

Public Defender of Georgia

REPORT ON FEMICIDE
MONITORING:
GENDER-RELATED
KILLINGS OF WOMEN

Analysis of Criminal Cases
Committed in 2017





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Introduction

Despite the steps taken in the direction of preventing violence against women and domestic violence, the high number of gender-related killings of women – femicide – remains a challenge.

The ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence by the Parliament of Georgia in 2017 is notable due to the institutional and legislative regulation of violence against women and domestic violence it sets out, as well as the establishment of the Human Rights Department at the Ministry of Internal Affairs of Georgia. This Department was charged with monitoring the administrative case proceedings and investigations into cases of violence against women and discrimination-related crimes.¹

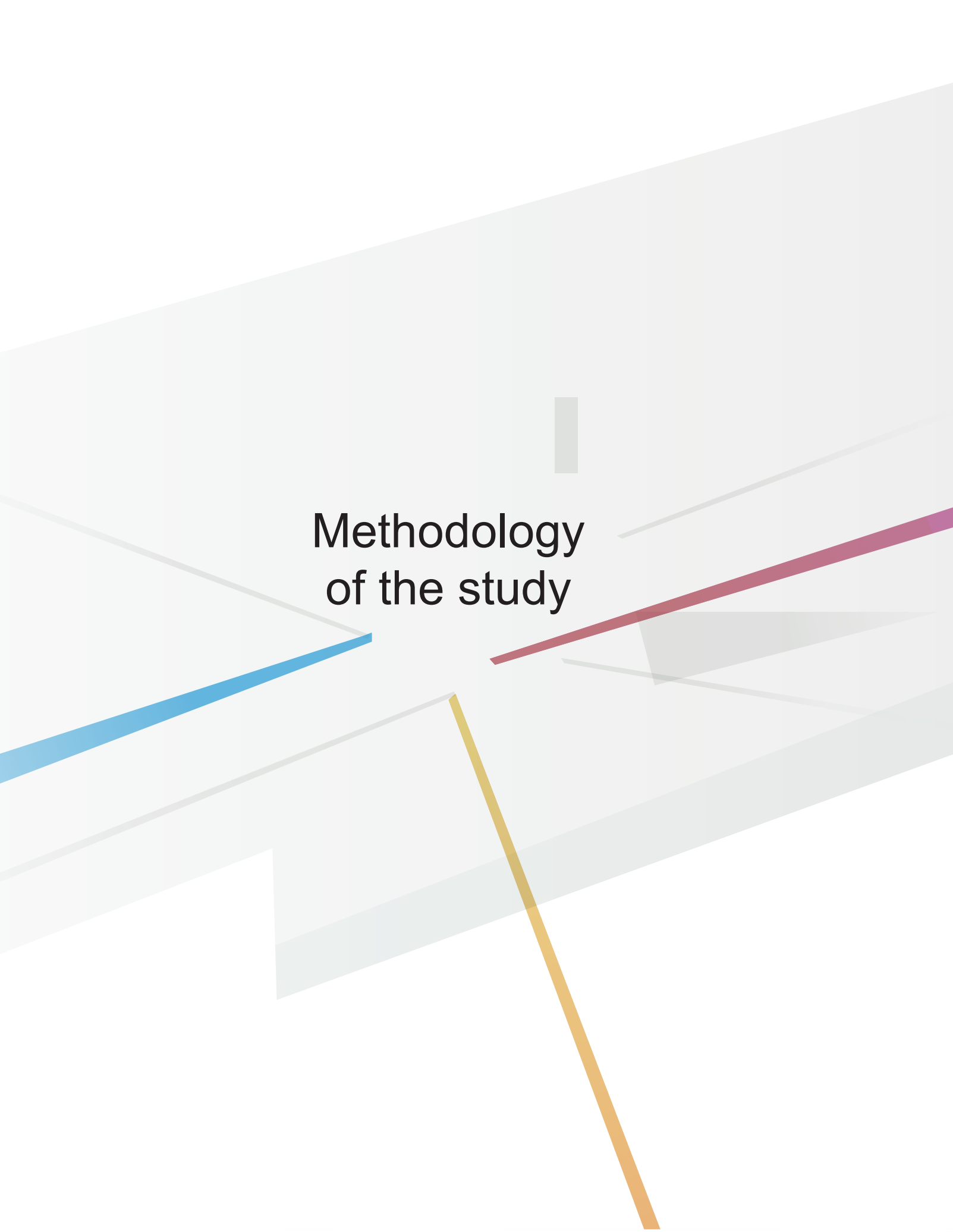
In the same year, the Ministry of Internal Affairs of Georgia submitted a legislative package to the Parliament of Georgia, according to which, commission of a crime on the grounds of gender will be regarded as an aggravating circumstance when considering punishment in relation to a number of crimes.² The legislative package is currently under consideration and the Public Defender hopes that Parliament will support the amendments.

The Public Defender of Georgia has been monitoring cases of femicide based on a specially developed methodology since 2016. The aim of the monitoring is to analyze each case of gender-related murders of women, murder attempts and actions that pushed women toward attempting or dying by suicide. Additionally, the monitoring will identify shortcomings in the victim protection mechanisms in order to improve and further develop them.

The present report is a special report developed by the Public Defender's Office within the framework of the femicide monitoring mechanism. The report analyzes crimes committed in 2017. It is hoped that the findings and recommendations included in this report will be considered during the planning and implementation of the state policy against femicide.

¹The statute of the Human Rights Department of the Ministry of internal Affairs: <https://police.ge/ge/ministry/structure-and-offices/adamianis-uflebata-datsvis-departamenti?sub=11451>

² Murder (Article 109), action that brought a person to suicide (Article 115), intentional infliction of serious damage to health (Article 117), intentional infliction of less serious damage to health (Article 118). Additionally, murder of a family member is an aggravating circumstance for Article 109 of the Criminal Code, and infliction of serious damage to health of a family member in the presence of a juvenile is an aggravating circumstance for Articles 117 and 118 of the Criminal Code of Georgia.



Methodology of the study

1.1. Methodological framework

The Public Defender's Office has developed a methodological framework for monitoring killings of women (femicide), which was used during the preparation of this report.³

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

"Femicide is the gender-related killing of a woman, or simply the killing of a woman, the context or motive of which is related to gender-based violence against the woman, discrimination or woman's subordinate role. It is motivated by a sense of entitlement to or superiority over the woman, an assumption of ownership of the woman, by a desire to control the woman, or any other gender-related reason. Any action that brings a woman to die by suicide for the above-mentioned reasons is also regarded as femicide."

The killing of a woman does not automatically mean that the case can be defined as a femicide. According to the Latin American Model Protocol for the investigation of gender-related killings of women, it is necessary that the killing or death of a woman be related to her gender identity in order to categorize it as a femicide. In particular, there must be certain indications that the motive or context of the murder is related to gender-based violence and/or discrimination.⁴

When analyzing judicial cases, the motives for femicide were regarded as important in the present study, which include:

- ✓ discriminatory or sexist attitudes towards the victim;
- ✓ assumption of ownership of the woman;
- ✓ behavior control;
- ✓ forcing the victim to obey stereotypical gender roles.

A victim's disobedience and/or resistance to the stereotypical behavior assigned to her gender identity has been identified as a reason/motive for an offender to commit a crime.

1.2. Methodological specifics and limitations of the study

Femicide monitoring includes three stages. It is important to emphasize the methodological specifics in the study process that influenced the study methodology and results.

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

⁴Latin American Model Protocol for the Investigation of Gender-related Killings of Women (femicide/feminicide), hereinafter Latin American Model Protocol, OHCHR Office in Latin America, ISBN 978-9962-5559-0-2, pages 13-14.

At the first stage of the study, statistical data on femicide, information about criminal prosecution and verdicts were requested from the Ministry of Internal Affairs, the Prosecutor's Office and the common courts.

Information was requested related to articles of the Criminal Code of Georgia, which could be used to assess cases of femicide, in particular: premeditated murder (Article 108 of the Criminal Code of Georgia), premeditated murder under aggravating circumstances (Article 109), premeditated murder in a state of strong mental agitation (Article 111), intentional infliction of grievous harms to health leading to death (Article 117.2), action that brought a person to suicide (Article 125), and attempted murder (Articles 19, 108 and 19, 109).

The verdicts delivered by courts under the articles of the Criminal Code, which might include signs of femicide, were also requested. Namely, rape of a woman leading to the victim's death (Article 137.4.b), other sexual behaviors leading to the victim's death (Article 138.3.b), illegal abortion that caused death (Article 133.3), sterilization without consent that caused death (Article 133¹.3), mutilation of woman's genitals that caused death (Article 133².3), human trafficking that caused death (Article 143¹.4.b), and torture that caused death (Article 144¹.3.c).⁵

Article 118.2 of the Criminal Code, which pertains to intentional infliction of less grievous damage to health that still leads to death and which may include signs of femicide, was also added to the list of above-mentioned articles.

The problems identified at the first stage of monitoring include the maintenance and timely provision of femicide statistics by state agencies. In addition, due to the lack of a uniform methodology for statistics, the statistical data on gender-related killings of women often do not coincide with each other or are contradictory, which hampers the coordination of and complicates work between agencies.

Verdicts were analyzed at the second stage of the study, the aim of which was to identify the cases of femicide or femicide attempts.

At the third stage of the study, case materials related to verdicts delivered in cases of femicide or femicide attempts were requested from the common courts. Notably, the problem of timely provision of information complicated and delayed the process of analyzing the cases.

Given this, the present report does not reflect the results of quantitative research, and therefore, the statistical information included in this report represents information requested from the courts and obtained from the provided case materials and should not be perceived as complete/accurate statistics on murders or attempted murders of women committed in 2017.

⁵ According to the letter (№P-220-18) received from the Supreme Court of Georgia on May 30, 2018, none of the cases was discussed under the mentioned articles in the district courts of Georgia in 2017.



Study methods

In 2018, the Department of Gender Equality of the Public Defender's Office of Georgia requested information about cases of femicide and attempted femicide from the Ministry of Internal Affairs of Georgia, the Prosecutor's Office of Georgia and the common courts for the purpose of monitoring cases of femicide. Information from the Court of First Instance, the Court of Appeal and the Supreme Court was requested at several stages.

For the objectives of this study, the Public Defender requested information about criminal prosecutions and investigations into cases of femicide that were terminated in 2017 from the Prosecutor's Office. This information was analyzed within the framework of this study.

In 8 cases, criminal prosecution was terminated due to mental health concerns. In one of the cases, investigation was terminated due to mental health concerns. In one case, investigation was terminated due to a lack of evidence for crime. 3 cases were terminated due to the death of the accused person. Analysis of the documents shows prevalent termination of criminal investigations and prosecutions due to mental health concerns of the defendant, which is symptomatic of femicide. No problems have been identified as a result of analyzing the above-mentioned information. Criminal prosecutions and investigations were terminated in accordance with the law in each case.

Copies of the verdicts delivered by the courts relating to cases of murders and attempted murders of women committed in 2017 were requested from all Courts of First Instance, as well as the Kutaisi and Tbilisi Courts of Appeal and the Supreme Courts.

A total of 37 verdicts were provided by the common courts to the Public Defender's Office.⁶ After studying the verdicts, it was decided to request case materials for only 16 of those cases. For 11 of the remaining cases, the crimes were not committed in 2017 and 10 cases did not show a gender-related motive for the crime. After studying the case materials, only 16 cases⁷ – 10 murders of women and 6 attempted murders of women – were selected for the study.

In 4 out of the 10 analyzed cases of femicide, verdicts were delivered by the Tbilisi City Court, 1 verdict was delivered by each of the Akhaltsikhe District Court, the Telavi District Court, the Rustavi City Court, the Mtskheta District Court and 2 verdicts were delivered by the Kutaisi District Court. In 2 out of the 6 attempted murders that were analyzed, verdicts were delivered by the Tbilisi City Court, and 1 verdict by each of the Bolnisi District Court, the Gurjaani District Court, the Telavi District Court and the Mtskheta District Court. In each case, the crime was committed in 2017.

⁶ In 2 cases, verdicts were provided to us twice, since it had been sent both by the Court of First Instance and the Court of Appeal. Several courts sent the same verdicts twice; the Court of Appeal and the Court of First Instance sent the same verdicts in some cases.

⁷ It should be noted that since courts do not maintain statistics on the verdicts or information requested by us, and that considerable time, as well as resources, are needed to find and process the requested information, provision of information from the courts was a difficult process. As a result, when analyzing the information requested in this manner, the study cannot claim responsibility for the statistical accuracy and only analyzes those cases, verdicts and case materials that were provided by the courts.

This study showed that the state of domestic violence in Georgia has not changed. Unlike 2016, where two cases were the result of violence against women and not domestic violence⁸, all cases of femicide committed in 2017 were the direct outcome of domestic violence.

Statistical information: 9 cases of femicide

Crime committed by:

- ✓ Husband - 5 cases;
- ✓ Partner - 1 case;
- ✓ Former husband - 1 case;
- ✓ Family member - 1 case;
- ✓ Partner's son - 1 case.

Motive:

- ✓ The motive for the crime was indicated only in 7 of the 9 cases:
- ✓ Revenge on the grounds of an argument - 1 case;
- ✓ Revenge on the grounds of jealousy - 3 cases;
- ✓ Jealousy - 1 case;
- ✓ Jealousy on the grounds of being offended - 1 case;
- ✓ Revenge - 1 case;

Crime scene:

- ✓ The victim and offender's house - 3 cases;
- ✓ The offender's house - 2 cases;
- ✓ The house of the offender's parents - 1 case;
- ✓ Public space (street, ritual hall, etc.) - 3 cases;

Weapon used to commit the crime:

- ✓ Knife - 3;
- ✓ Hunting gun - 2 ;
- ✓ Setting fire to a body with gasoline - 1;
- ✓ Rope - 1;
- ✓ Electrical wiring - 1;
- ✓ Beating - 1;

Categorization of crimes

In 5 cases, crimes were categorized as a murder of a family member (three cases under Articles 11¹-108 of the Criminal Code of Georgia; one case was categorized under Articles 11¹-108, 126¹.1, 11¹-151 of the Criminal Code of Georgia; and one other case under Articles 11¹, 108, 126.1, 19 and subparagraph "a" of paragraph 3 of Article 109).

⁸ Femicide Monitoring Report: Gender-related Killings of Women, analysis of criminal cases committed in 2016, the Public Defender of Georgia, 2017.

One case was categorized as an intentional infliction of grievous damage to health causing death (Articles 11¹-117–8 of the Criminal Code).

One case was categorized as an action that led a family member to suicide (Articles 11¹-115).

One case was categorized as a premeditated, particularly brutal murder of a family member (Articles 11¹-109-3, b).

One case was categorized as a premeditated murder committed in a state of strong mental agitation (paragraph 1 of Article 111).

Sentence: The Court considered all the 9 cases based on their fundamental characteristics. The minimum actual sentence was a 2-year imprisonment and the maximum was a 17-year imprisonment.

Education and employment: In 5 out of the 9 cases, it was indicated that the offender graduated from high school; two cases indicated that the offender has a diploma from a technical college; one offender does not have a diploma of any kind; and one offender has a higher education degree.

In 8 out of the 9 cases, it was indicated that the defendant was unemployed, while one case indicated that the defendant was employed.

Ethnic origin: In only one of studied cases, both the victim and the defendant represent ethnic minorities.

Criminal record: Two cases (verdicts) do not contain information about the offender's previous convictions (if any) and seven cases (verdicts) indicate that the offender had not been previously convicted.

Statistical information: 8 attempted femicides

Crime committed by:

- ✓ Husband - 4 cases
- ✓ Former husband - 2 cases
- ✓ Family member - 2 cases

Motive:

- ✓ The court indicated the motive of the crime only in 5 cases:
- ✓ Jealousy - 3 cases
- ✓ Argument - 1 case
- ✓ On the grounds of everyday living conditions - 1 case

Crime scene:

- ✓ Public space - 1 case
- ✓ The yard of the victim and offender's shared house - 3 cases

- ✓ Victim's workplace - 1 case
- ✓ The house of the offender's father - 1 case
- ✓ The victim and offender's shared house - 2

Weapon used to commit the crime:

- ✓ Knife - 5
- ✓ Hunting gun - 1
- ✓ Mop – 1
- ✓ Systematic domestic violence (attempted incitement to suicide) - 1

Categorization of the crime:

One case was categorized as an intentional attempted murder (Articles 19-108 of the Criminal Code of Georgia).

Two cases were categorized as premeditated attempted murders of family members (one case was categorized under Articles 11¹-19-108 and the other case was categorized under Articles 11¹-19 -108 and Article 236.2).

In 2 cases, the crimes were assessed as particularly brutal attempted murders (Articles 11¹-19 and subparagraph “b” of paragraph 3 of Article 109).

In one case, the crime was categorized as an attempted murder committed in a state of strong mental agitation (Articles 19 -11¹).

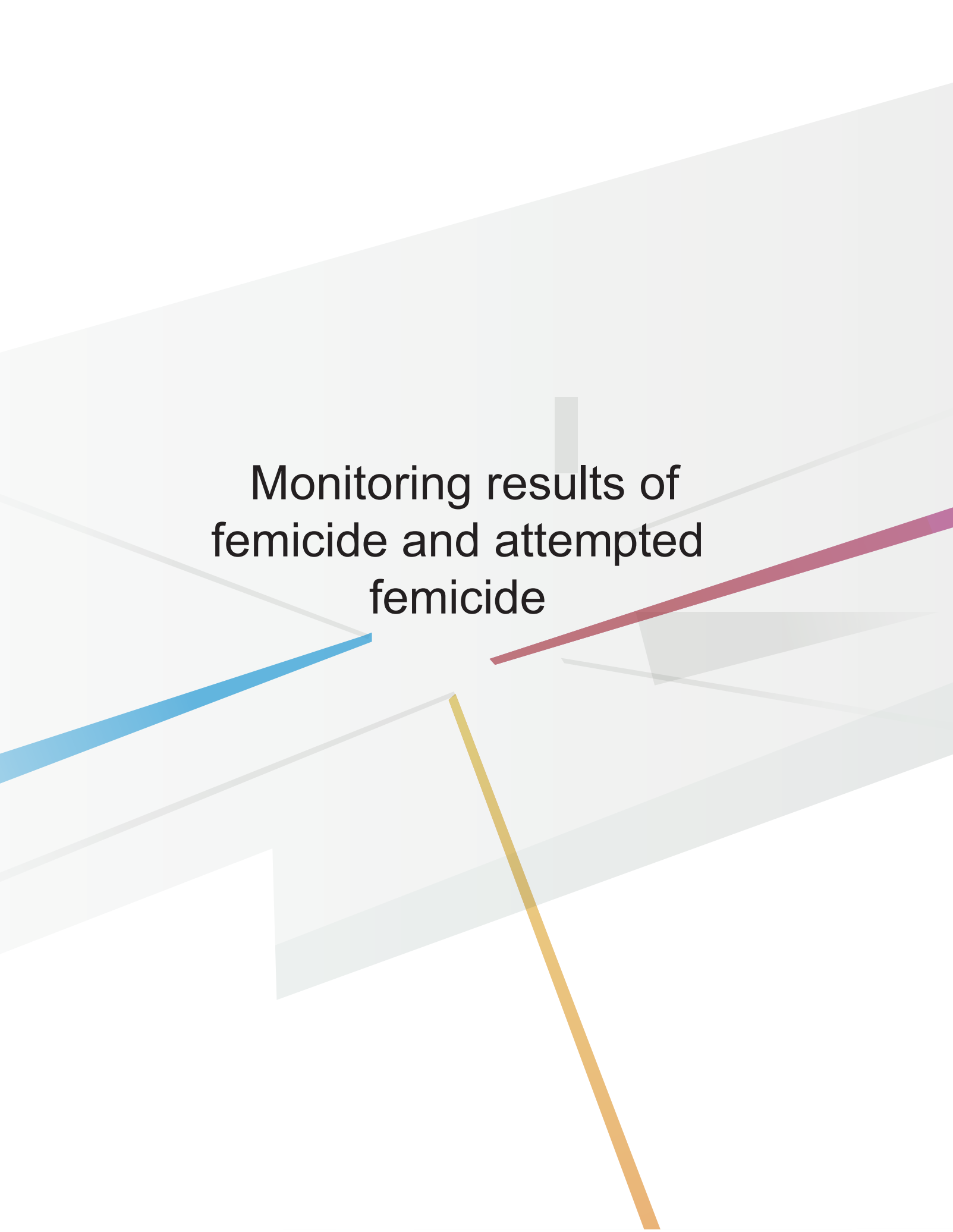
One case was categorized as an intentional infliction of grievous life-threatening damage to health (Articles 126¹-2, “b” and “c”, 11¹–117-1).

One case was assessed as domestic violence (Article 126-1, subparagraph “b” – domestic violence in the presence of minor) and as an attempted incitement to suicide (Article 11-1, 115).

Sentence: All cases were considered based on their fundamental characteristics. A plea bargain has not been signed in any of the cases. The minimum actual sentence was a one-year imprisonment and the maximum was a 9-year imprisonment.

Education and employment: In 4 out of the 8 cases of attempted femicide, it was indicated that the offender has a high school diploma; in 2 cases, the offender did not complete high school; and 2 offenders have higher education degrees. In 6 out of the 8 cases, it was indicated that the offender was unemployed, and only 2 cases indicated that the offender was employed.

Criminal record: It was indicated in 4 cases (verdicts) that the offender had not been previously convicted; 2 cases (verdicts) do not contain information about the offender's criminal record; and in one case, the offender had been previously convicted.



Monitoring results of femicide and attempted femicide

3.1. Gaps at the stage of investigation

It is important to highlight the role of an investigative body in correctly defining cases of femicide and attempted femicide and in obtaining evidence proving a discriminatory motivation for the crime. Due to the specificity of the legislative framework in Georgia, judges are deprived of the opportunity to independently obtain evidence. Their role is passive in this regard, and is limited to asking clarifying questions in exceptional cases when in agreement with both parties in order to ensure a fair trial.⁹ Given this, the failure of the prosecution to present adequate evidence deprives the court of the opportunity to identify a discriminatory motive.

Case analysis shows that procedural actions were conducted at the stage of the investigation in a timely manner, without delay. On a positive note, the affected persons were granted victim's status within a reasonable timeframe. However, certain shortcomings were found at the stage of the investigation.

In a case considered by the Bolnisi District Court,¹⁰ the failure to recognize an intended victim as a victim became problematic. The accused, who intended to kill his wife, mistakenly stabbed another woman and inflicted serious harm to her. The Prosecutor's Office granted victim's status only to the woman the offender injured, while the offender's wife, who was the real target of the offender and who likely suffered moral injury, has not yet been granted victim's status.

It is important to note that questions were not during the investigation or the trial to understand any harms suffered by the defendant's wife. Additionally, the investigator was not motivated during questioning to identify if the crime was gender-motivated.

It is important to grant victim's status to the defendant's wife, which would allow her to access to the criminal case materials and the protection and assistance mechanisms provided by law to prevent violence against women and/or domestic violence. Having victim's status would also grant her protection and assistance to victims of violence, including the victim's right to receive information about the offender's release or escape from prison, if the offender temporarily leaves prison under Article 27 of the Imprisonment Code, or if the offender leaves a facility that prepares prisoners for release under paragraph 3 of Article 71⁶ of the Imprisonment Code.

A problem with the categorization of a case was detected in one of the cases¹¹ considered by the Telavi District Court. According to the case materials, G.G. splashed gasoline on his wife and set fire to her after having an argument with her. As a result, the woman died. The Prosecutor's Office subjected G.G.'s action to Articles 11¹ - 117 – 8 of the Criminal Code of Georgia: intentional infliction of serious injury to a family member that caused death. The court sentenced G.G. to 11 years in prison.

⁹ Article 25 of the Criminal Code of Georgia.

¹⁰ Verdict delivered by the Rustavi City Court on 14 November 2017 (case #1-283-17).

¹¹ Verdict delivered by the Telavi District Court on 12 June 2017; case #1-104-17;

Despite the defendant's position that he did not intend to kill his wife and that his purpose was to punish her, the analysis of the case materials showed a problem with the categorization of the case. The combined consideration of the subjective and objective circumstances of the available evidence makes it clear that the case should have been identified as premeditated, particularly brutal murder. Unfortunately, the Prosecutor's Office did not pay proper attention to the relationship between the defendant and the victim before the crime (i.e., the situation preceding the crime) or the method of the murder (splashing with gasoline and setting on fire), which is particularly torturous and dangerous for human life. It is also important to note that the defendant did nothing to save the victim, which makes his intention of only inflicting punishment upon her doubtful.

Problems identified at the stage of interrogation were related to stereotypical and discriminatory attitudes by investigators.¹² The investigator who interrogated the victim's "boyfriend" (the reason for the defendant's jealousy) as a witness asked questions unrelated to the investigation: "Where were you meeting with victim?"; "What time of day were you meeting with victim?"; "How many times and where did you have sexual intercourse with the victim?"; "Do you have information on whether the victim had other boyfriends?". These questions show the investigator's gender-insensitive and stereotypical attitudes in the process of the investigation and insult the victim's dignity.

In one of the cases considered by the Mtskheta District Court¹³, the court and investigators showed stereotypical and discriminatory attitudes towards the victim. They assumed that she had insulted her husband, which led to the murder attempt. The main focus of the court and the investigation was on blaming the woman for provoking the accused to commit the crime. This bias is indicated both in the indictment and the Mtskheta District Court's verdict.

In another case¹⁴ considered by the Mtskheta District Court, another woman was blamed for provoking her spouse to commit the crime. Notably, according to the verdict, "the defendant was influenced by his wife's immoral behavior, adultery and insults", which resulted in her murder.

It should be noted that the use of paragraph 2 of Article 53¹ of the Criminal Code¹⁵ by the Prosecutor's Office and the courts increased in 2017 compared with 2016¹⁶.

In particular, the Prosecutor's Office and the courts used it in 14 cases. However, the Prosecutor's Office and the courts only formally referred to the mentioned article when delivering a verdict, and almost never consider it in relation to specific factual circumstances.

¹² Verdict delivered by the Rustavi City Court on 14 November 2017 (case #1-283-17)

¹³ Mtskheta District Court, case #1/240-17

¹⁴ Mtskheta District Court, case №1/274-17

¹⁵ Paragraph 2 of Article 53¹ – commission of a crime against a family member, against a vulnerable person, or against or in the presence of a juvenile, with particular brutality, by using a weapon or threatening to use a weapon, or by abusing official power are to be considered aggravating circumstances for all relevant crimes under this Code.

¹⁶ Report of the Public Defender of Georgia - Femicide Monitoring Report, analysis of criminal cases committed in 2016.

A problem with the categorization of a case was identified in a case considered by the Mtskheta District Court.¹⁷ The Prosecutor's Office categorized the murder of a woman by her husband under Article 111 of the Criminal Code of Georgia (premeditated murder in a state of strong mental agitation). Analysis makes it clear that the defendant stabbed his wife to death after learning about her adultery. However, the case does not show a fit of passion from the legal perspective, in particular that the unconditional existence of medical elements together with legal elements is absolutely necessary in order to evaluate a fit of passion. Examination of the evidence makes it clear that the defendant first heard about his wife's adultery on the day he murdered her. After a certain period following when he learned of his wife's adultery, he went home and killed the victim (i.e., he did what he had decided to do). Thus, the actions and emotions of the defendant were not unexpectedly aroused. The defendant's actions lack legal elements, which together with medical elements would prove a crime of passion.

The mentioned case sets a dangerous precedent that encourages offenders to kill their wives on the grounds of jealousy while portraying their actions as a crime committed in a fit of passion caused by the victim's immoral behavior. The sanction for the latter crime is house arrest for 6 months to 1 year or imprisonment for 1 to 3 years. The unsubstantiated verdict makes the case even more obscure.

As for the application of paragraph 1 of Article 53¹ of the Criminal Code of Georgia¹⁸, analysis of the cases for 2017 shows that the Prosecutor's Office did not refer to the mentioned article in any of its decrees, while the courts referred to it as an aggravating circumstance for punishment only once¹⁹. The mentioned article was not indicated either by the Prosecutor's Office or the courts in 2016.

This study showed that neither the Prosecutor's Office nor the courts were effective at identifying signs of gender discrimination when assessing crimes.

3.2 Gaps at the stage of trial

All of the cases of femicide and attempted femicide analyzed by the Public Defender's Office show that the defendants had discriminatory, sexist and/or ownership attitudes towards the victims and that they tried to control the victims' behavior and/or force them to obey gender roles. Thus, the victims' disobedience and resistance to the requests of the defendants related to gender roles are obvious motives for committing the crimes.

The gender-related motivation can be read in the testimonies of the defendants, victims and other witnesses, which include many gender-related terms. In particular: "The daughter-in-law was serving

¹⁷ Verdict delivered by the Mtskheta District Court on 7 December 2017, case №1/274-17

¹⁸ Paragraph 1 of Article 53¹ of the Criminal Code of Georgia - commission of a crime on the grounds of race, color, language, sex, sexual orientation, gender, gender identity, age, religion, political or other opinion, disability, citizenship, nationality, ethnicity, social status, origin, property or title, place of residence or other discriminatory motive are to be considered aggravating circumstances for all relevant articles under this Code.

¹⁹ Tbilisi City Court's verdict of 27 April 2018, case #1/4437-17;

her husband, family and children in an exemplary way”, “She, as a mother, did not want to break up with her husband and raise her children without their father; that is why she tolerated the violence”, “I married her,” She used to go out without her husband’s permission”, “A married woman should not look at others’ photos on social networks”, “She was an exemplary daughter-in-law in the village”, “She was raising children for her husband”, and “He should have left the woman alive, as it was her obligation to look after the children”. As for the defendants’ testimonies, they clearly show that they acted as “the head of the family” and owners of their wives when committing the crimes: “My wife was against my principles and will”, “She went out without asking me”, “Her dancing was irritating me, but she did not obey me and did not stop”, “I, as her husband, wanted to punish my wife”, and “The father-in-law used to tell his daughter-in-law not to go to the neighbors, but she did not obey.”) The problem with the categorization of a case was obvious in one case²⁰ considered by the Tbilisi City Court. In this case, I.T. attempted to brutally kill his wife with a knife in the presence of his child, who was a minor. On January 18, 2018, the Tbilisi City Court changed the categorization of I.T.’s actions from Articles 111-19-109 (3,b) of the Criminal Code of Georgia - premeditated, particularly brutal attempted murder of a spouse) to Articles 111-19-108 of the Criminal Code - attempted murder of a spouse, and found him guilty under the latter, less severe article.

The Tbilisi City Court held that the attempted murder was not particularly brutal, as it was skeptical about the ability of the 3-year-old child (T.T) to comprehend what had happened. In addition, the Court noted that in order to classify the case as a particularly brutal crime, it is necessary for the defendant know about the presence of his relative at the crime scene and to then have an indifferent attitude towards their presence.

Analysis of the case materials clarified that the Court of First Instance incorrectly categorized the crime and neglected several factual circumstances that indicated the particular brutality of the crime. The Court ignored the defendant’s behavior, the presence of a child at the crime scene, the child’s ability to comprehend what had happened and their reaction to it, the defendant’s indifferent attitude to the child being present at the crime scene, the defendant’s escape and all instances violence committed by the defendant before the mentioned crime. As a result, the sentence in the Rustavi City Court’s verdict²¹ is unsubstantiated.

3.3.The circumstances considered by the court when imposing a sentence

The Kutaisi City Court used comparatively non-disproportionate measures of restraint against a defendant in one case²².

²⁰ Tbilisi City Court’s verdict of 18 January 2018, case #1/2172-17

²¹ Rustavi City Court’s verdict of 14 November 2017, case #1-283-17

²² Kutaisi City Court’s verdict of 25 July 2017, case N1/516-17

The Court applied bail (GEL 4000) as a measure of restraint for a person accused of abusing his mother-in-law and the sister of his wife (intentionally inflicting grievous harm to health upon them) in the presence of a juvenile family member. The defendant had twice been previously convicted of domestic violence. The Court rejected the prosecutor's motion for pre-trial detention. The Court's decision was disproportionately lenient given the gravity of the crime committed by the defendant, as well as his previous crimes.

In one case²³ considered by the Mtskheta District Court, the defendant inflicted grievous, life-threatening injuries upon his wife in a fit of passion.²⁴ The Mtskheta District Court sentenced the defendant to only 1 year in prison. When determining the sentence, the Court ignored the fact that the crime was committed against a family member, which is an aggravating circumstance for punishment. Article 111 of the Criminal Code of Georgia provides for imprisonment from one to three years, although the Court unjustifiably used the minimum sentence provided by this article of only 1-year imprisonment. In another case²⁵ where the defendant intentionally inflicted life-threatening injuries upon his spouse in a fit of passion, which resulted in her death, the Mtskheta District Court sentenced the defendant to only 2 years in prison. When determining the sentence, the Court ignored the fact that the crime was committed against a family member, which is an aggravating circumstance.

In the majority of cases (only one exception)²⁶, neither the Prosecutor's Office nor the courts paid attention to discriminatory motives for the crimes. Arguments, revenge, jealousy, being offended and revenge on the grounds of jealousy are indicated as motives in some cases, while a number of cases do not indicate the motive of crime at all. Consequently, this section reviewed all the cases, including shortcomings in terms of identification and categorization of the cases of femicide or attempted femicide. Given that no discriminatory motive was established in most of the verdicts (only one exception), the above-mentioned motives are consequently not indicated as aggravating circumstances.

Paragraph 2 of Article 53¹ of the Criminal Code of Georgia was applied in 14 cases²⁷, which outlines the sensitive approach to be used by the court for domestic offenses. However, the Prosecutor's Office and the courts only formally refer to the mentioned article, and hardly consider the application of the article in relation to the specific factual circumstances of each case.

²³ Mtskheta District Court, case #1/240-17

²⁴ According to the forensic examination report, N.I. was diagnosed with severe brain injury, fragmented fracture of the left temporal bone, fracture of the right temporal bone, pneumocephalia, hematoma, cerebral contusion, and fracture of the base of the skull, all of which are life-threatening injuries.

²⁵ Mtskheta District Court, verdict of 7 December 2017, case №1/274-17

²⁶ Tbilisi City Court, verdict delivered on 27 April 2018, case #1/4437-17; according to the verdict, the Court held that the crime was committed on the grounds of gender discrimination.

²⁷ Paragraph 2 of Article 53¹—commission of a crime against a family member, against a vulnerable person, or against or in the presence of a juvenile, with particular brutality, by using a weapon or threatening to use a weapon, or by abusing their official power are considered aggravating circumstances for all relevant crimes under this Code.

In some of the analyzed cases, the courts indicated the non-existence of aggravating and/or mitigating circumstances; however, they indicated the existence of such circumstances in other cases:

- ✓ In several cases, the courts considered previous convictions, the nature of the actions committed (for the committing of domestic crimes) and past life as aggravating circumstances.²⁸ In 4 cases, the courts considered a crime committed against a family member as an aggravating circumstance. The motive of gender discrimination was considered as an aggravating circumstance in just one case.²⁹
- ✓ As for mitigating circumstances, it is indicated in the verdicts that the court considered the following: the defendant's age; the defendant pleading guilty and repenting; the defendant cooperating with investigation and handing the weapon used to commit the crime over to investigators; the defendant contributing to the investigation the a crime; the defendant turning themselves into the police and pleading guilty; the defendant's behavior after committing the crime; the defendant having many children, including one minor child; the victim's legal successor having no complaints against the defendant; and the defendant's health condition.

A history of domestic violence before the crime was not considered when determining a sentence in any of the analyzed cases.

In 4 cases,³⁰ the courts applied paragraph 2 of Article 53¹ of the Criminal Code of Georgia³¹ in relation to mitigating and aggravating circumstances. In all 4 cases, the courts found that the commission of the crime by the defendant against a family member was an aggravating circumstance and that the crime resulted in circumstances of increased danger.

The court applied paragraph 1 of Article 53¹ of the Criminal Code of Georgia in only one case³², and held that the commission of a crime on the grounds of gender-based discrimination³³ was an

²⁸ Tbilisi City Court, verdict delivered on 14 August 2017, case 1/2574-17; Tbilisi City Court, verdict delivered on 18 January 2018, case #1/2172-17; Tbilisi City Court, verdict delivered on 27 April 2018, case #1/4437-17; Mtskheta District Court, verdict delivered on 7 December 2017, case №1/274-17;

²⁹ Tbilisi City Court, verdict delivered on 27 April 2018, case #1/4437-17.

³⁰ Tbilisi City Court's verdict delivered on 18 January 2018, case #1/2172-17; Tbilisi City Court's verdict delivered on 27 April 2018, case #1/4437-17; verdict delivered on 14 August 2017, case 1/2574-17; Mtskheta District Court, verdict delivered on 7 December 2017, case №1/274-17.

³¹ Paragraph 2 of Article 53¹—commission of a crime against a family member, against a vulnerable person, or against or in the presence of a juvenile, with particular brutality, by using a weapon or threatening to use a weapon, or by abusing official power are considered aggravating circumstances for all relevant crimes under this Code.

³² Tbilisi City Court, verdict delivered on 27 April 2018, case #1/4437-17.

³³ Paragraph 1 of Article 53¹ of the Criminal Code of Georgia - commission of a crime on the grounds of race, color, language, sex, sexual orientation, gender, gender identity, age, religion, political or other opinion, disability, citizenship, nationality, ethnicity, social status, origin, property or title, place of residence or other discriminatory motive are to be considered aggravating circumstances for all relevant articles under this Code.

aggravating circumstance. In the same case, the court indicated jealousy as the major motive, but it also found that the crime was committed on the grounds of gender-based discrimination. Thus, the problem with categorization of the crime is not solved even when a judge refers to the relevant article concerning the crime's true motive, since, as a rule, cases are not habitually categorized as "femicide" or "gender-related murder."

In one of the cases,³⁴ the judge disagreed with the defense when the latter tried to harshly demonstrate adultery and highlighted the need to interrogate certain persons who were not directly linked to the crime, did not witness it or did not have any information about it. The motion of the defense was rejected.

One of the analyzed cases shows the opposite precedent as well. In one cases,³⁵ the defendant's lawyer tried to harshly demonstrate adultery and categorized the victim's actions as immoral. However, the court did not react to the lawyer's unethical behavior.

As for determining a sentence, even though in one of the cases the convict was subjected to a harsh conviction (17 years in prison) under Article 109 of the Criminal Code of Georgia (imprisonment from 16 to 20 years or a life sentence), the judge did not account for aggravating circumstances under Article 53¹ of the Criminal Code of Georgia: commission of a crime on the grounds of sexual orientation, gender, or gender identity. It is indicated in the verdict that the convicted did not have any mitigating circumstances, while aggravating circumstances were his previous convictions.³⁶

In several cases, the prosecutor solicited a penalty of a specific type and measure, which is a violation. According to applicable legislation, the prosecutor is not authorized to solicit a penalty of a specific type or measure. Only the court is authorized to decide on the penalty. However, the courts have not discussed this issue.

3.4. History of violence

As a result of analyzing the case materials, 15 out of the 17 cases were found to have a history of violence against the victims, and in 5 of these cases, the Ministry of Internal Affairs of Georgia had been informed of possible instances of domestic violence.³⁷ However, the courts did not take this into consideration when determining sentences (except in one case).

In most cases, the above-mentioned can be found in the testimonies of the victims, defendants or other witnesses. It should be noted that the investigative agency did not obtain additional information in any of the cases to check: if the victim or anyone else had informed police of prior instances

³⁴ Tbilisi City Court, verdict delivered on 27 April 2018, case #1/4437-17.

³⁵ Tbilisi City Court, verdict delivered on 14 August 2017, case 1/2574-17

³⁶ Akhaltsikhe District Court, verdict delivered on 11 October 2017, case #1/169-17

³⁷ For detailed information about notifications relating to this particular criminal case, see Annex 2.

of domestic violence; what measures were taken by law enforcement agencies; or why it was not possible to prevent the femicide/attempted femicide (one case is an exception).³⁸ As for the courts, they failed to focus on the discriminatory motive of the crimes even when such a motive was clearly indicated by the witness' testimony (one case is an exception).³⁹

In the mentioned cases (one case is an exception), history of violence, which in most cases included systematic and continuous physical, psychological and economic violence, was neither considered during examination of the motive for the crime nor considered by the courts as an aggravating circumstance.

³⁸ Akhaltsikhe District Court, verdict delivered on 11 October 2017, case #1/169-17.

³⁹ Tbilisi City Court, verdict delivered on 27 April 2018, case #1/4437-17;



Conclusion

Analysis of the cases of femicide and attempted femicide makes it clear that despite steps taken to combat violence against women and domestic violence, many challenges remain in relation to femicide, the most brutal form of violence against women.

Shortcomings, such as lack of proper identification and categorization at the stages of the investigation and trial, deserve particular attention, as do the use of gender insensitive language by the involved agencies and the difficulties with granting victim's status, which is directly related to the access of protection and assistance services by the victims.

It is also important to note that all of the analyzed cases were examples of "classic femicide" that were preceded by domestic violence. Despite the fact that in most of the cases, the victims had contacted law enforcement agencies, the most extreme form of violence against women was not prevented and the victims were not protected.

As for a history of violence before commission of the crime, unfortunately, this is not a subject of attention by the court or the investigative bodies at this point in time. Similar to 2016, in the majority of cases of femicide committed in 2017, the investigative bodies did not obtain any additional evidence to check: if the victims or other persons had informed police of prior domestic violence; what measures were taken by law enforcement agencies; or why they could not prevent the femicides and attempted femicides.

Recommendations:

To the Government of Georgia:

- ✓ Develop statistical methodology on violence against women and domestic violence and ensure its effective enforcement by state agencies.
- ✓ Analyze gaps in the systems of protection of and assistance to victims of violence, which is presently resulting in the high number of femicides in Georgia.

To the Ministry of Internal Affairs of Georgia:

- ✓ Develop methodology for monitoring the execution of protection and restraining orders and ensure its effective enforcement;
- ✓ Analyze the notifications received by LEPL 112 Service concerning alleged domestic violence and domestic conflicts;
- ✓ Train the staff of the territorial units of the Ministry of Internal Affairs of Georgia on issues of violence against women and domestic violence, and compile a training follow-up document to measure progress achieved by the trained staff;
- ✓ Improve protection and assistance systems for victims. The existence of guidelines for monitoring and risk assessment methodology is of particular importance for law enforcement agencies.

To the Ministry of Internal Affairs and the Prosecutor's Office:

- ✓ Properly maintain statistics on violence against women and domestic violence, as well as hate crimes;
- ✓ Study notifications relating to cases of gender-based violence in conjunction with each other, since sporadically combating a specific incident of violence is not effective in terms of protecting and assisting victims;
- ✓ Consider the general situation of gender equality in the country when analyzing each case of violence and assessing gender-related violence risks.

To the Prosecutor's Office:

- ✓ Obtain and consider information about the history of violence preceding a specific crime; obtain all necessary evidence for establishing a discriminatory motive.

To the common courts:

- ✓ Develop methodology for identifying cases of femicide and attempted femicide and maintain accurate statistics about those cases;
- ✓ Emphasize a gender-related motive in cases of femicide and attempted femicide at the trial stage. It is important for the court to discuss gender-related motives and not be limited to only referring to an article.
- ✓ Account for the specificity of a crime when describing the offender's personality and referring to mitigating circumstances.
- ✓ In cases, whereas the crime is gendered, this should be clearly indicated in the verdict as an aggravating circumstance.

To the Supreme Court of Georgia

- ✓ Develop methodology for identifying cases of femicide and attempted femicide and maintain accurate statistics about those cases.

Appendix 1: The statistics of the Prosecutor's Office on murders and attempted murders of women committed in 2017

According to data from the Prosecutor's Office, 26 murders of women occurred in 2017, 14 of which were committed by family members and 12 of which were committed in other conditions.

The number of attempted murders of women was 15, 12 of which exhibited signs of domestic crime, while 3 cases had other motives.⁴⁰

⁴⁰ Letter #13/10053 of the Prosecutor's Office of Georgia, 8 February 2018.

In addition, women were brought to suicide or attempted suicide due to domestic crime in 5 cases.

Investigations into 9 of the 14 killings of women (14 victims) that also contained signs of domestic violence were launched under Articles 11¹-108 of Criminal Code of Georgia⁴¹; in 3 cases were launched under Articles 11¹-109 of Criminal Code of Georgia⁴²; and in 2 cases were launched under Articles 11¹-117⁴³. 10 out of the 13 cases of femicide that contained signs of a domestic crime went to court. Guilty verdicts were delivered in 10 cases. Criminal prosecution was terminated in 3 cases under Subparagraph “b” of the second part of article 105 of the Criminal Procedure Code of Georgia.

⁴⁴ Investigation was terminated in 1 case, as defendant has committed suicide.

Investigation into 4 of the 12 cases of attempted murders of women (12 victims) that included signs of a domestic crime was launched under Articles 11¹, 19 and 108 of the Criminal Code of Georgia⁴⁵, while in 8 cases, investigations were launched under Articles 11¹, 19 and 109 Of the Criminal Code of Georgia⁴⁶. Criminal prosecution was initiated against 9 persons, including 1 of whom were persecuted on the basis of subparagraph “b” of Article 105 of the Criminal Procedure Code of Georgia⁴⁷. Criminal prosecution was terminated against 1 person because the defendant has committed suicide.

9 out of the 12 cases of attempted murder that contained signs of a domestic crime went to court. Guilty verdicts were delivered in 6 cases. 3 cases are currently being considered on their unique merits. Criminal prosecution was terminated in 1 case and investigations were terminated in 2 cases. In 2 of the 5 cases that contained signs of a domestic crime, in which women were brought to suicide or attempted suicide, investigations were launched into the actions that pushed a woman towards suicide and in 3 cases, investigations were launched into the actions that brought a woman to attempt suicide (Articles 11¹-115 of the Criminal Code of Georgia). Criminal prosecution was launched against 5 persons. All five cases went to court. Guilty verdicts were delivered in 3 cases, while 2 cases are currently being considered on their unique merits.

Out of the 12 cases that were not identified as crimes committed under circumstances of domestic violence, investigations were launched into 10 criminal cases (12 victims), 5 of which (5 victims) were subjected to Article 108 of the Criminal Code of Georgia⁴⁸ and 5 of which (7 victims) were subjected to Article 109 of the Criminal Code of Georgia.⁴⁹ 7 of the 12 cases of femicide went to court. Guilty verdicts were delivered in 5 cases; 2 cases are currently being considered on their unique merits;

⁴¹ Articles 11¹ 108- Murder by a family member.

⁴² Articles 11¹ 109- Murder by a family member under aggravating circumstances.

⁴³ Articles 11¹ 117- Intentional infliction of grave damage to health under domestic violence, which caused death.

⁴⁴ Subparagraph “b” of the second part of article 105 of the Criminal Procedure Code of Georgia

⁴⁵ Articles 11¹, 19, 108: attempted murder committed by a family member

⁴⁶ Articles 11¹, 19, 109: attempted murder committed by a family member under aggravating circumstances.

⁴⁷ Subparagraph “b” of the second part of article 105 of the Criminal Procedure Code of Georgia

⁴⁸ Article 108: Murder.

⁴⁹ Article 109: Murder under aggravating circumstances.

investigation was terminated in 2 cases; and investigation is ongoing in 2 cases.

Out of the 3 attempted murders that were not identified as crimes committed under circumstances of domestic violence, investigations were launched into 2 criminal cases (3 victims), one of which was subjected to Articles 19, 108 of the Criminal Code of Georgia⁵⁰ (1 victim) and the other of which was subjected to Articles 19, 109 of the Criminal Code of Georgia⁵¹ (2 victims). One of the 3 cases attempted femicide went to court and a guilty verdict was delivered. Criminal prosecution was terminated in 1 case.⁵²

Appendix 2: Detailed analysis of the reviewed cases of femicide

Cases of femicide

1. The case of G.G. (Telavi District Court; Case #1/104-17);

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment on January 16, 2017, G.G. was initially charged under Articles 111-117-7 of the Criminal Code of Georgia: intentional infliction of grievous life-threatening harm to health, which was committed with particular brutality. According to the indictment, G.G. splashed petrol on his wife and set her on fire. As a result, the victim suffered serious harms to her health.

On January 27, 2017, the victim died of her burns in hospital. After the victim's death, the case was revised and the defendant was charged with intentional infliction of grievous life-threatening damage to health on the grounds of revenge, which was committed with particular brutality and which caused death (Articles 111-117-8 of the Criminal Code of Georgia).

On January 17, 2017, the Court granted the prosecutor's motion and the measure of pre-trial detention was applied against the accused person.

On June 12, 2017, the Telavi District Court found G.G. guilty under Articles 111-117-8 of the Criminal Code of Georgia and sentenced him to 11 years in prison.

According to the case files, in 2017, G.G. was 65 years old and the victim, O.Sh. was 47 years old. The defendant did not have a child with the victim. G.G. had graduated from high school and was employed at the time of committing the crime.

⁵⁰ Article 19, 108: Murder attempt.

⁵¹ Article 19, 109: Murder attempt under aggravating circumstances.

⁵² Subparagraph "b" of the second part of article 105 of the Criminal Procedure Code of Georgia

✓ Gaps at the stage of investigation

Investigation into criminal case N035150117002 was launched immediately after notification was received from the Emergency Management Agency (112). All available investigative and procedural actions were carried out in a timely manner, without delay.

On January 15, 2017, G.G. was detained without an arrest warrant on the grounds of urgent necessity. He was interrogated on the same day and he pleaded guilty. According to the defendant, his only intention was punishment of his wife as an example, but he did not intend to kill her. Thus, he released her so that she could save herself.

The questioning of witnesses shows that the defendant had gender-based attitudes towards the victim, which should have been taken into account when determining the motive of the crime. However, gender-based motives were considered in the indictment.

The victim's sister noted that the defendant used to abuse his wife. In particular, in 2016, G.G. beat O.Sh. with a metal chain. According to the victim's sister, she had told the victim to report the abuse to the police several times, but the victim did not want to break up with her husband and refused to file a complaint against him.

Despite the defendant's position that he had no intention of killing his wife and that his only purpose was to punish her, analysis of the case materials shows a problem with categorization of the case. The combined consideration of the subjective and objective circumstances of the evidence makes it clear that a premeditated, particularly brutal murder of a woman was committed. Unfortunately, when assessing the case, the Prosecutor's Office did not pay proper attention to the relationship between the defendant and the victim prior to when the crime was committed, namely the history of violence preceding the crime, or to the murder method (dousing in petrol and setting on fire), which was life-threatening and particularly painful in nature. In addition, the defendant did not do anything to save the victim, which casts doubt on his intention of only inflicting an injury to her health upon her. On April 26, 2017, the victim's sister, T.Sh. was recognized as the legal successor of the victim and was informed of her rights, but the case documents do not make it clear whether or not she wanted to be acquainted with case materials.

✓ Gaps at the stage of trial

On May 5, 2017, the Court accepted the evidence adduced by the parties. In accordance with Article 73 of the Criminal Procedural Code of Georgia, the evidence was not examined during consideration of the case based on its unique merits, as the evidence had not been contested by the parties. In addition, defendant pleaded guilty.

On June 12, 2017, the Telavi District Court found G.G. guilty under Articles 11¹-117-8 of the Criminal Code of Georgia and sentenced him to 11 years in prison. The Court said there were no aggravating

circumstances in the case, but it did not substantiate this claim.

It should be noted that the prosecutor drew the Court's attention to the possibility of sentencing under Article 53 of the Criminal Code of Georgia.⁵³ According to applicable legislation, the prosecutor is not authorized to solicit a penalty of a specific measure and type; only the court has the authority to make the relevant decision, although the court did not discuss the issue. The court also did not consider the action and its composition in the context of gender, during which it should have taken into account the aggravating circumstances, such as the crime's motive and purpose, method of the action, unlawful will revealed in the action, etc.

No notification had been received by the Ministry of Internal Affairs of Georgia before this case of femicide.⁵⁴

2. The case of G.G. (Kutaisi City Court; Case N1/ 843-2017)

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment on August 15, 2017, G.G. was indicted with premeditated murder of a family member under Articles 11¹-108 of the Criminal Code of Georgia. On August 13, 2017, G.G. targeted and shot his wife with a hunting gun on the grounds of jealousy. As a result, the victim was injured in the back of her chest, near her left shoulder. The victim died of the severe injury at the crime scene.

On August 16, 2017, the Court granted the prosecutor's motion and pre-trial detention was applied against the defendant.

On November 30, 2017, the Kutaisi City Court found G.G. guilty under Articles 11¹-108 of the Criminal Code of Georgia and sentenced him to 9 years in prison.

The defense appealed the verdict and demanded mitigation of the penalty,⁵⁵ though the appeal was rejected.

According to the case files, in 2017, G.G. was 83 years old and the victim was 63 years old. They had 4 children, all adults. G.G. had a diploma from a secondary technical college. In 2017, he was temporarily unemployed and did not have criminal record.

⁵³ Article 53 of the Criminal Code of Georgia determines general basis for imposing penalty. Information is available at the website: <https://www.matsne.gov.ge/ka/document/view/16426?publication=197#!> [last accessed on 7 November 2018]

⁵⁴ Letter (MIA 0 18 02674872) of 1 November 2018 of the Ministry of Internal Affairs.

⁵⁵ It is indicated in the complaint that G.G. sincerely pleaded guilty and repented; contributed to the investigation; he was old, 83 years old; had not been convicted previously; and had heart issues.

✓ Gaps at the stage of investigation

Immediately after notification was received from the Emergency Management Agency (112) on August 13, 2017, investigation into criminal case N057130817002 was launched by the Baghdati Regional Division of the Ministry of Internal Affairs of Georgia under Articles 11¹-108 of the Criminal Code of Georgia. All necessary investigative and procedural actions were conducted in a timely manner, without delay.

G.G. was detained on August 13, 2017 without an arrest warrant, on the grounds of urgent necessity. The accused turned himself in to the police. He was interrogated on August 14, 2017 and he admitted to being guilty.

The questioning of witnesses illuminates the defendant's attitude and treatment of the victim. As the victim's family members (children) pointed out, the defendant had been systematically abusing his wife and cheating on her. The children had themselves witnessed incidents of violence. The victim had often told her children that she was afraid of staying alone with her spouse.

The tense relationship between the victim and the defendant was also confirmed by neighbors. According to them, the defendant blamed the victim for one of their children being born with a disability. The defendant believed that the child's health was due to his spouse's inadequate care during pregnancy and systematic use of alcohol. In addition, the defendant had extremely negative attitudes towards the victim due to his suspicion that his wife was cheating on him. The victim had never called the police.

On August 14, 2017, the victim's child, M.G., was recognized as the victim's legal successor and was informed of their rights, but the case documents do not make it clear whether or not they wanted to be acquainted with the case materials.

✓ Gaps at the stage of trial

On November 17, 2017, the Court accepted the evidence adduced by the parties. In accordance with Article 73 of the Criminal Procedural Code of Georgia, the evidence was not examined during the consideration of the case based on its unique merits, as the evidence had not been contested by the parties. In addition, the defendant pleaded guilty.

On November 30, 2017, the Kutaisi City Court found G.G. guilty under Articles 11¹-108 of the Criminal Code of Georgia and sentenced him to 9 years in prison.

The Court held that the case did not include any aggravating circumstances, but it did not substantiate this claim.

The court did not consider the action and its composition in the context of gender, during which it should have taken into account circumstances such as the crime's motive and purpose, method of the action, unlawful will revealed in the action, etc.

No notification had been received by the Ministry of Internal Affairs of Georgia before this case of femicide.⁵⁶

3. The case of G.J. (Tbilisi City Court; Case 1/2574-17)

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment on April 24, 2017, G.J. was charged with premeditated murder of a family member under Articles 11¹-108 of the Criminal Code of Georgia.

On April 23, 2017, in their apartment, the defendant wrapped a cable around the victim's neck with intent to kill her on the grounds of jealousy. The woman died at the crime scene. The defendant and the victim had a child and a shared business. According to the forensic examination report, the victim died of asphyxia caused by closure of the upper respiratory tract.

On April 25, 2017, the Court granted the prosecutor's motion and pre-trial detention was ordered for the defendant.

On May 25, 2017, according to the new indictment, other articles were added to the article pertaining to murder (Articles 11¹-108). In particular, G.J. was indicted for abusing his family member and making threats to her (Article 126¹.1 of the Criminal Code of Georgia and Articles 11¹-151 of the Criminal Code of Georgia), namely:

On July 24, 2016, the defendant abused the victim in their home. First, he hit her in the neck and then he grabbed her right hand, which caused the victim pain. While abusing the victim, the defendant threatened to kill her, which led to the victim's fear that the defendant would actually follow through with the threat.

On April 23, 2017, in their apartment, the defendant wrapped a cable around the victim's neck with intent to kill her on the grounds of jealousy. The woman died at the crime scene. The defendant and the victim had a child and were engaged in a shared business.

On August 14, 2017, the Tbilisi City Court found G.J. guilty under Articles 11¹-108, 126¹.1, 11¹-151 of the Criminal Code of Georgia and sentenced him to 11 years in prison.

⁵⁶ Letters (MIA 6 17 02030602; MIA 3 17 0232473) of 12 August and 27 September 2017 of the Ministry of Internal Affairs.

The defense appealed the verdict and demanded that the sentence be reduced on the grounds of the defendant having health problems. The Prosecutor's Office disagreed with the appeal because G.J. had committed a particularly severe crime that was punishable with imprisonment from 7 to 15 years.

On October 24, 2017, the Tbilisi Court of Appeal upheld the August 14, 2018 judgment, and accordingly G.J. was sentenced to 11 years in prison.

According to the case files, in 2017, G.J. was 42 years old and M.V. was 40 years old. The defendant had graduated from high school. He was temporarily unemployed.

✓ **Gaps at the stage of investigation**

Immediately after notification had been received from the Emergency Management Agency (112) on April 23, 2017, investigation into criminal case N010230417001 was launched at the 1st Division of the Detective Department of the Tbilisi Police Department under Article 108 of the Criminal Code of Georgia. On the April 24, 2017, the categorization of the case was changed and the investigation was subjected to Articles 11¹–108 of the Criminal Code of Georgia. All available investigative and procedural actions were conducted in a timely manner, without delay.

G.J. was detained on April 23, 2017 without an arrest warrant, on the grounds of urgent necessity. He was interrogated on the same day and he pleaded guilty.

The questioning of witnesses illuminates the defendant's gender-based, ownership attitudes towards the victim, which should have been considered when discussing the motive of the crime during the investigation. However, the gender-based motive was not considered in the indictment.

It should be noted that, since 2016, there were gaps in the investigations into domestic violence, threats and damages to property committed by the defendant against the victim. According to the case materials, the victim had repeatedly informed the police about violence committed by the offender. In particular, the victim indicated that the defendant had violated the terms of a restraining order and had abused her and her children.

As a result of studying the case materials, it is clear that no measures were taken to protect the victim. The defendant was charged in relation to incidents of domestic violence, threats and damage to property committed against the victim in 2016 only after the victim's murder in 2017.

According to the testimony of the victim's child, the defendant had been systematically humiliating and abusing the victim by hitting her in the face and body, causing her physical pain. According to the testimony, the defendant had beaten the victim while she was pregnant and wounded her in the belly

with scissors. He also once broke into her home and verbally abused her. In 2016, G.J. set fire to the door of the victim's house while the victim was inside the house with her minor child. The defendant had also been verbally and physically abusing the victim's children. In 2016, the investigation was ongoing into cases of domestic violence and threats against the victim.

On May 29, 2017, N.Kh. was recognized as the victim's legal successor and was informed of their rights, but the case documents do not make it clear whether or not they wanted to be acquainted with the case materials.

✓ Gaps at the stage of trial

On June 26, 2017, the Court accepted the evidence adduced by the parties. In accordance with Article 73 of the Criminal Procedural Code of Georgia, the evidence was not examined during consideration of the case based on its unique merits, as the evidence had not been contested by the parties. In addition, the defendant pleaded guilty.

On August 14, 2017, the Tbilisi City Court found G.J. guilty under Articles 11¹-108, 126¹.1, 11¹-151 of the Criminal Code of Georgia and sentenced him to 11 years in prison.

The Court does not mention mitigating or aggravating circumstances in the verdict, but notes that "when determining the sentence, the Court considered that the defendant pleaded guilty and repented, and that he has serious health issues; the Court also considered the nature of the actions committed by the defendant (domestic violence) and his past life".

The Court did not consider the action and its composition in the context of gender, during which it should have accounted for circumstances, such as the crime's motive and purpose, method of the action, unlawful will revealed in the action, etc.

The following notifications were received by the Ministry of Internal Affairs of Georgia before this case of femicide:⁵⁷

- ✓ On July 24, 2016, LEPL 112 Service received a notification from citizen M.V. According to M.V., her former husband, G.J., had verbally and physically abused her.
- ✓ On August 2, 2016, LEPL 112 Service received a notification from citizen M.V., according to which, G.J. had set fire to her apartment, where her minor child was locked inside.
- ✓ On August 2, 2016, LEPL 112 Service received two notifications from citizen G.J.: at 2:36 pm and 3:01 am. According to him, he had a conflict with M.V.
- ✓ On February 10, 2017, LEPL 112 Service received a notification from M.V. According to her, she had an argument with her child's father, G.J.

⁵⁷Letters N 202049; MIA 9 17 00835776 of 7 April and 26 January 2017 of the Ministry of Internal Affairs.

4. The case of V.S. (Tbilisi City Court, Case №1/1412-17)

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment on January 6, 2017, V.S. was indicted for premeditated murder (a domestic crime) under Articles 11¹-108 of the Criminal Code of Georgia. On January 4, 2017, at her temporary place of residence, V.S. wrapped a rope around the neck of his wife, Z.U., on the grounds of jealousy and with intent to kill her. The victim died at the crime scene.

On January 6, 2017, the Court granted the prosecutor's motion and applied the measure of pre-trial detention against the defendant.

On 19 April 2017, the Tbilisi City Court found V.S. guilty under Articles 11¹-108 of the Criminal Code of Georgia and sentenced him to 11 years in prison.

According to the case files, in 2017, V.S. was 51 years old and Z.U. was 50 years old. The defendant had no children with the victim. V.S. has a higher education degree and was temporarily unemployed in 2017.

✓ Gaps at the stage of investigation

Investigation into criminal case N010040117002 was launched immediately after notification had been received from the Emergency Management Agency (112). All necessary investigative and procedural actions were conducted in a timely manner, without delay.

V.S. was detained on January 4, 2017 without an arrest warrant, on the grounds of urgent necessity. He was interrogated on the same day and he pleaded guilty.

The questioning of witnesses illuminates the defendant's gender-based, ownership attitudes towards the victim, which should have been considered when determining the motive of the crime during the investigation. However, the gender-based motive was not considered in the indictment. According to the victim's family members and relatives, the defendant suffered from depression, and was addicted to drugs and gambling. He had been unemployed and financially dependent on the victim for years. The defendant and the victim had tense relations. According to witnesses' testimonies, the defendant was systematically humiliating, abusing and insulting the victim. The defendant was jealous of the victim and accused her of adultery.

On February 6, 2017, the victim's mother was recognized as the victim's legal successor and was informed of her rights, but the case documents do not make it clear whether or not she had a desire to be acquainted with the case materials.

✓ Gaps at the stage of trial

On April 4, 2017, the Court accepted the evidence adduced by the parties. In accordance with Article 73 of the Criminal Procedural Code of Georgia, the evidence was not examined during consideration of the case based on its unique merits, as the evidence had not been contested by the parties. In addition, the defendant pleaded guilty.

On April 19, 2017, the Tbilisi City Court found V.S. guilty of premeditated murder under Articles 11¹-108 of the Criminal Code of Georgia and sentenced him to 11 years in prison.

The admission of guilt by the defendant was considered a mitigating circumstance, while no aggravating circumstances were found in the case. The Court did not substantiate its position and also did not consider the gender-based motive for the crime.

No notification had been received by the Ministry of Internal Affairs of Georgia before this case of femicide.⁵⁸

5. The case of D.O. (Tbilisi City Court, Case 1/1674-17)

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment on January 16, 2017, the defendant's father (D.O.) and the victim (N.K) had lived together for the last 20 years and had a shared farm. The defendant and the victim had tense relations. The defendant had negative attitudes towards the victim, as the victim planned to leave the farm, which is why the defendant decided to kill her.

On January 14, 2017, D.O. came to victim's place under the influence of alcohol with the intention to kill her, and shot the victim in her bed with a hunting gun that belonged to his father. As a result, the victim sustained life-threatening injuries and died at the crime scene. After the incident, the defendant dropped the hunting gun and left the scene of the crime.

On January 17, 2017, the Court granted the prosecutor's motion and applied the measure of pre-trial detention against the defendant.

On August 14, 2017, the Tbilisi City Court convicted D.O. of committing a crime under Articles 11¹ - 108 of the Criminal Code of Georgia and sentenced him to 7 years in prison.

According to the case files, in 2017, D.O. was 39 years old and N.K. was 62 years old. D.O. had a diploma from a technical college and was temporarily unemployed. He was drunk when he committed the crime.

⁵⁸ Letters (MIA 3 17 00533603; MIA 4 17 00931864) of 6 March and 30 April 2017 of the Ministry of Internal Affairs.

✓ Gaps at the stage of investigation

Investigation into criminal case NN010140117001 was launched on January 14, 2017. The defendant turned himself in to the police and pleaded guilty. All necessary investigative and procedural actions were conducted in a timely manner, without delay.

The questioning of witnesses shows that the defendant had gender-based, ownership attitudes towards the victim, which should have been accounted for when considering the motive of the crime during the investigation. However, no gender-based motive was considered in the indictment.

The victim's family members and relatives pointed out that the defendant had tense relations with the victim. The defendant accused the victim of trying to keep him away from his father and the farm. In addition, the defendant blamed the victim for his parents' break-up.

On January 23, 2017, the victim's brother was recognized as the victim's legal successor and was informed of his rights, but the case documents do not make it clear whether or not he expressed a desire to be acquainted with the case materials.

✓ Gaps at the stage of trial

On April 24, 2017, the Court accepted the evidence adduced by the parties. The evidence was examined during consideration of the case based on its unique merits, as the evidence was contested by the defense. The defendant pleaded guilty.

On August 14, 2017, the Tbilisi City Court found D.O. guilty of premeditated murder under Articles 11¹-108 of the Criminal Code of Georgia and sentenced him to 7 years in prison. The fact that the defendant turned himself in to the police after shooting the victim, cooperated with the investigation, and recognized and repented of the crime he committed in both the investigative body and the Court was considered a mitigating circumstance by the Court.

The Court held that the action had not been committed under any aggravating circumstances, but it did not substantiate its position about that fact. In addition, the Court did not assess the action and its composition in the context of gender.

No notification had been received by the Ministry of Internal Affairs of Georgia before this case of femicide.⁵⁹

6. The case of M.Z. (Akhaltzikhe District Court, Case N1/169-17)

✓ Facts - time, place and circumstances of the crime, a brief description

⁵⁹ Letter (MIA 0 18 02674872) of 1 November 2018 of the Ministry of Internal Affairs.

According to the indictment on April 10, 2017, M.Z. was indicted with premeditated murder under Articles 11¹ and 108 of the Criminal Code of Georgia.

In accordance with the indictment on July 13, 2017, M.Z. was indicted with premeditated murder under Articles 11¹ and 108 of the Criminal Code of Georgia; violence under paragraph 1 of Article 126 of the Criminal Code of Georgia; and premeditated attempted murder against two or more persons under subparagraph “a” of paragraph 3 of Article 109 and Article 19 of the Criminal Code of Georgia. On April 9, 2017, M.Z. stabbed his wife with a kitchen knife on the grounds of jealousy and with intent to kill her, causing life-threatening injuries to various parts of her body that resulted in the victim’s death. On the same day, M.Z. beat his wife’s sister. In particular, he punched her in the face several times, which resulted in physical pain and non-life threatening injuries.

On April 9, 2017, after killing his wife, M.Z., on the grounds of jealousy, decided to seek out revenge on the family of his friend (who the defendant was jealous of). In order to fulfill his intention, he broke into his friend’s house through the window and attacked his friend’s father with intent to kill him. The defendant hit his friend’s father in the head, forehead and right clavicle with an axe, after which he fled the scene of the crime. According to the medical examination report, the victim sustained non-life threatening injuries.

On April 11, 2017, the Court granted the prosecutor’s motion and ordered pre-trial detention for the defendant.

On October 11, 2017, the Akhaltsikhe District Court found M.Z. guilty under Articles 11¹, 108, 126.1 and 19-109 (3, a) of the Criminal Code of Georgia and sentenced him to 17 years in prison. The defense did not agree with the decision and appealed it to the Court of Appeal. In particular, the defense appealed against the conviction of the defendant under Articles 19-109 (3, a) of the Criminal Code of Georgia. The Court of Appeal rejected M.Z.’s appeal and sentenced him to 17 years in prison. The defense appealed the Court of Appeal’s verdict to the Supreme Court of Georgia.

According to the case files, in 2017, M.Z. was 37 years old and T.B. was 27 years old. They had two minor children. M.Z. had graduated from high school and was temporarily unemployed. The accused had multiple previous convictions of a variety of crimes

✓ **Gaps at the stage of investigation**

Investigation into criminal case N084090417001 was launched after the victim’s sister called the police and reported the crime that had been committed by her brother-in-law. On April 9, 2017, an investigation was launched by the Detective Division of the Samtskhe-Javakheti Police Department under Articles 11¹-108 of the Criminal Code of Georgia. On April 28, 2018, the investigation continued under Articles 11¹, 108, 126.1 and 19-109(3, a) of the Criminal Code of Georgia.

All necessary investigative and procedural actions were conducted in a timely manner, without delay. M.Z. was detained on April 9, 2017 without an arrest warrant, on the grounds of urgent necessity. He was interrogated on the same day and he pleaded guilty.

The questioning of witnesses illuminated the defendant's gender-based, ownership attitudes towards the victim, which should have been accounted for when considering the motive for the crime during the investigation. However, no gender-based motive was considered in the indictment.

According to witnesses, the victim had been systematically physically, psychologically and sexually abused. The defendant was jealous and accused his wife of cheating on him with his relatives and friends. He did not allow his wife to wear make-up or glasses, or to go out, due to jealousy.

On April 10, 2017, I.B. was identified as the victim's legal successor, but the case documents do not make it clear whether or not they expressed a desire to be acquainted with the case materials.

✓ **Gaps at the stage of trial**

On July 31, 2017, the Court accepted the evidence submitted by the parties. In accordance with Article 73 of the Criminal Procedural Code of Georgia, the evidence was not examined during consideration of the case based on its unique merits, as the evidence had not been contested by the parties. In addition, the defendant pleaded guilty.

On October 11, 2017, the Akhaltsikhe District Court found M.Z. guilty under Articles 11¹, 108, 126.1 and 19-109 (3, a) of the Criminal Code of Georgia and sentenced him to 17 years in prison. The Court did not find any mitigating circumstances for the defendant's punishment, while his criminal record was considered an aggravating circumstance. However, the Court did not substantiate its position on this.

The court did not consider the action and its composition in the context of gender, during which it should have accounted for circumstances, such as the crime's motive and purpose, method of the crime, unlawful will revealed in the action, etc.

No notification had been received by the Ministry of Internal Affairs of Georgia before this case of femicide.⁶⁰

7. The case of G.K. (Tbilisi City Court, Case N1/2939-17)

✓ **Facts - time, place and circumstances of the crime, a brief description**

According to the indictment on May 13, 2017, G.K. was indicted under Article 115 of the Criminal Code of Georgia: incitement of a person to suicide. On May 14, 2017, G.K.'s charge was specified

⁶⁰ Letter (MIA 6 17 01148342) of 16 May 2017 of the Ministry of Internal Affairs.

under Article 11¹-115: inciting a family member to suicide. On February 18, 2017, G.K. had brutally abused his former spouse, A.L. In particular, he inflicted multiple injuries to A.L.'s head, after which A.L. hanged herself in the bathroom with a belt-like item.

On May 14, 2017, the Court granted the prosecutor's motion and ordered pre-trial detention for the defendant.

On February 9, 2018, the Tbilisi City Court found G.K. guilty under Articles 11¹-115 of the Criminal Code of Georgia and sentenced him to 3 years in prison.

The defense did not agree with the verdict and demanded an acquittal of the defendant in the Court of Appeal.

According to the case files, in 2017, G.K. was 29 years old and A.L. was 26 years old. They had a five-year-old child together. G.K. had graduated from high school and was unemployed.

✓ **Gaps at the stage of investigation**

Investigation into criminal case N004190217001 was launched immediately after notification had been received from the Emergency Management Agency (112) on February 19, 2017. All necessary investigative and procedural actions were carried out in a timely manner, without delay. G.K. was arrested on the basis of an arrest warrant on May 13, 2017.

The questioning of witnesses illuminated the defendant's gender-based, ownership attitudes towards the victim, which should have been accounted for when considering the motive of the crime during the investigation. However, no gender-based motive was considered in the indictment.

According to the victim's neighbors, the victim had a tense relationship with the defendant, who was physically and verbally abusing her. Due to this, the victim had been forced to temporarily move to her relative's house. It should be noted that the defendant admitted to physically and verbally abusing his wife.

According to the victim's relatives, they saw photos depicting the victim's physical injuries inflicted by the defendant. Witnesses said that the defendant had threatened to kill the victim.

According to the victim's family members, a restraining order had been issued against the defendant. G.K. was addicted to gambling and drugs and was enrolled in a "methadone" program.

On May 13, 2017, the victim's mother, A.G., was recognized as the victim's legal successor and was informed of her rights, but the case documents do clarify whether or not she expressed a desire to be acquainted with the case materials.

✓ Gaps at the stage of trial

On July 6, 2017, the Court accepted the evidence adduced by the parties. The evidence was examined during consideration of the case based on its unique merits due to the evidence being contested by the parties.

On February 9, 2018, the Tbilisi City Court found G.K. guilty under Articles 11¹-115 of the Criminal Code of Georgia and sentenced him to 3 years in prison. The Court noted that it could not find any aggravating circumstancea, but it did not substantiate its position on this.

The Court also did not assess the action and its composition in the context of gender.

The following notifications had been received by the Ministry of Internal Affairs of Georgia before this crime.⁶¹

- ✓ On February 19, 2017, the 112 Service of the Ministry of Internal Affairs received a notification concerning the suicide.
- ✓ On October 16, 2016, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification about a conflict with her former spouse. The patrol police officer arrived at the scene. A. L. refused the issuance of a restraining order. A response protocol was drawn up.
- ✓ On October 15, 2016, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification about a conflict with her former spouse. The patrol police officer arrived at the scene. A. L. refused the issuance of a restraining order. A response protocol was drawn up.
- ✓ On November 21, 2015, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification. The patrol police crew arrived at the scene. A.L. said that she had a conflict with G.K. A. L. refused the issuance of a restraining order. A response protocol was drawn up.
- ✓ On January 16, 2015, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification. The patrol police crew arrived at the scene. A patrol police inspector issued a restraining order against G.K.. A response protocol was drawn up.
- ✓ On January 16, 2015, and investigation was launched into domestic violence committed by G.K. against A.L. under paragraph 1 of Article 126 of the Criminal Code of Georgia, but the investigation could not establish commission of a crime by G.K.. Due to this, on February 19, 2015, the criminal investigation was terminated by a decision of the Prosecutor's Office.
- ✓ On December 6, 2014, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification. The patrol police crew arrived at the scene. A.L. said that she wanted to break up with G.K. and to live separately. She called the patrol police crew peacefully with the intention of leaving the house without conflict. A.L. refused the issuance of a restraining order. A response protocol was drawn up.
- ✓ On July 5, 2014, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification. The patrol police crew arrived at the scene. The patrol inspector issued a restraining order against G.K.

⁶¹ Letter (MIA 5 17 00831983) of 7 April 2017 of the Ministry of Internal Affairs.

- ✓ On April 21, 2014, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification. The patrol police crew arrived at the scene. A.L. said that her former spouse, G.K., was disturbing her. In particular, her drunk husband was knocking on the door and was not allowing her to sleep. A. L. refused the issuance of a restraining order. The patrol inspector drew up a response protocol.
- ✓ On December 18, 2013, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification. The patrol police crew arrived at the scene. A.L. said that her husband G.K. was drunk and she wanted him to leave the house. G.K. left the house. A.L. refused the issuance of a restraining order.
- ✓ On October 4, 2013, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification. The patrol police crew arrived at the scene. They drew up a protocol against G.K. for committing an action under Article 173 of the Administrative Offences Code (disobedience to a police officer's order or demand).
- ✓ On September 28, 2013, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification. According to her, she had an argument with her spouse. The patrol police crew arrived at the scene. A. L. refused the issuance of a restraining order and did not cooperate with the police. A response protocol was drawn up.
- ✓ On May 7, 2013, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification. According to her, she was beaten by her spouse and was prevented from leaving with her child. The patrol police crew arrived at the scene. According to A.L., she wanted to leave the apartment, but her husband was not allowing her to do so. She denied that domestic conflict or abuse had occurred. A. L. refused the issuance of a restraining order. The patrol inspector drew up a response protocol.
- ✓ On February 6, 2013, the 112 Service of the Ministry of Internal Affairs received a notification. According to A.L., she had a conflict with her spouse (G.K.), who insulted and abused her. A restraining order was issued.

In 2013, the 112 Service of the Ministry of Internal Affairs received 4 notifications from A.L. However, later, she called again and said that she no longer needed help:

- ✓ On December 8, 2013, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification regarding domestic conflict. Later, A.L. called again and said she no longer needed help, since her husband had left.
- ✓ On November 10, 2013, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification. The patrol police crew arrived at the scene, but did not find anyone there. In a phone conversation, A.L. said that her former husband had left the place and that she no longer needed help.
- ✓ On October 3, 2013, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification concerning a conflict with her spouse, but later, she again called and said that she no longer needed help.

- ✓ On June 12, 2013, the 112 Service of the Ministry of Internal Affairs received A.L.'s notification concerning a conflict with her spouse, but later, she called again and said that the problem had been resolved and that she no longer needed help.

8. The case of Kh.N. (Rustavi City Court, Case #1-283-17)

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment on May 5, 2017, Kh.N. was indicted for premeditated murder of his family member under Articles 11¹-108 of the Criminal Code of Georgia. On June 20, 2017, the legal assessment of the case was changed and the investigation continued under Articles 11¹-109 (3, b) of the Criminal Code of Georgia: particularly brutal premeditated murder of a family member.

According to the indictment of June 20, 2017, the defendant stabbed his wife E.G. to death in her home on the grounds of jealousy. The defendant inflicted 16 wounds to his spouse in various parts of her body, including her chest.

On May 5, 2017, the Court granted the prosecutor's motion and ordered pre-trial detention for the defendant.

On November 14, 2017, the Rustavi City Court found Kh.N. guilty of particularly brutal premeditated murder of a family member under Articles 11¹-109 (3, b) of the Criminal Code of Georgia and was sentenced to 16 years in prison.

According to the case files, in 2017, Kh.N. was 28 years old and the victim was 21 years old. They had two minor children. Kh.N. had not received an education.

✓ Gaps at the stage of investigation

Investigation into criminal case N042040517001 was launched on May 4, 2017, immediately after a notification was received from the Emergency Management Agency (112). All necessary investigative and procedural actions were carried out in a timely manner, without delay.

Kh.N. was detained without an arrest warrant on May 4, 2017, on the grounds of urgent necessity. He was questioned on May 24, 2017 and he pleaded guilty. He said that he killed his wife on the grounds of jealousy because she was cheating on him.

The questioning of witnesses illuminated the defendant's gender-based, ownership attitudes towards the victim, which should have been considered when determining the motive of the crime. However, no gender-based motive was considered in the indictment.

During questioning, the victim's sister and neighbors noted that the victim and the defendant often had conflicts. Loud noises could often be heard from their home.

According to the victim's mother, the defendant and her daughter often had conflicts, but they used to reconcile soon afterward. She added that the defendant killed her daughter because of her daughter's correspondence with another man. The witnesses named adultery as the motive for the crime, which was confirmed by the defendant.

The victim's boyfriend was also questioned as a witness during the investigation. During the questioning, an investigator asked unethical questions that were not related to the investigation and which insulted the honor of the victim. These questions were as follows: "Where did you meet with victim?", "During which time of day did you meet each other?", "How many times and where did you have sexual intercourse with her?", and "Did the victim have a boyfriend other than you?"

On May 8, 2017, the victim's mother, Ph.G., was recognized as the victim's legal successor and was informed of her rights, but the case documents do not make it clear whether or not she expressed a desire to be acquainted with the case materials. Ph.G. was again recognized as the victim's legal successor and was informed of her rights on June 20, 2017, after charges against the defendant were increased.

✓ **Gaps at the stage of trial**

On June 30, 2017, the Court accepted the evidence adduced by the parties. The evidence was examined during consideration of the case based on its unique merits, since the evidence had been contested by the parties. The defendant did not plead guilty at the trial.

On November 14, 2017, the Rustavi City Court found Kh.N. guilty of particularly brutal, premeditated murder of a family member under Articles 11¹-109 (3,b) of the Criminal Code of Georgia and sentenced him to 16 years in prison. The Court noted that it could not find any aggravating circumstances, but it did not substantiate this claim.

Both the prosecution and the defense filed an appeal and demanded that the sentence be overturned due to the lack of substantiation. According to the prosecution, the conviction was unsubstantiated and when determining the penalty, the Court did not consider aggravating circumstances, namely the method, type and consequences of the action.

The Prosecutor's Office demanded a tougher penalty under subparagraph "b" of paragraph 3 of Article 109 and Article 11¹ of the Criminal Code of Georgia, while the defense demanded that the verdict be changed and the defendant be convicted under the more lenient Article 111 of the Criminal Code of Georgia. The Court of Appeal rejected both appeals and upheld the Rustavi City Court's judgment of November 14, 2017. The defense appealed the judgment of the Court of Appeal to the Supreme Court. The penalty in the mentioned verdict is unsubstantiated.

At the same time, the Court ignored the requirements of Article 53¹ of the Criminal Code (aggravating circumstances). When determining the penalty, the Court did not consider that the crime was committed on the grounds of gender-based discrimination against a family member, which represents an aggravating circumstance.

No notification had been received by the Ministry of Internal Affairs of Georgia before this case of femicide.⁶²

9. The case of V.Kh. (Mtskheta District Court, Case №1/274-17);

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment on August 5, 2017, V.Kh. was charged under Articles 11¹ - 109 (3, b) of the Criminal Code of Georgia with particularly brutal, premeditated murder of a family member.

On August 3, 2017, the defendant stabbed his wife E.Kh, in various parts of her body with intent to brutally kill her and on the grounds of jealousy,. The crime occurred in the presence of their child. The victim died as a result of her injuries.

After it was established that the defendant acted in a fit of passion, the case was subjected to Article 111.1 of the Criminal Code: premeditated murder in a state of strong mental agitation.

On August 5, 2017, the Court granted the prosecutor's motion and applied the measure of pre-trial detention against the defendant.

On December 7, 2017, the Mtskheta District Court found V.Kh. guilty under Article 111 (1) of the Criminal Code of Georgia and sentenced him to 2 years in prison. According to the psychological-psychiatric examination report, the defendant acted in a fit of passion when committing the crime. According to the case files, in 2017, V.Kh. was 49 years old and the victim was 41 years old. They had children. V.Kh. had graduated from high school. According to the conclusion of the medical examination, the defendant acted in a fit of passion when committing the crime.

✓ Gaps at the stage of investigation

Investigation into criminal case N087030817001 was launched on August 3, 2017, immediately after notification was received from the Emergency Management Agency (112). All necessary investigative and procedural actions were carried out in timely manner, without delay.

V.Kh. was detained without an arrest warrant on August 3, 2017 on the grounds of urgent necessity. He was interrogated on August 9, 2017 and he pleaded guilty. He was again interrogated on October

⁶² Letter (MIA 0 17 01591443) of 4 July 2017 of the Ministry of Internal Affairs.

27, 2017. According to the defendant, he acted in a fit of passion due to his wife's adultery and could not control his behavior. The defendant pleaded guilty.

The questioning of witnesses illuminated the defendant's gender-based, ownership attitudes towards the victim, which should have been considered when determining the motive of the crime. However, no gender-based motive was considered in the indictment.

Notably, the defendant had decided to murder his wife and had been shouting “I'll kill her! I'll kill her!” before committing the crime.

The witnesses used insulting and discriminatory words to describe the victim. They noted that “she was flirting with men and had relationships with many men; she was trying to start an intimate relationship with another man.”

It should be noted that the victim's boyfriend (who the defendant was jealous of) was also interrogated as a witness. He said that the victim had been writing love letters to him and had been trying to start relationship with him.

According to one of the witnesses, the victim caused the murder because she was cheating on her husband and had verbally insulting him.

On October 12, 2017, the victim's brother, A.Ch. was recognized as the victim's legal successor and was informed of his rights, but the case documents do not make it clear whether or not he wanted to be acquainted with the materials.

The stereotypical and discriminatory attitudes of the court and the investigation towards the victim, namely their assumptions that the defendant was affected by his “spouse's behavior, adultery and verbal abuse” such that it resulted in the woman's murder, was identified as a problem in this case. The court and the investigation were both trying to blame the victim for provoking the crime that the defendant committed. This is indicated in both the indictment and the verdict delivered by the Mtskheta District Court.

✓ Gaps at the stage of trial

On November 7, 2017, the Court accepted the evidence submitted by the parties. The parties contested some of the evidence, which was examined during the consideration of the case based on its unique merits. The defendant pleaded guilty.

On December 7, 2017, the Mtskheta District Court convicted the defendant of premeditated murder committed in a state strong mental agitation under Article 111 (1) of the Criminal Code of Georgia and sentenced him to 2 years in prison. According to the forensic psychiatric-psychological examination report, the defendant acted in a fit of passion when committing the crime.

The analysis of the evidence shows that the defendant came home and stabbed his wife to death after learning about her adultery. Consequently, the case does not show a fit of passion from the legal perspective, as the unconditional existence of legal elements together with medical elements is necessary in order to establish a fit of passion. The defendant first learned about his wife's adultery on the day of her murder. After some time, he went home and killed the victim (i.e., he did what he had decided to do). Consequently, the actions and emotions of the defendant were not sudden. The defendant's actions lack legal elements, which, together with medical elements, would provide the grounds for establishing that the defendant acted in a fit of passion.

Based on this, the Prosecutor's Office failed to correctly assess the action. Examination of the evidence shows that the defendant committed a crime (murder against a family member) under Articles 11¹-108 of the Criminal Code of Georgia. The decision of the Prosecutor's Office sets a dangerous precedent that could encourage offenders to kill their wives on the grounds of jealousy and then sell their actions as crimes caused by the victim's immoral behavior, which is punishable with only house arrest from 6 months to 1 year or imprisonment from 1 to 3 years.

The following were determined to be mitigating circumstances by the court: the defendant cooperated with investigation; he pleaded guilty; he had 4 children, including one minor; and the victim's legal successor did not have any complaints against the defendant. Commission of a crime against a family member (spouse) under paragraph 2 of Article 53¹ of the Criminal Code of Georgia was determined to be an aggravating circumstance. However, the Court did not substantiate its position regarding the aggravating circumstance.

No notification had been received by the Ministry of Internal Affairs of Georgia before this case of femicide.⁶³

Cases of attempted femicide

1. The case of S.Ch. (Kutaisi Court, Case N1/516-17)

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment on May 23, 2017, the defendant, S.Ch., who had previously been convicted of domestic violence, physically abused his wife's sister and mother-in-law with a mop on May 21, 2017, in the presence of a juvenile family member (Article 126¹(2, b, e, c) of the Criminal Code of Georgia). As a result, the victims experienced physical pain.

On June 26, 2017, the charges against S.Ch. were increased (Articles 11¹-117-1 of the Criminal Code of Georgia). In particular, according to the forensic examination report, S.Ch. inflicted grievous, life-threatening injuries to M.Sh.

⁶³ Letters (MIA 8 17 01970198; MIA 2 17 02337680) of 16 August and 28 September 2017 of the Ministry of Internal Affairs.

On May 23, 2017, the Kutaisi City Court rejected the prosecutor's motion regarding the application of pre-trial detention and the defendant was released on bail (GEL 4000).

On July 25, 2017, the Kutaisi City Court found S.Ch. guilty and sentenced him to 4 years in prison. The defendant did not agree with the verdict and appealed it. He demanded that his sentence be reduced by one year because he had pleaded guilty and repented. However, the Kutaisi Court of Appeal upheld the verdict of the Court of First Instance.

According to the case files, in 2017, the defendant was 42 years old, his mother-in-law was 57 years old and his wife's sister was 27 years old. The defendant has 4 children. He also did not complete his secondary education and was temporarily unemployed when he committed the crime. In addition, he was under the influence of alcohol when he committed the crime. He has twice been convicted of domestic violence.

✓ **Gaps at the stage of investigation**

Investigation into criminal case N041210517001 was launched under Article 126¹-2c of the Criminal Code of Georgia immediately after notification was received from the Emergency Management Agency (112). On June 26, 2017, Articles 11¹-117-1 were added to the case file. All necessary investigative and procedural actions were conducted in a timely manner, without delay.

S.Ch. was arrested on May 21, 2017 without an arrest warrant, on the grounds of urgent necessity. He was interrogated on the same day and he pleaded guilty. It should be considered that there was a chance that the defendant would hide, since he understood the unlawfulness of his actions and the expected outcome.

The questioning of witnesses shows that the defendant had gender-based attitudes towards the victims, which should have been considered when determining the motive of the crime. However, the no gender-based motive was considered in the indictment.

The victim's family members (children) noted that the defendant had been systematically abusing his wife's sister and mother-in-law. Because of this, two restraining orders had been issued against him. On May 23, 2017, the defendant's mother-in-law and wife's sister were recognized as victims and were informed of their rights, but the case documents do not make it clear whether or not they wanted to be acquainted with the case materials.

✓ **Gaps at the stage of trial**

On July 3, 2017, the Court accepted the evidence adduced by the parties. In accordance with Article 73 of the Criminal Procedural Code of Georgia, the evidence was not examined during consideration of the case based on its unique merits, since the evidence had not been contested by the parties. In addition, the defendant pleaded guilty.

Analysis of the case materials shows that the Court's decision to release the defendant on bail was disproportionately lenient given the severity of the crime committed by the defendant, in addition to considering the crimes previously committed by him. Furthermore, the Court did not account for the violent past of the defendant, nor the testimony of a police officer, according to which, the officer witnessed the defendant abusing the victims when they arrived at the scene of the crime.

On July 25, 2017, the Kutaisi City Court found S.Ch. guilty and sentenced him to 4 years in prison. The Court held that the previous convictions of the defendant were aggravating circumstances. It should be noted that despite the evidence adduced by the parties, the Court did not consider the gender-based motivation of the crime.

The following notifications had been received by the Ministry of Internal Affairs of Georgia before this attempted femicide:

- ✓ On September 11, 2014, S.A. stated that M.Sh. was physically assaulted by G.K. In connection with the mentioned fact, the first division of the Kutaisi City Police Department of the Ministry of Internal Affairs launched an investigation on criminal case N041110914002 case, qualified under the first part of the Criminal Code of Georgia 11¹-126¹. The investigation revealed that S.Ch. verbally and physically assaulted sister of his wife M.Sh. S.Ch. was sentenced to 150 days of public service.
- ✓ On 30 December 2015 M.Sh. said that her mother was physically assaulted by L.SH, son-in-law. In connection with this fact, the first division of the Kutaisi police department of the Ministry of Internal Affairs launched investigation into the criminal case N041311215001, sub-paragraphs "b" and "e" of Article 1261 of the Criminal Code of Georgia. The investigation found that on December 30, 2015, S.Ch physically assaulted his mother-in-law, L.Sh. with the presence of children. S.Ch. was sentenced to 250 hours of public service and penalty amounted to 1 675 GEL by the City Court of Kutaisi.

2. The case of M.S. (Bolnisi District Court N1/133-17)

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment, on May 2, 2017, the defendant was charged with premeditated attempted murder under Articles 19-108 of the Criminal Code of Georgia.

M.S. decided to murder his ex-wife, R.M., on April 30, 2017, while she was sitting at a nearby table in a ritual hall, where a wedding was underway. The defendant approached the table, but mistakenly stabbed another woman, S.K. He stabbed S.K. four times, after which, he dropped the knife and left the scene. S.K. sustained life-threatening injuries, but she was saved by her doctors.

M.S. was drunk when he committed the crime, but this is not indicated in the indictment. The indictment also does not say anything about the crime's motive.

On May 3, 2017, the Bolnisi District Court granted the prosecutor's motion and ordered pre-trial detention for the defendant.

On July 17, 2017, the Bolnisi District Court convicted the defendant under Articles 19-108 of the Criminal Code of Georgia and sentenced him to 8 years in prison.

According to the case files, in 2017, the defendant was 24 years old and his ex-wife was 20 years old. The woman he stabbed was also 20 years old. The defendant and his ex-wife have one child. The defendant has graduated from high school and was temporarily unemployed. The defendant was drunk when he committed the crime. It should also be noted that the crime occurred in a ritual hall in the presence of minors.

✓ Gaps at the stage of investigation

On April 30, 2017, investigation into criminal case N031300417001 was launched by the Marneuli District Division under Article 117 -1 of the Criminal Code of Georgia immediately after notification was received from the Emergency Management Agency (112). On May 2, 2017, the case was revised and the investigation was subjected to Articles 19-108 of the Criminal Code of Georgia. All necessary investigative and procedural actions were conducted in a timely manner, without delay.

On May 1, 2017, the defendant was arrested without an arrest warrant on the grounds of urgent necessity. He was interrogated the same day and he pleaded guilty.

The questioning of witnesses shows that the defendant had gender-based, ownership attitudes towards the victim. However, a gender-based motive was not considered in the indictment.

The witnesses (relatives and neighbors of the defendant's ex-wife) noted that the defendant had systematically abused his ex-wife.

In particular, the defendant's ex-wife, who when questioned as a witness, spoke about instances of violence against her. According to her, the defendant systematically humiliated and abused her, hitting her in the body and face, which caused her physical pain. The witness recalled one incident of violence, where the defendant splashed boiling water on her (two years before the attempted murder). The defendant was later convicted for this act and received a probationary sentence.⁶⁴ A week before the crime, the defendant threatened his wife with the following words: "Leave this house

⁶⁴ According to the case documents, M.S. was judged under Article 140 of the Criminal Code of Georgia (sexual relationship or other kind of sexual action with a minor under 16 years) by the Bolnisi District Court on 18 March 2015 and was sentenced to 2 years and 8 months in prison. The sentence was reduced by ¼ in accordance with the 28 December 2012 Law on Amnesty and was fixed at 2 years, which was counted as a conditional sentence.

before I stain my hands with blood.” According to the defendant’s ex-wife, she moved to a relative’s house, but her husband continued to threaten her.

✓ **Gaps at the stage of trial**

On June 21, 2017, the Court accepted the evidence submitted by the parties, which was examined during consideration of the case based on its unique merits, due to the evidence being contested by the parties.

On July 17, 2017, the Bolnisi District Court convicted the defendant under Articles 19-108 of the Criminal Code of Georgia and sentenced him to 8 years in prison. The Court maintained that the case did not contain any aggravating circumstances, but it did not substantiate this position.

It is important to note that neither the Prosecutor’s Office nor the Court paid attention to the discriminatory motive of the crime, which represents an aggravating circumstance.

No notification had been received by the Ministry of Internal Affairs of Georgia before this attempted femicide.⁶⁵

3. The case of D.G. (Gurjaani District Court, case N1/227-17)

✓ **Facts - time, place and circumstances of the crime, a brief description**

According to the indictment on June 23, 2017, D.G. was charged with attempted murder of a family member and illegal purchase and possession of a firearm and ammunition under Articles 11¹-19-108 and 236.2 of the Criminal Code of Georgia. On June 22, 2017, D.G., in the yard of his house, during a conflict caused by an argument, shot his daughter-in-law twice (in her stomach and in the right side of her pelvis) with intent to kill her. In hospital, the victim received urgent medical care and was saved.

On June 23, 2017, the Court granted the prosecutor’s motion and applied the measure of pre-trial detention against the defendant.

On November 8, 2017, the Gurjaani District Court found D.G. guilty under Articles 11¹,19,108 and 236.2 of the Criminal Code of Georgia and sentenced him to 8 years in prison.

According to the case files, in 2017, D.G. was 77 years old and his daughter-in-law was 35 years old. D.G. had graduated from high school and was not employed. The defendant had not been previously convicted or fined for domestic violence.

⁶⁵ Letter (MIA 0 18 02674872) of 1 November 2018 of the Ministry of Internal Affairs.

✓ Gaps at the stage of investigation

Investigation into criminal case N029220617001 was launched immediately after notification was received from the Emergency Management Agency (112). All necessary investigative and procedural actions were conducted in a timely manner, without delay.

On June 22, 2017, the defendant was arrested without an arrest warrant on the grounds of urgent necessity. He was interrogated the same day and he pleaded guilty.

The questioning of witnesses shows that the defendant had gender-based, ownership attitudes towards the victim, which should have been considered when determining the motive of the crime. However, a gender-based motive was considered in the indictment.

The victim's family members (spouse and children) pointed out that the defendant had continual conflict with his daughter-in-law; he humiliated, abused and insulted her, causing her physical and emotional pain. The victim's neighbors and family members noted that the defendant was jealous. In particular, he accused her of cheating on her husband and did not allow her to visit the neighbors. On June 23, 2017, T.T. was recognized as a victim and was informed of her rights, but the case documents do not make it clear whether or not she wanted to be acquainted with the case materials.

✓ Gaps at the stage of trial

On May 5, 2017, the Court accepted the evidence adduced by the parties. Part of the evidence was examined during consideration of the case based on its unique merits, due to the evidence being contested by the parties. The defendant, in part, pleaded guilty. He said that he only intended to intimidate his daughter-in-law by firing a shot near her and by firing another shot into the air.

On November 8, 2017, the Gurjaani District Court convicted D.G. of attempted murder of a family member and illegal purchase and possession of a firearm and ammunition under Articles 11¹-19-108 and 236.2 of the Criminal Code of Georgia. The Court maintained that the case did not contain any mitigating or aggravating circumstances, although it did not substantiate this claim. The Court did not consider the gender-based motive for the crime.

No notification had been received by the Ministry of Internal Affairs of Georgia before this attempted femicide.⁶⁶

4. The case of P.I. (Telavi District Court, Case N1/171-17)

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment on April 13, 2017, P.I. was charged with premeditated attempted mur-

⁶⁶ Letter (MIA 1 17 01660393) of 12 July 2017 of the Ministry of Internal Affairs.

der of a spouse under Articles 11¹-19-108 of the Criminal Code of Georgia. On April 12, 2017, P.I. stabbed his wife in the yard with intent to kill her and on the grounds of jealousy. He inflicted various life-threatening wounds, including to her stomach and chest. The defendant failed to achieve his goal of killing her due to the factors not dependent upon him. The victim was hospitalised and later saved as a result of timely medical assistance.

According to the indictment on June 19, 2017, the charges against the defendant were increased under Articles 11¹-19-109 (3, b) of the Criminal Code of Georgia: attempted brutal murder of a spouse. The attempted murder was committed in the presence of the victim's mother and minor children.

On April 14, 2017, the Court granted the prosecutor's motion and ordered pre-trial detention for the defendant.

On December 1, 2017, P.I. was acquitted by the Telavi District Court in relation to Articles 11¹, 19, 109 (3, b) of the Criminal Code of Georgia, but was convicted under Articles 11¹-19-108 of the Criminal Code of Georgia (attempted murder of a spouse) and was sentenced to 9 years in prison.

The defense appealed the verdict and requested that the sentence be reduced by the Court of Appeal. On December 1, 2017, the prosecution also appealed the verdict and requested that the defendant be convicted under Articles 11¹-19-109 (3, b) of the Criminal Code of Georgia: attempted brutal murder of a spouse.

The Court of Appeal granted the appeal of the Prosecutor's Office and found the defendant guilty under Articles 11¹-19-109 (3, b) of the Criminal Code of Georgia. P.I. was sentenced to 16 years in prison. He appealed the verdict to the Supreme Court.

According to the case files, in 2017, P.I. was 44 years old and the victim, Kh.I., was 31 years old. They had two minor children together. P.I. did not complete his secondary education and was temporarily unemployed. The crime committed in the presence of minors.

✓ **Gaps at the stage of investigation**

Investigation into criminal case N035120417001 was launched under Articles 19-108 of the Criminal Code of Georgia immediately after notification was received from the Emergency Management Agency (112). On April 13, 2017, the legal assessment of the case was changed and the investigation was subjected to Articles 11¹-19-108 of the Criminal Code of Georgia. On June 15, 2018, the legal assessment of the case was again changed and the investigation was subjected to Articles 11¹, 19, 109 (3, b) of the Criminal Code of Georgia. All necessary investigative and procedural actions were conducted in a timely manner, without delay.

On April 12, 2017, P.I. was detained without an arrest warrant on the grounds of urgent necessity. He was interrogated on the same day and he pleaded guilty.

The questioning of witnesses shows that the defendant had gender-based, ownership attitudes towards the victim, which should have been considered when determining the motive of the crime. However, no gender-based motive was considered in the indictment.

The victim's mother noted that the defendant often drank alcohol and physically and verbally abused the victim. Two restraining orders had been issued against the defendant due to the abuse. According to her, the defendant stabbed the victim several times, after which the victim fell down. Even after the victim fell down, the defendant continued to stab the victim in her stomach. The victim's mother and minor children witnessed the defendant was stabbing the victim. The victim's parents noted that the defendant accused his wife of adultery and threatened to kill her.

According to the victim's neighbors, the defendant and the victim often had conflicts and the police was had been informed of this.

According to the defendant's testimony, he had intended to cut off the victim's head, but changed his mind after seeing his children. The defendant stabbed the victim in the stomach and turned the knife around several times to ensure that the victim would die as a result of the wounds. The defendant did not allow a neighbor to call the ambulance.

According to the victim, while stabbing her, the defendant shouted the following words: "Die cheater." According to the victim's family members, the defendant threatened to beat the victim after he leaves prison.

On April 13, 2017, Kh.A. was recognized as a victim. On June 15, 2017, after charges against the defendant were increased, Kh.A. was again recognized as a victim. She has informed of her rights, but the case documents do not make it clear whether or not she wanted to be acquainted with the case materials.

✓ **Gaps at the stage of trial**

On July 13, 2017, the Court accepted the evidence adduced by the parties. Part of the evidence was contested. In accordance with Article 73 of the Criminal Procedural Code of Georgia, the non-contested evidence was not examined during consideration of the case based on its unique merits. In addition, the defendant pleaded guilty.

On December 1, 2017, the Telavi District Court acquitted P.I. in relation to Articles 11¹, 19, 109 (3, b) of the Criminal Code of Georgia, but found him guilty under Articles 11¹, 19, 108 of the Criminal Code of Georgia and sentenced him to 9 years in prison.

The Court of Appeal then granted the motion of the Prosecutor's Office and convicted P.I. of attempted brutal murder of a spouse under Articles 11¹,19,109 (3, b) of the Criminal Code of Georgia and sentenced him to 16 years in prison.

The Telavi District Court maintained that the case did not contain any aggravating circumstances, but did not substantiate this claim. It should be noted that the Court also did not consider a gender-based motive.

The following notifications⁶⁷ had been received by the Ministry of Internal Affairs of Georgia before this attempted femicide:

- ✓ On January 3, 2017, the 112 Service received a notification from citizen S.N., according to which, Kh.A., who had rented her house, was having a domestic conflict with her spouse.
- ✓ On January 10, 2017, the Court approved the restraining order issued by the police against P.I. for abusing his wife.
- ✓ On March 7, 2017, the 112 Service received a call from citizen Kh.A, who did not speak Georgian fluently. Thus, her neighbor talked to the operator and reported that Kh.A. was being beaten by her husband. The patrol police crew arrived at the scene. Kh.A. said she had a conflict with her spouse and no longer wanted to live with him.
- ✓ On March 9, 2017, the Court approved the restraining order issued by the police against P.I. for abusing his wife.

5. The case of I.T. (Tbilisi City Court, Case #1/2172-177);

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment on March 31, 2017, I.T. was charged under Articles 11¹-19-109 (3, b) of the Criminal Code of Georgia: attempted brutal murder of a spouse.

According to the indictment on March 31, 2017, I.T. intentionally attempted to kill his wife, M.P., with a kitchen knife during a domestic conflict with her on March 24, 2017. This crime was witnessed by their minorchild. I.T. failed to achieve kill his wife, as the owner of the house prevented him from doing so. The defendant then fled the scene of the crime.

On March 31, 2017, the Court granted the prosecutor's motion and applied the measure of pre-trial detention against the defendant.

On January 18, 2018, the Tbilisi City Court changed the legal assessment of I.T.'s action from pre-meditated brutal attempted murder of a spouse to premeditated attempted murder of a spouse under

⁶⁷ Letter (MIA 8 17 01537612) of 28 June 2017 of the Ministry of Internal Affairs.

Articles 11¹-19-108 of the Criminal Code of Georgia, and then found him guilty under Articles 11¹-19-108 of the Criminal Code of Georgia. The court sentenced the defendant to 8 years in prison.

According to the case files, in 2017, both the defendant and the victim were 38 years old. They had two minor children. One of the children witnessed the crime. I.T. had graduated from high school and was unemployed.

✓ **Gaps at the stage of investigation**

Investigation into criminal case N004240317003 was launched on March 24, 2017, immediately after notification was received from the Emergency Management Agency (112), into attempted murder of a family member under Articles 11¹-19-108 of the Criminal Code of Georgia by the 9th division of the Isani-Samgori Police Department. On March 28, 2017, the legal assessment of the case was changed and the investigation was subjected to Articles 11¹-19-109 (3, b) of the Criminal Code of Georgia: premeditated brutal attempted murder of a spouse. All necessary investigative and procedural actions were conducted in a timely manner, without delay.

On April 25, 2017, I.T. was detained while attempting to hide, on the basis of an arrest warrant. He was interrogated on April 26, 2017. He did not plead guilty and used his right to remain silent.

The questioning of witnesses shows that the defendant had gender-based, ownership attitudes towards the victim, which should have been considered when determining the motive of the crime. However, no gender-based motive was considered in the indictment.

According to relatives of the victim and the defendant, the defendant used to abuse the victim. He asked the victim to come live with him in the village, which the victim refused. The defendant's relatives noted that the defendant suspected that his wife had a boyfriend and that was why she did not want to go to the village.

According to the defendant's stepmother, who was questioned as a witness, she heard the victim desperately screaming "Help me" and witnessed the attempted murder (saw the victim's throat cut and how she was hit in the face several times). The incident was also witnessed by the victim and defendant's minor child, who begged their father not to kill their mother. According to the victim's friends, who were questioned as witnesses, the child often told them how their father stabbed their mother and "made her bleed." According to a child psychologist, who was questioned as a witness, the child had refused to talk to anyone and had sat alone in the kindergarten for a some time.

The defendant's father said during questioning that the victim had often complained about physical and verbal abuse. The victim had never called the police or ambulance prior to this crime.

During questioning, the victim noted that the defendant had been systematically drinking alcohol and abusing her. The victim had never talked about this with anyone in an effort to save her family.

On March 30, 2017, M.P. was recognized as a victim. She was informed of her rights, but the case documents do not clarify whether or not she wanted to be acquainted with the materials.

✓ Gaps at the stage of trial

On June 19, 2017, the Court accepted the evidence submitted by the parties. Part of the evidence was examined during consideration of the case based on its unique merits, due to the evidence being contested by the parties. The defendant did not plead guilty.

On January 18, 2018, the Tbilisi City Court changed the legal assessment of the case from premeditated brutal attempted murder of a spouse (Articles 11¹-19-109 (3, b) of the Criminal Code of Georgia) to premeditated attempted murder of a spouse under Articles 11¹-19-108 of the Criminal Code of Georgia. The defendant was convicted under Articles 11¹-19-108 of the Criminal Code of Georgia. The Court sentenced the defendant to 8 years in prison. The Court determined that commission of a crime against a family member was an aggravating circumstance.

The defendant appealed the verdict and requested that the case be subject to Article 120 of the Criminal Code of Georgia (intentional infliction of non-life threatening injuries to health).

The Prosecutor's Office also appealed the verdict and requested conviction of the defendant based on Articles 11¹-19-109 (3, b) of the Criminal Code of Georgia, as the Prosecutor's Office believed that the attempted murder was committed with particular brutality. The Court of Appeal granted the appeal of the Prosecutor's Office and sentenced the defendant to 16 years in prison.

The defendant appealed the the Court of Appeal's verdict to the Court of Cassation.

It should be noted that the court of first instance had wrongly assessed the crime and had ignored a number of factual circumstances that indicated the particular brutality of the crime. The Court ignored the defendant's behavior, the presence of a child at the crime scene and their reaction to what happened, the defendant's indifference towards the presence of the child, the fleeing of the defendant, and prior instances of violence committed by the defendant before the crime.

Despite the fact that the Court considered the commission of a crime against a family member as an aggravating circumstance, it did not consider the gender-based motive of the crime, which also represented an aggravating circumstance.

The following notification was received by the Ministry of Internal Affairs of Georgia before the attempted femicide:⁶⁸

- On March 22, 2017, the 112 Service received M.P.'s notification, according to which, she had a conflict with her spouse and no longer wanted to have a relationship with him. When police officers arrived at the scene, she denied any physical or verbal abuse.

6. The case of Sh.T. (Tbilisi City Court, Case #1/4437-17)

✓ Facts - time, place and circumstances of the crime, a brief description

According to the indictment on September 9, 2017, Sh.T. was charged under Articles 11¹-19-108 of the Criminal Code of Georgia: attempted murder of a spouse.

On September 6, 2017, Sh.T. stabbed his wife in her chest, stomach and back on the grounds of jealousy in Tbilisi. The victim survived as a result of timely medical intervention after being hospitalized. On September 10, 2017, the Court granted the prosecutor's motion and the measure of pre-trial detention was applied against the defendant.

On April 27, 2018, the Tbilisi City Court convicted the defendant under Articles 11¹-19-108 of the Criminal Code of Georgia for intentional attempted murder of his wife and sentenced him to 9 years in prison.

According to the case files, in 2017, Sh.T. was 42 years old and the victim, T.T., was 40 years old. They had three children. Sh.T. had a higher education degree and was employed in 2017.

✓ Gaps at the stage of investigation

Investigation into criminal case N007060917001 was launched on September 6, 2017, immediately after notification was received from the Emergency Management Agency (112). All necessary investigative and procedural actions were conducted in a timely manner, without delay. Sh.T. was arrested on the basis of an arrest warrant on September 8, 2017.

The questioning of witnesses shows that the defendant had gender-based, ownership attitudes towards the victim, which should have been considered when determining the motive of the crime. However, no gender-based motive was considered in the indictment.

During questioning, the victim's relatives said that they had witnessed the attempted murder. In particular, they saw the defendant stab the victim in her chest and then twice in her stomach and back when the victim tried to escape.

⁶⁸ Letter (MIA 0 18 02674872) of 1 November 2018 of the Ministry of Internal Affairs.

The victim's friends said that the defendant and the victim often had conflicts due to the defendant's jealousy.

According to the victim, the defendant was jealous and had been verbally and physically abusing her for many years. Because of this, they had separated many times, but then reconciled again for the sake of their children.

On September 18, 2017, T.T. was recognized as a victim and was informed of her rights, but the case documents do not clarify whether or not she wanted to be acquainted with the materials.

✓ **Gaps at the stage of trial**

The Court accepted the evidence submitted by the parties. Part of the evidence was examined during consideration of the case based on its unique merits, due to the evidence being contested by the parties.

According to the indictment on April 27, 2018, the Tbilisi City Court sentenced Sh.T. to 9 years in prison for committing a crime under Articles 11¹-19-108 of the Criminal Code of Georgia (attempted murder of a spouse).

The defendant filed an appeal with the Court of Appeal and demanded that his sentence be reduced. The Court evaluated the action and its composition in the gender context, during which, it considered circumstances, such as the crime's motive and purpose, method of the action, unlawfulness revealed in the action, etc. The Tbilisi City Court explained that it took into account aggravating circumstances when determining the penalty, in accordance with Article 53¹ of the Criminal Code of Georgia (the crime was committed against a family member). The sex of the victim was also considered, which indicates the discriminatory nature of the crime.

No notifications had been received by the Ministry of Internal Affairs of Georgia before this attempted femicide.⁶⁹

7. The case of I.I. (Mtskheta District Court, Case #1/240-17);

✓ **Facts - time, place and circumstances of the crime, a brief description**

According to the indictment on June 6, 2017, I.I. was charged with premeditated attempted murder of a family member under Articles 11¹-19–108 of the Criminal Code of Georgia.

On June 6, 2017, the defendant attempted to intentionally kill his spouse, N.I., in their yard after having an argument with her. The defendant hit the victim in the head with a hammer and a plank

⁶⁹ Letters (MIA 8 17 02272291; MIA 2 18 00968195) of 21 September and 26 April 2017 of the Ministry of Internal Affairs.

several times. According to the forensic examination report, the injuries inflicted to the victim were life-threatening.

On September 25, 2017, after it was established that the defendant acted in a fit of passion, the Prosecutor's Office changed the legal assessment of the case and charged I.I. under Articles 11¹-19-111.1 of the Criminal Code of Georgia: attempted murder of a spouse committed in a state of strong mental agitation.

According to the indictment, the victim deeply insulted the defendant, which stirred up the sudden, strong emotions in him. As a result, he hit his wife in the head with a plank and then with a hammer. The victim survived as a result of timely medical intervention.

On June 8, 2017, the Court granted the prosecutor's motion and ordered pre-trial detention for the defendant.

On February 5, 2018, the Mtskheta District Court dismissed Article 11¹ of the Criminal Code of Georgia as unnecessary, and found the defendant guilty of committing the crime under Article 19.111 of the Criminal Code of Georgia: attempted murder committed in a state strong mental agitation. I.I. was sentenced to one year in prison.

According to the case files, in 2017, I.I. was 84 years old and the victim, N.I., was 73 years old. They had children. I.I. had a higher education degree. According to the forensic examination report, the defendant acted in a fit of passion.

✓ **Gaps at the stage of investigation**

Investigation into criminal case N032060617002 was launched under Article 126¹-1 of the Criminal Code of Georgia, immediately after notification was received from the Emergency Management Agency (112). On June 6, 2017, the legal assessment of the case was changed and the investigation was subjected to Articles 11¹-19-108 of the Criminal Code of Georgia. According to the forensic examination report, on September 25, 2017, after it was established that the defendant acted in a fit of passion, the legal assessment of the case was changed and investigation continued under Articles 11¹-19-111.1 of the Criminal Code of Georgia. All necessary investigative and procedural actions were carried out in a timely manner, without delay.

On June 6, 2017, I.I. was detained without an arrest warrant, on the grounds of urgent necessity. He was interrogated on the same day and he pleaded guilty. I.I. said that his spouse had insulted him, which deeply impacted him and thus, he inflicted injuries to her head. According to the defendant, he did not intend to kill his wife, but acted in a fit of passion and could not control his actions. The defendant called the police and the ambulance himself and pleaded guilty.

Evidence, including testimonies of the witnesses, do not indicate any instances of violence committed by the defendant before the incident. Witnesses spoke only about the crime committed on June 6, 2017 and the defendant's mental health problems.

On August 8, 2017, N.I. was recognized as the victim's legal successor, but the case documents do not make it clear whether or not they wanted to be acquainted with the case materials.

The case makes it clear that the Court and the investigation had stereotypical and discriminatory attitudes towards the victim. Both the indictment and the verdict accuse the woman of provoking the crime.

✓ **Gaps at the stage of trial**

On October 4, 2017, the Court accepted the evidence submitted by the parties. Part of the evidence was examined during consideration of the case based on its unique merits, due to the evidence being contested by the parties. The defendant pleaded guilty.

On February 5, 2018, the Mtskheta District Court dismissed Article 11¹ of the Criminal Procedural Code of Georgia as unnecessary to the case, and instead found the defendant guilty of committing the crime under Article 19.111 of the Criminal Code of Georgia: attempted murder in a state of strong mental agitation and sentenced him to one year in prison. According to the forensic examination report, the defendant acted in a fit of passion.

The Court maintained that the defendant's age, his past life and admission of guilt were mitigating circumstances in the case, while commission of the crime against a family member (spouse) was considered an aggravating circumstance under Article 53¹(2) of the Criminal Code of Georgia. The Court did not substantiate its position regarding the aggravating circumstance.

No notifications had been received by the Ministry of Internal Affairs of Georgia before this attempted femicide.⁷⁰

8. The case of K.O. (Ozurgeti District Court; Case #1-399-17);

✓ **Facts – time, place and circumstances of the crime, a brief description**

According to the indictment on October 25, 2017, K.O. was charged under subparagraph "b" of paragraph 2 of Article 126¹ of the Criminal Code of Georgia (domestic violence against a family member in the presence of a minor) and Articles 11¹-115 of the Criminal Code of Georgia (inciting a family member to suicide). According to the indictment, the defendant had systematically degrading the victim in the presence of a child.

⁷⁰ Letter (MIA 3 18 02612468) of 25 October 2018 of the Ministry of Internal Affairs.

The victim twice attempted to commit suicide because of her husband's violence in October 2017. Specifically, on October 19, 2017, M.Z. took 10 pills of Analgin, and on October 22, 2017, she took 20 pills of Paracetamol, both times for the purpose of killing herself.

On October 26, 2017, the Court partially granted the prosecutor's motion and ordered bail (GEL 10,000) for the defendant. The Court's decision was appealed by the Prosecutor's Office to the Court of Appeal. According to the Prosecutor's Office, the defendant was charged with a violent crime, he had systematically degraded his wife in the presence of a child, and there was a chance that he might continue his violent actions. In addition, the defendant refused to cooperate with the investigation.

On November 4, 2017, the Court of Appeal dismissed the appeal of the Prosecutor's Office on the grounds that there had been no substantial breach of the requirements of the law, which could affect the legitimacy of applying the measure of restraint.

On February 1, 2018, the Court found K.O. guilty under subparagraph "b" of paragraph 2 of Article 126¹ and Articles 111-115 of the Criminal Code of Georgia and ordered a 2-year probationary sentence.

The Prosecutor's Office filed an appeal with the Court of Appeal and requested application of the measure of imprisonment instead of a probationary sentence against K.O.. According to the Prosecutor's Office, the Court of First Instance ignored the fact that the defendant had systematically abused his wife in the presence of a child.

On March 23, 2018, the Court of Appeal rejected the appeal of the Prosecutor's Office and upheld the verdict of the Court of First Instance.

The Prosecutor's Office appealed the decision of the Court of Appeal to the Court of Cassation and demanded the application of imprisonment instead of a probationary sentence against K.O.

According to the case files, in 2017, K.O. was 43 years old and the victim, M.Z., was 42 years old. They had children. K.O. had graduated from high school.

Gaps at the stage of investigation

Investigation into criminal case N070201017001 was launched under Article 115 of the Criminal Code of Georgia immediately after notification was received from the Emergency Management Agency (112).

All necessary investigative and procedural actions were conducted in the case in a timely manner, without delay.

On October 23, 2017, K.O. was detained without an arrest warrant, on the grounds of urgent necessity. He was interrogated on October 24, 2017 and he did not plead guilty.

The questioning of witnesses illuminated the defendant's gender-based, ownership attitudes towards the victim, which should have been considered when determining the motive of the crime during the investigation. However, no gender-based motive was considered in the indictment.

Examination of evidence, including the testimonies of witnesses, shows that the defendant had systematically abused the victim before the incident. According to the witnesses, the defendant was jealous and they often witnessed how he belittled and berated the victim.

On October 23, 2017, M.Z. was recognized as a victim and was informed of her rights, but the case documents do not clarify whether or not she wanted to be acquainted with the case materials.

Gaps at the stage of trial

On December 13, 2017, the Court accepted the evidence submitted by the parties. Part of the evidence was examined during consideration of the case based on its unique merits, due to the evidence being contested by the parties. The defendant pleaded guilty.

On February 1, 2018, the Court convicted K.O. of crimes committed under subparagraph "b" of paragraph 2 of Article 126¹ and Articles 11¹-115 of the Criminal Code of Georgia and ordered a 2-year probationary sentence.

The Court considered the admission of guilt by the defendant as a mitigating circumstance, while it found no aggravating circumstances.

No notification had been received by the Ministry of Internal Affairs of Georgia before the femicide attempt.⁷¹

⁷¹ Letter MIA 3 18 02612468 of 25 October 2018 of the Ministry of Internal Affairs of Georgia.

