



Strasbourg, 3 September 2013

GEC (2013) 6

**GENDER EQUALITY COMMISSION
(GEC)**

**HEARING ON
“ACCESS TO JUSTICE FOR WOMEN VICTIMS OF VIOLENCE”**

DRAFT CONCEPT NOTE

1. Background of the Hearing

Access to justice is a human right and an integral element of promoting the rule of law. Respect and protection of human rights can only be guaranteed with the availability of effective remedies, adequate reparation and/or compensation. In this sense, access to suitable and effective judicial remedies is critical to combatting violence against women, one of the worst forms of discrimination against women and a serious violation of human rights.

Women's limited access to justice is a complex social phenomenon that combines a series of inequalities at the legal, institutional, structural, socio-economic and cultural levels, and that particularly affects women. Ensuring access to justice implies providing women of all backgrounds with access to fair, affordable, accountable and effective remedies so that women and men can enjoy both equal rights and equal chances to assert them. The concept of access to justice covers contact with, entry to and use of the legal system. It is more than simply ensuring the efficiency of justice systems. Rather, it is about ensuring the sensitivity and responsiveness of such systems to the needs and realities of women, as well as empowering them throughout the justice chain. Reducing the impact of obstacles faced by women not only facilitates greater accessibility, but is also an essential step towards achieving substantive gender equality.

Addressing the issue of women's access to justice is particularly relevant in the current context of financial and economic crises, where inequalities at all levels of society are on the rise and negatively impact on women's lives. Moreover, there is a general lack of understanding of the extent of women's access to justice in Council of Europe member states, which is largely due to the few research initiatives in this field and to the fact that disaggregated data is not systematically collected at national or European level.

At the [7th Ministerial Conference in Baku in 2010](#), Ministers responsible for equality between women and men noted that despite positive and significant achievements in legislation and policy making, despite progress achieved towards *de jure* gender equality, the realisation of *de facto* gender equality remains a challenge, due to the persistence of prevailing traditional gender roles, resulting in a lack of respect for and protection of women's human rights, among others. The plan of action "[Taking up the challenge of the achievement of de jure and de facto gender equality](#)" adopted by the Conference, proposed that the Council of Europe should develop activities to monitor the equal access to justice of both women and men at national and international level, in particular to the European Court of Human Rights, prepare an analysis of the data collected and develop, if necessary, awareness raising activities to promote women's access to justice.

In 2012, the Gender Equality Commission (GEC) of the Council of Europe commissioned a feasibility study to collect more information on women's access to justice in the Council of Europe member states, and to explore possibilities for further action in this area¹. The study focused on case studies from four member states² and provided a panorama of international standards as well as national legal frameworks in these countries. The case studies identified challenges and provided good practice examples in the areas of criminal law, civil and family law, and public law.

The GEC discussed the feasibility study and its findings during its 3rd meeting (10-12 April 2013) and considered it to be a useful starting point, to be followed by more in-depth thematic debates where all stakeholders can share their experiences and concerns. Such events should help to better understand the persisting barriers of women's access to justice (including those of a cultural, economic or social nature) and to identify the measures that can help to remove them. One of the themes identified by the GEC was access to justice for women victims of violence.

¹ "Feasibility Study – Equal Access for Women to Justice" GEC (2013) 1 Rev, 28 May 2013. See at http://www.coe.int/t/dghl/standardsetting/equality/03themes/access_to_justice/GEC_2013_1_en%20rev.pdf

² Austria, Finland, Portugal and Sweden.

Council of Europe and other regional and international standards

The hearing is framed in the context of international and European standards regarding equal access to justice by women victims of violence, in particular the [European Convention on Human Rights](#)³; [the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence](#); [the Council of Europe Convention on Action against Trafficking in Human Beings](#); [European Convention on the Compensation of Victims of Violent Crime](#); and Recommendations from the Committee of Ministers of the Council of Europe addressed to the member states⁴. Other relevant instruments⁵ are the UN [International Covenant on Civil and Political Rights](#), the [Convention on the Elimination of All Forms of Discrimination against Women](#) and [General Recommendations](#) adopted by the Committee on the Elimination of Discrimination against Women (CEDAW), as well as its [jurisprudence](#) providing interpretation of States' obligations under the Convention, including on issues related to access to justice.

The hearing will take account of the obligation for Council of Europe member States to prohibit discrimination against women and abolish laws and practices which discriminate against women, as well as of the due diligence that should be exercised to prevent, investigate, punish and provide reparation for acts of violence against women. Women victims of violence should be able to turn to their national legal system for adequate remedies against the perpetrator/s, while law enforcement agencies should respond to all forms of violence against women by promptly offering adequate and immediate protection to victims. The rights of victims of violence, including equal access justice, should be placed at the heart of measures to be taken and implemented through effective co-operation among relevant government agencies, legal professionals and civil society organisations.

2. Barriers to women's equal access to justice

The [Feasibility Study on Equal Access for Women to Justice](#) lists a number of obstacles which limit women's opportunities to claim their rights in court:

- Lack of awareness of procedures;
- Lack of financial resources and restrictions on the availability of legal aid;
- Emphasis placed on using out-of-court settlement procedures to ensure a swift end to the legal dispute, often leaving women at a disadvantage;
- Gender neutral legislation and legislation that has not been assessed for its gender impact may also lead to systemic inequalities that are often unintended;
- Gender bias in courts and among law enforcement officials, in particular when it comes to specific groups of women such as those belonging to a minority, disabled or rural women, is another reason why women find it hard to pursue justice;
- Fear, shame and cultural and/or religious barriers.

³ In particular, related case-law on Articles 3, 6 and 14, as well as its Protocol 12.

⁴ [Recommendation \(93\)1 on Effective Access to the Law and to Justice for the Very Poor](#) and [Recommendation \(2006\)8 on Assistance to Crime Victims](#).

⁵ See also [EU Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime](#) (November 2012), and the [UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems](#) (December 2012).

In addition, belonging to a particular vulnerable group of women can result in an increased restriction of access to certain rights. Women living in rural areas, elderly women, women with disabilities, lesbian/bisexual/transgender women, trafficked women, migrants (including refugees, asylum seekers and undocumented women) and women from certain ethnic or religious groups are structurally disadvantaged. This may be due to specific disadvantages at the socio-economic level, but can also be the result of a lack of awareness of their specific needs among officials in the administration of justice. Such women are also often the victims of stereotyping, which can result in bias and insensitivity on the part of the judiciary.

3. Aims of the Hearing:

- Raise awareness of the barriers faced by women victims of violence to access justice and discuss the challenges posed by such barriers in achieving equal access to justice;
- Gather information on the situation in member states and exchange good practices to promote equal access to justice for women victims of violence and effective strategies to combat gender stereotypes in the judiciary;
- Encourage a sensitive approach to women victims of violence among legal professionals and law enforcement agents;
- Promote existing standards, including the Istanbul Convention, to ensure access to justice for women victims of violence;
- Facilitate partnerships and networks among government officials, legal professionals and civil society.

4. Targeted participants:

- Representatives of national authorities (Ministries of Justice, Interior, Women/Equality and Social Affairs, and gender equality mechanisms);
- Representatives of legal professionals, including the judiciary;
- Members of the Council of Europe Gender Equality Commission, National Focal Points and Gender Equality Rapporteurs;
- Representatives from other Council of Europe bodies, including the European Court of Human Rights, the Parliamentary Assembly and the Congress;
- Representatives of regional and international organisations (UN, EU, OSCE, OAS, International Development Law Organization);
- NGOs.

5. Expected outputs:

- Proposed measures to address the obstacles that prevent equal access to justice for women victims of violence;
- Good practices and shared experiences to promote equal access to justice for women victims of violence across Europe;
- Increased networking and partnerships among relevant stakeholders;
- Proposed follow-up activities for the CoE on women's equal access to justice.