

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



**Training Manual for Judges and Prosecutors on Ensuring Women's
Access to Justice**

COUNTRY CHAPTER FOR THE REPUBLIC OF MOLDOVA

In the framework of the project
“Improving Women’s Access to Justice in the Eastern Partnership Countries”
(Armenia, Azerbaijan, Georgia, Republic of Moldova and Ukraine)

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The project “Improving Women’s Access to Justice in Five Eastern Partnership Countries (Armenia, Azerbaijan, Georgia, Republic of Moldova and Ukraine)” is a co-operative regional initiative between the Council of Europe and the European Union (EU) for the period 2015-2016 as part of the Programmatic Cooperation Framework (PCF). The PCF is funded by the Council of Europe and the European Union and is implemented by the Council of Europe.

The project aims to identify and support the removal of obstacles to women’s access to justice while also strengthening the capacity of each participating country to design measures to ensure that the justice chain is gender-responsive, with a focus on training for legal practitioners.

National studies on *barriers, remedies and good practices for women’s access to justice in five Eastern Partnership countries* have been published¹, regional conferences have gathered experts to share experience and good practices, and national training seminars have also been organised for judges and prosecutors, in partnership with national training legal institutions.

This training manual for judges and prosecutors on *Ensuring access to justice for women* was developed by a group of national and international experts as part of the project. The manual includes a general common part and a national part specific to the relevant country.

¹National studies on barriers, remedies and good practices for women’s access to justice in five Eastern Partnership countries, 2016, available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806b0f41>

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1. Introduction

The development of this manual is consistent with the provisions of the Council of Europe Strategy for Equality between women and men for the years 2014-2017. Currently, the Council of Europe is taking a plethora of measures to fight against gender-based stereotypes, sexism and violence against women in all its multiple forms.

Moldovan society bears some rudimentary hallmarks of a patriarchal society, and the impact and effectiveness of laws and policies promoting equal treatment, including free access to justice for women in need, are compromised by the persistence of gender stereotypes. This is why the following parts aim, among others, at helping judges and prosecutors fight gender stereotypes and highlight to them the existence of remedies that had to be offered to female victims.

The access to justice, defined as the ability of people to seek and obtain a remedy for their complaints through formal and informal institutions of justice, in conformity with the human rights standards is at the core of the measures aiming at efficient protection of human rights.² Without the possibility of claiming relief for violation of enshrined and guaranteed rights, this protection is inefficient and deceptive. The European Court of Human Rights stated that the absolute obstacles to accessing the criminal justice system for the victims of rape are equal to denial of justice.³ However, there are obstacles that are less invasive and which can hinder the victim's relevant access to the available judicial remedies, as the Convention lays down. In absence of the legal aid, for instance, under specific circumstances, the victim of violence can be obstructed from accessing the legal remedies in view of stopping harmful situations.

The main objective of this chapter is to familiarise the main actors of the justice sector with the key notions of gender equality in general and with the conditions fostering women's free access to justice in particular.

Being aware of the international, regional and national standards related to gender equality, the beneficiaries of the manual shall develop skills to perfectly match the requirements for women's protection against all forms of discrimination.

To understand the whole picture of women's access to justice in the Republic of Moldova, but also in other Eastern Partnership countries, the content of this chapter will be approached along with the "Barriers, Remedies and Good Practices for Women's Access to Justice in Five Eastern Partnership Countries" – a study developed in the framework of the *Improving Women's Access to Justice in Five Eastern Partnership Countries Project*.⁴

This study highlights the extent to which the Republic of Moldova honours the assumed obligations to implement the standards on access to justice and the barriers that still exist, in particular for women. These barriers are legal and procedural as well as socio-economic and cultural. Numerous studies, reports, data, opinions, decisions and judgments made public by various public and private entities have been analysed and presented herein. It is hoped that this study will strengthen the understanding of the proper measures which must be put in place to ensure that the justice chain is gender-responsive and that the legal professionals involved at its stages (judges, prosecutors, lawyers, law enforcement), in the areas of gender equality, women's rights and non-discrimination, are aware of the difficulties that women face in accessing justice because they are women.

² UNDP, *Programming for Justice: Access for All: A Practitioner's Guide to Human Rights-Based Approach to Access to Justice* (Bangkok, 2005).

³ *X and Y v. The Netherlands*, ECHR §§ 28-30.

⁴ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806b0f41>

Having ratified a multitude of international instruments in the area of human rights and fundamental freedoms, the Republic of Moldova has undertaken a series of commitments, among which, the development of a domestic normative framework in line with protected fundamental values. It is worth mentioning that the adoption of national laws inspired from the texts of the international and regional acts does not imply the automatic implementation of the international standards, in particular, in the area of non-discrimination. Quite often, the proper enforcement of the legal provisions is hindered by a series of sometimes concealed barriers, which remain unnoticed by the state authorities. Therefore, Moldova, which displays the traits of a patriarchal society, is knowledgeable about the multiple socio-economic, procedural and cultural barriers.

2. The Gender Dimension of Women's Access to Justice: Social Background, Legal Provisions and Barriers.

Discrimination is one of the most sensitive and globally relevant topics. This phenomenon is present both internationally and nationally, in various areas of life, and in connection with the exercise of civil, political, economic, social and cultural rights. The interest of the international community with regard to gender equality currently manifests itself through awareness of the discouraging effects of discrimination and the adoption of new approaches to combat this phenomenon. In light of these developments, certain changes in international and regional jurisprudence, that also lead to the creation of new standards, are of particular relevance. However, countries still have the most important mission, that of ensuring that such standards are implemented at a global level, as well as that of removing all obstacles in this regard.

Gender equality entails equal visibility, empowerment, responsibility and equal participation in all areas of public and private life. In an equal measure, equality entails equal access to various resources, as well as their fair distribution between women and men. The objective of promoting gender equality is an essential requirement for any society, and is considered a key component of the commitment to observe fundamental human rights. Therefore, equal participation of women and men with regard to sustainable development and social progress has gained increasing importance in countries promoting values related to the rule of law.

In recent years, the Republic of Moldova has strengthened its legal and regulatory framework on gender equality, equal treatment of women and men with regard to employment, education, health and other areas. Despite progress with regard to ensuring gender equality, the authorities still have to resolve many issues standing in the way of completely eliminating the differences between men and women and strengthening gender balance.

In the Concluding observations on the combined fourth and fifth periodic reports of the Republic of Moldova⁵ of the Committee on the Elimination of All Forms of Discrimination against Women (CEDAW), the Committee expressed concern regarding the persistence of patriarchal attitudes and deep-rooted stereotypes in our country, the roles and responsibilities of women and men in family and in society. According to the same source, such attitudes and stereotypes are the root causes of the disadvantaged position of women in political and public life; violence against women; gender segregation, as seen in the educational choices of women and girls and their employment options.⁶

Two recent studies conducted in order to assess the current situation and trends regarding discrimination in the Republic of Moldova indirectly address gender inequality. In particular, the relevant sections of these studies are focused on people's perceptions and attitudes towards women and men, their place and roles within the family, society, as well as other facets

⁵ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/MDA/CO/4-5&Lang=Ru

⁶ Office of the People's Advocate - Report on human rights in the Republic of Moldova in 2015, CHISINAU 2016. http://ombudsman.md/sites/default/files/document/attachments/raport_2015_red.pdf

concerning this area. The importance of studies and results resides in the opportunity to conduct a screening of opinions, perceptions and attitudes in society regarding different groups (individualized according to certain characteristics, in this case, gender) enabling an understanding of the current situation and also serving as basis for further policy development.

As such, the *Study on perceptions and attitudes towards equality in the Republic of Moldova*⁷ assessed attitudes towards women in society. Respondents expressed their views regarding four pairs of statements regarding perceptions of women occupying positions of state leadership, their involvement in public life and the development of careers, women's abilities to make decisions and their success with regard to public activities. Approximately one in four respondents opted for statements that are discriminatory against women, while statements expressing non-discriminatory views gained between 50% and 75% of responses. The results prove that there is no deeply rooted idea in society that women are not active, are not able to handle certain responsibilities or face certain situations.

The second study, the *Phenomenon of discrimination in Moldova: social perceptions, a comparative study*,⁸ analyses issues regarding the discrimination of women and men in a broader context, focusing on several areas of life, such as political life, employment, family.

The study begins with a presentation of the general situation, stating that approximately 54% of respondents believe that the situation of women and men in Moldova is essentially equal. However, 32% of respondents continue to believe that the situation in Moldova is better for men than women, and only 14% say that the situation of women in Moldova is better than that of men. This data confirms that, even at the level of perception, the population is partly aware that the position of women is inferior to that of men.

The analysis of respondents' answers to the question regarding reasons behind inequality of opportunities for men and women revealed that the most frequently cited reasons are that women often bear a dual burden: maintaining the family and raising children - 39%, and that women are more occupied with raising children - 35%.

However, the main causes of inequality also included the following: women are paid less than men - 27% and women are not promoted to senior positions - 28%. It is noteworthy that these figures are higher than those of the previous study from 2010⁹, which shows a growing awareness of the obstacles that make it difficult to achieve gender equality in key areas.

With regard to prejudices concerning the roles of women and men, the study shows that certain prejudices regarding the roles of women and men in family and society continue to persist among respondents.

Although Moldovan society holds gender stereotypes and prejudices concerning the traditional roles of women and men, the study shows that, over recent years, there had been some minor changes in this regard. Thus, the majority of respondents continue to maintain that the husband is head of the family, which means that he has an obligation to financially support the family, while a woman's duty is primarily dealing with household chores. However, there is a marked increase in the percentage of respondents who believe that men can raise children just as well as women. At the same time, there is a reduction in the share of respondents who believe that women have no place in politics and that women cannot occupy positions of leadership.

⁷ *Study on equality perceptions and attitudes in the Republic of Moldova*, Chisinau, 2015, p. 67. The study was conducted by the Center for Sociological Investigations and Marketing "CBS-AXA" with a sample of 1013 people in 13 regions of the country, the margin of error being $\pm 3,1\%$. http://md.one.un.org/content/dam/unct/moldova/docs/pub/ENG-Studiu%20Perceptii%202015_FINAL_2016_Imprimat.pdf

⁸ Ludmila Malcoci, Arcadie Barbarosie. *The Phenomenon of discrimination in Moldova: social perceptions, a comparative study*. Chisinau, 2015, p. 49,50.

⁹ Perceptions Of The Population Of The Republic Of Moldova On Discrimination: Sociological Study, Edition I, January 2011 http://soros.md/files/publications/documents/Studiu_sociologic_EN.pdf

The United Nations Special Rapporteur on extreme poverty and human rights¹⁰, Magdalena Sepúlveda Carmona, has found that, despite the fact that the Constitution and the legal framework of the Republic of Moldova sets out extensive guarantees for the rights of women, many women face significant challenges, including access to decent employment, unequal remuneration, lack of representation in politics and decision-making, exposure to gender-based violence and human trafficking¹¹. Women and girls with disabilities, Roma women and girls, lesbian and bisexual women, and women who have undergone sex change, single mothers, elderly women and women living in rural areas face exclusion, stigma and discrimination, often preventing them from escaping poverty and denying them access to public services. They may suffer from multiple discrimination and face increased difficulties in accessing the justice system¹². A 2011 study¹³ determined that 63.4% of women aged 15 years or older in Moldova were subjected to physical, psychological or sexual violence by a partner in their lifetime.

Poverty pushes women to look for work abroad, where they become considerably more vulnerable to trafficking, exploitation and other forms of abuse. Migrant women face added stigma, discrimination and abuse when returning from abroad due to prevailing assumptions that they had been sex workers. It is a vicious cycle for women, because 90% of trafficked women also reported being subjected to domestic violence. These and other factors, such as the lack of appropriate facilities for childcare or care for families with disabled members, which usually falls on women's shoulders, creates conditions for increasing female poverty.¹⁴

The Republic of Moldova has ratified a large number of international treaties on fundamental human rights and freedoms. The treaties in question either protect certain categories of persons, or promote respect of certain categories of fundamental rights. Additionally, our country has developed a regulatory framework designed to ensure the right to free access to justice, including for vulnerable persons, such as women, children, the disabled, etc.

The fundamental law of our country, the *Constitution of the Republic of Moldova*¹⁵, enshrines equal access to justice, alongside other fundamental rights, freedoms and duties:

"Article 16 Equality

(1) Respect and protection of the human person is the foremost duty of the state.

(2) All citizens of the Republic Moldova are equal under the law and before public authorities irrespective of race, nationality, ethnic origin, language, religion, sex, opinions, political affiliation, wealth or social origin.

Article 20 Free access to justice

(1) Everyone has the right to obtain effective remedy from the relevant courts against acts that violate their rights, freedoms and legitimate interests.

(2) No law may restrict access to justice."

With regard to equality, the Constitutional Court of the Republic of Moldova stated within its jurisprudence that Article 16 of the Constitution complements other substantive provisions of the Constitution and does not have an independent existence, being applicable solely to the

¹⁰ Report of the United Nations Special Rapporteur on extreme poverty and human rights Magdalena Sepúlveda Carmona. Mission in the Republic of Moldova (8–14 September 2013). http://www.ohchr.org/Documents/Issues/Poverty/A-HRC-26-28-Add.2_Romanian.pdf (accessed on 20.08.2016)

¹¹ European Convention on Action against Trafficking in Human Beings ratified by the Republic of Moldova on 19 may 2006

¹² Women with disabilities, residents of psycho-neurological institutions, are extremely vulnerable to sexual violence, as has been proven by the law enforcement during criminal investigations between January and May 2013 when 20 women were identified as having been sexually abused by their doctor. Some of them were left pregnant and underwent abortions at late stages of pregnancy. On 25 october 2016 in Moldova, a psychiatrist was found guilty of several counts of rape that he committed during 10 years against 16 women under his care in a social care institution. The doctor was sentenced to 13 years imprisonment.

¹³ http://www.statistica.md/public/files/publicatii_electronice/Violenta/Raport_violen_fem_eng.pdf

¹⁴ Ibidem

¹⁵ Constitution of the Republic of Moldova, adopted on 29 July 1994, Official Monitor no. 1, 12.08.1994

exercise of rights and freedoms guaranteed by constitutional provisions. Accordingly, Article 16 is to be taken together with other constitutional provisions, enshrining specific rights¹⁶. Likewise, the Court pointed out that Article 16 of the Constitution comes into play when the situation affected by a disadvantage involves one of the conditions for the exercise of an enshrined right or if the measures that are subject to criticism pertain to the exercise of a guaranteed right. In addition to these aspects, the constitutional provision in question is important in that it explicitly refers to 'sex' as a criterion protected from discrimination, thus recognising equality between women and men with regard to the exercise of any right or fundamental freedom.

The Constitutional Court examined a number of cases in which it ruled on issues related to discrimination on grounds of sex from the perspective of the need to ensure the effectiveness of the principle of equality as enshrined in the Constitution.

In this regard, Judgment no. 12 dated 1 November 2012 regarding the constitutional review of some provisions of article 32 para. (4) letter j) of the Law no. 162-XVI dated 22 July 2005 on the status of military personnel is noteworthy. The Court considers that the exclusion of male soldiers from exercising their right to parental leave, while female soldiers have this right cannot be considered to be founded on objective or reasonable justification. The Court therefore concludes that this difference in treatment constitutes discrimination based on sex.

The Constitutional Court also examined legislative amendments related to establishing pensions and other social guarantees, including in terms of compliance with laws related to equality and non-discrimination. For example, in a judgment no. 27 dated 20 December 2011, the Court found as unconstitutional the provisions of p.2. of Article III of the Law no. 56 dated 9 June 2011 with regard to the establishment of the general length of service. P. 2 of art. III provided a gradual increase, within a term of 9 years, of the general length of service for obtaining the right to retirement pensions with regard to all categories of employees, both male and female, from 30 to 35 years. The Court held as disproportionate establishing an equal length of service for men and women while maintaining a difference of five years with regard to the general retirement age - 62 years for men and 57 years for women.

The findings of the Court in its Decision No. 14 dated 8 October 2013 rejecting application no. 27a/2013 to conduct a constitutional review of some provisions of Law no. 121 dated 25 May 2012 on ensuring equality are also worthy of mention. In this case, a member of Parliament asked the Court to declare Law no. 121 unconstitutional, in particular with regard to the establishment of a new body, namely the Council for preventing and eliminating discrimination and ensuring equality (hereinafter CPEDEQ), arguing that "only courts carry out justice in the name of law." The burden of proof standard set out by Law no. 121, was also challenged, the author deeming it contrary to the principle of presumption of innocence. The Constitutional Court rejected the application. The Court has based its decision in particular on the following grounds: with regard to the constitutionality of the creation of the CPEDEQ, the Court noted that its decisions can be challenged in court. Accordingly, the Court did not find arguments proving a causal link with the alleged violation of art. 114 of the Constitution by Law no. 121 on the creation and powers of the CPEDEQ. The Court deemed irrelevant the challenging of Law no. 121 with regard to the burden of proof in cases of discrimination, given that they explicitly exclude actions that trigger criminal liability.

The ***Law on ensuring equality of opportunities between women and men***¹⁷ aims to ensure the exercise of equal rights of men and women in the political, economic, social, cultural and other areas of life, rights guaranteed by the Constitution of the Republic of Moldova, in order to prevent and eliminate all forms of gender-based discrimination. The law defines, inter alia, the

¹⁶ Judgment no. 5 dated 23 April 2013 regarding the constitutional review of art. 301 para. (1) letter. c) of the Labor Code of the Republic of Moldova no. 154-XV dated 28 March 2003, as amended under Law no. 91 dated 26 April 2012 on amending and supplementing certain legal acts

¹⁷ Law no. 5 dated 09 February 2006 on ensuring equality of opportunities between women and men, Official Monitor no. 47-50 dated 24 March 2006

following main concepts: affirmative action¹⁸, gender-based discrimination¹⁹, direct gender-based discrimination²⁰, indirect gender-based discrimination²¹, gender²² etc.

In article 5, the aforementioned Law explicitly prohibits gender-based discrimination:

“(1) In the Republic of Moldova, women and men enjoy equal rights and freedoms, and their opportunities for the exercise of such are guaranteed.

(2) Promoting policies or performing actions that do not ensure equal opportunities for women and men shall be deemed discriminatory and are to be removed by the relevant public authorities, in accordance with the law.

(3) Gender-based discrimination can be direct, indirect, by association or by victimisation.

(4) Actions that restrict or exclude, in any way, the equal treatment of women and men, shall be deemed discriminatory and are prohibited.

(5) Any legal act containing gender-based discriminatory provisions shall be declared null by court.

(6) The following shall not be deemed discriminatory:

a) measures imposing certain special conditions for women during pregnancy, postpartum and breastfeeding;

b) a difference of treatment based on a characteristic related to gender for reasons that relate to the nature of the specialised professional activity, if such a characteristic constitutes a genuine and specific occupational requirement, provided that the objective is legitimate and the requirement is proportionate;

c) special notifications regarding the employment of persons of a certain gender, which refers to the nature of the special professional activity, if such gender-related characteristic is a genuine and specific professional requirement, provided that the objective is legitimate and the requirement is proportional;

d) affirmative actions.”

Similarly, the Law on ensuring equality of opportunities between women and men contains provisions on ensuring equal opportunities for women and men in the public sphere (equal access to public office, equal opportunities in the electoral field, with regard to the activities of parties and other socio-political organisations, equality in the media); in socio-economic areas (equal access to employment, equal access to entrepreneurial activity), as well as ensuring equal opportunities for women and men with regard to education and health.

A further guarantee to ensure equal opportunities for men and women set out by law is the establishment of liability for discrimination on grounds of gender in art. 24, which provides the following: *“(1) Persons subjected to forms of discrimination based on gender, referred to in this Law, are entitled to compensation under the terms set out by law.*

(2) The violation of laws on equality between women and men, the subjects of legal relations who commit actions of gender-based discrimination are liable under the law.”

The Law on ensuring equality²³ is aimed at preventing and fighting discrimination, as well as ensuring equality for all persons in the Republic of Moldova in the political, economic, social, cultural and other areas of life, irrespective of race, colour, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinions, political affiliation or any other similar criteria.

¹⁸ *affirmative actions* - special temporary actions aimed at accelerating the attainment of real equality between women and men, with a view to eliminating and preventing discrimination or disadvantages caused by existing attitudes, behaviors and structures;

¹⁹ *gender-based discrimination* - any distinction, exception, limitation or preference aimed at or followed by a limitation of or impediment to the recognition, exercise and implementation, on a gender-equality basis, of fundamental human rights and freedoms;

²⁰ *direct gender-based discrimination* - any action that, in similar situations, discriminates against a person in comparison to another person of another gender, including due to pregnancy, maternity or paternity;

²¹ *indirect gender-based discrimination* - any action, rule, criterion or practice that is identical for women and men, having an effect or result that is unequal for one of the sexes, except for affirmative actions;

²² *gender* - social aspect of relations between men and women, which manifests itself in all areas of life;

²³ Law no. 121 dated 25 May 2012 on ensuring equality, Official Monitor no. 103 dated 29 May 2012

The aforementioned Law has defined, *inter alia*, the terms direct discrimination²⁴, indirect discrimination²⁵, discrimination by association²⁶, harassment²⁷, instigation to discrimination²⁸, reasonable accommodations²⁹, positive measures³⁰.

The law on ensuring equality prohibits discrimination in employment, education, as well as discrimination with regard to access to goods and services available to the public. In this regard, although it does not explicitly set out free access to justice for women, the constituent elements of this right can be inferred from Articles 17 to 19 of the aforementioned Law:

”Article 17. Liability for discriminatory acts

Discriminatory acts are subject to disciplinary, civil, administrative and criminal liability in accordance with applicable law.

Article 18. The right to protection of discrimination victims

(1) Any person deemed to be a victim of discrimination is entitled to submit a claim in court and seek:

a) the violation of his/her rights to be established;

b) the prohibition of further violations of his/her rights;

c) the restoration of the situation preceding such violation of his/her rights;

d) the compensation of material and moral damages caused to him/her and the recovery of court expenses;

e) the annulment of the act that led to discrimination.

(2) Court claims for the protection of persons deemed to be victims of discrimination may be submitted by trade unions or public associations dealing with the promotion and protection of human rights.

(3) At the request of the victim of discrimination, the court may prohibit the disclosure of information regarding such person's private life and identity. The registration, storage and use of personal data regarding victims of discrimination shall be made in compliance with the special rules of confidentiality, as established by law.

Article 19. Burden of proof

(1) The person submitting a claim in court shall be required to present facts allowing a presumption as to the existence of discrimination.

(2) The burden of proving that such facts do not constitute discrimination falls on the respondent, with the exception of facts that lead to criminal liability.

Article 20. Terms of prescription (statute of limitations)

The term of prescription for lodging a court claim hereunder is one year from the date an act is committed or the date on which the person could have known of its commission.

Article 21. State tax

²⁴ *direct discrimination* – treating a person, based on any of the prohibitive criteria, in a manner less favorable than another person in a comparable situation

²⁵ *indirect discrimination* – any apparently neutral provision, action, criterion or practice the effect of which is disadvantaging a person in comparison with another person based on criteria set out in this law, except where such provision, action, criterion or practice is objectively justified on the basis of a legitimate aim and the means of achieving such aim are proportionate, appropriate and necessary;

²⁶ *discrimination by association* – any act of discrimination committed against a person who, although not part of a category of persons identified according to the criteria set out herein, is associated with one or more persons belonging to such categories of persons;

²⁷ *harassment* – any undesirable behavior that leads to an intimidating, hostile, degrading, humiliating or offensive environment, with the purpose or effect of violating the dignity of a person on the basis of the criteria set out herein;

²⁸ *instigation to discrimination* – any behavior by which a person intimidates or conducts himself/herself in a manner designed to discriminate a third party on the basis of criteria set out herein;

²⁹ *reasonable accommodation* – any modification or adjustment that is necessary and appropriate in a particular case and does not impose a disproportionate or unjustified burden, as required to ensure a person, in cases determined by law, the exercise of his/her fundamental rights and freedoms on an equal basis with others.

³⁰ *positive measures* – temporary special measures, undertaken by public authorities in favor of a person, group of persons or a community, for the purpose of ensuring their natural development and their effective equality with regard to other persons, groups of persons or communities

Persons lodging a claim in court regarding discriminatory acts are exempt from state tax.”

The Law on ensuring equality instituted the Council for the prevention and elimination of discrimination and ensuring equality³¹, a collegial body established to ensure protection against discrimination. Thus, any person deeming itself to be a victim of discrimination may submit a complaint, which will be reviewed in accordance with the procedure set out in Art. 15 of the aforementioned law.

The important role of the Council as a mechanism for fighting discrimination on grounds of sex/gender is shown in the statistical data set out in the annual activity reports of the institution. Thus, during 2015, sex/gender was, together with disability/health status, the most common cases ruled upon by the Council with regard differential treatment (21.1% of all Council decisions were issued in relation to differential treatment based on gender).³²

Thus, *The Administrative Code of the Republic of Moldova*³³ sets out penalties for any distinction, exclusion, restriction or preference, based on grounds of race, nationality, ethnic origin, language, religion or belief, sex, age, disability, political affiliation or any other criterion, displayed in the area of education (article 65¹), the area of access to services provided by public authorities, healthcare services and other health services, social protection services, banking and financial services, transportation, cultural and recreational services, the sale or leasing of movable and immovable property, as well as other services and goods available to the public (article 71¹), as well as discrimination in the provision of public services in the area of electronic communications, post and information technology (article 260).

The *Criminal Code of the Republic of Moldova*³⁴ (CC RM) incriminates a number of actions involving unjustified differential treatment towards women, characterised by increased social danger. Thus, Article 173 incriminates sexual harassment, i.e. the manifestation of physical, verbal or nonverbal conduct that violates a person's dignity or creates an unpleasant, hostile, degrading, humiliating, discriminatory or insulting atmosphere for the purpose of inducing another person to sexual intercourse or other unwanted sexual actions, committed by threat, coercion, blackmail. Article 176 CC RM establishes criminal penalties for violating the equality of citizens, namely any distinction, exclusion, restriction or preference with regard to rights and freedoms of a person or group of persons, any support of discriminatory conduct in the political, economic, social, cultural and other areas of life, based on grounds of race, nationality, ethnic origin, language, religion or belief, sex, age, disability, opinions, political affiliation or any other criterion.

1. Case studies from domestic courts

3.1. Access of women to justice in the context of criminal law – domestic violence against women

The most evident expression of an imbalance of "power" between women and men is violence against women, which constitutes a serious violation of human rights and a major obstacle to gender equality.

In his report on the visit to the Republic of Moldova during 4 - 11 July 2008 on violence against women, its causes and consequences³⁵, the United Nations Special Rapporteur noted,

³¹ The operation of the Council is also regulated by Law no. 298 dated 21 December 2012 on the operation of the Council for the prevention and elimination of discrimination and ensuring equality

³² Council for the Prevention and Elimination of Discrimination and Ensuring Equality – General report on the situation with regard to preventing and fighting discrimination in the Republic of Moldova for the year 2015 <http://www.egalitate.md/media/files/Raport%20general%202015.pdf>

³³ Administrative Code of the Republic of Moldova, adopted on 24 October 2008, Official Monitor no. 3-6, 16 January 2009

³⁴ Criminal Code of the Republic of Moldova, adopted on 18 April 2002, Official Monitor no. 72-74, 14 April 2009

³⁵ Report regarding the visit to Moldova during 4 - 11 July 2008 on violence against women, its causes and consequences. Document A/HRC/11/6/Add.4, 8 May 2009. Online: http://www2.ohchr.org/english/bodies/hrcouncil/docs/11session/A.HRC.11.6.Add.4_fr.pdf. (accessed on 16 November 2015)

inter alia: "... discriminatory and patriarchal attitudes increase women's vulnerability to violence and abuse. In this regard, domestic violence is especially widespread and widely overlooked by society; it does not receive the attention it is due from the authorities, society or the women themselves, leading to an insufficient infrastructure for the protection of victims of violence." [...] Moldovan women suffer from all forms of violence. However, domestic violence and trafficking are major areas of concern. The two are intimately connected and are linked to women's overall subordinate position in society."

"While reliable data and a systematic registering of cases on the nature and extent of the phenomenon is lacking, domestic violence is said to be widespread." [...] "Unfortunately, it is very difficult for the State to control domestic violence since in most of the cases, it is reported only when there are severe consequences of the violence, the other cases being considered just family conflicts." Domestic violence is found in different social groups and with regard to different levels of education; nevertheless, women with higher levels of education or economic status could fail to divulge incidents of violence. Sexual violence remains the rarest form of reported violence. This may be due to the lack of recognition of sexual abuse within the family as a violation or the fear of victims to be blamed and socially excluded.

There are some widespread misconceptions regarding violence against women, that violence against women is seen as an isolated phenomenon that happens only in a particular vulnerable group. These misconceptions are:

- (a) violence against women is a phenomenon that occurs in poor and broken families,
- (b) the victims of domestic violence are vulnerable women who need special protection,
- (c) violent men are deviants who abuse alcohol and drugs or have personality disorders,
- (d) domestic violence includes all family members, including men.³⁶

In this regard, when examining cases of domestic violence, the judge or the criminal investigation authority is likely to make a wrong decision based on some erroneous perceptions regarding the role of women in society. Consequently, public authorities are at risk of being accused of conducting an ineffective inquiry to prevent and punish perpetrators.

Under the art. 201¹ of the Criminal Code of the Republic of Moldova, domestic violence, i.e. actions or inactions committed with intent, physically or verbally, by a family member against another family member, leading to physical harm, resulting in minor injury to health, psychological distress or material or moral damages, are subject to criminal sanctions. These criminal provisions were supplemented by the *Law on preventing and combating domestic violence*³⁷, which regulates, in addition to the provisions of the Criminal Code, the legal and organisational framework for preventing and combating domestic violence, the authorities and institutions responsible for preventing and combating domestic violence, the mechanism for identifying and resolving cases of violence. The aforementioned law is noteworthy for defining forms of domestic violence: physical violence³⁸, sexual violence³⁹, psychological violence⁴⁰, spiritual violence⁴¹, economic violence⁴².

³⁶ Pt. 29 of the aforementioned report.

³⁷ Law no. 45 din 01 March 2007 on preventing and combating domestic violence, Official Monitor no. 55-56, 08 March 2008

³⁸ *physical violence* - deliberate infliction of bodily injury or harm to health by means of striking, pushing, throwing, hair pulling, stinging, cutting, burning, strangling, biting, in any form and of any intensity, by poisoning, intoxicating and other similar actions;

³⁹ *sexual violence* - any sexual violence or any illegal sexual conduct within the family or as part of other interpersonal relationships, such as marital rape, prohibiting the use of contraception, sexual harassment; any unwelcome or imposed sexual conduct; forced prostitution; any illegal sexual conduct with an underage family member, including fondling, kissing, posing and other unwanted touching of a sexual nature; other similar actions;

⁴⁰ *psychological violence* - imposing one's will or personal control, causing tension and mental suffering by means of offensive remarks, ridicule, swearing, insults, nicknames, blackmail, demonstrative destruction of objects, verbal threats, the showing of weapons or the hitting of domestic animals; neglect; involvement in personal life; acts of jealousy; imposing isolation by detention, including at home; isolation from family, community, friends; prohibiting professional accomplishments, prohibiting attendance of educational institutions; the taking of identity documents; intentional restriction of access to information; other similar actions;

The basic principles of preventing and combating domestic violence, as set out by the Law on preventing and combating domestic violence, include access to justice. In this regard, the relevant authorities tasked with preventing and combating domestic violence are required to react promptly to any notification and to inform victims regarding their rights, regarding the authorities and institutions responsible for preventing and combating domestic violence; about the type of services and organizations that could offer help; about the kind of help available; where and how complaints could be submitted; about the procedure that follows the submission of a complaint and their role following such procedure; how can protection be obtained; to what extent and under what conditions can victims have access to legal advice and assistance; if victims face danger to life or health following the release of detainees or convicts; if the protection order was annulled.

In a criminal case, a court in Chisinau sentenced C.V. to eight years in prison for actions that led to the death of his wife, a victim of domestic violence.

- The incident took place in January 2014. After a conflict with his wife, C.V., who was inebriated, dealt her several blows with an axe. As a result, the victim was hospitalised with serious injuries. She died in September 2014, after several months in a state of coma.

According to witness statements and evidence in the case file, the victim was repeatedly subjected to acts of domestic violence. Neighbours called the police several times to intervene and stop the abuse. C.V. had previously been registered as a domestic aggressor. However, authorities did not take sufficient measures to protect the victim.

Thus, by a sentence issued by the Centru District Court, C.V. was convicted of the offense set out under article 201¹, Domestic violence, para. (3) letters a) and c), causing serious bodily injury or harm to health or causing the death of the victim. He was sentenced to 8 years in prison.

In another case, a woman of 23 years old from the Straseni District, who takes care of five children, was sentenced to three years and eight months in prison for having killed her husband while defending herself from his violence. The court ruled the young woman to be handcuffed and arrested right in the courtroom in the presence of two biological children and the three sisters that she supports. The woman was escorted to prison no. 13 and all five minors were transferred to a placement centre.

In this case, the woman told the judges that both she and the children were assaulted by her husband, who consumed alcohol on a daily basis. She was brought before the judges after she stabbed her husband, while the man was beating her and threatening to kill her.

The young girl and the children were subjected to beatings for over six years. The aggression did not stop even when the woman has filed for divorce, according to one of the girl's sisters. The authorities knew about the violence taking place in this family, but, every time, the man only got fines. Being heard by the court of law, as witness, the head of police station stated that the defendant filed a complaint in August (the homicide was committed in December), invoking that she had been aggressed by her spouse. The protection order was issued at the beginning of September, but the husband breeched it repeatedly, which led to protocols being drawn up and a five hundred lei fine being applied (approximately 23 EUR).

This case aroused a strong reaction from civil society and government institutions. Thus, the lawyers of an NGO claimed that the woman acted in self-defence. They filed an appeal on

⁴¹ *spiritual violence* - underestimating or diminishing the importance of meeting moral and spiritual needs by prohibiting, ridiculing, punishing the aspirations of family members, by prohibiting, limiting, ridiculing or punishing access to cultural, ethnic, linguistic or religious values; imposing a system of unacceptable personal values; other similar actions or actions with similar repercussions;

⁴² *economic violence* - depriving of economic means, including depriving of livelihood, such as food, medicine and basic necessities; abuse of various positions of superiority for the purpose of taking away personal property; prohibiting the right to possess, use and dispose of common property; unfair control over common property and resources; refusal to support the family; forcing labor that is hard or harmful to health, including on an underage family member; other similar actions.

points of law with regard to the fact that she was arrested directly in the courtroom and escorted under guard, without the court justifying the application of this measure. This case came to the attention of the people's advocate (Ombudsman). Over 11,000 people signed two petitions on social networks in which they asked for a milder punishment for the young woman who takes care of five children.

Under pressure from public opinion and lawyers, a day after the arrest of the 23 years old woman, the Minister of Justice declared that the Ministry of Justice prepared its own case file, which allowed finding a viable solution. In his opinion, the situation requests immediate action, and observance of the principle of non-infringement in justice. There is a need to act within the limits of the law, first, by respecting the rights and interests of minor children in conformity with the international and national principles and in relation to the state of law. One additional argument brought forward by the Minister of Justice is that the woman's condition deteriorated. Subsequently, the Minister stated that a file was lodged with the competent court of law requesting the substitution of the arrest measure by another measure. In a few hours, the woman's sentence was changed. Tânăra a fost eliberată din detenție, însă a primit interdicția de a părăsi localitatea până la pronunțarea deciziei de către Curtea de Appel, care urmează să se expună asupra apelului declarat de avocatul femeii. It is worth mentioning that meanwhile, the Speaker of the Parliament thanked his colleagues from the Ministry of Justice for having legally intervened into the case, so that the woman stays beside her children and serves her sentence at home.

Continuously finding the same violations proves that violence against women is a systemic problem in the Republic of Moldova and should not be considered an exceptional case. Although measures have been taken to combat domestic violence, such as the adoption of Law no. 45 dated 01 March 2007 on preventing and combating domestic violence, the changes made to the Code of Civil Procedure, highlight the message that the fight against violence should go beyond the formal scope. Violence against women is, in this respect, one of the worst manifestations of discriminatory attitudes, since it threatens the physical and mental integrity of women. In the context of promoting the principle of equality and non-discrimination, such manifestations are inadmissible and intolerable, and huge efforts are needed to raise awareness regarding the concept of equality and non-discrimination.

In relation to this chapter, it is necessary to highlight the major role of judges and prosecutors in the correct enforcement of the legislation in the area of gender equality, in particular, in the criminal law relationships. In cases when the legislation is not gender-sensitive, in view of applying efficient procedural actions, as well as issuing court decisions compatible with the international and regional standards relating to gender equality, including women's access to justice, we recommend that the key stakeholders in justice:

- be aware of their gender stereotypes on domestic violence,
- be aware of the prevalence of the phenomenon,
- to be sensitive when talking to victims and dealing with the case.

This last proposal does not affect the court's impartiality; on the contrary, it allows taking into account all the facts, the victim's state of mind, and the specific ties/dependence on the perpetrator etc.

In ascertained cases of violence against women (including children), it is absolutely necessary that in criminal proceedings, all the actions of the law enforcement bodies and courts of law be efficient. Consequently, the enforcement of protection measures must provide a real protection to the victims. When the perpetrator's administrative liability does not produce any effect on his behaviour, the law enforcement body shall hold the aggressor liable for criminal offence.

Furthermore, it is recommended that the law enforcement bodies inform the victim of violence about the remedies foreseen in the legislation in view of seeking repair for the damage caused by the acts of violence.

3.2. Access of women to justice in the context of family law

According to 49% of men, divorce and separation laws favour women. People with a higher level of education and higher income often believe that laws are fair. 42% of women reported that divorce laws do not favour anyone. 57.4% of men and 49% of women claim that, in a divorce, the woman is more likely to obtain child custody. With regard to the laws on alimony, in case of divorce, 47.3% of men and 60.6% of women claim that these are geared both for men and women.⁴³

According to the case-law of the national courts, in most parental divorce cases, children remain with the mother. In this regard, it is imperative that the solution adopted by the court is based on objective and reasonable arguments. Unfortunately, there are situations of differentiated treatment associated with multiple discrimination. This is the case of a lesbian mother that was subject of violence and harassment by her former husband. After having requested divorce and recognised she is a lesbian, the child's father prohibited her to see their 7-year old daughter. Infuriated, her husband told her parents and teachers from the school their child was studying at that her mom is a lesbian and amoral. The court of law examined the case and obliged the defendant to bring evidence that there are no grounds of discrimination based on sexual orientation. Although in the court of law the woman acquired the protection order as victim of domestic violence, the court, without pointing to any reasons, decided that the child would remain with her father. The Court of Appeal rejected the appeal of the woman. Ultimately, the Supreme Court of Justice delivered the judgement granting the custody of the child to mother. It is worth noting that in this case, the Supreme Court of Justice, while establishing the custody of the child, issued a judgement that was also inspired from the provisions of the Convention on the Rights of the Child, avoiding any polemics and qualifications assigned to a person on grounds of sexual orientation: "According to Art. 38 Para (2) Letter d) of the Family Code, if no agreement is reached between the spouses or if it is proved that the agreement affects the rights and interests of minors or of one of the spouses, the court of law is obliged to establish the parent with whom the child will live after divorce. According to Art. 63 of the Family Code, when parents live separately, the domicile of the child who is under the age of 14 shall be determined through parents' agreement. If such an agreement is not reached, the domicile of the minor is established by the court of law, taking into account the child's interests and opinion (if the child is 10 years old). Therefore, the court of law will consider the attachment bond of the child with each of the spouses, with brothers and sisters, the age of the child, the moral qualities of the parents, the relationships between parent and child, the possibilities of the parents to ensure an appropriate environment for child's education and development (employment, working regime, living conditions etc.). When establishing the domicile of the minor, the court of law will request the opinion of the guardianship authority in the area of which the domicile of each of the parents is located. The principle of supreme interest of the child is the fundamental message of the Convention on the Rights of the Child, which entered in force for the Republic of Moldova on 25 February 1993, and its implementation is an obligation of key importance for the member states that ratified it. According to Art.3, Para (1) of the International Convention on the Rights of the Child, in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration."

Under such circumstances, when women's free access to justice is invoked, associated with multiple discrimination, the due diligence of the court of law shall be reflected through:

- Prevention and elimination of gender-based stereotypes;
- Shifting the burden of proof onto the defendant;
- Mentioning of the international treaties on non-discrimination in the text of the

⁴³ Men and Gender Equality in Moldova: Based on the IMAGES methodology / Diana Cheianu-Andrei, Iurie Perevoznic, Angelina Zaporozjan-Pirgari; Women's Law Center, the Center for Investigations and Consultancy "SocioPolis" - Chisinau: 2015.

decision and that shall add value to the judicial process.

It is essential to highlight the fact that gender stereotypes also affect men. The stereotypes that mothers are better fit for parenting should be challenged by the courts and child custody should be based on the best interest of the child and all facts, excluding stereotypes. On the other end, the stereotype that a man abusing a woman can still be a good father to children should also be challenged.

3.3. Access of women to justice in the context of labour law relations

*The Labour Code of the Republic of Moldova*⁴⁴ contains multiple safeguards in order to ensure equality and non-discrimination, including on grounds of gender, with regard to employment. Thus, the lawmaker took care to set out the fundamental principles inherent to the exercise of the right to employment (prohibition of discrimination with regard to labour relations, equal rights and opportunities, ensuring the right of employees to protection of honour, dignity and professional reputation during work (art. 5)), and to subsequently explain the contents of the prohibition of discrimination in the workplace (art. 8):

(1) Labour relations are subject to the principle of equal rights for all employees. Any discrimination, direct or indirect, of an employee on the basis of gender, age, race, skin colour, ethnicity, religion, political opinion, social origin, residence, disability, HIV/AIDS, association or trade union activity, as well as any other criteria unrelated to his professional qualities, shall be prohibited.

(2) Establishing certain differences, exceptions, preferences or rights of employees, that are determined by specific occupational requirements, as established by applicable law, or the special care of the state towards persons requiring enhanced social and legal protection, shall not be deemed to constitute discrimination.

The aforementioned principle is found in several provisions of the Labour Code:

- under art. 10 of the Labour Code, the employer is required to ensure equal opportunities and equal treatment of all persons, according to their profession, upon employment, when conducting orientation and training, upon promotion, without any discrimination.

- the setting and payment of wages cannot be subject to discrimination on grounds of sex, age, disability, social origin, family status, ethnicity, race or nationality, political opinions or religious beliefs, association or trade union activity (art. 128).

- a unit's internal regulations should observe the principle of non-discrimination, elimination of sexual harassment and any form of injury to dignity at the workplace (art. 199).

- the employer is required to compensate in full any material and moral damages of employees in connection with the performance of their work obligations, as a result of employee discrimination at the workplace or as a result of the illegal restriction of the ability to work, unless this Code or other laws provide otherwise (art. 329).

- when establishing cases of gender-based discrimination and the conditions favouring them within units, trade unions shall submit concrete recommendations to the heads of these units, the competent public authorities, with regard to their elimination (art. 386).

The Labour Code has been supplemented by the *National Strategy on employment policies for 2007-2015*⁴⁵, which is concerned with preventing and eliminating all forms of discrimination on the labour market (on the basis of sex, age, nationality, etc.), reducing wage disparities associated with such discrimination, promoting, by means of the labour market, the integration of persons that are disadvantaged for various reasons or at risk of social exclusion, and establishes, as policy directions: expanding the network of community or regional centres for counselling and occupational guidance for youth and women who, after a period of justified absence due to parental leave, return to work and are entitled to attend free professional training

⁴⁴ Labor Code of the Republic of Moldova, adopted on 28 March 2003, Official Monitor no. 159-162, 29 July 2003

⁴⁵ Decision of the Government of the Republic of Moldova no. 605 dated 31 May 2007 approving National Strategy on employment policies for 2007-2015, Official Monitor no. 82-85, 15 June 2007

courses, as well as categories of disadvantaged persons; reviewing existing laws in order to annul acts that facilitate (or prohibit) women's access to employment in certain sectors of the economy and the acquisition of certain professions (trades); encouraging the promotion of women to management positions in the private and public areas, ensuring public monitoring of equal opportunity, expanding the types of positions that can be occupied by women and fully bridging the wage gap; supporting the integration of the female labour force by providing care services for children and other dependents, encouraging the distribution of professional and family responsibilities between women and men, facilitating professional reintegration after maternity leave; gradual bridging of the retirement age established for men and women.

The expected results indicated in the Strategy include: continuous bridging of the wage gap between men and women, more efficient career development for women.

In 2009, the Government approved the *National Programme on ensuring gender equality for 2010-2015*⁴⁶, which aims to ensure the promotion and integration of gender equality in the areas of employment and labour migration, the budgetary process, women's participation in decision making, social protection and family, the health sector, education, violence and human trafficking, increasing public awareness. However, the term of implementation of actions set out in the two Action Plans for the medium term expired at the end of 2015. In this regard, the Ministry of Labour, Family, and Social Protection should develop a new program, under which it will consider the degree of implementation of such planned measures, the results achieved relative to the intended objectives, as well as the problems that continue to pose challenges to achieving gender equality.

Obviously, the national legal framework for combating discrimination on grounds of gender would seem incomplete and therefore imperfect, if the legislator had not provided mechanisms for suppressing conduct that is contrary to the principles of non-discrimination and equality. In this regard, depending on the seriousness of the deviation from conduct prescribed by law, a set of legal rules were put in place, which ultimately contribute to the suppression of deviant behaviour and compensating those who suffered as a result.

Nevertheless, occupational segregation of women still persists and the existence of gender-differentiated employment models, causing income disparities, is proven, even though the principle of equal pay for equal work is enshrined in law. Gender disparities still exist today, perpetuating the traditional roles of men, while women are limited in their ability to exercise their fundamental rights or develop their professional and personal potential. Women are most often victims of discrimination with regard to employment, and are placed in the difficult situation of reconciling their private, family and professional lives.

To illustrate the above-mentioned practice, we refer to the decisions of the Council for prevention and elimination of discrimination and ensuring equality. The decisions⁴⁷ concern employment ads, which are formulated in a manner that limits or excludes certain categories of people ab initio. In the first case, the applicant claimed that an ad placed on a web page limited said applicant's right to employment, since it listed gender and age requirements for candidates that excluded him, even though these requirements are not essential and determining occupational requirements for the vacant position. The second case was commenced ex officio. The Council commenced, ex officio, a review of the overall situation of all employment advertisements. In both cases, the Council explained the difference between a discriminatory announcement and a determining and essential occupational requirement. Thus, it drew attention to the fact that there is always a delicate balancing exercise between the need to protect against discrimination and the need to ensure real, legitimate and authentic occupational necessities. When placing employment ads, it is important for the employers to prove, every time, the proportionality of the requirements with the nature and scope of the work. In other words,

⁴⁶ Decision of the Government of the Republic of Moldova no. 933 dated 31 December 2009 approving National Program on ensuring gender equality for 2010-2015, Official Monitor no. 5-7 dated 19 January 2010

⁴⁷ Decisions on cases 041/13 and 050/14. Available online: www.egalitate.md (accessed on 16 November 2015)

employers can lawfully apply differential treatment based on personal characteristics only in limited circumstances, where these are essential for the job.

In particular, including a requirement as to the sex of the candidate in an employment notice can be considered discriminatory, with the exception of certain jobs involving activities where being of a particular sex is something actually relevant. The restriction in question is justified only when it concerns specific activities that should be performed only by male or female candidates. According to the Law No. 5 of 09.02.2006 on equal opportunities between women and men:

“The following shall not be considered discriminatory:

b) a difference in treatment based on sex-related characteristics for reasons which make reference to the nature of the special professional activity, when such a characteristics is an actual and determined professional requirement unless there is a legitimate aim and the requirement is proportional;”

c) special advertisements for employment of persons of certain sex, which make reference to the nature of the special professional activity, when such special characteristics based on sex are actual and determined professional requirements, unless there is a legitimate aim and the requirement is proportional;”

In another case⁴⁸, the applicant alleged that her employer, an airline, concludes individual labour agreements with flight attendants for one year, each time extending the agreement, at the beginning of the subsequent year, for another year. In addition, she claims that she was discriminated against by her employer when he terminated her employment, allegedly on grounds of expiry of the contractual term, but in reality because of her pregnancy. In its decision issued on 19 June 2014⁴⁹, the Council found that the inclusion by the employer of the contractual clause instituting a defined term for the agreement is illegal, because the character of the work performed within the company in question does not fall under any legal situation that would allow the conclusion of a fixed-term employment agreement. Thus, the Council noted that the conclusion of labour agreements for a particular period of time in cases not allowed by labour law gives rise to a presumption of discrimination of employees based on criteria protected under the law, namely sex and motherhood. In this case, the Council found that the presented facts constituted discrimination with regard to employment on grounds of motherhood and sex.

In relation to the same facts, the woman lodged a writ in the court of law, invoking discrimination. Based on the decision of the court of law of 10 September 2013, the woman was reinstated to her job. After three days, on 13 September 2013, the woman was dismissed again because “she was absent from her workplace and did not fulfil her duties”. She was absent on 11 and 12 September. Since she was not notified about being re-employed, she did not come to her workplace. The former employee took again legal action and proved that the employer did not take into account the provisions of the Labour Court which foresee that the employment order (decree, decision, enactment) shall be communicated to the wage earner (who has to sign it) within a period of three working days after the parties signed the individual labour agreement.

As a result, on 12 December 2013, the court of law ruled the annulment of the dismissal order. After two days, the air company reinstated the woman to her job, without notifying her. Consequently, on 18 December, 2013 she was dismissed again, on the same ground: workplace absence. The two dismissal orders of 13 September and 18 December are absolutely identical. The woman had to defend again her rights in the court. Although she won the lawsuit in the Supreme Court of Justice, the air company repeatedly challenge the decisions of the national court of law and the woman is required to appear in court and employ a lawyer.

4. Case-law of the European Court of Human Rights on women's rights in cases against the Republic of Moldova

⁴⁸ Case 105/14, commenced following the complaint of Mrs. S.T. and Mrs. A. E. regarding the alleged discrimination on grounds of motherhood with regard to the exercise of the right to employment

⁴⁹ Available online: http://egalitate.md/media/files/files/decizie_105_14_5488439.pdf. (accessed on 16 November 2015)

In this regard, we find it useful to present the case-law of the European Court of Human Rights (ECtHR) in cases against the Republic of Moldova in which the ECtHR had the occasion to rule on matters of violence against women. In all court cases, the Court found non-compliance with the provisions of Article 3 (prohibition of torture) and, selectively, Article 8 (right to respect for private and family life), or Article 14 (prohibition of discrimination) taken together with Article 3. (*Annex 2*)

The first judgment regarding the Republic of Moldova in which the Court examined the issue of domestic violence as a form of discrimination on grounds of gender is in the case of *Eremia v. Moldova*⁵⁰. The case concerned an application brought by the applicants - a mother and her two daughters - in which they allege a violation of their rights under the Convention due to the Moldovan authorities failing to undertake the necessary measures to protect them from the violent and abusive behaviour of her husband, respectively, their father - a police officer. In particular, the applicants complained that the authorities had failed to take appropriate action in order to prevent domestic violence, safeguard them from its effects, examine their complaints and sanction the perpetrator. They argued that the violence was gender-based and led to discrimination contrary to Art. 14 of the Convention.

Having analysed, in this particular case, the manner in which the authorities handled the case, in particular their knowledge of the danger of further domestic violence and their failure to apply effective measures against the perpetrator, the Court found that the State had failed to fulfil its positive obligations under Article 3 of the Convention and that there has therefore been a violation of this provision in respect of the first applicant.

Regarding the complaint about the alleged discrimination on grounds of gender, the Court referred to its findings that the first applicant was subjected to violence by her husband several times and that the authorities were aware of this. Additionally, the Court also noted that, having repeatedly been the victim of domestic violence, the first applicant requested an urgent examination of her application for divorce. Nevertheless, the judge apparently refused to consider such application as a matter of urgency and the president of the domestic court has not undertaken any official action with regard to the complaint filed in this regard. Furthermore, the first applicant was summoned to the local police commissariat and was persuaded to withdraw her complaint against the aggressor. Moreover, the complaint submitted by her lawyer regarding this fact was apparently left unanswered. It is also evident that the Department of Social Assistance and Family Protection of Calarasi failed to enforce the protective order on behalf of the applicant until 15 March 2011 and, allegedly, had repeatedly insulted the applicant by suggesting a reconciliation, because, at any rate, "she was neither the first nor the last woman beaten by her husband"⁵¹. Finally, having recognised that he had beaten his wife, the aggressor was, in principle, exempted from any responsibility as a result of the prosecutor's order on the conditional suspension of proceedings.

In the opinion of the Court, the combination of the above factors clearly shows that the authorities' actions were not a mere omission or delaying of the case regarding violence against the applicant; rather, these led to a repeated show of tolerance for violence and reflected a discriminatory attitude towards the first applicant as a woman.

Thus, in the particular circumstances of the case, the Court found that there had been a violation of Article 14 together with Article 3 of the Convention in respect of the first applicant. Ruling on an equitable basis, the Court awarded the applicants the sum of EUR 15,000 for non-pecuniary damages and EUR 2150 for costs and expenses.

This case illustrates the difficulties for victims of domestic violence in upholding their rights and obtaining protection and remedies. It includes several elements recurring in cases of domestic violence. E.g., lack of effective protection measures, not charging the perpetrator,

⁵⁰ ECHR Judgment dated 28 May 2013. In the HUDOC database. [on-line]: <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-127742>. (accessed on 10 November 2015)

⁵¹ Aforementioned judgment., par. 87.

dealing with the case as a private matter and discouraging the woman to file a complaint, applying gender stereotypes (this attitude undermines the victim's trust in the justice system and discourage them from upholding their rights).

In the case of *B. v. the Republic of Moldova*⁵² the applicant complained that she was subjected to violence by her former husband, however the State authorities had not undertaken all the required measures in order to stop and prevent similar situations. In this case, in January 2007, the applicant divorced, but continued to live with her ex-husband in the same apartment, with him regularly insulting and abusing her, a fact confirmed by seven forensic reports made between September 2007 and January 2008, that revealed light bodily injuries caused to the applicant "as the result of the traumatic application of hard blunt objects having a limited surface". Between April 2007 and April 2008, the courts had issued six decisions on the application of administrative sanctions in connection with the beatings. In two of these cases, the court ruled to terminate the administrative proceedings. In the other four cases, the courts fined the ex-husband for insulting the applicant and inflicting bodily injuries. The fines ranged from MDL 140 to 300. The fines were paid in full.

In 2008, the applicant filed a civil claim against her former husband, seeking his eviction from the apartment citing his violent behaviour. On 23 June 2008, the Centru District Court of Chisinau granted the applicant's claim. The court found that her former husband had behaved violently with regard to the first applicant and insulted her in the presence of their children, as confirmed by the forensic examination reports and the decisions of the courts. On 30 October 2008, the Chisinau Court of Appeal upheld said judgment. In addition to the evidence relied upon by the courts, the Chisinau Court of Appeals heard her two children, who confirmed the testimony of their mother and asked their father to be evicted from the apartment. On 20 May 2009, the Supreme Court quashed the judgments of the lower courts and issued a new judgment, which dismissed the first applicant's claim and upheld the claim of her former spouse. The Supreme Court deemed the conclusions of the lower courts regarding the systematic mistreatment of the first applicant to be erroneous. The court noted that one administrative case, in which the former husband had been blamed of violence against first applicant, was terminated due to the reconciliation of the parties, while another was terminated due to the expiry of the term of prescription for applying fines. In one of the four decisions, it was noted that the applicant herself provoked her former husband. The other three decisions did not find the former husband to have a systematically violent behaviour. Furthermore, it was not proven that he was dependent on alcohol or drugs. According to a certificate issued by the Association of owners of privatised housing, the former husband was not known to have caused conflicts. In addition, he proposed to the first applicant to privatise the apartment and sell it, so that they could buy separate apartments, but the first applicant refused. In addition, the court found that both sides could continue to live in the same apartment. The decision was irrevocable.

After the decision of the Supreme Court of Justice, the former husband continued to behave violently against the applicant, insulting her and trying to rape her. On 2 September 2011, the Centru District Court of Chisinau issued a protection order, valid for a period of three months, partially admitting the claim, ordering the former husband to stay away from the first applicant at a distance of 200 m, to refrain from contacting her and visiting her workplace. The court refused to order the temporary evacuation of the former husband from the apartment, because it was not proved that he was physically or mentally violent towards the children. Similarly, it was established that he has no alternative living premises. Her appeal of the decision was rejected by the Chisinau Court of Appeal for the same reasons that were invoked by the first instance court. This decision was irrevocable.

Before the European Court of Human Rights, the applicant complained that the national authorities failed to order the eviction of the abuser and found that, in fact, his right of ownership took priority with regard to her right not to be subjected to ill-treatment. Moreover, although the

⁵² B. v. the Republic of Moldova, Judgment dated 16 July 13.

courts found that her former husband had committed acts of violence against the applicant, they applied insignificant sanctions that had no effect on his behaviour.

As general principles applicable to cases on Article 3, the ECtHR reiterated that Article 1 of the Convention, in conjunction with Article 3, imposes certain positive obligations on States to ensure that individuals under their jurisdiction are protected from all forms of ill-treatment prohibited by Article 3, including when such treatment is given by private individuals. This obligation must include the effective protection of a specific individual or individuals from unlawful acts of third parties, as well as reasonable measures to prevent ill-treatment of which the authorities knew or ought to have known. For an investigation to be assessed as "effective", it should, in principle, be able to establish the circumstances of the case and lead to the identification and punishment of those responsible. This is not an obligation of result, but one of means.

Referring to the allegations of the applicant, the Court found as follows:

- national authorities, particularly the police and the courts, were not entirely passive, having carried out forensic examination and having commenced criminal investigations. However, none of these measures were enough to prevent the aggressor from committing further acts of violence. In particular, the fines applied were small and did not have any intimidating effect.

- the authorities did not analyse the severity and number of assaults to which the applicant was subjected and the importance of the first allegation of rape, which demanded a continuation of the criminal investigation, despite the fact that the applicant withdrew her complaint.

- the continued stay of the applicant with her abuser in her own apartment subjected the applicant to a constant feeling of fear of possible ill-treatment, given the number of previous assaults. This fear was serious enough to cause the applicant distress and anxiety, which constituted inhuman treatment under Article 3 of the Convention.

With regard to the alleged infringement of the right to private life, as a result of the fact that the applicant was compelled to abandon her home, even though, similarly to her former husband, she had no alternative living space, the ECtHR noted that the physical and moral integrity of the applicant, constituting the object of the concept of private life, was affected by periodic abuse. This should have provoked the authorities to act, based on their positive obligations imposed under Article 8 of the Convention.

On 20 May 2009, the Supreme Court of Justice, when repealing the decisions of the lower courts, did not deem the six administrative cases regarding the former husband as sufficient evidence to clearly show his violent behaviour. During the civil suit of 2011, the courts had made a simple reference to the decision dated 20 May 2009 to confirm the right of her former husband to not be evicted from the apartment without taking into account the acts of violence that he had subsequently committed in 2010 and 2011. The courts did not attempt to determine whether the rights of the former spouse to use the apartment violated to some extent the rights of the first applicant as guaranteed under Article 8 of the Convention. Thus, the national authorities had not complied with their positive obligations under Article 8 of the Convention. They failed to maintain a fair balance between the rights concerned and had effectively coerced the first applicant to be under a continuing risk of being subjected to violence or to abandon her home.

Ruling on an equitable basis, the Court awarded the applicant the sum of EUR 15,000 for non-pecuniary damage and EUR 3,000 for costs and expenses.

The Court found the same practices of discrimination on grounds of gender in the cases of *Mudric versus Moldova*⁵³, *T.M. and C.M. versus Moldova*⁵⁴. Thus, in all the aforementioned cases, the Court found violations of Article 14 of the Convention in conjunction with Articles 3

⁵³ ECHR Judgment dated 16 October 2013. In the HUDOC database. [on-line]: <http://hudoc.echr.coe.int/eng?i=001-139804>. (accessed on 24 November 2015)

⁵⁴ ECHR Judgment dated 28 January 2014. In the HUDOC database. [on-line]: <http://hudoc.echr.coe.int/eng?i=001-154882>. (accessed on 24 November 2015)

and 8, on the grounds that the authorities had displayed a discriminatory attitude and failed to apply the national legislation adopted in order to provide protection against domestic violence due to preconceived ideas on the role of women in the family.

In the case of *N.A. v. the Republic of Moldova*⁵⁵ the applicant was the victim of a gang rape committed by several teenagers, who gathered in an abandoned store to celebrate a birthday and consume alcohol. The oldest was, seventeen at the time of the crime. The applicant was thirteen at the time of the events. Although the applicant's mother filed a complaint regarding the rape of her daughter to the Buiucani prosecutor's office on 4 September 1997, and the rape was confirmed by the conclusions of a forensic examination, only by a judgment dated 2 March 2005, the court declared the five defendants guilty of the group rape of a minor, giving them a 5 year suspended prison sentence, with a one year probation period. In addition, the court partially granted the civil claim filed by the applicant and ordered the collection of the sum of MDL 10,000 (about EUR 620) and, accordingly, MDL 1,500 (about EUR 93) for non-pecuniary damages and costs and expenses from the defendants, on a joint and several basis, for the benefit of the applicant. By a decision of the Chisinau Court of Appeal, the sentence of the first instance court was quashed. The Supreme Court of Justice rejected the appeal on points of law filed by the applicant as inadmissible.

The applicant argued before the ECtHR that the criminal investigation conducted in connection with the complaints regarding her rape was not complete and that the State authorities did not undertake all steps to identify all aggressors. She stated that she herself could only identify seven of those who participated in her rape, but the authorities stopped at prosecuting only those seven people. In addition, she noted that only five of these people were brought to justice, whereas the other two escaped prosecution. Additionally, the applicant regretted not being subjected to a psychological examination by the criminal investigation bodies. Furthermore, she claimed that the charges against the defendants were dropped solely because of a procedural error committed by the criminal investigation bodies. Finally, she argued that the prosecution, failing to submit an appeal on points of law against the decision of the Court of Appeal on the termination of criminal proceedings regarding the defendants, acted in a manner inconsistent with the positive obligations of States in accordance with Article 3 the Convention.

Referring to the allegations of the applicant, the ECtHR found as follows:

- Article 3 of the Convention enshrines one of the fundamental values of a democratic society. This article does not set out any restriction, thereby being different from most provisions of the Convention, and under Article 15 § 2 of the Convention, it does not allow any derogation;
- States have a positive obligation, inherent to Article 3 of the Convention, to adopt criminal rules that would impose effective sanctions for rape and to implement them through effective investigation and prosecution. Undoubtedly, this is not an obligation of result, but an obligation of means. The authorities must undertake reasonable measures available to them in order to obtain evidence regarding the facts in question, including the statements of the victim, witness statements, expert reports and adequate medical certificates, that would provide a full and precise assessment of the injuries and carry out an objective analysis of the medical findings. In addition, for an investigation to be deemed effective, it needs to be conducted in a reasonably prompt and diligent manner. In this regard, the national courts should not tolerate, under any circumstances, that the harm caused to the physical and psychological integrity of a person would remain unpunished. This is essential to maintain the confidence of individuals in the principle of legality and to ensure their adherence to the rule of law, as well as to prevent any semblance of acceptance of unlawful actions or conspiracy in committing such actions.

The actions of the national authorities that led to a failure to comply with the positive obligation to conduct an effective criminal investigation in this case included:

⁵⁵ N. A. v. the Republic of Moldova, Judgment dated 24 September 13. <http://agent.gov.md/wp-content/uploads/2015/03/N.A.-RO.pdf>

- in order to fully resolve the main issue in this case, namely determining the persons who committed the rape, the authorities did not question the people who knew the applicant and the suspects, namely their friends, neighbours, teachers and any persons able to provide clues as to the credibility of the testimony of the parties, and did not confront all the persons involved between themselves;

- lack of a psychological expert determination;

- no action was undertaken by law enforcement bodies to track down one of the rapists.

Therefore, the Court, without ruling on the criminal liability of the alleged aggressors, found that the investigation conducted in this case did not comply with the requirements imposed on the State to investigate and sanction the facts alleged by the applicant. Therefore, there had been a violation of the respondent state's positive obligations under Article 3 of the Convention. Additionally, the applicant claimed, in her last remarks, that there had been a failure by the national authorities to respect her right to private life. The Court rejected this part of the application as tardy.

Ruling on an equitable basis, the Court awarded the applicant EUR 10,000 for non-pecuniary damages and EUR 1,150 for costs and expenses.

5. Methodological Aspects of Continuing Education on Gender Equality at the National Institute of Justice

Gender equality, as an overriding concept of our times, is promoted through national laws and international tools and must entail the adaption of a professional behaviour to the situations ensuing from the judges and prosecutors' experience, where women's free access to justice is or could be invoked. This also implies turning down the gender-based stereotypes and changing the mindset. The only possibility of achieving this is by sharing knowledge on this subject through continuing education sessions. Training sessions become fruitful when the theoretical content is intermingled with practical exercises, as it is described in the enclosed training schedule (Annex 1). The case studies can serve as useful tools.

We recommend taking into account the following case study quoted from "Preventing and Combating Domestic Violence against Women. A learning resource for training law enforcement and justice officers"⁵⁶:

Ruxandra and Alexandriu had been in a relationship for 3 years at the time of this incident. There had been incidences of violence during the relationship but Ruxandra had never reported any of them to the police. She didn't report them because Alexandriu always seemed very remorseful after each incident. He blamed the violence on the stress of his job and the fact that Ruxandra was always 'nagging' him about his drinking and drug taking.

On the day of the incident, Ruxandra was treating Alexandriu to a night out because it had been his birthday during the week. They decided to go away to a hotel for the weekend. On the way up, Ruxandra gave Alexandriu her bank card and security number to withdraw some cash for the weekend.

When they arrived at the hotel, Alexandriu started smoking cannabis. When Ruxandra complained, he started shouting at her, that it was his birthday and he could do what he wanted. Ruxandra continued to argue with him and Alexandriu punched her in the face, breaking her nose in the process. The manager of the hotel came to their room because of the noise. He saw that Ruxandra was upset and he saw that her nose was bleeding. He asked her what had happened and she told him that Alexandriu had punched her in the face and broken her nose. The manager told Alexandriu that he was going to call the police and Alexandriu punched the manager in the face as well, breaking his glasses and causing above his left eye. Alexandriu ran out of the room, whilst the manager was calling the police.

When the police arrived, they searched the hotel for Alexandriu and found him at the cash machine in the hotel lobby. He had Ruxandra's bank card and had withdrawn 10,000 lei

⁵⁶<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805970c1>

from her account. The police told Alexandriu what Ruxandra and the manager had said. He admitted hitting Ruxandra and the manager. He also admitted to taking the money out of Ruxandra's bank account. Alexandriu was arrested by the police and charged.

When Alexandriu appeared in court, he pleaded not guilty to all the charges.

You are the judge in this case:

1) You need to decide on pre-trial detention, on the removal of the perpetrator from the common residence and on keeping distance from the victim.

-What measures would you decide?

2) The case of Ruxandra and Alexandriu is now listed for trial. There are 5 witnesses for the prosecution: Ruxandra, the hotel manager, 2 police officers and a doctor. The only witness for the defence is Alexandriu. However, last minute, Ruxandra refuses to participate in court proceedings or to testify.

-How would you react on the basis of the victim refusing to participate in court proceedings?

-What could you do to facilitate Ruxandra's testimony in trial?

3) Finally, Ruxandra changes her mind and, before the trial starts, the prosecution makes an application for Ruxandra to give her evidence from a different location.

-What information do you need in order to help you make a decision?

-Which evidence is going to be particularly relevant for you?

4) You have heard evidence from all of the witnesses and were satisfied so that you are sure that Alexandriu committed the crimes he was charged with. You have adjourned the case for sentencing.

-What information would you need from the prosecutor to help you pass an appropriate sentence? -What factors would you take into account in sentencing Alexandriu?

-Can you do something else in addition to sentencing Alexandriu?

Additionally, to integrate the acquired knowledge, on the last day of the seminar, the attendees shall be asked to identify possible mistakes in the content of one court judgement, which the trainer depersonalised and altered in advance.

To organise successful training sessions, we suggest inviting specialists from other areas who relate to the phenomenon of domestic violence by virtue of their profession: psychologists, social workers, police officers etc. The multifarious character of the training brings added value to the content of the seminar.

6. Conclusions and recommendations:

Based on the aforementioned legal provisions, we can conclude that the legislator, although not explicitly prohibiting gender-based discrimination, adopted an adequate legislative framework prohibiting discrimination on grounds of sex. This will subsequently allow, in the event of a ratification of the Convention on preventing and combating violence against women and domestic violence⁵⁷, discrimination criteria to be supplemented with those based on gender without requiring sophisticated legislative techniques to implement international standards in internal law.

To summarise, we conclude that the Republic of Moldova has, over recent years, undertaken considerable efforts to adjust the national legal framework on human rights in general, and particularly on non-discrimination, to international standards on non-discrimination. Although the national legal framework provides, in principle, a level of protection against discrimination on grounds of sex/gender that corresponds to European standards, it nevertheless requires some harmonisation. Additionally, it is necessary for the national legal system to incorporate the full set of internationally agreed standards, so as to provide the highest possible level of protection against discrimination on grounds of gender. In this regard, it is recommended

⁵⁷<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168046031c>

to ratify Protocol no. 12 to the European Convention on Human Rights and Fundamental Freedoms which extends the protection against discrimination provided by the Convention.

Ratification of the Protocol is a crucial step towards the European integration of the Republic of Moldova. Note that the ratification of Protocol No. 12 will not necessarily lead to an increase in the number of applications to the ECHR in order to test the compatibility of the national legal framework. On the contrary, the ratification of this regional instrument will increase the effectiveness of existing national rules and regulations and will strengthen the institutional capacities of bodies specifically created for the purpose of ensuring non-discriminatory treatment. Subsequently, the ratification of the aforementioned international instrument will prompt courts to, amongst other things, appropriately apply the standards of ensuring free access to justice for women.

Aiming to serve as a theoretical and practical support for the work of judges and prosecutors, this handbook analyses national and international legal provisions, as well as case-law, and puts forward the following conclusions:

1. Gender equality is not only required under human rights standards; it is also an important promoter of economic growth and development.⁵⁸

2. Moldovan laws regarding the prevention and elimination of gender-based discrimination, having been inspired by European values, may be progressive. Nevertheless, the national legal framework is incomplete, lacking viable mechanisms especially for fighting domestic violence.

3. With regard to specific areas of activity, we note that women continue to be discriminated against in political life, in employment, in the workplace and in the family.

4. Violence against women, including domestic violence, is one of the worst forms of gender-based human rights violations in Europe, and it is still hushed.⁵⁹

5. The case law of the Strasbourg Court gives rise to the idea that interference by the authorities in private life and family life may become necessary for the purpose of safeguarding health and a person's rights or to prevent illegal actions in certain circumstances. Acts of domestic violence for example, must not be deemed private matters. Finally, States should maintain and apply in practice an adequate legal framework, that would provide protection against acts of violence by individuals.

Recommendations:

In this regard, we deem the following measures to enhance the effectiveness of actions aimed at fighting gender stereotypes in order to ensure gender equality and, respectively, improve women's access to justice, to be appropriate and welcome:

1. organise initial and continuing education seminars for judges and prosecutors having the following objectives:

- explain the concept of discrimination on grounds of gender;
- outline the relevant international and European standards, including CEDAW and the Istanbul Convention;
- identify the areas of life where the discrimination of women is most commonly found, as well as those rights in the exercise of which individuals are disadvantaged on grounds of gender;
- challenge gender stereotypes;
- analyse relevant case law for the purpose of identifying the arguments relied upon by the European Court of Human Rights and CEDAW when, in the particular circumstances of a case, it deems a difference in treatment as discriminatory on grounds of gender;
- assess the effectiveness of the national regulatory framework for combating discrimination on grounds of sex.

⁵⁸ International Bank for Reconstruction and Development / World Bank, *Women, Business and the Law 2014: Removing restrictions in the development of gender equality, key findings* (Washington, 2013), p. 22.

⁵⁹ Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence

2. conduct public information activities in the field of gender equality and, in particular, combating domestic violence, by strengthening the capacity of NGOs (in this regard, joint actions of NGOs and law enforcement bodies are welcome);

3. ensure women's access to justice by creating effective mechanisms to this end, including by ensuring the availability of legal aid for victims of domestic violence;

4. explicitly establish within the legal framework a mechanism for the compensation of moral and material damages, as well as damages for injury to the health of victims of domestic violence

5. ensure that persons who commit domestic violence are held liable;

6. enhance the ability of criminal investigation authorities to commence ex officio investigations regarding domestic violence;

7. offer protection to victims of domestic violence;

8. judges and prosecutors must realise specific difficulties and circumstances faced by Roma women, minority women or women with disability. They should ensure that they have access to justice. E.g. by having interpreters, explaining procedures, making the courtroom physically accessible.

Annex 1:

**AGENDA
SEMINAR
” WOMEN'S RIGHTS AND THEIR ACCESS TO JUSTICE.
ACCESSION TO THE LEGAL PROFESSION”**

Day one

8:45-9:00

Registration of participants

9:00-9:15

- **Introductory speech**

- 9:15-10:15 • Introductory session
- 10:15-10:30 • Q&A session
- 10:30-10:45 *Coffee break*
- 10:45-12:15 • Access to justice. Women’s rights. International standards and case-law examples
- 12:15-13:00 *Case study/discussion*
- 13:00-14:15 *Lunch*
- 14:15-15:15 • Rules regarding access to justice set out in the Istanbul Convention (Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence)
- 15:15-15:30 *Coffee break*
- 15:30-16:30 • Rules regarding access to justice set out in the Istanbul Convention (Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence). *Case study/discussion*

Day two

- 8:45-9:00 Registration of participants
- 9:00-10:00 • ECHR case law on the rights of women
- 10:00-10:30 • Workshop „ Access to justice for victims of gender-based violence” (sexual violence)
- 10:30-10:45 *Coffee break*
- 10:45-11:30 • Workshop „Access to justice for victims of gender-based violence” (sexual violence, continued)
- 11:30-13:00 • Workshop „Access to justice for victims of gender-based violence” (domestic violence)
- 13:00-14:15 *Lunch*
- 14:15-15:30 • Women’s accession to the legal profession
- 15:30-15:45 *Q&A session*
- 15:45-16:00 *Coffee break*
- 16:00-16:30 *Assessment of the seminar. Feedback from participants. Issuing of certificates*

Annex 2:

CASE	DATE	ARTICLES	FACTS	SATISFACTION
N.A.	24.09.13	3 - breach of the positive obligation of conducting an investigation	Group rape	EUR 10,000

B.	16.07.13	3 – obligation to protect 8- forced to live together	Systematic beatings, insults, divorce, living in the same apartment, application for eviction, seven forensic reports, 6 judicial decisions: 2 terminated, 4 - resulting in fines	EUR 15,000
Mudric	16.10.13	3 – failure to enforce protection orders 14, taken together with 3	Divorce, systematic beatings, aggressor is mentally ill, 3 protection orders	EUR 15,000
T.M and C.M.	24.04.14	3- obligation to protect 14 taken together with 3	Mother and daughter, spousal abuse, gambling, dividing of apartment, suspension by court of protection order, 2 orders	EUR 15,000
Eremia	28.08.13	3, 8, 14 taken together with 3	Mother, 2 daughters, police officer, violence, insult, divorce proceedings, protection order, strangulation	EUR 15,000