**Submission by the Government of Georgia for the questionnaire**

**by the UN Special Rapporteur on the situation of human rights defenders**

***Question N1:***

Does your Covernment accept the legitimate right to defend human rights and if a defender is killed in the course of their work, do you publicly condemn it?

***Comment of the* prosecution service of Georgia**

Since 2018, the Division of Human Rights Protecten of General Prosecutor’s Office of Georgia (“the Division” – hereafter) performs statistical data processing regarding crimes committed against human rights defenders.

In 2020 the Division elaborated a recommendation for prosecutors and investigators of the prosecution service on “investigation and procedural supervision of cases involving human rights defenders”. The recommendation pursues goal to increase the quality of investigation and procedural supervision of those cases, in accordance with international instruments and with the recommendations of regional and global international organizations working on protection of human rights defenders. The recommendation concerns issues, such as: the notion of human rigts defender, classification of crimes committed against HUMAN RIGHTS DEFENDERs, related to their activity, HUMAN RIGHTS DEFENDERs at high risk, the importance of including witness and victim coordinator into a case involving HUMAN RIGHTS DEFENDER and other important topics.

***Question N2:***

Have there been any cases of human rights defenders killed in your country since 1 January 2019 up to 30 June 2020?

***Comment of the* prosecution service of Georgia**

During the reporting period, no murder of HUMAN RIGHTS DEFENDER has been committed.

***Question N3:***

How many convictions of perpetrators of killings oh human rights defenders were there in your country since 1 January 2019 up to 30 June 2020?

***Comment of the* prosecution service of Georgia**

On September 30, 2018, 25 years old, human rights defender Vitali Safarov was killed in Tbilisi. He worked for an NGO - the Center for Participation and Development (CPD) and for years he was actively engaged in organizing youth camps and different projects on the issues of tolerance and fight against racism, xenophobia and discrimination.

The investigation found that on September 30, 2018, in the vicinity of Alexander Dumas Street in Tbilisi, Giorgi Sokhadze, Avtandil Kandelakishvili and Vitali Sapharov picked up a quarrel, when Giorgi Sokhadze and Avtandil Kandelakishvili learnt that Vitali Sapharov was Jewish and defender of ethnic minority representatives. As a result of the above mentioned, Giorgi Sokhadze and Avtandil Kandelakishvili got deeply irritated and as a result of generated hate on the national grounds, in order to intentionally kill Vitali Safarov Avtandil Kandelakishvili inflicted multiple injuries to him in various parts of the body with knife. When Vitali Sapharov tried to escape, Giorgi Sokhadze grabbed him from behind in order to intentionally kill him and started severely beating him with a brass-knuckles, at the same time Avtandil Kandelakishvili continued stabbing Vitali Sapharov with a knife. Vitali Sapharov died before he was hospitalized due to the received injuries.

On April 8, 2019, both Avtandil Kandelakishvili and Giorgi Sokhadze were charged with committing murder as a group, with national intolerance motive.

On April 16, 2019, the Tbilisi City Court started hearing of Vitali Safarov’s murder case. Before the hearing, the CPD organized peaceful solidarity action in support of Vitali Safarov’s family in the yard of the court. The participants protested racism, xenophobia and violence.

After the examination of the case on merits was finished, on June 10, 2019 the Tbilisi City Court delivered judgment. Both defendants Giorgi Sokhadze and Avtandil Kandelakishvili were found guilty of committing murder as a group. Each of them was sentenced to 15 years in prison, however charges regarding national intolerance motive were dismissed. The prosecutor appealed against the judgment, requesting conviction in hatred motivation. For the time being the case is pending before Tbilisi appellate court.

***Question N4:***

Does your government have a procedure to respond to death threats to human rights defenders?

***Comment of the* prosecution service of Georgia**

Issuing a threat is punishable under article 151 of the Criminal Code of Georgia (the “CCG – hereafter), namely:

1. A threat of killing, damaging health or destroying property, when a person threatened has started to have a reasonable sensation of fear that the threat will be carried out, –

shall be punished by a fine or community service for a term of 120 to 180 hours, or by corrective labour for a term of up to one year or house arrest for a term of six months to two years, or by imprisonment for a term of up to one year, with or without restriction of the rights regarding weapons.

2. The same act committed:

a) by a group of persons;

b) repeatedly;

c) premeditatedly by a perpetrator against a pregnant woman, a person in a helpless condition, a person with limited capacity or a minor, –

shall be punished by a fine or community service for a term of 170 to 200 hours, or by corrective labour for a term of up to two years and/or imprisonment for a term of up to three years, with or without restriction of the rights regarding weapons.

Under article 531 of the CCG, committing a crime with intolerance motive is considered as an aggravating circumstance as follows:

**Article 531 – Aggravating factors for punishment**

1. ***Commission of crime on the basis of race, skin colour, language, sex, sexual orientation, gender, gender identity, age, religion, political or other views, disability, citizenship, national, ethnic or social affiliation, origin, property or birth status, place of residence or other signs of discrimination with the reason of intolerance shall be an aggravating factor for liability for all respective crimes.***
2. ***When imposing a fixed term imprisonment for a crime committed with an aggravating factor under paragraph 1 or 2 of this article, the term of a sentence to be served shall exceed at least by one year the minimum term of sentence provided for the committed crime under the respective article or part of an article of this Code.***

Threatening a HUMAN RIGHTS DEFENDER in relation to his/her activity, which is connected to or associated with any discrimination grounds provided for by article 531 of the CCG, constitutes a hate crime and circumstance that aggravates sentence.

***Question N5:***

Does your government have or would be willing to put in place legal guarantees and other protection measures to allow human rights defenders to do their work without persecution?

***Comment of the prosecution service of Georgia***

The Witness and Victim Coordinator Service operates in the system of the Prosecutor's Office of Georgia since 2011. The precondition for its creation was the amendments to the Criminal Procedure Code, according to which the victim no longer represents the party of the process and its legal status has changed into the status of a participant of the process. This change made it necessary to create such a service which, during the course of a criminal case, provided the facilitation of the participation of the witnesses and the victims in the proceedings, reducing the stress caused by crime, avoiding the re-victimization and secondary victimization and ensuring their awareness during the investigation and trial.

As a result of the legislative amendments to the Criminal Procedure Code of Georgia in May 2018, the Witness and Victim Coordinator Service has been strengthened institutionally. According to the amendment, the coordinator became a participant in the litigation process and was equipped with many important functions. In particular, the coordinators attend the investigative actions involving the victim, closed trials, provide information about the litigation process in a simple and understandable language, provide emotional support, assist them in using services available for victims, whether it be providing shelter, medical or legal assistance or promotion of employment and strengthening other personal and professional skills.

Coordinators are primarily involved in the cases where they are facing: domestic violence, trafficking, sexual assault, crime committed on the grounds of hate (among others crimes committed against defenders based on discrimination), also in the cases where the victim and/or witness is a juvenile or disabled person, the victim/witness suffered serious physical and moral damage as a result of the crime and/or crime-related stress makes it difficult to communicate with the victim/witness. As of today, 20 coordinators are employed in various structural units of the Prosecutor's Office of Georgia.

When a collaborative relationship between the coordinator and the victim/witness begins, in the case of victim's desire and in agreement with the prosecutor, the coordinator is authorized to inform the victim on all actions taken in the investigation process. In addition, the coordinator attends the investigative and procedural actions involving the victim, when his/her rights and responsibilities include provision of the first psychological and emotional support for the victim /witness; advising the investigator on the needs of the victim/witness in order to prevent re-victimization and secondary victimization; explanation of rights and responsibilities and the essence of the investigative/procedural action in a language understandable to the victim/witness, explanation of the importance of a victim /witness involvement in this action;

The coordinator supports the victim / witness to be emotionally prepared and informed about the course of the trial and prepares a victim / witness to testify at a trial. If necessary, the victim/witness coordinator attends the trial to provide emotional support to the victim/witness.

The Prosecutor’s Office developed the guidebook for the Witness and Victim Coordinators and the Prosecutors. The guidebook includes practical recommendations on the inclusion of a coordinator in the criminal case, functions, rights and obligations of the Witness and Victim Coordinators, priorities of The Coordinators’ Service.

***Question N6:***

Could you please share good practices (evidence-based) that have proofed effective to respond to deatg threats? And to prevent them from escalating into the killing (s) of human rights defenders?

***Comment of the* prosecution service of Georgia**

***Case N1:***

On 17 May 2018, Journalist N. K. was invited to the tv show “Barrier” aired on broadcast company “Caucasia”. During the show, N.K. expressed support towards representatives of sexual minority and protested violence committed against them. N.K.’s statements irritated V. J., who hated representatives of sexual minority.

On 18-19 May 2018, while being in village Chilovani, Dusheti district, V.J. found N.K. on social network “facebook” and texted from his account to N.K. verbal abuses and threats. In particular, full with intolerance to N.K.’s views, V. J. threatened to rape her and set her body on fire. As a result, N.K. obtained reasonable fear of realization of threats.

On 8 October 2018, N.K. was charged with threatening, crime provided for by article 151 §1 of the CCG. On 7 November 2018 N.K.’s charge was reclassified to article 156 §2 (Persecution of a person because of their speech and opinion, committed using threat of violence)

On 29 November 2018, with the judgment of Mtskheta district court N.K. was found guilty as charged.

***Case N2:***

In 2018 I.K. became member of a NGO “Tanadgoma” and participated in various activities. On 19 May 2019 he was invited to tv show “Hashtag” aired on Adjara Public Broadcaster to speak about international day against homophobia, transphobia and biphobia. The record of the tv show was published in social media as well, which entailed negative response from I.K.’s relative Z.K. Z.K. deemed, that I.K. was homosexual and on 19 May 2019, while being in village Chaisubani of Kobuleti district, with sexual orientation-based intolerance motive threatened to kill him and injure his health. I.K. obtained reasonable fear of realization of threats.

On 6 June 2018, Z.K. was charged with threatening, committed with sexual orientation-based intolerance motive, crime provided for by article 151 §1 of the CCG.

Currently the case is considered on merits in Batumi city court.

***Case N3:***

On 8 November 2019, approximately at 19:45, during protest march in the vicinity of №36/1 Kostava street, Tbilisi, in front of cinema “Amirani” (exactly when the screening of the film "And Then We Danced" was due) S.S. based on physical appearance and sexual orientation intolerance motive threw mobile phone at A.S. which hit her in the face. As a result, A.S. received mild health injury.

The law enforcement officers arrested S.S. at the spot few minutes later. He was charged with inflicting intentional mild health injury, committed with sexual orientation-based intolerance motive, a crime provided for by article 120 §1 of the Criminal Code of Georgia and remand detention was applied to him as a measure of restraint.

With the judgment of Tbilisi city court S.S. was found guilty as charged and sentenced to imprisonment with the term of 1 year and 6 months.