



# Gender Equality in Georgia:

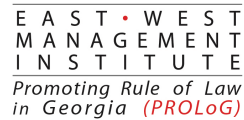
## BARRIERS AND RECOMMENDATIONS

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UPDATED EDITION  
PART I



  
PARLIAMENT OF GEORGIA



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The views expressed in this publication are of the authors and do not necessarily reflect those of the organizations and institutions listed above.

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## ABBREVIATIONS

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BPFA	Beijing Platform for Action
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CRC	Committee on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECHR	European Court of Human Rights
FWCW	Fourth World Conference on Women (Beijing)
GBR	Georgia Birth Records
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICPD	International Conference on Population and Development (Cairo)
SDG	Sustainable Development Goals
UNFPA	United Nations Population Fund
WHO	World Health Organization
PHC	Primary Health Centre
STDS	Sexually Transmitted Diseases
CC	Criminal Code
PWD	Person with a Disability

# PREAMBLE

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The publication “Gender Equality in Georgia: Barriers and Recommendations” is a valuable document on the work of the Parliament and all organizations and persons working on gender issues. It represents the key findings and opinions of relevant organizations or experts to ensure the involvement of gender perspectives in enforcing the legislative framework. The report is initiated by the Permanent Parliamentary Council for Gender Equality, based on a comprehensive qualitative survey conducted for the first time in 2017 with the support of our partner donors.

Given the role of the Permanent Parliamentary Council for Gender Equality, the updating of this publication is particularly important, as the Council must address the challenges identified here and set appropriate priorities for future work. Accordingly, the report presents data processed by experts on the latest trends in the country in terms of gender equality and legislative barriers, suggests possible solutions to these challenges, and both short-term and long-term perspectives for implementing specific recommendations.

Like the previous version, the study consists of two parts: the first part covers vital issues such as state mechanisms for gender equality, discrimination, violence against women, women’s participation in politics, and women, peace and security. As well as gender budgeting, gender impact assessment, and gender audit; The second part focuses on issues like women’s economic empowerment, labor rights, sexual and reproductive health, gender equality in education, culture, and sports. This year, the report adds three important areas that Parliament and the Gender Council are actively working on – Gender Impact Analysis, Gender Budgeting, and Gender Audit.

Representatives of government agencies and partner organizations working on the issue have been actively engaged in updating the research. Based on the consultation meetings, updated recommendations were written, requiring both immediate response in the short term and a long-term approach.

We would like to thank our donor organizations and all parties involved in the process, and we hope that this report will continue to make a significant contribution to ensuring gender equality in the country and integrating gender mainstreaming into organic decision-making processes.

**Nino Tsilosani,**

*Chairperson of the Permanent Parliamentary  
Gender Equality Council*

## I. CONCLUDING REMARKS

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*“Gender Equality in Georgia: Barriers and Recommendations - Updated Edition”* (Part I) serves to review the findings, identified flaws, and recommendations in the aspects of gender equality as a result of a similar survey conducted in 2017. Since 2017, Georgia has made significant strides in promoting gender equality and eliminating violence against women through changes in legislation or policy, including measures to implement the country’s international obligations. However, there are still significant gaps in legislation, policy, and practice that require in-depth, complex, and continuous work on the part of the State. The need for immediate action is of particular importance in the face of the additional challenges posed by the COVID-19 pandemic crisis, which has led to the immediate need for security, socio-economic empowerment, and physical and psychological health for the general population, especially women and other vulnerable groups. The following study identifies specific areas that still require changes in gender equality policies and priorities. These areas include: violence against women, women’s political participation, gender equality in the field of civil registration, as well as cross-cutting thematic laws – on the elimination of gender equality and discrimination.

**Law of Georgia on Gender Equality.** The Law on Gender Equality, despite some positive changes, remains an ineffective mechanism in Georgia. To this date, the law does not include comprehensive obligations for the appropriate agencies with respect to relevant areas. The law still does not emphasize the importance of gender mainstreaming, nor does it impose an obligation to put its instruments, including Gender Impact Assessment, Gender Budgeting, Gender Audit, Gender Segregated Data Collection, and Gender Training into practice to ensure their effective implementation. Inefficient records on national mechanisms for gender equality remain a significant challenge in legislation and create a substantial barrier for a) the effective implementation of gender equality goals and gender mainstreaming in practice and b) active coordination between relevant mechanisms/agencies.

**Law of Georgia on the Elimination of All Forms of Discrimination.** Amendments to the Law on the Elimination of All Forms of Discrimination in 2019 and 2020 had a significant positive impact on its compliance with international standards. In particular, a record appeared



in the Organic Law of Georgia on the Public Defender, extending the mandate of the Public Defender to individuals by legal regulation similar to public agencies, and individuals and legal entities under private law were obliged to submit information to the Public Defender. Moreover, in case of non-compliance with the issued recommendation, the Public Defender was authorized to sue a legal entity under private law. It is also noteworthy that the time limit for addressing the fact of discrimination has also changed, which should be assessed as essentially positive change. However, obliging relevant employers and educational spaces to establish effective internal response mechanisms to harassment and sexual harassment remains a challenge. The same can be expressed regarding their commitment to an anti-discrimination policy in general. Although the refusal of reasonable accommodation was considered a form of discrimination, the law did not consider the obligations of reasonable justification of exceptions and other measures.

**Violence Against Women.** In 2017, Georgia ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011), which laid the foundation for a number of positive changes in the national legislation. However, despite significant progress in implementing international and national commitments, violence against women in Georgia remains a considerable challenge, as evidenced by the still high rate of violence and femicide.<sup>1</sup> Indicated, once again, demonstrates the preventive policy's weakness on the part of the State and the ineffective response to the violent acts.

Legislative changes in 2020 should be positively assessed, as a result of which the Law of Georgia on Prevention of Violence against Women and/or Domestic Violence, Protection and Assistance to Victims of Violence included the establishment and implementation of electronic surveillance against abusers, and, also, with the issuance of a restraining order, the possibility of establishing electronic surveillance of the abuser in the event that there is a real threat of a recurrence of violence.

As for sexual violence, despite significant changes to the Criminal Code in 2017, the rape norm regulated by the Criminal Code of Georgia still does not meet the standard defined by international acts, including the Istanbul Convention. As a result, definitions of sexual violence are still not based on the victim's lack of free and voluntary consent and do not comply with international human rights standards. Despite its significant shortcomings, unfortunately, in 2020, the Parliament of Georgia did not support the amendment of the norm of "Rape" in the Criminal Code of Georgia, ensuring its compliance with the Istanbul Convention.

It is also noteworthy that the COVID-19 pandemic has significantly increased the risks of domestic violence and, at the same time, reduced the possibility of detecting domestic violence cases. Women and girls with disabilities and women from ethnic minorities found themselves in a challenging position in terms of risks of gender-based violence. According to numerous studies, stringent measures have been implemented to manage the Covid-19 pandemic in

<sup>1</sup> Report of the Public Defender of Georgia On the state of protection of human rights and freedoms in Georgia, 2020, p. 197, see: <https://ombudsman.ge/res/docs/2021040110573948397.pdf>

ethnic minority settlements. The mentioned above left the local population in an especially vulnerable position, which is reflected in both the increase in the risks of violence and the substantial reduction of economic resources.

**Women's Participation in Politics.** According to the principle of fundamental equality, reflected in the Constitution of Georgia in the context of the 2017 reform, the State is obliged to take extraordinary measures – to eliminate inequality between women and men and promote fundamental equality. Based on this principle, within the framework of the 2020 electoral reform, the Georgian Election Code stipulated a mandatory gender quota (for Parliamentary elections until 2032 and for self-government elections until 2028). In the first year of the quota, an increase in the representation of women in decision-making positions in the legislative and executive bodies at the central and local levels is observed compared to previous years. For example, there are 19.3% women in the Parliament of Georgia, as for the Executive Branch – 4 out of 13 ministers (including the Prime Minister) are women (2 more than in 2016). Still, there are no women among the nine State Trustees (Governors). As for the local self-government level, the percentage distribution of candidates nominated for proportional and majoritarian electoral systems for the 2021 local elections and executive bodies is 42.52% by proportional list and 17.48% by majoritarian rule. Furthermore, 17.5% of mayoral candidates in 5 self-governing cities and 8.96% in 59 municipalities were women. As for the results of the 2021 elections, by the proportional rule: 441 women (31.4%), by the majoritarian rule: 50 women (7.6%), in the mayoral election: 3 women (1.92%) were elected. However, women's participation in politics is growing at a slow pace. It has not yet reached the critical mass that, according to international standards, is an indicator of equal participation of women in politics (40-50%). Therefore, it is essential to revise the legislative framework and increase the effectiveness of the mandatory gender quota (percentage increase and extension of duration period) to create a mechanism for effective enforcement and sustainability of the results achieved, which in practice will positively impact transforming the patriarchal order and improving women's participation in politics.

**Gender Equality in the field of Civil Registration.** Civil registration and possession of ID documents protect: women, girls, and vulnerable groups from early marriage, enabling them to receive inheritance and divorce, engage in political and economic life, and enjoy financial services. Unfortunately, the civil registration of transgender people and the lack of free civil registration services remains a challenge. Collecting and analyzing gender-disaggregated, sufficiently disrupted, and nuanced data in a number of areas is also a challenge.

*Issues of critical importance such as Economic Empowerment of Women, Health, Education and Gender Equality in Culture and Sports, Women, Peace, and Security, are comprehensively reviewed in the second part of the present study – “Gender Equality in Georgia: Barriers and Recommendations - Updated Edition (Part II).”*

## II. LIST OF RECOMMENDATIONS

LIST OF RECOMMENDATIONS	RESPONSIBLE AGENCY
<b>LAW OF GEORGIA ON GENDER EQUALITY</b>	
Conduct an in-depth review of the Law on Gender Equality in order to expand its content and specify the constituent components of the rights listed there;	The Parliament of Georgia
The Law on Gender Equality should fully regulate the functions and obligations of the National Gender Equality Mechanisms to promote their functionality and practical work.	The Parliament of Georgia
Amend the Gender Equality Law and indicate specific procedures/ enforcement mechanisms to ensure effective implementation of the provisions of this law.	The Parliament of Georgia
Article 3 of the Law on Gender Equality should include definitions of the following forms of discrimination in the list of definitions of terms: harassment, sexual harassment, order on discrimination and victimization.	The Parliament of Georgia
Article 3 of the Law on Gender Equality should include the term “professional necessity determined by objective circumstances” in the definitions of terms, based on the standard defined by the European directives.	The Parliament of Georgia
It is essential that the law on gender equality clearly covers the principle of non-discrimination and sets the mandatory measures to be taken by the State.	The Parliament of Georgia

<p>For the proceedings regarding discrimination with the Public Defender or in National Courts, The Law on Gender Equality should explicitly regulate the burden of proof, as specified in Paragraph 2 of Article 8 of the Law on the Elimination of All Forms of Discrimination in Georgia. According to the norm, a person must submit to the Public Defender of Georgia the facts and relevant evidence that gives rise to the suspicion of the discriminatory act, after which the person committing the alleged discriminatory act bears the burden of proving that discrimination has not taken place.</p>	The Parliament of Georgia
<p>The Law on Gender Equality should include the scope of the prohibition of discrimination in labor relations under the Labor Code of Georgia for both public and private sector employees.</p>	The Parliament of Georgia
<p>It is essential that the Law on Gender Equality is in line with the Labor Code of Georgia and obliges employers to take measures in the workplace to ensure the adherence to the principle of equal treatment, including providing non-discrimination provisions in labor regulations and other documents and ensuring their implementation.</p>	The Parliament of Georgia
<p>The Gender Equality Law should also address the issue of employer liability for violating the principle of non-discrimination.</p>	The Parliament of Georgia
<p>The Law on Gender Equality of Georgia and other relevant laws (including the Labor Code of Georgia) should include a clear obligation on employers to develop protection mechanisms against discrimination in the workplace, including sexual harassment. Legislation should also provide the appropriate time frame for ensuring the implementation of this mechanism in the workplace.</p>	The Parliament of Georgia
<p>It is essential that the Law on Gender Equality is in line with international obligations and the Labor Code of Georgia and imposes additional obligations on the employer, among them, the obligation of the employer to support the qualification of employees after maternity leave, childcare leave, leave after adopting a newborn. Furthermore, to ensure adequate reimbursement for maternity, childbirth, and childcare leave.</p>	The Parliament of Georgia
<p>Article 7 of the Law on Gender Equality should be expanded significantly to include the right to request more in-depth components of gender equality at all levels of education. It is imperative to harmonize the extended rights related to gender equality in education with the Law on Education by making similar amendments.</p>	The Parliament of Georgia
<p>The Law on Gender Equality and Georgian Law on Culture should include relevant legislative norms, which ensure the protection of the principle of gender equality and the implementation of practical measures by the relevant public or private individuals.</p>	The Parliament of Georgia
<p>The Law of Georgia on Gender Equality should provide access to health information for all groups, especially vulnerable and marginalized women.</p>	The Parliament of Georgia

The Law of Georgia on Gender Equality should include the State's commitment to ensure the existence of comprehensive education on sexuality in the formal educational spaces.	The Parliament of Georgia
The Law of Georgia on Gender Equality should include the responsibility of the relevant state agencies to ensure comprehensive financial and physical access to health services for women and girls.	The Parliament of Georgia
The Law on Gender Equality should include a quota mechanism and the development of appropriate policies for its effective implementation and promotion.	The Parliament of Georgia
It is essential that the State sees and understands the instrumental character of the quota mechanism as a temporary special measure, which is not the goal itself but one of the means to an end and to ensure its effective implementation and promotion in politics.	The Parliament of Georgia Government of Georgia
In order to address current gender inequality in sport, an Article establishing the collection of gender-segregated statistics in professional, entertaining, and educational sports activities should be added to the Law on Gender Equality.	The Parliament of Georgia
The Law on Gender Equality should also consider the use of temporary special measures to encourage increased involvement of women and girls in sport.	The Parliament of Georgia
In addition, it is essential that the law also ensures the equal distribution of funds allocated to sports in the budgets of local self-governments and municipalities for women's and men's teams.	The Parliament of Georgia
The Law on Gender Equality should also provide mechanisms to prevent all forms of harassment and sexual harassment in the field of sport.	The Parliament of Georgia
The Law on Gender Equality should consider the commitments to implement gender mainstreaming, explicitly define specific mainstreaming tools, and impose their use on relevant agencies.	The Parliament of Georgia
Amend Article 5 of the Law on Gender Equality to oblige government agencies to compose gender-segregated data when conducting research or collecting statistics or other data, and identify and consider gender and other comprehensive factors such as age, ethnicity, and disability, as required by international standards.	The Parliament of Georgia
The Parliament of Georgia should ensure the continuous revision of the Georgian legislation in terms of reflecting the principles of gender equality and women's empowerment.	The Parliament of Georgia

<p>The Law on Gender Equality should provide an adequate reflection of gender mainstreaming commitments and instruments and clearly regulate the obligations of national gender equality mechanisms, including the regulation of Gender Audit, Gender Budgeting, Gender Assessment and Analysis commitments, and their effective implementation in its practice.</p>	<p>The Parliament of Georgia</p>
<p>The State should ensure the study of the impact of the COVID-19 pandemic on women and girls in different areas of life in order to effectively address these needs in action plans, programs, or strategies and enact specific, long-term, and gaugeable measures to alleviate the damage caused by the pandemic to women and girls.</p>	<p>Government of Georgia The Ministry of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs of Georgia</p>
<p>The Parliament of Georgia, within the mandate of oversight of the Government of Georgia, should ensure monitoring of the measures taken by the relevant agencies to eliminate and prevent the impact of the pandemic on women and girls in Georgia.</p>	<p>The Parliament of Georgia</p>
<p><b>LAW OF GEORGIA ON ELIMINATION OF ALL FORMS OF DISCRIMINATION</b></p>	
<p>To achieve the goal of eliminating discrimination in the workplace, the Parliament of Georgia, with the involvement of relevant government agencies, should initiate/encourage dialogue between the Public Defender of Georgia and the Labor Inspectorate to prevent duplication and to implement practices that best serve the interests of society and the victims of discrimination.</p>	<p>The Parliament of Georgia Government of Georgia</p>
<p>The legislation should oblige both public and private sector employers and educational institutions to establish internal appeal mechanisms, as reflected in the 2020 amendments to the Labor Code of Georgia. The law should clearly state the procedures for filing a complaint and the liability of individuals and managers for inaction or failure to conduct an investigation.</p>	<p>The Parliament of Georgia</p>
<p>The Law of Georgia on the Elimination of All Forms of Discrimination should specify the subject of reasonable accommodation as a remark, indicating that “reasonable accommodation implies the implementation of any necessary and appropriate modifications and adjustments, on a case by case basis, which does not impose a “disproportionate or heavy burden” and ensures the realization of the fundamental values of equal rights and freedoms for persons with disabilities.”The law should also consider the definition of “disproportionate or heavy burden” in accordance with international standards.</p>	<p>The Parliament of Georgia</p>

<p>The Parliament of Georgia, within the framework of its oversight function over the actions of the Government, should monitor the implementation of preventative measures by the Government aimed at ensuring equality and eliminating discrimination under the circumstances of the COVID-19 pandemic.</p>	<p>The Parliament of Georgia</p>
<p><b>VIOLENCE AGAINST WOMEN</b></p>	
<p>In order to make the Elimination of Domestic Violence a State priority, it is essential that the state continuously provides an ongoing analysis of legislation prohibiting domestic violence and an assessment of its functionality in practice. The Parliament should constantly analyze and monitor the measures taken by the government in relation to domestic violence to correct the flaws found in practice through timely and effective, and inter-institutional mechanisms. The active involvement of The Permanent Parliamentary Gender Equality Council plays an essential role in this process.</p>	<p>The Parliament of Georgia Government of Georgia</p>
<p>The Criminal Code of Georgia and the Law of Georgia on Violence against Women and/or Elimination of Domestic Violence, Protection and Support of Victims of Violence should include a partner in the definition of “family member,” and it should also indicate “whether or not the abuser shares or has shared a place of residence with the victim.”</p>	<p>The Parliament of Georgia</p>
<p>The State should ensure that police officers sufficiently fill restraining orders. Moreover, it is essential that restraining orders allow for adequate statistics and not just dry demographic information; their thorough analysis should be based on a preventative policy to eliminate domestic violence, and the Parliament of Georgia should monitor above-stated.</p>	<p>The Parliament of Georgia The Ministry of Internal Affairs of Georgia</p>
<p>The Parliament of Georgia should ensure effective monitoring of the establishment and use of electronic surveillance of abusers (especially in light of its novelty). Under the monitoring function of the Parliament, attention should also be paid to the statistical processing of violations committed by the abuser and obtained as a result of electronic surveillance to enable the detection of practical deficiencies for future changes by Parliament.</p>	<p>The Parliament of Georgia</p>
<p>It is critical that the Georgian government worked on a proper analysis of femicide and attempted femicide and on identifying the underlying causes. A special working group should be set up with the participation of the Interagency Commission on Gender Equality, Violence against Women and Domestic Violence, as well as the Gender Equality Council of the Parliament of Georgia, which will critically analyze the existing system of prevention in relation to cases of gender-motivated murder and attempted murder of women and with the participation of key agencies, including the Ministries of Health and Education, will work specifically on the development and refinement of femicide prevention system.</p>	<p>The Parliament of Georgia Government of Georgia The Ministry of Internal Affairs of Georgia Prosecutor’s Office of Georgia Ministry of Labour, Health and Social Affairs Ministry of Education And Science of Georgia</p>

<p>The Parliament of Georgia should ensure effective monitoring and hearings in response to femicide and attempted femicide cases by the Ministry of Internal Affairs and the Prosecutor’s Office of Georgia, which will help it identify gaps in practice or legislation and take relevant measures for femicide prevention.</p>	<p>The Parliament of Georgia</p>
<p>In the Criminal Code of Georgia the norm prohibiting rape should be formulated as follows: Article 137 – “Rape, that is non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object.”</p>	<p>The Parliament of Georgia</p>
<p>The Parliament of Georgia, in the framework of its oversight functions, should ensure that law enforcement agencies collect, process, and analyze statistics on sexual harassment in public spaces to further plan and implement relevant legislative or policy directions in order to eliminate sexual harassment in public spaces, with the participation of other agencies, including the Permanent Parliamentary Gender Equality Council.</p>	<p>The Parliament of Georgia The Ministry of Internal Affairs of Georgia Prosecutor’s Office of Georgia</p>
<p>The Parliament of Georgia, in the reports made by the Government of Georgia, should pay special attention to the investigation of sexual violence against minors and its quality and ensure the preparation of pertinent work for the implementation of relevant amendments to the Criminal Code of Georgia.</p>	<p>The Parliament of Georgia</p>
<p>Within its mandate, the Parliament of Georgia should ensure the monitoring of response and support mechanisms for the protection and assistance of victims of violence against women and domestic violence at the national and local levels.</p>	<p>The Parliament of Georgia</p>
<p>Within the framework of its oversight mandate, the Parliament of Georgia should ensure that the Government of Georgia, through shelters and crisis centers and with the involvement of victims of violence, implements special support programs tailored to the needs of victims.</p>	<p>The Parliament of Georgia Government of Georgia The Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia</p>
<p>The Parliament of Georgia, with the active involvement of the Permanent Parliamentary Gender Equality Council, should ensure the monitoring and control of the mechanisms adopted by the relevant agencies to mitigate the impact of Covid-19, especially in terms of violence against women and domestic violence.</p>	<p>The Parliament of Georgia</p>



## WOMEN'S PARTICIPATION IN POLITICS

<p>In order to maintain the growing trend of gender equality in the representative bodies and ensure the fulfillment of Georgia's international obligations, amendments should be made to the Electoral Code to establish a temporary rule for the submission of party lists in the general elections of the Parliament of Georgia and local self-government bodies until substantive equality established by the Constitution of Georgia is achieved. The Gender Equality Council of the Tenth Convocation Parliament should take an active part in advocating this issue.</p>	<p>The Parliament of Georgia</p>
<p>Strengthen existing institutional mechanisms supporting gender balance in order to prioritize gender equality and, in particular, gender equality in politics among the priority issues of the State. (e.g., the Gender Council should establish an additional platform to promote gender equality and an environment free of violence, including protection against sexism, discrimination, and cyberbullying, orient formal and non-formal education in terms of gender equality, prioritize the women's economic empowerment).</p>	<p>The Parliament of Georgia Government of Georgia</p>
<p>Develop internal democracy of political parties – stable and strong political parties, with solid internal democracies, play a positive role in achieving gender equality. They are well aware of the importance of women's participation in politics, human rights, equality, and their role in addressing these issues.</p>	<p>Political parties</p>
<p>Strengthen State programs for women's economic empowerment to reduce the impact of Covid-19, which will have an indirect impact on increasing women's participation in politics.</p>	<p>Government of Georgia</p>

## GENDER EQUALITY IN CIVIL REGISTRATION

<p>Establish a working group to investigate the existence of gender-based barriers and prejudices in the civil registration system. It is important to examine the legal and social practices, cultural and economic barriers, which prevent or forbid women and girls from making decisions regarding the registration of important events (Marriage, the birth of a child, et al.) in the intersectional context.</p>	<p>Government of Georgia Ministry of justice of Georgia</p>
<p>Based on the study results, it is important to develop evidence-based strategies and programs that will help women and girls overcome the identified challenges. Among them, it is important to expand the group of persons exempt from paying the ID card fee to fully cover vulnerable groups.</p>	<p>Government of Georgia Ministry of justice of Georgia</p>

<p>Establish a working group to regulate the procedure for changing the gender record in civil acts following international human rights standards, and develop regulations based on the recognition of trans people and respect for their fundamental rights, which ensures that the needs of trans people are taken into account and that they are directly involved in the decision-making process, taking into account the principle of “nothing about us, without us”.</p>	<p>Government of Georgia The Parliament of Georgia</p>
<p>It is important to maintain the civil registration as a basic service during the conditions imposed by the Covid-19 pandemic and to provide online services for this purpose, however, the relevant agencies must take proactive measures to raise public awareness about online civil registration. In particular, it is important to set up a working group and develop guidelines, especially to inform vulnerable groups (vulnerable women, people with disabilities, persons of non-dominant ethnic origin, minorities, migrants, et al.).</p>	<p>Government of Georgia</p>
<p><b>GENDER BUDGETING, GENDER IMPACT ASSESSMENT, AND GENDER AUDIT</b></p>	
<p>A Working group should be established to facilitate the implementation of Gender Budgeting, with the Standing Parliamentary Council on Gender Equality of the Parliament of Georgia, which will include parties involved in the budgetary process (Parliamentary Finance and Budget Committee, Parliamentary Budget Office, Ministry of Finance of Georgia, State Audit Office), as well as parties involved in the Gender Mainstreaming process (Administration of the Government of Georgia, Office of the Public Defender), representatives of civil society and experts.</p>	<p>The Parliament of Georgia Government of Georgia</p>
<p>It is advisable to develop a medium-term action plan within the working group to implement Gender Budgeting. Among them, to create the necessary gender statistics databases, activities should be planned in the medium term to develop a system of indicators.</p>	<p>The Parliament of Georgia</p>
<p>Within the working group framework, it is advisable to develop the necessary recommendations for reflecting Gender Budgeting as a tool on Gender Mainstreaming in the legislation, particularly in the Budget Code, in the Law of Georgia on Gender Equality.</p>	<p>The Parliament of Georgia</p>
<p>It is advisable to develop a document of guidelines/ methodology for Gender Budgeting within the working group.</p>	<p>The Parliament of Georgia</p>
<p>In order to facilitate the implementation of Gender Budgeting at the level of the republican budgets of the Autonomous Republics, as well as the budgets of the Municipalities, relevant issues must be reflected in the action plans of the Gender Equality Councils of the Autonomous Republics and Municipalities. Particular emphasis should be placed on issues of preparing gender statistics.</p>	<p>Gender Equality Councils of the Autonomous Republics Municipal Gender Equality Council</p>

<p>According to the Law of Georgia on Gender Equality, collaborative work between the Gender Equality Councils and The Permanent Parliamentary Gender Equality Council should be ensured. It is essential that the Permanent Parliamentary Gender Equality Council actively cooperates with the Gender Equality Councils of the Autonomous Republics and Municipalities to address Gender Budgeting issues in their action plans.</p>	<p>The Parliament of Georgia The Permanent Parliamentary Gender Equality Council</p>
<p>Develop a Gender Budgeting Training Module at the Parliament Training Center. In addition to Gender Budgeting issues, which will combine the issues of separate areas, including matters related to the gender significance of the tax system and legislation and within which the Office of Parliament. Specifically, the staff of the Sectoral Committee will gain knowledge/skills in subjects related to Gender Budgeting.</p>	<p>The Parliament of Georgia</p>
<p>The active involvement of gender experts is crucial for implementing Gender Budgeting. Consequently, within the existing mechanisms of citizen involvement in the budgetary process, it is desirable to develop effective mechanisms for collaborative work between sectoral committees of the Parliament and representatives of civil society working on gender issues in the relevant field, including the persons with disabilities, and experts. This kind of collaborative work will help to identify the challenges related to Gender Mainstreaming in the relevant field, as well as will intensify the consideration of gender aspects during the committee discussions of budget documents (the Ministries Main Direction Document, Basic Data, and Direction Document (BDD), Draft Budget Law of the State, State Budget Execution Reports), which is especially important in the context of PEFA GBPFM.</p>	<p>The Parliament of Georgia</p>
<p>During the Parliament Sectoral Committees' discussion of budget documents, including the Ministries Main Direction Document, the Draft Budget Law, Basic Data and Direction Document (BDD), the Draft Law on Amendments to the Budget Law, the Budget Execution Reports, and especially the Annual Execution Report it is desirable to pay special attention to gender issues, including, according to the specifics of the programs, one of the indicators for evaluating the program in relation to gender-sensitivity is the assessment indicator of the gender aspect of the program and, therefore, it is advisable to reflect the relevant opinions and recommendations in the committee conclusions. Mentioned above is especially essential in the context of PEFA GBPFM.</p>	<p>The Parliament of Georgia</p>
<p>Since Gender Budgeting implies the integration of gender aspects not only in taxes but in revenues as well, it is, therefore, desirable for The Permanent Parliamentary Gender Equality Council, together with the relevant sectoral committees, to study the gender aspects of tax policy in Georgia;</p>	<p>The Parliament of Georgia</p>
<p>The Sectoral Committees should separate in their action plan, and annual activity reports the measures to be taken/implemented by the Sectoral Committees to facilitate the implementation of gender budgeting.</p>	<p>The Parliament of Georgia</p>

In order to institutionalize the Gender Impact Assessment Mechanism, it is desirable to establish a working group with The Permanent Parliamentary Gender Equality Council of the Parliament of Georgia, which will include parties involved in the legislative process and gender mainstreaming, representatives of civil society, and experts.	The Parliament of Georgia
Develop a medium-term action plan to implement a Gender Impact Assessment Mechanism within the working group.	The Parliament of Georgia
Within the working group framework, it is advisable to develop the necessary recommendations in the legislation (Georgian Law on Gender Equality, Organic Law of Georgia on Normative Acts) to record the Gender Impact Assessment Mechanism as a tool for gender mainstreaming.	The Parliament of Georgia
It is advisable to define the list of legislative acts in which the preparation of a draft law on amendments will make it mandatory to prepare a Gender Impact Assessment Report within the working group. At the same time, it is also advisable to identify the entities with the right of legislative initiative, which, in case of initiating the defined legislative acts, will need to prepare a GIA document.	The Parliament of Georgia
Within the working group, develop recommendations on the legal basis of using the existing manual document on Gender Impact Assessment to prepare the GIA report.	The Parliament of Georgia
The Standing Parliamentary Council on Gender Equality of the Parliament of Georgia should select a noteworthy topic to conduct an audit in the context of gender equality issues.	The Parliament of Georgia
The Standing Parliamentary Council on Gender Equality of the Parliament of Georgia should appeal to the State Audit Office to conduct an audit.	The Parliament of Georgia

### III. INTRODUCTION

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The broad goal of gender equality can be achieved through the State's interaction of well-thought-out, systematic and complex measures. This goal includes empowering women and eradicating historical barriers by creating opportunities for equal participation in economic, social, cultural, and political life. Sharing power and responsibilities should be the main principle in all areas of life, as a human right a condition of social justice. Gender equality also symbolizes an essential element of development, peace, and equality.<sup>2</sup> Not only the absence of a discriminatory legal framework is vital for achieving gender equality, but relevant legislation or policies should not be discriminatory in their impact and consequences. Accordingly, international organizations call for the simultaneous use of essential and formal equality, non-discrimination, and women's empowerment. The mere existence of formal equality mechanisms is insufficient for the State, on the one hand, to fulfill its international obligations and, on the other hand, to respond directly and indirectly to discrimination and to achieve substantive equality.<sup>3</sup>

The UN General Recommendation No. 28 on the UN Committee on the Elimination of All Forms of Discrimination against Women sets out the obligation of States to respect, protect and exercise the right to protect against discrimination, to ensure the development of women, to improve their position and to achieve substantive equality. The Committee notes that the lack of consideration for women's perspectives in legislation, politics, programs, and practice, and therefore its neutral character, [indirectly] discriminates because neutral measures neglect unequal conditions before women. Moreover, indirect discrimination reinforces the existing inequality due to women's structural and historical inequality and the failure to recognize the power imbalance between women and men.<sup>4</sup>

The 1995 Beijing Declaration and Platform for Action, which sets out the commitment to ensure equality for women in 12 critical areas for states, identifies the need for gender equality and mainstreaming and its cruciality concerning all areas and rights of Women's Rights.

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<sup>2</sup> BPfA, 1995, paragraph 1

<sup>3</sup> ECOSOC, Contributions to the 2030 Agenda for Sustainable Development, see: [https://www.ohchr.org/Documents/Issues/MDGs/Post2015/CEDAW\\_Contribution\\_16May2016.pdf](https://www.ohchr.org/Documents/Issues/MDGs/Post2015/CEDAW_Contribution_16May2016.pdf)

<sup>4</sup> CEDAW, General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 2010, paragraph 16

The Declaration and Platform for Action emphasized the need to ensure gender equality in all social and economic development areas. The Beijing Declaration Action Platform notes that eliminating gender inequality leads women to power and decision-making at all levels. Therefore, Governments and other participants should promote active and visible gender mainstreaming in all relevant policies and programs; in this manner, any decision-making is based on impact assessment on women and men and gender analysis.<sup>5</sup>

In line with its international obligations, Georgia has taken significant steps to harmonize its national legislation with international standards and made a number of policy and program changes, which are positively evaluated. Notwithstanding the preceding, there are a number of significant shortcomings in the legislative environment and practice, which require appropriate measures taken by the State. Despite some progress in the fight against domestic violence and violence against women, measures taken by the State are confronted with the individual manifestation of the crime and fail to address the structural causes of violence. Together, the State has neglected its obligation to protect social and economic rights; therefore, insufficient attention is paid to the effective realization of access rights to health, education, and adequate social protection in practice.

Furthermore, the coordinated work of the National Gender Equality Mechanisms in Georgia presents a significant challenge. Due to the scarcity of resources and the lack of priority in the field, the national mechanisms at the Governmental, Parliamentary and local self-government levels are characterized by significant weakness due to their vague mandate, incomplete regulation of their activities by the legislation, and lack of adequate human and budgetary resources. Which, naturally, plays an important negative role in the effective development of gender equality mechanisms in the country and in terms of inclusion of issues related to gender equality mechanisms in the internal policies of relevant agencies.

The present document is an updated publication of the UNDP 2018 edition of ***“Gender Equality in Georgia: Barriers and Recommendations (Part I).”*** The purpose of this report was to assess the implementation of the recommendations issued four years ago, identify the progress made in the Georgian legislation in recent years, and highlight the critical shortcomings in the legislation or practice, which require legislative changes by the state and other appropriate measures. It should also be noted that this document repeats in a number of areas, and some of the recommendations issued in 2018 remain in force because a large part of them have not been executed or have been incompletely executed by the relevant state agencies.

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<sup>5</sup> CEDAW, General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 2010, paragraph 16

## IV. LAW OF GEORGIA ON GENDER EQUALITY

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The Law on Gender Equality, adopted in 2010, sets out the fundamental guarantees of equal rights, freedoms, and opportunities for women and men defined by the Constitution of Georgia and depicts the legal mechanisms and conditions for their implementation in the relevant areas of public life.<sup>6</sup> As a result of the amendments to the law in 2018, the mandate of the National Gender Equality Mechanisms was strengthened.<sup>7</sup> The inclusion of new commitments was implemented; for example, Article 9<sup>1</sup> was added to the law, which provided for the supply and access to any goods or services, including financial services, without discrimination on the grounds of gender. The law also states that the use of gender as a risk factor and pregnancy/maternity factor in the provision of insurance services should not lead to a difference in determining the amount of insurance premiums and insurance reimbursement. The appearance of this norm in the law is essentially favorable, as is the refinement of the Articles on harassment and sexual harassment. Nevertheless, despite significant changes, this law's effective enforcement and functionality remain a challenge.

Insufficient regulation of enforcement mechanisms still hampers the effective implementation of the law. The law still does not consider the reference to relevant legislative acts, nor does it explicitly include guarantees for the protection and restoration of the rights of victims of gender inequality. Sequentially, those mentioned above make it impossible to equip victims of gender discrimination with specific legal mechanisms and to pursue litigation for the victim of gender discrimination. The recommendation to include inciting and binding norms in the law provisions was issued repeatedly.<sup>8</sup> However, the law still retains a declaratory character, and in practice, it has less impact on restoring the rights of victims of discrimination.

Herewith, it is also important to note that although this law should be the main defining framework and foundation of gender equality policy in the country, due to the weak provisions, it remains only a formal document, which has no influence on the planning/implementation of gender equality and gender mainstreaming by relevant agencies of the State. Moreover, it falls behind other laws (for example, the Law on the Elimination of All Forms of Discrimination)

<sup>6</sup> Law of Georgia on Gender Equality, Article 1

<sup>7</sup> Changes regarding national mechanisms were implemented in 2016, 2017, 2018, 2019, and 2020.

<sup>8</sup> EWMI/Prologue, UNDP, Gender Equality in Georgia: Barriers and Recommendations, Part I, 2018, p. 28

and policy-making instruments directly or indirectly related to gender equality, the content of which, at this stage, is more in line with international development and established standards. Consequently, due to the deficiency, superficiality, and non-compliance of the Gender Equality Law with international standards, it does not receive a functional application in practice.

### **Recommendations:**

- ▶ Conduct an in-depth review of the Law on Gender Equality in order to expand its content and specify the constituent components of the rights listed there;
- ▶ The Law on Gender Equality should fully regulate the functions and obligations of the National Gender Equality Mechanisms to promote their functionality and practical work.

A detailed overview of the changes in the Law after 2018 and the challenges that hinder the more practical application of the law in practice are described below.

## **A. EXECUTION MECHANISMS**

The fact that the Law on Gender Equality of Georgia is not adequately equipped with an effective enforcement mechanism remains a problem; Although the National Mechanism for Gender Equality represents an institutional mechanism for law enforcement (discussed in detail in the subsection “M”), the law does not allow victims of gender discrimination to pursue litigation on this grounds.

Specifically, according to Articles 363<sup>1-6</sup> of the Civil Procedure Code of Georgia, victims of discrimination can file a complaint in court. However, in terms of enforcement mechanisms, it is necessary to refer to other relevant norms, including the Labor Code, the Law on Education, and Civil Service Law, et al.

Considering that the Law on Gender Equality establishes the fundamental guarantees of equal rights, freedoms, and opportunities defined by the Constitution of Georgia, defines the legal mechanisms and conditions for their implementation in the relevant areas of public life,<sup>9</sup> it should also establish legal mechanisms and conditions for achieving these goals.

### **Recommendation:**

- ▶ Amend the Gender Equality Law and indicate specific procedures/enforcement mechanisms to ensure effective implementation of the provisions of this law.

## **B. DEFINITIONS OF TERMS**

In the Law of Georgia on Gender Equality, the definitions of terms are still insufficient. The Law does not define all possible forms of discrimination and its exceptions, nor does it contain definitions of instruments that ensure gender equality.

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<sup>9</sup> Article 1



The Law only defines direct and indirect discrimination under the notion of discrimination, although it still does not define the concepts of harassment, sexual harassment, the order of discrimination, and victimization in its definition of terms. Consequently, the recommendation on the inclusion of all possible forms of discrimination in the definitions of terms is still topical.

It is also noteworthy that there is a flawed interpretation of the Concept of Exception to Discrimination in the Law; Article 3, paragraph 1, sub-paragraph f) of the Law defines Special Measure as a measure aimed at correcting discriminatory consequences, directed at a group of persons in need of special protection on the grounds of gender.

As mentioned in the previous study on “Gender Equality in Georgia: Barriers and Recommendations,” the norm converges “special (positive) measures” and “special measures for the protection of pregnancy and motherhood,” which, under international standards, needs to be defined separately and regulated in a separate article due to differences in their scope.

It is also noteworthy that, although Article 6 Paragraph 3 of the Labor Code addresses possible circumstances in the field of labor relations that may give rise to unequal treatment, in particular, the circumstances that derive from the essence of the work, the specifics or the conditions of its performance, serve the legitimate purpose and are proportionate and necessary means of achieving it, the Law still does not refer to it as an exception to discrimination – “professional necessity determined by objective circumstances.”

Professional necessity determined by objective circumstances is an exception to the prohibition of discrimination. According to Article 4(1) of EU Directive 2000/78/EC, member states may provide for different treatment on any grounds protected from discrimination, which does not constitute discrimination, if, given the nature of the professional activity or the context of its performance, it is a professional necessity conditioned and determined by objective circumstances (e.g., acting role<sup>10</sup>).

The purpose of above mentioned should be legitimate and the demand proportionate. Thus, professional necessity conditioned by objective circumstances should be separated as an individual paragraph in the definitions of terms of the law.

### Recommendations:

- ▶ Article 3 of the Law on Gender Equality should include definitions of the following forms of discrimination in the list of definitions of terms: harassment, sexual harassment, order on discrimination and victimization;
- ▶ Article 3 of the Law on Gender Equality should include the term “professional necessity determined by objective circumstances” in the definitions of terms, based on the standard defined by the European directives.

<sup>10</sup> For more detail, for example, for a particular acting role, depending on its content, it needs to be played by a person from a particular group (e.g., a black actor, et al.)

## C. THE PRINCIPLE OF NON-DISCRIMINATION AND THE BURDEN OF PROOF

The Law on Gender Equality of Georgia, despite its amendments, still does not explicitly prohibit discrimination based on sex/gender. Also, most law norms are not binding towards the State and are largely an expression of the will. For example, the first paragraph of Article 4 of the law states that the **State promotes** and **ensures** equal rights for women and men in political, economic, social, and cultural life; however, it does not explicitly prohibit discrimination and does not provide for mandatory measures to be taken by the State.

Moreover, while the primary purpose of the Gender Equality Act is to combat discrimination on the grounds of gender, it does not provide for the reversal of the burden of proof in the cases of possible discrimination as required by international standards and anti-discrimination law. Although the Code of Civil Procedure reverses the burden of proof, introducing this norm in the Law on Gender Equality will make this rule more legible.

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) addresses a separate article on the issue of the prohibition and prevention of discrimination and dictates that participating states condemn all forms of discrimination against women and agree to implement a policy to eliminate discrimination against women by all necessary means, for which they undertake a number of commitments. In addition, Article 19 of Directive 2006/54/EC of the European Union requires the Member States to take all appropriate measures to ensure that a person who considers himself or herself a victim of unequal treatment is not obliged to prove the fact before the court or other competent authority, which provides grounds for assuming that direct or indirect discrimination has occurred. The burden of proof that unequal treatment has not occurred should be imposed on the respondent.<sup>11</sup>

### Recommendations:

- ▶ It is essential that the law on gender equality clearly covers the principle of non-discrimination and sets the mandatory measures to be taken by the State;
- ▶ For the proceedings regarding discrimination with the Public Defender or in National Courts, The Law on Gender Equality should explicitly regulate the burden of proof, as specified in Paragraph 2 of Article 8 of the Law on the Elimination of All Forms of Discrimination in Georgia. According to the norm, a person must submit to the Public Defender of Georgia the facts and relevant evidence that gives rise to the suspicion of the discriminatory act, after which the person committing the alleged discriminatory act bears the burden of proving that discrimination has not taken place.

<sup>11</sup> Article 19, paragraph 1,

## D. GENDER EQUALITY IN LABOR RELATIONS

Adequate legal regulation to eliminate discrimination against women in labor relations and ensure equal conditions for women creates a basis for decent labor, including the development of gender-sensitive legislation and the flexibility of human rights mechanisms to protect labor rights effectively.

### d.1. Scope of Labor Discrimination

The Law on Gender Equality does not contain the prohibition of gender discrimination in labor relations and does not contain a norm on the specific mechanisms needed to ensure equality. The law only stipulates declaratively that the State promotes equal access to employment for both genders,<sup>12</sup> although it still does not specify the instruments and fields.

Contrary to the above, the amendments to the Labor Code of Georgia as amended on September 29, 2020, among other essential changes, widened the scope of discrimination and imposed an obligation on the employer to eliminate discrimination by ensuring employee access to professional orientation, professional development, vocational training and all forms of retraining (including practical professional experience) at all levels of professional hierarchy.<sup>13</sup>

#### Recommendation:

- ▶ The Law on Gender Equality should include the scope of the prohibition of discrimination in labor relations under the Labor Code of Georgia for both public and private sector employees.

### d.2. Harassment and Sexual Harassment

Prior to the amendments in February 2019, the Law on Gender Equality did not specify harassment and sexual harassment and only defined its content. Following the amendments, the concepts of harassment and sexual harassment appeared in the law,<sup>14</sup> which should be evaluated as a step forward. However, the law does not specify mechanisms for preventing and responding to harassment by employers, as stipulated by the Labor Code of Georgia; following the amendments of September 29, 2020, the employer is obliged to take measures to ensure adherence to the principle of equal treatment of employees in the organization, including providing non-discrimination provisions in labor regulations and other documents and ensuring their implementation.<sup>15</sup>

It should be pointed out that the amendments also took into account the extension of the Labor Inspection mandate to harassment and sexual harassment. According to the amendments, “violation of provision on discrimination by an employer under this law, including direct

<sup>12</sup> Article 6, paragraph 2

<sup>13</sup> Labor Code of Georgia, Article 5

<sup>14</sup> Article 6, paragraph 1

<sup>15</sup> Labor Code, Article 23, Paragraph 4

discrimination and indirect discrimination, harassment and sexual harassment in the workplace, the principle of prohibition, the principle of reasonable accommodation, equal pay for equal work will result in a warning or a fine..”<sup>16</sup>

Concurrently, the Labor Code of Georgia clarifies in the form of a remark that “in case of harassment and/or sexual harassment, the imposition of liability on the offending employee does not release the employer from subsequent liability. An employer may be held liable if he or she became aware of the fact of harassment and/or sexual harassment and did not report the incident to the Labor Inspectorate and/or did not take appropriate preventative measures”.<sup>17</sup>

### **Recommendations:**

- ▶ It is essential that the Law on Gender Equality is in line with the Labor Code of Georgia and obliges employers to take measures in the workplace to ensure the adherence to the principle of equal treatment, including providing non-discrimination provisions in labor regulations and other documents and ensuring their implementation;
- ▶ The Gender Equality Law should also address the issue of employer liability for violating the principle of non-discrimination;
- ▶ The Law on Gender Equality of Georgia and other relevant laws (including the Labor Code of Georgia) should include a clear obligation on employers to develop protection mechanisms against discrimination in the workplace, including sexual harassment. Legislation should also provide the appropriate timeframe for ensuring the implementation of this mechanism in the workplace.

### **d.3. Labor Rights of Pregnant, Post-partum, and Breastfeeding women**

According to the Law on Gender Equality, “creating favorable working conditions for pregnant women and nursing mothers is ensured under the rules established by the legislation of Georgia, which excludes them from working: in harsh, harmful, and dangerous environments, as well as at night.”<sup>18</sup> The stated provision is essential, but it does not fully regulate the labor rights of pregnant, post-partum, and breastfeeding women and does not provide additional guarantees.

Unlike the Labor Code, the Law on Gender Equality does not provide for an explicit obligation of the employer to ensure the professional development of employees. Therefore, upon request, the employer is obligated to provide the employee with professional development, as long as it is necessary to perform the work provided for in the contract and does not incur disproportionate financial costs for the employer. In particular, amendments to the Labor Code, per international standards, include the obligation of the employer to support the qualification of employees after maternity leave, childcare leave, leave after adopting a newborn. This

<sup>16</sup> Labor Code, Article 78, Part 1

<sup>17</sup> Ibid., Article 78

<sup>18</sup> Article 6, paragraph 4

change introduces an important provision in terms of strengthening women’s labor rights and ensuring equality, and it is vital that the rights of pregnant, post-partum, and breastfeeding women be explicitly written in the Law on Gender Equality as well.

**Recommendation:**

- ▶ It is essential that the Law on Gender Equality is in line with international obligations and the Labor Code of Georgia and imposes additional obligations on the employer, among them, the obligation of the employer to support the qualification of employees after maternity leave, childcare leave, leave after adopting a newborn. Furthermore, to ensure adequate reimbursement for maternity, childbirth, and childcare leave.

**d.4. State Guarantees for Gender Equality in Education and Science**

The UN Sustainable Development Goal 4 (SDG 4) on ensuring inclusive and equitable quality education and promoting lifelong learning opportunities for all contains important commitments that Georgia has also accepted to fulfill. Specifically, the objectives under SDG 4 require equal access for women and men to financially affordable and quality technical, vocational, and higher education, including university education, as well as eliminating gender inequality in the field of education and ensuring equal access to all levels of education or vocational education for vulnerable groups, including persons with disabilities and vulnerable children.

Article 4(2)(b) of the Law on Gender Equality provides equal access to education for women and men without discrimination and free choice of education at all teaching stages. Article 7 of the law involves vocational and higher education and establishes rights in the field of vocational and higher education and science.

However, these norms are declarative in nature and do not provide for the full regulation of the right to education; they do not separate specific measures that would ensure the effective implementation of this right in practice and do not provide a thorough reflection of the gender perspective. For example, some universities in Georgia do not have mechanisms for internal harassment and sexual harassment appeals and do not provide the possibility to file a complaint about gender discrimination in the educational process with the administration, which poses a significant problem in the education process and demonstrates a gender-blind and insensitive approach within university environments.<sup>19</sup>

**Recommendation:**

- ▶ Article 7 of the Law on Gender Equality should be expanded significantly to include the right to request more in-depth components of gender equality at

<sup>19</sup> For example, in recent years several students have tried to appeal the fact of a possible drop in points in the master’s theses. The students felt that because their master’s theses dealt with gender issues, the evaluation committee gave them deliberately low scores. They also pointed out the hostile attitude of the evaluation committee towards the defense of the thesis, however, because the university did not have an internal appeal mechanism, part of the students could not take effective measures and one student appealed against this fact in court. see: <https://bit.ly/3smEcDu>

all levels of education. It is imperative to harmonize the extended rights related to gender equality in education with the Law on Education by making similar amendments.

## E. GENDER EQUALITY IN ARTISTIC AND INTELLECTUAL CREATIVITY AND PRODUCTION

The Law on Gender Equality still does not contain a norm that ensures gender equality in Artistic and Intellectual Creativity and Production, and it only indicates declaratively that “the State supports and ensures equal rights for women and men in political, economic, social and cultural life,”<sup>20</sup> even though The Law on Gender Equality does not specify additional mechanisms.

Legislation should ensure the commitments of all relevant public bodies and institutions to implement, within their competence, the principle of equal treatment and equal opportunities for women and men in artistic and intellectual creativity, production, and distribution. Specific measurable mechanisms must be adopted to achieve this goal, in particular:

- Ensure a balance between women and men in government-sponsored artistic and cultural events;
- Implement an active policy that promotes women’s artistic and intellectual creativity and production. This policy can be expressed in the form of financial incentives to help create conditions for equal opportunities;
- Balance representation of men and women in advisory, scientific, and decision-making bodies working on artistic and cultural matters;
- Take positive action to support women’s artistic or intellectual creativity and production at the national and international levels.

### Recommendation:

- ▶ The Law on Gender Equality and Georgian Law on Culture should include relevant legislative norms, which ensure the protection of the principle of gender equality and the implementation of practical measures by the relevant public or private individuals.

## F. ENSURING GENDER EQUALITY IN HEALTHCARE AND SOCIAL FIELDS

Article 9 of the Law of Georgia on Gender Equality ensures universal and equal access of the population to Medicare in the Healthcare and Social Fields without discrimination.<sup>21</sup> The second part of the Article states that special measures taken to promote maternal and child health, state policies aimed at protecting pregnant women and motherhood, and other measures taking into account gender characteristics, shall not be considered discrimination.

<sup>20</sup> Law on Gender Equality, Article 10.6

<sup>21</sup> Article 9.1

Although the law establishes a norm to promote maternal and child health, it does not provide specific measures. In particular, the law does not explicitly compel state agencies to provide comprehensive physical and financial access to specific health services in urban or rural areas. Moreover, access to health services poses a substantial concern for vulnerable women and girls, including women and girls with disabilities, ethnic minorities, LBTs, women, and girls living in rural areas and below the poverty line, who face additional barriers in terms of accessing these services.

### Recommendations:

- ▶ The Law of Georgia on Gender Equality should provide access to health information for all groups, especially vulnerable and marginalized women;
- ▶ The Law of Georgia on Gender Equality should include the State's commitment to ensure the existence of comprehensive education on sexuality in the formal educational spaces;
- ▶ The Law of Georgia on Gender Equality should include the responsibility of the relevant state agencies to ensure comprehensive financial and physical access to health services for women and girls.

## G. EQUAL SUFFRAGE GUARANTEES

On July 2, 2020, the Parliament of Georgia adopted amendments to the Election Code of Georgia and approved a 25% gender quota mechanism, and political parties in proportional party lists will be required to have at least one in four people of the opposite gender.<sup>22</sup> Given that 120 deputies will be elected in the next Parliament of Georgia by a proportional system, the change will increase the representation of women in the legislature to at least 30 deputies (which is 20% of the total number). The same rule will apply to Parliamentary elections in October 2024 and, after the snap elections, until the October 2028 elections. According to changes, from October 2028 to the 2032 election, every third person on party lists must be of the opposite gender.<sup>23</sup>

Despite the abovementioned changes, the Gender Equality Law has not been amended to ensure equality of suffrage since 2018. Article 11 of the same law, which guarantees equal suffrage, is still declarative – the law guarantees everyone the right to be elected on equal terms, without discrimination. The law also stipulates that the exercise of the right to be elected to a representative body must ensure equal participation of persons of both genders<sup>24</sup> and that women and men can be elected on equal terms, without discrimination.<sup>25</sup>

<sup>22</sup> Organic Law of Georgia on Amendments to the Organic Law of Georgia “Election Code of Georgia”, 02.07.2020

<sup>23</sup> See: Parliament Adopts Amendments to Electoral Code in its Third Reading, 2020: <https://civil.ge/ka/archives/358338>

<sup>24</sup> Article 11.2

<sup>25</sup> Article 11.3

### Recommendations:

- ▶ The Law on Gender Equality should include a quota mechanism and the development of appropriate policies for its effective implementation and promotion;
- ▶ It is essential that the State sees and understands the instrumental character of the quota mechanism as a temporary special measure, which is not the goal itself but one of the means to an end and to ensure its effective implementation and promotion in politics.

## H. GENDER EQUALITY IN SPORTS

The State has yet to develop a gender equality policy or strategy in sport; Furthermore, there is no legislative framework to ensure the protection of the rights of female athletes. Therefore, there is a legislative and policy vacuum in Georgia in this particular field, which puts women athletes in an essentially unequal position and increases the risks of their rights being violated.

Legislation and policy should stipulate that the principle of absolute and effective equality between women and men must be considered in developing and implementing all public sports programs. Provision should be made for the use of temporary special measures to encourage women in sports and provide access to athletic disciplines by implementing appropriate programs suitable for all ages and levels, including women with disabilities who face a number of barriers in this area. Currently, there is no available data on women's participation in sports, so this norm should also include the collection of gender-segregated data.

### Recommendations:

- ▶ In order to Address current gender inequality in sport, an Article establishing the collection of gender-segregated statistics in professional, entertaining, and educational sports activities should be added to the Law on Gender Equality;
- ▶ The Law on Gender Equality should also consider the use of temporary special measures to encourage increased involvement of women and girls in sport;
- ▶ In addition, it is essential that the law also ensures the equal distribution of funds allocated to sports in the budgets of local self-governments and municipalities for women's and men's teams;
- ▶ The Law on Gender Equality should also provide mechanisms to prevent all forms of harassment and sexual harassment in the field of sport.



## I. GENDER MAINSTREAMING

The study conducted by the Public Defender of Georgia, which reviews the status of Georgia's international commitments on gender mainstreaming and their implementation, states that gender mainstreaming tools are inadequately reflected in Georgian legislation and policies, as a consequence of the lack of proper understanding of the mainstreaming tool by the relevant agencies and the lack of political will.<sup>26</sup>

Although the Law on Gender Equality sets out the principles required for implementing a separate policy of institutional empowerment or equality and achieving equality in different areas of life, it does not contain specific responsibilities for relevant agencies for the implementation of gender mainstreaming tools. In particular, there is no obligation under the law regarding the methods necessary to promote gender equality, gender mainstreaming, and under it, gender impact assessment reports, temporary special measures, gender monitoring, or gender budgeting, and therefore the law does not define the above-stated instruments/methods.<sup>27</sup>

According to Article 5 of the Law on Gender Equality, "official gender statistics will include gender-disaggregated data" however, this norm is not binding and does not provide the relevant institutions with specific resources. It is also noteworthy that "at present, the government does not have an established concept of gender mainstreaming and gender budgeting. Furthermore, there is no developed module for training public servants, which will teach them a unified approach to these issues in all state institutions".<sup>28</sup>

### Recommendation:

- ▶ The Law on Gender Equality should consider the commitments to implement gender mainstreaming, explicitly define specific mainstreaming tools, and impose their use on relevant agencies.

## J. GENDER SEGREGATED STATISTICS

Among the tools of gender mainstreaming, the Law on Gender Equality only includes collecting gender-segregated data. Article 5 of the law states: "official gender statistics will include gender-disaggregated data." Accordingly, the law considers collecting gender-disaggregated statistics only in "gender-related reports." However, it is impossible to identify gender inequality issues without gender-segregated statistics and develop evidence-based policies to address the issues thus identified. Accordingly, data must be segregated in all cases of data collection.

<sup>26</sup> Gender Mainstreaming - A Review of the Obligations Recognized by Georgia and the Status of Their Fulfillment, 2021, see: <https://ombudsman.ge/res/docs/2021031012092173973.pdf>

<sup>27</sup> *ibid.*

<sup>28</sup> EWMI/Prologue, UNDP, Gender Equality in Georgia: Barriers and Recommendations, Part I, 2018

### Recommendation:

- ▶ Amend Article 5 of the Law on Gender Equality to oblige government agencies to compose gender-segregated data when conducting research or collecting statistics or other data, and identify and consider gender and other comprehensive factors such as age, ethnicity, and disability, as required by international standards.

## K. NATIONAL MECHANISMS FOR GENDER EQUALITY

In terms of broad gender equality policy and implementation of gender mainstreaming, the Law on Gender Equality separates only institutional mechanisms. Thus, the principal instruments for ensuring gender equality are the existing national gender equality mechanisms in the country, which consist of the following institutional agencies:

**At the national level:** a) The Gender Equality Council of the Parliament of Georgia; b) The Inter-Agency Commission on Gender Equality, Violence against Women and Domestic Violence; c) The Gender Department of the Public Defender of Georgia.

**At the regional level** – The Gender Equality Council of the Supreme Council of the Autonomous Republics.<sup>29</sup>

**At the municipal level** – Municipal Gender Equality Councils.

However, despite the separate allocation of these institutional mechanisms, the law says nothing about implementing gender mainstreaming within their mandate. Furthermore, there appears to be no accountability in the law for these mechanisms to formulate, implement, evaluate and monitor the relevant institutional vision, goals, and objectives for the goal of implementing gender mainstreaming.

While the law ensures the existence of these institutional mechanisms, it should be noted that the law is still not clear on specific tools used to implement gender policy support at the governmental and local-municipal levels. Such ambiguity hinders the complete implementation of the gender equality strategy and, consequently, gender mainstreaming is left without effective enforcement mechanisms.

Supporting gender equality requires consistent practice and a solid institutional framework. The work of the Parliamentary Gender Equality Council holds a special role in supporting gender equality. Although the Council has been using the Gender Impact Assessment Tool in recent years, this knowledge is not redistributed among the Parliamentary staff; these activities are mainly initiated and funded by donors, nor does the Law on Gender Equality stipulate an obligation to implement Gender Impact Assessment Tool.

Therefore, according to the Public Defender, it is essential to equip the Gender Council with the responsibility to develop gender mainstreaming tools within the relevant legislative frame-

<sup>29</sup> Action Plan of the Gender Equality Council of the Autonomous Republic of Adjara for 2019-2020, see: <https://bit.ly/3sijB3j>

work and institutional mechanisms.<sup>30</sup> Given mentioned above, it is essential to strengthen the work of the Council in advocating and promoting the effective implementation of gender mainstreaming tools in practice and to support relevant agencies in setting gender-sensitive policies, as well as to strengthen the oversight of the executive branch over gender-related activities and to monitor their execution.<sup>31</sup>

### Recommendations:

- ▶ The Parliament of Georgia should ensure the continuous revision of the Georgian legislation in terms of reflecting the principles of gender equality and women's empowerment.
- ▶ The Law on Gender Equality should provide an adequate reflection of gender mainstreaming commitments and instruments and clearly regulate the obligations of national gender equality mechanisms, including the regulation of Gender Audit, Gender Budgeting, Gender Assessment and Analysis commitments, and their effective implementation in its practice.

## L. IMPACT OF THE COVID-19 PANDEMIC ON GENDER EQUALITY

The COVID-19 pandemic had a particularly negative impact on gender equality, on the one hand, in terms of pre-existing gender inequality in almost every area of life and, on the other, by concentrating unpaid labor-care and domestic work on women and doubling their workload. Consequently, although the pandemic has created substantial damage and associated risks for all groups in society. The situation of socially vulnerable, rural, ethnic minority women, women, and girls with disabilities, lesbian, bisexual, and transgender women, as well as victims of domestic violence was substantially aggravated.

The pandemic had a particularly negative impact on women working in the informal sector, who, in addition to losing income, were burdened with providing enhanced care and emotional support to other family members and on women involved in essential work in clinics, trade, and food establishments.

It is noteworthy that the State's implementation of action plans and strategies has been suspended due to the pandemic. The current situation has also weakened the work of NGOs and donor organizations on vulnerable groups, especially women living in rural areas. Consequently, all activities supporting the protection of women's rights and women's empowerment were debilitated.

It should also be noted that interim strategies or plans developed by the State, which served to alleviate the situation caused by the pandemic, did not fully address the needs of women.

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<sup>30</sup> *ibid.*

<sup>31</sup> *ibid.*

The following chapters of this publication discuss in detail the impact of the COVID-19 pandemic on gender equality in various fields.

### **Recommendations:**

- ▶ The State should ensure the study of the impact of the COVID-19 pandemic on women and girls in different areas of life in order to effectively address these needs in action plans, programs, or strategies and enact specific, long-term, and gaugeable measures to alleviate the damage caused by the pandemic to women and girls;
- ▶ The Parliament of Georgia, within the mandate of oversight of the Government of Georgia, should ensure monitoring of the measures taken by the relevant agencies to eliminate and prevent the impact of the pandemic on women and girls in Georgia.

## V. LAW OF GEORGIA ON ELIMINATION OF ALL FORMS OF DISCRIMINATION

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The Law on the Elimination of All Forms of Discrimination, adopted in 2014, is the primary normative framework for equality in the country and defines the Public Defender of Georgia and the judiciary as legal remedies for the protection of the right to equality.<sup>32</sup> However, ensuring the right to equality in the country and establishing the principle of non-discrimination in practice remains a significant challenge.

According to the Special Report of the Public Defender of Georgia, in 2019, the Public Defender reviewed 155 new cases of alleged discrimination. In 2020, a total of 113 new cases were investigated on the basis of an appeal or their own initiative. 66% of these cases referred to applicants' discrimination by public authorities, and 34% to unequal treatment from individuals and legal entities under private law. In 2019, this data was more or less similar, with 61% of complaints going to the public sector and 39% to the private sector.<sup>33</sup> It should be noted that among the grounds for protection against discrimination, the highest number of complaints are based on sex/gender – according to the report, 18% of cases fall in the category of gender-based discrimination.<sup>34</sup> The Public Defender of Georgia does not produce detailed data on discrimination cases. However, the already mentioned facts again indicate the low public awareness on eliminating discrimination, which the State must overcome by taking adequate measures.

Georgia has committed to implementing/executing the principles of equality and non-discrimination in legislation and practice under several international covenants. These include the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), and under the CEDAW Convention, the State has committed to the elimination of all forms of discrimination against women. The UN Committee on the Elimination of Racial Discrimination (CERD) also obliges the State to take appropriate measures to eliminate and prevent racial discrimination.

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<sup>32</sup> Article 6.1

<sup>33</sup> Special Report of the Public Defender of Georgia on the Fight against Discrimination, its Prevention and the situation of Equality, 2020, p. 52, see <https://ombudsman.ge/res/docs/2021050611590027208.pdf>

<sup>34</sup> *ibid.*

In addition, Georgia ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2014, under which the State is committed to protecting the rights of people with disabilities, including the commitment to provide reasonable accommodation. In 2015, Georgia received recommendations on the need to strengthen anti-discrimination legislation as part of the UN Universal Periodic Review.<sup>35</sup>

It should be noted that the obligations to eliminate discrimination and ensure equality are also outlined in the agreement between European Union and the European Atomic Energy Community and their Member States.<sup>36</sup> The agreement came into effect in July 2016. The Association Agreement sets out in detail the issues regarding employment, social policy, and equal opportunities in Appendix XXX and outlines Georgia's commitments with reference to specific directives, in particular:

- ▶ Council Directive **2000/43/EC** of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin (deadline – 2017);
- ▶ Council Directive **2000/78/EC** of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (deadline – 2017);
- ▶ Directive **2006/54/EC** of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (deadline – 2018);
- ▶ Council Directive **2004/113/EC** of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (deadline – 2017);
- ▶ Council Directive **92/85/EEC** of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (deadline – 2018);
- ▶ Council Directive **79/7/EEC** of 19 December 1978 on the progressive implementation of the principle of equal treatment for men and women in matters of social security (deadline – 2018).

As indicated, the deadline for harmonization of directive requirements with the legislation of Georgia expired in 2017-2018; however, Georgia failed to take adequate measures until 2019 in terms of compliance with the directives of anti-discrimination legislation. Consequently, despite important provisions, the Law on the Elimination of All Forms of Discrimination contained many shortcomings, which imperfectly regulated effective case management in practice and means of protection against discrimination. Parts of the flawed regulations were also pointed out in the 2018 edition of "Gender Equality in Georgia: Barriers and Recommendations." How-

<sup>35</sup> A/HRC/31/15, Report of the Working Group on the Universal Periodic Review, Georgia, 13 January 2015, Paragraphs 117.7, 117.34. See [https://www.upr-info.org/sites/default/files/document/georgia/session\\_23\\_-\\_november\\_2015/a\\_hrc\\_31\\_15\\_e.pdf](https://www.upr-info.org/sites/default/files/document/georgia/session_23_-_november_2015/a_hrc_31_15_e.pdf)

<sup>36</sup> Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, XXX Appendix, see <https://matsne.gov.ge/ka/document/view/2496959?publication=0>

ever, it should be noted that most of the recommendations have been implemented as a result of the legislative changes of 2019 and 2020.

## A. THE MANDATE OF THE PUBLIC DEFENDER OF GEORGIA

Prior to the changes made in 2019, the mandate of the Public Defender of Georgia was characterized by relative weakness, which implied, on the one hand, the lack of obligation for individuals and legal entities under private law to provide information to the Public Defender and, on the other hand, the inability of the mandate holder to respond to non-compliance with the information and/or his/her recommendation.

It is noteworthy that the amendments made both issues mentioned above subject to regulation. An entry has appeared in the Organic Law of Georgia on the Public Defender, according to which the mandate of the Public Defender was extended to private individuals by legal regulation similar to that of public agencies and legal entities under private and natural law were obliged to submit information to the Public Defender.<sup>37</sup>

Moreover, in case of non-compliance with the issued recommendation, Public Defender was authorized to sue a legal entity under private law. In particular, according to the Organic Law on the Public Defender: "Public Defender is authorized as a plaintiff, under the Civil Procedure Code of Georgia, to file a lawsuit in court, if the legal entity, other organizational formation, association of persons without creating a legal entity or entrepreneurial entity has not responded to or taken into account the recommendation of the Public Defender and there is sufficient evidence to support discrimination."<sup>38</sup>

It should be noted that after these amendments, the rate of implementation of the Public Defender's recommendation by legal entities under private law has increased significantly. 36% of the recommendations/general suggestions made to individuals and the private sector were taken into account by the respondents. The public sector's rate of implementation/consideration of the Public Defender's recommendation is 50%.<sup>39</sup>

### Recommendation:

- ▶ To achieve the goal of eliminating discrimination in the workplace, the Parliament of Georgia, with the involvement of relevant government agencies, should initiate/encourage dialogue between the Public Defender of Georgia and the Labor Inspectorate to prevent duplication and to implement practices that best serve the interests of society and the victims of discrimination.

<sup>37</sup> Article 23, paragraph 1; 2; 5

<sup>38</sup> Item h)

<sup>39</sup> Special Report of the Public Defender of Georgia on the Fight against Discrimination, its Prevention and the situation of Equality, 2020, page 6, see <https://ombudsman.ge/res/docs/2021050611590027208.pdf>

## B. TIME LIMIT FOR FILING A COMPLAINT ON DISCRIMINATION

The time limit for filing a complaint on discrimination, which was three months, posed a particular challenge in anti-discrimination legislation. According to the amendment to Article 363 2 of the Civil Procedure Code of Georgia in 2019,<sup>40</sup> it became possible to file a lawsuit within one year after a person has heard or should have heard about the circumstances that he/she considers discriminatory.

It is noteworthy that the Code of Civil Procedure also clarified the matter of addressing the fact of discrimination in labor relations, specifically, under Article 363<sup>2</sup> paragraph 2<sup>1</sup>, a person who considers himself/herself a victim of discrimination has the right to bring a court action even if the employment relationship in which they were discriminated against has ended.

Such amendments to the time limit for appealing will positively impact victims or third parties in the process of identification, preparation, and further appeal to the court on the fact of discrimination.

## C. HARASSMENT AND SEXUAL HARASSMENT

As mentioned above, the Law on the Elimination of All Forms of Discrimination in Georgia did not provide definitions of harassment and sexual harassment and did not identify it as a separate form of discrimination. Sexual harassment was defined as direct discrimination, which in practice posed substantial issues, including the existence of a comparator, which, unlike classical forms of discrimination (direct and indirect), is not used to establish the fact of sexual harassment.

According to the 2019 amendments to the Law on the Elimination of All Forms of Discrimination, Harassment and Sexual Harassment were recognized as separate forms of discrimination and were accordingly regulated. The current norms of the law are in line with EU directives and other international standards.

However, it is noteworthy that the law did not consider the obligation to plan preventative policies necessary for the effective regulation of harassment and sexual harassment, including in labor relations, both in public and private sectors.

### Recommendation:

- ▶ The legislation should oblige both public and private sector employers and educational institutions to establish internal appeal mechanisms, as reflected in the 2020 amendments to the Labor Code of Georgia. The law should clearly state the procedures for filing a complaint and the liability of individuals and managers for inaction or failure to conduct an investigation.

<sup>40</sup> Article 363<sup>2</sup>, Part 1



## D. REASONABLE ACCOMMODATION

Georgia ratified the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2013 and became effective in 2014. Since then, a number of steps have been taken to harmonize Georgian legislation with international obligations and standards. The Law on the Rights of Persons with Disabilities, adopted in 2020, served as a clear step forward. Prior to these changes, ensuring the principle of reasonable accommodation was not provided for in the Georgian legislation, which had a significant negative impact on the rights of persons with disabilities. However, since 2020, the norm appeared in the Law of Georgia on the Elimination of All Forms of Discrimination, stating the refusal of reasonable accommodation as a form of discrimination.<sup>41</sup>

In the context of disability, Reasonable accommodation is an essential part of the immediate obligation to prevent discrimination. Examples of reasonable accommodation include access to existing facilities and information for persons with disabilities, change of equipment, reorganization of activities, accommodation of medical procedure, access to support staff without insurmountable and unjustified difficulties.<sup>42</sup> The responsibility to prohibit discrimination and the norm of reasonable accommodation applies to all human rights listed in the CRPD (civil, political, economic, social, and cultural rights).

However, in addition to recognizing the Denial of a Reasonable Accommodation as a specific form of discrimination, it is also necessary to define reasonable accommodation. In particular, the “reasonable accommodation” defined in Article 2 of the CRPD means “the implementation of any necessary and appropriate modifications and adjustments on a case by case basis which do not impose a “disproportionate or heavy burden” and ensure the realization of the fundamental values of equal rights and freedoms for persons with disabilities.” Unjustified Denial of a Reasonable Accommodation should be incorporated into National Law with the aim that it regulates exceptions to it and ensures the identification of unjustified denial, which requires the definition of “disproportionate or heavy burden” in accordance with the Convention and international acts.<sup>43</sup>

### Recommendation:

- ▶ The Law of Georgia on the Elimination of All Forms of Discrimination should specify the subject of reasonable accommodation as a remark, indicating that “reasonable accommodation implies the implementation of any necessary and appropriate modifications and adjustments, on a case by case basis, which does not impose a “disproportionate or heavy burden” and ensures the realization of the fundamental values of equal rights and freedoms for persons with

<sup>41</sup> Article 2, paragraph 3<sup>3</sup>

<sup>42</sup> CRPD, General Comment N6, paragraph 23

<sup>43</sup> Dr. Andrea Broderick, Report on Reasonable Accommodation under the UN Convention on the Rights of Persons with Disabilities (CRPD): The Georgian Context, 2017, page 32

disabilities.” The law should also consider the definition of “disproportionate or heavy burden” in accordance with international standards.

## E. THE IMPACT OF THE COVID-19 PANDEMIC ON ENSURING EQUALITY

Rapid Gender Assessment of the COVID-19 situation in Georgia conducted by the UN Women cites the possible increase in discrimination as one of the negative consequences of the pandemic. 8% of respondents to the study stated they felt an increase in discrimination during the pandemic, 5% did not know, and the rest (86%) said no.<sup>44</sup>

According to the report of the Public Defender of Georgia, the new coronavirus has negatively influenced the equality of rights of certain groups. Preventative measures taken against the spread of the virus, in many cases, discriminated against individuals; in particular, the Public Defender has identified disproportionately frequent discrimination cases on the grounds of nationality, age, and gender.

The report also points to the occurrences of discrimination against women, such as sexual harassment. In particular, in 2020, the Public Defender revealed the cases of sexual harassment of women in quarantine spaces. According to the report, “the study of 14 cases revealed the lack of special guidelines of procedures for examining persons placed in quarantine by physicians.”<sup>45</sup>

### **Recommendation:**

- ▶ The Parliament of Georgia, within the framework of its oversight function over the actions of the Government, should monitor the implementation of preventative measures by the Government aimed at ensuring equality and eliminating discrimination under the circumstances of the COVID-19 pandemic.

<sup>44</sup> Rapid Gender Assessment of the COVID-19 Situation in Georgia, 2020, see <https://www2.unwomen.org/-/media/field%20office%20georgia/attachments/publications/2020/rga%20unw-geo.pdf?la=en&vs=5941>

<sup>45</sup> Special Report of the Public Defender of Georgia on the Fight against Discrimination in the Country, its Prevention and Equality, 2020, see <https://ombudsman.ge/res/docs/2021050611590027208.pdf>

## VI. VIOLENCE AGAINST WOMEN

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Combating violence against women and girls is one of the top priorities on the global agenda for human rights, health, and sustainable development. Georgia is one of the signatories of vital international acts aimed at ending structural violence against women, thus committing to ensure the protection of women and girls from violence, crime prevention, timely response, punishment of perpetrators, and reparation of victims by adhering to the **standard of due diligence**.

Georgia is committed to adhering to the fundamental human rights principles recognized by the following international acts in the context of the elimination of violence against women: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Committee on the Rights of the Child (CRC), Convention on the Rights of Persons with Disabilities (CRPD), European Convention on Human Rights (ECHR), The Council of Europe Convention on preventing and combating violence against women and domestic violence, better known as the Istanbul Convention.

In addition to these core human rights documents, Georgia has joined the Sustainable Development Goals (SDGs), whose objectives 5.2 and 5.3 are eliminating all forms and harmful practices of violence against women and girls by 2030. UN Beijing Declaration and Platform for Action (BPfA) is of particular importance, which identifies changes for gender equality and is an essential tool in the planning and implementation of gender equality policies.

The critical part of the Beijing Platform for Action, “Violence against Women,” sets a strategic task for the States, to take comprehensive measures to prevent and eliminate violence against women (D.1), as well as to study the causes and consequences of violence against women and the effectiveness of preventive measures (D.2).

As part of the UN Universal Periodic Review (UPR), Georgia has also received several recommendations from States to strengthen mechanisms to combat violence against women and ensure the protection of women and girls against violence through appropriate legal measures and the eradication of gender stereotypes.<sup>46</sup>

<sup>46</sup> A/HRC/31/15, Report of the Working Group on the Universal Periodic Review, Georgia, 13 January 2015, Paragraph 117.9; 117.25. see [https://www.upr-info.org/sites/default/files/document/georgia/session\\_23\\_-\\_november\\_2015/a\\_hrc\\_31\\_15\\_e.pdf](https://www.upr-info.org/sites/default/files/document/georgia/session_23_-_november_2015/a_hrc_31_15_e.pdf)

According to General Recommendation 19 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), discrimination against women includes violence against women based on gender or because it disproportionately affects women. These include physical, psychological, or sexual harm or suffering, threats, coercion, and restriction of liberty.<sup>47</sup> Thus, gender-based violence against women violates a wide range of fundamental human rights.<sup>48</sup>

The CEDAW Committee's summary observations on Georgia in 2014 highlight the necessary measures to be taken by the State to eliminate violence against women,<sup>49</sup> some of which are also repeated in the 2015 decision of the CEDAW Committee in the case of *X and Y against Georgia*.<sup>50</sup> According to the decision, Georgia was asked to:<sup>51</sup>

- Provide timely and adequate assistance to victims of domestic violence and their children, including shelter and psychological assistance;
- Strengthen awareness-raising campaigns and implement a zero-tolerance policy on violence against women, more specifically domestic violence;
- Ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

In 2017, Georgia ratified the Council of Europe Convention on the Preventing and Combating Violence against Women and Domestic Violence (2011), based on which Georgia implemented a number of positive changes in the national legislation. However, despite significant progress in implementing international and national commitments, violence against women in Georgia remains a significant challenge, as evidenced by the still-high rate of violence,<sup>52</sup> which once again demonstrates the weakness of the State's prevention policy and its inadequate response towards the committed acts of violence.

## A. DOMESTIC VIOLENCE

According to the Law of Georgia on Violence Against Women and/or Elimination of Domestic Violence, Protection and Support of Victims of Violence, domestic violence implies violation of the constitutional rights and liberties of one family member by another through neglect and/or physical, psychological, economic, sexual violence or coercion.<sup>53</sup>

<sup>47</sup> UN Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW General Recommendation No. 19: Violence against women, 1992, Paragraph 6, see <https://www.refworld.org/docid/52d920c54.html>

<sup>48</sup> *ibid.* Paragraph 7

<sup>49</sup> CEDAW/C/GEO/CO/4-5, Concluding observations on the combined fourth and fifth periodic reports of Georgia, 2014, Paragraph 20-21

<sup>50</sup> Committee on the Elimination of Discrimination against Women Decision N# 24/2009, see <http://www.supremecourt.ge/files/upload-file/pdf/saertashoriso-kvlevebii7.pdf>

<sup>51</sup> *ibid.* Paragraph 11

<sup>52</sup> Report of the Public Defender of Georgia on Defence of Human Rights and Liberties in Georgia, 2020, page 197, see <https://ombudsman.ge/res/docs/2021040110573948397.pdf>

<sup>53</sup> Article 3

According to the Criminal Code of Georgia, domestic violence is criminalized under Article 126<sup>1</sup>, and at the same time, Article 11<sup>1</sup> provides for criminal liability for domestic crime. Based on what was mentioned above, we can differentiate between domestic violence as a specific crime, expressed by objectively different actions, and domestic or family crimes – crimes committed by one family member against another under the Criminal Code. Article 11<sup>1</sup> lists certain offenses under the Criminal Code and considers them a family offense if committed by one member of the family against another member (the norm also defines the notion of a family member for purposes of the Code). In addition, the norm stipulates the obligation of investigative bodies to refer to Article 11<sup>1</sup> to determine criminal liability in case of domestic crime.<sup>54</sup>

In the framework of the ratification of the Istanbul Convention, under Article 46 of the Convention, which obliges the state to consider a crime committed in the family as an aggravating circumstance, Article 53<sup>1</sup>, Part 2 was enacted on May 4, 2017, which allows for aggravation of criminal liability for the domestic crime. According to the norm, “crime committed by one family member against another family member, helpless person, minor or in his / her presence, with special cruelty, with the use of a weapon or a threat to use a weapon, with the use of official position, is an aggravating circumstance of liability for all relevant offenses under this Code.” This provision is the court reference norm, according to which more severe form and extent of punishment must apply in the case of a specific crime committed in the family than it would have applied if the crime had not been committed in the family.

Article 126<sup>1</sup> of the Criminal Code of Georgia establishes the basis of liability for Domestic Violence, expressed in acts of violence, systematic abuse, blackmail, or humiliation by one family member against another family member, which caused physical pain or suffering, and was not followed by the consequences provided for in Articles 117, 118 or 120 of this Code.

In the case of the named article, the concept of violence refers only to physical, psychological, or economic violence or coercion, which should not result in even minor damage to health; In the event that domestic violence results in an offense provided for in any article of the Criminal Code, such as intentional severe bodily harm or less severe bodily harm, wrongful death caused by negligence, murder, rape, et al., the act will be qualified according to the relevant article, however, in order to establish that a crime has been committed in the family, Article 11<sup>1</sup> of the Criminal Code should be indicated in the process of determining criminal liability in addition to the specific article.

Two different legislative methods of regulating domestic violence create some ambiguity in practice and problems with the correct determination of qualifications. While the legislator separates “domestic violence” regulated by Prima Facie Article 126 of the Criminal Code from regulation of the form of domestic violence prevention in other law norms, investigative bodies often choose to use a lighter condition of qualification. However, an act regulated by a particular criminal norm may be more relevant in a particular case. This approach also com-

<sup>54</sup> It should be noted that the mentioned norm does not constitute a norm defining criminal liability. Through it, the legislator separates domestic crimes from other crimes and uses them to record family crime data.

plicates the thorough study and analysis of forms of domestic violence, because in a general norm, such as Prima Facie Article 126, the possibilities of assessing the degree of violence and the degree of intensity are lost, consequently complicating ways to devise the correct strategy to combat it.

### **Recommendation:**

- ▶ In order to make the Elimination of Domestic Violence a State priority, it is essential that the state continuously provides an ongoing analysis of legislation prohibiting domestic violence and an assessment of its functionality in practice. The Parliament should constantly analyze and monitor the measures taken by the government in relation to domestic violence to correct the flaws found in practice through timely and effective, and inter-institutional mechanisms. The active involvement of The Permanent Parliamentary Gender Equality Council plays an essential role in this process.

### **a.1. Scope of Protection and Circle of Persons**

Georgian legislation lists a wide range of family members to protect from and prevent domestic violence, but it still does not consider an “intimate partner.” Although the law lists unmarried persons in the list of family members as well as the persons who maintain or have maintained the shared household, this does not fully cover intimate partners who do not live together and do not maintain a shared household. In this case, both heterosexual and non-heterosexual couples are vulnerable to violence, as the law does not separate the illegal acts committed in the partnership and does not equip them with protection mechanisms, even though the harm done to the victim by severity is similar to other types of relationships.

The Istanbul Convention defines Domestic Crime as “any act of physical, sexual, psychological or economic violence committed between a former or existing spouse or partner in a family or home, regardless of whether or not the abuser shares or has shared a place of residence with victim.”<sup>55</sup> Specifically, the Criminal Code of Georgia and the Law of Georgia on Violence against Women and/or Elimination of Domestic Violence, Protection and Support of Victims of Violence require the inclusion of such definition.

### **Recommendation:**

- ▶ The Criminal Code of Georgia and the Law of Georgia on Violence against Women and/or Elimination of Domestic Violence, Protection and Support of Victims of Violence should include a partner in the definition of “family member,” and it should also indicate “whether or not the abuser shares or has shared a place of residence with the victim.”

<sup>55</sup> Article 3, Paragraph b)

## a.2. Restraining and Protective Orders

According to the Ministry of Internal Affairs of Georgia, in 2019, a total of 10,266 restraining orders were issued for domestic violence;<sup>56</sup> in 7,030 cases, the perpetrator was a male; In 2020, 10,321 restraining orders were issued, including 7,197 cases of male abusers. It is noteworthy that in 2018 the number of restraining orders was relatively lower – 7,646,<sup>57</sup> while in 2017, it was 4370.<sup>58</sup> Those mentioned above may indicate the existence of a combination of reasons – raising awareness in the society about violence against women and, consequently, increasing the number of appeals, the use of adequate policies towards restraining orders by law enforcement agencies, and, obviously, the increase in violence.

Amendments made to the Criminal Code in November 2018 provided for an additional form of punishment in the norms on non-compliance with the requirements and obligations provided by restraining and protective orders. Particularly, until 2018, the offender under Article 381<sup>1</sup> of the Criminal Code was punished with a fine or community service for a period of one hundred and eighty to two hundred and forty hours, or imprisonment for a term of up to one year, the restriction of gun rights was added to it after the amendment.<sup>59</sup>

Also, the appearance of a separate norm in the Criminal Code on repeated violations of the requirements of protective and restraining orders is of particular importance, for which the measure of punishment was determined to be imprisonment for a term of one to three years, with or without the restriction of gun rights.<sup>60</sup> The need for restriction of gun-related rights and the need to punish repeated violations of restraining and protective orders was also mentioned in the previous issue of “Gender Equality in Georgia: Barriers and Recommendations” as a recommendation. Its consideration should be assessed positively.

According to Article 11 of the Law of Georgia on Violence against women and/or elimination of domestic violence, protection and support of victims of violence the victim, the victim’s family member or, with the consent of the victim – a social worker or a person providing medical, legal, psychological assistance to the victim, and in the case of violence against a minor – also a Social Service Agency. According to the September 2019 amendments to the right to request restraining and protection orders, the police are authorized to issue restraining orders on their initiative if there is sufficient ground for the presumption that the constitutional rights and freedoms of a person may be violated by neglecting or forcing him/her and/or by physical, psychological, economic, sexual violence against him/her.<sup>61</sup>

<sup>56</sup> Ministry of Internal Affairs of Georgia, The Information-Analytical Department, Domestic Violence Statistics (Restraining Orders) / Reporting Period: 2019-01-01 - 2019-12-31

<sup>57</sup> Ministry of Internal Affairs of Georgia, The Information-Analytical Department, Domestic Violence Statistics (Restraining Orders) / Reporting Period: (Dates are missing)

<sup>58</sup> Ministry of Internal Affairs of Georgia, The Information-Analytical Department, Domestic Violence Statistics (Restraining Orders) / Reporting Period: 2017-01-01 - 2017-12-31

<sup>59</sup> Criminal Code of Georgia, Article 381<sup>1</sup>, Part 1

<sup>60</sup> Criminal Code of Georgia, Article 381<sup>1</sup>, Part 3

<sup>61</sup> Article 11, Paragraph 3

The legislative changes of 2020 are also noteworthy. The Law of Georgia on Violence against Women and/or Elimination of Domestic Violence, Protection and Support of Victims of Violence included establishing and implementing electronic surveillance against abusers.<sup>62</sup> The law came into effect on September 1 and,<sup>63</sup> together with the issuance of a restraining order, provides the possibility of establishing electronic surveillance against the abuser in the event of a real threat of recurrence of violence. The decision to impose electronic surveillance considers the level of risk of recurrence of violence, violent crime committed in the past by an abuser, the use of cold weapons and/or firearms in the process of committing violence, and other circumstances. The risk of recurrence of violence is assessed based on a questionnaire integrated into the restraining order report.<sup>64</sup>

With the improvement of issuing restraining and protective orders, it is essential to conduct effective monitoring of their effectiveness in practice. Some studies have shown that the filling of restraining orders (checklist) is incomplete; it does not reflect all the victim's experiences and often remains a mere formality. On the one hand, such shortcomings lead to an inaccurate assessment of the degree of violence against victims and, on the other hand, are futile for statistical purposes.

### **Recommendations:**

- ▶ The State should ensure that police officers sufficiently fill restraining orders. Moreover, it is essential that restraining orders allow for adequate statistics and not just dry demographic information; their thorough analysis should be based on a preventative policy to eliminate domestic violence, and the Parliament of Georgia should monitor above-stated.
- ▶ The Parliament of Georgia should ensure effective monitoring of the establishment and use of electronic surveillance of abusers (especially in light of its novelty). Under the monitoring function of the Parliament, attention should also be paid to the statistical processing of violations committed by the abuser and obtained as a result of electronic surveillance to enable the detection of practical deficiencies for future changes by Parliament.

## **B. FEMICIDE AND ATTEMPTED FEMICIDE**

Femicide is one of the gravest crimes of violence against women. Georgian law does not recognize the concept of "femicide," although it is a hate crime defined as "the intentional murder and attempted murder of women or girls on account of her gender." The rate of femicide and attempted femicide is still high in Georgia, indicating the weakness of preventive policy in the state and the deficiencies in the response process by law enforcement agencies.

<sup>62</sup> Paragraph 10<sup>1</sup>

<sup>63</sup> Legislative Changes, 2020, see <https://police.ge/ge/2020-tslis-1-seqtembridan-modzaladeebze-eleqtronuli-zedamkhedveloba-datsesdeba/13919>

<sup>64</sup> *ibid.*



The European Court of Human Rights, in its judgment in 2021, in the case of **Tkheldze v. Georgia**, in which the Court found a violation of the right to life in conjunction with Article 14 of the Convention (discrimination), states that inaction by law enforcement became one of the causes of death of domestic violence victims.

In its judgment in 2021, the European Court of Human Rights in the case of **Tkheldze v. Georgia** declared the violation of the right to life in conjunction with Article 14 of the Convention (discrimination); the Court noted that the inaction of law enforcement agencies had become one of the causes of death of the victim of domestic violence. Given that the authorities were aware or should have been aware of the high risks to the victim if they failed to perform their police duties, the Court found that their indifference surpassed mere error or negligence.<sup>65</sup> Given that the national legislative framework provided temporary restrictive measures against the abuser, such as protective and restraining orders, the latter can be issued immediately by a police officer at the crime scene, and the relevant authorities failed to apply the above-stated measures.<sup>66</sup>

Failures in collecting evidence in response to a domestic violence incident may lead to an inadequate assessment of the degree of actual violence perpetrated.<sup>67</sup> The identification and detection of a gender motive in a criminal act by investigative bodies are essential for the qualification of femicide and attempted femicide.

In 2018, the gender motive for conforming Georgian legislation to the Istanbul Convention was defined under Article 53<sup>1</sup> of the Criminal Code of Georgia (Article 53.3<sup>1</sup> in the old version) and represented an aggravating circumstance for the crime. As part of the adopted amendments, gender motive was also added as a qualifying circumstance for the relevant offenses under the private part of the Code, which should be considered a positive development, especially in the circumstances when the inclusion of Article 53<sup>1</sup> as an aggravating circumstance of the sentence (which, accordingly, should be applied by the Court) was problematic at the stage of investigation and indictment.

As for the plea agreement, according to the special report of the Public Defender, in 2018, no plea agreement was signed in any of the femicide cases, the plea agreement was signed in only 1 case of femicide attempt. This circumstance points to a zero-tolerance policy of domestic and gender-motivated crime.<sup>68</sup>

However, citing gender motives in femicide and attempted femicide cases remains a problem despite these changes. According to the special report of the Public Defender of Georgia on Femicide Monitoring, the courts more often refer to the second paragraph of Article 53<sup>1</sup> of the Criminal Code, which provides for aggravation of liability for crimes committed against

<sup>65</sup> ECHR, *Tkheldze v. Georgia*, (Application no. 33056/17), 8 July 2021, Paragraph 60, see <https://hudoc.echr.coe.int/eng#%7B%22itemid%22:%5B%22001-210854%22%5D%7D>

<sup>66</sup> *ibid.*, Paragraph 55

<sup>67</sup> *ibid.*, Paragraph 54

<sup>68</sup> Public Defender of Georgia, *Femicide Monitoring Report 2018, 2020*, page 11, see <https://ombudsman.ge/res/docs/2020112617120417075.pdf>

a family member, than to the gender motive provided for in paragraph 1 of the same Article. It is problematic to qualify a femicide or femicide attempt based on gender if not committed against a family member.<sup>69</sup> Therefore, the “gender motive” provided in the first paragraph of Article 53<sup>1</sup> of the Criminal Code is mainly used in conjunction with paragraph 2 of the same Article, only when a crime is committed against a female family member.<sup>70</sup>

### Recommendations:

- ▶ It is critical that the Georgian government worked on a proper analysis of femicide and attempted femicide and on identifying the underlying causes. A special working group should be set up with the participation of the Interagency Commission on Gender Equality, Violence against Women and Domestic Violence, as well as the Gender Equality Council of the Parliament of Georgia, which will critically analyze the existing system of prevention in relation to cases of gender-motivated murder and attempted murder of women and with the participation of key agencies, including the Ministries of Health and Education, will work specifically on the development and refinement of femicide prevention system;
- ▶ The Parliament of Georgia should ensure effective monitoring and hearings in response to femicide and attempted femicide cases by the Ministry of Internal Affairs and the Prosecutor’s Office of Georgia, which will help it identify gaps in practice or legislation and take relevant measures for femicide prevention.

## C. SEXUAL VIOLENCE

International legal acts on the elimination of violence against women pay particular attention to the types of gender-based violence such as rape and other types of sexual violence.

In 2017, to bring Georgian legislation into compliance with the Istanbul Convention, the relevant articles of the Criminal Code on Sexual Violence were amended, although these articles were not fully aligned with the Convention. The change affected the definition of rape (Article 137 of the Criminal Code of Georgia). Until 2017, the Article was interpreted as a heterosexual sexual act using the female and male genitals. All other acts of violence (such as homosexual acts and violence between a woman and a man without the participation of the genitals of both or one person) were excluded from the Article of rape and considered under Article 138 of the Criminal Code (in the old version – the violent act of a sexual nature). As a result of the amendments, Article 139 of the Criminal Code was also expanded, according to which the crime of sexual violence can be committed in the broader circumstance than was initially provided for in the original wording. This crime of sexual violence can be committed in a broader range of circumstances than envisaged by the original edition.

<sup>69</sup> Public Defender of Georgia, Femicide Monitoring Report 2018, 2020, page 14

<sup>70</sup> *ibid.*

*Despite significant changes to the Criminal Code in 2017, the rape norm regulated by the Criminal Code of Georgia does not meet the standard set by international acts, including the Istanbul Convention. According to Article 137 of the Criminal Code of Georgia, rape is “any form of penetration of a sexual nature of the body of a person with any bodily part or object, committed with violence, under the threat of violence or by abusing a helpless condition of a person affected.”<sup>71</sup>*

Regulation of the norm in a way that requires an act by violence, the threat of violence or exploitation of the helpless condition of the victim, establishes a flawed practice according to which, if the abuser has not used physical force and the victim has not resisted, the act does not qualify as rape.<sup>72</sup>

*In contrast, Article 36 of the Istanbul Convention refers to rape as “non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object.”<sup>73</sup>*

The Convention states that consent to sexual contact is a voluntary agreement resulting from a person’s free will, taking into account surrounding circumstances.<sup>74</sup>

The CEDAW Committee in the case of R.P.B. v. The Philippines, which referred to the State’s ineffective response to the rape of a minor girl, pointed to the harm caused by the myths and gender stereotypes surrounding rape in terms of women’s access to justice. The Committee stated that the judiciary must be careful not to set a vicious standard for the “rape victim” image – on how women and girls should act when faced with the threat of rape.<sup>75</sup>

According to the Committee, national law should not allow unwanted sexual contact to be considered a “voluntary” act in the absence of physical resistance. Lack of clear will and consent is a fundamental element of rape.<sup>76</sup>

The Public Defender of Georgia has repeatedly pointed out the shortcomings of the legislation related to sexual violence. According to the cases analyzed by the Public Defender, “the current definition of sexual violence articles, in some cases, leaves potential perpetrators unpunished, because the physical resistance on the part of the victim and the presence of physical injuries on the body equates to the element of the crime.”<sup>77</sup> Consequently, violence is an integral part of the definition and not an aggravating circumstance. “The threat of violence is narrowly defined as an immediate threat of death or damage to health or destroying property (as provided in CCG Article 151) if the person being threatened has a reasonable fear that the threat will be carried out and it does not entail other forms of threats that can have a paralyzing effect on the victim’s free will, which wrongfully leaves many serious acts committed through such means outside the definition of rape, contrary to human rights standards.”<sup>78</sup>

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<sup>71</sup> Article 137, Part 1

<sup>72</sup> Dekanosidze T. And others, “Gender and Law - Gender Analysis of Georgian Legislation”, page 30

<sup>73</sup> Article 36, Paragraph 1(ა)

<sup>74</sup> Article 36, Paragraph 2

<sup>75</sup> R.P.B. v. Philippines (2014), Communication No. 34/2011, Paragraph 8.8

<sup>76</sup> *ibid.*, Paragraph 8.10

<sup>77</sup> Administration of justice in the cases of sexual violence against women in Georgia, Research Report, 2020, see <https://bit.ly/3t9L3De>

<sup>78</sup> *ibid.*

Despite these challenges, in 2020, the Parliament of Georgia did not support the amendment to the norm of “rape” in the Criminal Code of Georgia, which would have ensured its compliance with the Istanbul Convention. Consequently, definitions of sexual violence are still not based on the victim’s lack of free and voluntary consent and do not comply with international human rights standards.

#### Recommendation:

- ▶ In the Criminal Code of Georgia the norm prohibiting rape should be formulated as follows: **Article 137** – “Rape, that is non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object.”

### D. SEXUAL HARASSMENT IN PUBLIC SPACES

Sexual harassment in public spaces is one of the most common forms of discrimination and violence against women. According to a survey conducted by Geostat and the UN Women, nearly 20% of women reported experiencing sexual harassment, and 4% reported stalking.<sup>79</sup> However, these results may not reflect the accurate picture, as sexual harassment is often normalized in Georgia, and reporting sexual harassment is associated with considerable barriers. Survey respondents spoke about the different types of sexual harassment they experienced, including compliments and comments of a sexual nature on the street from strangers or drivers or unwanted physical touching. The majority of respondents stated that sexual harassment was accepted, and most of the perpetrators and the victims did not consider such behavior as sexual harassment.<sup>80</sup>

A 2014 study conducted by the Asian Development Bank in Tbilisi on women’s experiences of sexual harassment on public transport and similar places found that 45% of 200 respondents experienced sexual harassment in the Tbilisi Metro. According to this study, the most common forms of harassment were staring, comments of a sexual nature, and unwanted physical touching.<sup>81</sup> The report also stated that women did not want to report sexual harassment due to the lack of awareness of the issue, as such harassment is not perceived as a grave insult.<sup>82</sup>

Under Georgian law, sexual harassment in public space did not constitute a separate unlawful act. With the amendments of May 3, 2019, sexual harassment was included in Georgia’s Code of Administrative Offenses. According to Article 166<sup>1</sup>, part 1, *sexual harassment* is defined as any unwelcome sexual behavior against an individual, committed in public places and aiming at or/and resulting in his/her degrading and creating an intimidating, hostile, humiliating, or offensive environment. Although regulating sexual harassment in public spaces is a significant

<sup>79</sup> Geostat, UN Women, National Survey on Violence against Women in Georgia, 2018, page 61-63

<sup>80</sup> *ibid.*

<sup>81</sup> Asian Development Bank, 2014. Georgia: Rapid assessment of sexual harassment in public transport and connected spaces in Tbilisi. Technical Assistance Consultant’s Report (As cited: Geostat, UN Women, National Survey on Violence against Women in Georgia, 2018, p. 63)

<sup>82</sup> *ibid.*

step forward, it poses a severe challenge for the police to identify the fact of sexual harassment and obtain evidence; often, in these cases, there is only a testimony (interview report) of the alleged victim. The timely response of the police to the fact of harassment presents a significant problem as well.<sup>83</sup>

A separate challenge is the unjustified use of the Article on sexual harassment under the Code of Administrative Offenses against the minor victims, which substantially alleviates the nature of the act and considers it administrative misconduct rather than administrative offense. It is also common practice to terminate an investigation in the event of unwanted touching of a minor.

According to the special report of the Public Defender,<sup>84</sup> law enforcement agencies often face tribulation when qualifying sexually motivated crimes committed against minor victims. For example, It is clear from the case materials from the same study that there is a reasonably high standard for qualifying an action under Article 141 of the Criminal Code (perverted action). "Putting a hand on the juvenile's feet and offering a kiss, touching the juvenile's chin, or trying to take off pants are not enough for an action to be qualified under Article 141 of the Criminal Code".<sup>85</sup> Also, in one of the cases, a minor was repeatedly touched by a man in a crowded bus, so the child called the police. The decision on the termination of the investigation says that the juvenile "has no complaints against ... because he apologized for the inconvenience and the child did not experience any physiological stress".<sup>86</sup>

Above-stated makes it clear that sexual harassment and sexual violence in public spaces against adults and minors are not subject to a timely, impartial and effective investigation. There is a lack of understanding and sensitivity on the part of law enforcement agencies regarding the harms of these types of crimes and administrative offenses, which is confirmed by the under-reporting of these crimes in practice.

### Recommendations:

- ▶ The Parliament of Georgia, in the framework of its oversight functions, should ensure that law enforcement agencies collect, process, and analyze statistics on sexual harassment in public spaces to further plan and implement relevant legislative or policy directions in order to eliminate sexual harassment in public spaces, with the participation of other agencies, including the Permanent Parliamentary Gender Equality Council;
- ▶ The Parliament of Georgia, in the reports made by the Government of Georgia, should pay special attention to the investigation of sexual violence against minors and its quality and ensure the preparation of pertinent work for the implementation of relevant amendments to the Criminal Code of Georgia.

<sup>83</sup> Public Defender of Georgia, Special Report of the Public Defender of Georgia on the fight against discrimination, its prevention and the situation of equality, 2021, p. 12-13, see <https://ombudsman.ge/res/docs/2021050611590027208.pdf>

<sup>84</sup> Public Defender of Georgia, Special Report, The administration of justice on crimes of sexual abuse and sexual exploitation of children, 2021, see <https://ombudsman.ge/res/docs/2021080215240452054.pdf>

<sup>85</sup> *ibid.*, p. 42-23

<sup>86</sup> *ibid.*, p. 43

## E. VICTIM PROTECTION AND ASSISTANCE MECHANISMS

The rights of the persons affected by domestic violence (the victim), on the one hand, includes the development of legal mechanisms against domestic violence by the State and the protection of victims through these mechanisms, on the other hand, providing social services focused on rehabilitation of the persons affected by domestic violence (the victim) and prevention of domestic violence. The rehabilitation measures for the persons affected by domestic violence are mostly limited to shelters and crisis centers, where various services are provided.

The State has taken significant positive steps in recent years regarding protection and assistance to victims of violence against women and domestic violence. In particular, Chapter VII<sup>1</sup> of the 2018 Amendments was added to the Code of Criminal Procedure, which expanded the rights and responsibilities of the Witness and Victim Coordinator (the Institute of Coordinator has existed in the system of the Prosecutor's Office since 2011, and it became operative in the Ministry of Internal Affairs in 2019<sup>87</sup>).

According to the Code, the Witness and Victim Coordinator may be involved in a criminal case by the decision of a prosecutor or investigator, to facilitate the participation of the witness and the victim in the process of litigation, help reduce the stress caused by the crime, avoid re-victimization and secondary victimization and to ensure awareness of the witness and the victim at the stages of court proceedings.<sup>88</sup> In addition, the Witness and Victim Coordinator provides information to the witness and victim about legal, psychological, medical, and/or other services needed for them and, if necessary, assists with contacting relevant body/organization.<sup>89</sup> It is of the utmost importance that the coordinator prioritizes communication with victims who have suffered from domestic violence, crimes of discrimination, sexual violence, or human trafficking in criminal proceedings. Communication with minors and disabled victims/witnesses is also a priority.

In addition, in 2018, the Department of Human Rights Protection and Quality Monitoring of Investigation was established within the system of the Ministry of Internal Affairs, which, instead of investigating, performs the function of monitoring, prevention, and analysis, the Department is responsible for ensuring the monitoring of investigation of following crimes: domestic violence, hate crime, violence against women, human trafficking, crimes committed by/towards minors and those based on discrimination and trafficking, investigation of crime against human life and health.

According to the regulation,<sup>90</sup> the department, within its competence, ensures the development of a crime investigation methodology and its implementation in practice,<sup>91</sup> develops

<sup>87</sup> On the Activation of the Witness and Victim Coordinator Service at the Ministry of Internal Affairs, 2019, see <https://police.ge/ge/shinagan-saqmeta-saministroshi-motsmisa-da-dazaralebulis-koordinatoris-samsakhuri-amogmedda/12442> also, On the Witness and Victim Coordinator Service in the system of the Prosecutor's Office of Georgia, see <https://pog.gov.ge/interesting-info/coordinator-of-the-witness-and-victim>

<sup>88</sup> Article 58<sup>1</sup>, Part 1 and 2

<sup>89</sup> Article 58<sup>2</sup>, Part 1<sup>1</sup> (d)

<sup>90</sup> Order of the Minister of Internal Affairs of Georgia №11, February 4, 2019, Tbilisi, On the approval of the statute of the department of Human Rights Protection and Investigation Quality Monitoring of the Ministry of Internal Affairs.

<sup>91</sup> *ibid.*, Article 8

proposals for planning and implementation of preventative measures and submits them to relevant structural units of the Ministry, coordinates the activities of witness and victim coordinators, addresses the authorized subdivisions of the Ministry with proposals on the implementation of legislative changes,<sup>92</sup> ensures study-analysis of the recommendations of the Public Defender of Georgia and non-governmental organizations.<sup>93</sup>

The amendments to the Law on Violence Against Women and/or Elimination of Domestic Violence, Protection and Support of Victims of Violence in September 2019 are also noteworthy, according to which, in case of release, escape, a short-stay outside the penitentiary institution in accordance with the rules established by the Detention Code<sup>94</sup> of the perpetrator (abuser) from the penitentiary institution, an authorized employee of the Ministry of Internal Affairs of Georgia shall take additional measures to protect victims. In particular, if the information<sup>95</sup> gathered by him/her provides sufficient grounds for the suspicion that the violence against the victim may be repeated, the authorized officer of the Ministry of Internal Affairs of Georgia shall determine the whereabouts of the person released from the penitentiary institution and decide whether to issue a restraining order. It is also important to note that in the event of a restraining order being issued, the presence of a victim request is not mandatory.<sup>96</sup>

The changes mentioned above can be assessed positively, although there are still a number of challenges in the process of protecting and assisting victims of violence against women and domestic violence, which require a comprehensive approach. According to the 2020 report of the Public Defender of Georgia, "In cases where the witness and victim coordinator is not involved, informing the victims about the shelter and crisis center services by the representatives of the law enforcement agencies remains a problem. Said is confirmed not only by the direct statements of the victims that they were not provided with information about the services but also by the critically low rate of case referrals to crisis centers in the region".<sup>97</sup>

As for shelters and crisis centers, the special report of the Public Defender of Georgia positively assesses the opening of a crisis center for victims of violence against women and domestic violence in 2019 in the Kvemo Kartli region and the improvement of the Tbilisi Victims' Shelter. However, the same report points to the need to improve victim shelters and crisis centers' services. In particular, according to the report, the limited number of psycho-social rehabilitation, educational and employment programs, recreational, sports, cognitive activities still poses a substantial problem. Support and assistance to beneficiaries after leaving the shelter also remains a problem due to the small number and, in some cases, the absence of

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<sup>92</sup> *ibid.*

<sup>93</sup> *ibid.*

<sup>94</sup> Law of Georgia on Violence against women and/or elimination of domestic violence, protection and support of victims of violence, Article 17<sup>1</sup>, Paragraph 4

<sup>95</sup> It evaluates the information received from the victim and in the process of assessing the relevant risk is authorized to request an individual assessment report of the convict from the penitentiary institution.

<sup>96</sup> Law of Georgia on Violence against women and/or elimination of domestic violence, protection and support of victims of violence, Article 11, Paragraph 2

<sup>97</sup> The report of the Public Defender of Georgia, 2020, p. 199, see <https://ombudsman.ge/res/docs/2021040110573948397.pdf>

relevant programs.<sup>98</sup> Particular difficulties arise in providing the services of a psychologist to ethnic minority beneficiaries due to language barriers.<sup>99</sup>

Low access to adequate psychological assistance services for victims of domestic violence is particularly evident in the cases of women living in the regions. Moreover, various reports show that the lack of other additional victim support services/programs (rent, vocational training, et al.) at the local level forces women to either return to the abuser or remain homeless after leaving the shelter.<sup>100</sup> Coordinated cooperation between agencies responding to individual cases of violence against women and domestic violence also remains a problem.<sup>101</sup>

### Recommendations:

- ▶ Within its mandate, the Parliament of Georgia should ensure the monitoring of response and support mechanisms for the protection and assistance of victims of violence against women and domestic violence at the national and local levels;
- ▶ Within the framework of its oversight mandate, the Parliament of Georgia should ensure that the Government of Georgia, through shelters and crisis centers and with the involvement of victims of violence, implements special support programs tailored to the needs of victims.

## F. THE IMPACT OF THE COVID-19 PANDEMIC ON VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE

According to the report of the Public Defender of Georgia, in the conditions of the pandemic, the risks of domestic violence increased significantly, and, at the same time, the possibility of detecting domestic violence cases decreased.<sup>102</sup> According to the Prosecutor's Office of Georgia's report, in 2018, compared to 2017, the rate of prosecution of domestic crimes has increased by 99%, and in 2019, compared to 2018, it has increased by 15.8%. Furthermore, in 2020, despite the pandemic caused by Covid-19, compared to 2019, the data did not change significantly.<sup>103</sup> It is noteworthy that the number of gender-motivated murders of women (femicide) did not decrease in 2020, and, on the contrary, it is characterized by the rising tendency.<sup>104</sup>

The UN Women's Rapid Gender Assessment,<sup>105</sup> similarly to the Public Defender's report, indicates an increase in the risk of domestic violence due to the curfew and stay-at-home

<sup>98</sup> *ibid.*

<sup>99</sup> *ibid.*

<sup>100</sup> Report of the Coalition for Equality and other NGO's to the pre-sessional working group of the United Nations committee on the elimination of discrimination against women (CEDAW), 81st session, 2021, paragraph 8, see <https://sapari.ge/wp-content/uploads/2021/06/Coalition-for-Equality-CEDAW-Report-June-16-2021.pdf>

<sup>101</sup> Report of the Public Defender of Georgia, 2020, p. 199, see <https://ombudsman.ge/res/docs/2021040110573948397.pdf>

<sup>102</sup> Report of the Public Defender of Georgia, 2020, p. 185, see <https://ombudsman.ge/res/docs/2021040110573948397.pdf>

<sup>103</sup> Report of the activities of the Prosecutor's Office of Georgia for 2020, p. 56, see <https://pog.gov.ge/uploads/42f3329b-saqarTve-los-prokuraturis-saqmianobis-2020-wlis-angarishi.pdf>

<sup>104</sup> Report of the Public Defender of Georgia, 2020, p. 185, see <https://ombudsman.ge/res/docs/2021040110573948397.pdf>

<sup>105</sup> UN Woman, Rapid Gender Assessment of the COVID-19 Situation in Georgia, 2020, see <https://www2.unwomen.org/-/media/field%20office%20georgia/attachments/publications/2020/rga%20unw-geo.pdf?la=en&vs=5941>



measures during the pandemic. 16% of the respondents participating in the assessment indicated that they have felt or heard of an increase in domestic violence since the pandemic was declared, 5% did not know, and the majority (80%) said they have not felt or heard of an increase in domestic violence.<sup>106</sup> According to the study, women are more likely to report that they have felt or heard of an increase in domestic violence (18%) than men (13%) since the beginning of the outbreak. This figure is higher among city residents – about one-fifth of the population of Tbilisi, about one-fifth of the population of other cities, and only 11% of the rural population felt/heard of increased domestic violence during the pandemic. This figure is higher among the urban population – around one-fifth of Tbilisi residents had felt or heard of an increase in domestic violence after the pandemic. Around 14% of residents of other urban settlements were aware of or had experienced domestic violence, and only 11% of rural residents.<sup>107</sup>

Women and girls with disabilities and women from ethnic minorities found themselves in an especially challenging position in terms of risks of gender-based violence. Numerous studies indicate that stringent measures were put in place to manage the Covid-19 pandemic in ethnic minority settlements, leaving locals in an especially vulnerable position, which was reflected in the increased risks of violence and the substantial reduction in economic resources.

#### **Recommendation:**

- ▶ The Parliament of Georgia, with the active involvement of the Permanent Parliamentary Gender Equality Council, should ensure the monitoring and control of the mechanisms adopted by the relevant agencies to mitigate the impact of Covid-19, especially in terms of violence against women and domestic violence.

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<sup>106</sup> *ibid.*

<sup>107</sup> *ibid.*

## VII. WOMEN'S PARTICIPATION IN POLITICS

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The modern world has long agreed that women's participation in politics is one of the key preconditions for democratic development. Without women's participation, no country can ensure an equal and fair policy tailored to all groups' interests.<sup>108</sup>

Women's political participation in the decision-making process is not just a demand for justice and democracy but also a necessary precondition for taking into account the interests of women. Without incorporating women's perspectives, the goals of equality, development, and peace cannot be achieved.<sup>109</sup>

Although according to the 2015 census, women make up more than half of Georgia's population,<sup>110</sup> women's participation in politics in Georgia is low, which prevents the achievement of gender equality in political life in a natural way.

Since Georgia declared independence, there have been numerous attempts to increase women's participation in politics and achieve substantive equality; however, at the level of constitutional principle, this was reflected in the Constitution of Georgia only in the context of the 2017 Georgian Constitutional Reform. According to this principle, the obligation of the state to take extraordinary measures has been enacted that will eliminate inequality between women and men and promote substantive equality.<sup>111</sup> In the framework of the Electoral Reform implemented in 2020, this constitutional principle was also reflected in the Election Code of Georgia, according to which the legislator set a mandatory gender quota for parliamentary and local self-government elections.<sup>112</sup> The Law also regulated the principle of mandatory gender quota on the Elections of the Supreme Council of the Autonomous Republic of Adjara.<sup>113</sup> Also, the electoral system was reviewed before enacting a fully proportional electoral system of

<sup>108</sup> "Women in Georgian Politics" GYLA, 2017. Available at the following link: <https://bit.ly/3pcZMbF>

<sup>109</sup> Beijing Platform for Action, Paragraph 181

<sup>110</sup> General census data is available at the following link: [http://census.ge/files/pdf/Population%20press\\_30%2004%20Geo\\_last.pdf](http://census.ge/files/pdf/Population%20press_30%2004%20Geo_last.pdf)

<sup>111</sup> Part 3 of Article 11 of the Constitution of Georgia stipulates that the state ensures equal rights and opportunities for men and women. The state takes special measures to ensure the substantive equality of men and women and to eliminate inequality.

<sup>112</sup> Article 203 of the Election Code of Georgia. Available at the following link: <https://matsne.gov.ge/ka/document/view/1557168?-publication=69>

<sup>113</sup> The Law on the Elections of the Supreme Council of the Autonomous Republic of Adjara. Available at the following link: <http://>

parliamentary elections. Namely, On March 8, 2020, the months-long negotiations between the ruling party and the opposition on the 2020 elections ended with the signing of a Memorandum of Understanding,<sup>114</sup> according to which the parliamentary majority approved a new constitutional bill in the Parliament.<sup>115</sup> The changes included an electoral proportion of 120/30 and a 1% threshold for parliamentary elections.

Increasing the proportional share was essential for women’s participation in politics, as the proportional electoral system, unlike the majoritarian one, promotes the protection of the interests of different groups in the representative bodies (e.g., achieving gender equality through mandatory quotas).<sup>116</sup>

In the first year of establishing a mandatory quota, there has been an increase in women’s representation in decision-making positions in the legislature and executive bodies at the central level compared to previous years. However, it has not yet reached the critical mass that is an indicator of equal participation of women in politics.

The percentage of women’s representation in the Parliament of Georgia has improved. Percentage by 1992-2020 as seen in the table below:

PARLIAMENTARY ELECTIONS	PERCENTAGE OF WOMEN
1992	6.22%
1995	6.64%
1999	7.17%
2004	9.33%
2008	6%
2012	12%
2016	15%
2020	19.3%

An increase is also observed in the executive branch. Out of the 13 ministers (including the Prime Minister), 4 are women (2 more than in 2016).<sup>117</sup> However, there are still no women among the 9 State Representatives (governors).

As for the local level, as a result of the 2017 elections, the percentage of women in representative bodies (Assemblies) is only 13.4%. In all five self-governing cities, a mayor is a man, and in 59 municipalities – only one woman is the mayor.

[www.sca.ge/geo/static/259](http://www.sca.ge/geo/static/259)

<sup>114</sup> The Memorandum of Understanding is available at the following link: <https://ge.usembassy.gov/wp-content/uploads/sites/165/GE-1202.pdf>

<sup>115</sup> Constitutional Draft Law is available at the following link: <https://info.parliament.ge/file/1/BillReviewContent/245752>

<sup>116</sup> OSCE / ODIHR “Handbook for Monitoring Women’s Participation in Elections” 2004, p. 21

<sup>117</sup> Information about the members of the government is available at the following link: [http://gov.ge/index.php?lang\\_id=geo&sec\\_id=27&mod\\_id=0&info\\_id=0&new\\_year=0&limit=0&date=&new\\_month=&entrant=1](http://gov.ge/index.php?lang_id=geo&sec_id=27&mod_id=0&info_id=0&new_year=0&limit=0&date=&new_month=&entrant=1)

In this regard, it is interesting to review a gender analysis of candidates nominated by the proportional, majoritarian system for the 2021 elections of local self-government representative and executive bodies and for the mayoral elections,<sup>118</sup> which looks like this:

LOCAL SELF-GOVERNANCE	% OF WOMEN NOMINATED BY PROPORTIONAL LIST	% OF WOMEN AMONG THE MAJORITARIAN CANDIDATES	% OF WOMEN AMONG THE CANDIDATES NOMINATED FOR THE MAYORAL ELECTION
Elections 2021 (Statistics are presented throughout Georgia)	42.52%	17.48%	17.5% (in 5 self-governing cities) 8.96% (in 59 municipalities)

LOCAL SELF-GOVERNMENT	% OF WOMEN ELECTED BY PROPORTIONAL LIST	% OF WOMEN ELECTED BY MAJORITARIAN RULE	% OF WOMEN ELECTED TO MAYOR
Elections 2021 (Statistics are presented throughout Georgia)	31.4%	7.6%	1.92 %

If we compare the 2017 local self-government elections, after the introduction of the mandatory gender quota, the number of female members elected under the proportional electoral system of the City Council increased by 15.9%, while elected under the majoritarian electoral system – decreased by 0.4%. Overall, growth is evident, though as noted, it is proceeding at a slow pace.<sup>119</sup>

According to the Women’s Participation Index, Georgia ranks 111st out of 193 countries in terms of women’s participation in politics,<sup>120</sup> as stated by the World Economic Forum’s Global Gender Gap Report, this is how Georgia is positioned in terms of women’s political empowerment in the years 2017-2021:

GLOBAL INDEX REPORT	RANKING OF GEORGIA
2017 year	114 <sup>th</sup> place among 144 countries <sup>121</sup>
2018 year	119 <sup>th</sup> place among 149 countries <sup>122</sup>
2020 year	94 <sup>th</sup> place among 152 countries <sup>123</sup>
2021 year	60 <sup>th</sup> place among 155 countries <sup>124</sup>

<sup>118</sup> Gender Statistics of Elections, Gender statistics of candidates nominated by electoral subjects for 2021 local self-government elections is available at the following link: [https://genderstatistics.cec.gov.ge/ge/gender?tour\\_id=20&election\\_subject\\_category\\_ids%5B%5D=1](https://genderstatistics.cec.gov.ge/ge/gender?tour_id=20&election_subject_category_ids%5B%5D=1)

<sup>119</sup> *ibid.*

<sup>120</sup> The Inter-Parliamentary Union, Women in National Parliaments, is available at: <https://data.ipu.org/women-ranking?month=6&year=2021> Viewed: 11 August 2021.

<sup>121</sup> World Economic Forum, the Global Gender Gap Report, 2017: [http://www3.weforum.org/docs/WEF\\_GGGR\\_2017.pdf](http://www3.weforum.org/docs/WEF_GGGR_2017.pdf)

<sup>122</sup> World Economic Forum, the Global Gender Gap Report, 2018: [http://www3.weforum.org/docs/WEF\\_GGGR\\_2018.pdf](http://www3.weforum.org/docs/WEF_GGGR_2018.pdf)

<sup>123</sup> World Economic Forum, the Global Gender Gap Report, 2020: [http://www3.weforum.org/docs/WEF\\_GGGR\\_2020.pdf](http://www3.weforum.org/docs/WEF_GGGR_2020.pdf)

<sup>124</sup> World Economic Forum, the Global Gender Gap Report, 2021: [http://www3.weforum.org/docs/WEF\\_GGGR\\_2021.pdf](http://www3.weforum.org/docs/WEF_GGGR_2021.pdf)

## A. MANDATORY GENDER QUOTA

Achieving women's equal participation in politics in a natural way is challenging, and it takes decades; no state, including Georgia, has the opportunity to do that today. Consequently, to speed up the process and eliminate the inequalities created over the centuries, the goal of actors working on human rights and women's rights has become to convince decision-makers of the need for intervention at the legislative level, which was reflected in the development of special mechanisms.

When existing gender inequality makes it impossible for women to participate equally in politics, due to various factors, including the challenges of the patriarchal society, socio-economic problems of women, and the low degree of internal democracy within the political parties, the essence of the mandatory quota is to eliminate inequality by taking special temporary measures until substantive equality is achieved and a critical mass of members of the opposite gender emerges in the representative bodies.

To eliminate this inequality and to create an effective mechanism for enforcing substantive equality of constitutional principle, within the framework of the 2020 Electoral Reform, according to Article 203 of the Election Code of Georgia, a mandatory gender quota has been defined in compliance with the following principle:

**The mandatory gender quota for the Parliamentary Elections of Georgia** was defined as an increasing percentage, namely: the procedure for compiling a party list in the 2024 Parliamentary Elections of Georgia shall be determined by the party or election bloc, in such a way that at least one person in every four on the list submitted to the CEC Chairperson must be of the different gender. The procedure for compiling a party list for the October 26, 2024, Parliamentary Elections of Georgia and the Parliamentary Elections to be held until 2028 shall be determined by a political party in such a way that at least one person in every four on the party list submitted to the CEC Chairperson must be of the different gender.<sup>125</sup>

An electoral subject is authorized to submit a party list to the CEC Chairperson for the Parliamentary Elections to be held in 2024 and 2028, in which at least one person in every three will be of a different gender. The procedure for compiling a party list for the October 28, 2028, Parliamentary Elections, and the next Parliamentary Elections until 2032 shall be determined by a political party in such a way that at least one person in every three on the party list submitted to the CEC Chairperson must be of the different gender. In the event of fulfilling the requirement mentioned above, the electoral subject will receive additional funding provided by the Organic Law of Georgia on Political Unions of Citizens.<sup>126</sup>

<sup>125</sup> (The normative content of the first sentence of Article 203, Paragraph 2, which stipulates that at least one person in every four on the electoral list for the Parliamentary Elections of Georgia to be held before October 26, 2024, parliamentary elections must be a man, was declared invalid) – The Judgment of the Constitutional Court of Georgia of September 25, 2020, №3/3/1526 – website, 29.09.2020.

<sup>126</sup> Organic Law of Georgia on Political Associations of Citizens is available at the following link: <https://matsne.gov.ge/ka/document/view/28324?publication=35>

Following Prima Facie Article 39 of the Law on Political Unions of Citizens, an incentive mechanism has been defined on the budget funding, in the form of a 30% supplement, which the party will receive based on the elections until 2028 if one of the three candidates in each of the party lists submitted in the last parliamentary elections is of a different gender. This supplement should be used for the women's organization's activities – the party's structural unit.<sup>127</sup>

As for the local self-government elections, it was determined that the party will compile the party list for the general municipal elections until 2028 so that at least one in every three candidates on the list must be of a different gender.

The legislator established a rule for determining the fault in case the principle of quotas is not observed during the election registration and stipulated that for both parliamentary and self-government elections, the party lists should be submitted to the Chairperson of the CEC/ relevant district election commission no later than the 30th day before the polling starts. If the party list submitted by the political party does not maintain the gender balance established for the general elections of municipal bodies, the list will be returned, and the party will be offered three days to rectify it. If the defect is not eliminated, the party list will not be registered.

The Election Code also defined the principle of replacement and revocation of the mandate: if a Member of Parliament or the Representative Body of a Municipality – local self-government assembly member is terminated before the term of office, he/she shall be replaced by a representative of the same gender. The mandate is revoked if there is no longer a candidate of the same gender on the submitted party list.

The mechanism for revoking the mandate was reflected in the Electoral Code in the framework of the 2021 Electoral Reform only after the 2020 Parliamentary Elections when a precedent was set for violating the quota principle. After the incident mentioned above, the recommendation developed by the Women's Political Participation Working Group<sup>128</sup> was reflected in the Electoral Code. Indicating that if the member of the same gender of the recipient of the mandate is no longer on the list, the latter is canceled and is not transferred to the next representative on the list of a different gender.<sup>129</sup>

## B. EXISTING CHALLENGES

Although a mandatory gender quota is set at the legislative level, challenges remain both at the legislative level and in practice. In particular:

**The short period of action for mandatory gender quota** – although the quota is a temporary mechanism, according to the Electoral Code of Georgia, only the mandatory mechanism for the 2032 parliamentary and 2028 self-government elections does not ensure the implementation of the principle of substantive equality established by the Constitution and equal

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<sup>127</sup> *ibid.*

<sup>128</sup> Working Group on Women's participation in politics was established in March 2014 and aims to promote increased participation of women in politics, including through advocacy for a mandatory gender quota. The group consists of more than 20 local and international organizations.

<sup>129</sup> 2 parties avoided mandatory gender quota, where is the black hole? See the link <https://netgazeti.ge/news/537787/>

participation of women and men in politics, because **the patriarchal stereotypes are still prevalent in the society**, which negatively affects the political activism of women, especially in the regions – we still encounter municipalities where talking about women’s rights is considered a shame.

**The polarization and violent environment during the electoral and not just the electoral period** prevents women from participating in politics. The fear of a possible attack discourages women from taking a step and going into politics.

**Political parties in Georgia are not established as stable and robust institutions. Party culture and internal democracy are at a low ebb**; in many cases, women’s participation in politics is not a popular topic in political parties and is usually avoided at central and regional levels. In most cases, political parties do not have a mechanism for recruiting and promoting women.

**Gender equality as the State priority** – there are insufficient activities (both at the legislative level and in practice) to increase women’s participation in politics and change the mentality.<sup>130</sup>

**Consequently, determining a mandatory gender quota by several convocations of the parliament of Georgia (3 convocations) and the Local Self-Government Council (2 convocations) fails to achieve a legitimate goal and substantive equality in politics.**

It is noteworthy that the majority of voters are in favor of increasing women’s participation in politics. According to the International Republican Institute’s 2021 Pre-Election Public Opinion Survey, 48% of voters favor increasing women’s participation in politics. According to the survey, the qualities that are important for politicians – the ability to conduct negotiations, listening skills, compromise and communication skills, ethical behavior – according to respondents, are more characteristic of female politicians. Moreover, a large part of the population supports constructive political dialogue and consensus-based decisions. It is especially important in the context that 61% of the population believe that political polarization is growing in the Country, and 97% believe that polarization is disastrous for the Country.<sup>131</sup>

Also, according to the 2021 Public Attitudes Survey, citizens in Georgia expect political parties to work on inclusion issues. About half of the population supports the equal distribution of women and men in parliament.<sup>132</sup>

## C. INTERNATIONAL INSTRUMENTS

The modern world has long agreed on the importance and necessity of women’s participation in politics. It is evidenced by the framework/documents of International Standards designed to ensure and strengthen women’s political participation.

<sup>130</sup> Workshop: “More Women in (Self-) Governance and Barriers Female Candidates Face” Council of Europe, 28 July 2021. Available: <https://www.coe.int/ka/web/tbilisi/-/workshop-more-women-in-self-governance-and-barriers-female-candidates-face->

<sup>131</sup> International Republican Institute 2021 Pre-Election Public Opinion Survey

<sup>132</sup> Conducted by CRRC Georgia by order of NDI. Available at the following link: [https://www.ndi.org/sites/default/files/NDI%20Georgia\\_Public%20Opinion%20Poll\\_February%202021\\_GEO\\_Final.pdf](https://www.ndi.org/sites/default/files/NDI%20Georgia_Public%20Opinion%20Poll_February%202021_GEO_Final.pdf)

## The main instruments for supporting women's participation in politics and equality are:

- ▶ The International Covenant on Civil and Political Rights, adopted by the UN in 1966;<sup>133</sup>
- ▶ Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly in 1979 – the so-called CEDAW Convention;<sup>134</sup>
- ▶ CEDAW General Recommendation #2 (1997);<sup>135</sup>
- ▶ CEDAW General Recommendation #25 (1997);<sup>136</sup>
- ▶ The Beijing Platform for Action (1995);<sup>137</sup>
- ▶ 2003 Council of Europe Recommendation (3);<sup>138</sup>
- ▶ UN, Resolution 1325 on Women, Peace, and Security. Adopted by the Security Council (2000)<sup>139</sup>
- ▶ Final Act of Helsinki (1975);<sup>140</sup>
- ▶ The Moscow Document (1991);<sup>141</sup>
- ▶ The 2004 Action Plan for the Promotion of Gender Equality;<sup>142</sup>
- ▶ 2009 Decision No. 7/09 on Women's Participation in Political and Public Life<sup>143</sup>

These Standards, Declarations/Agreements oblige the Member States and Allies to ensure the equal enjoyment of civil and political rights for women and men.

As for the recommendations towards Georgia, the Committee on the Elimination of Discrimination against Women calls on Georgia in its concluding observations on the combined 4th and 5th periodic reports:

- To take temporary special measures, including legislative quotas, to accelerate the substantive equality of women and men. Under Paragraph 1 of Article 4 of the Convention and General Recommendation 25 of the Committee, the Committee calls on the State to develop temporary special measures for marginalized and socially vulnerable wom-

<sup>133</sup> UN, International Covenant on Civil and Political Rights, see <http://www.cirp.org/library/ethics/UN-covenant/>

<sup>134</sup> UN, Convention on the Elimination of All Forms of Discrimination Against Women, see <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

<sup>135</sup> UN, Convention on the Elimination of All Forms of Discrimination Against Women, general recommendations, see <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm>

<sup>136</sup> General recommendation No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures, see [http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf)

<sup>137</sup> UN, Fourth World Conference on Women, 1995, see <http://www.un.org/womenwatch/daw/beijing/platform/plat1.htm>

<sup>138</sup> CoE, Recommendation Rec (2003)3 of the Committee of Ministers to member states on balanced participation of women and men in political and public decision making, 2003, see [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805e0848](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805e0848)

<sup>139</sup> UN, Resolution 1325 (2000) Adopted by the Security Council at its 4213th meeting, on 31 October 2000, see <https://www2.unwomen.org/-/media/field%20office%20georgia/attachments/publications/2017/1325.pdf?la=ka&vs=5752>

<sup>140</sup> CONFERENCE ON SECURITY AND CO-OPERATION IN EUROPE, 1975, see <http://www.osce.org/helsinki-final-act?download=true>

<sup>141</sup> THE CONFERENCE ON THE HUMAN DIMENSION OF THE CSCE, Moscow, 1991, see <http://www.osce.org/odihr/elections/14310?download=true>

<sup>142</sup> OSCE, DECISION No. 14/04 2004 OSCE ACTION PLAN FOR THE PROMOTION OF GENDER EQUALITY, 2004, see <http://www.osce.org/mc/23295?download=true>

<sup>143</sup> OSCE, DECISION No. 7/09 WOMEN'S PARTICIPATION IN POLITICAL AND PUBLIC LIFE, 2009, see <http://www.osce.org/mc/40710?download=true>



en groups. To examine the impact of these measures and publicize the findings of this study, including relevant gender statistics.<sup>144</sup>

The Committee also calls on the State:

- ▶ To ensure women's full and effective participation in political and public life, especially at high and decision-making levels. Including in the legislature. The Committee calls on the State to introduce mandatory quotas for political parties, which will significantly increase the representation of women in state and local bodies.<sup>145</sup>

In its concluding observations, the Human Rights Committee calls on Georgia to:

**“Intensify efforts over a specific period to achieve equal participation of women in decision-making positions in legislative and executive bodies, including in the Parliament and Government.”<sup>146</sup>**

The Committee calls on the State:

- ▶ To strengthen language teaching programs for minorities, facilitate their representation at all political and public service levels, and consider the use of minority languages in local government and administration.<sup>147</sup>

Within the mandatory gender quota, the 2003 Recommendation of the Committee of Ministers of the Council of Europe to the Member States is essential, according to which 40% is the recommended minimum, below which neither gender should be in decision-making bodies.<sup>148</sup>

Achieving Gender Equality is one of the 17 UN Sustainable Development Goals of the 2030 Agenda, according to which the State should ensure the creation of equal opportunities for women and men.<sup>149</sup>

The contribution of international organizations in improving women's participation in politics across the world is significant. As of 2020, the overall percentage of women in parliaments has doubled (11.3%) to 25% compared to 1995. Therefore, the goal that the world set 25 years ago was achieved:<sup>150</sup> – increasing the representation of women in the parliament to the mandatory critical threshold – up to 30%.

World countries are now discussing a new goal, according to which, by 2030, countries should develop a mechanism to increase the representation of women in the legislature by up to 50%.

<sup>144</sup> Committee on the Elimination of Discrimination against Women, Concluding Remarks on the 4th and 5th Periodic Reports of Georgia, CEDAV/GEO/CO/4-5, July 24, 2014, paragraph 17;

<sup>145</sup> Committee on the Elimination of Discrimination against Women, Concluding Remarks on the 4th and 5th Periodic Reports of Georgia, CEDAV/GEO/CO/4-5, July 24, 2014, paragraph 25;

<sup>146</sup> Human Rights Committee, CCPR/GEO/CO 4, 19 August 2014, paragraph 7 (a);

<sup>147</sup> Human Rights Committee, CCPR / GEO / CO 4, 19 August 2014, paragraph 19;

<sup>148</sup> 2003 Recommendation of the Committee of Ministers of the Council of Europe [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805e0848](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805e0848)

<sup>149</sup> The UN Sustainable Development Goals 2030, available at the following link: [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_70\\_1\\_E.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf)

<sup>150</sup> Women in Parliament: 1995–2020 <https://www.ipu.org/resources/publications/reports/2020-03/women-in-parliament-1995-2020-25-years-in-review>

### Recommendations:

- ▶ In order to maintain the growing trend of gender equality in the representative bodies and ensure the fulfillment of Georgia's international obligations, amendments should be made to the Electoral Code to establish a temporary rule for the submission of party lists in the general elections of the Parliament of Georgia and local self-government bodies until substantive equality established by the Constitution of Georgia is achieved. The Gender Equality Council of the Tenth Convocation Parliament should take an active part in advocating this issue;
- ▶ Strengthen existing institutional mechanisms supporting gender balance in order to prioritize Gender Equality and, in particular, Gender Equality in Politics among the priority issues of the State. (e.g., the Gender Council should establish an additional platform to promote gender equality and an environment free of violence, including protection against sexism, discrimination, and cyberbullying, orient formal and non-formal education in terms of gender equality, prioritize the women's economic empowerment);
- ▶ Develop internal democracy of political parties – stable and strong political parties, with solid internal democracies, play a positive role in achieving gender equality. They are well aware of the importance of women's participation in politics, human rights, equality, and their role in addressing these issues.

## D. THE IMPACT OF THE COVID-19 PANDEMIC ON WOMEN'S PARTICIPATION IN POLITICS

The Covid-19 pandemic has deepened existing inequalities in the social and political lives and economic direction.<sup>151</sup> Among them, the spread of Covid-19 has led to economic and social deterioration in Georgia, which negatively impacted women's rights.

### Recommendation:

- ▶ Strengthen State programs for women's economic empowerment to reduce the impact of Covid-19, which will have an indirect impact on increasing women's participation in politics.

<sup>151</sup> The impact of covid-19 on Women's Rights, available at the following link [https://www.un.org/sites/un2.un.org/files/policy\\_brief\\_on\\_covid\\_impact\\_on\\_women\\_9\\_apr\\_2020\\_updated.pdf](https://www.un.org/sites/un2.un.org/files/policy_brief_on_covid_impact_on_women_9_apr_2020_updated.pdf)

## VIII. GENDER EQUALITY IN CIVIL REGISTRATION

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Gender inequality ostracizes vulnerable groups of women, girls, and gender non-conforming people from the civil registration and identification systems and thus reinforces inequality. While civil registration and identification documents protect women, girls, and vulnerable groups from early marriage, they provide the opportunity to inherit and divorce, to participate in political and economic life, and to enjoy financial services. That reinforces the importance of civil registration and vital statistics systems in terms of gender equality.<sup>152</sup>

### A. CIVIL REGISTRATION AND VITAL STATISTICS SYSTEMS

The Civil Registration and Vital Statistics System connect civil registration and registered health records to produce vital statistics. Relevant, reliable, and timely gender statistics are essential to understanding the different needs of women, men, and persons belonging to non-dominant groups (UN, 2015).

According to the United Nations 16th Sustainable Development Goal accommodated by Georgia, civil registration is a prerequisite for access to fundamental human rights. To achieve this goal, task 16.9 aims to ensure legal status for all people by 2030, including birth registration. Without proof of identity, people cannot access public services – health, education, and social security – and cannot exercise fundamental rights such as voting or inheriting.

The lack of free civil registration is still a challenge. The Law of Georgia on Registration Fee for Service Rendered by the National Agency of Public Registry provides special benefits and exemptions only for a tiny population.<sup>153</sup>

Gender-disaggregated data is an essential indicator of a country's development. Unfortunately, despite the steps taken,<sup>154</sup> collecting and analyzing the gender-disaggregated, detailed, and

<sup>152</sup> The findings and barriers outlined in this chapter are informed by the UN 2019 concept of “Legal Identity for All” and the accompanying agenda <https://unstats.un.org/legal-identity-agenda/documents/UN-Strategy-for-LIA.pdf>

<sup>153</sup> Only members of socially vulnerable families, having the rating point not exceeding 70 001 are exempt from paying the service fee for Electronic ID Card; Participants of the Second World War; Georgian citizens who are disabled veterans due to military operations for the territorial integrity of Georgia; Foreign citizens, who were granted citizenship of Georgia on the President's initiative. Public Service Development Agency, 2021 [https://sda.gov.ge/?page\\_id=5090](https://sda.gov.ge/?page_id=5090)

<sup>154</sup> The National Statistics Office of Georgia regularly publishes gender statistics that are in line with the UN Sustainable Development Goals. <http://gender.geostat.ge/gender/index.php?#home>



### Recommendation:

- ▶ Establish a working group to regulate the procedure for changing the record of gender in civil acts following international human rights standards and develop regulations based on the recognition of transgender people and respect for their fundamental rights. Which will ensure that the needs of transgender people are considered and that they are directly involved in the decision-making process, taking into account the principle of 'Nothing About Us Without Us.'

## C. THE COVID-19 PANDEMIC EFFECTS ON GENDER EQUALITY AND CIVIL REGISTRATION

The pandemic caused by Covid-19 puts a particular burden on civil registration. On the one hand, the challenge is to fully maintain the registration system during the pandemic due to increased workload and limited resources, and on the other hand, reflecting on all occurrences of vital statistics is an essential tool in combating the pandemic.<sup>160</sup>

Civil registration in Georgia is considered a primary service. Its delivery has not been suspended during the pandemic, which made it possible for most services to be delivered online before the pandemic and to be fully available online after the start of the pandemic.<sup>161</sup> In addition, gender statistics related to COVID-19 are publicly available.<sup>162</sup>

Nevertheless, it is crucial to keep in mind that not everyone has access to online services such as the internet and technology, which, in the long run, may have a negative impact on the accessibility to civil registration and vital statistics systems.<sup>163</sup>

### Recommendation:

- ▶ Maintain civil registration as a primary service in the conditions of the Covid-19 pandemic and provide online services for this purpose. However, at the same time, the relevant agencies must take proactive measures and raise public awareness regarding online civil registration. In particular, it is crucial to set up a working group and develop guidelines to inform vulnerable groups (vulnerable women, people with disabilities, persons of non-dominant ethnic origin, minorities, migrants, et al.).<sup>164</sup>

<sup>160</sup> UN, Maintaining Civil Registration and Vital Statistics during the COVID-19 pandemic, 2021 <https://unstats.un.org/legal-identity-agenda/documents/COVID-19-Guidelines.pdf>

<sup>161</sup> UN Statistics Division, Impact of COVID-19 on civil registration: Small Assessment, 2020 <https://unstats.un.org/legal-identity-agenda/COVID-19/>

<sup>162</sup> The National Center for Disease Control and Public Health of Georgia (NCDC) pandemic statistics (number of deaths, recoveries, vaccinations) in terms of gender <http://test.ncdc.ge/Handlers/GetFile.ashx?ID=07ad44ba-95c0-4a9b-9682-f19ded67d51a>

<sup>163</sup> Carla AbouZahr Et al. *The COVID-19 Pandemic: Effects on Civil Registration of Births and Deaths and on Availability and Utility of Vital Events Data* (2021) <https://ajph.aphapublications.org/doi/10.2105/AJPH.2021.306203>

<sup>164</sup> The recommendation issued by a document created by the United Nations Legal Identity Agenda Task Force: *Maintaining Civil Registration and Vital Statistics during the COVID-19 pandemic*, 2021 <https://unstats.un.org/legal-identity-agenda/documents/COVID-19-Guidelines.pdf>

# IX. GENDER BUDGETING, GENDER IMPACT ASSESSMENT, AND GENDER AUDIT

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## A. GENDER BUDGETING

### a.1. The Essence and Importance of Gender Budgeting

*Gender Budgeting* is an internationally recognized and widely used governance tool that aims to assess the impact of the relevant institution's budget on women and men and aids the integration of a gender perspective in all areas or sectors. Gender Budgeting unites public finance management and gender equality aspects that are traditionally unrelated. It does not involve the creation of separate budgets for women and men or the distribution of beneficiaries in terms of gender. It is the formation of a gender-oriented budgetary process, which implies the compliance of the budget allocation with the existing gender equality policy in the State. Gender Budgeting can also be interpreted as an integral part of program budgeting, which involves effective and results-oriented public administration. For its implementation, it is necessary to consider the spect gender in program budgeting, which contemplates integrating gender budgeting at all stages of the budgetary process.

Prerequisites for the implementation of gender budgeting are political will, the existence of an appropriate legal and political environment to promote gender equality, high involvement and participation of public agencies and self-governments, their greater awareness, and the presence of relevant statistical and gender-disaggregated data and gender indicators.

### a.2. Regulatory Norms

One of the essential prerequisites for gender budgeting is an appropriate legal environment. Under the legal environment, it is necessary to review the relevant regulatory norms at international and local/national levels.

We can start discussing international legal norms with the UN Sustainable Development Goals SDG 2030, as the 2030 Agenda includes five fundamental principles, one of which is particular-

ly important: “Leave No One Behind - everyone should be able to live without hunger and poverty. No one should be left behind in processes or cut off from social development”. In the 2030 Agenda, one of the tasks of the 5th goal<sup>165</sup> is especially interesting (5.C), according to which the following should be implemented: “adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.”

The Beijing Declaration and Platform for Action, a visionary agenda for the empowerment of women and girls, is also consequential.<sup>166</sup> Notably, the following record from the Beijing Platform for Action: Chapter VI,<sup>167</sup> Financial arrangements, 345 – full and effective implementation of the Platform for Action, will require the integration of a gender perspective in budgetary decisions on policies and programs, as well as the adequate financing of specific programs for ensuring equality between women and men.

Important records are also included in the European Charter for Equality of Women and Men in Local Life (CEMR).<sup>168, 169</sup> According to the Charter, “it is essential that local and regional governments **fully take the gender dimension into account, in their policies, organization, and practices.** Moreover, in today’s and tomorrow’s world, the real equality of women and men is also key to our economic and social success – not just at European or national levels, but also in our regions, towns, and local communities”. The principles of the Charter stipulate that: The elimination of gender stereotypes is fundamental to achieving equality of women and men;

**Integrating the gender perspective into all activities of local and regional government** is necessary to promote equality of women and men. The gender perspective must be considered while drafting policies, methods, and instruments that affect the daily life of the local population – for example, through the use of “gender mainstreaming” and “**gender budgeting**” techniques. Local and regional authorities must promote the elimination of the stereotypes and obstacles upon which the inequalities in status and condition of women are based, giving rise to the unequal assessment of the roles of women and men in political, economic, social, and cultural terms. To this end, women’s experiences in local life, including their living and working conditions, must be analyzed and taken into account. Adequately resourced action plans and programs are necessary tools to advance equality of women and men; local and regional governments must draw up action plans and programs, with the financial and human means and resources necessary for their implementation.

<sup>165</sup> UN: Goal 5: Achieve gender equality and empower all women and girls <https://www.un.org/sustainabledevelopment/gender-equality/>

<sup>166</sup> Ratified by the Parliament of Georgia in 1995

<sup>167</sup> UN: Beijing Declaration and Platform for Action [https://www.un.org/en/events/pastevents/pdfs/Beijing\\_Declaration\\_and\\_Platform\\_for\\_Action.pdf](https://www.un.org/en/events/pastevents/pdfs/Beijing_Declaration_and_Platform_for_Action.pdf)

<sup>168</sup> The CEMR European Charter for Equality of Women and Men in Local Life [https://www.ccre.org/img/uploads/piecesjointe/file-name/charte\\_egalite\\_geo.pdf](https://www.ccre.org/img/uploads/piecesjointe/file-name/charte_egalite_geo.pdf)

<sup>169</sup> According to the data of 2019, four municipalities of Georgia have joined the European Charter on Equality of Women and Men in Local Life. In particular: the mayors of Rustavi, Kutaisi, Ozurgeti, and Lagodekhi municipalities have signed the European Charter on Equality of Women and Men in Local Life. Source: <http://nala.ge/post/256296-saqartvelos-otxi-municipaliteti-adgilobrivi-cx-ovrebas-i-galta-da-mamakacta-tanasworobis-sesaxeb-evropul-qartias-seuertda> Akhmeta Municipality joined in 2020

The role of local self-government bodies in achieving gender equality is also discussed in the Paris Local and Regional Governments' Global Agenda for Equality of Women and Men in Local<sup>170</sup> and speaks about local self-government bodies' role in achieving gender equality. The document drafted by the parties participating in the Global Conference of Local Elected Women addresses the role of local self-government bodies in achieving gender equality. The document states that to ensure adequate services, one of the key issues on the local public policy agenda should be equality between women and men. Which will help empower women and improve their condition. One of the ways to develop public services is the involvement of women in the management and monitoring process, considering and reflecting on the needs of women.

According to Article 8 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention),<sup>171</sup> financial resources: Parties shall allocate appropriate financial and human resources for the adequate implementation of integrated policies, measures, and programs to prevent and combat all forms of violence covered by the scope of this Convention, including those carried out by nongovernmental organizations and civil society.

When discussing gender budgeting, we should also refer to the existing regulatory norms directly related to the public financial management process. As already mentioned, gender budgeting combines issues related to gender equality and public financial management. In this regard, **the methodology for assessing the effectiveness of public expenditure and financial accountability** (PEFA Public Expenditure and Financial Accountability) is interesting at the international level, which is one of the most well-known and widely tested standards of public financial management assessment and is jointly developed by the World Bank and the European Commission. The assessment methodology provides a thorough, consistent, and evidence-based analysis of public financial management over a specific period. Based on this, it is possible to assess the reliability of the budget, transparency of public finances, asset and liability management, policy-based strategy and budgeting, budget execution forecasting and control, accounting and reporting, and external analysis and assessment of audit systems. In addition, the PEFA supplementary framework for **assessing gender-responsive public financial management (GRPFM)**<sup>172</sup> was introduced. The PEFA GRPFM framework is a set of supplementary indicators that build on the PEFA framework to collect information to the extent to which a country's public financial management (PFM) system addresses the Government's goals concerning acknowledging the different needs of men and women and promoting gender equality. The PEFA GRPFM is a set of nine indicators and covers the following stages of the budget cycle: policy-based fiscal strategy and budgeting, predictability and control

<sup>170</sup> GLOBAL CONFERENCE OF LOCAL ELECTED WOMEN: Local and Regional Governments' Global Agenda for Equality of Women and Men in Local, 2013: [https://www.uclg.org/sites/default/files/ENG\\_Amended%20Paris%20Declaration@31.pdf](https://www.uclg.org/sites/default/files/ENG_Amended%20Paris%20Declaration@31.pdf)

<sup>171</sup> Ratified by the Parliament of Georgia in 2017

<sup>172</sup> By order №212 of the Minister of Finance of Georgia of August 20, 2021, the preparation of the documents of the Public Expenditure and Financial Accountability Assessment (PEFA - Public Expenditure and Financial Accountability) and the Gender Responsive Public Financial Management (GRPFM - Gender Responsive Public Financial Management) 2019-2021 self-assessment reports are planned.



in budget execution, accounting and reporting, external scrutiny and audit. In addition, it covers the Government's efforts to ensure the accessibility of the information on the fiscal performance to strengthen asset and liability management. **The gender-responsive fiscal policy** combines the components mentioned above. In particular, the PEFA GRPFM indicators assess gender impact analysis of budget policy proposals, public investment management, budget circular, gender-responsive budget request forms; executive's budget proposal, or supporting documentation and quarterly or annual reports including gender-disaggregated information on performance for service delivery programs, tracking budget expenditure for gender equality, gender-responsive reporting, gender impacts of service delivery, **legislative scrutiny of gender impacts of the budget**.

In addition to international norms, when talking about gender budgeting, it is also necessary to review the records of the local/national regulatory norms. As gender budgeting combines gender equality and public finance management, it is interesting to review the local legislation, on the one hand, on public financial management, and, on the other hand, on gender equality.

Specifically, according to Article 11, Paragraph 3, "Right to Equality" of the Constitution of Georgia: The State shall provide equal rights and opportunities for men and women. The State shall take extraordinary measures to ensure men's and women's essential equality and eliminate inequality.

According to the Local Self-Government Code of the Organic Law of Georgia, the municipality is authorized, on its initiative, to take measures promoting gender equality, preventing violence against women and domestic violence, to protect and assist victims of violence against women and/or domestic violence. According to the same Organic Law, "equal opportunities should be provided for women and men in the activities of the General Assembly."

The Law of Georgia on Gender Equality sets out the fundamental guarantees of equal rights, freedoms, and opportunities for women and men as defined by the Constitution of Georgia and the legal mechanisms and conditions for their implementation in the relevant areas of public life. According to the law, the municipal budget, socio-economic development priorities, municipal programs, and plans must be developed in such a way as to exclude any form of discrimination. According to the same law, official statistical reports on gender issues include gender-disaggregated data.

According to the Law of Georgia on the Rights of Persons with Disabilities, the State promotes the employment of persons with disabilities in the public and private sectors by developing appropriate action plans and programs. Which, among other measures, may include the implementation of preferential mechanisms for the employer, special training-retraining for the person with disabilities, adaptation of the environment, financial support for a program initiated by the employer, and other benefits.

Within the framework of the Decree of the Government of Georgia of November 12, 2019, №2328 on the National Document on Sustainable Development Goals, to achieve gender equality, the objectives and relevant indicators suitable for Georgia have been developed.

According to the Association Agreement between, on the one hand, Georgia, and on the other hand, European Union and the European Atomic Energy Community and their Member States, cooperations based on information exchange and best practices may include specific issues in areas such as equal opportunities and anti-discrimination aimed at promoting gender equality and ensuring equal opportunities for men and women, as well as fight against discrimination on the grounds of gender, racial or ethnic origin, religion or belief, disability, age or sexual orientation; social policies aimed at strengthening social security and social protection systems in terms of equality, accessibility and financial sustainability.

According to the Handbook on Rules of Procedure for Development, Monitoring and Evaluation of Policy Documents within the framework of the Resolution of the Government of Georgia №629 of December 20, 2019, “when formulating goals and objectives in sector policy documents, various cross-cutting issues must be taken into consideration. Among them is the human-rights-based approach, for example, issues of gender, minorities, and other vulnerable groups”. According to the same handbook, “when working on indicators, it is feasible to focus on cross-cutting issues such as issues of human rights, gender, minorities, and people with special needs. Considering that intended results to be attained through policy implementation should equally extend to all beneficiaries, applying such indicators at the planning stage would significantly contribute to the development of inclusive policy and effective implementation. Furthermore, each goal and impact provided in a policy document must be linked to the UN Sustainable Development Goals (SDGs)”.

According to the Resolution №678 of December 31, 2019, of the Government of Georgia on Decentralization Strategy 2020–2025 and the Approval of the Action Plan for the Implementation of the Decentralization Strategy for 2020-2021, gender equality is one of the principles of the decentralization strategy for 2020-2025 and is defined as equal participation of women and men in the process of decentralization and self-realization.

According to the Pilot Integrated Regional Development Programme approved by the Government of Georgia on December 20, 2019, by Resolution №628, for the 2020-2022 Pilot Integrated Regional Development Programme (PIRDP), *Gender Equality* is defined as PIRDP implementation systems and executed measures, activities, and projects which ensure that the gap between women and men is narrowing. The program will encourage achieving the goals set in the official documents<sup>173</sup> by proper assessment of the situation of women within a strategy, plan, activity, or project. Especially, women with special needs, including representatives of national minorities, internally displaced persons, employed and self-employed women and mothers; Developing relevant gender indicators reflecting information broken down by gender and other criteria; Conducting gender impact assessment of activities and projects, providing incentives to ensure privileged access for women and vulnerable groups to the goods and services provided under the project; Preventing exclusion and

<sup>173</sup> The Constitution of Georgia, the CEDAW Convention on the Elimination of All Forms of Discrimination against Women, the Law of Georgia on Gender Equality, Action Plan of the Government of Georgia on the Protection of Human Rights 2018-2020, also the Association Agreement between Georgia and the European Union.

promoting the participation of women and other vulnerable groups when planning specific events in gender-sensitive fields; Establishing appropriate criteria for target groups of grantees to facilitate access to project-related information for women and other vulnerable groups.

According to the Resolution №182 of the Government of Georgia of April 17, 2018, on Approving Government Action Plan for Protection of Human Rights (for 2018-2020), in order to integrate the principles of gender equality in state policy, the emphasis is placed on the principles of gender equality in the process of budget formation, within capacity, on the gender analysis of the draft laws, the state budget of Georgia for 2019 and 2020, preparing recommendations and integrating them into the final documents. The indicators are as follows: Gender Impact Assessment report has been prepared, and recommendations have been integrated into the draft budget.

Issues related to gender budgeting are addressed in the action plans of the Permanent Parliamentary Council for Gender Equality of the Parliament of Georgia for different years, both in the framework of the goal of formulating a gender equality policy and the effective implementation of the state concept, as well as the support of the Parliament of Georgia in defining the main directions of state policy in the field of gender and adopting a new concept.

According to the 2015 amendment to the №385 Order of the Minister of Finance of Georgia of July 8, 2011, on Adoption of Rules and Methodology of Program Budgeting: "It is desirable that, given the specifics, if necessary, programs/sub-programs/activities sensitive to gender issues include gender assessment indicator to assess the performance of the program/sub-program/activity in this area." This methodology applies to the drafting of the state budget since 2012 and Autonomous Republics Republican and the Municipalities budgets since 2013 in the format of Program Budgeting. Accordingly, the amendment made in 2015 applies to State, Autonomous Republics Republican, and the Municipalities' budgets.

Based on the above, the records related to gender indicators can also be found in the resolutions of the Government of Georgia adopted on the measures to be taken for the purpose of compiling the document of the primary data and directions of the country for the relevant medium-term period (planning and post-planning three years).

An overview of the existing environment reveals that records on Gender Budgeting can be found in the order of the Minister of Finance of Georgia on Adoption of Rules and Methodology of Program Budgeting. In the resolutions of the Government of Georgia on the measures to be taken for the compilation of the Basic Data and Directions Document of the country for the relevant medium-term period; In the Government Resolution on the Rules of Procedure for Development, Monitoring and Evaluation of Policy Documents; On a human rights-based approach to formulating goals and objectives in sectoral policy documents, such as gender issues and, also, paying particular attention to gender issues during the development of indicators; These records are also reflected in the action plans of the Permanent Parliamentary Gender Equality Council.

Notwithstanding the above, the record on gender budgeting is not provided in the Budget Code of Georgia. Which defines the principles of formation of the budget system of Georgia, regulates the rules of preparation, review, approval, budget execution, reporting, and control of the State, Autonomous Republics Republican, and the Municipalities' program budgeting; also the rules of the budget relations and responsibilities between the Central, Autonomous Republics, Municipalities of Georgia and the legal entities created/established by them.

Gender Budgeting is considered an integral part of public financial management and good governance. However, records on Gender Budgeting are not found in the Public Financial Management Reform Strategy and Action Plans.<sup>174</sup> Also, Gender Budgeting is not mentioned in strategic documents of public administration, such as the Public Administration Reform Roadmap 2020 of Georgia, Policy Planning System Reform Strategy 2015-2017,<sup>175</sup> and the Public Administration Reform Action Plan 2019-2020.

Law of Georgia on Gender Equality, which sets out the fundamental guarantees of equal rights, freedoms, and opportunities for women and men under the Constitution of Georgia, and defines the legal mechanisms and conditions for their implementation in the relevant areas of public life, does not include the Gender Budget as a tool for Gender Mainstreaming.

Based on all the above, it is demonstrated that while records related to Gender Budgeting exist in separate documents, under the budget system's current legal framework, there is no obligation to take into account gender aspects at all stages of the budgetary process. Consequently, the stages of the budgetary process are not considered as a whole, and consideration of gender aspects (solely when necessary and as a recommendation) is only required when developing indicators.

The budgeting process should start with pre-planning and policy analysis; Gender Mainstreaming should be integrated at all levels of the budgetary process and not just when developing an indicator. GBPFM indicators, which cover the budgeting process steps, should also be taken into account.

At present, the main question in the analysis of the state, local and republican budget programs is: what criteria are used to evaluate this or that program in terms of gender sensitivity, or what is meant by broad records such as "according to the specifics of the program" and "as needed."

At present, the main issue when analyzing the state, local and republican budgeting programs is the criteria used to evaluate the different programs in terms of gender sensitivity, or the definition of broad records like "depending on the specifics of the programs" and "as needed." Consequently, the current vague record in the methodology does not guarantee the mandatory development of relevant gender indicators for gender-sensitive programs.

<sup>174</sup> The Ministry of Finance of Georgia, Public Financial Management Reform Strategy and Action Plans: <https://mof.ge/5171>

<sup>175</sup> The Ministry of Finance of Georgia, Public Financial Management Reform Strategy 2018-2021: <https://matsne.gov.ge/document/view/2953552?publication=0>

The above-mentioned is necessary to identify the target groups of the programs better and implement programs tailored to the relevant gender needs in the following budget-funded areas: education, healthcare, social protection, economy, culture, sports, infrastructure, et al., in fact, almost all areas of public life.

For example, the analysis of information provided in the program format of the state budget reveals that in gender-relevant<sup>176</sup> programs/sub-programs/activities, the gender aspect was not considered at the levels of definition and purpose, outcome, and outcome assessment indicators. This indicates that during the development of the programs/sub-programs/activities, the mentioned programs/sub-programs/activities were not considered gender-sensitive by the relevant agencies and therefore were not discussed in terms of gender relations. Consequently, a gender-specific assessment indicator was not identified during the program assessment.

In addition, the proper development of indicators is essential for gender analysis of budgeting programs. According to the above methodology, the outcome indicator should measure the realistic and achievable goal. As for the assessment indicator, it should be beneficial, result-oriented, clear and measurable, relevant and achievable, and comparative.

Gathering the necessary data is essential for developing realistic and measurable indicators. In order to develop gender indicators that reveal changes and objectives, it is vital to create a database of gender statistics reflecting the current situation. Thus, gender statistics and indicators (both qualitative and quantitative) are an integral part of Gender Mainstreaming throughout the policy cycle. On the one hand, they provide awareness through the policy-making process and interventions adapted for the different needs and priorities of women and men; on the other hand, they measure changes over time between women and men in the specific policy area, program, or activity or changes in the status or condition of women and men. In addition, statistics and indicators are an integral part of policies, programs, or projects in terms of their implementation, monitoring, and assessment.

When talking about indicators, it is also important to note that, according to the Budget Code, information on performance appraisal indicators should be reflected in the attached budget materials, meaning that the representative body does not ratify them.

The methodology for drawing up program budgeting, which was ratified by order of the Minister of Finance of Georgia in 2011, states that performance assessment indicators will be informative at the initial stage, which includes a 3-year period. Assessment indicators will not be ratified by the Annual Budget Law and will be presented in budget annexes. Notwithstanding that the “initial stage” and “transitional stage” mentioned in the document are over, the performance assessment indicators are still not ratified and are presented as an appendix.

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<sup>176</sup> **Gender Relevance** – The question of whether a particular law, policy, or program is important/relevant in terms of gender relations and/or gender equality. **Gender-sensitive** – policies and programs that address the differences in the lives of women and men and, at the same time, help eliminate inequalities and redistribute resources accordingly; Consideration of gender measures in policy analysis.

To some extent, due to the above circumstance, the indicators, including gender indicators, are defined vaguely, do not meet the principles of verifiability, are not proposed to meet the relevant criteria, and can not be used for monitoring.

These issues are clearly outlined in the number of documents on Gender Budgeting prepared by the Parliamentary Budget Office.<sup>177</sup> Issues related to Gender Budgeting at the municipal level are also addressed in the Assessment of Gender Policy of Local Self-government Bodies, implemented by the Office of the Public Defender of Georgia in the framework of the project “Joint Action for Women’s Economic Empowerment in Georgia,” with the support of UN Women.

### Recommendations:

Given that **“the budget is not gender-neutral, but could be gender-blind”**.<sup>178</sup>

- ▶ **A Working group should be established to facilitate the implementation of Gender Budgeting, with the Standing Parliamentary Council on Gender Equality of the Parliament of Georgia**, which will include parties involved in the budgetary process (Parliamentary Finance and Budget Committee, Parliamentary Budget Office, Ministry of Finance of Georgia, State Audit Office), as well as parties involved in the Gender Mainstreaming process (Administration of the Government of Georgia, Office of the Public Defender), representatives of civil society and experts.
- ▶ It is advisable to **develop a medium-term action plan within the working group to implement Gender Budgeting**. Among them, to create the necessary gender statistics databases, activities should be planned in the medium term to develop a system of indicators.
- ▶ Within the working group framework, it is advisable to develop the necessary recommendations for reflecting Gender Budgeting as a tool on Gender Mainstreaming in the legislation, particularly in the Budget Code, in the Law of Georgia on Gender Equality.
- ▶ It is advisable to develop a document of guidelines/ methodology for Gender Budgeting within the working group.
- ▶ In order to facilitate the implementation of Gender Budgeting at the level of the republican budgets of the Autonomous Republics, as well as the budgets of the Municipalities, relevant issues must be reflected in the action plans of the Gender Equality Councils of the Autonomous Republics and Municipalities. Particular emphasis should be placed on issues of preparing gender statistics.

<sup>177</sup> The Parliamentary Budget Office of Georgia: Gender Analysis of the State Budget [http://pbo.parliament.ge/media/k2/attachments/saxelmciso\\_biujetis\\_genderuli\\_analizi\\_2019.pdf](http://pbo.parliament.ge/media/k2/attachments/saxelmciso_biujetis_genderuli_analizi_2019.pdf)

The Parliamentary Budget Office of Georgia: State Budget in the Context of Gender [http://pbo.parliament.ge/media/k2/attachments/gender\\_budget\\_2018.pdf](http://pbo.parliament.ge/media/k2/attachments/gender_budget_2018.pdf)

Opinions of the Parliamentary Budget Office of Georgia on Consideration of Aspects of Gender Equality in the Draft Law of Georgia on the State Budget of Georgia for 2016 <https://web-api.parliament.ge/storage/files/shares/Gender/gender-2016-biujetis-analizi.pdf>

<sup>178</sup> Budgets are not gender-neutral but gender-blind

- ▶ According to the Law of Georgia on Gender Equality, collaborative work between the Gender Equality Councils and The Permanent Parliamentary Gender Equality Council should be ensured. It is essential that **the Permanent Parliamentary Gender Equality Council actively cooperates with the Gender Equality Councils of the Autonomous Republics and Municipalities to address Gender Budgeting issues in their action plans.**
- ▶ **Develop a Gender Budgeting Training Module** at the Parliament Training Center. In addition to Gender Budgeting issues, which will combine the issues of separate areas, including matters related to the gender significance of the tax system and legislation and within which the Office of Parliament. Specifically, the staff of the Sectoral Committee will gain knowledge/skills in subjects related to Gender Budgeting.
- ▶ The active involvement of gender experts is crucial for implementing Gender Budgeting. Consequently, within the existing mechanisms of citizen involvement in the budgetary process, it is desirable to develop effective mechanisms for collaborative work between sectoral committees of the Parliament and representatives of civil society working on gender issues in the relevant field, including the persons with disabilities, and experts. This kind of collaborative work will help to identify the challenges related to Gender Mainstreaming in the relevant field, as well as will intensify the consideration of gender aspects during the committee discussions of budget documents (the Ministries Main Direction Document, Basic Data, and Direction Document (BDD), Draft Budget Law of the State, State Budget Execution Reports), which is especially important in the context of PEFA GBPFM.
- ▶ During the Parliament's Sectoral Committees discussion of budget documents, including the Ministries Main Direction Document, the Draft Budget Law, Basic Data and Direction Document (BDD), the Draft Law on Amendments to the Budget Law, the Budget Execution Reports, and especially the Annual Execution Report it is desirable to **pay special attention to gender issues**, including, according to the specifics of the programs, one of the indicators for evaluating the program in relation to gender-sensitivity is the assessment indicator of the gender aspect of the program and, therefore, it is advisable to **reflect the relevant opinions and recommendations in the committee conclusions.** Mentioned above is especially essential in the context of PEFA GBPFM.
- ▶ Since Gender Budgeting implies the integration of gender aspects not only in taxes but in revenues as well, it is, therefore, desirable for The Permanent Parliamentary Gender Equality Council, together with the relevant sectoral committees, to **study the gender aspects of tax policy in Georgia;**
- ▶ **The Sectoral Committees should separate** in their action plan, and annual activity reports the **measures to be taken/implemented** by the Sectoral Committees **to facilitate the implementation of gender budgeting.**

## B. GENDER IMPACT ASSESSMENT

### b.1. The Essence and Importance of Gender Impact Assessment

When drafting legislation, planning policies, programs, and projects, The European Commission attaches particular importance not only to the use of the Gender Budgeting method of Gender Mainstreaming but also **Gender Impact Assessment** (GIA).

According to the European Commission, Gender Impact Assessment is a process of comparison and evaluation constructed on relevant criteria based on gender. It should identify the current trend, as well as the expected consequences of possible policy implementation. The findings of the Gender Impact Assessment contribute to better policy-making, which, in turn, is a prerequisite for good governance.

The result of effective implementation of Gender Impact Assessment is the recognition of inequalities in the lives of women and men and the corresponding change in policies and practices. Gender Impact Assessment is based on criteria for evaluating differences between women and men, such as participation, resources, norms and values, and rights.

In international practice, gender impact is essential for Regulatory Impact Assessment (RIA) methodologies. For example, the EU Impact Assessment Guide on social impact requires assessments of legislative initiatives, policies, or programs regarding gender equality, equal treatment, and opportunities. It answers the following question – what different effects does the existing initiative have on women and men, and if this initiative promotes equality between men and women.

Finish State Impact Assessment Guide, in its part on social impact assessment, considers gender impact and explores whether the proposed initiative will have an impact on equal treatment of women and men at work, financial matters, childcare, balancing work and family, or in other aspects relevant to equality between women and men. Consequently, Gender Impact Assessment, as part of the RIA, creates a kind of political commitment to ensure that gender issues are not overlooked in the policy-making process when proposing new initiatives and policies.

### b.2. Regulatory Norms

Regulatory norms are a prerequisite for implementing both gender budgeting and gender impact assessment; therefore, the types of records found in this field both internationally and locally/nationally are of utmost importance.

In particular, according to the Pilot Integrated Regional Development Programme approved by the Government of Georgia on December 20, 2019, by Resolution №628, for the purposes of the 2020-2022 Pilot Integrated Regional Development Programme (PIRDP), the Gender Impact Assessment of activities and projects within the framework of gender equality is prepared.

According to the Resolution №182 of the Government of Georgia of April 17, 2018, on the Approval of the Government Action Plan for the Protection of Human Rights (2018-2020),



within the framework of the task of implementing gender analysis and defining a mechanism for accountability in order to integrate the principles of gender equality into state policy, the focus is on piloting the Gender Impact Assessment of bills and policy documents. The indicators are as follows: as part of a pilot program, a Gender Impact Assessment of a minimum of one document is carried out per year; a Gender Impact Assessment report is submitted when submitting all bills.

Action Plans of the Permanent Parliamentary Gender Equality Council of the Parliament of Georgia within the framework of the goals of formulating a gender equality policy and effective implementation of the state concept, define the main directions of state policy in the field of gender by the Parliament of Georgia and support the adoption of a new concept, one of the actions includes activities related to Gender Impact Assessment.

In the document of the Regulatory Impact Assessment Methodology approved under the Organic Law of Georgia on Normative Acts of Georgia (Resolution №35 of the Government of Georgia of January 17, 2020) is outlined the list of legislative acts (20 legislative acts), when preparing a draft law on amendments, it is mandatory to prepare a regulatory impact assessment report as well.

The Regulatory Impact Assessment, along with several other areas, should include social impact assessment, which is seen as an impact on the community's well-being, the challenges, and opportunities facing members of the community or specific groups.

The types of influences related to the social dimension are indicated as follows: equality, including gender equality, social equality, social inclusion, healthcare, work environment, education, culture, crime, terrorism, security, et al.

Document №385 of the Order of the Minister of Finance of Georgia of July 8, 2011, on the Approval of the Program Budgeting Methodology since 2016 has the attachment of the investment project management methodology, which was developed based on the Resolution №191 of the Government of Georgia of April 22, 2016, on the Approval of the Investment Project Management Guide. The methodology envisages the development of a unified cycle of investment project management that defines their management rules and procedures, roles and responsibilities of the participating parties for all stages of the public investment management process before implementing investment projects. The methodology discusses all stages of the project life cycle: project pre-selection, project evaluation, project selection/budgeting, project implementation, project monitoring, and post-project evaluation.

In the methodology, we find the entry about gender in two places. The first is in the context of the definition of terms. It reads that social impact assessment assesses the potential negative and positive social consequences of a project, such as income redistribution, poverty, unemployment, gender equality, and et al. Social impact assessment does not analyze the extent of the loss and benefits of the whole community, but instead it is the study of who suffers and who benefits as a result of the project (the latter is assessed during a cost-benefit

analysis). We encounter the second record at the stage of analysis, which states that “Given the content of the project, another aspect of environmental and social analysis may include the assessment of the differentiated impacts of the project on certain ecosystems/areas or social groups that differ in geographical location, social status, income, ethnicity, gender, and other similar factors.”

Records around the subject make it evident that Gender Impact Assessment is viewed as part of the social impact of regulatory impact assessment. Consequently, there is no legal basis for the mandatory preparation of a Gender Impact Assessment as a separate document from a regulatory impact assessment.

A guide to preparing a Gender Impact Assessment has been generated, but it is not legally binding, unlike the regulatory impact assessment methodology. It is noteworthy that, using this guide, a Gender Action Assessment document on several topical issues was prepared by the sectoral committees within the framework of the Action Plan of the Permanent Parliamentary Gender Equality Council. It is also important to assess the gender impact of the Drug Policy Reform in Georgia, the Labor Law Reform, and the Draft Law of Georgia on Physical Education and Sport.

### **Recommendations:**

Taking into consideration that the purpose of Gender Impact Assessment is **Do No Harm:**

- ▶ **In order to institutionalize the Gender Impact Assessment Mechanism, it is desirable to establish a working group with The Permanent Parliamentary Gender Equality Council of the Parliament of Georgia,** which will include parties involved in the legislative process and gender mainstreaming, representatives of civil society, and experts.
- ▶ **Develop a medium-term action plan to implement a Gender Impact Assessment Mechanism** within the working group.
- ▶ Within the working group framework, it is advisable **to develop the necessary recommendations in the legislation (Georgian Law on Gender Equality, Organic Law of Georgia on Normative Acts) to record the Gender Impact Assessment Mechanism as a tool for gender mainstreaming.**
- ▶ It is advisable to **define the list of legislative acts in which the preparation of a draft law on amendments will make it mandatory to prepare a Gender Impact Assessment Report** within the working group. **At the same time, it is also advisable to identify the entities with the right of legislative initiative, which, in case of initiating the defined legislative acts, will need to prepare a GIA document.**
- ▶ Within the working group, **develop recommendations on the legal basis of using the existing manual document on Gender Impact Assessment to prepare the GIA report.**

## C. GENDER AUDIT

### c.1. The Essence and Importance of Gender Audit

*Gender Audit* is a gender mainstreaming tool that evaluates and verifies the institutionalization of gender equality within the organization. Gender Audit is essentially a “social audit” and belongs to the category of “qualitative audit,” which differentiates it from the traditional “financial audit. The latter includes consideration of gender equality in the organization’s policies, programs, projects and/or service delivery, structure, procedures, and budget.”

Although there is no standard approach to Gender Auditing, international organizations use two main approaches: Participatory Gender Audit (PGA) and gender integration framework. The International Labor Organization (ILO), one of the first to conduct a gender audit, defines *Participatory Gender Audit* as a tool and process based on the participatory methodology that promotes Gender Mainstreaming through organizational training. In addition, it assesses the effectiveness of the implementation of Gender Mainstreaming by the organization in its structure, processes, procedures, policies, programs, projects, and services provided; it Verifies the level of institutionalization of Gender Mainstreaming in these areas.

In 1999, the Gender Integration Framework was developed in the United States by a large alliance of international NGOs and partners (InterAction). According to this framework, to transform gender-unequal organizations into gender-sensitive organizations, it is necessary to implement Gender Mainstreaming in the following four elements of the organization: political will and leadership, technical capabilities, accountability, and organizational culture.

Gender Audit includes two dimensions: internal and external audit. Internal audit refers to how an organization promotes gender equality within its institution through its organizational, structural, and internal activities. An external audit evaluates the extent to which an organization conducts Gender Mainstreaming in its policies, programs, projects, and services in terms of content, delivery, and evaluation. An external audit also examines the extent of promoting inclusion through Gender Mainstreaming and how it benefits women and men involved in and/or the beneficiaries of policies, programs, projects, or services provided.

Concerning Public Audit, international practice examines gender equality audits (so-called Gender Audits) mainly in the context of performance audits, which should be conducted to assess gender equality in policies or programs. That is necessary to determine the degree of government compliance with national/local and international commitments on gender equality, including: the implementation in local legislation, policies, and action plans; identification and study of the gender-specific impacts of government programs; outlining recommendations for improving development, implementation, and outcome of specific government policies and programs, which in turn will contribute to better results for gender equality. Publicizing audit reports, both inside and outside the Government, will raise awareness of gender equality issues and their impact on citizens’ lives. Audit reports may highlight the successes and challenges of the State in achieving gender equality.

## c.2. Existing Environment Overview

According to the Law of Georgia On State Audit Office, the State Audit Office is a supreme body of state financial and economic control, which conducts audits. Organic law defines types of audits, including financial,<sup>179</sup> compliance,<sup>180</sup> and performance audits.<sup>181</sup>

According to the Law of Georgia on Public Internal Financial Control, an internal audit entity is a structural subdivision (unit) of an institution or a unit subordinate to the institution authorized to conduct an internal audit. The law defines the types of financial audit, compliance audit, performance audit, systems based audit, and IT systems audit.

According to the Organic Law of Georgia on the State Audit Office, unscheduled financial and/or compliance audits are conducted based on the appeal of the Parliament of Georgia and the Temporary Commission of Inquiry of the Parliament of Georgia.

According to the procedure documents for the preparation of the Annual Audit Plan, when selecting potential audit topics, the State Audit Office should consider, among other things, the importance of the issue in terms of the field/agency, such as high public interest in the sector/agency, which is reflected in the stakeholders (parliament, government, civil society, international and donor organizations, media, and citizens) appeals to the State Audit Office, in particular, and appeal from an interested party to conduct an audit of a specific sector/agency.

### Recommendations:

- ▶ The Standing Parliamentary Council on Gender Equality of the Parliament of Georgia should select a noteworthy topic to conduct an audit in the context of gender equality issues.
- ▶ The Standing Parliamentary Council on Gender Equality of the Parliament of Georgia should appeal to the State Audit Office to conduct an audit.

<sup>179</sup> Financial audit involves: examining and evaluating reports and financial statements of an auditee, and issuing relevant audit reports; examining and evaluating reports and financial statements of the Government of Georgia, and issuing relevant audit reports; checking the compliance of relevant activities and financial systems with the legislation of Georgia; checking internal control and internal audit functions; checking whether an auditee is managed properly and in good faith; examining, evaluating and reporting on any issue related to audit activities that are of critical importance for improving the management of public funds;

<sup>180</sup> Compliance audit involves checking, evaluating, and reporting on the lawfulness and reasonability of the activities of an auditee;

<sup>181</sup> performance audit involves examining, evaluating, and reporting on the economy, efficiency, and effectiveness of the activities and/or programmes/projects carried out by an auditee;