

BARRIERS, REMEDIES AND GOOD PRACTICES FOR WOMEN’S ACCESS TO JUSTICE IN ARMENIA



Prepared under the Programmatic Cooperation Framework Project
“Improving Women’s Access to Justice in the five Eastern Partnership Countries”
Armenia, Azerbaijan, Georgia, Republic of Moldova, and Ukraine

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This national study, "Barriers, remedies and good practices for women's access to justice in Armenia", has been prepared by Gayane Makaryan. The opinions expressed in this work are the responsibility of the author and do not necessarily reflect the official policy of the Council of Europe or the European Union. The information contained in this document is up to date as of February 2017.

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GENERAL INTRODUCTION TO THE FIVE NATIONAL STUDIES

Important efforts have been made to strengthen gender equality standards both at the level of the Council of Europe and within its member states. Four major treaties underpin the core Council of Europe gender equality standards. These are the “foundational” treaties: the European Convention on Human Rights and the European Social Charter (revised), and the two “new generation” treaties, the Convention on Action against Trafficking in Human Beings¹ and the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention).² A number of recommendations of the Committee of Ministers on gender equality topics have been adopted since the 1970s.³

The first Council of Europe Gender Equality Strategy 2014-2017⁴ provides the strategic framework for the implementation of these standards to bring member states closer to *de facto* gender equality. One of the five objectives of the Council of Europe Gender Equality Strategy is to work with member states towards guaranteeing equal access of women to justice. The Strategy establishes that action in this area seeks to: analyse national and international frameworks to gather data and identify the obstacles women encounter in gaining access to the national courts and to international justice; identify, collect and disseminate existing remedies and good practices to facilitate women’s access to justice; and make recommendations to improve the situation.

The regional project Improving Women’s Access to Justice in Five Eastern Partnership countries (Armenia, Azerbaijan, Georgia, the Republic of Moldova and Ukraine) contributes to the overall implementation of the Gender Equality Strategy and in particular the realisation of Objective 3 of the Strategy: guaranteeing equal access of women to justice. The project is funded by the Council of Europe/European Union Eastern Partnership Programmatic Cooperation Framework (PCF) 2015-2017,⁵ and implemented by the Council of Europe Gender Equality Unit.

The main objectives of the project are to:

- ▶ identify and support the removal of obstacles to women’s access to justice;
- ▶ strengthen the capacity of Eastern Partnership countries to design measures to ensure that the justice chain is gender-responsive, including through the training of legal professionals.

While knowledge has increased, there are still systematic gaps in data collection concerning different aspects of women’s access to justice. In order to fill such gaps with respect to the beneficiary countries of the project, the Gender Equality Unit of the Council of Europe commissioned five national studies to map the barriers,

1. Entered into force on 1 February 2008.

2. Entered into force on 1 August 2014.

3. See factsheet with the main Council of Europe standards on gender equality and women’s rights, available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168058feef>, accessed 28 November 2016.

4. Available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680590174>, accessed 28 November 2016.

5. See <http://pjp-eu.coe.int/en/web/eap-pcf/home?desktop=true>, accessed 28 November 2016.

remedies and good practices for women's access to justice in Armenia, Azerbaijan, Georgia, the Republic of Moldova and Ukraine. The objectives of each of these studies were to provide:

- ▶ an analysis of the main obstacles to women's access to justice, both legal and procedural, as well as socio-economic and cultural;
- ▶ a set of recommendations for measures to improve women's access to justice in the respective countries, including examples of good practices, where they exist;
- ▶ background information for the subsequent organisation of training for legal professionals (judges, prosecutors, lawyers, and possibly law enforcement).
- ▶ The studies were carried out by five independent national experts who were asked to answer the following questions:
 - ▶ what are the gender gaps in access to justice in your country?
 - ▶ how responsive is the justice system to women's needs?
 - ▶ what can be done to improve the gender responsiveness of the justice system?

All five studies are structured around a similar set of themes and issues. The first part of each study addresses gender gaps in the access to justice, by analysing the legislative and policy frameworks as well as the implementation practices and mechanisms that affect women's access to justice. Socio-economic and cultural barriers to women's access to justice are also discussed in this first part. The second part of each study examines the gender responsiveness of the justice system in the respective country. The following issues are addressed in all five studies: women's access to courts; whether sex-disaggregated data on court applicants is available; gender stereotypes among legal professionals, especially the judiciary; and the availability of gender equality training in the initial and further education of legal professionals. The third part of each study presents the available remedies and good practices and formulates a set of recommendations. When relevant, and to the extent possible in the scope of addressing these general themes and issues, attention has been paid to obstacles affecting women from disadvantaged groups, such as women in rural areas; disabled women; elderly women; women from ethnic minorities; women victims of violence; lesbian, bisexual and transwomen; and women held in detention/prison.

Research for the five studies was mostly desk-based and the national consultants sampled as extensively as possible the existing sources available. In Armenia and Azerbaijan, the consultants conducted a limited number of interviews with lawyers and civil society advocates. In Georgia and the Republic of Moldova, the consultants also requested official data from a number of institutions. In Ukraine, the national consultant conducted a small survey among judges, based on a pre-defined questionnaire. The initial findings of the five studies were presented at the regional conference on Improving Women's Access to Justice in Five Eastern Partnership countries that took place on 5 and 6 November 2015 in Kvareli, Georgia. Feedback received from governmental officials, academic experts and civil society representatives at this conference was integrated in the studies. Furthermore, each consultant presented the findings of their country study to a national audience in the first months of 2016. Feedback from these validation meetings was also integrated in the final version of the studies.

The studies found that there are still significant gaps in women's access to justice, despite progress made especially in the adoption of laws and policies.

With respect to legal and policy frameworks, Eastern Partnership countries have made significant progress in passing legislation and adopting policies to advance gender equality. Guarantees of equality between women and men are included in the constitutions of each participating country, including most recently the Constitution of Armenia. All five countries have specific laws on gender equality, with Azerbaijan having adopted one in 2006, Armenia in 2011, Georgia in 2010, the Republic of Moldova in 2006, and Ukraine in 2005. Special anti-discrimination laws were adopted in Georgia in 2014, the Republic of Moldova in 2012 and Ukraine in 2012. There is no separate anti-discrimination law in Azerbaijan, though a special law on domestic violence was adopted in 2010. In addition, Georgia, the Republic of Moldova and Ukraine have all adopted specific legislation against domestic violence (in 2006, 2007 and 2001, respectively). Armenia, meanwhile, is preparing an anti-discrimination legislation and a law to prevent and combat domestic violence.

As of February 2017, three of the beneficiary countries, Georgia, the Republic of Moldova and Ukraine, have signed the Istanbul Convention with ratification pending. The other two countries have not yet signed the Istanbul Convention.

Despite the significant legislative progress, legal obstacles to women's access to justice persist. Specific barriers include *de jure* discrimination of women or gaps in the anti-discrimination legislative frameworks. The national

studies offer numerous examples of the discriminatory effects of protective labour legislation in each of the five countries. Further barriers have been observed in the area of labour law, such as unlawful dismissal of pregnant women or limitations on fathers' access to parental leave or the.

With respect to implementation practices and mechanisms, the studies found that while national laws uphold equality on the basis of sex, women rarely invoke these laws in court to protect their rights. The standards of proof and the legal mechanisms that are necessary to prove indirect discrimination are not well developed, while this is arguably the more prevalent manifestation of gender inequality. In all countries studied, gaps in access to justice for women victims of gender-based violence persist, in particular regarding non-criminalisation of all forms of violence against women; severe underreporting of crimes of violence against women; very few convictions of rape; and scarce or no state funding for support services for victims.

The studies also reveal a number of common socio-economic and cultural barriers to women's access to justice. A prominent obstacle is women's economic dependence on or economic inequality to men, which means they have less access to resources, often needed for legal proceedings. In addition to women's lower employment rates and significantly lower participation in the business sector, as either employees or entrepreneurs, there is a significant gender pay and revenue gap in all five countries. Secondly, patriarchal attitudes and beliefs persist about men's superiority to women and the naturalness of segregated gender roles that see women mainly as caregivers and men as breadwinners. The belief in men's superiority underpins the still-present practice of prenatal sex selection and selective forced abortions, addressed in the studies on Armenia, Azerbaijan, and Georgia, that results in skewed sex ratios in favour of men and represents a severe violation of women's rights. The same gender-biased attitudes also underlie the high social tolerance or even justification of domestic violence in the five countries. Thirdly, lack of access to information is a significant obstacle, especially among women from rural areas.

The studies provide ample evidence of the limited gender responsiveness of the justice systems in the five countries. There is very limited use of international standards in judicial decisions. In some of the countries, women are also significantly underrepresented in the judiciary. Gender stereotypes persist in the justice system and they are compounded by other stereotypes linked to age, ethnicity or social status. The national studies provide illustrations of such stereotypes, particularly affecting women confronted with gender-based violence.

The studies also present a number of good practices. In Armenia, an action plan to promote gender equality and gender balance in the judiciary was adopted by the judicial self-governance body (the Armenian Council of Court Chairpersons) in 2015. It includes measures such as the development of gender equality training materials and thematic training programmes. The equality bodies set up in Georgia and the Republic of Moldova offer potentially effective mechanisms to combat sex-based discrimination. Since 2013, the Public Defender's Office of Georgia has had a specific Gender Equality Department that monitors the implementation of gender-related legislation and policies, and studies complaints and individual cases of sex and gender-based violations of human rights. It also conducts public-awareness activities and training, collects data to monitor the effectiveness of protection mechanisms to prevent violence against women, and prepares annual reports. In Azerbaijan, the law takes into account the needs of rural women in respect of maternity leave. Women working in agriculture get more days of maternity leave: from 70 calendar days after birth up to 110 calendar days in cases of multiple births. In the Republic of Moldova, the Equality Council set up as an independent body under the anti-discrimination law in 2013 examines individual complaints, including cases of sex-based discrimination. It also analyses draft laws for compliance with anti-discrimination legislation and conducts awareness-raising activities on discrimination issues. The National Human Rights Action Plan of Ukraine, covering the period 2015-2020, offers a good practice example of a human rights policy that contains ample provisions on gender equality closely matching priority areas of the Council of Europe Gender Equality Strategy. A number of civil society initiatives, such as the online Virtual Legal Aid Service for women set up by the Women's Consortium of Ukraine, as well as the specialist support services provided by women's organisations to women victims of gender-based violence, show that civil society expertise is an important resource to improve women's access to justice.

Access to justice is central to the rule of law and integral to the enjoyment of human rights. It is also an essential precondition to social inclusion and a critical element of a well-functioning democracy. The requirement of equality, including gender equality, is at the centre of the scope, exercise and fulfilment of the right to justice. It is hoped that these five national studies will contribute to the further development of tools to improve women's access to justice. In particular, the information provided by the national studies will be used in the elaboration of a training manual for judges and prosecutors on ensuring access to justice for women, to be used by judicial training institutions in the five beneficiary countries of the project.

ARMENIA

Report prepared by Gayane Makaryan

1. SUMMARY

This study has been prepared at the initiative of the Council of Europe within the framework of the regional project “Improving Women’s Access to Justice in the Eastern Partnership Countries”. It is based on a desk review that examined the existing national and international norms and policy documents, strategies and working papers in the area of women’s access to justice in Armenia. It analyses the domestic legislative and regulatory framework and policies to identify the obstacles women encounter in gaining access to justice in Armenia. It reflects on gender gaps and presents prevalent challenges that result from the limited implementation of existing legislation. Furthermore, the study focuses on a number of acute problems, such as access to legal aid, gender stereotypes, and socio-economic and cultural barriers affecting women’s access to justice, and discusses these barriers particularly in relation to domestic violence. Civil society organisations were also consulted by distributing a questionnaire (see Appendix). It is hoped that various policy actors and national stakeholders will be encouraged to take measures to promote women’s access to justice, and to further facilitate such initiatives. This is an underdeveloped field requiring additional attention and legislative and policy initiatives, and it may be that new methods of strengthening women’s access to justice remain to be discovered.

INTRODUCTION

Access to justice is an important component of a legal and democratic state. It implies the right to an effective remedy, equal access to courts, legal aid measures that improve access to courts, and legal representation to ensure effective implementation of the law and practical enjoyment of rights by individuals. Access to justice “refers to the various elements leading to appropriate redress against the violation of a right” (Parliamentary Assembly of the Council of Europe 2015). The requirement of equality, including gender equality, is at the centre of the meaning, the exercise and the fulfilment of the right to justice. Women’s rights and their full and effective access to justice are integral parts of the overall justice system, which should exclude any discriminatory activity.

A comprehensive definition of the right of access to justice for women is provided by General Recommendation 33 (2015) on Women’s Access to Justice of the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee), according to which the right of access to justice for women is essential to the realisation of all the rights protected under the UN Convention on the Elimination of all Forms of Discrimination against Women (CEDAW). It is a fundamental element of the rule of law and good governance, together with the independence, impartiality, integrity and credibility of the judiciary; the fight against impunity and corruption; and the equal participation of women in the judiciary and adequate law implementation mechanisms. The right to access to justice is multidimensional. It encompasses justiciability, availability, accessibility, good quality and accountability of justice systems, and provision of remedies for victims (UN Committee on the Elimination of Discrimination against Women 2015b).

Gender equality is a basic principle of human rights, and women’s rights are an inalienable, integral and indivisible part of the universal human rights that are a requirement for the achievement of social justice, democracy and economic development (Council of Europe Committee of Ministers 2007, para.1). Four major treaties provide the core Council of Europe gender equality standards pertaining to equal access to justice for women. These are the European Convention on Human Rights and the European Social Charter (revised), and the two “new generation” treaties: the Convention on Action against Trafficking in Human Beings (entered into force on 1 February 2008); and the Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) (entered into force on 1 August 2014).

The Istanbul Convention includes numerous provisions aimed at facilitating the access of victims of violence to justice, in particular by requiring states parties:

- ▶ to provide adequate legal information (Article 19);
- ▶ to encourage reporting (Article 27);
- ▶ to provide victims with adequate civil remedies (Article 29);
- ▶ to provide victims with compensation (Article 30);
- ▶ to criminalise or otherwise sanction a broad range of forms of violence against women (Articles 33 to 40);

- ▶ to ensure that investigations and judicial proceedings are carried out without undue delay (Article 49);
- ▶ to ensure that prosecutors can initiate and continue proceedings, even if the victim withdraws the complaint (Article 55);
- ▶ to ensure that evidence relating to the sexual history and conduct of the victim is permitted only when relevant and necessary (Article 54);
- ▶ to ensure that mandatory alternative dispute resolution processes or sentencing, including mediation and conciliation, are prohibited (Article 48);
- ▶ to ensure that victims are protected at all stages of investigations and judicial proceedings (Article 56);
- ▶ to ensure that victims have access to legal assistance and to free legal aid (Article 57).

The Istanbul Convention is based on the “understanding that violence against women is a form of gender-based violence that is committed against women because they are women. It is the obligation of the state to fully address it in all its forms and to take measures to prevent violence against women, protect its victims and prosecute the perpetrators. Failure to do so would make it the responsibility of the state” (Council of Europe 2011).

Armenia is a signatory to a number of international agreements related to the protection of women’s rights and the elimination of discrimination against women. However, it has not signed the Istanbul Convention yet. In the United Nations system, Armenia acceded in 1993 to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR), which request the states parties to ensure the equal rights of women and men to enjoy all economic, social, cultural, civil and political rights (Article 3 of both covenants). Armenia is also a party to CEDAW and acceded to its Optional Protocol establishing an individual complaint mechanism in 2006. Furthermore, Armenia is a party to the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) since 1993, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since 1993; the Convention on the Rights of Persons with Disabilities since 2010 etc.

The Council of Europe’s legal standards related to women’s rights and gender equality have applied to Armenia since 2001. Article 14 of the European Convention on Human Rights provides that the enjoyment of rights and freedoms set forth in the Convention shall be secured without discrimination on the basis of sex. Armenia has also ratified Protocol 12 to the Convention, which extends protection against discrimination to any right set forth in law. Further, the revised European Social Charter, to which Armenia acceded in 2004, recognises the right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the basis of sex (Article 20), and also contains a non-discrimination provision in Article E. Additionally, the Council of Europe Convention on Action Against Trafficking in Human Beings (ratified by Armenia in 2008) recognises that trafficking in human being is a heavily gendered phenomenon and contains several strong references to gender equality and gender mainstreaming.. Council of Europe standards and policies in the field of women’s rights and gender equality are further developed in different Committee of Ministers recommendations to member states, particularly CM/Rec(2007)17 on gender equality standards and mechanisms, and the Council of Europe Gender Equality Strategy 2014-2017.

At the national level, the Constitution of Armenia declares Armenia to be a democratic state governed by the rule of law, one of the most important criteria of which is the existence of mechanisms that guarantee real protection of human rights and freedoms in practice, as well as real independence of the judiciary and equal access to justice for all categories of people. In this respect, exclusion of any form of discrimination against persons is of fundamental significance. The previous Constitution of Armenia contained only one general norm related to prohibition of discrimination on any ground, including sex, with the aim to ensure equality before the law and in practice.

In the new Armenian Constitution adopted on 27 November 2005 by referendum, new and important provisions have been added. Specifically, it contains a new norm on general equality before the law, which also forbids discrimination on any ground (including sex) (Article 14.1§1).⁶ In addition, Article 86 para. 4 of the Amendments to the Constitution of the Republic of Armenia adopted on 6 December 2015 stipulates that one of the goals of policy of Armenia in economic, social and cultural life is to ensure facilitation of *de facto* equality between women and men.⁷

Furthermore, the Armenian Government has taken a number of steps to carry out the recommendations provided by CEDAW with regard to Armenia’s combined third and fourth periodic reports, and fifth and sixth periodic reports (submitted in March 2015) to implement a policy to improve the situation in the country with

6. See www.parliament.am/parliament.php?id=constitution&lang=eng, accessed 10th February 2017.

7. See www.parliament.am/law_docs5/Constitution_06.12.2015.pdf, accessed 10th February 2017.

respect to gender equality. In 2010, the Armenian Government approved the Gender Policy Concept Paper, while on 20 May 2011 it adopted Decree No. 19 “On approving the Strategic Programme of Gender Policy of the Republic of Armenia for 2011-2015”, which entails a commitment towards gender mainstreaming for the Government’s programmes and policies.⁸ Activities included in the Gender Policy Strategic Programme are implemented in a number of directions: implementation of a strategy for gender equality in the management sector and regarding decision making; social and economic areas; health care; education; culture and public information; and implementation of a gender equality policy in the areas of prevention of violence and human trafficking.

In line with the above-mentioned Decree No. 19, standing commissions for the implementation of the Gender Policy Concept Paper and on gender equality were set up in all regions of the country. The commissions are governed by Deputy Regional Heads and are composed of employees of the Regional Governors’ Offices and representatives of non-governmental organisations (NGOs).

In December 2012, the Armenian Government amended the Charter of the Women’s Council affiliated to the Armenian Prime Minister and recommended that it be regarded as the national mechanism for gender equality (Armenian Association of Women with University Education 2014). The Women’s Council, created by Decree of the Prime Minister, is chaired by the Prime Minister and is comprised of deputy line ministers and deputy heads of agencies (Ministry of Justice, Ministry of Labour and Social Affairs, the Police, the Prosecutor-General, etc.). According to the amendments of March 2015, the Women’s Council is a national mechanism that co-ordinates the process of ensuring equal opportunities for women and men in all spheres of public life. Its main goal is to prevent violence against women, and to implement programmes aimed at improving prevention. However, the Women’s Council is still in the process of developing its work methods. With a broad mandate and the involvement of too many actors, it is not fully functional yet and there is a risk that it could become ineffective.

Despite these developments, the concept of gender-based violence is hardly known to the public in Armenia. The adoption of the Law on Provision of Equal Rights and Equal Opportunities of Women and Men in Armenia in May 2013 was followed by an aggressive campaign against the concept of “gender”. The term “gender” was differently discussed and perceived in various contexts.

There is a lack of specific measures for the implementation of the law. The Council of Europe Commissioner for Human Rights, in his report following his visit to Armenia from 5 to 9 October 2014, recalled the international obligations accepted by Armenia and welcomed the adoption of gender equality-related policies and the above-mentioned law as steps in the right direction, which should be implemented in practice. A further important step will be the signing and ratification of the Istanbul Convention.

Although domestic legislation, structures and some of the international instruments are in place in Armenia and the government has been praised for its initiatives, it has also faced criticism for its top-down and state-centred approach, which results in insufficient attention to the legal needs of women. Ultimately, it is important to establish gender-responsive structures with attention to the effectiveness and functional aspects of the mechanisms rather than form alone.

2. GENDER GAPS IN ACCESS TO JUSTICE

National regulatory framework and policies

Anti-discrimination

Based on the principle of equality enshrined in the Constitution of Armenia, women enjoy all rights that men do, enabling them to make an equal contribution to the economic, social and cultural spheres of the country. Meanwhile, there exists a perception that achieving actual equality is a task requiring considerable effort by state authorities and civil society.

Although the Constitution and a number of legislative acts of Armenia, namely the Criminal Code, the Criminal Procedure Code, the Labour Code and the Family Code, stipulate legal norms prohibiting discrimination, they are often of an episodic and non-comprehensive nature. It is obvious that protection against discrimination is not simply a matter of listing the grounds of discrimination (sex, gender, age, race, religion, belief, political or other views, etc.) and passing legislation that declares that discrimination on those grounds is prohibited.

8. At the time of writing, a new gender equality strategy had not been drafted.

Despite the adoption of the Law on Provision of Equal Rights and Equal Opportunities of Women and Men in 2013, there is no comprehensive anti-discrimination law in Armenia to protect the rights of the elderly, persons with disabilities, minorities (ethnic, national or religious), children and other people, and effective, comprehensive and clear legal mechanisms for preventing and combating discrimination are still lacking. Consequently, there are still cases of discrimination, and the Armenian Human Rights Defender⁹ (Ombudsperson) and various NGOs¹⁰ receive complaints about this.

Challenges remain on defining discrimination and gender-based violence in the national legislation. CEDAW, in its concluding observations for 2009, commends Armenia for adopting Article 14.1 of its constitution, which guarantees equality before the law (UN Committee on the Elimination of Discrimination against Women 2009). But the Committee also expresses its concern about:

- ▶ the judiciary's (law enforcement personnel in particular) lack of sensitisation to all forms of violence, such as domestic violence (UN Committee on the Elimination of Discrimination against Women 2009, para. 23).

The Commissioner for Human Rights of the Council of Europe has observed that Armenia lacks a comprehensive anti-discrimination law (Commissioner for Human Rights of the Council of Europe 2014, para. 103) and that "the role of women is mainly associated with family support and child rearing (mainly areas of unpaid work) and women's leadership in the public sphere is challenged" (Commissioner for Human Rights of the Council of Europe 2014, para. 105). The working group on the Universal Periodic Review of the UN Human Rights Council held a review of Armenia in 2015. The report highlighted the lack of specific, comprehensive legislation to combat discrimination (para. 120). Indeed, some human rights organisations conclude that there is also a need for establishing a separate equality body, as an effective means of protecting rights of victims of discrimination,¹¹ apart from elaboration of a comprehensive anti-discrimination legislation to provide for effective protection for underrepresented groups and minorities.

Based on the 2014 recommendations of the UN Committee on Economic, Social and Cultural Rights, the High Commissioner's report (Commissioner for Human Rights of the Council of Europe 2014), as well as the National Human Rights Action Plan adopted by Armenia in 2014 and other documents, a separate law on the fight against discrimination is currently being developed by the Ministry of Justice in consultation with NGOs. One of the main objectives of the law is to ensure equality between women and men in all areas, provide legal protection against discrimination and support the formation of civil society in this field. The law will be finalised in 2017 as an effective remedy for people who claim to be victims of discrimination.

Violence against women

Violence against women is a pressing issue in Armenia. Yet there is still a lack of consensus about the prevalence of violence, including regarding domestic violence. Part of this can be attributed to the increasing, but still low level of reporting of incidents of violence in the family. While the phenomena is still not made visible in society, women experience many different forms of violence, including psychological violence, physical violence, sexual violence and economic violence: 61.7% of the surveyed women reported that they had experienced "controlling" behaviour by their partner; 25% had been subjected to psychological violence; 8.9% had experienced physical violence by an intimate partner; and 3.3% had experienced sexual violence by an intimate partner (National Statistical Service of the Republic of Armenia 2011).¹² A survey by NGO Proactive Society shows that 59.6% of women had been subjected to domestic violence.¹³

Violence against women and domestic violence are seen as a private matter in Armenia and women therefore refrain from reporting these violations. In 2012, 2 026 cases of violence against women were registered, 625 of which were cases of domestic violence. During the same period, 190 cases of violence against minors were registered, 13 of which were cases of domestic violence. Also, 17 cases of rape were reported in 2012 (only 4 in 2011); the conviction rate is unknown (OSAC 2013).

During 9 months in 2013, 1 449 cases of violence against women were registered, 432 of which were cases of domestic violence. During the same period, 199 cases of violence against minors were registered, 13 of which were cases of domestic violence (UN Committee on the Elimination of Discrimination against Women 2015). In 2013, 2 054 cases of violence against women were recorded. Moreover, 7 deaths as a result of domestic

9. See www.ombuds.am/reports, accessed 28 November 2016.

10. See www.stopvaw.org/armenia, accessed 28 November 2016.

11. See www.un.am/up/file/UPR_Report_Armenia_Ombudsman_english.pdf, accessed 28 November 2016.

12. As quoted in Commissioner for Human Rights (2014).

13. Proactive Society. "Domestic violence survey in the Republic of Armenia", Yerevan 2011, as quoted in CommDH(2015)2, para. 128.

violence were reported in 2013, and the following year 12 deaths were reported (Commissioner for Human Rights of the Council of Europe 2014, para. 129).

The findings of the public opinion poll conducted by Proactive Society show that Armenian respondents believe that battery and infliction of bodily injuries are forms of domestic violence, while only 3.3% of the respondents perceive as such the strict control of financial resources of an adult family member, and 18.4% of respondents perceive as such the strict control of the freedom of movement of an adult family member. In response to the question “In your opinion, what is the main reason for violence in Armenia?”, 54.9% cited social and economic hardships and unemployment, while 17% mentioned alcohol and drug abuse, and 16.15% blame the national mentality (Proactive Society 2011).

It is worth mentioning that the Armenian Police are focused on taking action to prevent and combat cases of violence against women. In 2013, as a result of an order of the Head of Police of Armenia, for the first time, a separate department for the protection of rights of minors and combating of domestic violence was established. Each case involving domestic violence, as well as violence against women, is registered with the regional Police Division. It is then followed by data collection and a separate registration at the Information Centre of the Police of Armenia.

Although data on domestic violence is not available publicly from police statistics, there is information about conviction rates for some of the crimes that disproportionately affect women. Official statistical data for the period 2010-14 (particularly on rape) and quantitative data on persons convicted are presented in Table 1.1 and Table 1.2.¹⁴

Table 1: Number of recorded crimes, 2010-14

2010	2011	2012	2013	2014	Type of offence
68	89	75	73	81	Premeditated homicide and homicide
167	170	170	186	216	Premeditated serious injury
15	15	19	19	22	Rape and attempted rape
107	106	63	73	69	Robbery
249	238	247	184	220	Larceny
1 524	1 525	1 139	1 222	1 046	Drug-related crimes
373	481	189	185	200	Hooliganism
883	953	960	1 050	847	Road accidents
182	195	183	196	181	Resulting mortalities

Table 2: Convicted offenders disaggregated by sex, 2010-14

2010	2011	2012	2013	2014	Number of convictions
4 402	3 940	3 727	3 481	2 944	Total
4 174	3 722	3 516	3 242	2 783	Male convictions
228	218	211	239	161	Female convictions

The data characterises the state of criminality in Armenia, including the most dangerous and most frequently committed crimes compiled by the Armenian Police and the Armenian Government, and contains disaggregated information according to sex, age and social status on persons who committed crimes. The information of the Ministry of Justice of Armenia presents data on the number of convicted persons, but there is no officially reported disaggregated data on the number of cases lodged by women.

Due to institutional, legal and structural barriers, criminal cases may be filed and criminal proceedings and prosecution subsequently rendered possible only if a victim has submitted a complaint (Article 183 of the Criminal Procedure Code). However, due to pressure from family and society, women often withdraw their complaints. For a woman it is considered “shameful” to speak out on the violence against her since it “would endanger family unity and stability” (Commissioner for Human Rights of the Council of Europe 2014, para. 124). In addition, it is not uncommon for police to discourage women from filing a complaint.¹⁵ Moreover,

¹⁴. Data received from the Armenian police.

¹⁵. UN OHCHR, para. 15 (c) of the annex to Human Rights Council resolution 5/1 and para. 5 of the annex to Council resolution 16/21.

victims of sexual violence have, for example, been denied medical care. In this regard, the Chief of Police also acknowledges the need to change police attitudes, which are responsible for the low level of reporting. Due to women's socio-economic position and the authorities' denial of violence and domestic violence, women are sometimes forced to stay with an abusive or controlling partner.

In relation to domestic violence cases in Armenia that are not being effectively identified, investigated, prosecuted and punished, the Council of Europe Commissioner for Human Rights urges the authorities to remedy these shortcomings by ratifying the Istanbul Convention (Commissioner for Human Rights of the Council of Europe 2014). According to the Istanbul Convention, violence against women:¹⁶

is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life (Article 3, para. a)

The Istanbul Convention further provides that 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 (Article 3, para. b).

The CEDAW recommends (UN Committee on the Elimination of all form of Discrimination against Women 2009) that the state party respond adequately to the problem by:

- ▶ adopting legislation without delay to explicitly prohibit domestic violence, defining it as a specific offence;
- ▶ providing additional shelters for victims of domestic violence;
- ▶ conducting awareness-raising activities on domestic violence for law enforcement officials such as police officers, prosecutors and judges, as well as for social workers, teachers and the general public.

Armenia has been working on a domestic violence law for several years. From 2012-13, the Ministry of Labor and Social Affairs implemented the programme Improving the Quality of Service Rendered to Women Victims of Domestic Violence in Armenia. Research has been conducted making it possible to establish the type, distribution, quality, efficiency and accessibility of services rendered to women victims of domestic violence. The research resulted in the singling out of a number of institutional, psychological and financial issues, based on which a law on domestic violence was drafted. The draft law was submitted to the government in December 2016 by a task force of government and non-governmental representatives.

In its negotiations on the EU Budget support Armenia had agreed to adopt the new law on domestic violence by the end of 2016, as per the commitment of the EU-Armenia budget support programme. However, it should be noted that there is a gap between the timing of the adoption of the law on domestic violence and the ratification of the Istanbul Convention, which is still uncertain. The logic of the draft law on domestic violence should be in line with that of the Istanbul Convention, otherwise it may have to be revised following the latter's ratification, to ensure harmonisation. As of February 2017, the draft law has not been adopted.

Access to legal aid

Access to legal aid does not rely on an isolated legal policy, but is a function of the overall legal, social and cultural paradigms present in Armenia, and is largely dependent on state interventions. In 1993, Armenia acceded to the ICCPR without declarations or reservations and recognised the competence of the UN Human Rights Committee (Article 41). In taking this first step, the country became internationally committed to the development of legal aid as one of the important concepts for access to justice. According to the Armenian Constitution and the Criminal Procedure Code, everyone has the right to receive legal aid. Suspects and accused persons have the right to retain lawyers of their own choosing. The body conducting criminal proceedings is responsible for ensuring that the suspect or the accused receives legal aid, and to provide it free of charge if the financial situation of the persons concerned necessitates this. For this purpose, the Public Defender's Office was established in 2006 as a part of the Chamber of Advocates to provide legal aid to socially vulnerable categories.

While the creation of this system is undoubtedly a positive and necessary step, the imperfection of the national regulatory framework, among other hampers an effective protection of women's rights.¹⁷ Particularly, there

16. The Preamble of the Istanbul Convention recognises that "violence against women is a manifestation of historically unequal power relations between women and men, which have led to domination over, and discrimination against, women by men and to the prevention of the full advancement of women".

17. The heavy workload, insufficient number of public defenders and low salaries are considered major issues that are not conducive to the delivery of quality legal aid, in particular at regional level.

are shortcomings in the existing relevant Armenian law , which does not possess an article on the provision of free legal aid to victims of domestic violence.

Article 57 of the Istanbul Convention provides that “[p]arties shall provide for the right to legal assistance and to free legal aid for victims under the conditions provided by their internal law.”Furthermore, the Explanatory Report to the Istanbul Convention stresses the need to “place an obligation on Parties to provide for the right to legal assistance and to free legal aid for victims under the conditions provided by their internal law” (Council of Europe 2011, para 294)., Recommendation Rec(2002)5 on protection of women against violence of the Committee of Ministers of the Council of Europe and Recommendation 1582 (2002) on domestic violence against women of the Parliamentary Assembly of the Council of Europe both call on countries to provide free legal assistance to victims of domestic violence to provide victims of domestic violence with free legal advice and assistance before taking legal action. While Armenia has not yet ratified the Istanbul Convention, the National Human Rights Action Plan foresees further assessment regarding the possibility to ratify it.

The lack of legal guarantees and the existence of gender-blind legal provisions hinder women’s access to justice in the country. Therefore, improvement is needed in the national regulatory framework including provision of training for public defenders, paralegal assistance and rights awareness as prerequisites for access to justice for all and for women in particular.

Socio-economic and cultural barriers affecting women’s access to justice

The international community has extensively emphasised the importance of ensuring socio-economic and cultural equality between women and men. CEDAW has a number of provisions that are specifically dedicated to social, economic and cultural aspects (Article 13 addresses the regulation of economic and social benefits for women). These rules are reflected upon and further analysed by the work of the CEDAW Committee, aiming to ensure effective implementation of the convention in the states parties.

Women represent over half of the Armenian population¹⁸ and it is essential that they face no impediments and discrimination in the course of their contribution to the economic, social, cultural and public life of the country. The equal rights of women and men to operate in all sectors of the Armenian economy are enshrined in the legislation of Armenia. However, socio-economic challenges faced by women, such as low income; high unemployment; limited entrepreneurial activities; inadequate participation in the process of social and economic development both in rural areas and urban communities, etc. hinder their empowerment in Armenia.

An International Labour Organization (ILO) survey on young women and men in the Armenian labour force shows that already at a very young age, women’s choices are confined to certain sectors such as education, whereas young men enjoy a wider array of options in terms of possible jobs, including technical or manual labour. This results in unemployment rates for young girls of 36.6%, 12 percentage points above the rate for males. Young women are therefore not only much less likely than young men to be employed, they are also much more prone to leaving the labour market, either because they are discouraged or because they have to tend to family responsibilities. In addition, the survey demonstrates a marked gender pay gap: on average female employees are paid one third less than male employees, despite the higher levels of education attained by girls, which should normally result in better opportunities and higher salaries.¹⁹

The horizontal and vertical employment segregation that women face in Armenia deprive them of managerial positions and prevent them from developing their careers. They are predominantly active in service professions such as retail trade, education, health care and social services. The female workforce in Armenia is mainly in the education sector, where they comprise 80.9% of employees. In health and social services they make up 83.4% of employees, in households 71% of employees, and in hotels and restaurants 64.9% of the sector’s total employment. Women’s unemployment reaches 18% compared to 14% for men, and the gender pay gap is 34.4%.²⁰

Women’s economic empowerment is of paramount importance for achieving gender equality and access to justice and making progress on the United Nations Sustainable Development Goals. Armenia has one of the highest levels of women participating in the labour force (among Eastern Partnership countries). However, in recent years, most credit programmes targeting the provision of economic assistance to women in Armenia

18. According to the data provided by the National Statistical Service of Armenia, 1 573 582 women and 1 443 497 men form the resident population of the country as of 1 January 2014.

19. Strengthening women’s political participation in the Republic of Armenia: existing efforts, challenges and opportunities”, Centre for Gender and Leadership Studies – Yerevan State University – 2015.

20. ILOSTAT database (2013).

have not had sufficiently favourable concessional terms to incentivise such loans and, therefore, do not facilitate the economic advancement of women. In some schemes, the lending interest rates are so high that women cannot develop their businesses and, in the best-case scenarios, barely cover subsistence for their families. Therefore, the Armenian Government needs to integrate gender equality in sectoral strategies and action plans by making women's economic empowerment a priority in policy-making processes for gender equality.

The Council of Europe Commissioner for Human Rights recommends "integrating a gender component into budgeting and planning processes", as well as recognising and implementing the right to equal pay for work of equal value. The Commissioner also recommends taking measures to encourage employment of men and women with family responsibilities and supporting employment of women and their involvement in business activities (Commissioner for Human Rights of the Council of Europe 2014).

Funding of women's access to justice programmes must be driven by a holistic approach to access to justice that addresses physical, psychological and the broad socio-economic consequences of violations. This also implies combating gender stereotypes to facilitate access to justice in the country.

Combating gender stereotypes

All people, regardless of their sex, social position, education or ethnicity, should have equal access to justice. It is important to note that this principle of equality, enshrined in both domestic and international legal texts, should be implemented with support from sound awareness-raising measures. Particularly, the issues of gender equality and the role of women should be a priority for Armenia as an important means to ensure women's effective access to justice.

In this context, mass media has a crucial role to play in shaping the awareness of the public, and women in particular. The Platform for Action adopted at the Fourth World Conference on Women (Beijing, 1995)²¹ and the Council of Europe Gender Equality Strategy both contain recommendations to member states regarding gender equality and the media. However, the women's issues covered by the mass media do not address adequately the real difficulties faced by women and the obstacles to their full-fledged participation in social life. Moreover, the contribution of women to social, political, and cultural life is not properly covered. The negative impact of gender-stereotyped TV content, film and soap operas are manifest in images offending the dignity of women, and these programmes often condone violence as a way of addressing conflicts within the family and society. In short, they devalue women.

In commercials, women are often presented as either commodities or supplements to commodities while the arts and the mass media ought to shape positive ideals of women and men and overcome negative stereotypes. TV stations, in particular, have much to do in this respect; they should not neglect these concerns and play an active role in promoting gender equality, including a realistic image of women and men. Studies by NGOs have also reflected on family abuse and gender issues in TV programmes.²²

Media analysis demonstrates that most journalists, including those who promote the image of successful women, do not have sufficient knowledge to be active advocates for national gender policies and gender equality. Serious flaws still exist in training and professional development of journalists in Armenia. Gender equality education for journalists is provided only in some universities either as elective courses or at Master's level. This lack of knowledge and convictions on the part of journalists was revealed most clearly during the campaign that was launched on social networks in September 2013 against the Armenian law on the provision of equal rights and equal opportunities for women and men, adopted in May 2013. Deliberately distorting state policy directed at attaining gender equality as being "aimed against traditional national values and at destroying the Armenian family", a group of individuals demanded that the law be abolished. The methods used within the framework of the anti-gender equality campaign that targeted the law were gross violations of the Armenian law on provision of equal rights and opportunities for women and men, which explicitly prohibits dissemination of information that discredits the idea of gender equality. The campaigners, however, denied the existence of gender stereotypes, discrimination and violence against women and attacked women's rights.

Even though the reproduction of gender stereotypes via media, culture and education is, according to the law, a manifestation of indirect discrimination, Armenian legislation does not provide levers to combat the propaganda of discriminatory practices in print media and, especially, on social networks. The campaign that sought to influence public opinion in favour of traditional patriarchal views of the role and place of women

21. See www.un.org/womenwatch/daw/beijing/platform/ accessed 16 January 2017.

22. "Masculinity and gender violence in Armenian TV programmes", available at www.y-su.am/files/Reserch%20paper%2003.09.2014..pdf, accessed 28 November 2016.

was carried on during the parliamentary, presidential and local elections and over that period, numerous manifestations of sexism towards women were registered. However, they did not trigger a proportionate reaction from the public at large, relevant law enforcement entities, political parties or NGOs.²³

Despite the fact that the law emphasises the need to develop and promote a culture of gender equality, and to disseminate via the media materials advocating the idea of gender equality and protecting society from propaganda against gender equality, it became obvious that the media community as a whole was not prepared to put forward counter-arguments based on the gender policy of the state and to explain the goals and objectives of that policy. It was therefore decided to use the terms “equal rights and equal opportunities for men and women” instead of “gender” in official documentation and other forms of official communication in order to avoid the use of this term as a way of attacking notions related to sexual orientation and gender identity.²⁴

While the the Strategic Programme of Gender Policy suggests several strategic steps to ensure better protection against unlawful activities, it still faces a number of challenges, such as:

- ▶ insufficient and ineffective participation of the mass media in raising awareness on women’s rights and gender equality issues;
- ▶ ineffective operation of the mass media and cultural institutions in shaping appropriate female and male role models;
- ▶ unhindered dissemination of information insulting the dignity of women.

Though the institutionalisation of gender equality education is designated as a priority of the country’s gender equality policies, the process is challenging and is unfolding slowly. The process of raising gender awareness among the public at large is absent and has yet to be systematised. Imparting knowledge on gender equality and shaping the civic responsibility of school and university students have not yet become mandatory in the education system.

It is, therefore, highly recommended to also ensure that the education system – for both girls and boys – is free from the stereotypes regarding gender roles and promotes gender-sensitive behaviours, through such actions as:

- ▶ developing programmes for boys and men to increase their knowledge about women’s human rights and gender equality;
- ▶ developing programmes for girls and women to increase their self-esteem;
- ▶ monitoring the impact of customs and traditions on women’s situation in all spheres of life;
- ▶ eliminating harmful traditional practices and gender stereotypes.

One of the cases covered by the media is the *Nalbandyan v. Armenia* judgment of the European Court of Human Rights against Armenia.²⁵ This multi-layered case illustrates that it is not only important to improve the national regulatory framework, but also to strengthen media self-regulatory mechanisms and codes of conduct to condemn and combat non-ethical and discriminatory practices by setting clear standards and providing progress monitoring. Meanwhile, internal codes of ethics and conduct need to be in place. The media, and other relevant actors, need to follow appropriate reporting, programming and everyday practices in their work.

Ultimately, the lack of legal guarantees and the existence of unequal or gender-blind legal provisions hinder women’s access to justice. Furthermore, women’s ability to access justice mechanisms, such as courts, legal aid and policy programmes, are limited due to economic factors (lack of money), social and psychological factors (stigma, restrictions on mobility, time constraints) and educational factors (limited education, limited access to information and social networks), among others.

23. See, for example, “Alternative Report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women in the Republic of Armenia in 2009-2012”, Yerevan 2014.

24. See, for example, www.equalpowerlastingpeace.org/2013/09/11/armenian-government-removes-gender-from-law, accessed 28 November 2016.

25. The case concerned Ms Narine Nalbandyan and Mr Bagrat Nalbandyan and their daughter who were tortured and ill-treated severely by police authorities. According to these persons, the purpose of the torture was to force them to accept charges of murdering one of their daughter’s classmates. The case was reported on the Police TV programme and newspaper while it was still in the stage of investigation, in breach of the principle of presumption of innocence. Because of this publicity the Nalbandyan family experienced problems in their town and at school and had to move. The Court judgment of 30 June 2015 ordered the state to pay the applicants €72 100.

3. GENDER RESPONSIVENESS OF THE JUSTICE SYSTEM

Socio-economic factors are closely linked to institutional ones. Poor access to information regarding their rights leads to the revictimisation of women and render them unable to stand up for their rights.

Despite various efforts to strengthen women's position and the recent progress Armenia has made to ensure gender equality, the country remains male-dominated. According to the Global Gender Gap report of 2016, Armenia has dropped to 102nd place out of 142 (as compared to 84th place out of 135 in 2011).²⁶ Although women and men have the same formal rights and legal status, women remain marginalised and underrepresented in society, the economy and politics.

Women comprise about 52% of the population and around 58% of those with higher education; however, the level of women's representation and meaningful participation in governance and decision making remains low. Women make up only 10.69% of the representatives in the Armenian Parliament,²⁷ significantly below the Council of Europe minimum target of representation of 40% of both sexes²⁸ and the 30% threshold set out in the Strategic Action Plan on Gender Policy. For the 2012 elections, national legislation required that 20% of candidates on political party lists be women. This was an increase from the requirement in 2007, when 15% of candidates had to be women. Despite this 5 percentage point increase in the required proportion of women candidates, the actual percentage of women candidates increased by less than 1 percentage point, rising from 22.6% in 2007 to 22.9% in 2012. The level of women's representation in the executive branch is also low: according to 2015 data, 3 out of 18 ministers are women, and women account for 7 of 60 deputy ministers. At the state and local level, there are no women governors (out of 10 provinces) and only one deputy governor. Out of 21 city mayors, none are women, and of the 51 deputy mayors, only one is a woman.²⁹

Further, the types of ministries assigned to women link them to the socio-cultural roles that they traditionally play in society. Political culture is generally perceived in a negative way and the political arena is seen as the preserve of a limited number of people – be they women or men – who must accept practices that women may not want to partake in. As a consequence, women often prefer civil society activism to politics. Research including surveys conducted by the Yerevan State University Centre for Gender and Leadership Studies about women and politics reflects the obstacles facing women who want to access political positions and exercise political power, and concludes that the patriarchal, social and cultural system of values in Armenia is at the core of the issue.³⁰ Men are sceptical about women's ability to run for office or to effectively take decisions and govern predominantly male staff.

Women's political activity is hampered by patriarchal values in family life, along with other concerns:³¹

- ▶ insufficient social demand from the wider public for enhanced women's engagement in politics;
- ▶ limited financial security and independence of women;
- ▶ a lack of interest on the part of a majority of Armenian women in participating in public decision making.

Traditional family values have largely superseded the rule of law when it comes to women, at both conceptual and practical levels. Therefore, there is a need to consolidate the efforts of government, NGOs and the international community in strengthening women's political participation in Armenia and developing gender-sensitive educational programmes in schools and special training in government and municipal structures.

Gender balance in the judiciary

Equal representation of both sexes on the bench – as well as in administrative functions – can have an impact on the gender-sensitiveness of courts. Women judges bring women's experiences to the forefront and also spearhead initiatives on gender equality in the judiciary.

The judiciary's decisions influence the public and legal discourse, thus having an impact on society at all levels. Therefore, it is crucial that women are equally represented in the judiciary; currently, women's representation among professional judges stands at 23%. However, all court tribunals and chambers are headed by men.

26. *Global gender gap report*. World Economic Forum, 2016.

27. "Armenia", available at www.ipu.org/wmn-e/classif.htm accessed 17 January 2017..

28. Council of Europe Recommendation Rec (2003)3 of the Committee of Ministers on balanced participation of women and men in political and public decision-making.

29. "2013 Civil Society Monitoring Country Report," Preliminary Draft.

30. Strengthening women's political participation in the Republic of Armenia: existing efforts, challenges and opportunities, Centre for Gender and Leadership Studies. USAID report, Yerevan State University. 2015.

31. *ibid*.

Council of Europe data for 2014 indicates that 78% of professional first instance judges and 69% of second instance judges are men. In the supreme court of Armenia, 82% of members are men (Council of Europe, European Commission for the Efficiency of Justice 2016).

Another institutional barrier to justice for women, linked to the judicial system as a male-dominated sphere, is that personnel may not be properly trained to deal with gender-sensitive situations, not to mention the fact that victims are often further jeopardising their lives by testifying in court about the abuse and violence against them. This means that in court, the prosecutors, judges or police officers may not treat women victims with due consideration of the trauma they may have experienced.

In Armenia, some judges and law enforcement personnel are occasionally trained by international organisations on gender equality issues. Yet there is no synchronised and cumulative data on women's access to justice to ensure the reliability of data; facilitate analysis by decision makers in all branches of government (the executive, legislature and the judiciary); ensure transparency; and encourage academia and civil society to participate more actively in the development of a better justice system, more effective and adapted to the changing needs of Armenian society.

However, according to the Strategic Programme of Legal and Judicial reforms in Armenia 2012-2016, a training process is mandatory for consistent improvement of specialised knowledge in the area of gender equality for judges and law enforcement personnel, regulated by the Law on the Justice Academy.

4. REMEDIES, GOOD PRACTICES AND RECOMMENDATIONS

National good practices to promote equal access of women to justice

At the national level, positive developments can be mentioned in relation to the education system, where a module on gender equality is expected to be introduced (Commissioner for Human Rights of the Council of Europe 2014, para.107).

In this context, the government decision to approve the new Concept Paper of Armenia on Legal Education (adopted in August 2015) is a very important development. It is intended to improve the legal education system and to reform the legal profession's development process. This strategy is particularly important as it introduces a multi-level system of expected reforms in pre-school organisations, secondary and high schools, and in the system of higher legal education. There is also a specific chapter dedicated to the work with mass media. Thus, this document has vital importance for fostering and disseminating legal knowledge in Armenian society. Accordingly, the Government has designated the Ministry of Justice and the Ministry of Education and Science to develop a specific action plan.

However, this document does not contain specific provisions relating to the legal education and legal literacy of women. It does not contain any provision related to women's education and their future employment. It is important that activities related to women's status and their rights are reflected in the above-mentioned action plan. These provisions and their actual implementation could serve as important safeguards for ensuring women's effective and equal access to justice.

In 2014, the Armenian Council of Court Chairpersons drafted and approved a new action plan for the period 2015-17 aimed at promoting gender equality and gender balance within the judiciary. Public events stemming from this action plan, namely seminars, were organised for the students of the Department of Law, Yerevan State University, where female judges shared their experience and encouraged female students to trust in their abilities and to strive for a successful career as a judge.

Within the scope of the Gender Policy Strategic Action Plan for 2011-2015 in Armenia, steps were taken towards laying the educational and methodological groundwork for teaching basic knowledge on gender equality issues, as well as introducing criteria for gender expertise and review of academic literature. Thematic topics on gender equality issues were included in the training courses module for teachers teaching in elementary schools. Topics on gender equality issues were included in the fourth grade textbook "Me and the environment". A teachers' manual, "Teaching tolerance", was elaborated, with topics on gender equality issues introduced. Thematic units on fundamental rights, gender equality, tolerance and civil society were incorporated in the syllabus of social studies.

As mentioned previously, the Armenian Police has set up a separate subdivision for the protection of the rights of minors and the fight against domestic violence. This department is the first of its kind among the member

states of the Commonwealth of Independent States. It studies, analyses and registers cases of violence against children and women as well as domestic violence, and supports victims of violence.

There are other structures in Armenia, mainly NGOs that support the survivors of domestic violence, protect them and support their reintegration into society. Amnesty International reports that a few domestic violence hotlines, centres and shelters have opened in the last few years, only to be closed down several months later because of a lack of funding. However, some NGOs record good practices in the country (Council of Europe Gender Equality Commission 2015). The Women's Support Centre, for example, provides a safe environment for victims of domestic violence, with legal, social and medical assistance if needed. The NGO Society Without Violence provides legal consultancy, trainings and other activities in support of victims of domestic violence and tackles issues of domestic violence in the country. It has handled a number of cases of domestic violence by providing advocates for victims, psychological support to victims' families, and raising awareness on these cases. Furthermore, while the authorities have failed to provide support to women victims of violence, the Women's Support Group meetings have empowered at least some of the victims (Council of Europe Gender Equality Commission 2015).

While NGOs' work to provide support and assistance to victims of domestic violence is welcome in raising public awareness about women's rights and advocating for systemic change, it is the state's obligation to provide protection against domestic violence.³² In this regard, the Council of Europe Commissioner for Human Rights urged the Armenian authorities to provide support to shelters for victims of domestic violence and implement the measures foreseen in the Action Plan to Combat Gender-Based Violence.

Existing remedies to facilitate women's access to justice

There are a number of remedies to facilitate women's access to justice in Armenia.

The training of legal professionals is an important measure for improving women's access to justice. The Justice Academy, established within the framework of the 2012-16 strategic programme of legal and judicial reforms approved by the Armenian President,³³ provides initial and continuous training to the staff of judicial and prosecutorial.

Another training institution is the School of Lawyers, which provides a professional education and a qualification examination for attendees, while also organising professional training for lawyers.

However, both the Armenian Justice Academy and the School of Lawyers currently lack gender equality programmes in their training curricula. Although the Academy has integrated some topics related to women's rights, such as the training course for prosecutors on criminalistics with a special emphasis on examination of vulnerable victims and witnesses, there are neither specialised courses nor comprehensive guidelines for judges, prosecutors and investigators on women's access to justice and gender equality in general.

Therefore, it is recommended that authorities pay special attention to gender mainstreaming in mandatory courses for judges and law enforcement professionals, in line with the national gender equality strategy. Furthermore, the upcoming legislative amendments in the area of domestic violence and anti-discrimination and the expected ratification of the Istanbul Convention provide sound grounds to amend the Justice Academy's curricula. It is also important to secure a gender balance among judges at all levels.

In 2003, the adoption of the Law of the Human Rights Defender *de facto* confirmed the establishment of a national, extra-judicial institution for human rights in the country. The Human Rights Defender (ombudsman) is an autonomous and independent official who, according to the Armenian Constitution and laws, carries out the protection of human rights and fundamental freedoms when violated by state authorities, local self-government bodies and their officials. The Armenian Human Rights Defender was awarded "status A" in 2006, which means that it complies with the Paris Principles.

In 2008, the Office of the Human Rights Defender (HRDO) was designated a National Preventive Mechanism (NPM) under the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

32. The Istanbul Convention provides a comprehensive framework for state Parties in addressing violence against women and domestic violence, combining Prevention, Protection, Prosecution and adequate Provision of services.

33. See www.arlis.am/documentview.aspx?docID=87218, accessed 28 November 2016.

As an NPM, the HRDO carries out monitoring activities of criminal executive entities, including those for women and children, namely “Abovian” criminal executive entity.³⁴ Furthermore, the HRDO may also monitor open court processes to register human rights infringements during court hearings. Making use of these crucial capacities, the HRDO has taken up a new initiative to be involved in the prevention and protection of domestic violence. This will enable it to obtain reliable data and provide analyses with recommendations for further improvements of the justice system in Armenia. In this respect, however, it is important to strengthen the capacity of the HRDO by implementing its capacities effectively and efficiently to provide policy recommendations at the national level.

The Armenian Police has taken several measures to better address the problem of violence against women, including domestic violence. Collecting statistics on violence against women, including complaints filed and court referrals, is an important step. The Police has also instituted training on responding to domestic violence cases and has undertaken significant public education efforts, including offering programmes in schools throughout the country. A new unit established within the force deals specifically with violence against women and children. As a result, there has been an increase in reporting and court referrals, but it should be noted that more public education is needed. In addition, there are ongoing efforts to increase the number of women in the police force, particularly by attracting larger numbers of women to the Police Academy.

As noted by the Commissioner for Human Rights of the Council of Europe, men should also play a greater role in combating violence and discrimination against women. The Men against Violence against Women (MAVAW) Network, initiated by the NGO Women’s Rights Centre is a positive step in this direction. But if civil society’s contribution is to be cherished, it is ultimately the state’s obligation to fulfil its commitments to human rights and gender equality. And as the UN Working Group on the issue of discrimination against women in law and in practice concludes: “[N]o effective implementation of equality guarantees for women can be sustained without the genuine empowerment of women in all fields.”³⁵

Furthermore, the Council of Court Chairpersons of Armenia has drafted and approved its main activities for the period 2015-17, aimed at promoting gender equality and gender balance within the judiciary of Armenia. The development of an action plan for gender equality in the judiciary has commenced.

In June 2015, key legislative amendments to the Criminal Code were passed by the Armenian Parliament (these amendments are already in force). One of the basic goals of these amendments was to ensure better protection of women against violence, as well as to combat violence against women more effectively and efficiently. According to the Criminal Code that existed prior to 2015, severe physical or mental suffering, including against women, was considered a private prosecution case under Article 119. This meant that criminal prosecution could be initiated only in cases when victims submitted relevant claims to law enforcement bodies. Moreover, if the victim of this type of violence expressed a wish to enter into a friendly settlement with the alleged perpetrator, the criminal case would be dismissed. In other words, criminal prosecution in such cases was totally dependent on the victim’s complaint. According to the new amendments to the Criminal Code of Armenia, similar cases shall not solely depend on a victim’s complaint or will; now they are considered public prosecution cases. Prosecutors are obliged to prosecute regardless of whether or not the victim wants the prosecution. The new amendments therefore seek to secure access to justice for women, including in cases of violence against women.³⁶

Another important advancement is the acknowledgment of the fact that the quality of democracy depends on women’s civic and political participation. This is stipulated in the Law of Armenia on Public Service that was adopted in 2012 (UN Human Rights Council Working Group on the Universal Periodic Review 2015). Armenia has sought to remedy the underrepresentation of women in politics and in the labour market with gender quotas and a national plan for gender equality in the labour market.

The Budget Support Programme carried out jointly with the EU Delegation in Armenia also contributes to developments in this area. The aim of the project is to support the implementation of the Presidential Decree on Legal and Judicial Reforms in the Republic of Armenia for 2012-2016. One of the sub-conditions of the decree is dedicated to promoting the participation of women in the judicial system. Particularly, it requires

34. The criminal executive entity, where female and minor detainees and/or convicted persons are kept in Armenia, is called «Abovian» criminal executive entity .

35. UN General Assembly (2012), Report of the Working Group on the issue of discrimination against women in law and in practice A/HRC/20/28 (2012), para. 14.

36. These amendments were passed mostly based on the case law of the European Convention on Human Rights that aims to protect women against violence and to prevent domestic violence. Particularly, the landmark case *Opuz v. Turkey* was taken as a basic ground for this amendment, a domestic violence case that concerned the failure of the Turkish judicial system to provide an adequate response.

that an action plan to promote gender balance among candidate judges be approved by the designated judicial self-governance body, such as the Armenian Council of Justice and the Armenian Supreme Judicial Council, as per the new Constitution.

Based on this condition, the Armenian Council of Court Chairpersons has drafted and approved the following main activities for the period 2015-17, aimed at promoting gender equality and gender balance within the judiciary of Armenia:

- ▶ monitoring with the aim of revealing the current approaches and opinions concerning gender equality in the judicial system among various social groups;
- ▶ establishment of a working group with the aim to summarise the results of monitoring, as well as analysis of the international experience and development of training materials and thematic training programmes, stemming from the monitoring;
- ▶ organisation of a summer school;
- ▶ initiating a collaboration with the Justice Academy, the Chamber of Lawyers of Armenia/School of Lawyers, higher education institutions, NGOs and international organisations, with the aim of achieving the goals of the Action Plan;
- ▶ meetings with high school students (class visits, discussions, role play, etc.);
- ▶ workshops (discussions, roundtables, training, etc.) with the involvement of state and non-state bodies and organisations;
- ▶ regular publication of comprehensive information on the activities implemented.

It can be concluded that, with the support of national and international organisations, an institutional framework to foster access to justice for women has emerged in Armenia. However, there needs to be a comprehensive approach to justice and the rule of law in the country. It should encompass the entire justice chain, including police, lawyers, prosecutors, judges and prison officers, aiming at addressing all socio-economic, political and cultural barriers in the system.

Recommendations to address the obstacles that prevent equal access to justice for women

It is recommended that the Government of Armenia:

- ▶ sign and ratify the Istanbul Convention earlier than envisaged by the EU-Armenia Budget Support Programme, that is end 2017;
- ▶ urgently make the draft law on domestic violence publicly available for discussion with and consideration by the public at large before the law is adopted, and when drafting the law on domestic violence, ensure it is aligned with the Istanbul Convention;
- ▶ ensure the draft law on anti-discrimination follows recommendations provided by international organisations as state commitments;
- ▶ in light of the upcoming changes in the national regulatory framework in the area of anti-discrimination and domestic violence, as well as possible ratification of the Istanbul Convention:
 - train judges, police officers and prosecutors on gender equality, including the concept of “gender”. This will contribute to the elimination of negative approaches to the notion of gender. Justice and law enforcement officers need to be trained to handle cases involving women or women victims of violence on a regular basis in order to ensure proper application of the laws and principles concerning the rights of women;
 - prepare special mandatory courses/training for prosecutors, judges and investigators, to be included in the curricula of the Armenian Justice Academy. The training materials should be based on European and international standards on combating discrimination and violence against women and protecting women’s rights, covering national legislation and, more specifically, the relevant aspects of the respective codes. Particularly, aspects of the right to private life, judicial and prosecutorial ethics, criminalistics, criminology, victimology, judicial expertise, family law and media should be taken into account. As for judicial practice and procedure, the case law of the European Court of Human Rights and CEDAW Recommendation No. 33 should be incorporated in the training materials (UN Committee on the Elimination of Discrimination against Women 2015b);

- invest in courses that involve women as judges, prosecutors and crime investigators, especially in reference to cases of violence where women are victims. It is particularly necessary to develop discrimination and stereotypes-free thinking among judges, prosecutors and investigators. They should have skills in all methods that can provide an opportunity to carry out effective investigation of cases where women are victims, to avoid the danger of revictimisation;
- ▶ develop guidelines on women’s rights protection, especially in the justice system, and women’s access to justice. The guidelines should encompass the best practices of international experience of modern jurisprudence;
- ▶ include gender sensitisation courses in the curriculum of the School of Lawyers, encompassing the applicability of international law and standards, knowledge of CEDAW, and understanding state obligations in implementing the principles in CEDAW;
- ▶ strengthen the monitoring capacity of the Office of the Human Rights Defender, and expand its work to the regions to better prevent violence and protect women’s rights. It should be enabled to complete its tasks as a national preventive mechanism, particularly in the course of monitoring visits to criminal executive entities, including those for women and children;
- ▶ further recommendations to improve gender policy and promote gender equality include:
 - set tangible implementation mechanisms to monitor the Gender Strategic Action Plans;
 - follow the recommendations of international human rights bodies to co-ordinate and manage the Strategic Gender Policy Action Plans;
 - introduce a mandatory course in high schools and universities, to break gender stereotypes and, especially, prevent violence against women;
 - contribute to the formulation of gender equality policies for media outlets;
 - provide resources and programmes for the strengthening of women’s media literacy in designing, accessing and managing information and content in media technologies;
 - support the activities of centres for gender studies, both state and non-state (e.g. Coalition to Stop Violence against Women), aimed at disseminating gender knowledge and raising public awareness;
 - collate and periodically publish synchronised and cumulative data concerning women’s access to justice. In this regard, the first and most important step is for all justice and law enforcement institutions (e.g. the courts, police) to collect sex-disaggregated data. This would help ensure the reliability of data, facilitate analysis by decision makers in all branches of government, ensure transparency, and encourage academia and civil society to participate more actively in the development of a better justice system, more effective and adapted to the changing needs of Armenian society;
 - hold the media accountable in its role of addressing gender stereotypes and inequalities;
 - promote measures aimed at increasing women’s political and public participation;
 - prioritise gender equality programmes in state budgeting.

Mapping of relevant actors in the field of women’s access to justice

- ▶ Ministry of Justice of Armenia;
- ▶ Armenian Justice Academy;
- ▶ Armenian Judicial Department;
- ▶ Armenian Prosecutor’s office;
- ▶ Armenian Police;
- ▶ Armenian investigation authorities;
- ▶ Armenian Human Rights Defender’s Office;
- ▶ local NGOs and the international community;
- ▶ international and national independent experts.

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APPENDIX

Council of Europe study on barriers, remedies and good practices for women's access to justice in Armenia

Questionnaire for civil society organisations

ORGANISATION:

TARGET GROUP:

PLEASE PROVIDE A BRIEF ANSWER TO THE FOLLOWING QUESTIONS (MAX 3 PAGES):

1. What type of legal assistance do you provide to women and on what issues? [If you have data on the number of clients you assist, and the breakdown according to the issues and type of assistance provided, please share with us.]
2. While assisting your clients, how do you interact with the judiciary/courts in Armenia? (Do you represent clients in court? Do you monitor court hearings? Do you provide *Amici Curiae*? Other ways?)
3. As a result of this interaction, how would you describe the attitude of judges towards women victims of gender-based violence, whether domestic violence, sexual violence or other forms? Can you give specific examples to illustrate the attitude of judges towards women victims of gender-based violence? Can you share with us the details of one or two particular cases that you consider relevant for our study on barriers, remedies and good practices for women's access to justice in Armenia?
4. Can you give us some examples of court decisions or the attitude of judges in other areas in which women may face obstacles (e.g. divorce, child custody)?
5. We would be grateful if you can provide us with an example of good practice for women's access to justice, either from the work of your own organisation or from another source.
6. Do you think that Armenia needs a special law on gender equality?
7. Is there a need to establish a specialised institution on gender issues? If yes, what are the responsibilities you think should be proposed to this institution?

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