



In partnership with Memorial Human Rights Centre (MHRC), the Georgian Young Lawyers' Association (GYLA) and Article 42 of the Constitution

Domestic violence in Georgia: national legislation and practice

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On 25 May 2006, the Georgian Parliament adopted the Law on the Prevention of Domestic Violence and Protection and Assistance for Victims of Domestic Violence. This law explicitly recognises crimes committed within the family framework as fully-fledged crimes and provides a system of protective orders which provide the Georgian police with a much-needed tool to deal with domestic violence. Under the new law, the Government of Georgia is obliged to support and ensure the implementation of mechanisms to prevent violence within the family. These preventative mechanisms comprise complex economic, legislative and other measures that seek to avert domestic violence. The Ministry of Labour, Health and Social Affairs, the Ministry of Education and Science, the Ministry of Internal Affairs, the Prosecutor's Office and judicial bodies in Georgia are obliged to implement preventive mechanisms within the framework of their competencies and in the way set out by the law. These state bodies may also cooperate with institutions working on domestic violence and human rights to ensure the fulfilment of joint programmes. Criminal, civil and administrative legislation can now be used both to uncover and prevent domestic violence: not only should a perpetrator be prosecuted under the criminal legislation of Georgia, but a victim can request compensation for moral or physical damage and should also

protective order, they can be prosecuted in criminal proceedings.

In March 2010 the US Department of State published a country report about human rights practices in Georgia for 2009 which indicates that since the new provisions were made law in 2006 increasing use has been made of them each year. According to the report: "*Restrictive orders were issued in 176 cases of domestic violence during the year [2009], compared with 141 cases in 2008. Within 24 hours the temporary order should be approved by a court, at which point it becomes a protective order that prohibits the abuser from coming within 100 meters (310 feet) of the victim and forbids the perpetrator to use common property, such as a residence or vehicle, for six months. The victim may request an unlimited number of extensions of the protective order. The Ministry of Internal Affairs has developed the legally required form that police should use to issue restrictive orders, but training for police in this area was lacking outside of Tbilisi.*"²

Perpetrators of domestic violence are prosecuted under criminal proceedings for such crimes as rape or battery.³ According to a report by the Ombudsman of Georgia, in the first half of 2009, 18 criminal cases on domestic violence were examined by the Collegium of Criminal Cases of the Tbilisi City Court. It should be noted that all the perpetrators were men. In most of these cases physical, psychological and verbal violence were alleged to have been committed by men against women

The NGO, Article 42 of the Constitution, implements a project called Strategic Litigation in the South Caucasus, in

daughter (the second applicant) and that the Georgian authorities failed to comply with its positive obligation both to enact criminal law provisions in order to effectively protect women and girls from physical and sexual abuse within the family. Furthermore, it failed to conduct appropriate investigations into the allegations made. It is further alleged that the authorities failed to provide equal protection under the law to victims of domestic violence and sexual abuse and that they subjected the authors to torture by failing to protect them from domestic violence. The authors allege violations of Arts. 1, 2(b), 2(c), 2(d), 2(e), 2(f) and 5(a) CEDAW. The case is currently at the communication stage.

The Government of Georgia has been successful at the legislative level as regards domestic violence and the Government and some local NGOs have created shelters for women and children. Regrettably, however, there are problems regarding the implementation of legal mechanisms in practice. Court hearings regarding domestic violence are closed and therefore it is difficult to analyse local practice, as case materials are not accessible. Additionally, societal stigma and stereotypes conspire to prevent the protection of those at risk of domestic violence and to prevent victims from getting assistance. However, in my opinion, if Georgian NGOs and state bodies conduct joint programmes regarding domestic violence this will decrease the incidence of infringement of legal rules and improve the implementation of the law in national practice.

be protected by a protective order issued under administrative proceedings.

Under this law, restraining or protective orders may be issued in order to protect victims from the actions of the perpetrator or to restrict the latter. The police may issue a 24-hour restraining order at the scene of an incident of domestic violence.¹ In addition, victims can appeal to the administrative courts for protective orders that last for up to three months. If the perpetrator does not comply with the

partnership with the Netherlands Helsinki Committee and INTERIGHTS.⁴ This project includes support for cases about domestic violence. In June 2009 an application in a case about domestic violence was lodged with the Committee on Elimination of all Forms of Discrimination Against Women (CEDAW). The authors' representatives are INTERIGHTS and the Georgian lawyer, Elena Filceva.

The first author alleges that her husband sexually and physically abused their

1 Restraining orders are temporary protective measures and must be submitted to the court for approval within 24 hours.

2 US Department of State, 11 March 2010. *2009 Human rights report: Georgia* [Online]. Available at: <http://www.state.gov/drl/rls/hrrpt/2009/eur/136032.htm>.

3 Art. 126 & 137 of the Criminal Code of Georgia.

4 The project's regional partners are the Armenian Institute for Development (Armenia) and Legal Education Society (Azerbaijan). The project is financed by the Netherlands Ministry of Foreign Affairs and the British Embassy.