

Partnership for Good Governance



Conference on “Enhancing women’s access to justice in Eastern Partnership (EaP) countries”

**9 February 2017
Strasbourg
Agora building, meeting room G4**

REPORT Conference on Enhancing Women’s Access to Justice in Eastern Partnership Countries

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February 16, 2017

The following short report summarizes the content of the conference (conducted February 9, 2017 in Strasbourg), and specifically provides a brief description of the main barriers to women’s access to justice and the good practices that are being used to address them. The report also summarizes comments made by participants during the discussion portion of the conference.

The first plenary session and comments made by the participants indicated that there are a number of obstacles to women accessing justice that are common for all the Eastern Partnership (EaP) Countries. These barriers can be categorized as socio-cultural (women’s limited knowledge of their rights under the law and available legal remedies if their rights are violated, lack of trust in justice system); economic (women’s lower economic status and financial dependency, the lack of free or affordable legal aid); political (the lack of political will to undertake legal and legislative reform, corruption); and legislative (gaps in the law- for example there is no law on domestic violence in Armenia, or incomplete implementation of the law - which is the case in several countries that have equal rights laws that provide no legal remedies). All of these barriers have their roots in gender inequality that persists in every Council of Europe (CoE) member state.

The issue was raised during the discussion that, in general, the EaP countries have legal systems that do not conform to CoE standards (in terms of the right to a fair trial and an effective remedy) and so they cannot be considered to be adequately meeting the needs of any justice user - female or male. It was pointed out that taking a women’s access to justice approach means acknowledging that the general flaws in the legal system often have a greater impact on women and that women face particular legal

issues (for instance, domestic violence) that are not addressed by a gender blind legal system. As noted above, gender inequality and discrimination are root causes of many of the obstacles that women face in accessing justice.

Several speakers addressed the related topics of how gender stereotypes impact women's access to justice and judicial bias. When legal professionals rely on gender stereotypes, they deny women their right to receive impartial justice. Furthermore, gender stereotypes influence women's representation among legal professionals. Several of the speakers and participants gave examples of the number of women and men in specific roles- among judges, prosecutors, advocates, and in judicial academies. While the national figures cannot be directly compared, it appears that women are better represented among lawyers, judges and judicial trainers than among prosecutors, which conforms to widespread stereotypes about the kinds of jobs for which women are suited. It is also worth noting that historically, during the Soviet period, a large number of judges were women, but the role of a judge was largely administrative and did not have the same decision-making power or authority as it does today.

A number of good practices to facilitate women's access to justice were described by both the speakers during the second plenary session and by participants during the discussion period at the end of the day. The practices include enacting new laws and amending existing laws (for example, a provision on protective orders was added to the Moldovan Criminal Code); introduction or expansion of free legal aid (to ensure that women can benefit from legal services, especially victims of domestic violence); the creation of specialized divisions or departments (for example, the Office of the Prosecutor in Georgia has a division that deals with domestic violence cases); and research and monitoring of the barriers that women face in accessing justice (it was noted that a lack of sex-disaggregated data obscures the many problems that women encounter when dealing with the legal system).

One area of good practices that is common for all of the EaP countries is training and education for legal professionals. Within the general topic of training, the following good practices were mentioned:

- The relevant institutions (such as judicial training academies, offices of the prosecutor or bar associations) should take ownership of the training program. Trainings should not be conducted solely by outside organizations. Legal professionals (judges, prosecutors, police, etc.) should be actively engaged in improving the gender sensitivity of their colleagues and specifically act as trainers.
- Management should support the development of training programmes and, ideally, mandate training on gender topics for staff of the relevant institution.
- Trainings should be developed through partnership between the training academies and civil society organizations, especially those that provide services to women and who assist women to access justice.
- Training programmes can be used for general sensitization to issues of women's human rights as well as for more targeted purposes, such as how to implement a specific law.
- In addition to specific training programmes organised for in-service and pre-service legal professionals, topics such as domestic violence or victims' rights

in criminal proceedings (concerning rape, human trafficking, etc.) should be included in the curricula of the more general human rights training programs.

- Training programs should be interactive and provide practical skills to help legal professionals in their work.
- Trainings should be offered continuously (and should not be one-off courses) and provide trainees with updated information that will help them in their practice (for example, about changes to the law, legal precedent, emerging legal issues, etc.).
- Training should ideally begin at the law school level and sensitize students to gender issues. Legal clinical programmes also offer students the opportunity to learn practical skills.

As a whole, the group seemed to have a particular interest in a number of specific topics, especially the participants who had previously been involved in the women's access to justice project. Most of these topics concerned the problem of domestic violence. There was interest in learning more about specific training projects, information about domestic violence perpetrated by other family members (meaning, not spouses or partners, but adult children perpetrating violence against parents), information about any good practices in the EaP countries concerning (court ordered) programmes for perpetrators of domestic violence, whether it can ever be appropriate to use mediation and/or restorative justice in cases of violence against women in the national context, and good practices on how to deal with women in prison with their children.

It may be useful to keep these topics in mind for the further development and/or expansion of the projects.

At the end of the discussion, participants were asked to identify possible next steps or priority areas for future work. Some of the topics that were mentioned included the following:

- Creating a group of specialised prosecutors in Ukraine (similar to the model used in Georgia)
- Compilation and translation of key European Court of Human Rights case law concerning aspects of women's access to justice into local languages
- Improving the use of gender expertise to review draft laws rather than uncover difficulties when they are implemented (Moldova)
- Begin intensive training on domestic violence to prepare a group of specialists now who will be ready when the domestic violence law is enacted later in 2017 (Armenia)
- Expand the training that the Justice Academy conducted last year for judges and develop a programme for candidate judges and also prosecutors (Azerbaijan)
- Continue to monitor implementation of relevant laws (but especially those on violence against women) with an awareness that there is a real risk of regression (Moldova).

As it was the first time for the participants from the steering group of the regional dialogue on judicial reforms project to discuss and address these issues, there were not as active in the discussion as other participants. It was most probably due to the fact that the members of the Regional Steering Group were less familiar with specifics of the topic of women's access to justice and so had less to contribute. Still, it was

pointed out by some participants that the exchange of ideas, in this set up between the diverse group of stakeholders such as lawyers, prosecutors and the judiciary, as well as exchange of the views between the different Council of Europe projects, were of great importance to them. Such an exchange of ideas opens new possibilities and ideas for improvement. The inexperience of the judges and prosecutors, members of the Regional Steering Group, and their relative inactivity, also indicate to the need of continuing this discussion in order to break all the barriers hindering women's access to justice.

In conclusion, the conference provided much food for thought and resources that can serve as useful reference materials in future work.