

**Programmatic Cooperation Framework for
Armenia, Azerbaijan, Georgia, Republic of Moldova, Ukraine and Belarus**

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe



**INSTITUTUL NAȚIONAL AL JUSTIȚIEI
NATIONAL INSTITUTE OF JUSTICE**

**Regional Conference of the project
“Improving women’s access to justice in five Eastern Partnership
countries”
(Armenia, Azerbaijan, Georgia, Republic of Moldova and Ukraine)
*Strengthening judicial capacity to improve women’s access to justice***

24-25 October 2016
CHISINAU, REPUBLIC OF MOLDOVA

Concept note

**ORGANISED BY THE COUNCIL OF EUROPE
IN PARTNERSHIP WITH
THE NATIONAL INSTITUTE OF JUSTICE OF THE REPUBLIC OF
MOLDOVA**

1. Background of the conference

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.

One of the five objectives of the Council of Europe Gender Equality Strategy (2014-2017) is to work with member States towards guaranteeing equal access of women to justice. The strategy establishes that action in this area will seek 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.

To contribute to the implementation of the Gender Equality Strategy, the Council of Europe Gender Equality Unit is implementing the regional project ***Improving women's access to justice in five Eastern Partnership countries*** (*Armenia, Azerbaijan, Georgia, Republic of Moldova and Ukraine*). The project is funded as part of the CoE/EU Eastern Partnership Programmatic Co-operation Framework (PCF) 2015 – 2017.

The main objectives of the project are to:

1. Identify and support the removal of obstacles to women's access to justice;
2. 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.

Eastern Partnership countries have made significant progress in passing legislation and adopting policies to advance gender equality. At the same time, obstacles persist. The Council of Europe gained specific knowledge of the situation in the five beneficiary countries through national studies on barriers, remedies and good practices for women's access to justice carried out in each country, in 2015, and through the regional conference on the same topic (Kvareli, Georgia, 5-6 November 2015). Specific barriers comprise: the persistence of de jure discrimination of women, such as protective labour legislation that restricts women's access to professions and work; gaps in the anti-discrimination legislative frameworks; limited use of international standards in judicial decisions; indirect discrimination of women.

National laws uphold equality on the basis of sex, but 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. Further barriers have been observed in the area of labour law, such as limitations on fathers' access to parental leave or the unlawful dismissal of pregnant women. In some of the five countries, women are significantly under-represented in the judiciary. In all countries of the project, gaps in access to justice for women victims of gender-based violence persist, in particular: non-criminalisation of all forms of violence against women; severe under-reporting of crimes of violence against women; very few convictions of rape; scarce or no state funding for support services.

2. Council of Europe standards on equal access of women to justice

The requirement of equality, including **gender equality**, is at the centre of the scope, the exercise and the fulfilment of the right to justice. Four major treaties provide the core Council of Europe gender equality standards pertaining to equal access to justice for women. These are the **‘foundational’** treaties, the European Convention on Human Rights and the European Social Charter, 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.

The Istanbul Convention includes numerous provisions aimed at facilitating access to justice for victims of gender-based violence, in particular by requiring States parties to:

- provide adequate legal information (Article 19)
- encourage reporting (Article 27)
- provide victims with adequate civil remedies (Article 29), and compensation (Article 30)
- criminalise or otherwise sanction a broad range of forms of violence against women (Articles 33-40)
- ensure that investigations and judicial proceedings are carried out without undue delay (Article 49) and that prosecutors can initiate and continue proceedings, even if the victim withdraws the complaint (Article 55)
- ensure that evidence relating to the sexual history and conduct of the victim is permitted only when relevant and necessary (Article 54)
- ensure that mandatory alternative dispute resolution processes or sentencing, including mediation and conciliation, are prohibited (Article 48)
- ensure the protection of victims at all stages of investigations and judicial proceedings (Article 56)
- provide victims with access to legal assistance and to free legal aid (Article 57).

Thus, the standards of the Istanbul Convention constitute a **core element** of ensuring equal access of women to justice.

On 13 April 2016, the Committee of Ministers of the Council of Europe adopted a Plan of Action on “Strengthening Judicial Independence and Impartiality”, in the lead-up to the High-Level Conference of Ministers of Justice and representatives of the Judiciary (Sofia, Bulgaria, 21-22 April 2016). The Plan of Action includes objectives and actions aimed at advancing gender equality in the justice system and implementing gender mainstreaming and it commits the Council of Europe and its member States to seek a gender balance in the judiciary and to undertake efforts to fight gender stereotyping within the judiciary.

The Parliamentary Assembly of the Council of Europe (PACE), in its Resolution 2054 (2015) “Equality and non-discrimination in the access to justice”, has urged member States to step up their efforts to remove legal, social, economic and cultural barriers to women’s access to justice. For this purpose, the PACE called on member States to:

- a) sign and/or ratify the Istanbul Convention;
- b) carry out an in-depth analysis of the impact of gender on access to justice, in particular by collecting gender-disaggregated data, and adopt gender sensitive policies taking account of the specific barriers to access to justice encountered by women.

¹ Entered into force on 1 February 2008

² Entered into force on 1 August 2014

3. Objectives of the conference

In the framework of the implementation of the project on *Improving women's access to justice in five Eastern Partnership Countries*, the Council of Europe, in partnership with the National Institute of Justice of the Republic of Moldova, is organising a conference on 24-25 October 2016. The conference will explore the current situation and discuss steps to integrate women's rights, gender equality and equal access to justice in the training of legal professionals.

The conference aims to:

- Discuss barriers, remedies and good practices for women's access to justice, including the challenges of multiple discrimination;
- Exchange good practices in the training of legal professionals to promote equal access to justice for women and strategize about steps in this field;
- Disseminate tools for strengthening the capacity of legal professionals to ensure fair and equal treatment of women by the justice system, in particular the training manual on *Ensuring Access to Justice for Women*;
- Promote existing standards, including the Istanbul Convention, to ensure access to justice for women victims of violence;
- Facilitate partnerships and networks among training institutions for legal professionals in the countries of the project.

Expected outputs:

- Dissemination of practical tools for strengthening the capacity of legal professionals to ensure fair and equal treatment of women by the justice system, in particular the training manual on *Ensuring Access to Justice for Women*;
- Dissemination of the *Regional report on barriers, remedies and good practices for women's access to justice*.
- Increased networking and partnerships among training institutions for judges, prosecutors and other legal professionals;
- Good practices and shared experiences to promote equal access of women to justice;
- Proposed further measures to address the obstacles that prevent equal access to justice for women in the five countries of the project.

Targeted participants: More than 80 participants are expected, including:

- Government representatives from the beneficiary countries (Ministries of Justice, and gender equality mechanisms);
- Representatives of institutions mandated to provide initial and further training to judges, prosecutors and lawyers;
- Legal experts from Council of Europe member States, including civil society experts, and representatives of other regional and international organisations.

Working languages: English, French, Romanian (Republic of Moldova), and Russian.