

July 28, 2020

To: Mr. Krasnov Igor Viktorovich, General Prosecutor of the Russian Federation

We write in relation to the investigation into the case of the Khachaturian sisters - Maria, Krestina and Angelina. We understand the Prosecutor's office is dealing with some very serious issues and it is in that context that we would like to offer some thoughts about systemic domestic and sexual violence and the impact it has on its victims. We attach also for your interest our analysis of the Draft Law on Domestic Violence released in November 2019 by the Russian Federation Council which shows how critical it is to introduce comprehensive measures to prevent domestic violence, protect victims and bring perpetrators to account.¹

Maria, Krestina and Angelina Khachaturian were beaten, tortured, sexually abused and kept prisoner by their father over a number of years. This was domestic abuse which can include psychological, sexual, financial and emotional abuse as well as physical violence. Repeated violent, coercive or controlling behaviour can cause physical harm, fear, serious alarm, distress and even terror. Typically, entrenched, unpredictable and sometimes random acts of violence by a perpetrator against a family member over time damage a victim in many ways, eroding her sense of self-worth and leading her frequently to feel helpless such that she has no means to physically or emotionally distance herself from her abuser. This will be particularly true of a child abused by a parent on whom she should normally be able to rely for care and protection and whose trust will have been breached in addition to the other harms inflicted.

According to jurisprudence of the European Court of Human Rights,² which Russia is a party to, States have an obligation to afford general protection to society and specifically to take account of the recurrence of successive episodes of violence within a family and effectively respond to protect women and children's rights within this context of domestic violence. Understanding this context requires a gendered understanding of the impact of domestic and gender-based violence on survivors and the cyclical processes and dynamics of domestic violence.³

¹ https://www.equalitynow.org/proposed_russian_dv_bil_2019

² See Case of Talpis v. Italy, para 122, application no. 41237/14, and case of Volodina v. Russia, paragraph 86.

³ See paras 9 - 12 of Third Party Intervention by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) pursuant to article 36 paragraph 2 of the European Convention on Human Rights: Application no. 62903/15 Kurt v. Austria. Available at (in English): <https://rm.coe.int/grevio-inf-2020-3-third-party-intervention-kurt-v-austria/pdfa/16809987e9>

Deputy Prosecutor General of the Russian Federation Viktor Grin refused to approve the indictment of “murder by prior agreement”.⁴ Mr. Grin's arguments were that the conclusions of the investigation were not based on a cumulative assessment of all the collected evidence and did not correspond to the real circumstances of the incident.

Mr. Grin particularly noted that, while recognizing the facts of systematic violence by the father endangered the life and health of his daughters, the investigation had not taken into account the impact that his violence had on the Khachaturian sisters and how it shaped their desperation. According to him, the indictment contained "serious violations, in which it is impossible to approve the case and send it to the court." Mr. Grin also noted that the actions of the Khachaturian sisters should be regarded as a necessary defense to such violence.⁵ Thus, the case was not originally sent to court.

The Investigative Committee of the Russian Federation also itself proved facts of systematic violence against the Khachaturian sisters by their own father, including sexual offenses. Having access to this information and understanding better the context of helplessness and vulnerability of the sisters, the Investigative Committee should have taken the opportunity to re-classify the actions of the sisters, taking into account all the evidence collected by the investigators themselves. Regrettably, this was not done and the case as you know went to court with the qualification "murder by prior agreement."

International human rights standards and best practice suggest that criminal procedure codes fail to protect women victims of domestic violence and that they are discriminatory against women if they prevent self-defence claims to women survivors of violence, and if the psychological impact, including in cases of battered woman syndrome, is not considered in sentencing.⁶ The UN General Assembly urges the states to review, evaluate and update their criminal procedures, and take into account all relevant international legal instruments, to ensure that *“claims of self-defence by women who have been victims of violence, particularly in cases of battered woman syndrome, are taken into account in investigations, prosecutions and sentences against them.”*⁷

⁴<https://meduza.io/news/2019/12/26/genprokuratura-otkazalas-utverdit-obvinitelnoe-zaklyuchenie-po-delu-sester-hachaturya>

⁵ <https://wcons.net/novosti/gosudarstvo-schitaet-cto-zhenshhina-prosto-tak-vzjala-nozh/>

⁶ See A Practitioner’s Toolkit on Women’s Access to Justice Programing by UN Women, UNDP, UNODC and OHCHR, p. 278 available at: https://www.unodc.org/pdf/criminal_justice/WA2J_Consolidated.pdf

⁷ UN General Assembly Resolution of 21 December 2010, 65/228. Strengthening crime prevention and criminal justice responses to violence against women, para. 15.k.

Application of self-defence provisions should not be limited to situations with the traditional understanding of “imminent threat”. Rather, the dynamics of domestic violence should be assessed in context. UNODC guidelines suggest that “in cases involving a long history of domestic violence, patterns of violence often emerge and victims become adept at identifying “red flags” that indicate imminent violence. Specifically, conduct that initially appears benign to prosecutors may, as a result of history and experience, signal imminent danger.”⁸ In such a context, a prosecutor should “review the complainant’s and defendant’s statements, the emergency call, witness’ statements, pictures of physical injuries or other evidence collected at the scene as this may establish that the defendant’s actions were defensive in nature.”⁹ In case of such evidence, the UNODC recommends that the case should be dismissed on the basis of self-defence.¹⁰

According to Part 7 of Art. 246 of the Criminal Procedure Code of the Russian Federation, the Prosecutor has the right to drop the charge up until the time the court removes it to the deliberation room for sentencing. We would urge you therefore to take into account the position of Mr. Grin, based on all the evidence and the impact on Maria, Krestina and Angelina Khachaturyan of years of systematic physical, sexual and psychological abuse and drop the charges of murder by prior agreement so that the girls are not punished further, rather their trauma is recognised and accounted for.

Thank you for your consideration.

⁸ UNODC Handbook on Effective Prosecution Responses on Violence against Women and Girls, 2014, p. 85

⁹ See above, p. 85

¹⁰ See above, p. 85-86.