

Working Group on discrimination against women in law and in practice

Questionnaire on good practices

In accordance with its mandate, the UN Working Group on the Issue of Discrimination Against Women in Law and Practice has developed this questionnaire to gather information on “good practices” in eliminating discrimination and empowering women for its next thematic report. Given the centrality of the law to the Working Group’s mandate, the report will focus on the processes by which laws that support women’s equality and enjoyment of human rights come into being and are implemented in ways that support women’s enjoyment of their human rights and fundamental freedoms.

The questionnaire intends to solicit information on how a specific law aimed at addressing discrimination against women and promoting women’s substantive equality has come into being, was effectively implemented (I), and what impacts the law has had for women on the ground (II).

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) clearly establishes State obligation to respect, protect and fulfill women’s human rights, ensuring the de facto enjoyment of those rights by women. CEDAW’s framework is founded on the principle of substantive equality, which requires States to take active measures to not only eliminate laws and practices that directly discriminate against women, but to create an environment in which women’s rights can be fulfilled. Good practices in the promotion of women’s human rights thus require a holistic approach that addresses both the causes and consequences of discrimination, and aim at social transformation.

Recognizing the aspiration of the Working Group to better understand the processes and elements which contribute to build “good practices” in legislation and its implementation the Working Group requests that you provide detailed information on at least **one law** adopted in a State that has been successfully implemented in that it has had a notably substantial impact on eliminating discrimination against women in the specific area related to that law and has enhanced women’s enjoyment of their human rights in your national context, such that you consider it a “good practice.” Processes of substantive change often take place over a period of many years, so the law need not be new: this survey should focus on a law whose impact has been substantiated and the impacts of which are still being seen.

The Working Group wishes to thank all stakeholders for responding to this questionnaire **by 12 September 2016.**

Questionnaire

For the following sections, please provide information about a law that has been selected as an exemplary case study of a “good practice” in eliminating discrimination and empowering women in your national context.

I. Identification of a law that has eliminated or substantially reduced discrimination and supported women’s empowerment.

Background Information on the Law

1. Name/Title of the Legislation: Law on Elimination of All Forms of Discrimination(*hereinafter – Anti-Discrimination Law*)

2. Date the law passed and came into force: May 2, 2014

3. Was it a new law or an amendment of an existing law?

New (X) Amendment ()

If it was an amendment of an existing law, please providing name/title of existing law and any pertinent information here:

4. Is the legislation focused specifically on discrimination against women/gender equality, or is it part of a larger piece of legislation (i.e. Labour law with provisions around gender)? Please explain.

The new Law aims at ensuring elimination of all kinds of discrimination in all spheres of social life and promotes equal treatment of every natural and legal persons irrespective of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics.¹

5. Please provide a summary of the content of the law, its preamble or explanatory note, policy measures, dissemination and implementation regulations, and provisions for access to justice, as well a link to where all these can be found online.

¹ Article 1 of the Law on Elimination of All Forms of Discrimination

As already mentioned above, the Anti-discrimination Law explicitly prohibits discrimination and envisages the obligation of the State to take all appropriate measures to provide equal rights and freedoms for men and women in both public and private sector. It imposes responsibilities not only on public institutions, but also on any legal entity or individual. The Law provides legal definitions relating to gender equality and envisages empowerment of Public Defender's Office (*hereinafter* – PDO) to monitor the implementation of law. PDO is mandated to prepare reports and recommendations and, also, to examine the case of discrimination based on the application/complaint submitted to the PDO.²

6. When was the first draft of this law introduced, and when was it adopted (please specify dates of first draft and adoption?)

The first Draft of the Law was submitted to the parliament on 2 April, 2014 and was adopted on May 2, 2014.

The Law's Compliance with CEDAW

7. In your view, does the law in question place a positive duty on the State to achieve substantive equality for women?

Yes (X) No (

) If yes, please explain:

Article 4 of the Anti-discrimination Law envisages the obligation of all institutions, both public and private, to respond promptly and efficiently to any alleged act of discrimination and if an act of discrimination is confirmed, impose a liability on offenders under its control according to the legislation of Georgia and internal regulations, and ensure that the consequences of discrimination are eliminated without prejudice to the rights and legitimate interests of third persons.

8. Does the law contain a definition of discrimination that is in accord with Article 1 of CEDAW?

² Article 6 of the Law on Elimination of All Forms of Discrimination

Yes (X) No ()

If yes, please direct us to the section of the pertinent document. If not, please indicate if that definition is enshrined already in the constitution or charter of rights.

Article 2 of the Anti-Discrimination Law foresees the definitions of different types of discrimination, such as Direct and indirect discriminations which also includes discrimination based on the ground of sex. Notably, the Anti-Discrimination Law introduced the novelty - principle of multiple discrimination as women like other vulnerable groups might be especially susceptible to multiple and concurrent forms of discrimination (Please, refer to the detailed information outlined into question number 9).

9. Does the law’s definition of discrimination include and define both direct and indirect discrimination?

Yes (X) No ()

If yes, please explain:

According to the Anti-Discrimination Law “Direct discrimination” is defined as the kind of treatment or creating the conditions when one person is treated less favourably than another person in a comparable situation on any grounds of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or other characteristics or when persons in inherently unequal conditions are treated equally in the enjoyment of the rights provided for by the legislation of Georgia, unless such treatment or creating such conditions serves the statutory purpose of maintaining public order and morals, has an objective and reasonable justification, and is necessary in a democratic society, and the means of achieving that purpose are appropriate.³

“Indirect discrimination” is a situation where a provision, criterion or practice, neutral in form but discriminatory in substance, puts persons having any of the characteristics of race, skin colour, language, sex, age, citizenship, origin, place of birth or residence, property or social status, religion or belief, national, ethnic or social origin, profession, marital status, health, disability, sexual orientation, gender identity and expression, political or other opinions, or

³ Paragraph 2 of Article 2 of the Law on Elimination of All Forms of Discrimination

other characteristics at a disadvantage compared with another persons in a comparable situation, or equally treats persons who are in inherently unequal conditions, unless such situation serves the statutory purpose of maintaining public order and morals, has an objective and reasonable justification, and is necessary in a democratic society, and the means of achieving that purpose are appropriate.⁴

As already mentioned above, the Anti-Discrimination Law also provides the definition of multiple discrimination which is determined as a discrimination based on the combination of two or more characteristics.⁵

10. How has the Constitution supported the process of adoption and implementation of the law? Does the Constitution have an equality and non-discrimination provision?

Yes, equality and non-discrimination between men and women is ensured under the Constitution of Georgia. According to article 14 of the Constitution of Georgia everyone is free by birth and is equal before the law regardless of race, color, language, sex, religion, political and other opinions, national, ethnic and social belonging, origin, property and title, place of residence.

11. Does the law contain provisions that address discrimination against women from an intersectional perspective, taking into account a diversity of women’s social identities, statuses and experiences?

Yes () No (X)

If yes, please explain which social identities, statuses and/or intersectional factors are explicitly noted in the law:

12. Whom of the following are bound by the law?

The State	Yes	(X)	No	()
Public Authorities/Bodies	Yes	(X)	No	()
Civil society organisations	Yes	(X)	No	()

⁴ Paragraph 3 of Article 2 of the Law on Elimination of All Forms of Discrimination

⁵ Paragraph 4 of Article 2 of the Law on Elimination of All Forms of Discrimination

Private companies	Yes	(X)	No	()
Individuals	Yes	(X)	No	()

II. How the law came into being and was implemented

1. What was the impetus for the development of this law (i.e. social movement activism, political platform, a Supreme Court ruling, an egregious case of discrimination, constitutional reform...)?

2. Were there any conditions in the political context that made it possible for this law to be developed and adopted at the time that it was (i.e. a particular political party in power, a conflict/post-conflict situation, a recent ratification of an HR instrument, etc.)?

Yes (X) No ()

If yes, please explain:

⇒ Joint answer for 1st and 2nd questions

The Government of Georgia has committed to further enhance national anti-discrimination policy since 2013. One of the main impetus for the development of the Anti-Discrimination Law was the obligation enshrined from the EU-Georgia Visa-Liberalization Action Plan (VLAP) and the Association Agenda between EU and Georgia for 2014-2016. Based on it, Georgia was required to adopt a comprehensive anti-discrimination law and to ensure effective protection against discrimination.

3. What actors were consulted and how were they consulted in the law's development and formulation? Check all that apply, and, where possible, provide names of involved individuals, agencies, organizations, etc.

Legal Experts/scholars (please specify) (X)

- Experts from the European Commission against Racism and Intolerance(ECRI);
- OSCE office for Democratic Institutions and Human Rights;
- the Office of the United Nations High Commissioner for Human Rights (OHCHR);
- Swedish Legal Expert Hans Ytterberg.

Most of the recommendations and feedback were taken into consideration during the drafting

of the Law.

Government Ministries (X) Provided their comments and remarks.
NHRI (X) provided their remarks.
NGOs/CSOs (X) provided their remarks.
Other social groups (specify) (X) provided their remarks.

4. Was there opposition to the law?

Yes (X) No ()

If yes, please explain from whom and why, and how it was addressed:

Adoption of a new anti-discrimination law was one of the sensitive and challenging reforms of the current Government. Elaboration process of the Law was quite intensive, inclusive and complicated, since various civil society organizations and the representatives from the religious denominations were actively involved in the elaboration process of the Law. The participants of the working process have expressed different views regarding the development of legal provisions, including those related prohibition of discrimination based on Gender Identity and Sexual Orientation. However, overcome of the contradictory views and approval of the Law by Georgian Parliament was the result of consensus reached between the Government of Georgia and interested parties, including the Orthodox Church.

6. Were there other laws that needed to be reformed in order to enact this law?

Yes (X) No ()

If yes, please list and explain:

In order to enact the Anti-Discrimination Law, the respective amendments were elaborated to the following legal acts: the Civil Procedure Code of Georgia, the Criminal Code of Georgia, the Law of Georgia on Gender Equality and the Organic Law on Public Defender's Office of Georgia.

The Civil Procedure Code of Georgia

In the Civil Procedure Code of Georgia new Chapter 7³ "Litigation on Discrimination related Issues" has determined the list of entitled persons for referring the discrimination cases to the court.

The Criminal Code of Georgia

New grounds of discrimination, such as age, family or health condition, sexual orientation or gender identity, nationality, birth place and persecution were added and grounds such as race, colour, national ethnic origin were removed from article 142 (Violation of equality) of the Criminal Code of Georgia in order to prevent the duplication with 142¹ (racial discrimination) of the Criminal Code of Georgia. Furthermore, the amendment introduced the liability of legal persons for committing the Violation of equality (article 142) and racial discrimination (article 142¹). The legal persons can be punished by Fine, Liquidation or deprivation of right to carry out activities.

The Law of Georgia on Gender Equality

In order to enact the Anti-Discrimination Law, the definitions of direct and indirect discrimination provided under the Law of Georgia on Gender Equality were amended in order to make them in compliance with the Anti-Discrimination Law. Furthermore, before the enactment of the Anti-Discrimination Law, the paragraph 1(a) of Article 6 of the Law on Gender Equality envisaged that “Discrimination, harassment and/or coercion of a person with the purpose or effect of creating an intimidating, hostile, humiliating, degrading, or offensive environment was not allowed in Labor relations”. After the amendment, the word “discrimination” was removed, as under the Anti-Discrimination Law harassment and/or coercion of a person with the purpose or effect of creating an intimidating, hostile, humiliating, degrading, or offensive environment is itself the discrimination.

The Organic Law on Public Defender’s Office of Georgia.

The Organic Law on Public Defender’s Office of Georgia was amended to equip the PDO with relevant functions to monitor the implementation of Anti-Discrimination Law.

7. Were any international human rights treaties or mechanisms referenced in the law’s creation?

Yes (X) No ()

If yes, please list and explain:

During the drafting period of the Anti-Discrimination Law the Government of Georgia took into consideration all the main international Human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women, International Covenant on Civil and Political Rights, International Covenant on economic, Social and Cultural Rights etc.

Furthermore, as already mentioned above the experts from European Commission against Racism and Intolerance (ECRI), OSCE office for Democratic Institutions and Human Rights and the Office of the United Nations High Commissioner for Human Rights (OHCHR) issued their feedbacks and recommendations. Most of them were reflected in the draft law. Additionally, Anti-Discrimination legislation of primary EU Member States were analyzed while drafting the Law.

8. Did any international/regional/national human rights mechanism issue recommendations to the State in regard to amendment or formulation of this law, or regarding effective implementation? If yes, was this recommendation formulated prior, during or after the adoption of the law?

Yes (X) No ()

If yes, please list and explain:

Since 2015 the following international recommendations were issued regarding the Anti-Discrimination Law. In 2015 the UN Human Rights Committee in its report on Georgia's Compliance with the International Covenant on Civil and Political Rights urged Georgian authorities to:

- a) Continue to provide the Office of the Public Defender with increased financial and human resources commensurate with its expanded role and enable it to carry out its new functions effectively;
- b) Empower the Office of the Public Defender to issue binding opinions and to request initiation of legal proceedings under its mandate to monitor the implementation of the anti-discrimination legislation, or set up a separate independent monitoring body and extend such powers to it;
- c) Ensure that perpetrators are adequately sanctioned and victims of discrimination are provided with effective and appropriate remedies;
- d) Raise awareness among the population at large about the Law on Elimination of all Forms of Discrimination and the penalties for discrimination.

The same Recommendation had the Committee on the Elimination of Discrimination against Women regarding the awareness raising and allocation of sufficient resources to the Public Defender's Office of Georgia to ensure the effective implementation of the gender equality legislation.

Furthermore, the Universal Periodic Review (UPR) report recommended the government to disseminate the information on its provisions to the public as well as the personnel of the justice and law enforcement systems and strengthen the role of the Ombudsperson in this regard.

On March 1, 2016 Experts from the European Commission against Racism and Intolerance (ECRI) issued report on Georgia and recommended the Government of Georgia to amend the Law on the Elimination of All Forms of Discrimination to include: (i) a prohibition of acts of segregation, discrimination by association, and announced intention to discriminate; (ii) a duty for public institutions to ensure that parties to whom they award contracts, loans, grants or other benefits respect and promote a policy of non-discrimination; (iii) the right to free legal aid or a court lawyer and an interpreter, if necessary, for plaintiffs wishing to bring their case to a court; (iv) a fast-track option for bringing discrimination cases to the courts; and (v) a prohibition of harassment related to one of the enumerated grounds.

9. What measures to support implementation were built into the law or developed immediately after (and as a result of) its passing? This could include such measures as budgetary and resource allocation, monitoring mechanisms, data collection, impact measurement mechanisms, independent monitoring, etc. Please list and explain, providing any relevant documents.

Pursuant to the Anti- Discrimination Law, the PDO monitors the implementation of the Anti-Discrimination Law. In this regard, the PDO:

- a) Reviews applications and complaints by natural and legal persons or groups of persons, who consider themselves victims of discrimination;
- b) Examines cases of discrimination where an application or complaint exists, as well as *ex officio* and issue relevant recommendations;
- c) Elaborates and submits to relevant agencies or persons suggestions of a general nature on the issues of prevention and combating discrimination;
- d) Develops opinions on the necessary legislative amendments and submits them to the Parliament of Georgia in the form of a legislative proposal;
- e) Summons the victim of discrimination and alleged perpetrator of discrimination and attempts to resolve the case through amicable settlement;

- f) For the purpose of restoration of the rights of the victim of discrimination, addresses a relevant body or person, if settlement is impossible and sufficient materials confirming discrimination exist;
- g) Is authorized to address the court pursuant to the Code of Administrative Procedure of Georgia, as an interested party and to request issuance of an administrative ruling or execution of an action, if no response to the recommendation has been given by the administrative body or the recommendation has not been taken into consideration and sufficient evidence confirming discrimination exists;
- h) Collects and analyzes statistical data on discrimination cases;
- i) Carries out measures to raise public awareness on discrimination issues;
- j) Cooperates with different international state and non-governmental organizations on discrimination issues, as well as with local NGOs and civil society representatives.

On August 22, 2014 the amendments were introduced to the Statute of the Office of Public Defender of Georgia to establish the Equality Department, which is tasked to carry out the duties of the PDO assigned upon the Anti-Discrimination Law. The functions of the Department are the following:

- Examination of applications on alleged discrimination submitted to the Office of Public Defender of Georgia and preparation of relevant conclusions/recommendations/ proposals;
- Drafting constitutional complaints within its competences;
- Preparation of relevant parts of the Ombudsman's report;
- Monitoring the implementation of the recommendations made by the Ombudsman of Georgia on issues within its competence;
- Planning and implementing educational activities on issues of equality;
- Analysis of laws/draft laws and preparation of recommendations/proposals.

Apart from it, in order to ensure effective operation of the Equality Department, Government of Georgia issued an Order 11529 on September 5, 2014 by which the Office of Public Defender of Georgia was provided with the funding in the amount of 356 155 GEL (approximately 158 291 Euro).

10. How was the law made accessible to the public? Did it include formal training on the new law for all stakeholders involved? Were specific groups of women targeted for these activities? Who was involved in these initiatives, and where did the funding come from? Please answer in detail.

According to the Anti-Discrimination Law, one of the main functions of the PDO is to plan and implement educational activities on issues of equality. In this regard, since 2014 the staff members of the Office of the PDO have conducted various information meetings for different target groups, including school students, teachers, minorities, local NGOs etc., funded by the budget of the Office of Public Defender.

Since 2014 the PDO, together with the trainers from the Chief Prosecutor's Office and Police Academy carried out trainings for 48 prosecutors and 140 investigators on procedural obligations of the State and prohibition of discrimination in accordance with the European Convention on Human Rights. 20 journalists were trained on the issues of prohibition of discrimination, mandate of the Public Defender of Georgia, hate speech, proselytism and indoctrination. The PDO carried out 37 trainings for the pupils at 31 public schools in Tbilisi and in the regions throughout Georgia.

On April 24, 2015, the Public Defender held a public debate about the shortcomings in the implementation of the Anti-Discrimination Law.

Additionally, a training was organized for the parents of children with disabilities funded by the EU project on "Supporting the Office of Public Defender".

Along with it, the representatives of the PDO conduct meetings with several groups, such as, religious minorities, persons with disabilities and provide them with the information on antidiscrimination mechanisms.

Apart from it, in order to raise awareness of the Georgian population on discrimination and available Anti-Discrimination mechanisms, the LEPL Training Center of Justice of the Ministry of Justice of Georgia systematically organizes trainings in Tbilisi and other Regions of Georgia on "what is Discrimination". Currently, the trainings were attended by a total of 237 participants.

Furthermore, on 22 March, 2016 the representatives of Ministry of Justice of Georgia conducted information meeting in Marneuli Municipality village Sadakhlo inhabited by ethnic minorities. One of the main issues among Human Trafficking and Domestic Violence discussed during the meeting was the Anti-Discrimination Law.

11. Have there been any barriers to the law's full and successful implementation?

Yes (X) No ()

If yes, please explain the barriers and how they were/are being addressed:

Pursuant to the Anti-Discrimination Law, the PDO is authorized to prepare opinions regarding the legal amendments and submit to the Parliament of Georgia in order to promote the compliance of national legislation with the anti-discrimination law. In this regard, in 2015 the PDO elaborated the legislative proposal based on which the natural persons will be obliged to provide the PDO with necessary materials, documents or information for the examination of the case. Currently, providing the PDO with all necessary documents is based on the good will of the natural person to cooperate. The latter creates significant barriers for the PDO to fully study the case and implement the Anti-Discrimination Law successfully. The legislative amendment is approved by the Parliament of Georgia at its first hearing.

Apart from it, ensuring common practice regarding discrimination cases is another challenge for Georgia. By submitting amicus briefs to the courts, the Public defender attempts to provide the courts with assistance in applying the relevant domestic and international legislation.

12. What kinds of roles are being carried out by civil society/women’s organizations in supporting the implementation and impact of the law? How are these activities being financed?

First of all it should be noted that civil society organizations play a vital role in reporting the discrimination cases to PDO. According to the paragraph 1 of Article 11 of the Law, organization, institution, or association, engaged in the protection of persons from discrimination, may apply to the Public Defender of Georgia with the request to be permitted as a third party in the trial provided for by this Law. The latter indicates that civil society including NGOs are actively involved in protection of persons against discrimination and promote efficient implementation of Anti-Discrimination Law. Furthermore, it is worth mentioning that since 2014 in 8 court cases out of 19 the applicants were represented by non-governmental organizations.

III. The impacts that the law has had for women on the ground

1. Did the adoption of the law result in the creation of any policies?

Yes (X) No ()

If yes, please list and explain:

As already mentioned above, based on the Anti-Discrimination Law, PDO was determined as the monitoring mechanism for the implementation of Anti-Discrimination Law.

2. Have court cases/decisions resulted from the law? Has this data been systematically collected? If so, please provide details about the number of cases, convictions, decisions made.

According to paragraph 1 Article 10 of the Anti-Discrimination Law, any person considering himself/herself to be a victim of discrimination, may bring a lawsuit to the court against the person/institution which he/she considers to have committed the discrimination and may claim for moral and/or material damages. Since 2014 the court rendered decisions on 19 cases out of which the fact of discrimination was found in 2 cases. 3 applications are still pending.

3. What specific and measurable outcomes showing the impact of the law on society and on women's enjoyment of their rights have been recorded as a result of the adoption and implementation of the law? How have these been monitored and by whom?

4. Are there other impacts of the law that have been observed?

Yes () No ()

If yes, please list and explain what they are, as well as monitoring mechanisms used to observe and/or measure those impacts:

5. What mechanisms have been set up to review and assess the implementation of the law?

As already mentioned above, the PDO is empowered under the Law to monitor the implementation of the Anti-Discrimination Law, therefore there is not any other mechanisms authorised to review and assess the implementation process of the Anti-Discrimination Law.

6. Is there data on how the law has affected some groups of women differently (i.e. based on race, ethnicity, religion, social class, age, etc.)?

Yes () No (X)

If yes, please explain the differential impacts and provide any relevant documents.

7. Has there been independent monitoring of the law?

Yes () No (X)

Please provide information.

Questionnaire

For the following sections, please provide information about a law that has been selected as an exemplary case study of a “good practice” in eliminating discrimination and empowering women in your national context.

I. Identification of a law that has eliminated or substantially reduced discrimination and supported women’s empowerment.

Background Information on the Law

- 1. Name/Title of the Legislation:** Law of Georgia on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence
- 2. Date the law passed and came into force:** 09/06/2006
- 3. Was it a new law or an amendment of an existing law?**

New Amendment

If it was an amendment of an existing law, please providing name/title of existing law and any pertinent information here:

- 4. Is the legislation focused specifically on discrimination against women/gender equality, or is it part of a larger piece of legislation (i.e. Labour law with provisions around gender)? Please explain.**

This Law defines a set of actions which characterize domestic violence, legal and organizational grounds for detecting and eliminating domestic violence, as well as guarantees for legal protection and support for victims of domestic violence.

As it is stated by the Istanbul Convention: "violence against women" is understood as a violation of human rights and a form of discrimination against women.”

The law was a separate piece of legislation, with supporting amendments to the following laws:

- Code of Administrative Offences
- Law on Arms
- Criminal Code
- Law on Police

5. Please provide a summary of the content of the law, its preamble or explanatory note, policy measures, dissemination and implementation regulations, and provisions for access to justice, as well a link to where all these can be found online.

The law provides an extensive definition of domestic violence and remedies for domestic violence victims. Namely, it is Article 10 that defines these important remedies of protective orders and restrictive orders which allow police and courts to restrict the activities of a perpetrator in order to protect victims.

The law incorporates the adoption of Action Plan on Combating Domestic Violence, Protection of and Support to its victims. The first Action Plan was elaborated and the Prime Minister of Georgia approved it by Order (# 406) on July 30, 2007.

On July 21, 2016 The Action Plan on Combating Domestic Violence, Protection of and Support to its victims (2016-2017) was adopted by the Prime Minister of Georgia (# 342)⁶. It provides for detailed steps for preventing domestic violence and specific activities for supporting its victims.

Law of Georgia on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence can be accessed here - <https://matsne.gov.ge/en/document/view/26422>

6. When was the first draft of this law introduced, and when was it adopted (please specify dates of first draft and adoption?)

The law was initiated on 3 October, 2005 and adopted on 25 May, 2006.

*The Law's Compliance with
CEDAW*

7. In your view, does the law in question place a positive duty on the State to achieve substantive equality for women?

Yes (x) No ()

If yes, please explain:

⁶ <https://matsne.gov.ge/ka/document/view/3350284>

Under the law of domestic violence state has a positive duty to achieve equality for women, to support victims of domestic violence and to ensure effective implementation of the mechanisms envisaged by the law for identification and elimination of domestic violence.

8. Does the law contain a definition of discrimination that is in accord with Article 1 of CEDAW?

Yes () No (×)

If yes, please direct us to the section of the pertinent document. If not, please indicate if that definition is enshrined already in the constitution or charter of rights.

No, discrimination is defined by the Law of Georgia on the Elimination of All Forms of Discrimination

9. Does the law's definition of discrimination include and define both direct and indirect discrimination?

Yes () No (×)

If yes, please explain:

10. How has the Constitution supported the process of adoption and implementation of the law? Does the Constitution have an equality and non-discrimination provision?

The Constitution of Georgia has a special Chapter on Fundamental Rights and Freedoms Article 12 of the Constitution guarantees the right to equality of all persons: "Everyone is born free and is equal before the law regardless of race, color of skin, language, sex, religion, political or other opinions, national, ethnic and social affiliation, origin, property or social status, place of residence."

11. Does the law contain provisions that address discrimination against women from an intersectional perspective, taking into account a diversity of women's social identities, statuses and experiences?

Yes () No (×)

If yes, please explain which social identities, statuses and/or intersectional factors are explicitly noted in the law:

12. Whom of the following are bound by the law?

The State	Yes ×	No
Public Authorities/Bodies	Yes ×	No
Civil society organizations	Yes	No ×
Private companies	Yes	No ×
Individuals	Yes ×	No

II. How the law came into being and was implemented

1. What was the impetus for the development of this law (i.e. social movement activism, political platform, a Supreme Court ruling, an egregious case of discrimination, constitutional reform...)?

Within the framework of the project funded by the American Bar Association, Non-Governmental Organization - Georgian Young Lawyers Association (GYLA) prepared the draft-law on Combating Domestic Violence, Protection of and Support to Victims of the Violence and submitted to the Gender Equality Council of the Parliament in spring 2005.

One of the main factors that precipitated the adoption of the law was an incident that happened in the family of a public figure on October 1st, 2005. Considering the public outcry on the topic, the Gender Equality Council member initiated the draft-law on October 3rd, 2005. Parliament's immediate reaction resulted in more in depth discussion on the issue and increased media coverage.

The law was adopted on May 25, 2006.

- 2. Were there any conditions in the political context that made it possible for this law to be developed and adopted at the time that it was (i.e. a particular political party in power, a conflict/post-conflict situation, a recent ratification of an HR instrument, etc.)?**

Yes (X) No ()

If yes, please explain:

Starting from 2005 the Government initiated criminal justice reform. Reformed police hotline started receiving numerous calls, regarding crimes and incidents. Based on the received information, the call center created a new category – “family conflicts”, in order to classify calls. By December 2005 police received over 3,500 calls under the category of family conflict. As the new DV law was introducing new mechanisms to deal with domestic violence, it was strongly supported by the law enforcement agencies and common courts.

- 3. What actors were consulted and how were they consulted in the law's development and formulation? Check all that apply, and, where possible, provide names of involved individuals, agencies, organizations, etc.**

Legal Experts/scholars - Attorneys, legal aid lawyers, lawyers' associations

Government Ministries - Ministry of Internal Affairs, Prosecutor's Office, Ministry of Labour, Health and Social Affairs, High Council of Justice, Judges of Administrative Chambers of Common Courts

NGOs/CSOs - Representatives of NGOs working with DV victims.

- 4. Was there opposition to the law?**

Yes (x) No ()

If yes, please explain from whom and why and how it was addressed:

Some members of the Parliament (most male MPs) were against the adoption of the law and had particular concerns with regard to the definition of sexual violence. Those in opposition insisted that domestic violence was a private matter.

5. Were there other laws that needed to be reformed in order to enact this law?

Yes (x) No ()

If yes, please list and explain:

- Code of Administrative Offences
- Criminal Code
- Law on Police
- Law on Arms

7. Were any international human rights treaties or mechanisms referenced in the law's creation?

Yes (x) No ()

If yes, please list and explain:

Before the adoption of the law on Domestic Violence, International human rights bodies expressed serious concern about the lack of legislation and policies on domestic violence in Georgia. For example, Committee on Economic, Social and Cultural Rights⁷ recommended to the state in 2002 “to ensure implementation of the national plans of action for the advancement of women and for combating domestic violence, and to adopt adequate legislation and policies to address and to ensure access to effective remedies concerning domestic violence, rape and sexual harassment.”

8. Did any international/regional/national human rights mechanism issue recommendations to the State in regard to amendment or formulation of this law, or regarding effective implementation? If yes, was this recommendation formulated prior, during or after the adoption of the law?

7

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2f1%2fAdd.83&Lang=en

Yes (x) No ()

If yes, please list and explain:

Combating domestic violence effectively is an international obligation for Georgia. While the prevention of and response to domestic violence is a sophisticated challenge, international organisations consistently identify the importance of prevention of domestic violence. The recommendations provided by those organisations envisages activities to promote equal treatment, to strengthen the implementation of legislation against domestic violence, to conduct awareness-raising of both, general population and of specific professional groups, such as the police, particularly in rural and minority areas. These recommendations also calls on the government to increase the access of victims to counselling services and shelters. It should be noted that the Government of Georgia pays particular attention to the implementation of the recommendations given by international bodies.

As an example, Government of Georgia considered recommendations given by the Committee on the Elimination of Discrimination against Women, in 2006⁸ and undertook substantial work concerning efficient implementation of antidomestic violence legislation, which is also directed at providing support and protection to victims. To ensure easy access of domestic violence victims to the services provided by the state and quick response to their needs, particularly in the regions of Georgia, the rule of granting a status of a victim of domestic violence was simplified. In particular, the 2009 Decree of the President of Georgia established unified rules for the identification of victims of domestic violence, granting the right to identify a victim of domestic violence to a Victim Identification Group that functions under the Interagency Council for Prevention of Domestic Violence.

Government of Georgia also considered recommendations of CEDAW committee: “To ensure that all women victims of domestic violence, including rural women, have access to immediate means of redress and protection”, and four fully State funded shelters for victims of domestic violence opened during last years.⁹

9. What measures to support implementation were built into the law or developed immediately after (and as a result of) its passing? This could include such

⁸ CEDAW/C/GEO/CO/3 – 20 <http://www.un.org/womenwatch/daw/cedaw/cedaw36/cc/Georgia/0647834E.pdf>

⁹ CEDAW/C/GEO/CO/3 – 20 <http://www.un.org/womenwatch/daw/cedaw/cedaw36/cc/Georgia/0647834E.pdf>

measures as budgetary and resource allocation, monitoring mechanisms, data collection, impact measurement mechanisms, independent monitoring, etc. Please list and explain, providing any relevant documents.

The implementation mechanisms were included in a separate National Action Plan that was adopted in 2007, after the adoption of the law. Consecutive NAPs were adopted for 2011-2012, 2013-2015 and 2016-2017. ¹⁰

(Please find detailed information/answers in chapter III of the questioner)

10. How was the law made accessible to the public? Did it include formal training on the new law for all stakeholders involved? Were specific groups of women targeted for these activities? Who was involved in these initiatives, and where did the funding come from? Please answer in detail.

To make the Law of Elimination of Domestic Violence widely known to public officials and society at large the respective public awareness raising and professional training activities were implemented. Therefore, the Government of Georgia actively addressed the prevalence of violence against women, including domestic violence.

By the law of Domestic Violence, The Ministry of Labor, Health And Social Affairs is identified as one of the state institutions assigned to fulfil preventive activities. namely: implementing preventative measures for persons at risk of becoming abusers and for persons who have committed domestic violence and carrying out an awareness raising campaign regarding the rights, available remedies and rehabilitation services for abusers.

After adoption of the law on domestic violence, the ministry of Internal Affairs organized number of public awareness rising activities and trainings for the policy officers and other employees of the ministry. It ultimately succeeded in increasing the knowledge and sensitivity of the police officers involved in the trainings. More victims of domestic violence are now told by the police that combating domestic violence is a priority. Consequently, cases of domestic violence are treated more seriously and effectively.

The training of prosecutors on domestic violence, violence against women and gender issues is one of the priorities of the Prosecutor's Office of Georgia. Learning activities including the training of trainers for employees of the Office were completed successfully on domestic violence issues. Provided Trainings covered all territorial units of Prosecutor's Office. Together with ordinary prosecutors, the beneficiaries of trainings were middle level managers as well.

¹⁰ <https://matsne.gov.ge/ka/document/view/3350284>

Within the framework of these trainings, the Convention on the Elimination of all Forms of Discrimination against Women and phenomena of domestic violence against women and girls were also discussed.

Most of the trainings and other corresponding activities have been covered by the state budget and donors funding.

III. The impacts that the law has had for women on the ground

1. Did the adoption of the law result in the creation of any policies?

Yes () No ()

If yes, please list and explain:

The law incorporates the adoption of Action Plan on Combating Domestic Violence, Protection of and Support to its victims. The first Action Plan was elaborated and the Prime Minister of Georgia approved it by Order (# 406) on June 30, 2007.

In July 2016 The National Action Plan on the Measures to be implemented for Combating Violence against Women and Domestic Violence and Protection of Victims/Survivors covering the period of 2016-2017, have been approved as stand-alone documents by the Government of Georgia.¹¹

2. Have court cases/decisions resulted from the law? Has this data been systematically collected? If so, please provide details about the number of cases, convictions, decisions made.

The law provides an extensive definition of domestic violence and remedies for domestic violence victims. Namely, it is Article 10 that defines these important remedies of protective orders and restrictive orders which allow police and courts to restrict the activities of a perpetrator in order to protect victims.

¹¹ <https://matsne.gov.ge/ka/document/view/3350284>

A protective order is an act issued by the first instance court judge based on administrative proceedings, which defines temporary protection measures of victims in cases of domestic violence, except cases, where the grounds for instituting a criminal proceeding exists.

A restrictive order is an act issued by the authorized employee of police, which defines temporary protection measures of victims in cases of domestic violence and which shall be submitted to the court for approval within 24 hours.

From 2013, courts started collecting data on domestic violence cases, specifically. According to the information provided by the Tbilisi City Court issued 19 protective and 110 restrictive orders in 2013, 50 protective and 497 restrictive orders in 2014. As for the year 2015 (9 month), the Tbilisi City Court issued 67 protective and 766 restrictive orders.

3. What specific and measurable outcomes showing the impact of the law on society and on women’s enjoyment of their rights have been recorded as a result of the adoption and implementation of the law? How have these been monitored and by whom?

Ministry of Internal Affairs of Georgia collects and analyses domestic violence statistics throughout the country (Department for the Information Collection and Analysis).

Police officer who is called on the place of domestic violence records detailed information of the case, including all data about offenders, victims, witnesses, informers (name, age, place of work, relationship and etc.)

Office of the Prosecutor General of Georgia also records information on domestic violence. Human Rights Unit collects detailed information of the cases, including all data about offenders, victims, witnesses, informers (name, age, place of work, relationship and etc.).

Statistical data regarding domestic violence has significantly changed during the last few years. Reporting of domestic violence has increased and more people report domestic conflicts to the police and take their cases to the courts. This is the result of an effective implementation of the law.

4. Are there other impacts of the law that have been observed?

Yes (X) No ()

If yes, please list and explain what they are, as well as monitoring mechanisms used to observe and/or measure those impacts:

Domestic violence has clearly become a more visible issue in law and in practice. It successfully transformed from a private trouble into a public issue.

Statistic information provided by the Government Agencies shows that reporting of domestic violence has increased and that more people report domestic conflicts to the police. This can be considered as a result of an effective implementation of the activities against violence and improvement of the knowledge about domestic violence among Georgian society.

5. What mechanisms have been set up to review and assess the implementation of the law?

In December 2008, the Inter-Agency Council on Domestic Violence chaired by the judge of the Constitutional Court was established by the Presidential Decree.

In November 2014, the Council was re-established at the Administration of the Government of Georgia by the Decree of the Government of Georgia. Assistant to the Prime-Minister on Human Rights and Gender Equality issues was appointed as a chairperson of the Council. The Council is a policy making Body tasked with the coordination and monitoring of Government Agencies involved in the implementation of National Action Plan on the Measures to Combat Domestic Violence in Georgia.

Under the umbrella of the Inter-Agency Council, the Group for determining the status of the victim of domestic violence was set up. From December 2014, 8 civil society organizations are authorized to submit the cases on behalf of a potential victims of domestic violence to the Status Identification Group.

6. Is there data on how the law has affected some groups of women differently (i.e. based on race, ethnicity, religion, social class, age, etc.)?

Yes () No (X)

If yes, please explain the differential impacts and provide any relevant documents.

7. Has there been independent monitoring of the law?

Yes (x) No ()

Please provide information.

In May 2013, the Gender Equality Department was established in the system of the Public Defender's Office (Ombudsman) of Georgia. The mission of the Department is to monitor protection of human rights and freedoms in terms of gender equality and domestic violence, to promote the gender equality and domestic violence issues in the activities of the Public Defender and to raise public awareness with the view of strengthening gender equality in Georgia. Starting from 2014, the Public Defender's Office issues special reports on women's rights, domestic violence and gender equality issues in the country.

In addition, the Public Defender's Office exerts its influence and pressure in taking up individual cases of domestic violence; in making both specific and general recommendations to government departments;

It should also be mentioned, that international organizations and NGOs positively impact on the institutionalization of the fight against domestic violence. Non-Governmental Organizations, which are assessing work and giving the recommendations to the Government of Georgia can also be considered as an independent monitoring bodies.