

# VICTIMS OF DOMESTIC VIOLENCE WILL BE ABLE TO USE SHELTER UNDER A NEW RULE

A bill On the Amendment to Law on the Elimination of Violence Against Women and/or Domestic Violence, and the Protection and Support of Victims of Such Violence has been introduced in the Parliament of Georgia and assigned to parliamentary committees for consideration. This legislative initiative envisages significant changes in terms of protection of rights of victims of violence. A status of victim will no longer be required for the use of shelter.

## THE BILL, INITIATOR

**Bill:** On the [Amendment to Law on the Elimination of Violence Against Women and/or Domestic Violence, and the Protection and Support of Victims of Such Violence](#) and associated legislative changes.

**Initiators:** Nino Tsilosani; Khatuna Kvitsiani; Mikheil Sarjveladze; Nino Iobashvili; Teona Akubardia; Ramina Beradze; Rati Ionatamashvili.

## ESSENCE OF THE BILL

According to the explanatory note, the aim of the bill is to enhance support to victims of violence against women and domestic violence and reflect provisions of the Istanbul Declaration in Georgian legislation.

The bill:

- Sets out a new regulation for the provision of public services (including a shelter/crisis center) to victims of violence against women and domestic violence, which will help overcome barriers to the use of shelter;
- Scraps the status of victim as a requirement for the use of support services (including a shelter);
- Modifies the definition of “family member” by extending the circle of persons to include a partner;
- Determines a power of municipalities to engage in the implementation of measures to prevent violence against women and domestic violence as well as to protect and assist victims of the violence.

## 1. ABOLITION OF THE REQUIREMENT FOR THE STATUS OF VICTIM

### CURRENT VERSION

To use public services, including a shelter service, a person shall have the status of victim;<sup>1</sup> there are three alternative ways of obtaining the status:

- Status of victim;
- A restraining order;
- A protection order.

### PROPOSED AMENDMENT

To use public services (including a shelter service), a person is no longer required to have the status of victim.

## 2. A NEW RULE FOR THE USE OF SHELTER

### CURRENT VERSION

A person shall have the status of victim to use a shelter and to obtain this status relevant procedures need to be undertaken. Placemen of a person in a shelter depends on this status.

A victim is placed in a shelter for up to three months.

To use a shelter, a person having the status of victim shall cooperate with law enforcement or prosecution authorities against perpetrators.

### PROPOSED AMENDMENT

The status of victim is no longer required for the use of the shelter.

Provider of shelter determines criteria<sup>2</sup> to be applied in deciding on whether to provide or deny the shelter to a person.

The term is extended up to four months.

Provision of shelter service does not depend on willingness of a victim to cooperate with law enforcement or prosecution authorities against perpetrators of violent acts.

## 3. BROADENING THE CATEGORY OF FAMILY MEMBER

### CURRENT VERSION

Preventive mechanisms (restraining and protection orders) may be applied only to family members<sup>3</sup> which do not include an intimate partner.

### PROPOSED AMENDMENT

A category of intimate partner is added:  
Intimate partners – persons who are/were not in registered or unregistered marriage, do/did not jointly run a family, but are or were in an intimate relationship which involves romantic or/and sexual relationship.

## 4. ახალი მხარდაჭერის მომსახურების/პროგრამის განმარტება

### CURRENT VERSION

Although separate support programs are available, the law does not provide a systematized definition of a support service.

### PROPOSED AMENDMENT

Support service/program – a service/program that is designed to assist a victim in recuperating and dealing with consequences of violence.

Such service/program shall assist victims in any of the following areas:

- Victim protection;
- Legal aid;
- Psychological and social assistance / rehabilitation, physical or psycho-emotional recovery;
- Temporary housing (shelter);
- Health care;
- Vocational training or/and employment;
- Or any other assistance tailored to a victim’s needs.

Support service/programs are implemented by the state via authorized entities.<sup>4</sup>

## 5. ENHANCEMENT OF POWERS OF MUNICIPALITY

### CURRENT VERSION

1. There is only a general legal provision authorizing municipalities to implement measures for the protection and assistance of victims of violence.

2. The Local Self-Government Code does not set out particular powers of municipalities in this area.

### PROPOSED AMENDMENT

1. Municipality becomes one of the entities implementing preventive measures against violence.

2. Powers of municipalities are specified:

- Municipalities shall be authorized to offer support services and implement targeted programs envisaging assistance to victims in the following areas: legal aid, psychological and social rehabilitation, also, provision of temporary housing (shelter), etc.;

## EVALUATION

The proposed initiative must be evaluated as a positive step as it will eliminate shortcomings existing in practice, on the one hand, and on the other hand, will bring the Georgian legislation into line with the Convention on Preventing and Combating Violence Against Women and Domestic Violence (the so-called Istanbul Convention).

The Istanbul Convention is a significant international act in terms of protection of women’s rights. It imposes obligations on government to ensure prevention of domestic violence and in general, violence against women and to fight against particular crimes.

Ratification of the Istanbul Convention in 2017 has led to the introduction of a number of amendments to the effective legislation, including the ones that have criminalize stalking and qualified intolerance on the ground of gender as an aggravating factor of crime.

However, the legislation as well as implementation mechanisms need to be further improved in order to meet the standard set in the Istanbul Convention for the protection of rights of victims of domestic violence.

The amendments presented in the bill respond to existing problems, in particular:

→ The current procedure of granting the status of victim that is required for a person to be placed in a shelter, is a barrier to victims whereas the Convention underlines the obligation to ensure **accessibility of shelters**.

→ In contrast to the Istanbul Convention, the current legislation does not provide a systematized definition of support services/programs;

→ The Convention stipulates that provision of support services **shall not depend on the victim’s willingness** to press charges or testify against any perpetrator.<sup>5</sup>

→ The Istanbul Convention always views a **partner** as a family member, in particular: “domestic violence” shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim.”<sup>6</sup> The Georgian legislation does not provide for a category of partner and hence, available preventive mechanisms (restraining and protection orders) are not applied to them.

Yet another positive change apart from the aforementioned is a proposed empowerment of municipalities to engage in the implementation of measures designed to prevent violence against women and domestic violence as well as to protect and assist victims of the violence.

The abovementioned initiative was considered by the Regional Policy and Self-Government Committee of the Parliament; however, the Committee did not endorse the issue of specifying and enhancing the powers of self-governments. According to the reasoning of the Committee, the self-government bodies already have a general obligation to assist victims of violence and a further specification of obligations will increase the burden on scarce budgets of self-government bodies. It is important for the Parliament to support the initiative in full, including the self-government component.

Thus, **the proposed initiative is a positive step taken towards the implementation of standards envisaged under the Istanbul Convention.**

1 The status of victim is determined by: a relevant service of the Interior Ministry; a court; the Victim Identification Group under the Interagency Commission on Gender Quality, Violence Against Women and Domestic Violence.

2 To evaluate, for example, needs of a victim of violence, risks of repeated violence, etc.

3 Member of family - mother, father, grandfather, grandmother, spouse, a person in a non-registered marriage, child (stepchild), foster child, foster carer, (foster mother, foster father), stepmother, stepfather, grandchild, sister, brother, parents of a spouse, parents of a person in non-registered marriage, daughter’s/son’s spouse (including in non-registered marriage), former spouse, person who was in a non-registered marriage in the past, guardian, caregiver, supporter, person under guardianship or custodianship, beneficiary of support, also persons who have always run or who ran joint family business.

4 The Ministry of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs of Georgia, the Ministry of Internal Affairs of Georgia, the Ministry of Education and Science, Georgia’s prosecution and court authorities, also, municipal entities within the scope of their competence. Cooperation with other institutions is also permitted.

5 Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 11.V.2011, Article 18 (4) <https://rm.coe.int/168008482e>.

6 Council of Europe Convention on preventing and combating violence against women and domestic violence, Istanbul, 11.V.2011, Article 3 (b) <https://rm.coe.int/168008482e>.