



UN JOINT PROGRAMME
FOR GENDER EQUALITY

ANALYSIS OF CASES OF FEMICIDE AND ATTEMPTED FEMICIDE IN 2022

Author of the methodology: Tamar Dekanosidze

Criminal cases and statistics were analyzed by: Eka Mamaladze and Nino Iakobidze

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INTRODUCTION

Prevention of violence against women and girls, as well as the extreme form of violence against women - femicide, remains an acute problem in Georgia.

The Femicide Monitoring Report by the Public Defender of Georgia reveals that deeply entrenched gender hierarchies and societal views on women's roles remain the root causes of such crimes. Additionally, years of observation indicate that the perpetrators of femicide are predominantly unemployed individuals without higher education. This highlights the complex nature of the problem and underscores the need for intersectoral cooperation and a comprehensive approach to combat it effectively.

The Prosecutor's Office of Georgia's information campaign, "No Femicide," is a welcome initiative that raises public legal awareness through meetings and discussions. However, this campaign mustn't be fragmented but integrated into coherent state measures.

Proper data collection is crucial for enhancing preventive measures. Unfortunately, the **development of a unified methodology** for collecting femicide statistics has been a longstanding challenge. In this regard, it is encouraging that, with the support of UN Women, state agencies are working to implement the methodological framework document for producing UN statistics on gender-related killings of women and girls (femicide/feminicide).¹ This will enable the collection of comprehensive statistics on femicide cases and facilitate a detailed analysis of each case.

In this report, the Office of the Public Defender thoroughly highlighted and analyzed 29 cases of femicide and attempted femicide in 2022. Additionally, acquittals in cases of possible femicide and attempted femicide were examined. The analysis reveals that, despite some progress, significant challenges persist in the proper enforcement of justice.

The monitoring results indicate that the identification of gender sign in femicide and attempted femicide cases has improved. However, in some instances, both during the investigation and in court, it remains problematic to recognize and label the crime as gender-motivated. Additionally, improper risk assessment at the court stage persists, which has, in certain cases, failed to prevent the most extreme form of violence - femicide.

In 2022, a significant problem emerged - victimized women refuse to testify against their family members, even in cases of extreme violence committed against them. This highlighted the urgent need to prioritize the involvement of witness and victim coordinators in attempted femicide cases and to ensure that adequate psycho-emotional support is provided to women victims.

We hope that the findings and recommendations presented in this report will be considered in the planning and implementation of state policies against femicide.²

- 1 Statistical framework for measuring the gender-related killing of women and girls (also referred to as femicide/feminicide") available at: https://www.unodc.org/documents/data-and-analysis/statistics/Statistical_framework_femicide_2022.pdf
- 2 It is important to note that, according to information provided by the Prosecutor's Office of Georgia, a guideline was developed in 2023 titled "On the Elimination of Deficiencies Identified Within the Framework of the Monitoring of Femicide Criminal Cases." The purpose of this guideline is to ensure that the investigation and procedural management of existing criminal cases related to femicide and gender-based violence against women are aligned with international standards.

1. RESEARCH METHODOLOGY

The methodological framework for monitoring gender-motivated killings of women (femicide) was developed by the Office of the Public Defender and was applied in the preparation of this report.³

For study purposes, in the context of Georgia and based on the Latin American Model Protocol,⁴ the Public Defender uses the following definition of femicide:

Femicide is the gender-related killing of women, namely the killing of women, the motive or context of which is related to gender violence against women, discrimination, subordination of women, which is manifested in men's sense of entitlement to or superiority over women, an assumption of ownership of women and a desire to control them, or other reasons related to the woman's gender, as well as incitement to suicide for the above reasons.

The killing of a woman does not automatically mean femicide. According to the Latin American Model Protocol for the Investigation of Gender-Related Killings of Women, femicide is when the killing or death of a woman is related to her gender, in particular, there must be some indications that the context or motive was related to gender-based violence and/or discrimination.⁵

As for the motive, when analyzing cases, the following elements were considered important for the present study:

- ✓ Discriminatory or sexist attitude towards the victim.
- ✓ Assumption of ownership.
- ✓ Controlling the behavior of the victim.
- ✓ Requesting the victim to obey stereotypical gender roles

To monitor the cases of femicide in 2022, the study was carried out in three stages. **The first stage** of the study included requesting statistical information on cases of murder, attempted murder, and suicide or attempted suicide of women from the Ministry of Internal Affairs and the Prosecutor's Office of Georgia, as well as obtaining judgments from the common courts.⁶ Unlike in previous years, to ensure

3 Femicide Monitoring Report: Gender Killings of Women, analysis of the criminal cases of 2016, Public Defender of Georgia, 2017.

4 Latin American Model Protocol for the Investigation of Gender related Killings of Women (femicide/feminicide) (femicide/feminicide) (hereinafter referred to as the Latin American Model Protocol)

5 Latin American Model Protocol for the investigation of gender-related killings of women (femicide/feminicide) (hereinafter referred to as the Latin American Model Protocol), Office of the High Commissioner for Human Rights in Latin America, ISBN 978- 9962-5559-0-2, pp. 13-14.

6 Information was requested regarding the articles of the Criminal Code of Georgia that could be used to qualify cases of femicide or attempted femicide, specifically: Intentional killing (CCG; Article 108), Intentional killing under aggravating circumstances (CCG; Article 109), Intentional murder in a state of sudden, strong emotional excitement (CCG; Article 111), Intentional infliction of serious harm to health (CCG; Article 117), Incitement to suicide CCG; Article 115), CCG; Articles 19, 108 and 19;109 (Attempted crime); also Article 118.3 Intentional infliction of less serious harm to health, which has caused the loss of life; also Article 121 Intentional infliction of serious or less serious harm to health in the state of sudden and strong emotional excitement and Article 122 – Infliction of serious or less serious harm to health by exceeding the self-defense limits. Article 137 (paragraph 4.b) – Rape, that caused death of a person affected; Article 138 (paragraph 3. C)– Another action of a sexual nature,) that caused death of a person affected; Article 133 (paragraph 3. C) – Illegal abortion having resulted in death, Sterilization without consent that caused death or other serious consequences (Article 133'3), Female genital mutilation that caused death or another serious conse-

comprehensive coverage of the cases during the reporting period, information was requested from the common courts in two parts. Specifically, information was initially requested in May 2023, and again in September 2023. As a result, the Office of the Public Defender received judgments on criminal cases completed as of August 31, 2023, which increased the number of cases available for analysis.

In the **second stage** of the study, verdicts/judgments from city/district and appellate courts were analyzed to detect femicide or attempted femicide.

In the **third stage** of the research, the complete materials of the case were requested from the city/district, appellate, and supreme court on the judgments of the cases of femicide and attempted femicide selected according to the methodology.

As a result, the Public Defender's Office received 58 verdicts from the common courts relating to crimes committed in 2022. The Office of the Public Defender reviewed the complete materials of the 44 criminal cases.

Additionally, the Office of the Public Defender received five rulings on the termination of criminal prosecution from the general courts.⁷ Also, 2 resolutions from the Prosecutor's Office of Georgia on the termination of the investigation and prosecution were also analyzed to detect femicide/attempted femicide.

In total, 29 cases were identified as relevant for the study.⁸ The report does not include cases that, according to the methodology, could not be included in the reporting period due to the date of the criminal act or cases where no signs of femicide were identified.⁹

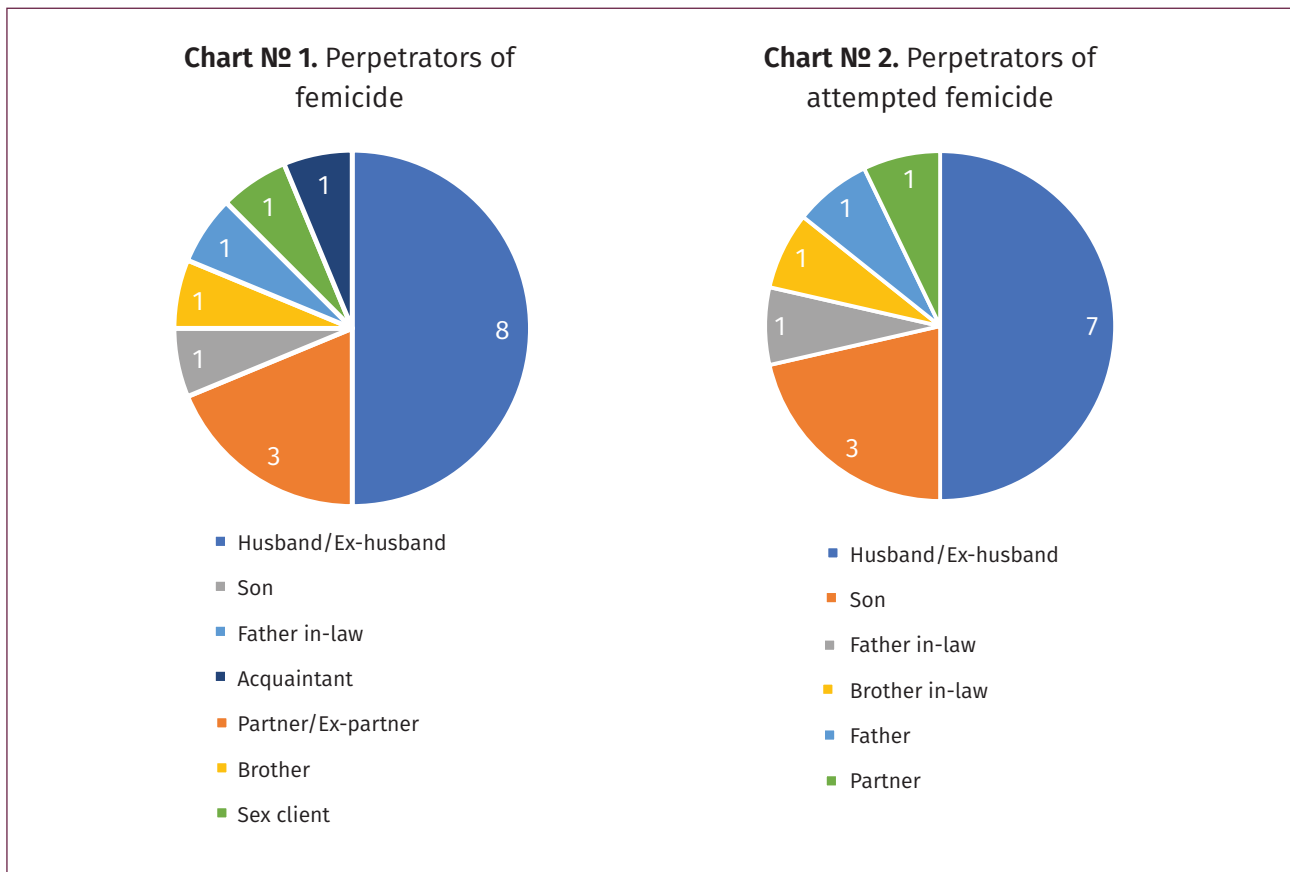
Additionally, to identify gaps, the report examines cases of possible attempted femicide where a verdict of acquittal was reached.¹⁰

quence (Article 133².3), Human trafficking, that caused the death of the victim or resulted in other grave consequences (Article 144¹.3.c).

- 7 In 4 out of the 5 judgments provided, the reason for termination of prosecution was the insanity of the accused, and in 1 case - the death of the accused (the case of the death of the accused was not related to murder, but to intentional minor health damage). The Public Defender is careful not to qualify those cases committed by persons in a state of insanity as femicide or attempted femicide. Accordingly, such cases were not counted in the femicide/femicide statistics and are not discussed in the report.
- 8 It should be noted that one woman was killed by two individuals, resulting in two separate criminal cases and two verdicts for the murder of a single victim. Accordingly, 30 criminal cases involving 29 victims were analyzed.
- 9 For example, one of the cases considered by the Tbilisi City Court (No. 1/1/3392-22), where a knife was hit in the process of pacification by a woman and there was no intention to injure her, was not considered as femicide/attempted femicide; Also, the report did not include the case considered by the Kutaisi City Court, where the father intended to kill his son, but as a result of the shot, the bullet hit the daughter, and the intention to kill the girl child on the ground of gender motive was not identified. (№1/1044-22); Another case, which was not included in the report, was about a dispute between neighbors over the late return of a borrowed hoe, which ended in the murder of a woman (Telavi District Court case №1/127-22); The report did not include the case considered by the Tbilisi City Court, when a relative killed a woman for mercenary purposes. (case №1/3779-22); After the analysis of the case, the case considered by the Tbilisi City Court was not included in the monitoring report, where the convicted person was shooting without direction from an automatic firearm and the bullet could have hit any person on the spot. (№1/6857-22). Based on the methodology, the report also did not include a case involving a victim under the age of 16, and the case did not clearly show gender motivation. (Mtskheta District Court case №1-26/23).
- 10 Cases with acquittals were not included in the femicide/femicide statistics. The flaws identified in these cases will be discussed in a separate chapter.

2. FEMICIDE AND ATTEMPTS OF FEMICIDE STATISTICS

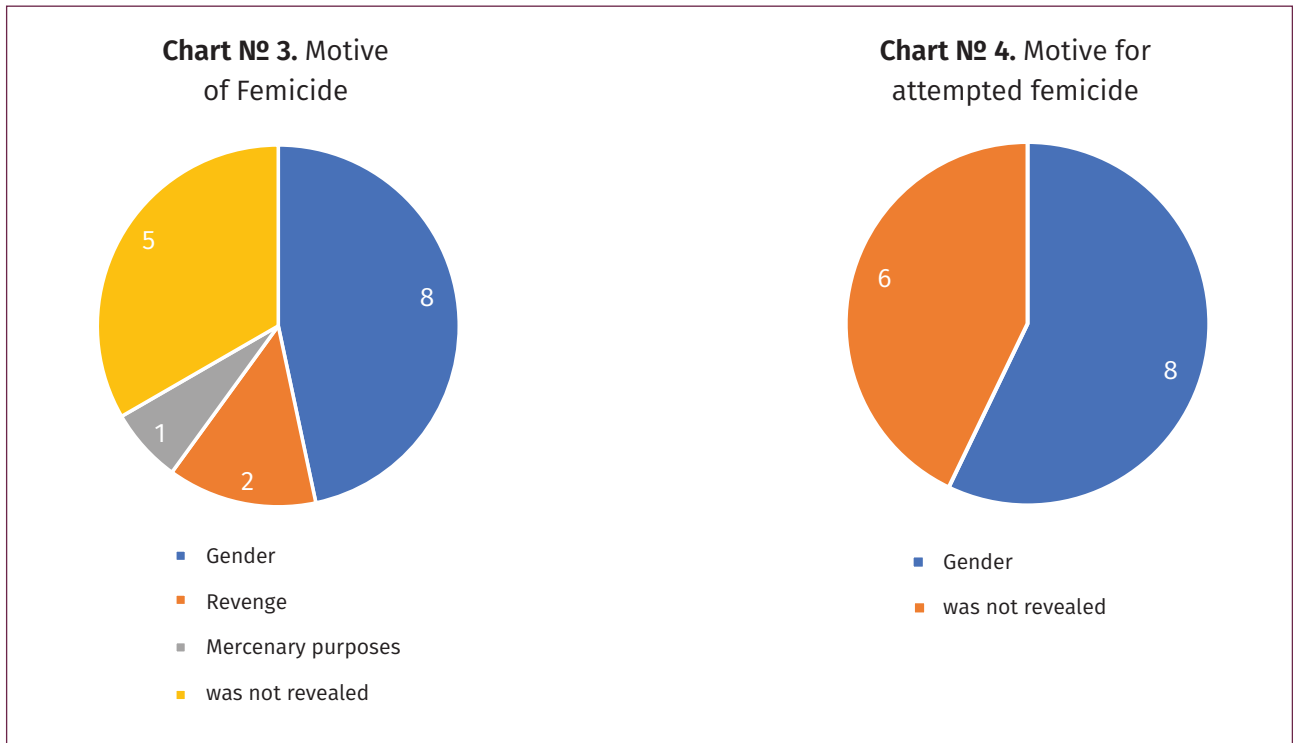
The Office of the Public Defender of Georgia analyzed 29 cases of femicide and attempted femicide. In these cases, 15 cases were related to femicide, and 14 cases were related to attempted femicide.¹¹



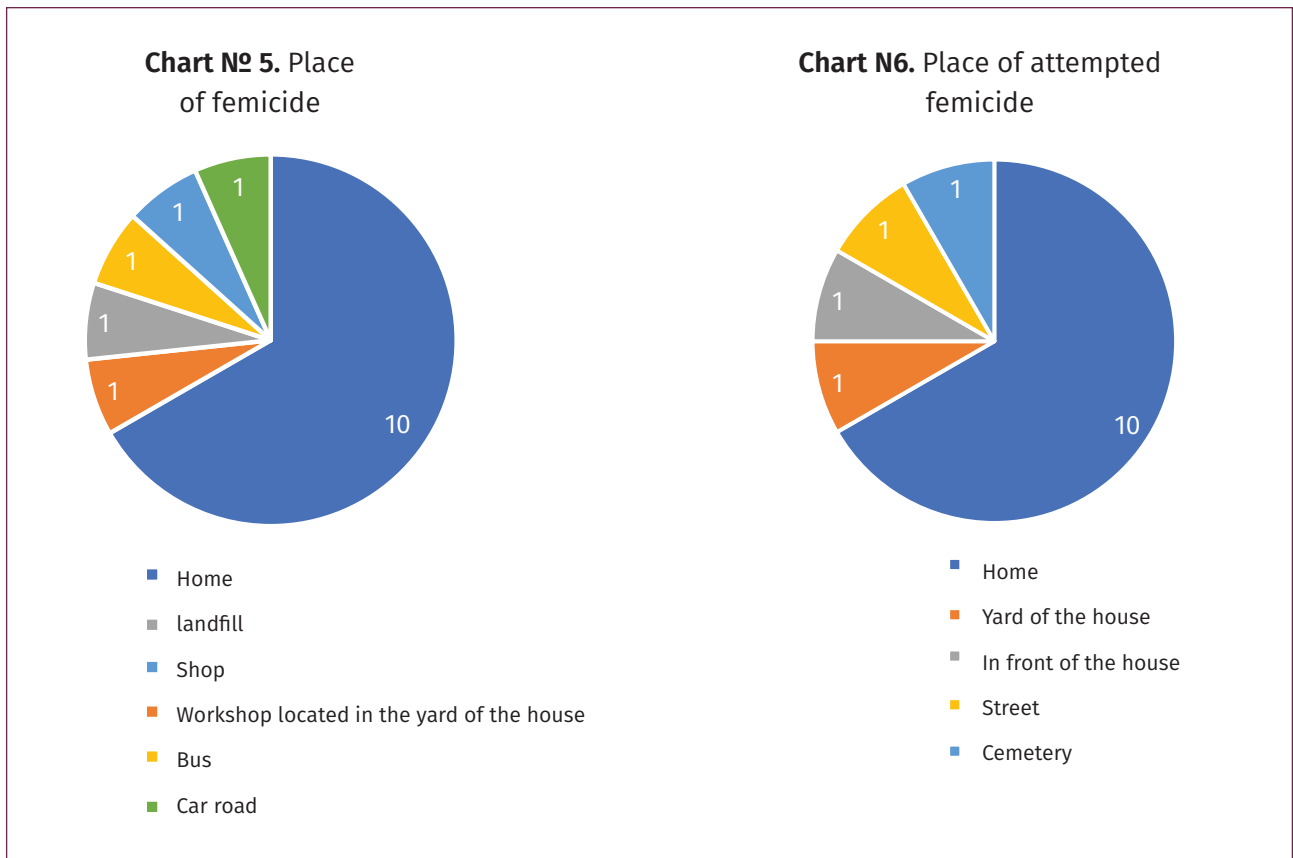
According to the statistics, the trend remains unchanged, with the most frequent perpetrators of femicide and attempted femicide being husbands or ex-husbands. In the reporting year, motives such as “revenge” and “jealousy” are commonly cited for these crimes. Additionally, courts have indicated “gender” as a motive for committing femicide and attempted femicide.¹²

¹¹ The statistics include 1 criminal case, the investigation of which was terminated due to the death of the defendant; Also, 1 more case, on which the criminal prosecution was terminated due to the death of the accused.

¹² Statistics of the motive for committing femicide and femicide attempts are counted according to the motives highlighted in the judgments.



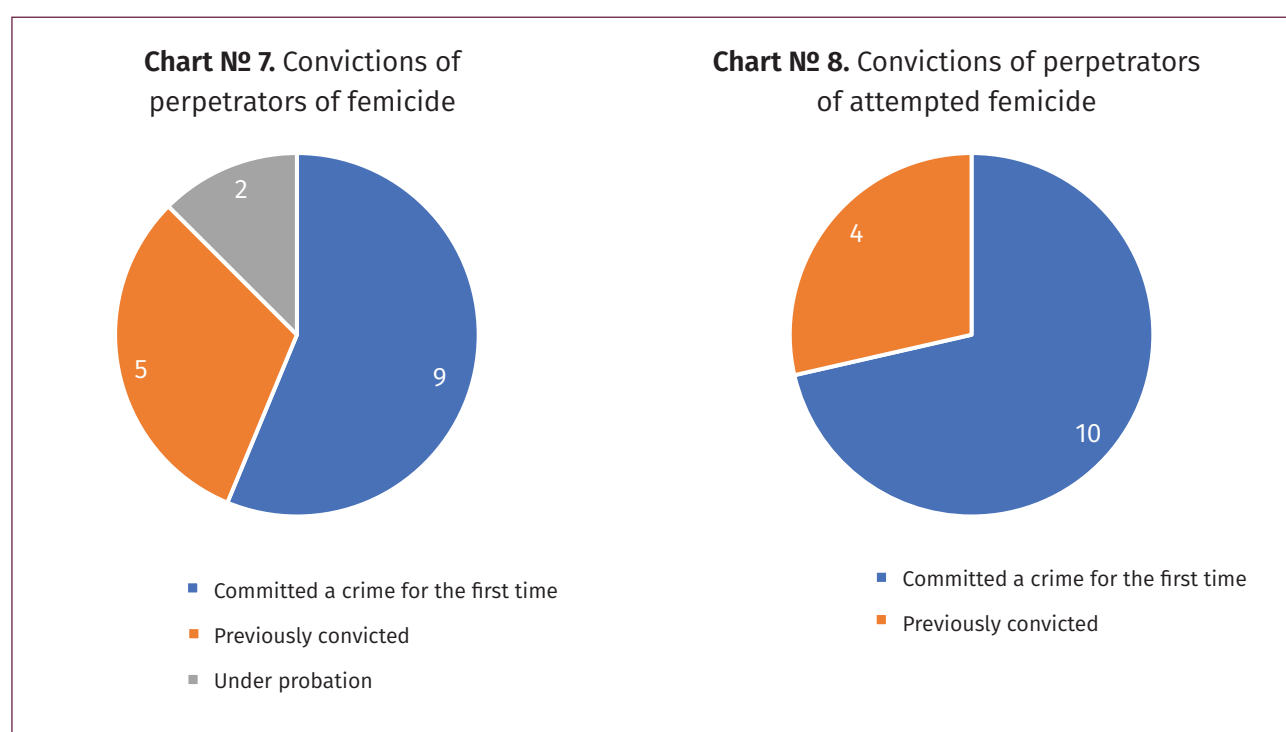
Given the specificity of femicide, femicide and attempted femicide are usually committed at home.



In the reporting period, the **weapon used to commit femicide** was a knife in 7 cases, a gun in 2 cases, a blunt object in 2 cases, a hammer in 1 case, gas in 1 case, suffocation with hands in 1 case, and physical punishment in 1 case. As for the **weapon used to commit attempted femicide**, in 5 cases - a knife, in 2 cases - physical punishment, in 1 case - medication, in 1 case - a razor, in 1 case - an ax and a knife, in 1 case - various objects: a wooden chair, a blunt object, in 1 case - scarf, in 1 case - pants, in 1 case - hand grenade.

During the reporting period, perpetrators of femicide and attempted femicide were in most cases sober.¹³ According to the analysis of statistics, the trend is unchanged and the perpetrators of femicide and attempted femicide are mostly people with secondary education and unemployed or low income.¹⁴

As for the conviction of perpetrators, the statistics look like this:



13 During the commission of femicide and attempted femicide, in 22 cases the perpetrator was sober, while in 8 cases the perpetrator was under the influence of alcohol or other substances.

14 **Education:** among the perpetrators of femicide, 11 persons had secondary education, 1 person had incomplete secondary education, and 4 persons had higher education. As for the persons committing femicide attempts, 11 persons had secondary education, 2 persons had incomplete secondary education, and 1 person had higher education.

Employment: 12 of the perpetrators of femicide were unemployed, 3 were employed, and 1 was self-employed. As for the persons committing femicide attempts, 12 persons were unemployed, 1 person was a shepherd, and 1 person was a butcher.

Out of the analyzed cases, 9 accused and 9 victims were representatives of ethnic minorities.

The harshest punishment for femicide was life imprisonment,¹⁵ the lightest was imprisonment for ten years and 9 months.¹⁶ The maximum penalty for attempted femicide was 19 years in prison.¹⁷ And the lightest - 3 years imprisonment,¹⁸ and the sentence imposed was considered conditional.

The classification of cases of femicide and attempted femicide is the following:

Femicide cases:

Classification of cases:	Number of cases
Article 109, paragraph "L" the Criminal Code of Georgia (Murder of a family member with extreme cruelty, committed several times)	2
Article 11 ¹ and Article 109 paragraph 2 sub-paragraph „e“ (Intentional killing of a family member)	1
Article 11 ¹ and Article 109 sub-paragraph "j" (Intentional killing of a family member)	3
Article 11 ¹ and Article 109 sub-paragraphs „h“, „j“ and „l“ - Intentional killing on grounds of gender identity, against a family member; with the extreme cruelty.	3
Article 109 sub-paragraphs „m“ - Intentional killing for mercenary purposes	1
Article 108 - Intentional killing	1
Article 11 ¹ and Article 109 sub-paragraphs 2 „d“ and „f“ and paragraph 3 part, subparagraph „b“ (Intentional killing on grounds of gender identity, against a family member; with the extreme cruelty)	1
Article 11 ¹ and Article 109 subparagraph „h“, „i“, „j“, „L“ (Intentional killing on grounds of gender identity, by a group of persons; against a family member; committed with the extreme cruelty)	1
Article 109 Article subparagraph „h“, „j“, „l“ and „o“ (Intentional killing on grounds of gender identity, against a family member; committed with the extreme cruelty)	1
Article 11 ¹ 117; part 4 (Intentional infliction of serious harm to health, infliction of health which is harmful for a life against a family member which has caused the loss of life)	1

¹⁵ Signnaghi District Court; case №1/6-23.

¹⁶ Telavi District Court; case №1/395-22.

¹⁷ Akhaltsikhe District Court; case №1/217-22.

¹⁸ Tbilisi Court of Appeals; case №10/757-22.

Attempted femicide cases:

Classification of cases:	Number of cases
Article 11 ¹ -115 of the Criminal Code of Georgia (Inciting a family member to attempt to commit suicide on grounds of gender identity)	3
Part 1 of Article 11 ¹ -115 of the Criminal Code of Georgia (Inciting a family member to attempt to commit suicide)	1
Subparagraph “f” of part 2 of Article 11 ¹ -19-109 of the Criminal Code of Georgia and subparagraph “b” and “e” of part 3 of Article 19-109 of the Criminal Code of Georgia (Attempted murder of a family member; on grounds of gender identity; against a family member; with extreme cruelty)	1
Criminal Code of Georgia, Articles 11 ¹ 19 109 sub-paragraphs „j“, „l“ and „h“ (Attempted murder of a family member; on grounds of gender identity; against a family member; with extreme cruelty)	2
Criminal Code Article 19 109 subparagraphs „e“, „h“ and „j“ (Intentional killing of a minor, a helpless person or a person with a disability knowingly by an offender; on grounds of gender identity; against a family member)	1
Criminal Code, Article 11 ¹ 117, part 3, sub-paragraph „e“ (Intentional infliction of serious harm to health against a family member)	2
Criminal Code, Article 11 ¹ 117-ᵒ part 3, sub-paragraph „e“ „j“ and „p“ (Intentional infliction of serious harm to health against a family member, on grounds of gender identity; repeatedly)	1
Criminal Code, Article 19 109 sub-paragraphs „b“ and „h“ (Intentional killing using the means that intentionally endanger the life or health of others; on grounds of gender identity)	1
Criminal Code, Article 11 ¹ 19 109, sub-paragraphs „h“ „j“ (Intentional killing, against a family member ; on grounds of gender identity)	1
Criminal Code, Article 11 ¹ 19 109 subparagraphs „h“, „j“ and „k“ (Intentional killing under aggravating circumstances, on grounds of gender identity; against a family member ; of two or more persons;)	1

3. IDENTIFIED CATEGORIES AND TYPES OF FEMICIDE

In the criminal cases analyzed in this study, the motive behind the murder or attempted murder was linked to gender-based violence and/or discrimination. Notably, the following categories and types of femicide and attempted femicide were identified:

During the reporting period, jealousy was the motive when husband killed his wife.¹⁹ Jealousy stemmed from suspicion of a relationship with another man was still a motive for killing a woman, whether the relationship was real or imagined.²⁰ Additionally, separation or the refusal to reconcile and continue cohabitation were significant motives for husbands committing or attempting to commit murder.²¹ During the reporting period, in one case, a husband killed his wife because she left the house to buy clothes for their children at the market without informing him.²² In another instance, a husband attempted to kill his wife for disobedience, specifically because she did not visit his home to resolve their issues despite his demands.²³ In another case, the accused brutally murdered his ex-wife because she had a fiancé and was planning to get married. Despite their separation, he refused to allow her to live with another man, as he still considered himself her husband.²⁴ The perpetrator killed the woman at a dump site using a piece of concrete and various other objects because she had posted his picture on social media, tagging him as her new husband. According to the accused, his actual wife and relatives saw the photo, which caused him problems, leading him to seek revenge.²⁵ A young woman was intentionally injured by her husband because she did not agree to go to his cousin to retrieve something he had requested.²⁶

The children attempted to take their mother's life because her lifestyle did not align with cultural and traditional norms, thereby damaging the family's dignity.²⁷ In another case, a son stabbed his mother in the stomach, causing serious, life-threatening injuries, enraged that she had testified against his father in a domestic violence case.²⁸

The father-in-law stabbed his daughter-in-law because of gender stereotypes. He had forbidden her to work or drive, insisting that as a woman, her role was to focus on household chores.²⁹ The motive for the femicide was his daughter-in-law's threat to go to the police if he didn't stop verbally abusing her and his wife.³⁰

19 Tbilisi City Court; Case №1/4216-22.

20 Tbilisi Court of Appeals; case №10/757-22.

21 Ozurgeti District Court; case №356/22 and Bolnisi District Court; case №1/368-22.

22 Sighnaghi District Court; case №1/6-23.

23 Akhaltsikhe District Court; case №1/217-22.

24 Kutaisi City Court; Case №1/1011-2022.

25 Tbilisi City Court; Case №1/7099-22.

26 Sighnaghi District Court; case №1/7-23.

27 Tbilisi City Court; Case №1/4867-22 & Tbilisi City Court; Case №1/4681-22.

28 Rustavi City Court; Case №1/914-22.

29 Kutaisi City Court; Case №1/1258-22.

30 Batumi City Court; Case №1-67/23.

During the reporting period, several women attempted suicide due to systematic verbal and physical abuse by their husbands, who, driven by stereotypical views, frequently subjected them to humiliating and degrading language.³¹

During the reporting period, there was also a case of transphobic femicide,³² where a woman was killed because she was believed to be transgender. In another case, a man fatally wounded a sex worker who had come to his home to provide sexual services.³³

31 Tbilisi City Court; Case №1/6588-22, Signaghi District Court; case №1/170-20 & Tbilisi Court of Appeals; case №10/757-22.

32 Tbilisi City Court; Case №1/7108-22.

33 Tbilisi City Court; Case №1/6278-22.

4. SHORTCOMINGS AT THE INVESTIGATION STAGE

4.1. Establishing the gender motive

In the investigation of femicide, as with all other hate crimes, determining the motive is of particular importance. All instances of violence against women must be examined from a gender perspective. According to the case law of the European Court of Human Rights: “When investigating acts of violence, in particular cases of loss of life, the state has an additional obligation to take steps to determine whether the motive of hatred played a role in the commission of this crime. Refraining from investigating these circumstances and responding to hate crimes in the same way as in the case of crimes that have no such motive means turning a blind eye to the specific nature of the action, which destroys basic human rights.”³⁴

It is noteworthy that in a significant number of the analyzed cases, the investigation successfully identified the gender-based motive and assigned appropriate legal qualifications. Specifically, in 20 out of 30 rulings on charges, the verdicts explicitly recognized the gender motive behind the crime. However, there are problematic criminal cases where the investigation either interpreted the gender aspect too narrowly or failed to examine the case from a gender perspective altogether. In some instances, despite having sufficient information to determine the motive, the prosecutor’s office did not classify the crime as gender-motivated.

One such issue of proper qualification by the prosecutor’s office was highlighted in a case reviewed by the Tbilisi Court of Appeals,³⁵ where it was evident that the victim attempted suicide due to the systematic humiliation of her honor and dignity by her husband. In this case, the accused, driven by jealousy, systematically insulted and humiliated his wife—using obscene language and preventing her from going to work. However, the prosecutor’s office failed to recognize the gender aspect and instead charged the accused under the general provisions of Articles 111 and 115, Part 1, of the Criminal Code. When a criminal act against the victim is on the grounds of gender identity, it should be qualified under Subparagraph ‘a’ of Article 115, Part 2 of the Criminal Code, rather than under Part 1 of the same Article, which pertains to the general crime of attempted suicide.

The issue of proper qualification was also evident in a case considered by the Telavi District Court.³⁶ According to the defendant’s testimony, one of the reasons for killing his ex-wife was jealousy. During their cohabitation, he suspected her of infidelity because she would take a bath immediately after returning home from work, which aroused his suspicion. In this case, the accused’s possessive attitude toward the woman was evident in his statement to the police: “She is my wife, and I can do what I want.” Furthermore, there had been prior incidents of violence between the accused and the deceased, which led to a restraining order being issued against him. Consequently, the prosecutor’s office needed to consider these circumstances as indicative of gender-based factors, and they should proceed the case to court with a finding of guilt, where the gender factor was treated as an aggravating circumstance.

34 CASE OF NACHOVA AND OTHERS v. BULGARIA paragraph 160 <http://hudoc.echr.coe.int/eng?i=00169630>

35 Tbilisi Court of Appeals; case №1/ժ-757-22.

36 Telavi District Court, case №1/77-22.

In the case under review of the Tbilisi City Court³⁷ found that the accused B. A. killed the victim - a former sex worker - as an act of revenge. She had uploaded his picture on social media and tagged him as her new husband. The investigator did not pose questions that might reveal a gender motive in the case. In the context of the murder of a former female sex worker by a partner, the investigation is required, among other things, to confirm or exclude the presence of a gender motive by asking relevant clarifying questions to witness.

Another case, which was not examined from a gender perspective, was also considered by the Tbilisi City Court and involved the murder of a female sex worker.³⁸ The accused, I.Z., inflicted fatal wounds on the sex worker, who had come to his house for sexual services, using a cold weapon. It should also be noted that witness testimonies indicated that the victim was not a passive or submissive woman in the traditional sense. Although the victim was killed by a male recipient of sexual services, the investigation did not take sufficient steps to determine whether a gender motive was involved in the murder. Ultimately, the motive for the crime remained unclear. It is important to note that individuals involved in commercial sex are often stigmatized and marginalized. Therefore, it is crucial to examine any case involving the murder of a female sex worker from a gender perspective.

In the case reviewed by the Tbilisi City Court,³⁹ the investigation failed to adequately explore the existence of a gender motive, in addition to the motive related to financial gain. In this case, P.P., who had previously been convicted multiple times for intentional crimes, killed a woman with whom he had had an intimate relationship for years, to achieve material gain. It is worth noting that, according to the factual circumstances of the case, the accused had previously economically abused his ex-wife. Despite this, the investigation did not consider the crime in the context of alleged economic violence from the ex-partner, nor did it take measures to determine whether a gender motive was involved.

During the reporting period, the gender motive could not be identified in another case reviewed by the Batumi City Court, which involved the killing of a daughter-in-law by her father-in-law.⁴⁰ In this case, the investigation had a narrow understanding of the concept of gender, which led to a failure to establish a gender motive. During the investigation phase, only standard questions were posed to determine if there was a gender motive. Specifically, the questions included whether the aggression was due to the accused's belief that, as the head of the family, women should obey him; whether the conflict arose from dissatisfaction with how the women in the family dressed, their interactions with neighbors, the food they prepared, or the care of the children, among other issues. After receiving negative responses to these questions, the investigation concluded that there was no gender motive involved in the case.

Investigative bodies should adopt a broader perspective on gender motives, rather than limiting their focus to issues such as cooking or childcare. Additionally, victims often do not recognize that the violence they experience may be gender-based. Therefore, relying on standard questions and the responses of those interviewed, without a thorough analysis of the full range of evidence in the case, cannot effectively identify a gender motive.

In this case, the father-in-law killed the daughter-in-law with a gun after she urged him to stop verbally abusing his wife, threatening to contact the police if he did not. The investigation should have considered

37 Tbilisi City Court; Case №1/7099-22.

38 Tbilisi City Court; Case №1/6278-22.

39 Tbilisi City Court; Case №1/7163-22

40 Batumi City Court; Case №1-67/23

the history of violence highlighted in the case, including previous police calls related to conflicts between the accused and the deceased, as well as with the accused's wife. It is crucial for the investigation to thoroughly examine the factual circumstances of the case, especially in instances where a male family member has committed femicide, as gender motives are often underlying factors in domestic violence.

The identification of a gender motive and correct legal qualification is crucial, as addressing the issue at the court stage is not feasible. If gender is not specified as a qualifying circumstance in the indictment, but the court later determines that the crime was committed on the grounds of gender identity, the judge cannot alter the case's qualification to the detriment of the accused. The judge can only consider this factor when determining the appropriate punishment.

During the reporting period, there was also a case where the legal qualification included a gender factor;⁴¹ however, due to deficiencies in the investigation, the court was unable to establish a gender motive. In this case, the accused, while intoxicated, attacked his 89-year-old mother-in-law, born in 1933, with an ax and a knife. The victim, who was in a helpless condition/bedridden, was targeted after the accused became upset with her, who lived with him. Although investigative actions in the case were carried out promptly, the investigation was inadequate in obtaining evidence related to the gender motive. While the legal qualification in the criminal case included the commission of a crime on the grounds of gender, the presence of a gender motive was not supported by sufficient evidence or relevant arguments, a point that the court fairly noted. The court noted that merely including a reference to a crime being committed on the grounds of gender in the indictment is insufficient to establish guilt on grounds of gender intolerance. The prosecution must not only make a general reference but also specifically demonstrate how the crime was motivated by gender intolerance.

As an example, there are cases where proper efforts were made during the investigation to identify a gender motive. In one such case,⁴² the investigator asked pertinent questions to determine the motive, including: "Did your husband verbally and physically abuse you because you are a woman, or because of how you handle family chores or other domestic responsibilities?" Despite the victim's negative response to the question, where she stated that her husband insulted her out of jealousy, the investigator sought additional information by rephrasing the question in different ways. Specifically, the investigator further asked the victim, "What was the main reason for your conflict, aside from jealousy?" In response, the victim admitted, "Many times, the issue was that the dishes were piled up and needed to be cleaned, and so on. My husband thinks that because I am a woman, I should do everything, regardless of the circumstances. I do everything - from chopping firewood to fetching water - but if something is not done, that sometimes causes quarrels. He doesn't understand that I have two children and might occasionally miss something." This case highlights the importance of investigative bodies employing appropriate techniques to identify gender motives and thoroughly analyzing the factual circumstances from a gender perspective.

It is positive to note that, as in previous years, the investigation now includes a review of the prior history of violence. However, the case at the Kutaisi City Court⁴³ was an exception in this regard. Although an investigation was initiated under Article 126¹ a few months before the attempted femicide, the case files did not contain sufficient documentation to assess whether the investigation had been

41 Zestaponi District Court; case №1/467-2022.

42 Sighnaghi District Court; case №1/170-20.

43 Kutaisi City Court; Case №1/1258-22.

conducted properly. Femicide and attempted femicide are often the culmination of gender inequality and systematic gender-based violence. Therefore, investigating the prior history of violence is crucial, including in determining the motive of the crime. It is noteworthy that out of the 29 cases of femicide and attempted femicide analyzed in the report, prior instances of violence were identified in 9 cases.⁴⁴

4.2. Attempted murder and intentional grievous bodily injury

During the reporting period, the qualification under Article 117 of the Criminal Code (Intentional infliction of serious harm to health) was applied in 4 cases, one of which was problematic.

In its judgment No. 680ap dated May 17, 2018, the Supreme Court of Georgia clarified that when distinguishing between attempted murder and intentional infliction of serious harm to health, the chamber pays special attention to all the details of the case. The Chamber emphasized that to avoid errors in distinguishing between two legal circumstances—attempted murder and intentional serious injury to health—courts must carefully study and analyze all the circumstances of the case. This careful analysis is necessary because the element of the crime’s subjective composition - specifically, the intent, which differentiates attempted murder from serious harm to health - must be clearly defined. To determine intent, the investigation should examine the method and means of committing the crime, the number and location of injuries, the circumstances under which they were inflicted, the relationship between the offender and the victim both generally and at the time of the injury, and other relevant factors. The Chamber also points out that to properly qualify a criminal act, the court must consider the reasons for the termination of the criminal act and the offender’s behavior after committing the act. Assessing these factors should help the court determine whether the injustice was driven by an intent to kill or not.

In the case considered by the Mtskheta District Court,⁴⁵ the evidence pointed to attempted murder rather than serious health harm. In this case, the son, who was under the influence of alcohol, told his mother that he was pretending to have epilepsy, and instructed her to cover him with black clothes and call an ambulance to administer diazepam. When his mother questioned why he was lying, he became aggressive: He struck her on the head with full force using a wooden chair that was nearby. He continued to hit her with the chair several more times on her head, body, and ribs. Afterward, he attacked her with fireplace iron tongs, saying, “Die, I have to kill you; I won’t let you live. The victim attempted to escape the accused by moving to another room, but the accused followed her. First, he poured a bottle of wine over her head, then tried to pour hot water on her. When the victim hit his hand, some of the water splashed onto her ear and forehead. Afterward, the accused covered the victim with a sack-like bag and threatened to beat, suffocate, and kill her. According to the victim, the accused only stopped when he became exhausted. It is noteworthy that there was a history of abuse in this case. Additionally, the accused was physically assaulting his mother using various life-threatening objects. The accused’s statements also indicated an intent to kill. Furthermore, the victim’s testimony highlights that the accused only ceased his criminal actions when he became tired. According to the expert’s report in the case, the victim sustained serious, life-threatening injuries. To qualify the accused’s actions as attempted murder, it is crucial to consider his behavior following the crime. Notably, the accused did not attempt to seek help for his mother.

⁴⁴ Letter of the Ministry of Interior Affairs: MIA 1 2203704936, 29/12/2022; MIA 6 23 03842496, 28/12/2023; MIA 5 23 03587147, 06/12/2023; MIA 8 24 00334250, 05/02/2024.

⁴⁵ Mtskheta District Court; case №1/213-22.

Thus, according to the practice of the Supreme Court, the actions of the accused demonstrated signs of an attempt to kill rather than an attempt to intentionally cause bodily harm.

The correct legal qualification of the act is crucial for assigning an appropriate punishment, ensuring that the penalty is proportional to the crime committed.⁴⁶

An example of applying a high standard in the qualification of actions by the prosecutor's office is the case reviewed by the Rustavi City Court.⁴⁷ In this case, the son stabbed his mother in the stomach, causing a life-threatening, severe injury. The son was enraged because his mother had testified against his father, the accused's father, in a domestic violence case. According to the testimony of the clinic's doctor, the victim's condition upon admission was serious. She was in second-degree shock and her vital functions were compromised due to blood loss, but she survived thanks to prompt medical intervention.

In this case, based on the aforementioned definition by the Supreme Court, it was possible to qualify the case under Article 117 due to the following circumstances: the accused stabbed his mother only once; he still had the opportunity to inflict additional wounds; and the reason for stopping the attack was not due to resistance encountered or arrest by others. Additionally, after committing the crime, the accused instructed his sister to care for their mother. However, despite these circumstances, the prosecution adhered to a higher standard and charged the individual with attempted murder. This approach is commendable, as the court cannot increase the severity of the charge. If an attempt to murder is involved, but the prosecution charges the individual with intentional harm to health, the court will address the case within this qualification in the event of severe injury.

4.3. Children affected by femicide

Since 2020, the Prosecutor's Office of Georgia has recognized as victims the young or minor children of murdered women who either witnessed the femicide or heard the victim's voice. However, monitoring conducted during the reporting period reveals that the prosecutor's office has inconsistent practices regarding this issue. The monitoring observed that in four cases, the prosecutor's office recognized minors as victims because they were witnesses to the violence committed against their mother. Conversely, in four other cases,⁴⁸ despite the femicide or attempted femicide occurring in the presence of minor children, the prosecutor's office did not recognize the minors as victims.

In the case reviewed by the Kutaisi City Court,⁴⁹ the father-in-law attempted to kill his daughter-in-law by stabbing her multiple times in various parts of her body, in the presence of his young grandchildren and near the grave of his son and the victim's husband. Although the case was qualified as involving extreme cruelty due to the accused's awareness that he was committing the act in front of his minor grandchildren, the prosecutor's office did not identify the minor children as victims.

The prosecutor's office also did not recognize minors as victims in a case heard by the Tbilisi City Court,⁵⁰ where the accused killed his wife in the presence of their minor children on a bus by repeatedly stabbing

46 In this case, the accused was sentenced to 7 years in prison. There is debate over whether this punishment is proportionate to the actions he committed.

47 Rustavi City Court; Case №1/914-22.

48 Tbilisi City Court; Case №4216-22, Kutaisi City Court; Case №1/1258-22, Akhaltsikhe District Court; case №1/217-22 and Batumi City Court; Case №1-67/23.

49 Kutaisi City Court; Case №1/1258-22.

50 Tbilisi City Court; Case №1/4216-22.

her in various parts of the body. The minor children of the accused and the deceased were present at the crime scene. According to their testimony, their father repeatedly stabbed their mother in the throat. One of the minors stated, “I was very scared; I tried to stop my father, but I couldn’t.” Despite this, the prosecutor’s office did not recognize the minor children as victims.

The minor was also not recognized as a victim in a case heard by the Akhaltsikhe District Court,⁵¹ where it was the minor’s intervention that stopped the abuser from continuing to stab his wife. According to the juvenile’s testimony, his father told him to leave the house for a while, but he returned after hearing screams and saw his mother lying on the floor while his father was stabbing her. The juvenile begged his father to stop, which ultimately led to the cessation of the attack. As a result, the victim in this case survived the death.

In a case reviewed by the Batumi City Court, the prosecutor’s office also did not recognize as victims the minors who were in the house at the time of the murder. They heard violence, and when they followed the sound of gunshots, they saw their mother with a life-threatening wound. The juvenile’s testimony reflects the trauma caused by the accused’s actions: “I was scared and came out of the living room. I saw my mother on the kitchen floor. I was shocked; my brain shut down, and I don’t remember anything after that.”⁵²

According to Article 26 of the Council of Europe Convention on the “Preventing and Combating Violence against Women and Domestic Violence,” states are obligated to recognize children who witness domestic violence as victims of violence. “Child witnessing violence” includes not only cases where children are directly present at the scenes of violence but also instances where they hear screams or other sounds of violence or experience the long-term consequences of such violence.

It is worth noting that in a case reviewed by the Sighnaghi District Court,⁵³ the prosecutor’s office recognized the minor children of the murdered woman as victims. Although they did not directly witness the murder, they were nearby, heard the gunfire, rushed to the scene, and saw their mother lying in a pool of blood and the father with a gun in hand. This experience caused them profound and lasting trauma. Additionally, the accused placed a stone stained with the mother’s blood in his son’s hand and told him it would serve as a keepsake, further traumatizing the minor. In this case, the prosecutor’s office met the standards of the Istanbul Convention by recognizing the children as victims due to the moral damage they suffered.

Therefore, to establish a uniform practice, it is essential that the prosecutor’s office consistently recognizes minors who witness femicide or attempted femicide as victims in all cases. This recognition should not depend on the subjective judgment of individual prosecutors.

4.4. Other shortcomings at the investigation stage

During the review of femicide and attempted femicide cases during the reporting period, several shortcomings at the investigation stage were identified. These included the failure to inspect the scene of the suicide attempt and the failure to remove the pants used by the victim to commit the act.⁵⁴

51 Akhaltsikhe District Court; case №1/217-22.

52 Batumi City Court; Case №1-67/23.

53 Sighnaghi District Court Case №1/6-23.

54 Tbilisi City Court; Case №1/6588-22.

The investigation in the case reviewed by the Signaghi District Court⁵⁵ was insufficient. The accused D.G. was charged not only for incitement to the attempted suicide but also the accusation included systematic rape. However, aside from interviewing the victim, the investigation did not carry out any additional investigative actions related to the rape. The court found that the victim's testimony alone was insufficient to meet the standard of proving guilt beyond a reasonable doubt.

During the monitoring, there were several cases⁵⁶ identified where obtaining the victim's medical history by the investigative agency was problematic. Specifically, it was obtained not through a court decision but based on the investigator's request, which does not align with the requirements set by the Criminal Procedure Code (hereinafter referred to as CPC). Specifically, this practice contradicts Article 120 of the Criminal Procedure Code, which requires a court ruling to seize a document, except in cases of urgent necessity where an investigator's decision may be used. The investigative agency should adhere to the legal requirements for seizing the medical records to mitigate the risk that such evidence could be deemed inadmissible if contested by the defense.

During the investigation of femicide and attempted femicide cases in the reporting period, it was identified as problematic that minors were questioned without the participation of a psychologist.⁵⁷ In the two cases reviewed by the Signaghi District Court,⁵⁸ the questioning of minors without the presence of a psychologist should be considered a significant flaw in the investigation. In one case, an 8-year-old child,⁵⁹ who was allegedly victim of a lewd acts, was questioned. In the other case, a 14-year-old child, who was allegedly abused by his father and was a victim of sexual and physical violence, was questioned without appropriate psychological support.

According to Article 52, Part 3 of the Code of Juvenile Justice, the person interrogating a minor must, considering the minor's best interests, ensure the participation of a psychologist. The psychologist assesses the minor's needs and provides psychological support during the interrogation. Involving a psychologist is crucial to prevent secondary victimization and to offer primary psychological assistance if trauma and stress symptoms are exacerbated in the minor.

It is also important to highlight cases where victims refused to testify against their abusers, and the involvement of the witness and victim coordinator was not evident in the case materials.

In a case reviewed by the Tbilisi City Court,⁶⁰ a woman who had endured systematic humiliation and violence attempted suicide. During the investigation, it was determined that the abuse was gender-based. Specifically, the accused, because she was a woman, was prohibited from living freely, restricted in her relationships, and not allowed to express her opinions. The victim refused to testify during the hearing of the case on its merits. It is commendable that the court did not accept the defense's argument that without the victim's oral testimony, there was insufficient evidence to convict the accused. The judge clarified that, given the sensitivity and gender-based nature of the issue, the victim's refusal to testify cannot automatically serve as grounds to halt the criminal prosecution.

55 Signaghi District Court; case №1/170-20.

56 Signaghi District Court; case №1/170-20, Mtskheta District Court; case №1/397-22.

57 Tbilisi Court of Appeals; case №1ბ/757-22, Signagi District Court; case №1/203-22, Signaghi District Court; case №1/170-20.

58 Signaghi District Court; case №1/203-22; Signaghi District Court; case №1/170-20.

59 Signaghi District Court; case №1/170-20.

60 Tbilisi City Court; Case №1/6588-22.

According to the court's assessment, this view directly contradicts the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. The court specifically referenced Article 55 of the Convention, which states that 1. Parties shall ensure that investigations into or prosecution of offenses shall not be wholly dependent upon a report or complaint filed by a victim . . . , and that the proceedings may continue even if the victim withdraws her or his statement or complaint." The court also emphasized that the dynamics of the victim's behavior should be considered, linking it to the specific circumstances of the case. This perspective further reinforced the court's position regarding the crime being committed on the grounds of gender identity. The court noted that during her testimony, the victim stated, "I will not testify, but the accused should not touch me." This convinced the court that by taking a lenient stance, the victim was attempting to secure a guarantee of protection from future violence by the aggressor. After evaluating the evidence, the court concluded that the accused should be found guilty of the charges presented.

In a case heard by the Mtskheta District Court,⁶¹ the defendant was accused of intentionally causing serious harm to his wife's health. According to the medical examination, the injuries sustained by the victim were severe and life-threatening. Despite this, during the investigation, the victim made a statement to the investigative body, indicating that she forgave her husband for his actions, had no complaints against him, and requested that the legal benefits available to the accused be applied. During the hearing of the case on its merits, the victim refused to testify against her close relative. Despite the victim's position in this case, the court determined that the evidence proved the defendant had committed a criminal act and sentenced him to 6 years of imprisonment.

The case reviewed by the Tbilisi City Court⁶² is noteworthy, as the investigation considered the specifics of the situation, conducted covert investigative activities as authorized by the court and successfully gathered evidence. In this case, the son found his mother's relationship with her partner unacceptable, viewing it as insulting and degrading to the family. On this basis, the accused inflicted life-threatening injuries on his mother's partner with a knife and wounded his mother in various parts of her body. However, she survived due to the medical assistance she received.

As part of the undercover investigation, the investigative agency obtained a recording of the victim, in which she freely describes the crime committed by her son, without any coercion. In the recording, she states that the defendant was the one who inflicted the wounds on both her and the deceased. This investigative action enabled the court to secure a guilty verdict, even though the victim refused to testify against her son during the trial and had claimed during the investigation that her injuries were the result of a fall.

Accordingly, the investigative body must gather all available evidence within the bounds of the law, to ensure the fair administration of justice in cases of domestic violence and violence against women. Additionally, in cases of attempted femicide, special attention should be given to the early involvement of a witness and victim coordinator, as well as to providing proper psycho-emotional support and counseling for the victims. This will help ensure that victims fully understand the importance of testifying, the potential risk of repeated violence, and the possible consequences.

During the reporting period, a case emerged in which the victim's grandmother provided false testimony

61 Mtskheta District Court; case №1/397-22.

62 Tbilisi City Court; Case №1/4681-22.

to mislead justice in a case reviewed by the Bolnisi District Court.⁶³ In this case, the accused, enraged by the refusal to reconcile, attempted to kill his ex-wife. The victim's grandmother testified in court that she did not see the incident and did not know what happened because the area was enclosed by a fence. She claimed that by the time she went outside, the victim was already lying on the ground. However, when the prosecutor asked why she had previously stated during the investigation that she saw the accused stab the fallen victim multiple times in the neck and chest, the witness explained that she did not want the accused to go to prison and hoped for a reconciliation between the husband and wife. Despite this, she admitted that her testimony to the investigators was true and that she indeed witnessed the accused stabbing the victim. In this case, the court found the accused guilty of attempted murder against a family member under aggravating circumstances. Despite the victim reconciling with her husband, expressing no complaints against him, and requesting his early release from prison, the court sentenced the accused to 17 years of imprisonment.

The state should adopt a strict policy in cases where witnesses intentionally mislead the court to help the accused avoid criminal responsibility. This issue is particularly crucial in cases of family crimes, where victims often exercise their right to refuse to testify against a family member. Therefore, the investigative body needs to take appropriate measures upon discovering false testimony by witnesses. This approach not only ensures the proper administration of justice but also serves as a deterrent to prevent false testimony from other witnesses in the future.

63 Bolnisi District Court; case №1/368-22.

5. SHORTCOMINGS AT THE TRIAL STAGE

5.1. Definition and justification of the gender by the court

The monitoring of cases reveals that judges interpret the concept of a gender-based motive differently. Judges at the first instance level often struggle to broadly define the signs of gender-based motives. When determining its presence, they primarily investigate whether the accused prohibited the victim from using a phone or social media, from being employed, or from maintaining relationships with certain people, as well as whether the accused controlled the victim's behavior or clothing. If the answer to these questions is negative, the gender-based motive is typically dismissed. A clear example of this is the case reviewed by the Bolnisi District Court,⁶⁴ where A.B., angered by his wife's refusal to reconcile, inflicted life-threatening wounds on her through multiple stabbings.

The court clarified that the mere fact that a refusal to reconcile was followed by a subsequent criminal act cannot, by itself, be deemed a qualifying circumstance for categorizing the crime as gender-based. The court emphasized that to determine whether a crime was motivated by gender, it is crucial to evaluate whether the act involved gender discrimination, control over the woman's behavior, **a possessive attitude**, or other forms of gender-based violence, all of which may stem from patriarchal views regarding women's gender roles. While the court identified scenarios where a gender motive might be established, it did not adequately address why a criminal act following a refusal to reconcile is not considered a manifestation of a possessive attitude toward a woman. The notion that a man believes he has the right to harm a woman simply because she refuses to reconcile - viewing her as his property - could indeed reflect a possessive attitude. This behavior aligns with the broader concept of gender-based violence rooted in patriarchal and controlling beliefs about women.

In one case,⁶⁵ the Rustavi City Court determined that the crime was not gender-based. The factual circumstances revealed that the son stabbed his mother in the stomach, inflicting a life-threatening injury. His anger stemmed from the fact that his mother had repeatedly testified against his father, the son's father, in a domestic violence case.

Based on the circumstances of the case, the court concluded that, given the accused's age, social role, and relationship with his mother, he might have a similar attitude toward his father. His aggressive behavior was not directly triggered by his mother's decision to testify against his father, but rather by the existing attitude and disagreement between his parents. Consequently, the court concluded that, although the testimony of one parent against the other served as a pretext for the crime, it did not indicate gender discrimination but was instead motivated by a so-called simple motive.

The court's reasoning in this case is problematic as it overlooks the fact that, in a patriarchal society, preserving the family's honor and dignity often pressures women to silently endure violence. This societal expectation can influence the dynamics of familial relationships and the nature of the violence inflicted. Furthermore, women are frequently threatened and pressured to withdraw their testimony against family members. In this case, the son committed the crime against his mother specifically because she testified

64 Bolnisi District Court; case №1/368-22.

65 Rustavi City Court; Case №1/914/22.

against a male family member. This clearly indicates a gender motivation behind the crime.

In the case reviewed by the Tbilisi City Court,⁶⁶ the court observed that the primary determining motive in gender-based killing cases is the victim's gender affiliation. Accordingly, the offender's specific goal and intent in gender-based murder is to commit the crime based on the victim's gender identity. For accurate legal classification, it is crucial to differentiate this from other personal motives, such as revenge or jealousy, as the presence of such motives can, in some cases, entirely negate the gender-based aspect of the crime. The court's reasoning is problematic because, in defining the gender motive, it suggests that the presence of jealousy and revenge completely excludes the gender motive in some cases. However, in many instances, jealousy and revenge do not negate but rather underscore the gender motive.

It should be noted that during the reporting period, the courts frequently referenced the case law of the European Court of Human Rights to justify their decisions. However, in many instances, these citations from the case law were formal and did not adequately incorporate the European Court's standards into the analysis of the specific relevant factual circumstances.

In the verdict of the Kutaisi City Court⁶⁷ concerning a premeditated murder committed with aggravating circumstances, including gender-based factors and extreme cruelty against a family member, the judge examined the general case law of the European Court of Human Rights related to Article 2 of the Convention, which underscores the fundamental right to life.

When addressing cases of femicide and attempted femicide, it is appropriate for judges to be guided by the extensive case law of the European Court of Human Rights concerning the killing of women committed on the grounds of gender discrimination. This jurisprudence is directly relevant and provides the standards established by the European Court of Human Rights for similar crimes.

5.2. Inadequate assessment of risks by the court

As a result of monitoring cases during the reporting period, as in the previous year, it was problematic that the court frequently opted for less severe preventive measures than imprisonment in cases of violence against women. This often allowed the accused to continue their criminal activities and, in some instances, jeopardized the victim's safety and life. Additionally, during the reporting period, there are verdicts where the court imposed excessively lenient sentences, leaving victims of violence vulnerable to the risk of repeat offenses.

The case reviewed by the Telavi District Court⁶⁸ exemplifies how the use of non-custodial measures and inadequate risk assessment by judicial authorities failed to prevent the murder of a woman.

In the mentioned case, on October 9, 2022, the defendant used a knife to inflict multiple wounds on his wife, with whom he was in an unregistered marriage. The victim died at the scene because of the injuries. According to case files, three days before the murder, the court granted bail to the accused as a preventive measure, despite the prosecution's request for custody. The accusation encompassed three episodes of violence and threats: on October 3, 2022, the accused threatened to kill his wife, causing her significant fear; on August 4, he physically assaulted her; and on October 3, he again physically assaulted both his wife and her mother.

⁶⁶ Tbilisi City Court; Case №1/4681-22.

⁶⁷ Kutaisi City Court; Case №1/1011-2022.

⁶⁸ Telavi District Court; case №1/402-22.

According to the prosecutor's office, there was a high risk that the accused would continue his criminal activity, given the nature of the alleged offenses and his attitude towards the victim. However, the court granted bail to the accused and dismissed the threat of continuing violence as unfounded. In justifying the preventive measure, the court stated, "The threats of continuing criminal activities and influencing witnesses are considered unjustified, as the accused has no prior convictions, has not committed any illegal actions in the past, and no restraining order has ever been issued against him. Additionally, the court noted that based on the victim's testimony and the statement presented during the court hearing, it appeared that the victim had no complaints against the accused. The court further stated that the accused admitted the charges, and it was unclear what he would need to do to influence the witnesses."

It is essential that courts thoroughly assess the risks of femicide by carefully considering the individual circumstances of each case when selecting an appropriate preventive measure. The fact that the accused has no prior convictions and that the victim has no claim against the accused is insufficient for a proper risk assessment. The court must also consider the accused's behavior, family, and property situation, the severity and nature of the alleged offense, and other relevant factors when evaluating the risk of future harm. In this case, special attention should have been given to the dynamics of domestic violence, including the possible systematic violent actions already committed by the accused, which involved physical violence and life-threatening threats that the victim perceived as real. Additionally, the risk of repeated violence in the future should have been a key factor in the court's assessment.

It is important to note that in this case, the law enforcement agency failed to utilize all available measures to ensure the victim's safety. Specifically, the option of electronic supervision was not employed.

Thus, the court and the investigative body should have conducted a more thorough assessment of the risks posed by the accused, particularly the potential for repeating violent acts against the victims, including the risk of femicide.

Another woman's life was tragically lost due to the court's improper risk assessment. In a case considered by the Ozurgeti District Court,⁶⁹ the defendant murdered his ex-wife after she refused to reconcile and continue living together. According to the factual circumstances, the accused told the victim that she was "his woman" and, therefore, he had the right to know where she lived, who visited her, and who she was friends with. The defendant believed that, since the victim was his ex-wife, he was entitled to know everything about her because **"she was a woman, and he should pay attention to her."**

Prior to the femicide, the defendant had repeatedly committed acts of violence against the victim, leading to three separate criminal cases being heard in court. Additionally, the defendant had a prior conviction from 2015 for violence against his first wife. Despite these circumstances, the court, in its verdict on August 16, 2021, opted for leniency by counting conditional sentences as part of the sentence imposed on the accused.

The court indeed mandated the accused to attend mandatory training courses aimed at altering violent attitudes and behavior during the probation period. However, the case materials do not clarify whether the accused completed these courses.⁷⁰ It should be positively noted that the prosecution appealed the sentence; however, the appeal was unfortunately unsuccessful. The court of appeals also concluded that the sentence imposed on the accused (2 years of imprisonment, with 1 year suspended) was appropriate

⁶⁹ Ozurgeti District Court; case №356/22.

⁷⁰ Taking training courses focused on changing violent attitudes and behavior is crucial, as their primary goal is to prevent the recurrence of violence and protect victims.

given the gravity, character, and quality of the crime, as well as the personality of the convicted individual. The court found no grounds to alter the sentence for the worse.

It is significant that, after his release from prison and during the period of his suspended sentence, the accused committed a more serious crime against the victim—intentional murder on the grounds of gender, with extreme cruelty, and in the presence of their minor child.

In the case reviewed by the Akhaltsikhe District Court,⁷¹ the court's decision to impose imprisonment as a condition did not fulfill the intended purpose of crime prevention and punishment. In this case, the accused inflicted sixteen wounds on his wife with the intent to murder her, using a knife and displaying cruelty. The attack was motivated by gender intolerance and stereotypical views, including the possessive belief that **“the man is the head of the family, and the woman must obey him, as she is of no significance without his consent. This included restricting her social interactions, employment, freedom of movement, and choice of clothing.”**

In 2020, the accused was found guilty of two episodes of domestic violence and threats to kill the victim. Considering the accused's confession and remorse, the court sentenced him to 2 years and 6 months of imprisonment, which was counted as a conditional sentence. The court believed that conditional imprisonment would serve as a foundation for the convict's safe reintegration into society. It was intended to help him better understand the nature of his actions, the public danger they posed, the severity of the consequences, and ultimately reduce the risk of reoffending. The court hoped that this approach would contribute to the restoration of justice.

In the mentioned case, it is noteworthy that the prosecutor appealed the verdict, seeking a harsher sentence. However, the appellate court upheld the original decision, deeming the punishment fair and legal. The Court of Appeals concurred that the reduced sentence met the purposes of sentencing and reiterated the reasoning provided by the first instance court.

In another case, the Tbilisi Court of Appeals imposed a lenient sentence on the accused,⁷² who was found guilty under Articles 111, 115,⁷³ and 111, 151⁷⁴ of the Criminal Code. The court sentenced the accused to 3 years of imprisonment, which was conditionally suspended based on Article 63 of the Criminal Code.

In this case, despite the prosecution's appeal regarding the punishment, both the trial and appellate courts determined that the imposed sentence was proportionate to the convicted person's character and the crime committed. The courts considered the scope of the sanctions under Articles 111 and 115, Part 1, along with mitigating circumstances, including the convict's lack of prior convictions and his conduct following the crime, which involved reconciling with the victims. Based on these factors, both the first instance and appellate courts concluded that the imposed sentence was fair and appropriately balanced the goals of sentencing without fully isolating the accused from society.

The court failed to adequately assess the personality of the convicted individual and the severity and nature of his crimes. Specifically, it did not fully consider the gravity of his violent actions against family

71 Akhaltsikhe District Court; case №1/217-22.

72 Tbilisi Court of Appeals; case №10/757-22.

73 Bringing a family member to the point of a suicide attempt through the systematic humiliation of their honor and dignity, on the grounds of gender identity, constitutes a severe and abusive form of violence.

74 Threats to kill a family member (such as a father) when the person being threatened has a well-founded fear that the threat will be carried out.

members, including leading his wife to commit suicide and threatening to kill his father. Additionally, the risks of repeating violent acts were not thoroughly assessed. According to Georgian criminal law legislation, one of the goals of punishment is to isolate the convicted person for a period that ensures the prevention of future crimes. Prevention, alongside resocialization and restoration of justice, is crucial in the fight against femicide. The state must implement a stringent policy toward individuals convicted of similar offenses to effectively prevent new crimes.

5.3. Use of Article 53¹ of the Criminal Code by courts and aggravation of punishment for gender-based crimes

The application of Article 53¹ of the Criminal Code by the courts remains problematic. According to the first part of this article, the commission of any crime specified in the Criminal Code on the grounds of gender intolerance constitutes an aggravating circumstance, impacting the severity of the punishment. According to the third part of Article 53¹, the punishment for crimes committed on the grounds of gender intolerance shall exceed, at least by one year, the minimum penalty prescribed for the offense. According to the fourth part of Article 53¹ of the Criminal Code, the punishment for a crime committed on the grounds of gender intolerance shall not be increased by one year if gender is a necessary element of the crime composition under the relevant article of the private part of the Criminal Code. Accordingly, the punishment will not be aggravated by one year compared to the minimum sanction when the prosecutor's office prosecutes the case in court with a finding of guilt where gender is a qualifying circumstance. However, when the gender sign is not specified in the legal qualifications and the judge independently determines the gender motive, the judge is required to impose a sentence that is at least one year longer than the minimum prescribed punishment by applying Article 53¹ of the Criminal Code.

However, during the reporting period, there were instances where, despite the criminal act being committed on the grounds of gender, the court did not take this into account and did not apply Article 53¹ when determining the punishment. Therefore, it is challenging for the court to make the punishment tougher on the grounds of gender-based intolerance when this factor is not considered a qualifying circumstance for the crime, even though the case materials indicate gender motivation. In one case, the Telavi District Court⁷⁵ could have considered the crime's gender motive as an aggravating circumstance under the first part of Article 53¹ of the Criminal Code, since gender was not a qualifying circumstance in the case. However, both the court and the prosecution failed to recognize the gender aspect, even though the accused's testimony indicated that jealousy was one of the reasons for committing the crime.

In a verdict delivered on April 19, 2023, the Telavi District Court⁷⁶ found the accused guilty of the intentional murder of a family member in another case and sentenced him to 18 years of imprisonment. Regarding aggravating circumstances, the court stated that, based on the case materials, the accused did not have any aggravating circumstances. However, under Article 53¹ of the Criminal Code, the commission of a crime by one family member against another is considered an aggravating circumstance. The note to Article 11¹ clarifies who is considered a family member under the Code, which includes individuals in unregistered marriages. Therefore, when the court declared that the accused did not have any aggravating circumstances, despite the crime being committed against a family member, it failed to decide per the current legislation.

75 Telavi District Court; case №1/77-22.

76 Telavi District Court; case №1/402-22.

In a case heard by the Tbilisi City Court,⁷⁷ the prosecution identified gender identity intolerance as the motive for the crime. According to the facts of the case, the accused brought the newly acquainted victim home, and when they began caressing each other, the victim disclosed that she was transgender. As a result, the accused, enraged by this revelation, inflicted multiple stab wounds on the victim and killed her with extreme cruelty. The court concluded that none of the direct evidence presented proved that the crime was committed because the accused believed the victim was transgender. The accused's ambiguous statement to the expert, in which he referred to the victim as supposedly 'trans,' was not deemed sufficient by the court to establish this aggravating circumstance.

Given the above, it is important to note that gender, like other crimes motivated by intolerance, pertains to the subjective aspect of the crime. In such cases, the offender's perception of the victim as a member of a particular group is crucial. The fact that the victim may not belong to that group does not eliminate the possibility that the crime was motivated by intolerance. The key point is that even if the perpetrator mistakenly perceives the victim as a member of a particular group towards which he harbors intolerance, this still reflects the subjective aspect of the crime. Given that the motive is a subjective element of the crime and often only the accused knows the true motive, it is crucial, particularly in cases of femicide, to consider the accused's confession regarding the motive when qualifying the crime as discriminatory.

Thus, in the case mentioned above, the court could have considered the motive of gender intolerance as an aggravating circumstance, but it chose not to do so.

⁷⁷ Tbilisi City Court; Case №1/7108-22.

6. ACQUITTALS - THE IMPORTANCE OF APPROPRIATE VICTIM SUPPORT

During the reporting period, several potential femicide attempts, including those involving ethnic minorities,⁷⁸ highlighted issues with victims exercising their right to refuse to testify against a family member or providing testimony aimed at exonerating the accused. This chapter will discuss particularly problematic cases in detail.

In the case reviewed by the Bolnisi District Court,⁷⁹ the victim, subjected to systematic verbal abuse, physical violence, threats, and humiliation by her husband, attempted suicide by hanging. After the investigation agency obtained information from the victim's testimony regarding the gender aspect of the case, it qualified the case under subsection 'a' of part 2 of Article 115 of the Criminal Code. This provision is a special norm compared to part 1 of the same article and addresses criminal responsibility for leading to suicide or attempted suicide on the grounds of gender.

During the hearing of the case on its merits, the victim refused to testify against her husband. Regarding the violence and threats from her brother-in-law, the victim claimed in court that no such criminal actions occurred and explained her prior testimony to the police by stating that she suffers from epilepsy and memory issues. As a result, the victim's denial of the violent acts before the court significantly contributed to the acquittal in the case.

Moreover, in the case reviewed by the Bolnisi District Court,⁸⁰ the victim claimed that she had self-inflicted injuries and stabbed herself in the stomach to release the offender of criminal responsibility. In the mentioned case, the indictment stated that during an argument about preparing for a relative's engagement ceremony, the accused stabbed his wife twice, causing life-threatening injuries. At the court session, the accused's daughter refused to testify against her close relative, and the victim explained that she argued with her husband and, to avoid blame, took a knife from the table and stabbed herself in the stomach. In response to why her daughter testified that her father had stabbed her, the victim stated she did not know; perhaps her daughter had seen the accused holding a knife and assumed he was the one who stabbed her. It should be noted that the law enforcement agency did not perform all necessary investigative actions, such as undercover operations, which could have been crucial in verifying the charges regardless of the victim's statements. The court, based on the evidence available, concluded it could not definitively establish that the accused harmed the victim, leading to an acquittal.

In the case reviewed by the Gori District Court,⁸¹ A.M. was accused of attempted murder with aggravating circumstances against a family member. According to the indictment, the defendant, while under the influence of alcohol, stabbed his wife twice—in the thigh and hip - during a dispute. However, due to the active resistance of the victim and her mother, he was unable to carry out his criminal intent. When A.M. went out to get an ax, the victim locked the door to the room, preventing the perpetrator from entering.

78 Tbilisi City Court; Case №1/1903-22, Kutaisi Court of Appeals Case №0-624-2022, Samtredia District Court; case №1/89-22, Bolnisi District Court; case №1/17-23, Bolnisi District Court; case №1/305-22, Gori District Court; case №1/170-20.

79 Bolnisi District Court; case №1/17-23.

80 Bolnisi District Court; case №1/305-22.

81 Gori District Court; case №1/170-20.

During the hearing of the case on its merits, the victim testified in court in a manner aimed at exonerating the accused from criminal liability. According to her statement, the accused did not leave the room to take the ax and then did not try to enter the room by force. According to him, it is true that the accused shouted at him several times and threatened to kill her, but it was caused by her refusal to give vodka, and not by the real intention to kill her. The categorical position of the victim, that the accused did not intend to kill her, influenced the court's decision and the accused was found guilty not of attempted murder, but of the crime provided for by Article 11¹ and Article 120 paragraph 2, sub-paragraph b of the Criminal Code, which implies Intentional infliction of minor harm to health of a family member.

To prevent femicide and attempted femicide by the state, it is critically important to make victims aware of the protection and assistance mechanisms available in the country, as well as to support and empower them throughout the criminal justice process.

There is no information regarding the involvement of the witness and victim coordinator in the cases studied within the framework of monitoring. One of the main functions of the witness and victim coordinator service in the Prosecutor's Office of Georgia is to provide detailed information to the victim regarding the course of the criminal case. Therefore, the involvement of this service is very important to empower the victims of gender-based violence.

CONCLUSION

An analysis of femicide and attempted femicide cases in 2022 shows that, along with progress, several challenges remain.

It is commendable that during the reporting period, the identification of gender in cases of femicide and attempted femicide has increased. However, despite this progress, it remains problematic to identify crimes as gender-motivated in several cases. Notably, cases were identified, where investigators narrowly interpreted the concept of gender and failed to consider cases from a gender perspective, which ultimately impacted the legal qualification of the crimes.

Monitoring also revealed that the prosecutor's office has an inconsistent approach to identifying minors as victims in cases where they witnessed femicide or attempted femicide or heard the victim's voice. In four cases examined during the monitoring, the prosecutor's office recognized minors as victims. However, in another four cases, despite the femicide attempts occurring in the presence of the victim's minor children, the prosecutor's office did not recognize the minors as victims.

Monitoring has shown an improvement in the justification of gender-based acts in court judgments. However, judges have varying interpretations of the concept of gender, with some judges understanding it differently from others and, in some cases, interpreting it narrowly.

It remains troubling that courts continue to improperly assess risks, allowing offenders released on bail as a preventive measure to commit more serious crimes, such as femicide. Additionally, the courts' use of conditional sentences for convicted individuals fails to fulfill the intended purpose of crime prevention.

In 2022, it was particularly problematic that victims in potential attempted femicide cases often refused to testify or provided testimony aimed at avoiding the accused's responsibility. This significantly hindered the proper administration of justice. These challenges once again underscored the critical need for the priority involvement of witness and victim coordinators in attempted femicide cases and the provision of appropriate psycho-emotional support for victimized women.

RECOMMENDATIONS

To the Government of Georgia:

Critically analyze the existing prevention system concerning cases of gender-motivated murder and attempted murder of women and work on improving the prevention system with the participation of key agencies, including the Ministries of Health and Education.

To The Ministry of Internal Affairs:

1. To ensure accurate legal qualification of cases, it is essential to study cases from a gender perspective and adopt a broad definition of gender, including when investigating crimes committed against sex workers.
2. To ensure the systematic training of investigators on gender motives to effectively investigate criminal cases of murder and attempted murder of women.
3. Investigations should employ a range of investigative actions, including covert investigative measures, to ensure that sufficient evidence is available even if the victim refuses to testify in court.”
4. Ensure that information is obtained from minors in a supportive manner with the involvement of a procedural representative and a psychologist.
5. To ensure the recovery of the victim’s medical history from the medical institution’s records by a court decision.
6. In cases of suicide or attempted suicide where gender motives are identified, the action should be classified under the relevant provisions of Article 115 of the Criminal Code.

To the Prosecutor’s Office of Georgia:

1. To ensure accurate legal qualification of cases, it is essential to study cases from a gender perspective and adopt a broad definition of gender, including when investigating crimes committed against sex workers.
2. To ensure the priority involvement of a witness and victim coordinator to support victims during the enforcement of justice in cases of attempted femicide,
3. To continue the systematic training of prosecutors on gender motives to effectively investigate criminal cases of murder and attempted murder of women.
4. To ensure the establishment of a uniform practice that considers the best interests of the child, assigning victim status to minors who witnessed a crime, including those who were not direct witnesses but heard violence.

5. In cases of suicide or attempted suicide where gender motives are identified, the action should be classified under the special provisions of Article 115 of the Criminal Code.

To The Common Courts:

1. To ensure the establishment of a uniform judicial practice, the Supreme Court should develop a comprehensive definition of gender motives, including a focus on the motive of jealousy.
2. To support violence prevention, judges in cases of violence against women and domestic violence should require convicts to undergo mandatory training on changing violent attitudes and behaviors.
3. Judges should impose sentences of appropriate length and severity on those convicted of family crimes to adequately protect the victim or other family members from repeated offenses or the commission of more serious crimes.
4. When selecting a preventive measure in cases of domestic violence or violence against women, the court should consider individual circumstances to assess the likelihood of the offender continuing the criminal act or committing a more serious crime.
5. Common courts should actively reference decisions of the European Court of Human Rights in cases of violence against women and domestic violence to substantiate the gender motive.
6. Courts should actively apply the provision in the first paragraph of Article 53¹ of the Criminal Code, which states that crimes committed based on gender or sexual orientation are aggravating circumstances for criminal liability, especially when evidence in the case indicates such motives and when gender is not a qualifying factor.

To the High School of Justice:

Judges specializing in criminal law received training on identifying gender-based crimes.

ANNEX 1: STATISTICS OF THE PROSECUTOR'S OFFICE OF GEORGIA⁸²

1. Murder of women

According to the data for the twelve months of 2022, 11 women were killed on the grounds of domestic crime. Among them, criminal prosecution was initiated against 10 persons in 10 cases, according to Article 11¹-109 of the Criminal Code of Georgia. Prosecution was not initiated in one case because the perpetrator had died. Additionally, in 6 cases, a gender-based intolerance motive was identified (involving 5 accused and 6 victims). The relevant territorial unit of the Ministry of Internal Affairs of Georgia investigated all these cases.

Age of victims: 18 to 30 years - 3 women; 30 to 40 years - 5 women; 40 to 50 years - 1 woman; 50 to 60 years - 2 women

The location of a crime: Tbilisi - 4 women; Kakheti - 3 women; Adjara - 2 Women; Shida Kartli - 1 woman; West Georgia - 1 woman

As for the relation between the accused and the victim, in 9 cases murder was committed by a husband against a wife (including ex-wife), in 1 case - by a son against his mother, 1 case - by a father-in-law against a daughter-in-law.

According to 2022 data, 10 women were killed for non-family-related crimes. Out of this criminal prosecution started in 9 cases against 9 persons: Criminal proceedings were initiated against 7 persons under Article 109 of the Criminal Code of Georgia, against 2 persons under Article 108, and in one case the person committing a crime has not been identified. Additionally, criminal prosecution was initiated against one individual on grounds of intolerance based on gender identity (with one female victim). The relevant territorial unit of the Ministry of Internal Affairs of Georgia investigated all these cases.

Age of victims: 30 to 40 years - 2 women; 40 to 50 years - 3 women; 50 to 60 years - 2 women; 60 to 70 years - 1 woman, 70 years and above - 2 women

The location of a crime: Tbilisi - 6 women; Kakheti - 2 women; Kvemo Kartli - 1 woman; Shida Kartli - 1 woman

Regarding the relationship between the accused and the victim, in 5 cases, the murder was committed by an acquaintance (neighbor or relative), in 4 cases by an intimate partner, and in 1 case, the social connection is unknown.

One woman was killed by two individuals in what were classified as both domestic and non-domestic crimes. Criminal prosecution was initiated against one person under Article 11¹-109 of the Criminal Code of Georgia (for a family-related crime) and against the other person under Article 109 of the Criminal Code (for a non-family-related crime). Both defendants were prosecuted on grounds of gender intolerance (with one female victim). The relevant territorial unit of the Ministry of Internal Affairs of Georgia investigated all these cases.

Age of victims: 30 to 40 years - 1 woman; The location of a crime: Tbilisi - 1 woman

⁸² Letter from the Prosecutor's Office №13/2679 18/01/2023.

As for the relationship between the accused and the victim 1 woman was killed by a son and intimate partner.

2. Attempted murder of women:

According to data from 2022, 11 individuals attempted to kill 11 women on the grounds of domestic crime. Criminal prosecution was initiated against all of them under Articles 11¹-19-109 of the Criminal Code of Georgia. Of these, prosecution was initiated against 8 individuals on grounds of gender intolerance (affecting 8 women), while prosecution against 1 person was terminated due to insanity. The relevant territorial unit of the Ministry of Internal Affairs of Georgia investigated all these cases.

Age of victims: 18 to 30 years - 2 women; 30 to 40 years – 7 women; 50 to 60 years – 1 woman; 70 years and above - 1 woman.

The location of a crime: Tbilisi - 2 women; Shida Kartli - 1 woman; Kvemo Kartli - 3 women; Samtskhe-Javakheti - 1 woman; West Georgia - 3 women; Adjara - 1 woman

Regarding the relationship between the accused and the victim, attempted murder was committed in 6 cases by a husband against his wife (including an ex-wife), in 1 case by a father against his daughter, in one case by a son-in-law against his mother-in-law, in 2 cases by a son against his mother, and in 1 case by a father-in-law against his daughter-in-law.”

According to data from 2022, five persons committed non-domestic crimes and attempted murder of 7 women. Criminal prosecution was initiated against two persons under Articles 19-108- (2 female victims); and under Articles 19- 109 against 3 persons (5 female victims). Of these, grounds of gender intolerance were revealed against one defendant (one female victim), while prosecution against 1 person was terminated due to insanity. The relevant territorial unit of the Ministry of Internal Affairs of Georgia investigated all these cases.

Age of victims: 30 to 40 years – 2 women; 40 to 50 years - 1 woman; 50 to 60 years - 3 women; 70 years and above - 1 woman

The location of the crime: West Georgia - 1 woman; Kvemo Kartli - 1 woman; Adjara - 1 woman; Tbilisi - 3 women; Samtskhe-Javakheti - 1 woman

As for the relationship between the accused and the victim, in 6 cases, the attempted murder was committed by an acquaintance (relative, neighbor), and in 1 case - by an intimate partner.

3. Incitement to suicide:

According to data from 2022, criminal prosecution was launched against 2 people under Article 11¹ -115, paragraph 2; sub-paragraph “a” of the Criminal Code of Georgia for inciting 2 women to commit suicide on the ground of domestic crime. The relevant territorial unit of the Ministry of Internal Affairs of Georgia investigated all these cases.

Age of victims: 18 to 30 years - 1 woman; 30 to 40 years - 1 woman.

The location of a crime: Kvemo Kartli - 2 women

As for the relationship between the accused and the victim, both cases of **incitement to suicide** were committed by a husband against his wife.

4. Incitement to attempted suicide:

According to data from 2022, criminal prosecution was launched against 19 persons for inciting 17 women to attempt suicide on the grounds of domestic crime. Of these, criminal proceedings against 4 persons (4 female victims) were launched under Article 11¹-115, part one of the Criminal Code, and criminal proceedings against 14 persons (12 female victims) were launched on the ground of gender intolerance under Article 11¹-115; part 2; sub-paragraph “a”, and under Article 11¹-115, paragraph 2; sub-paragraph “b” against 1 person (1 female victim). The relevant territorial unit of the Ministry of Internal Affairs of Georgia investigated all these cases.

Age of victims: under 18 - 4 women; 18 to 30 years - 7 women; 30 to 40 years - 5 women; 40 to 50 years - 1 woman

The location of a crime: Tbilisi - 3 women; Kakheti - 3 women; West Georgia - 3 women; Samtskhe-Javakheti - 1 woman; Shida Kartli - 3 women; Adjara - 2 women; Kvemo Kartli - 2 women

As for the relationship between the accused and the victim, 10 incitements of attempted suicide are committed by a husband against his wife (including ex-wife), in 4 cases – by a father against his daughter, in one case - by a mother against her daughter, in one case - by a husband against his wife and mother-in-law and father-in-law against their daughter-in-law, in one case- by a person from the same household.

According to data from 2022, criminal prosecution was launched against 5 persons for inciting 2 women to attempt suicide on the grounds of non-domestic crime. Of these, criminal proceedings against 4 persons were launched on the ground of gender intolerance under Article 115; paragraph 2; sub-paragraph “a” (victim one woman), against one person under 115; part 1 of the Criminal Code (victim one woman).

Age of victims: under 18 - 1 woman; 30 to 40 years - 1 woman.

The location of the crime: Shida Kartli - 1 woman; Samegrelo - 1 woman.

As for the relationship between the accused and the victim, in 4 cases **incitement to attempted suicide** is committed by acquaintances (colleagues), and in 1 case by an intimate partner.

5. Intentional infliction of serious harm to health

According to data from 2022, criminal prosecution was launched based on Article 11¹-117, paragraph 4 against one person on the fact of intentional infliction of serious harm to the health of one woman that caused death.

Age of victims: 30 to 40 years - 1 woman.

The location of a crime: Kakheti - 1 woman.

As for the relationship between the accused and the victim, the intentional infliction of serious harm to the health of a woman that caused death was committed by a brother against his sister.

