



## GENDER BASED VIOLENCE IN KVEMO KARTLI

(Domestic violence, early marriage, discrimination)

2017  
Rustavi



**USAID**  
აშშ-ს საერთაშორისო განვითარების აგენცია



EAST • WEST  
MANAGEMENT  
INSTITUTE  
*Promoting Rule of Law  
in Georgia (PROLoG)*

The Report was prepared in the frames of the project “Legal Assistance and Strategic Litigation Services in Kvemo Kartli” implemented by - CiDA with the partnership of the Association of Law Firms of Georgia (ALFG) and financed by the program “Promoting Rule of Law in Georgia”(PROLoG) of East-West Management Institute (EWMI).

This report was made possible by the generous support of the American People through the United States Agency for International Development (USAID). The contents of this report are the sole responsibility of the CiDA and do not necessarily reflect the views of East West Management Institute, USAID or the United States Government.

**The report was prepared by:**

Teona Kiladze

Zviad Devdariani

# CONTENTS

<b>1. INTRODUCTION</b>	4
1.1. About the project	4
1.2. Key findings and tendencies	4
1.3. Research methodology	6
<b>2. RESEARCH DESCRIPTION</b>	6
2.1 Restraining orders	6
2.1.1 Legal Regulation	6
2.1.2 Restraining orders issued by the intercession of the police	6
2.2 Protective orders	7
2.2.1 Legal Regulation	7
2.2.2 The cases of approaching the court for a protective order	7
2.3 Criminal cases on the facts of domestic violence	10
2.3.1. Legal Regulation	10
2.3.2. Starting the criminal prosecution on the crimes of having signs of domestic violence background	11
2.3.3 The applied preventive measures and penalties	12
2.3.4. Termination of criminal cases upon the victim's statement	15
2.4. Early marriage	16

- 2.4.1** Legal Regulation 16
- 2.4.2** Cases of voluntary sexual intercourse with the minors under 16 ..... 16
- 2.4.3** Charges, applied for early marriage cases ..... 16
- 2.4.4** Unlawful deprivation of liberty of minors ..... 17
- 3. RECOMMENDATIONS** ..... 19

# 1. INTRODUCTION

## 1.1 ABOUT THE PROJECT

Since January 15 of 2016, the Non-governmental organization CiDA in partnership with the Association of Law Firms of Georgia (ALFG) has been implementing the project “Legal Assistance and Strategic Litigation Services in Kvemo Kartli” with the support of the program of the East-West Management Institute (EWMI) „Promoting Rule of Law in Georgia“ (PROLoG). The goal of the project is to defend the interests of women who are the victims of discrimination on ethnic and gender grounds, early marriage and domestic violence through providing legal assistance and strategic litigation.

In the frames of the Projects the meetings were held in the municipalities and “Women’ Rooms” as well as at gathering places of the villages, at shops and beauty salons in order to raise awareness of the offered services and to proactively inform beneficiaries about the various issues. In this manner, direct contact with women was established for detection of the problems and providing the legal consultations. During the year CiDA provided legal consultations for 668 beneficiaries in the Kvemo Kartli Region. CiDA provided legal representation in court in 38 cases; Informational brochures were distributed, consultation for beneficiaries was provided locally in 29 Villages of Gardabani, Bolnisi and Dmanisi, local residents were informed about the implementation of the project and domestic violence, discrimination and similar issues through the regional TV channels. Number of meetings were held with the Probation Agency, the Prevention Center, Prosecutor’s Office, and the representatives of self-government concerning the problems that became evident during the implementation of the project.

## 1.2 KEY FINDINGS AND TENDENCIES

Based on the observations made by the CiDA during informational-consulting meetings, it can be concluded that people, living in the Regions, do not have information about legal regulations of problems related with domestic violence, early marriage and discrimination. The main cause of this problem is lack of awareness of the people living in Region, as well as distrust of beneficiaries to accept the services.

It was revealed that principal challenge with the restricting order is keeping the economic dependence on the abuser and distrust to the law-enforcement authorities. Women of the target group mentioned the facts, when the restraining order was issued against the abuser, although at the second stage, police control was performed only to the repeated fact of violence, instead of supervision of the abuser.

While exercising legal representation it was revealed that the regulation for ordering the forensic psychiatric assessment is a significant problem. For example, the CiDA had three identical cases, where the abuser had the mental health problems. As far as, no legal norm exists for the obligatory psychiatric examination for the domestic violence cases, the voluntary examination was performed only in one case, nevertheless it was not completed. The reason was that the abuser needed additional clinical examination, which he refused and thus, the problem remained unsolved.

In addition to the problem highlighted above, the involvement of the psychologist and the Social Agency is defined only for victims, but no rehabilitation course is defined to the abuser. Though the rehabilitation and re-socialization of abusers is envisaged by the Article 20 of the Law of Georgia “On Elimination of Domestic Violence, Protection and Support of the Victims of Domestic Violence”, the norm, is rarely applied in practice except those cases, when the abuser is the probationer.

After conferring the status of the victim of violence, accommodating the victims in governmental shelters, in most cases, fails to provide complete rehabilitation, as the external threats persist, that creates a risk to become the victim of violence repeatedly.

As the practice of CiDA’s legal proceedings show, early marriages are identified mainly by the Civil Registry Agency: when the underage girls give birth to a child, the Civil Registry Agency informs the police about the fact according to the place of residence of the minor, after which the investigation starts. As for the role of schools in this process, despite the fact that, the school administration and the teachers are aware of their responsibilities to inform authorities in charge when such case is detected, it

became clear that this mechanism actually does not work, and thus the Civil Registry Agency is the only source of information.

During the year CiDA provided consultations for about 700 beneficiaries and offered the legal assistance through representation in the court. The beneficiaries (the women and men), were talking about ethnical, political and gender problems, so that they were not aware that it was discrimination and that they had right approach the court. The absence of the facts of approaching the court because of discrimination, raises a question, if there are any cases with the signs of discrimination investigated or are further qualified in such way.

During the analyses of statistics requested from court it was revealed that the approach of the court to the prevention measures and charges in cases of domestic violence and early marriages is problematic. The court does not assess the risks and the threats properly, especially when a bail or plea bargain is decided unconditionally as a preventive measure for criminal cases. In 2016 in the courts of the Kvemo Kartli Region imprisonment as a preventive measure for domestic violence was sentenced only in 6 cases out of 25. And, only 2 out of 38 in completed criminal cases was custodial sentence, in the rest of the cases the plea bargain was the verdict with a penalty or suspended sentence. In all 15 cases of early marriage, the plea bargain without imprisonment was approved.

Interestingly, the number of protective orders issued are quite low taking into consideration the high number of cases of applying to the police on the basis of domestic violence (patrol police statistics - 348 cases) and approved restraining orders (patrol police data - 102 and the information provided by the court - 269 restraining orders); among 35 requests to issue the protective order only 25 were approved.

The practice of plea bargains, sentenced by the Prosecutor's Office and approved by the court concerning the cases of early marriage, confirms the improper attitude to the crime (despite the graveness of the corresponding Article of the Criminal Code of Georgia - imprisonment from 7 up to 9 years).

The information provided in this report reveals the state of women' right in the Kvemo Kartli Region and the related problems, that will be important for the representatives of law enforcement and Judiciary authorities, as well as, for the international and non-governmental organizations working in the Region.

### 1.3 RESEARCH METHODOLOGY

Quantitative, as well as qualitative research methods are used in this Report.

The statistical information provided in the report was requested from Rustavi, Bolnisi and Tetrtskaro regional courts located in Kvemo Kartli, Prosecutor's Office and Kvemo Kartli Departments of the police and patrol police of the Ministry of Internal Affairs.

Identification of problems and summing up the main challenges in this field are based on the case analysis processed by CiDA and face-to-face interviews with the beneficiaries', during which the additional information about inhomogeneous cases was obtained, preserving the confidentiality.

## 2. RESEARCH DESCRIPTION

### 2.1 Restraining orders

#### 2.1.1 Legal regulation

Domestic violence is a violation of constitutional rights and freedoms of one family member by another family member through neglect and/or physical, psychological, economic, sexual violence or coercion<sup>1</sup>. A restraining order is an act issued by the authorized police officer that determines temporary measures for protecting a victim in case of domestic violence. The duration of the restraining order should not exceed 1 month. Within 24 hours after the issuance, a restraining order shall be submitted to the court for approval. The court discusses the appropriateness of the issuance of the restraining order within 24 hours after the submission and renders the decision on approval, rejection or partial approval. Failure of the authorized police officer or of any other person participating in the legal proceedings to appear at the court shall not hinder the trial and rendering the decision on it.<sup>2</sup>

#### 2.1.2. Restraining orders issued by the intercession of the police

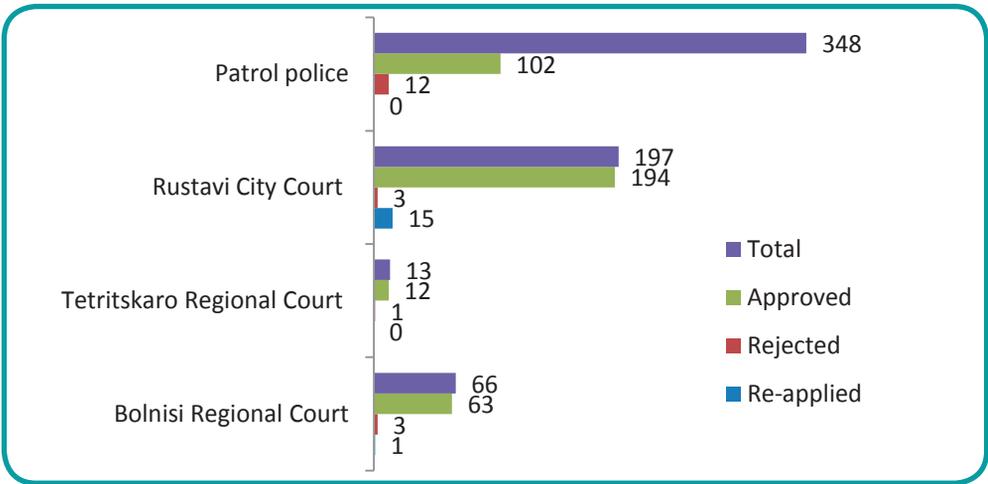
As the obtained statistics shows, certain number of petitions was submitted in the Kvemo Kartli Region concerning domestic violence. Restraining orders were approved in the majority of cases of the petitions which is a positive trend. It is worth mentioning, that the statistics provided by the patrol police and the court do not match. According to the data provided by the patrol police: only in 114 cases out of 348 patrol police addressed the court to approve the restraining order, out of which 102 petitions were approved. According to the statistics, requested from the court – the number of the petitions approved requesting to issue the restraining order was – 194 in Rustavi City Court, 2 in Tetrtskaro Regional Court, and 63 in Bolnisi Regional Court.

---

<sup>1</sup> Law of Georgia “On Elimination of domestic violence, protection and support of the victims of domestic violence” Article 3

<sup>2</sup> Article 21<sup>14</sup> of the Administrative Procedures Code of Georgia

**Table № 1 Restraining orders**



## 2.2 PROTECTIVE ORDERS

### 2.2.1 Legal regulation

A protective order is an act issued by a court of first instance through an administrative proceeding that determines temporary measures for protecting the victim.

Victims of domestic violence, their family members and/or, with the consent of the victim, a person who provides medical, legal or psychological assistance to the victim, can apply for a protective order, in case of violence against minors– relevant guardianship and custody authority in addition.

A protective order shall be issued for the period up to 6 months. Its validity shall be determined by the court.<sup>3</sup>

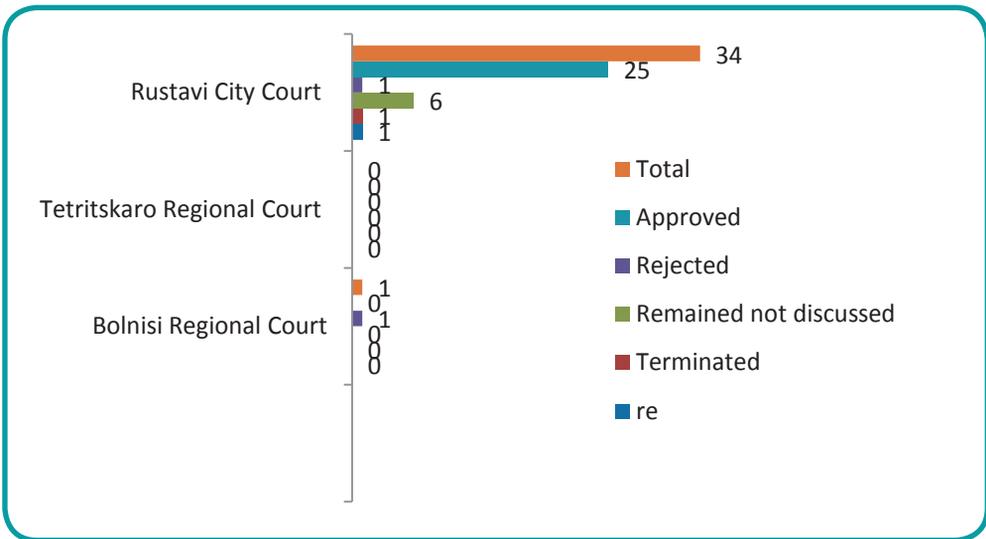
### 2.2.2 The cases of applying to the court for protection orders

A victim of violence addresses the court with the request to issue a protective order mainly after issuing a restraining order, though there are the individual cases, when the

<sup>3</sup> Law of Georgia “On Elimination of domestic violence, protection and support of the victims of domestic violence” Articles 10, 11, 12

victim approaches the court to issue the protective order from the very beginning. In 34,2016 petitions were submitted to the Rustavi City Court with the request to approve protective orders, out of which 25 were approved; only 1 applicant was rejected, 6 requests were not discussed, and 1 case was terminated. 1 applicant repeatedly approached the court. None of the request was submitted in Tetrtskaro Regional Court for approving of the protective order. 1 person addressed Bolnisi Regional Court to issue the protective order, but the petition was rejected.

**Table №2 Protective orders**



Taking into account the fact that 348 persons addressed the patrol police because of domestic violence in Kvemo Kartli Region, out of which 102 restraining orders were approved through the petition of the patrol police, while according to the court data 269 restraining orders were approved, the lack of the protective orders raises the question. In the Kvemo Kartli Region in total, 35 applicants have approached the court to issue the protective order, out of which 25 were approved.

Regarding this issue we asked the beneficiaries to whom CiDA was providing the legal consultations.

N.Ch. is the victim of violence from his son. Her son is the alcohol addict and persistently abuses his parent and his disabled sister psychologically

physically and economically

though the members of his family do not find issuing the protective and/or restraining order to be the way out. N.Ch. thinks that her son needs the certain measures of psychological rehabilitation in order not to take the alcohol drink that provokes his abusing behavior.

— “My abuser child is only my problem again, as when the restraining order was approved he was prohibited to come home and approach me. Thus he stayed in the street, he drank much, got out of the control, remained in the street till the morning and got the pneumonia, so I ended up regretting all this as I had to treat him, he is my son and I can’t let him die, that is why it is useless to apply to the court for approving the protective order”

Whereas according to the Article 20 of the Law of Georgia “On Elimination of Domestic Violence, Protection and Support of the Victims of Domestic Violence”, “Rehabilitation measures for an abuser shall include a compulsory training course oriented to change an abuser’s violent attitude and behavior”, this the norm however is rarely applied in practice.

M.R. about the violence from her husband:

“I will not address the court for issuing the protective order, as when I addressed the court to approve the restraining order (that was approved by the court), lot of policemen came to me and started asking the questions that were not related with the case and I felt very bad morally and I did not get the expected assistance, I did not feel safe. That is why, I’d rather solve my problem by myself”.

After getting our consultation M.R. addressed the police to issue the restraining order, that was satisfied and the court approved the restraining order. Nevertheless, the problem of M.R. was not solved and after expiring the duration of the restraining order she addressed us for assistance again. We advised her to apply for the protective order and explained the legal methods of solving the problem, but she refused to follow our advice because of the above-mentioned reasons.

T.Z. about the violence from her husband:

“It was a call from the local police department; they said “if your husband bothers you again, call us”. After that I was asked to appear at the police department and they asked me about my husband’s friends. After that, the policeman was calling me and asking the questions about my husband’s friend: such as, who was his friend, if he used to visit us at home and so on. He did not care neither about me, nor about my problem, it was obvious that he was asking only the questions he was interested in. Besides that, it was very humiliating for me to appear at the police department, I regretted it so much that I called 112. My husband has never been asked to appear at the police department, moreover, when the police was taking us to the department in separate cars, my mother heard that one policeman was explaining him what to say in order to settle the case to be profitable for him”.

There were the cases in the practice of CiDA:

The beneficiary N.G. who held a leading position in a certain company addressed us. The colleague of N.G. told her that the VIP client of the company learnt from the police that she (N.G.) was the victim of violence from her husband and the VIP client did not want to get the service from N.G., as “she had not everything in order in her family”. According to the VIP client’s words”, as N.G. was not answering the phone calls, he/she (VIP client) wanted to know what was the matter and addressed the policeman, that was known to him/her to check the information (as he/she knew that N.G. often was abroad), correspondingly the policeman told him/her that N.G. was the victim of violence from her husband.

The problem in the administrative process of approving restraining and protective orders is that the legal norm to make the forensic psychiatric examination mandatory does not exist, for example:

CiDA was representing the interests of E.S. in the court, who was the victim of violence from her husband, but during the trial the abuser's side presented the expert report about the mental state of E.S. and mentioned that E.S. herself was the abuser against her minor children. At those proceedings the representative of ALFG the partner of CiDA was defending the minor children's interests who requested the forensic-psychiatric expert assessment for E.S. The court ordered the expert assessment, but according to the expertise, it was determined that the clinical monitoring was required. E.S. not only refused to make the clinical monitoring but even requested back her claim on issuing the protective order, after which she moved from Rustavi to Racha (Region) for residence with her minor children. As a result, the problem of a certain family remained unsolved and it made impossible to reveal the whole picture.

Based on the analysis of the beneficiaries' face-to-face interviews and the statistical data among the victims the nihilistic attitude and distrust to the law enforcement authorities was revealed. Despite the fact, that the State Rehabilitation Programs are not directed to solving a problem, in some cases such programs do not exist at all. The gender insensitive attitude from the representatives of the police is also revealed that was mentioned by the beneficiaries during the face-to-face interviews, as well as the legislative gaps existing in court proceedings.

## 2.3 CRIMINAL CASES ON THE FACTS OF DOMESTIC VIOLENCE

### 2.3.1 Legal regulation

„Violence, regular insult, blackmail, humiliation by one family member of another family member, which has resulted in physical pain or anguish is punishable by community service for a period of eighty to one hundred and fifty hours or by imprisonment for up to one year.

The same act, committed:

- a) Knowingly against a pregnant woman, minor or a helpless person;
- b) Against a minor’s family member in the presence of the minor;
- c) Against two or more persons;
- d) By a group of persons;
- e) Repeatedly,

Shall be punished by community service from 200 to 400 hours or with imprisonment for a term of one to three years.<sup>4</sup>

Note: for purposes of this Article the members of the family are: a spouse, mother, father, grandfather, grandmother, son/daughter (step-son/step-daughter), adoptive child, adoptive person, adoptive person’s spouse, affiliated child, the foster family (foster father, foster mother), guardian, grandchild, sister, brother, the spouse’s parents, son-in-law/brother-in-law, daughter-in-law/sister-in-law, former spouse, as well as the persons who are constantly engaged in or were engaged in a common household“.

---

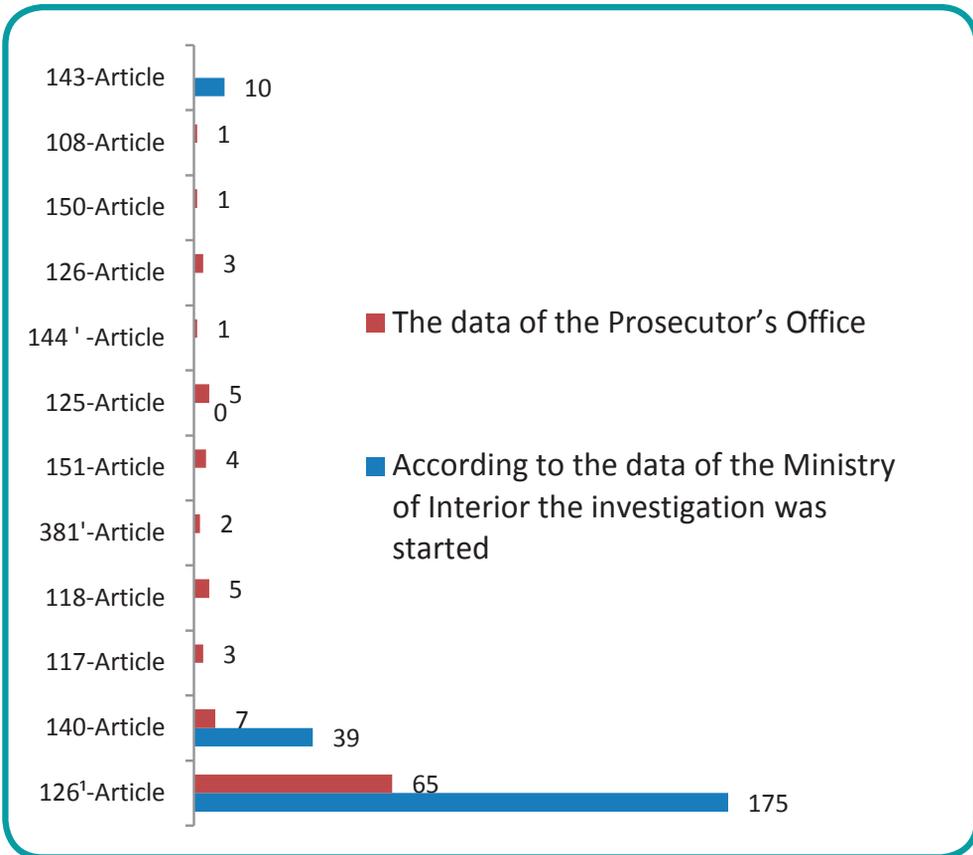
<sup>4</sup> Article 126<sup>1</sup> of Criminal Code of Georgia, Note: for purposes of this Article the members of the family are: a spouse, mother, father, grandfather, grandmother, son/daughter (step-son/step-daughter), adoptive child, adoptive person, adoptive person’s spouse, affiliated child, the foster family (foster father, foster mother), guardian, grandchild, sister, brother, the spouse’s parents, son-in-law/brother-in-law, daughter-in-law/sister-in-law, former spouse, as well as the persons who are constantly engaged in or were engaged in a common household.“

### 2.3.2. Starting of the criminal prosecution on the crimes of having the signs of domestic violence background

The statistics of commencing prosecution on the domestic violence-related crimes in the Kvemo Kartli Region in 2016:

According to the data of the Prosecutor's Office	The figures of starting the investigation according to the Ministry of Internal Affairs' data
126 <sup>1</sup> - domestic violence - 65 cases	126 <sup>1</sup> - domestic violence - 175 cases
11 <sup>1</sup> -140 - Sexual intercourse or other sexual activity with under 16 years old - 7 cases	11 <sup>1</sup> -140 - Sexual intercourse or other sexual activity with under 16 years old - 39 cases
11 <sup>1</sup> -117 – intentional severe damage to health - 3 cases	
11 <sup>1</sup> -118 - intentional less severe damage to health - 5 cases	
11 <sup>1</sup> -381 <sup>1</sup> – non-performance of the requirements and obligations envisaged by the restraining and protective orders, committed in accordance with the part one or two of the Article 175 <sup>2</sup> of the Administrative Offense Code of Georgia, and by the person, sentenced the administration charges for a such act - 2 cases	
11 <sup>1</sup> -151 - threatening - 4 cases	
11 <sup>1</sup> -125 - envisaging beating (according to the state of 1 December 2016 the Article is removed) -5 cases	
11 <sup>1</sup> -144 <sup>1</sup> - torture 1 case	
11 <sup>1</sup> -126 - violence - 3 cases (committed against the partner is meant)	
11 <sup>1</sup> - 150 - coercion- 1 case	
11 <sup>1</sup> - 108 - premeditated murder - 1 case	
	Article 143 of the Criminal Code - Unlawful imprisonment against the criminal, juvenile by early identification - 10 cases

**Table №3 the chart figures of starting the criminal prosecution and investigation**



### 2.3.3 The applied preventive measures and penalties

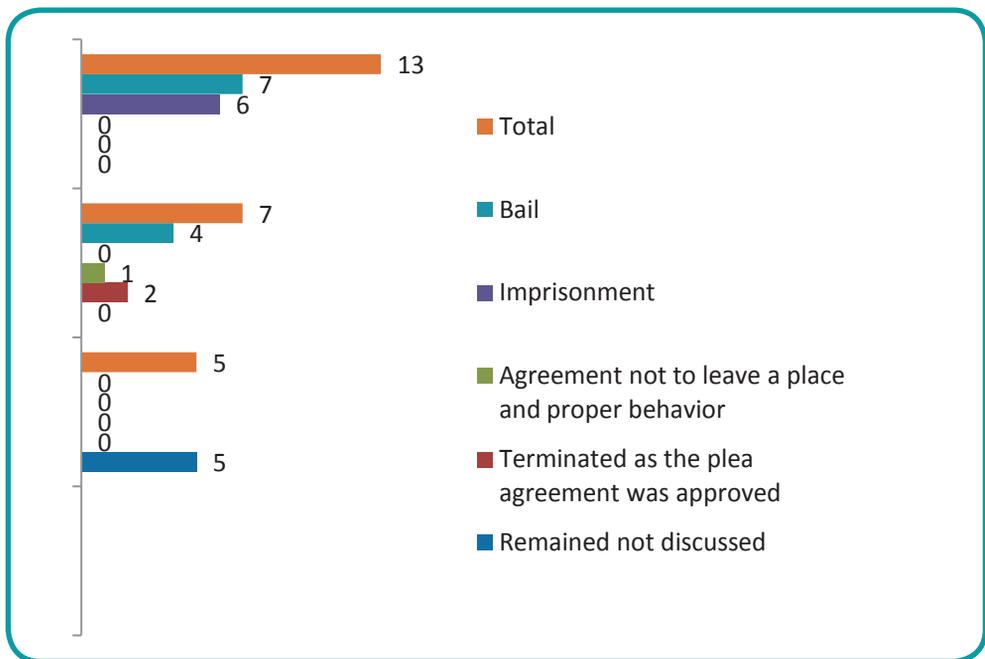
As the practice shows, plea bargaining with the abuser is performed based on the victim's consent. Two main problems were revealed concerning this issue during the face-to-face interviews with the beneficiaries: In the first case, the victim is not aware of the legal consequences of the plea agreement and he/she does not know the exact essence of it, but in the second case, the plea bargaining has no importance for the victim, whether it is performed or not, when the abuser is released on bail and is free in movement.

13 petitions requesting preventive measures were submitted to Rustavi City Court, out of which in 7 cases the bail was granted and in 6 cases imprisonment was used.

In Tetrtskaro Regional Court 7 petitions were submitted, out of which 2 were terminated, as the plea bargaining was approved at the suspension hearing, in 4 cases the bail was used, in 1 case - the agreement about not leaving a place and proper behavior. Imprisonment has not been used in any case.

In Bolnisi Regional Court 5 petitions were submitted with the request to apply the preventive measure and none of them were discussed as plea-bargain was registered at the suspension hearing.

**Table №4. Applied preventive measures**



In Rustavi City Court totally 25 criminal cases of domestic violence were discussed, out of which plea bargain was applied in 23 cases, and imprisonment was used only in 2 cases.

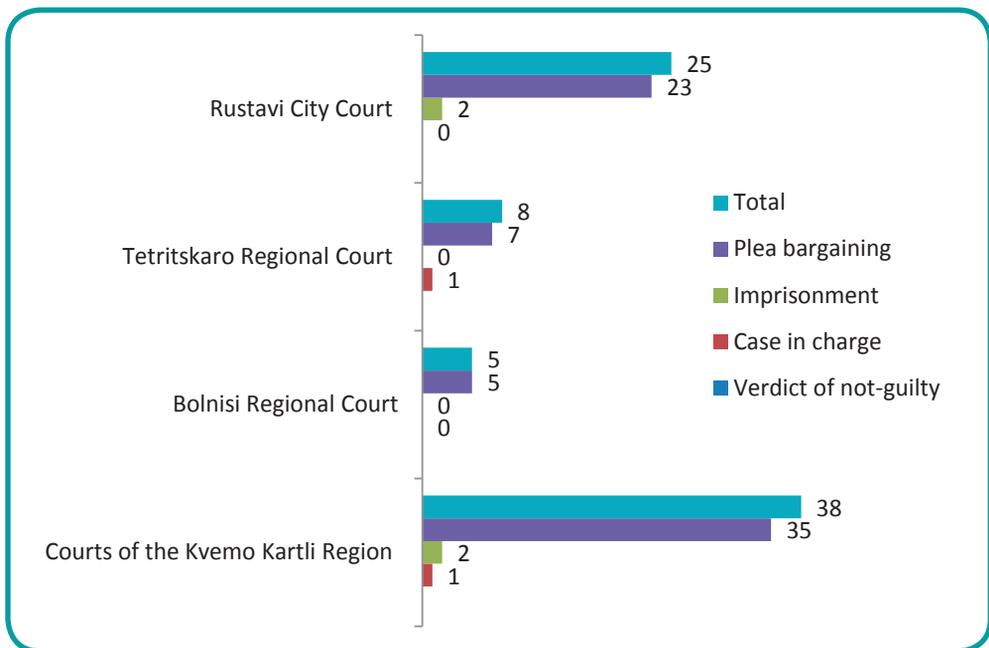
In Tetrtskaro Regional Court, in total, 8 criminal cases of domestic violence were submitted out of which the plea bargain were approved in 7 cases and 1 case is pending.

In Tetrtskaro Regional Court 5 criminal cases of domestic violence were submitted, in all cases the plea bargain was approved, imprisonment was not applied in any of these cases.

Among of the completed cases in Kvemo Kartli courts, imprisonment as a preventive measure for accused abusers was applied only in 2 cases out of the 38 criminal cases of domestic violence, despite the fact that the abusers were sentenced to imprisonment in 6 cases, the bail in 7 cases and plea bargain was approved in all remaining cases.

In the courts of the Kvemo Kartli Region a verdict of not-guilty was not passed.

**Table № 5. The punishments, applied in domestic violence cases**



I.M. About the violence of her husband:

“I did not want to deposit the money into the budget at the expense of my beating, that was paid as a bail by my abuser husband, while my children needed this money so much, I do not care about the plea bargaining any more, what kind of law is it, they did not ask me anything when I needed, so I think this law is useless”.

The problem is the inadequate punishment in relation with the committed action.

N.B. was constantly suffering from beatings by her husband and her central nervous system was damaged. She can hardly move and because of the received stress she needs constant treatment, but we read the descriptive part of the verdict: „B.TS. was jealous to his wife N.B., so he came to the house of his father-in-law in Gardabani Region, where during the conflict with his wife and her parents, he injured his wife - N.B. in the left hand with a sharp-edged object and with an ax, N.B.'s father received the scalp laceration and the sword-cut injury in head area, N.B.'s mother received a big sword-cut injury in the crown of the head, including the minor injuries with the short-term health disorders“. The above-mentioned act was qualified under the Article 11<sup>1</sup> and the Article 120,\* as intentional minor injury of the health, pointing to the Article about the responsibility for domestic crime, for which the accused was charged with imprisonment for 1 year and 2 months as the measure of punishment, and it was sentenced only because of the previous conviction of the accused and at the moment had the conditional sentence for 6 (six) months. It should be also mentioned that 5 years old child of N.B. was present during the above-mentioned actions.

N.B. lives in the shelter together with her minor child, nevertheless, after expiration of a certain period, she thinks that she will be under the risk, as there are no other means to defend her. During the period, when she was under the violence, N.B. could not call the police as the abuser husband took mobile phone by force.

---

\* Article 11<sup>1</sup> responsibility for domestic crime

The domestic crime means commitment of the crime by one family member against another family member, provided by the Articles 108, 109, 115, 117, 118, 120, 126, 137, 141, 143, 144–144<sup>3</sup>, 149–151, 160, 171, 253, 255, 255<sup>1</sup>, 381<sup>1</sup> and by the Article 381<sup>2</sup> of the same Code. For domestic crimes the criminal liability is defined in the corresponding Article of Criminal Code of Georgia, mentioned in this Article and pointing to this Article.

Note: for purposes of this Article the members of the family are: a spouse, mother, father, grandfather, grandmother, son/daughter (step-son/step-daughter), adoptive child, adoptive person, adoptive person's spouse, affiliated child, the foster family (foster father, foster mother), guardian, grandchild, sister, brother, the spouse's parents, son-in-law/brother-in-law, daughter-in-law/sister-in-law, former spouse, as well as the persons who are constantly engaged in or were engaged in a common household“.

The Article 120 of Criminal Code of Georgia, intentional minor injury of the health: „, intentional minor injury of the health, that caused the short-term disorder of health, or insignificant or weak losing of general work ability, – Punished by a fine or corrective labor for up to six months and / or imprisonment for up to two years.

The actual problem is the fact, that the police needs a certain time to react to cases in villages, which might have very unfortunate results.

The Prosecution provides incorrect qualification of the action, as it is seen in the above-mentioned cases. Besides that, according to the implemented practice, the abusers against whom the imprisonment was applied as a preventive measure, plead themselves guilty at the pre-trial hearing, they do make the evidences disputable, because of which the victim is not asked to appear at the trial for examination. This problem is sharpened by the fact that the victim is no longer a party of the criminal proceedings.

Besides, the plea agreement became a formal procedure, in the most cases the victim has to pay the amount, especially in the cases when the child abuses the parent, also very often the victims express their consent concerning the plea agreement, because the abuser is released upon bail at the moment and makes the psychological influence on his victim. As for the victim, he/she does not believe that the court will solve his/her problem as the abuser was released upon the bail, the victim does not want to have any additional risk and declared his/her consent.

### **2.3.4. Termination of criminal cases upon the victim's statement**

The termination of proceedings on domestic crimes in 2016 was not registered in the Kvemo Kartli Region.

Concerning this issue, the law enforcement authorities' mention, that the victims often make a deal with the abusers or do not give a testimony against the member of their family, which is their right and because of which the crime often comes to a dead-end, though as the statistics show such a case was not registered during 2016.

## **2.4 EARLY MARRIAGE**

### **2.4.1. Legal regulation**

“Sexual intercourse, homosexual, lesbian or other sexual intercourse in a preventive form committed knowingly by an adult offender against a person who has not attained the age of 16 years, shall be punished by imprisonment for the term of seven to nine years<sup>5</sup>

---

<sup>5</sup> Article 140 of Criminal Code of Georgia

### **2.4.2. Cases of voluntary sexual intercourse with minors under 16**

Despite the severity of the punishment, in the Kvemo Kartli Region the cases of early marriage are quite common, mainly among the ethnic minorities. In most cases these facts are revealed by the information provided by the Civil Registry Agency about the registration of a newborn, after which the investigation starts; However this is the time when the accused and the victim have already been living together for many years.

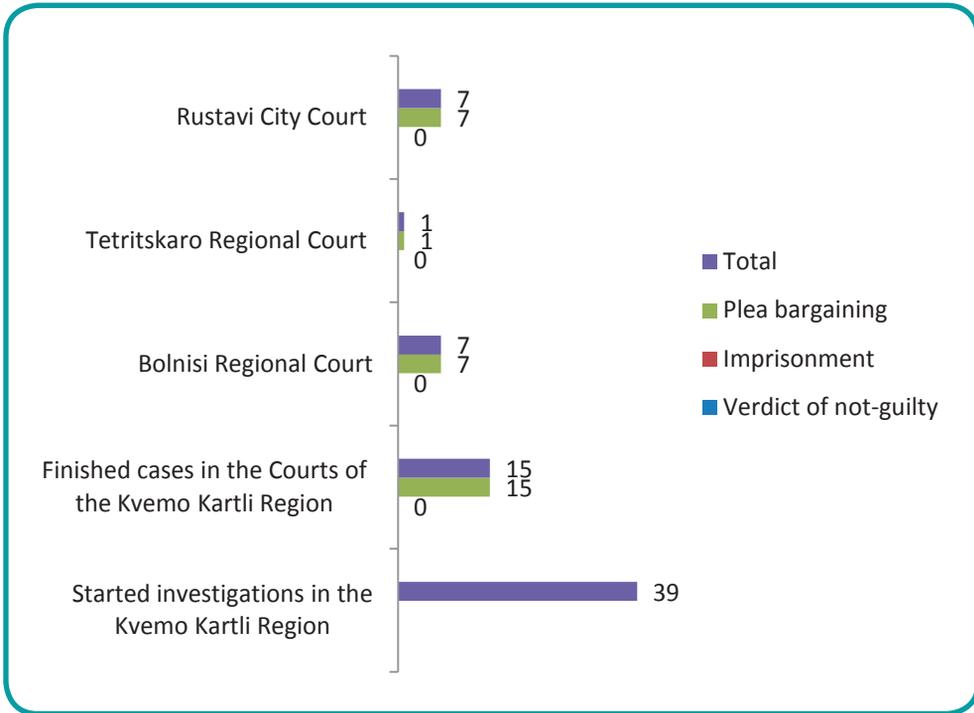
In the practice of CiDA, people often apply to get consultation in regards to possible actions to be taken by a minor girl in order to keep her husband out of imprisonment or how to conceal the fact of marriage. In many cases, they did not have information about the legislative regulation. Some of minor girls delaying the childbearing until adulthood in order to avoid the punishment for her husband.

### **2.4.3 Charges, applied in early marriage cases (Article 140 of Criminal Code of Georgia)**

In the Kvemo Kartli Region, bail out was sentenced only to one accused out of 15 discussed cases, in other cases a plea agreement was signed at the first hearing and the fine and suspended sentence were defined as the type and measure of punishment. In none of the cases the imprisonment was used, despite of severity of the Article.

The practice, implemented regarding the Article 140 of Criminal Code of Georgia, does not give a chance to understand the essence of the crime neither to the accused, nor the victim. As a rule, the convicted continues to live with the victim and the crime continues, though for the same crime the same liability is prohibited according to the criminal legislation. It turns out that the family has to pay the money only because of illegal action, which will burden the family, or is just a way out for those, who is willing the early marriage.

**Table # 6. The preventive measures and punishments applied according to the Article 140 of the Criminal Code of Georgia**



#### 2.4.4. Unlawful deprivation of liberty of minors<sup>6</sup>

This type of crime has been quite a big issue in Kvemo Kartli Region, as mainly, among the ethnic minorities, the cases of illegal deprivation of liberty for marriage purposes to the underage girls often occurred. Because of the severe punishment, the crime was significantly reduced, however, according to the information of the Ministry of Internal Affairs of Georgia, in 2016 under the Article 143 of the Criminal Code of Georgia, the investigation was launched only in 10 cases, out of which the Rustavi City Court examined 2 cases of illegal confinement and in both cases the custodial sentence was determined.

It is worth mentioning, that CiDA was providing the legal assistance to two minor girls

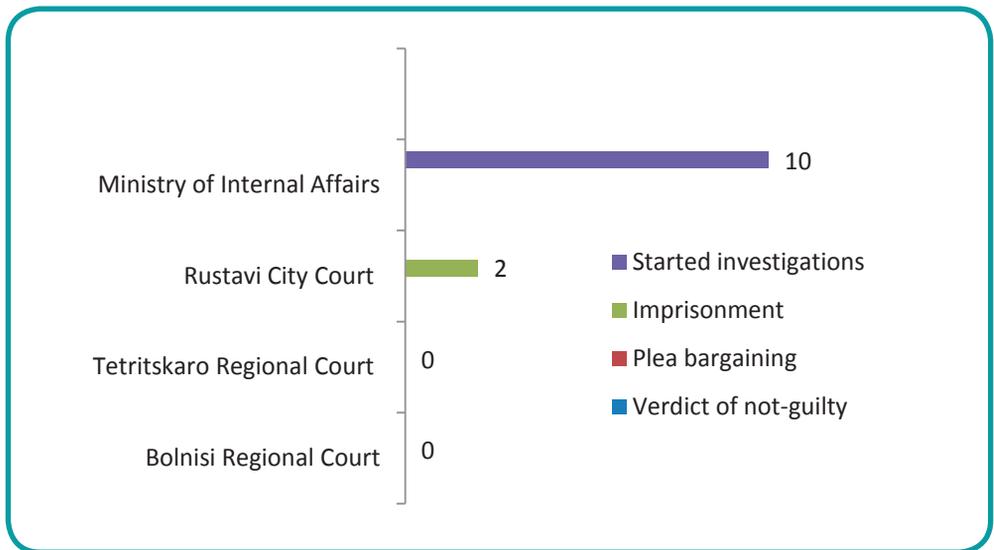
<sup>6</sup> According to the Article 143 of the Criminal Code of Georgia, the illegal deprivation of freedom to the minor is punished by imprisonment from 7 to 10 years.

for the cases under the Article 143 of the Criminal Code of Georgia. Among the victims, one of them had a very strongly expressed position, she did not want to „marry“, she wanted to continue her studies. According to the case, the accused was sentenced to imprisonment as a preventive measure, however, at the pre-trial hearing the accused plead guilty and the imprisonment was changed to a bail. In difference with the Article 140 of Criminal Code of Georgia, the prosecution almost never executes the plea agreement on a suspended sentence and applies an actual punishment. , but in this case, similiarly, the imprisonment was determined with the plea agreement.

In the other case, the victim (underage girl) had no firm position. Despite the involvement of a psychologist, it was quite difficult for her to decide whether or not to agree with the plea agreement against the accused. In the presence of the parents she refused to give a consent but in her parents’ absence she noted that she felt sorry for the accused and did not want to see him punished at the same time she mentioned that the ravishment was a tradition, though she did not want to become the accused person’s wife as “she liked him not so much”.

From this point of view, in spite of the strict sanction, the level of awareness remains still low in the Kvemo Kartli Region and as it became clear from the field visits of CiDA, there were the cases, on which the investigation has not started, as the families of the minor girls did not file the complaints.

**Table №7. The figures of illegal deprivation of freedom to juveniles**



### 3. RECOMMENDATIONS TO:

#### 1. THE MINISTRY OF INTERNAL AFFAIRS:

- 1.1 The existing approach to the abuser shall be changed and the abuser shall be obliged to appear at the police department with a certain frequency (reasonable period shall be determined), which will be a deterrent factor to repeated violence. For this purpose, the abuser's obligation to appear in the police department with a certain frequency shall be added to the issues envisaged by protective and restraining orders under the article 21<sup>15</sup> of the Administrative Process Code of Georgia.
  - 1.2 The note about frequency and form of the control of the abuser from the side of the police shall be added to the Article 16 of the Law of Georgia "On Elimination of Domestic Violence, Protection and Support to Victims of Domestic Violence" that defined the obligations of the police. This will change the existing practice (when the information about the abuser is collected only through the interview with the victim) and will implement the rule of controlling the abusers through the direct communication with them.
- 

#### 2. THE PROSECUTOR'S OFFICE:

- 2.1 The existing practice of reacting to the cases of sexual intercourse with the individuals under 16 shall be changed (Article 140 Criminal Process Code of Georgia). The abusers, who continue living with the minors, through which the crime persists, should not pay the fine. Instead, community service, or a real punishment should be applied as an additional punishment, which requires additional research and discussion.
  - 2.2 The victim's consent to plea bargain should not only be a formality in cases of domestic violence. The plea agreement should be approved only in the case, if the victim is aware of legal consequences of the plea agreement.
-

### 3. THE COURT:

- 3.1** For domestic violence and early marriage cases, the punishment should be determined by taking into account all threats and risks of each case that might be caused by the punishment.
- 

### 4. THE PARLIAMENT:

- 4.1.** The obligation on the forensic-psychiatric examination concerning the administration proceeding of restraining and protective orders shall be set out in the law. Thus, it will be possible to avoid the repeated violence against the victims, as well as the other serious consequences, as the abuser will be ordered to start a compulsory treatment.
- 

### 5. THE SOCIAL SERVICE:

- 5.1.** Certain model of re-socialization and rehabilitation of abusers shall be implemented in the administrative proceeding that will significantly reduce the cases of repeated violence.
  - 5.2.** The rehabilitation for victims shall be provided both in the shelter, as well as outside of the shelter, as far as in other way the action of the protective order will not be effective.
- 

### 6. THE MINISTRY OF EDUCATION:

- 6.1** The control over the school administrations and the teachers shall be stricter, in order to ensure actual implementation of the liability on informing the early marriage cases.
-

## **7. THE NON-GOVERNMENTAL ORGANIZATION WORKING IN THE REGION, TO THE LOCAL COUNCILS AND SELF-GOVERNMENTS:**

- 7.1.** Campaigns to raise awareness on the issues of early marriages, domestic violence and discrimination shall be organized. For this reason the local media is very important for intensely providing the information. The campaigns shall be systematic and include, first of all, schools and the institutions of higher education.
-



## **GENDER BASED VIOLENCE IN KVEMO KARTLI**

(Domestic violence, early marriage, discrimination)