academician B. Naneishvili National Center for Mental Health until recovery.

According to the information provided by the Ministry of Internal Affairs of Georgia, before the fact of intentional murder committed by G.I. against G.K.'s mother, M.K. and his eight-month-old daughter, police did not receive any notice related to violence.<sup>43</sup>

## 7. Case of O.Sh. (Rustavi City Court, case №1-252-14)

The indictment states that O.Sh. committed a family crime, intentional murder, as provided for in Articles 11<sup>1</sup>-108 of the Criminal Code.

The couple have been separated since November 2013 on the grounds of jealousy from the side of O.Sh.. B.Dz. moved out for temporary residence. O.Sh. became annoyed over his wife and intended to kill her for revenge.

On March 6, 2014, approximately at 11 a.m., O.Sh. took a household knife and approached B.Dz.'s apartment. During a quarrel between them, O.Sh. wounded B.Dz. with a preliminary prepared knife aiming to kill her, B.Dz. was taken to hospital, where she dead.

On March 8, 2014, O.Sh. was sentenced to imprisonment as a measure of restraint. Rustavi City Court found him guilty on May 7, 2014, for committing a crime under Articles 11<sup>1</sup>-108 of the Criminal Code and sentenced to 7 years and 6 months in prison.

According to the Ministry of Internal Affairs of Georgia<sup>44</sup>, before the fact of premeditated murder B.Dz. by O.Sh, several notices were made to police:

On September 1, 2013, a criminal investigation was launched, case №012010913004 based on B.Dz.'s notice on the fact of possible domestic violence committed by O.Sh.; the crime is envisaged in Article 118, part 1 of the Criminal Code of Georgia. B.Dz. did not confirm the fact of possible violence by husband at the investigation stage. On September 25, 2013, due to lack of action under the Criminal Code, the criminal case was terminated;

On March 2, 2014, B.Dz. noticed police again on possible violence perpetrated by her ex-spouse, although she did not confirm the fact of violence when appeared in police.

## 8. Case of I.TS. (Rustavi City Court Case №1/284-14)

The indictment states that I.TS., the perpetrator committed intentional killing under aggravating circumstances of a minor knowingly. This is a crime foreseen by Article 109 (b) of the Criminal Code.

<sup>43</sup> Letter of the Human Rights Protection and Investigation Monitoring Department of Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019

<sup>44</sup> Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

In one of the villages, families of I.TS. and KH.N. were living in the neighborhood. M.N., born on February 10, 1997, was growing up at KH.N.s family. I.TS. knew the age of M (17 years old). M.N. was a minor and the 11<sup>th</sup> grader.

I.TS. was offended by the N's family on the grounds that they were spreading uncomfortable information about him. Because of this, I.TS. decided to take revenge on them by killing a minor M.N. On March 19, 2014, at about 13 p.m., I.TS. laid in wait for M.N. who was at home, fraudulently took him into the bathroom belonging to N. and inflicted life-threatening injuries by initially stabbing a hammer for several times, and then by cutting his neck. After committing the crime, I.TS. transported M.N.'s body in a cart to the yard of his house, set it on fire and buried it.

On March 21, 2014, at the first hearing of the accused, Rustavi City Court arrested him. On May 21, 2014, according to the decision of the Rustavi City Court, I.TS. was found guilty of intentional killing of a minor with prior knowledge and was sentenced to imprisonment for 16 years and 9 months.

According to the Ministry of Internal Affairs of Georgia, before the fact of intentional killing of a juvenile M.N. by I.TS., the notification on alleged violence about the mentioned individuals has not been recorded at the police.<sup>45</sup>

## 9. Case of G.CH.(Kutaisi City Court Case №1-349-14)

The indictment of the person states: G.CH. has been in an unregistered marriage with TS.L. since 2002. Because TS.L. systematically consumed alcoholic beverages, there was often a family conflict between spouses.

On January 30, 2014, at approximately 7 a.m., G.CH., who was in the bedroom, noticed that TS.L. had taken alcohol and was in a state of unconsciousness. Because of this, an argument broke out between the spouses, which turned into a physical confrontation. They started throwing a wooden chair (stool) at each other. TS.L. turned and to take a revenge, threw a chair taken from the bedroom floor at TS.L. from a distance of 1-1.5 meters and hit TS.L. in the head. Due to the inflicted damage, TS.L. fell and died on spot. In order to cover the traces of the crime, G.CH. moved TS.L.'s body to the ravine of the forest in 300 meters from their house. On February 1, 2014, TS.L.'s body was found by neighbors.

G.CH. committed a crime under Articles 11<sup>1</sup>-108 of the Criminal Code (intentional killing of a family member).

On February 3, 2014, the Kutaisi City Court imposed detention on G.CH. as a measure of restraint at the first hearing of the accused. On May 6, 2014, the Kutaisi City Court found G.CH. guilty and imposed a sentence to 9 years of imprisonment.

According to the Ministry of Internal Affairs of Georgia, before the fact of the intentional murder of a spouse, TS.L. by G.CH., no notification on alleged violence between the persons was recorded at the police.<sup>46</sup>

## 10. Case of S.S. (Kutaisi City Court Case №1/797-2014)

On July 25, 2014, drunk S.S. got offended while talking with his ex-wife, S.J., and made a decision to kill S.J. According to the intent, S.S. fired five shots at S.J. at close range from a service weapon and wounded S.J. in the knee, chest and left arm. Due to the injuries, S.J. died on spot. S.S. committed a crime under Articles 11<sup>1</sup>-108 of the Criminal Code (intentional killing of a family member).

S.S. was arrested on spot on July 25, 2014. On 28 July 2014, at the first hearing of the defendant, detention was applied against S.S. as a measure of restraint.

On April 17, 2015, the Kutaisi City Court ruled that S.S. was not in a state of physiological affect, as he has not passed the third phase of the affect, which implied weakening and apathy of a person for a certain period of time after the explosion. This time he was calling the police, telling friends to look after the baby. This is an intentional behavior that

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is not typical of the third stage of affect. At the same time, the court even questioned the existence of a second phase of affect, as at this time the perpetrator should focus only on the victim. S.S. at this time shifted the focus to the weapon and loaded it, which is also unusual for the second phase, when all attention should be focused on the victim. Affect is characterized by three phases:

Existence of a conflict situation, explosion and calming of the affect (apathy, weakness, relaxation and, often, sleep phase). A person in affect must go through all three stages, otherwise the affect will not be confirmed. Complex forensic-psychological examination categorically ruled out the existence of a third stage. Accordingly, the Kutaisi City Court found that there had been an intentional killing of a family member under Article 11<sup>1</sup>-108 of the Criminal Code and not under Article 11<sup>1</sup> (Intentional murder in a state of sudden, strong emotional excitement). Due to this, the Kutaisi City Court sentenced S.S. to 11 years of imprisonment.

On July 15, 2015, the Kutaisi Court of Appeal upheld the decision of the Court of First Instance. The Court of Appeals stated in the motivational part of its judgment that even if there was a physiological affect in its three stages, there was no legal affect at stake, as provided for in Article 11<sup>1</sup> of the Criminal Code. An essential element of the objective composition of this article is the severe abuse of the perpetrator by the victim, which must cause a physiological affect. The Court of Appeals referred to the testimony of two friends of S.S., who were 10-15 meters away from S.J. and S.S., and stated that before the murder, the ex-spouses had spoken quietly and calmly. The fact that S.J. severely insulted S.S. was not confirmed by any of the witnesses. Therefore, the Kutaisi Court of Appeals refused to reclassify S.S.'s actions under Article 11<sup>1</sup> of the Criminal Code. On February 15, 2016, the Supreme Court of Georgia declared the cassation appeal of S.S. inadmissible.

According to the information provided by the Ministry of Internal Affairs of Georgia<sup>47</sup>, on July 25, 2014, before the fact of the intentional murder of the ex-wife S.J. by S.S., one notification of the district inspector-investigator is recorded at the police. According to the notification, S.S. had a conflict with his ex-wife about a contact with a common child. This notification was sent to the prosecutor's office.

## 11. Case of A.B. (Kutaisi City Court Case №1/536-14)

On April 17, 2014, at about midnight, A.B., while arguing on household grounds, struck a blunt object in the head of his mother - D.CH., who died as a result. A.B. committed the crime under Article 108 of the Criminal Code. In the indictment, A.B.'s act is not additionally qualified under Article 11<sup>1</sup>, in spite of the fact that the domestic crime was at stake.

On April 22, 2014, at the first hearing of the accused, the Kutaisi City Court applied detention against the accused. On December 1, 2014, the Kutaisi City Court found A.B. guilty of a crime under Articles 11<sup>1</sup>-108 of the Criminal Code (intentional killing of a family member) and sentenced him to 11 years in prison.

On February 3, 2015, the Kutaisi Court of Appeals dismissed the defense's appeal to reclassify the case to negligent killing from the intentional murder. The Kutaisi Court of Appeal upheld the decision of the Court of First Instance. On September 14, 2015, the Supreme Court of Georgia declared A.B.'s cassation appeal inadmissible.

According to the Ministry of Internal Affairs of Georgia, before the fact of the murder of mother D.CH. by A.B., no notification on alleged violence between the persons was recorded at the police.<sup>48</sup>

## 12. Case of Z.P.(Tbilisi City Court Case №1-3912-14)

On June 8, 2014, at approximately 1:00 a.m., Z.P. stabbed his mother, N.P., in the chest during a family dispute, resulting in her death on the spot. Z.P. committed a crime under Article 11<sup>1</sup>-108 of the Criminal Code (intentional murder of a family member).

<sup>47</sup> Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

<sup>48</sup> Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

On June 10, 2014, at the first hearing of the accused, the Tbilisi City Court granted the motion of the Prosecutor's Office and applied detention as a measure of restraint against the accused. On June 19, 2014, the Tbilisi City Court upheld the plea agreement between the prosecutor and Z.P. without a substantive hearing. Z.P. was found guilty of the charges and sentenced to 7 years in prison.

According to the information provided by the Ministry of Internal Affairs of Georgia, before the fact of intentional murder of the mother, N.P. by Z.P. no notification on alleged violence between the persons was recorded at the police.<sup>49</sup>

### 13. Case of J.A. (Tbilisi City Court Case №1/4605-13)

Tbilisi City Court, in its judgment of June 29, 2009, found J.A. guilty of attempted intentional murder committed with hooliganism and for the crime under Article 19-109 (2, "c") of the Criminal Code. The sentence was imposed in the amount of 13 years in prison. The Tbilisi Court of Appeals and the Supreme Court of Georgia upheld the decision.

On December 28, 2012, on the basis of the Law of Georgia on Amnesty, by the decision of the Tbilisi City Court of January 26, 2013, J.A.'s sentence was halved and determined to 6 years and 6 months of imprisonment.

By the decision of the Standing Commission of the Ministry of Corrections and Legal Assistance of December 31, 2013, J.A. was released on parole 1 year, 5 months and 15 days earlier. Nevertheless, J.A. again committed a crime against human life: namely, on June 1, 2014, at approximately 1:30 a.m., during a family conflict, he stabbed his wife L.G. with a knife for several times and killed her, following which he hid from the scene.

J.A. committed the crime under Article 11<sup>1</sup>-109-3 of the Criminal Code (intentional murder committed repeatedly).

On 3 June 2014, at the first hearing of the accused, the motion of the Prosecution was upheld and detention was used as a measure of restraint against the accused J.A. On September 15, 2014, the Tbilisi City Court upheld the plea agreement between the prosecutor's office and the defendant without a substantive hearing. J.A. was found guilty of the charges and sentenced to 15 years in prison.

According to the Ministry of Internal Affairs of Georgia, before the fact of the premeditated murder of his wife, L.G., no notification on alleged violence between the persons was recorded at the police.<sup>50</sup>

### 14. Case of S.A. (Tbilisi City Court Case №1/3408-14)

The indictment against the person states: On March 14, 2014, at night, in the school yard, S.A. inflicted fatal wounds to A.O. with a knife during a conflict on the grounds of jealousy. The latter died on spot. S.A. hid from the scene. The action was qualified under Article 108 of the Criminal Code (intentional murder).

On 16 March 2014, at the first hearing of the accused, the Tbilisi City Court granted the motion of the Prosecutor's Office and applied detention against S.A. as a measure of restraint. According to the decision of the Tbilisi City Court of March 27, 2014, S.A. was placed in the psychiatric examination bureau of the Levan Samkharauli National Forensics Bureau for 20 days for forensic psychiatric examination.

On October 23, 2014, the Tbilisi City Court found S.A. guilty and sentenced him to 14 years imprisonment.

This decision was appealed by the defense that requested a reclassification from Article 108 of the Criminal Code to Article 11<sup>1</sup> (Intentional murder in a state of sudden, strong emotional excitement). In the introductory and concluding remarks, the defense changed its position and asked the court not to change the qualification of the action, but to

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reduce the sentence and impose a minimum sentence of up to 7 years in prison under Article 108 of the Criminal Code. The appeal was partially upheld and S.A. was sentenced to up to 13 years in prison. On July 20, 2015, the Supreme Court of Georgia declared the defense cassation appeal inadmissible and thus upheld the judgment of the Tbilisi Court of Appeals.

According to the Ministry of Internal Affairs of Georgia, before the fact of intentional murder of A.O. by S.A., no notification was received by the police regarding the alleged violence between the mentioned persons.<sup>51</sup>

## Attempted Femicide

### 1. Case of V.B. (Batumi City Court Case №1-1197/14)

According to the indictment, on the night of August 18, 2014, V.B. beat N.G. during the verbal conflict, who suffered severe health damage as a result of the beating. V.B. committed an offense under Article 11<sup>1</sup>-117 of the Criminal Code (intentional infliction of grave injury against a family member, dangerous for life). According to the decision of the Batumi City Court of September 3, 2014, the motion of the Prosecutor's Office was satisfied and V.B. was imposed a bail in the amount of GEL10,000. As the accused did not pay the bail within 30 days, according to the decision of the Batumi City Court of October 17, 2014, the measure of restraint was changed into detention.

According to the decision of the Batumi City Court of May 8, 2015, V.B. was found guilty of the charges and sentenced to 3 years imprisonment. The Kutaisi Court of Appeal upheld this decision in its judgment of 22 May 2015.

It should be noted that according to the information provided by the Ministry of Internal Affairs of Georgia, on 18 August 2014, prior to the intentional grievous bodily injury of N.G. by V.B., a notification about alleged violence between the indicated persons was not received by the police.<sup>52</sup>

Nevertheless, the victim testified during the investigation that she addressed the police regarding the violence by the accused. No evidence of these circumstances is found in the criminal case

### 2. Case of K.B. (Batumi City Court Case №1-100/15)

Form №1 in the case reveals that on September 18, 2014 the investigation was launched on the physical assault inflicted by stabbing the hammer on the head of a family member TS.TS. by K.B. at home, during noon hours on April 13, 2-14. Qualification: Article 11<sup>1</sup>-126-1 of the Criminal Code (domestic violence against a family member).

The delay in starting the investigation was caused by the fact that as the victim TS.TS. explains, that her mother-in-law advised her to name the fall from the stairs as the reason for the injury in her head. During her interrogation at the hospital, TS.TS. did not name her husband as the perpetrator of the crime. After being discharged from the hospital, TS.TS. continued to live with her husband. TS.TS. decided to expose her husband in the crime after K.B. refused to fund her treatment.

On November 28, 2014, by the decision of the Prosecutor of the Batumi District Prosecutor's Office on changing the qualification, K.B.'s action was reclassified under Article 11<sup>1</sup>-19-108 of the Criminal Code (attempted intentional murder of a family member). On the same day, the Batumi District Prosecutor's Office filed a motion with the Batumi City Court regarding the issuance of a decision on the arrest of K.B.. On November 29, 2014, the motion was granted and a decision was issued to detain K.B. K.B. was arrested on November 30, 2014.

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51 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

52 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078 01/11/2019.

On the same day, an indictment was issued stating that on April 13, 2014, during the day, K.B. hit his wife with a hammer during the day hours in the bedroom on the second floor of the house, on the grounds of jealousy with the intent to kill her. The decision is based on the conclusion of the expertise, where it is mentioned that on 13.04.2014 T.S.TS had an open severe trauma of the skull, a fragmentary fracture of the left scapula with spreading to the base and impression, a bruised wound in the area of the scapula, on the left side. Existing injuries are developed as a result of exposure to dense blunt object (s) and are collectively attributed to severe degrees of injury which are life-threatening. K.B. committed a crime under Articles 11<sup>1</sup>-19-108 of the Criminal Code.

On December 2, 2014, at the first appearance of the accused to the Court, the Batumi City Court applied detention as a measure of restraint against K.B. On June 29, 2015, a plea agreement was approved between the prosecutor and K.B. without the substantial hearing. An agreement was reached on the charge, namely, K.B.'s action was requalified from Article 11<sup>1</sup>-19-108 to Article 11<sup>1</sup>-117-(1) (infliction of grave injury against the health of a family member). K.B. was sentenced to 3 years of imprisonment, out of which 1 year was imposed to be served at a penitentiary institution. Two years were counted as a probationary period.

According to the Ministry of Internal Affairs of Georgia, prior to the fact of intentional serious damage to the health of his wife, a notification about alleged violence between the indicated persons was not received by the police.<sup>53</sup>

### 3. Case of R.M. (Gardabani District Court Case №1/146-14)

On July 12, 2014, at approximately 3:30 a.m., R.M. threw D.M. from the fourth floor with the intention to kill due to the conflict about the household issue. The victim fell to the ground and received bodily injuries. Later D.M. was taken to a hospital where the victim was given proper care. R.M. committed a crime under Articles 11<sup>1</sup>-19-108 of the Criminal Code (attempted intentional murder of another member of the family).

R.M. was arrested on July 12, 2014, at 20:45. The accused was first brought to court on July 14, 2014, when a magistrate judge sentenced R.M. to imprisonment. Gardabani District Court found R.M. guilty to the charges and sentenced him to eight years and six months imprisonment. On June 2, 2015, the Tbilisi Court of Appeals dismissed R.M.'s appeal requesting to overturn the conviction and to be acquitted. The Court of Appeal upheld the verdict of the Gardabani District Court. According to the Ministry of Internal Affairs of Georgia, prior to the attempted intentional murder of his wife on 12 July 2014, a notification about alleged violence between the indicated persons was not received by the police.<sup>54</sup>

### 4. Case of B.TS. (Khelvachauri District Court Case №1-187-14)

In the period from the beginning of February to February 21, 2014, B.TS. with his mobile phone number, systematically sent humiliating messages to the mobile phones of N.F., the latter's spouse, I.SH. and to the one of the mother-in-law, N.SH. which incited N.P. to suicide on February 29, 2014. B.TS. committed the crime under Article 115 of the Criminal Code (incitement to suicide).

On April 27, 2014, the Khelvachauri District Court rejected the motion of the Prosecutor's Office and imposed bail to GEL 10,000 against B.TS. instead of imprisonment. On October 29, 2014, the Khelvachauri District Court approved a plea agreement between the prosecutor and B.TS. B.TS. was found guilty of committing a crime under Article 115 of the Criminal Code and was sentenced to 4 years in prison. This sentence was considered conditional.

According to the Ministry of Internal Affairs of Georgia, before the fact of incitement of suicide of N.F. by B.TS., a notification about alleged violence between the indicated persons was not received by the police.<sup>55</sup>

53 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

54 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

55 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

## 5. Case of J.S. (Zugdidi District Court Case №1-467-14)

The indictment of June 10, 2014 states: On June 5, 2014, at his residence, at about 20:00, on the grounds of a dispute, J.S. attempted to kill his wife I.CH., in particular, he poured gasoline and set the fire. The action was qualified under Articles 19-108 of the Criminal Code (attempted murder). Although there was Article 11<sup>1</sup> of the Criminal Code in force at the time (responsibility for the crime committed in the family), for incomprehensible reasons, no reference to Article 11<sup>1</sup> is indicated either in the indictment or in the court judgment in this particular case.

On June 10, 2014, the accused was sentenced to detention as a measure of restraint at the first appearance at the court. On September 5, 2014, according to the decision of the Zugdidi District Court, the accused was found guilty of the charges and sentenced to 7 years in prison. This decision was appealed in the Kutaisi Court of Appeal, the appellant demanded the reversal of the decision and the acquittal. The Kutaisi Court of Appeal rejected the appeal on November 13, 2014. The decision of the Zugdidi District Court remained unchanged. J.S.'s cassation appeal was declared inadmissible by the Supreme Court of Georgia on June 29, 2015.

According to the Ministry of Internal Affairs of Georgia, before the attempted murder of his wife, I.CH., by J.S., a notification about alleged violence between the indicated persons was not received by the police.<sup>56</sup>

## 6. Case of R.K. (Kutaisi City Court Case №1/688-14)

R.K. was charged in connection with two episodes committed at different times. According to the decision of the Prosecutor of the Kutaisi District Prosecutor's Office of July 22, 2014, these two episodes were combined into one case. The indictment of 13 August 2014 states that on 15 July 2014, at approximately 02:00 o'clock, in the vicinity of the residential building, R.K. verbally and physically assaulted his ex-wife, I.I., on the grounds of jealousy. After this, the victim received light bodily injuries, without deteriorating her health. By this indictment, R.K.'s action was qualified under Article 11<sup>1</sup>-126<sup>1</sup>-1 of the Criminal Code (violence by one family member against another).

The same indictment states that there is a reasonable presumption that R.K. intentionally destroyed someone else's item, causing significant damage. On July 15, 2014, at approximately 02:00 o'clock., in the vicinity of the apartment building, R.K. destroyed his ex-wife I.I.'s cell phone. The accused thus committed a crime under Article 187 (1) of the Criminal Code (damage of another's property).

By the same indictment, R.K. was also charged in connection with the third episode of the crime: On 18 July 2014, at approximately 17:00, R.K. inflicted severe life-threatening injuries to the ex-wife through cutting right area in the back of her chest, damaging the right shoulder hemothorax and pneumo-hemoperitoneum and the tenth rib, on the grounds of jealousy, on the road in front of the apartment using the knife. The defendant perpetrated a crime foreseen under Article 117 (1) of the Criminal Code (Intentional serious damage to health, that is dangerous for life).

Initially, the defendant was charged on July 23, 2014. On July 25, 2014, at the first hearing of the accused, the Kutaisi City Court applied detention against the accused as a measure of restraint. Kutaisi City Court found R.K. guilty to all presented charges on 27 November 2014. Article 11<sup>1</sup>-117-1 of the Criminal Code (intentional grievous bodily harm against a family member) absorbed the sanctions provided for in Article 11<sup>1</sup>-126<sup>1</sup> (domestic violence) and Article 187 (damage or destruction of property) and, eventually, R.K. was sentenced to 4 years in prison.

According to the Ministry of Internal Affairs of Georgia, before the fact of inflicting serious bodily harm dangerous for the life against his ex-wife I.I. by R.K. on July 18, 2014, a notification about alleged violence between the indicated persons was not received by the police.<sup>57</sup>

56 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

57 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

## 7. Case of T.K. (Kutaisi City Court Case №1/506-14)

The indictment states that on April 15, 2014, at approximately 11:20., T.K. tried to kill his ex-wife, E.K., several times with a knife during an altercation at the store. The victim E.K. suffered severe bodily injuries, which were life-threatening. T.K.'s actions were qualified under Article 11<sup>1</sup>-19-108 of the Criminal Code (attempted intentional killing of a family member).

On 17 April 2014, at the first hearing of the accused, detention was used as a measure of restraint against T.K. On July 18, 2014, according to the decision of Kutaisi City Court, T.K. was found guilty of the charges and sentenced to 8 years and 6 months in prison. T.K.'s lawyer appealed the decision and asked for the sentence to be reduced. The Kutaisi Court of Appeal, in its judgment of 21 October 2014, dismissed the appeal and upheld the sentence imposed by the first instance. On June 4, 2015, the Supreme Court of Georgia ruled T.K.'s cassation appeal as inadmissible.

According to the Ministry of Internal Affairs of Georgia, prior to the attempted intentional killing of E.K.'s ex-wife by T.K. on April 15, 2014, a notification about alleged violence between the indicated persons was not received by the police.<sup>58</sup>

## 8. Case of T.DZ. (Tbilisi City Court Case №1/6028-14)

On July 27, 2014, at approximately 10 o'clock., T.DZ. inflicted severe life-threatening damage to his ex-wife, K.C., by striking a glass vase in her head. The action was qualified under Article 11<sup>1</sup>-117-1 of the Criminal Code (intentional grievous bodily harm against a family member). On 17 September 2014, at the first hearing of the accused, the motion of the prosecution was rejected. On September 16, 2014, the prosecution requested that T.DZ be detained. Instead, the court imposed the bail in the amount of GEL 7,000 against the defendant.

The court did not agree with the prosecution that there was a danger that the accused would leave the country. The court focused on the fact that the accused had dual citizenship. In addition, several months had elapsed between the commission of the crime and the first hearing of the accused, and during all this time the accused had not attempted to leave the country. At the same time, the court shared the prosecution's argument that there was a danger of a recurrence of a criminal act. The reason for this was the unresolved dispute over the dwelling. However, the court ultimately took into account the fact that from the commission of the crime until the first hearing of the accused, there was no communication between the victim and the accused, therefore, the court used bail instead of detention.

On December 18, 2014, the Tbilisi City Court upheld the plea agreement between the accused and the prosecutor in a decision passed without a substantive hearing. T.DZ. was convicted of the charges, he was given a conditional sentence of up to 3 years in prison. The defendant was fined GEL 7,000 as an additional penalty and the entire amount paid as bail was transferred to the state budget.

According to the information provided by the Ministry of Internal Affairs of Georgia, prior to the fact of intentional bodily injury against K.Ch. by T.DZ. a notification about alleged violence between the indicated persons was not received by the police.<sup>59</sup>

## 9. Case of A.B. (Tbilisi City Court Case №1/3669-14)

The indictment of 6 June 2014 states: On 23 March 2014, A.B. inflicted life-threatening injury to the wife N.K. using knife at the household on the grounds of jealousy and with the intent of a murder. After the timely medical care, N.K.'s life was preserved. The crime was qualified under Articles 11<sup>1</sup>-19-108 of the Criminal Code (attempted intentional killing of a family member).

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58 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019

59 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

The same indictment also states: On 23 March, 2014, A.B. inflicted a life-threatening injury to his wife, N.K. at home with a knife. When her mother, L.K. attempted to seize the knife from her son-in-law, A.B. inflicted less severe damage to L.K. with a knife. According to the conclusion №002100314 of the medical examination, the injury inflicted on L.K. belongs to a less severe degree, with long-term deterioration of health. This action was qualified under Article 118 (1) of the Criminal Code.

Upon committing the mentioned act, A.B. pleaded guilty at the police station.

On March 25, 2014, at the first hearing of the accused, the court granted the motion of the prosecution and applied detention against the accused. On August 4, 2014, the Tbilisi City Court upheld the plea agreement between the prosecutor and the accused without a substantive hearing. A.B. was found guilty in both charges. The sanction provided for in Article 11<sup>1</sup>-19-108 of the Criminal Code absorbed the punishment foreseen by Article 118 of the Criminal Code. Eventually, A.B. was sentenced to 8 years in prison, out of which 6 years had to be spent at a penitentiary institution, and 2 years of detention were deemed conditional.

According to the Ministry of Internal Affairs of Georgia, before the attempted murder of his wife, N.K. and less severe damage of health of L.K. inflicted by A.B. a notification about alleged violence between the indicated persons was not received by the police<sup>60</sup>

## 10. Case of P.A. (Tbilisi City Court Case №1/5013-14)

On April 22, 2014, P.A., on the grounds of jealousy and revenge with the intent of murder, inflicted injuries on his ex-wife, S.A. with extreme cruelty, in particular cut her fingers and ears with a sword, cut her knee, broke her ankle and inflicted multiple cut wounds on various life-threatening areas, including her head. P.A. for a reason independent from him – due to the intervention of a third person, could not finalize the criminal act and hid from the scene. Transported to the hospital, wounded S.A. survived from death as a result of surgery. The action was qualified under Article 19-109-3, b of the Criminal Code (attempted intentional murder with the extreme cruelty).

On April 28, 2014, at the first hearing of the accused, the Tbilisi City Court used detention as a measure of restraint against P.A. On May 22, 2014, the Tbilisi City Court, on the motion of the Prosecutor's Office, ruled that the accused should be placed in the psychiatric examination department of the Levan Samkharauli National Forensics Bureau for 20 days.

On January 15, 2015, the Tbilisi City Court found P.A. guilty to the charges and was sentenced to 17 years in prison. The judgment of the Tbilisi Court of Appeals of July 9, 2015 rejected the defense appeal, which required the qualification of the action under the third paragraph of Article 118 of the Criminal Code. The decision of the Court of First Instance remained unchanged. The Supreme Court, in its ruling of 10 February 2016, declared the defense cassation appeal inadmissible.

According to the Ministry of Internal Affairs of Georgia<sup>61</sup>, before the attempted intentional murder of his ex-wife S.A. under aggravating circumstances, a number of notifications have been received regarding the above mentioned persons.

On August 9, 2013, S.A. filed an application at the police department in which she wrote that her ex-husband was calling on the phone, coming to the apartment, and verbally abused her, prompting P.A. to receive a warning from an authorized police officer.

On December 17, 2013, an investigation on the criminal case №007171213012 was launched at the First Division of the Vake-Saburtalo Division of the Tbilisi Police Department of the Ministry of Internal Affairs. The investigation related to the damage to all four tires of the car owned by the ex-spouse, a crime foreseen under Article 187 (1) of the Criminal Code of Georgia. Charges were filed against P.A. in this case.

60 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

61 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019

# Analysis of Criminal Cases of 2015

## Femicide

### 1. Case of O.J. (Batumi City Court Case №1-323/15)

On the evening of January 28, 2015, O.J. intentionally inflicted grievous bodily harm on his mother-in-law, V.S. at home, leading to the death of the latter. O.J. committed a crime under Article 11<sup>1</sup>-117-2 of the Criminal Code (intentional serious damage to health against a family member, causing death).

On January 29, 2015, the Batumi Prosecutor's Office filed a motion to the Batumi City Court regarding the arrest of O.J. On the same day, the Batumi City Court upheld this motion. On January 30, 2015, by the decision of the Batumi City Court, O.J. was detained. On July 1, 2015, the Batumi City Court rendered a guilty verdict without examining the evidence under Article 73 of the Criminal Procedural Code, as the parties had not disputed the evidence in the case. Batumi City Court found O.J. guilty for the crime of intentional serious damage to health against a family member, negligently causing death.

According to the information provided by the Ministry of Internal Affairs of Georgia, prior to the fact of intentional serious bodily harm to the spouse's parent, V.S. on January 28, 2015, a notification about alleged violence between the indicated persons was not received by the police.<sup>62</sup>

### 2. Case of SH.S. (Telavi District Court Case №1/323-15)

The indictment of September 12, 2015 states that On September 11, 2015, at about 8 o'clock, SH.S. went home to his ex-wife L.S. and asked for reconciliation. L.S. categorically rejected the proposal of SH.S.

The offended SH.S. took a knife from the kitchen table and struck L.S. several times. As a result of the received injury, L.S. died. The accused committed the crime under Articles 11<sup>1</sup>-108 of the Criminal Code.

According to the decision of the Telavi District Court, SH.S. was detained as a measure of restraint. On December 7, 2015, Telavi District Court found SH.S. guilty and sentenced him to 9 years in prison. This decision was appealed by the convict in the Court of Appeals in order to mitigate the sentence, however, the Court of Appeals held that the sentence was substantiated and fully ensured the purposes of the sentence and the avoidance of a new crime. Therefore the decision of the Telavi District Court was not changed by the decision of the Tbilisi Court of Appeals of February 4, 2016.

According to the Ministry of Internal Affairs of Georgia, prior to the fact of the intentional murder of L.S. by SH.S. on September 11, 2015, a notification about alleged violence between the indicated persons was not received by the police.<sup>63</sup>

### 3. Case of G.M. (Rustavi City Court Case №1/385-15)

The 2015 indictment states that G.M. fell in love with G.K. in February 2015 and tried to establish a relationship with her, but G.K. did not respond with the same sentiment; therefore, on May 16, 2015, G.M. decided to kill G.K. On the same day, G.M. bought a weapon for murder a knife of GLOCK firm, and then brought the victim into his rented apartment deceitfully. At approximately 21:50., G.M. inflicted multiple wounds to G.K.'s chest and throat using a comrade knife, resulting in her death. G.M. committed a crime under Article 108 of the Criminal Code (intentional killing).

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On 23 May 2015, at the first hearing of the accused, G.M. was detained. According to the decision of Rustavi City Court of December 28, 2015, G.M. was found guilty and sentenced to 10 years in prison. On December 18, 2015, the Tbilisi Court of Appeals, based on the prosecutor's appeal, amended the decision of the Rustavi City Court and aggravated G.M.'s sentence. The Court of Appeal sentenced G.M. to 12 years in prison. The Supreme Court of Georgia, by its decision of June 24, 2016, declared inadmissible the cassation appeal of the defense filed for the purpose of mitigation of the sentence. According to the Ministry of Internal Affairs of Georgia, prior to the fact of the intentional killing of G.K. by G.M., a notification about alleged violence between the indicated persons was not received by the police.<sup>64</sup>

#### 4. Case of N.M. (Rustavi City Court Case №1-419-5)

The indictment of July 24, 2015 states: On June 24, 2015, N.M., in his own home, on the grounds of jealousy, intentionally shot and killed his wife, S.M. N.M. committed a crime under Article 11<sup>1</sup>-108 (intentional killing of a family member) of the Criminal Code of Georgia.

On July 25, 2015, at the first hearing of the accused, the Rustavi City Court applied detention against N.M. as a measure of restraint. According to the court decision issued on July 23, 2015, N.M. was arrested, previously treated for self-harm inflicted after the murder of the wife.

On September 30, 2015, the Rustavi City Court upheld the plea agreement between N.M. and the prosecutor's office without a substantive hearing. By this decision, N.M. was sentenced to 7 years in prison.

According to the Ministry of Internal Affairs of Georgia, before the fact of the intentional killing of his wife, S.M., by N.M., a notification about alleged violence between the indicated persons was not received by the police.<sup>65</sup>

#### 5. Case of Z.J. (Kutaisi City Court Case №1/723-15)

The indictment states: On April 30, 2015, at about 18:00, in the garden of the house, Z.J. had an argument with his brother's wife, L.J., because of the family dispute. During this dispute, L.J. verbally abused him. Offended by this, Z.J. intended to kill L.J. out of revenge. Z.J. inflicted a life-threatening injury on L.J. with a single blow to the head with a sharp ax, as a result of which L.J. died, after being taken to hospital. Z.J.'s action was qualified under Article 11<sup>1</sup>-108 of the Criminal Code (intentional killing of a family member).

On April 12, 2015, the Kutaisi City Court sentenced Z.J. applied detention against Z.J. as a measure of restraint at the first hearing of the accused. On September 11, 2015, the Kutaisi City Court found Z.J. guilty to the charges and was sentenced to 9 years in prison. On January 6, 2016, the Kutaisi Court of Appeal upheld the decision handed down by the Kutaisi City Court.

According to the information provided by the Ministry of Internal Affairs of Georgia, prior to the intentional killing of his brother's wife, L.J., by Z.J. on April 30, 2015, a notification about alleged violence between the indicated persons was not received by the police.<sup>66</sup>

#### 6. Case of N.K. (Kutaisi City Court Case №1/324-2016)

The indictment of March 24, 2016, states that N.K. committed an attempted rape with violence, which manifested itself as follows: On November 2, 2015, between 10 and 11 o'clock, N.K. He was in a mountainous forest to collect chestnuts. At that time, N.K., accidentally met M.J. who lives next door to him, is 23 years older than him, with a husband and children. She was in the forest to collect chestnuts too. After collecting chestnuts, both of them decided to go back home. N.K.

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intended to have sex with M.J. in the woods by force. N.K. sneaked to M.J. from the back, knocked her down and tried to have sex with her. M.J. did not give up and actively resisted. At the same time, M.J. was screaming for help. To overcome the resistance, N.K. started beating her with his hands and feet in different parts of the body. As a result, M.J. was inflicted minor health injuries on the face, forehead, front and back surfaces of the chest. Nevertheless, N.K. was unable to carry out the intention - to rape M.J. - because of M.J.'s resistance. Because of this, N.K.'s actions were qualified under Article 19-137-1 of the Criminal Code (attempted rape).

N.K. committed intentional killing under aggravating circumstances - to cover up another crime: Although N.K. failed to carry out his intentions, he decided to kill his victim on the spot, fearing the impending responsibility for M.J.'s attempted rape. For this purpose, N.K. suffocated the fallen M.J. in the neck with his hands, as a result of mechanical asphyxia. Thus, N.K. committed the crime provided for in Article 109 (1, "d") of the Criminal Code (intentional killing to conceal another crime).

N.K. also committed disrespect to the deceased in the form of desecration of the corpse: after being convinced of M.J.'s death, N.K. had sexual intercourse with the corpse. Next, he covered the corpse with branches of leaves from above and hid from the scene. N.K. thus committed the crime under Article 258 (1) of the Criminal Code (disrespect to the deceased). On 5 November 2015, at the first hearing of the accused, detention was applied against N.K. as a measure of restraint. According to the decision of April 15, 2016, N.K. was found guilty on all three charges. The sanction provided for in the first part of Article 109 of the Criminal Code, as the most severe, absorbed the sanctions provided by other Articles and eventually, N.K. was sentenced to 13 years of imprisonment.

According to the information provided by the Ministry of Internal Affairs of Georgia before the attempted rape and intentional murder of M.J. by N.K. on November 2, 2015, a notification about alleged violence between the indicated persons was not received by the police.<sup>67</sup>

## 7. Case of G.CH. (Gori District Court Case №1/465-15)

The indictment of October 9, 2015 states that on June 29, 2015, G.CH. illegally broke into the apartment of N.G., who lives in his village, with the intention of secretly seize the movable property illegally. G.CH. decided to kill N.G. to facilitate the theft and killed her by grabbing her into the throat by the arms. After committing the murder, G.CH. planned to desecrate N.G.'s corpse and had sexual intercourse with the corpse. After that, G.CH. seized a mobile phone owned by N.G., the value of which was GEL 45.

G.CH.'s action was qualified under Article 109 (1, "d") of the Criminal Code (intentional killing under aggravating circumstances to conceal any other crime), Article 177 (3, "c") (theft by illegal entry into an dwelling place) and Article 258 (1) (desecration of a corpse).

On July 3, 2015, at the first hearing of the accused, the Gori District Court applied detention against G.CH. According to the decision of the Gori District Court of December 16, 2015, the sanction of the Article 109 (1) of the Criminal Code absorbed the sentences imposed by other articles and eventually, G.CH. was sentenced to 12 years of imprisonment. On April 21, 2016, the Court of Appeals was guided by Article 76 of the Juvenile Justice Code and sentenced the convict to a lower than a minimum sentence - imprisonment for a term of 9 years.

According to the information provided by the Ministry of Internal Affairs of Georgia, prior to the intentional murder of N.G. by G.CH. on June 29, 2015, a notification about alleged violence between the indicated persons was not received by the police.<sup>68</sup>

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67 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

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## 8. Case of I.S. (Tbilisi City Court Case №1/642-15)

On January 20, 2015, I.S. inflicted injuries on the head and body of the mother – N.S. - with a metal object due to disagreement during the family conflict, resulting in her death. The action was qualified under Articles 11<sup>1</sup>-108 of the Criminal Code (intentional killing of a family member).

At the first hearing of the accused on 22 January 2015, the court granted the motion of the prosecution and used detention as a measure of restraint against the accused.

On February 18, 2015, the Tbilisi City Court, without substantive hearing, on the basis of a plea agreement, found I.S. guilty to the charges and was sentenced to 7 years in prison.

The Ministry of Internal Affairs informed us about the previous history of violence, namely before the fact of the intentional killing of the mother N.S. by I.S., a notification about alleged violence between the indicated persons was not received by the police.<sup>69</sup>

However, the criminal case contains copies of the notifications sent to the police on 112 on 18 and 20 January 2015, as well as the protocols drawn up by the police. For the first time, the patrol police was called by an ambulance doctor who said the son was abusive to the old woman. The patrol inspector states in the protocol that at the moment of his arrival at the scene, I.S. was calm and did not treat his mother, N.S., aggressively, and that no one had any complaints against this man.

The 112 service also received a call from citizen L.G.A., who claimed that N.S. asked his drunken neighbor to let her into the house. L.G.A. states in a protocol drawn up by the police that the elderly N.S. had asked him for food and he troubled her. Police arrived at the scene saw the elderly woman in an unhygienic condition, who did not contact them. Police knocked on the door of S.'s house, and also woke up the son of an old woman. The old woman had been let into the house.

Neighbors describe the circumstances surrounding the police call differently. L.G.A., who called the patrol police on January 18, 2015, because the old N.S. was troubling the door of her house, stated that she heard the sound of doors slamming in the evening. She opened the door and saw a barefoot old N.S. who told her that her son had kicked her out of the house. L.G.A.'s husband picked N.S. up on the third floor and asked N.S.'s son to let the mother into the house. On the same day, at about 23:00, L.G.A. heard a quarrel on her floor. L.G.A. opened the door of her house and saw that son was arguing with the naked N.S. It was after this that L.G.A. called a patrol police crew, whom N.S. explained that she could not enter the house because her son might kill her. According to L.G.A., the police arrested N.S. in her presence at his house. The door of the house was nailed by N.S.'s son, I.S. Police made I.S. to remove nails from the door and warned him not to turn his mother out of the house anymore and not to beat her. After that, the police made a protocol and left the scene at around 01:00.

## Attempted Femicide

### 1. Case of N.Z. (Batumi City Court Case №1-973-15)

On July 4, 2015, at approximately 16:30, in one of the park areas, N.Z. used a knife to inflict multiple wounds on the chest of a juvenile T.T.S, including one in the heart. T.T.S. survived death as a result of a medical care rendered. According to the same decree, N.Z. committed attempted intentional killing knowingly against a minor, which is provided for in Article 19,109 (2, "b") of the Criminal Code of Georgia.

<sup>69</sup> Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078 01/11/2019.

It is clear from the protocol of the arrest and personal search of the accused dated 4 July 2015 that N.Z. disappeared after committing the crime, but he was arrested on July 4, 2015, at 22:10.

On July 7, 2015, the Batumi City Court granted the prosecutor's motion and used detention as a measure of restraint against the accused.

On November 12, 2015, the Batumi City Court approved the plea agreement without substantive hearing, by which N.Z. was found guilty of committing a crime under Article 19, 109 (2, "b") of the Criminal Code. N.Z. was sentenced to 13 years of imprisonment, out of which 10 years had to be spent at a penitentiary institution, and 3 years were considered as conditional.

According to the Ministry of Internal Affairs of Georgia, prior to the attempted murder of a juvenile T.T.S. by N.Z. a notification about alleged violence between the indicated persons was not received by the police.<sup>70</sup>

## 2. Case of I.M. (Ambrolauri District Court Case №1-39-15)

The Decree of the Prosecutor of the Ambrolauri District Prosecutor's Office of August 5, 2015 states that I.M. being in a drunken state on August 3, 2015 at about 23:00. During the quarrel, inflicted life threatening injuries to his wife N.S. in the area of the chest because of being offended. He fled from the scene. N.S. survived from death for a reason independent of I.M. The action was qualified under Articles 11<sup>1</sup>-19-108 of the Criminal Code (attempted intentional murder of a family member).

The magistrate judge applied detention against I.M. as a measure of restraint by the decision of August 6, 2015. On November 27, 2015, the Ambrolauri District Court found I.M. guilty to the charges and was sentenced to 7 years in prison. According to the Ministry of Internal Affairs of Georgia, prior to the attempted intentional murder of his wife, N.S., by I.M. on August 3, 2015, a notification about alleged violence between the indicated persons was not received by the police.<sup>71</sup>

## 3. Case of K.G. (Zugdidi District Court Case №1-213/15)

The indictment states that on February 25, 2015, at around 17:00, K.G. inflicted serious life-threatening injury to his wife, S.Z. on the left mammary glands, and on the back surface of the chest by an ax due to the quarrel. The action is qualified under Articles 11<sup>1</sup>-19-108 of the Criminal Code (attempted intentional killing of a family member).

According to the decision of Zugdidi District Court of February 28, 2015, K.G. was detained. On April 24, 2015, a plea agreement was approved between K.G. and the Prosecutor's Office, by which K.G. was found guilty of the charges and sentenced to 8 years in prison. Out of these, 4 years had to be spent at a penitentiary institution, and 4 years were considered as a conditional sentence.

According to the information provided by the Ministry of Internal Affairs of Georgia<sup>72</sup>, before the attempted intentional killing of his wife, S.Z. by K.G. on February 25, 2015, a notification about alleged violence between the indicated persons was not received by the police.

On November 30, 2014, citizen S.Z. Contacted LEPL 112. She wanted to call a patrol police crew because she had a family conflict with her husband, K.G. Both S.Z. and K.G. were interviewed in the relevant district division of the Ministry of Internal Affairs. The interviews revealed that there was no conflict or violence between the spouses. During the interview, S.Z. mentioned that there was no disagreement between the spouses, nor the conflict or the violence. During the interview, S.Z. mentioned the fact of disagreement with the neighbor.

70 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

71 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

72 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 4 19 03205090 29/11/2019.

On January 3, 2015, Citizen K.G. applied to LEPL 112. He wanted to call a patrol police crew because he had a household dispute with his wife. Both S.Z. and K.G. were interviewed again in the relevant district division of the Ministry of Internal Affairs. The interviews revealed that the problem the spouses pointed out was within the competence of the Social Services Agency. Accordingly, the police referred them to this agency.

On February 14, 2015, another message was received by the agency, according to which K.G. had a family conflict with his wife. Based on the message, the parties were interviewed this time as well.

#### 4. Case of I.CH. (Zugdidi District Court Case №1/664-15)

According to I.CH., his divorce with his wife, KH.B., was facilitated by E.TS. Offended by this, on the grounds of revenge, on June 14, 2015, at approximately 21:00. I.CH. went to E.TS. and stabbed him in the right front, on the anterior surface of his left thigh, and in the groin area, injuring his right femoral vein, causing E.TS. to receive severe life-threatening bodily injury for life.

I.CH. committed a crime under the first part of Article 117 of the Criminal Code (intentional serious damage to health).

On August 26, 2015 (two months after the incident), the Prosecutor's Office filed a motion to the Zugdidi District Court to impose a bail in the amount of GEL 5,000 on I.CH. as a measure of restraint. On August 26, 2015, the Zugdidi District Court granted this motion. Zugdidi District Court ruled on February 10, 2016, that I.CH. was guilty to the charges and sentenced him to three years in prison. This period was considered as a conditional probationary period. Thus, during and after the completion of the entire criminal case, I.CH. was in no way deprived of his liberty (neither arrested nor imprisoned). According to the Ministry of Internal Affairs of Georgia, before the fact of intentional serious damage to health of E.TS. a notification about alleged violence between the indicated persons was not received by the police.<sup>73</sup>

#### 5. Case of D.D. (Tbilisi City Court Case №1/5043-15)

The indictment states the following: On September 6, 2015, at about 21:00, T.U. was in one of the restaurants with a friend, a foreign national A.R.S. At this time, D.D, an acquaintance of T.U., came to them and asked T. several times to follow him outside to talk, to which she refused. D.D. then asked A.R.S. to accompany them out, but T.U. resisted. The offended D.D., with the intent and purpose of killing, struck A.R.S. and T.U. several times in different areas of the body with a knife, and then hid from the scene. A.R.S. and T.U. received timely medical care. This crime was qualified under Article 19-109-3 "a" of the Criminal Code (attempted intentional murder of two persons under aggravating circumstances).

D.D. was arrested on September 24, 2015 on the basis of a decision issued by the Tbilisi City Court. On September 26, 2015, at the first hearing of the accused, the Tbilisi City Court applied detention as a measure of restraint against D.D. On January 25, 2016, without a substantive hearing, the Tbilisi City Court approved a plea agreement between the accused and the prosecutor's office. D.D. was found guilty of the charges. He was sentenced to 11 years in prison, out of which 9 years had to be served at a penitentiary institution and two years were deemed as a conditional sentence.

According to the Ministry of Internal Affairs of Georgia, before the attempted intentional killing of A.R.S. and T.U. by D.D., a notification about alleged violence between the indicated persons was not received by the police.<sup>74</sup>

#### 6. Case of D.KH. (Decision of the Tbilisi City Court of February 23, 2016)

The indictment states: On June 1, 2015, at night hours, D.KH. intentionally inflicted serious bodily harm to his mother, S.KH. In particular, D.KH. inflicted injuries on S.KH.'s face and head using a blunt object due to a dispute. As a result of the stroke, S.KH. received a skull trauma, a brain injury, a fracture of the facial bones; Swelling of the brain, acute

<sup>73</sup> Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

<sup>74</sup> Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

hematoma in the forehead, and closed trauma of the chest; The act was qualified under the Article 11<sup>1</sup>-117 (1) of the Criminal Code (intentional serious bodily injury against a family member).

On June 3, 2015, at the first hearing of the accused, the motion of the prosecution was granted and the court applied detention against the accused. On June 22, 2015, the Prosecutor's Office filed a motion to the Tbilisi City Court requesting that D.KH. be placed in a medical facility to determine his sanity. According to the decision of the Tbilisi City Court of June 23, 2015, this motion was granted and D.KH. was placed in the Psychiatric Examination Department of the Levan Samkharauli National Forensics Bureau for 20 days.

On February 23, 2016, according to the decision of the Tbilisi City Court, the accused was found guilty of the charges and sentenced to 4 years and 6 months imprisonment. On May 30, 2016, the Tbilisi Court of Appeals dismissed the appeal filed by the defense to mitigate the sentence and upheld the judgment of the Court of First Instance. On December 21, 2016, by the decision of the Supreme Court of Georgia, the cassation appeal was declared inadmissible.

According to the Ministry of Internal Affairs of Georgia, before the fact of intentional serious bodily injury to S. KH. by D. KH., a notification about alleged violence between the indicated persons was not received by the police.<sup>75</sup>

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75 Letter of the Department on the Protection of Human Rights and Monitoring of Quality of Investigation of the Ministry of Internal Affairs of Georgia - MIA 0 19 02918078, 01/11/2019.

