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Assessment of Gender Dimension in the Justice Sector of the Republic of Moldova The Personal Price Paid by Women in the Judiciary

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REPORT

**ASSESSMENT OF GENDER DIMENSION
IN THE JUSTICE SECTOR
OF THE REPUBLIC OF MOLDOVA
THE PERSONAL PRICE PAID
BY WOMEN IN THE JUDICIARY**

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Contents

Abbreviations	6
1. Why is it Important to Conduct a Gender Dimension Assessment in the Justice Sector?	7
a. Scope of the Research	7
b. Methodology of the Research	9
c. European Models for Promotion of Gender Equality	14
d. Women in the Republic of Moldova	15
2. Profile of a Woman Judge in the Republic of Moldova	17
a. Is the Judiciary System Ready to Welcome Women Judges?	17
b. Snapshot of the Gender Profile of the Moldovan Justice System	18
3. Non-Discriminatory Access to Profession	23
a. The Procedure of Admission to the NIJ and the Training of Initial Applicants	25
b. Procedure Applied by the SCM in Selecting the Candidates for Judges' Positions	26
c. Eligibility Criteria	27
4. Career Promotion and Appraisal –Where the Equality Ends	29
a. The False Assumption that the Women Judges have no Interest in Career Promotion	30
b. Procedure of Promotion to a Higher Level Court or to a Managerial Position	34
c. The SCM as a Non-representative Institution	37
5. Structures for the Professional Development of Judges	39
a. Ongoing Professional Training	39
b. Professional Associations	40
6. Gender Stereotypes in the Justice System	43
a. A Profession Overburdened with Gender Stereotypes	43
b. “Doamna judecător”(„Mrs Judge”) or “Doamna judecătoare”(„Mrs Judge”)?	44
c. Discrimination? Where is the discrimination?	46
d. Harassment in the Workplace and Sexual Harassment	50
7. Accommodating Pregnancy and Maternity	55
8. The family – the Price of Being a Successful Professional.	61
Recommendations	65
References	67

Abbreviations

ACA	Agency for Court Administration
CEPEJ	Council of Europe European Commission for the Efficiency of Justice
BSCJ or Selection Board	Board for the Selection and Career of Judges
DEX	Romanian Language Explanatory Dictionary
ICMS	Integrated Case Management System
NCCD	National Council for Combating Discrimination (Romania)
NIJ	National Institute of Justice
ODIHR	Office for Democratic Institutions and Human Rights
OSCE	Organisation for Security and Cooperation in Europe
SCJ	Supreme Court of Justice
SCM	Superior Council of Magistracy

1. Why is it Important to Conduct a Gender Dimension Assessment in the Justice Sector?

a. Scope of the Research

The principle of gender equality, as stated in the national law and in the international commitments of the Republic of Moldova, establishes certain legal obligations on the state to take active measures to ensure equal treatment and equal opportunities in practice for both women and men. The judiciary is one of the core areas in which the state is manifesting itself in the society as an employer; thus, the state is getting an opportunity to develop genuinely best practice models for managing human resources, starting from the conditions of entry and career promotion and moving on to working conditions, working hours and occupational safety. Moreover, numerous specialized reviews kept highlighting that the act of justice as well as its quality, depends at large on the independence, well-being and diversity of the judicial body. The beneficiaries of the act of justice, the entire society, have more confidence in a judiciary that reflects from the sociological standpoint the plurality and diversity of the society.¹ Therefore, we considered that the Moldovan society will have a chance to improve the situation if we carry out an assessment of the gender equality within the system of justice and provide specific recommendations so that both women and men employed in the judiciary system would enjoy equal opportunities and equal treatment.

The profession of a judge was traditionally male-dominated. Before 2008, 76.4% of judges in the Republic of Moldova were men.² During the last decade, the percentage of women judges went up from 33.6% to 47.7%. The gradual increase in the number of women in the judiciary system was analysed in our report and defined as “feminization of justice”, i.e. a process that has evolved naturally, in the absence of any adequate public policies to recognize the presence of women and their interests. This is an exceptional change that has taken place over a short time span and it was not prompted by any policies aimed at reflecting and accommodating participation in the justice system of representatives from a different social group. Men keep on being the majority in the managerial positions in the

¹ OSCE, ODIHR, *Gender, Diversity and Justice*, Overview and Recommendations, 2019.

² The National Bureau of Statistics, Ministry of Internal Affairs, Share of women in decision-making bodies: break down by indicators and years, 2008, available at: http://statbank.statistica.md/pxweb/pxweb/ro/50%20Statistica%20gender/50%20Statistica%20gender_GEN03/GEN030200soc.px/table/tableViewLayout1/?rxid=9a62a0d7-86c4-45da-b7e4-fecc26003802.

judiciary system, thus making gender inequality more than obvious. When undertaking gender equality seriously, it is clear that it does not mean merely a formal, numerical equality in terms of access to profession. The formal presence is not sufficient. Instead becomes mandatory a requirement to accommodate special needs and reduce that striking difference, including through such accommodation measures that do not affect the judicial impartiality and/or the professional image of either male or female judges.

As part of the present research, our objective was to find out what is the status of gender equality in the justice system of the Republic of Moldova, to identify if there are gender inequalities and to establish the possible causes of such inequalities. We paid special attention to the rate of women and men representation in the judiciary according to the age pyramid at different professional and jurisdictional levels as well as to the conditions for entry into the profession of a judge and career promotion. It was also important to identify the manifestation of gender stereotypes in the justice system and establish whether the judiciary has sufficient capacity to deal with possible cases of harassment in the workplace and/or sexual harassment. We also investigated to what extent and how pregnancy and maternity needs are covered and what is the balance between work and family life, including the availability and use of childcare leave by the employees within the judicial system. For each of the areas reviewed, we concluded with lines of action and specific steps to be taken in the short run by the authorities in order to ensure genuine gender equality at the institutional level and to accommodate the specific interests and needs of women judges in the workplace. The report also includes general recommendations addressed to the Parliament, the Ministry of Justice, the SCM and the NIJ, to the presidents of the courts as well as to the international donors and civil society interested in providing support to the improvement of the internal management procedures within the judiciary system of the Republic of Moldova.

Due to limitations embedded in the research, we chose to focus on studying the status of women judges. The conclusions based on the results of our study apply mainly to the profession of judge; however, some recommendations could also apply to other professions within the court system; for example, the aspects regarding adoption of internal rules, sanctioning the acts of harassment, adaptation of courts so that they respond to the needs of employees resuming work after the childcare leave, are equally relevant for a judge, a legal assistant or a court clerk.

“Gender balance and minority representation in justice systems are important factors for fairer justice system outcomes. This is due to a number of factors, including increased public trust in justice systems when the justice sector workforces are visibly more diverse. In addition, workplace diversity can help make justice sector practitioners more sensitive to different considerations for different groups, allowing them to overcome their implicit biases and unconscious stereotyping.”³

³ OSCE, ODIHR, *Gender, Diversity and Justice*, Overview and Recommendations, 2019.

The conclusion drawn from our study is that, although, at first sight, gender equality exists in terms of the presence of women as actors in the justice system in the Republic of Moldova, still they are highly underrepresented in managerial positions (in the higher level courts or leading positions in the courts). This gives the impression of hitting an unbreakable glass ceiling. This glass ceiling that leads to an implicit exclusion of women from leadership positions is being built and relies on prejudices and stereotypes regarding the role of a women in the family and in the society. Such prejudices are often internalized by the women judges themselves when being confronted with a rather impossible mission of finding a balance between highly demanding professional duties and equally demanding household requirements. In addition, the justice system in its entirety was not interested in developing measures to empower the women judges with the status of professionals who can develop up to their full potential rather than having a status of ordinary employees barely tolerated in a profession that still remains heavily dominated by men.

b. Methodology of the Research

b.1. Theoretical Prerequisites of the Research

In the international fora it was reached the conclusion that in a justice system in which gender balance and representation of minorities is more equitable, the population has more confidence in justice, greater attention is being paid to the specific needs of the litigants, while the biases and stereotypes can be overcome easier⁴. Thus, because of the understanding of the role of gender equality in strengthening justice and implicitly in maintaining security, starting with 1991, the OSCE Member States showed their willingness to ensure that “judges are adequately qualified, trained and selected in a non-discriminatory manner.”⁵ Subsequently, the OSCE member states, including the Republic of Moldova, have committed themselves to promote certain “specific measures to achieve the goal of gender equality... in all of the judicial or executive institutions.”⁶ Similarly, the ODIHR Kyiv Recommendations (2010) on judicial independence in Eastern Europe, South Caucasus and Central Asia, advise that the justice system should reflect the composition of the population, in terms of representation of minorities.⁷

13 out of 47 Member-States of the Council of Europe reported to the European Commission for the Efficiency of Justice that they have managed to develop national programmes or policy documents to promote gender equality in the judiciary (Armenia, Austria, Bosnia Herzegovina, Denmark, Georgia, Germany, Iceland, Ireland, Great

⁴ OSCE, ODIHR, *Gender, Diversity and Justice*, Overview and Recommendations, 2019, p.16.

⁵ CSCE, Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 10 September to 4 October 1991, para 19.2 (iv), available at: <https://www.osce.org/odihr/elections/14310>.

⁶ OSCE Ministerial Council, Decision No. 7/09, “Women’s Participation in Political and Public Life”, Athens, December 02, 2009, para 1, available at: <https://www.osce.org/mc/67621>.

⁷ OSCE, ODIHR, *Gender, Diversity and Justice*, Overview and Recommendations, 2019, p.12.

Britain, Montenegro, Norway, Serbia, and Spain).⁸ The models of promoting gender equality vary depending on the specific context, social expectations and cultural challenges in each state, ranging from measures included as soft law recommendations (strategies, action plans with due diligence recommendations, as is the case of Germany, Armenia or Georgia) up to incentives for establishing benefits (the case of Great Britain), and ending with stating explicit obligations (the case of Norway or Ireland).

These lines of action respond to the models proposed by the Council of the European Union back in 1984 in the Council Recommendation on special measures to ensure equal opportunities for women and men:

- “- informing and raising awareness both at the level of general public and the workforce regarding the need to promote equal opportunities for working women,
- respect for the dignity of women in the workplace,
- qualitative and quantitative studies and reviews on position of women in the labour market,
- diversifying vocational choice and, even more relevant, vocational skills, in particular, through appropriate vocational training, including providing support measures and appropriate teaching methods,
- measures needed to ensure that employment, guidance and counselling services have sufficiently trained staff to provide services based on the expertise required for the specific issues of women who are not employed,
- encouraging women applicants and recruiting and promoting women in the sectors and professions and at the levels where they are under-represented, especially in high responsibility positions,
- adaptation of working conditions; adjustment of work organization and work hours,
- encouraging support measures such as the ones aimed at ensuring greater division of occupational and social responsibilities,
- active participation of women in the decision-making bodies, including in those representing employees, employers and the self-employed.”⁹

A balanced representation of women and men in legal professions is the first step to ensuring gender equality. Further, effective participation of women in the profession, to their full potential, is another prerequisite for having an inclusive justice system in respect to women. In our research, we started from the assumption that the representation of women and men in the legal profession changed and reached a balance in the past years, as shown by the statistical data. Despite their increased presence in the profession, the

⁸ CEPEJ Studies No. 26, *European judicial systems, Efficiency and quality of justice*, 2018 Edition (2016 data), p.98.

⁹ Recommendation of the Council of the European Union, 84/635/EEC: *Council recommendation of 13 December 1984 on the promotion of positive action for women*, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A31984H0635>.

women judges are unable to realize their full potential at all levels of the profession as well as in reaching leadership positions since they are hitting a “glass ceiling”. In our research, we attempted to analyse what this glass ceiling is made of in the Republic of Moldova and whether it is acknowledged as such by the women judges themselves.

We started with the assumption that the judicial system is mirroring the overall gender inequality situation in the Moldovan society, given that there was no special focus in recent years to promote gender equality within the justice system. Such issues as feminization of inadequately remunerated professions, lack of balance between work and private life, lack of childcare services for young children or lack of support for mothers who choose to return to work while still breastfeeding, poor representation of women in the management systems, all these are inherent at all levels in the judicial system as well. The research assessed whether there are such inequalities and shortcomings and to what extent they are spread across the entire judicial system.

We have monitored the path of women who have chosen the career of a judge, from the day of entering the profession (admission criteria) all the way through their activity in the workplace and work conditions (the impact on women during pregnancy, maternity and childcare or on care of other dependents in the family) up to the key milestones such as career promotion, including representation in the decision-making bodies within the judicial system. Furthermore, we tried to explore whether gender stereotypes play a role in the workplace interactions and to identify the levels of sexism and sexual harassment within the system. The regional and international gender equality standards establish an obligation for the states to promote the initiative of conducting a proactive assessment of gender inequalities and to take affirmative actions to counter them. The research assessed the response of the state, including measures taken to protect women against discrimination, applying measures for protection of pregnant women and young mothers and taking actions associated with childcare leave as well as making arrangements for flexible work hours or taking a leave to take care of dependent family members. We acknowledge that in the Moldovan society, similar to other countries of the region, the gender inequalities are so deeply embedded in the social and institutional structures and internalized by many women, that a conscious process of deconstruction and active promotion of gender equality is needed in order to reveal the actual extent of gender inequalities. Given the circumstances, we are aware that our research could reveal only a small fraction of the problems. To that end, we tried to X-ray the organizational culture in terms of gender equality and to evaluate to certain extent the self-awareness of women in the judiciary regarding gender roles and gender biases. For example, we assessed the extent to which the social expectations regarding motherhood and childcare or care for the family affect the career of women judges. We analysed whether the state is actively involved in dismantling gender stereotypes and prejudices by promoting women through education (including legal education), mass media, decision-making bodies, while checking whether such dismantling and promotion initiatives are included in the budgets of the courts, in the earmarked budget lines for support measures aimed at ensuring gender equality.

b.2. Methods of Research

The research is multidisciplinary. We have used the tools of legal theory, especially the ones from the field of human rights and of equality and non-discrimination law, as well as the elements of sociology and diversity management.

The period from May through September 2019, was dedicated to desk research, whereby we managed to review the relevant legal documents (national legislation, by-laws, jurisprudence and reports on gender equality in general and on the situation of the judiciary in Moldova, analysis of the SCM decisions on judges selection and promotion, all available on the website maintained by the institution). We proceeded with sending general public information inquiries to the competent authorities in order to obtain statistical data on gender representation in the justice system, including on representation in decision-making positions, as well as requesting information on measures to promote gender equality from the Ministry of Justice, the Superior Council of Magistracy (SCM) and the National Institute of Justice (NIJ). In some cases, the raw data received from the aforementioned institutions had to be aggregated according to the statistical indicators to serve the objectives pursued by our research (for example, the number of applications filed to participate in the competitions for promotion, the number of promoted individuals and the success rate, broken down by type of applicants, duration of childcare leave for women and men, and the average duration of childcare leave for women and men).

One of the methodological limitations we are aware with in the report comes from the risk involved in presenting some general statistical conclusions based on a small sample group (defined in statistics as “small number error”). This statistical limitation is stemming from the specificity of our research - we were unable to do interviews with all 440 judges in the Republic of Moldova, and only a small number of candidates participated in the exams for promotion to a higher tier court or to a managerial position,. However, the significant statistical difference determined by the seemingly small sample indicates a general trend, especially in terms of career promotion.

During 1-3 July 2019, we conducted an on-site research. This was organized in the form of semi-structured interviews accompanied by the use of observation method in the courtrooms. We visited a total of 10 courts and public institutions vested with the competences in the judicial area and conducted confidential interviews with 26 persons - court managers, persons from the judiciary management bodies, judges, prosecutors, lawyers, legal experts and legal assistants. Some were still in active duty, while others were no longer in the profession or in the office at the time of taking the interview. The interviews lasted between 30 minutes and one and a half hour being organized based on an interview guide comprising the following sections: access to profession, professional evaluation and career promotion, continuous professional education, gender stereotypes in justice, including formulas of addressing, intimidation, discrimination, sexual harassment, accommodating pregnancy and motherhood, balancing professional life with family life, professional associations.

Given that our requests to have interviews with the representatives of the National Institute of Justice were denied at the last minute, while the response to the request

for public information was formulated in general terms, the analysis of issues related to engagement of in the NIJ in the initial and professional training of judges is based on the information identified on the NIJ website and data provided by the third parties, former beneficiaries or former employees of the Institute.

b.3. Definitions

The glossary below provides explanations of key definitions used in this report, starting from the terminology used in the field of justice, human resources, sociology, equality and non-discrimination and gender studies.

Feminization means the process of increasing the number of women in a profession traditionally dominated by men. The increased presence of women in a male-dominated field, such as the court system of the Republic of Moldova, has taken place naturally, in the absence of adequate public policies to recognize the interests of women, the implications of their presence from the perspective of measures that the employer must take to ensure their well-being in the workplace.

Formal equality means that both women and men are formally equal, being subject to the same rules and conditions in all areas of social, political and economic life without any privileges and without discrimination.

Substantive equality means achieving fair outcomes, as well as enjoying equal opportunities, starting off from the thesis that sometimes people need to be treated differently in order to achieve equal results, because the starting point and the difficulties they face are different. Substantive equality takes into account the effects of past discrimination and recognizes that rights, benefits, opportunities and access are not equally distributed across the society (systemic or structural discrimination). In order to achieve the substantive equality, the systemic discrimination must be targeted and prevented by adjusting policies, procedures and practices to meet the needs of certain groups of population.

Diversity at workplace means fair representation in the workforce of various groups in the society, in an environment whereby the differences between people are recognized and respected and likewise promoted giving a chance for all of the employees to achieve their full potential.

Gender audit (diversity audit) means the periodic review of the composition of the staff in a workplace from the perspective of gender, race, age, etc., review of the relevant policies and practices in the workplace to guarantee fulfilment of legal conditions for ensuring equality and non-discrimination at work.

Direct discrimination means different treatment applied to a person or a group of persons because of their belonging to a group or because of their real or alleged personal characteristics. It falls under the incidence of sanctions provided for by art. 2 of the Law on Ensuring Equality No. 121 of 2012.

Indirect discrimination means treatment stemming from conditions, rules and procedures that may seem neutral, while in fact, these are rather unfavourable to a person or group of persons belonging to a group or having certain personal characteristics, in absence of any objective and reasonable justification. It falls under the incidence of sanctions provided for by art. 2 of the Law on Ensuring Equality No. 121 of 2012.

Special measures are measures that not only allow for women to receive formal equal treatment same as the men, but to also benefit of preferential treatment, aimed at counterbalancing the inequalities they have been subjected to over time with long term effects, thus putting them in a disadvantaged position as compared to men. It falls under the incidence of special measures provided for by art. 2 of the Law on Ensuring Equality No. 121 of 2012.

Covert discrimination is a form of discrimination that is subtle, imbedded in the social fabric, in cultural expectations, most of the times unconscious, present in presumptions, prejudices or stereotypes, seemingly neutral behaviours that, however, lead to discrimination in a vague, passive form, which perpetuates long-term exclusion and marginalization.

Stereotype implies a fixed and over-simplified image of a particular idea, person or object, which is widely shared.

Prejudice means a preconceived opinion that is not based on reasoning or specific experience in relation to the person concerned, but is constructed socially by valuing or de-valuing a person based on an identity element.

Glass ceiling means an implicit barrier to on-the job promotion, affecting mostly women and persons belonging to minorities.

c. European Models for Promotion of Gender Equality

Based on the comparative analysis of different institutional models for ensuring equality, among different models for promotion of gender parity, discussed in the specialised literature, we have managed to identify the following three categories:

Gender parity included in soft-law measures (strategies, action plans)

Germany has a general strategy for ensuring equality between women and men, both among judges, as well as among auxiliary staff and prosecutors, providing for special procedures for promoting gender parity as related to on-the-job promotion.¹⁰

In 2014, Armenia adopted a document setting out the objective of promoting the parity in managing the application process for promotion to the judicial system. An action plan for 2015-2017 was developed subsequently to implement this objective.¹¹

In a similar action plan, Georgia suggested to include gender considerations into the recruitment mechanisms for courts alongside with the obligation to collect gender disaggregated statistical data for their subsequent inclusion into a database bearing on gender criteria. Such database should be maintained at the level of jurisdictions.

Gender parity pursued through facilities targeting women

In the United Kingdom, no mandatory quotas have been imposed, instead various facilities were included to encourage diversification of professions. For example, opportunities for part-time working were extended to the judges.¹²

¹⁰ CEPEJ Studies No. 26, *European judicial systems, Efficiency and quality of justice*, 2018 Edition (2016 data), p.184-185.

¹¹ CEPEJ Studies No. 26, *European judicial systems, Efficiency and quality of justice*, 2018 Edition (2016 data), p.188.

¹² CEPEJ Studies No. 26, *European judicial systems, Efficiency and quality of justice*, 2018 Edition (2016 data), p. 184.

Gender parity as an explicit legal obligation

The legislation on gender equality and non-discrimination in Norway obliges public authorities to promote gender equality in recruitment, interpreted as a legally binding obligation to facilitate parity in recruitment within the judicial system, including among the judges.¹³

In 2014 in Ireland, an initial plan was introduced to encourage the principle of equality in career promotion. In January 2017 a number of new measures followed in order to reach the 50/50 objective in promoting and giving priority to women in case of equal competences between the applicants.¹⁴

d. Women in the Republic of Moldova

The women judges, despite of being identified and perceived by public as a privileged group compared to other women, since they have better access to university education, consistent financial standing and a good social network, still belong to the female population of the Republic of Moldova. This means that at some point in their life they have already or will in the future face certain women-specific problems. Herewith we have summarized the potential challenges, based on the best known recent analyses in the field. Due consideration should be given to the inherited façade gender equality derived from the typical Soviet style rhetoric which is overlapping with a pre-modern cultural layer, in which the woman remains an undervalued citizen, or where the recognition of rights entails additional costs.

According to UN Women, women in the Republic of Moldova are still facing discrimination and inequalities in social, economic and political life while in terms of their representation in politics and decision-making bodies they are still below the international benchmarks.¹⁵ For example, according to data made available by the National Bureau of Statistics, in 2017, the share of male leaders at all levels of the legislative and executive bodies, among high ranking officials and heads of public authorities, senior managers and other officials is higher than that of women (58% men versus 42% women), in spite of the fact that women opt for university education in a much higher proportion compared to men. This discrepancy is even more visible within economic and social institutions, where the differences are much higher (72.7% male leaders as compared to 27.3% female leaders).¹⁶

UN Women reports on the two reasons for this discrepancy. Firstly, the patriarchal attitudes persist in the society and limit women choices in education and employment. Moreover, the Gender Equality Index 2017, shows a considerable deterioration of the

¹³ CEPEJ Studies No. 26, *European judicial systems, Efficiency and quality of justice*, 2018 Edition (2016 data), p. 184.

¹⁴ CEPEJ Studies No. 26, *European judicial systems, Efficiency and quality of justice*, 2018 Edition (2016 data), p. 185.

¹⁵ UN Women, Moldova, available at: <https://eca.unwomen.org/en/where-we-are/moldova>.

¹⁶ National Bureau for Statistics of the Republic of Moldova, *Statistical profile of women and men in the Republic of Moldova in 2017*, 06.03.2019, available at: www.statistica.gov.md/newsview.php?l=ro&cid=168&cid=6288&parent=0.

perception of the population on gender roles played in the society, meaning that the image of a woman and her role in the society are subject to stereotyping due to the failure of raising the awareness with women themselves of the twofold burden (combining domestic responsibilities with professional ones) and due to insufficient and inefficient implementation of reforms by the authorities (including in the field of education).¹⁷ Thus, in 2018, *8 out of 10 respondents believed that men are the ones who have to provide for the family, and 6 out of 10 believed that women should take care of the family and household.*¹⁸ The school textbooks seem to confirm and perpetuate the prejudices regarding gender roles, further maintaining woman's role as being in charge with domestic tasks, while the man is destined to enjoy the professional and public role.¹⁹ Hence, one could expect that the current experiences will be further perpetuated, based on expectations stemming from deeply rooted patriarchal, pre-modern perceptions, constantly reconfirmed at the cultural level.

Secondly, women encounter discriminatory practices, including significant differences in pay, segregation in the unfairly paid professions and domains, unequal division of work and family responsibilities and limited access to childcare facilities.²⁰ The Gender Equality Index 2017 reports that the biggest policy failure lies with the limited access to nursery services, which correlates with the employment of mothers with children aged 0-3 years of age (in 2014, the national rate of access to nurseries was 11.8%, while employment rate of women with children 0-3 years of age was 37.2%).²¹

Finally yet important, the violence against women in the Republic of Moldova is a concerning and widespread phenomenon. A national study conducted in 2011 shows that 63.4% of women have stated being subject to psychological, physical or sexual violence by their spouse or partner.²² In fact, every sixth woman aged from 15 to 63 years was subject to a form of domestic violence.²³

¹⁷ Center Partnership for Development, *Gender Equality Index 2017. Which is the equality level between women and men?* available at: <http://progen.md/?pag=n2&opa=view&id=457&tip=no utati&start=&l=>.

¹⁸ Center Partnership for Development, *Gender Equality Index 2017. Which is the equality level between women and men?* available at: <http://progen.md/?pag=n2&opa=view&id=457&tip=no utati&start=&l=>.

¹⁹ I am a parent. „Modern” school textbooks: woman – in the kitchen and caring for children, while man is the bread winner), August 2017, review available at: https://suntparinte.md/manualele-scolare-contemporane-femeia-la-cratita-si-langa-copii-barbatul-aducator-de-venit/?fbclid=IwAR1AmHGijXrxVVY_3nN_-08n9Rb2dINp66SJJAKiI4JHCit3wlBEUC3He2yI.

²⁰ UN Women, Moldova, available at <https://eca.unwomen.org/en/where-we-are/moldova>.

²¹ Center Partnership for Development, *Gender Equality Index 2017. Which is the equality level between women and men?*, available at: <http://progen.md/?pag=n2&opa=view&id=457&tip=no utati&start=&l=>.

²² UN Women, Moldova, available at: <https://eca.unwomen.org/en/where-we-are/moldova>.

²³ Maria Vremis; National Bureau for Statistics, United Nations Development Programme (UNDP), United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), *Profile of women victims of violence*, 2016, available at: http://statistica.gov.md/public/files/Cooperare_internationala/PNUD/10_tablouri_femei_RM/prof_7_victime.pdf.

2. Profile of a Woman Judge in the Republic of Moldova

“Being a woman is neither an advantage, nor a disadvantage, it is just an additional burden.”

Interview No. 17, 01.07.2019

a. Is the Judiciary System Ready to Welcome Women Judges?

Why should we care that we witness a phenomenon of gradual increase in the number of women in the justice system? Once we are sure that the number of women judges is steadily increasing and we could follow the progress on annual basis,²⁴ would it still make sense to go on discussing gender equality? Does it make sense to scrutinize the manner in which the justice system is treating the women judges? What about their chances for career promotion? How should we accommodate for their needs as child caring mothers, while they are concomitantly doing their job as legal experts? In the literature, when the discussion touches on the concept of discrimination, usually there are four distinct dimensions identified.²⁵ Firstly, there is a vicious circle of structurally maintained disadvantage, implying that lack of opportunity passes from one generation to the next. Secondly, elements as stigmatization and prejudice contribute to discrimination, and they are manifested also in the arguments brought by the authorities every time incidents were brought to their attention or when they were asked to take action. Thirdly, lack of a public voice or a message concerning exclusion of women from the political and social decision-making processes is crucial. And finally, yet another element contributing to discrimination is lack of any effort on behalf of the authorities to encourage structural change, propose and implement specific decisive actions to secure the accommodation of rights, interests and specificity of each of the protected groups.

In particular, the majority of male respondents stated that they have lately noticed that there are more women in the legal profession compared to men (Interview Nos. 9, 10, 12, 20), including the fact that the legal assistants entering the profession by virtue of seniority are mainly women. In their opinion, this is a rather clear trend, whereby women occupy the space previously dominated by men as in the past the profession of judge was deemed

²⁴ Genderpulse, *Share of female and male judges*, 2017, data available at: <http://genderpulse.md/ro/participare-la-luarea-deciziilor/reprezentarea-femeilor-si-barbatilor-in-organele-de-luarea-deciziilor/reprezentarea-femeilor-si-barbatilor-deputati-in-parlament>.

²⁵ Sandra Fredman, *Emerging from the Shadows: Substantive Equality and Article 14 of the European Convention on Human Rights*, in *Human Rights Law Review*, 16(2): 273-301.

as purely masculine. Respondents believed that this is a stereotype which is still surviving in the society (Interview Nos. 7, 9, 10). The majority of respondents see this change as a natural one, resulting from modernization and growing access of women to university education (Interview No. 12). According to one of the respondents, presence of women judges in the profession is rather common while no one really cares whether a woman or a man is wearing judge's robe (Interview No. 5). However, two respondents have shared a more radical opinion in describing the change as a sign of masculinization of women ("women exhibit more masculine traits" (Interview No. 10), "women behave like men" (Interview No. 9). The price paid for the professional success is that women tend to assume the role of a man since the latter is tougher and more wilful (Interview No. 10). One of the respondents describes this harsher attitude revealed by the women judges as the internalization of gender stereotypes by the women judges with regard to the profession of a judge (Interview No. 9). Subsequently, the same respondent has stated that the women judges who are grooming the feminine aspects of their personality are, as a rule, castigated; the respondent mentioned a couple of cases discussed by media (Interview No. 9, Interview No. 3).

b. Snapshot of the Gender Profile of the Moldovan Justice System

As of 31 December 2018, there were 440 judges in the Moldovan justice system, including seconded and suspended judges. Of these, 213 were women (48.4%), and 227 were men (51.6%). The difference is about 3% in favour of male judges, hence the discrepancy is insignificant.

However, the number of women judges in higher level courts is decreasing compared to the number of male judges. For example, if at the level of first level courts the percentage of women judges is about 49% then at the level of the courts of appeal it decreases to about 46%. At level of the Supreme Court of Justice the percentage further decreased to about 44%. Thus, although the overall discrepancy across the system between female and male judges is small (3.18%), it gradually increases depending on the court level. Thus, the difference at the first level courts is 1.24%, while at the level of the courts of appeal it increases to 7.69%, being the highest at the SCJ level – 11.11%. While applying the correction factor in our analysis due to limitation imposed by the small numbers error in sociology, we still see that the statistical analysis remains relevant and shows steadily increase in the presence of women in the higher courts.

Table 1. Total number of judges, gender disaggregated data, as of 31 December 2018

	Total	Men	%	Women	%	Gap men vs women, %
Total number of judges	440	227	51,6%	213	48,4%	-3,2%
1. Number of judges in first instance courts	322	163	50,6%	159	49,4%	-1,2%
2. Number of judges in courts of appeal	91	49	53,8%	42	46,2%	-7,6%
3. Number of judges in the Supreme Court of Justice	27	15	55,6%	12	44,4%	-11,2%

Source: Data calculated based on the information made available by the Superior Council of Magistracy

It is also worth mentioning that until recently there were cases of no women judges at all or just a single woman judge at some of the courts of first instance. The list of these courts includes: Cahul District Court located in Cantemir, Comrat District Court located in Vulcanesti, Criuleni District Court located in Dubăsari, Bălți Courts located in Fălești and Singerei, Edineț court located in Ocnița, Orhei court located in Rezina and Telenești, Drochia court located in Rîșcani, and Căușeni court located in Ștefan-Vodă.

There are not many judges aged under 30 years, both men (4) and women (2), in the judicial system of Moldova. Most of the women judges aged 30 to 49 years (138 judges) are employed as court of first instance judges. However, at the level of the courts of appeal there are more women judges aged 45 to 65 years (35 judges) while at the level of the SCJ the majority of women judges are aged 55 to 65 years (8 judges). The rationale of having older cohorts of judges at the SCJ and courts of appeal derives from the requirement of having a minimum of 10 and accordingly 6 years of experience. It could further be explained by the fact that during the Soviet Union time when these when judges were studying, there were informal quotas for the women while the majority of law faculty students were male (Interview No. 9).

In case of male judges, we see similar trends of having a significant number of judges aged 30 to 49 years (136) serving at the courts of first instance. At the same time, a “rejuvenation” among male judges at the level of courts of appeal can be seen compared to

women - 42 male judges aged 40 to 59 years. The same trend applies to the SCJ - all of the 15 male judges are aged 40 to 65 years. While the career promotion is highly dependent on the experience gained throughout the years, it is worth noticing that men are promoted to higher level courts at a younger age, while in case of women it takes much longer.

Table 2. Gender distribution of judges by the age and level of court

	Younger than 30 years				30 to 34 years				35 to 39 years			
	Wo-men	%	Men	%	Wo-men	%	Men	%	Wo-men	%	Men	%
Judges in first instance courts	2	0,62% ²⁶	4	1,24%	37	11,49%	45	13,98%	40	12,42%	25	7,76%
Investigative judges in courts main/substitutes²⁷	0	0% ²⁸	0	0%	6	6,74%	10	11,24%	7	7,87%	12	13,48%
Judges at courts of appeal	0	0% ²⁹	0	0%	0	0%	0	0%	1	1,10%	1	1,10%
Judges at SCJ	0	0% ³⁰	0	0%	0	0%	0	0%	0	0%	0	0%
Total	2	0,45% ³¹	4	0,91%	37	8,41%	45	10%	41	9,32%	26	5,91%
	40 to 44 years				45 to 49 years				50 to 54 years			
	Wo-men	%	Men	%	Wo-men	%	Men	%	Wo-men	%	Men	%
Judges at the first instance courts	34	10,56%	40	12,42%	27	8,39%	26	8,07%	6	1,86%	10	3,11%
Investigative judges at the first instance courts main/substitutes	6	6,74%	20	22,47%	7	7,87%	7	7,87%	4	4,49%	5	5,62%
Judges at courts of appeal	6	6,59%	10	10,99%	17	18,68%	16	17,58%	7	7,69%	3	3,30%
Judges at the SCJ	0	0%	1	3,70%	2	7,41%	0	0%	2	7,41%	9	33,33%

²⁶ Percentage calculated based on total number of judges in first instance courts.

²⁷ Number of investigative judges included in the number of judges in first instance courts.

²⁸ Percentage calculated based on total number of investigative judges.

²⁹ Percentage calculated based on total number of judges at the level of courts of appeal.

³⁰ Percentage calculated based on total number of judges at the level of SCJ.

³¹ Percentage calculated based on total number of judges within the judicial system.

Total	40	9,09%	51	11,59%	46	10,45%	42	9,55%	15	3,41%	22	5,00%
	55 to 59				60 to 65							
	Wo- men	%	Men	%	Wo- men	%	Men	%				
Judges at the first instance courts	6	1,86%	10	3,11%	7	2,17%	3	0,93%				
Investigative judges at the first instance courts <i>main/substitutes</i>	1	1,12%	1	1,12%	1	1,12%	2	2,25%				
Judges at courts of appeal	7	7,69%	13	14,29%	4	4,40%	6	6,59%				
Judges at the SCJ	6	22,22%	4	14,81%	2	7,41%	1	3,70%				
Total	19	4,32%	27	6,14%	13	2,95%	10	2,27%				

Source: Data made available by the Superior Council of Magistracy

The largest gender gap is obvious in case of investigative judges, the majority being men - 57 male judges (about 64%) compared to 32 women judges (about 36%). The rationale for this is that the institution of investigative judges was initially established as a separate category of judges in order to provide additional protection of human rights during criminal prosecution. The investigative judges appointed for this function should have been specialized in exercising the judicial control over the activities conducted by criminal investigation bodies. The investigative judges are appointed for an unlimited period, based on a range of specific criteria. Given such requirements, the majority of the investigative judges appointed between 2003 and 2009 were former prosecutors or criminal prosecution officers. In 2013, the majority of the investigative judges (87%) were either former prosecutors or criminal prosecution officers.³²

Table 3. Gender distribution of investigative judges as at 31 December 2018

	Total	Men	%	Women	%
Investigative judges	89	57	64%	32	36%

Source: Data made available by the Superior Council of Magistracy

³² Legal Resource Center of Moldova, Report: Reforming the institution of the investigative judge, 2015, p. 20 available at: <http://crjm.org/wp-content/uploads/2015/01/CRJM-Raport-II-En-28-01-2015-1.pdf>.

3. Non-Discriminatory Access to Profession

In 1972 when I entered the law faculty at the university, the question was „Why do you need to study the Law?”

Interview Nos. 19, 02.07.2019

The beginning was some 35 years ago with just 3 girls and 25 boys in our group of students, I feel happy now that the parity allowed for more women entering the profession while the burden they have to carry is still heavy.

Interview No. 18, 01.07.2019

According to the opinion shared by some of the respondents, some 50, 40 or even 20 years ago the presence of a woman at the law faculty was either an issue of quota or of informal allocation of the number of places available for enrolment. In the past, just a handful of women - graduates of the law faculty were able to practice their profession while nowadays the picture has changed dramatically. The number of women candidates and, accordingly, that of the women law faculty graduates is often slightly higher compared to that of the one of male students.

As regards the number of women candidates and graduates of the NIJ training courses, although the annual activity report of the NIJ does not reflect the gender dimension in terms of number of candidates or graduates³³, the data available online for each academic year shows that the overall situation is relatively well balanced. The respondents that have interacted with the Institute suggest that annually the NIJ offers training to an approximately equal number of women and men who are seeking to acquire the status of a judge (Interviews no. 16, 17, 24).

Table 4. Profile of women and men candidates seeking to take the position of a judge admitted to the NIJ compared to the profile of women and men NIJ graduates.

Year	Candidates admitted to NIJ		NIJ graduates	
	Women	Men	Women	Men
2019	19	21 ³⁴	14	11 ³⁵

³³ The National Institute of Justice, *Annual Activity Report, 2018*, data available at: https://www.inj.md/sites/default/files/19/Raport%20de%20activitate%202018_site.pdf.

³⁴ Institutul Național al Justiției, informație disponibilă la: <https://www.inj.md/sites/default/files/19/admiterea/admitere%20finala%20judecatori.pdf>.

³⁵ Institutul Național al Justiției, informație disponibilă la: <https://www.inj.md/sites/default/files/19/Judec%C4%83torii%20absolventi%20prom.%20XI.pdf>.

An	Candidați admiși la INJ		Absolvenți INJ	
2018	Nu există date	Nu există date	9	11 ³⁶
2017	14	11 ³⁷	10	10 ³⁸
2016	9	11 ³⁹	7	8 ⁴⁰

Source: Data from the website maintained by the National Institute of Justice

All of the interviewees have mentioned that currently, from their point of view, the access to profession is a non-discriminatory one. The selection procedure as well as the criteria applied seem to be at *prima facie* non-discriminatory. The only major question mark regards gender balance at the NIJ and SCM in general and at the level of the Selection Board of the SCM in particular.

The European Commission for the Efficiency of Justice in its study published in 2018, mentions that in 2016 (the year of data collection for the report), 13 Member States have reported applying specific rules in relation with the gender dimension in recruitment of judges and in appointment procedures. For example, in Bosnia and Herzegovina, the legislation on the Superior Council of Justice and the General Prosecutor Office contains provisions on ensuring the parity as one of the obligations assigned to the Council as part of judges' appointment and promotion procedure. Other states that have already adopted gender equality strategies or provisions in the judicial system are: Armenia, Austria, Bosnia and Herzegovina, Denmark, Georgia, Germany, Iceland, Israel, Great Britain, Montenegro, Norway, Serbia, Spain.⁴¹ Although, so far, no specific provisions or strategic priority has been introduced or provided for in Moldova, such a requirement of a desired parity introduced as a special measure for selection would not be necessary given that equality in terms of access to profession has been already achieved. However, as one could see further on in Chapter 4, the situation is much different in terms of career promotion.

³⁶ Institutul Național al Justiției, informație disponibilă la: <https://www.inj.md/sites/default/files/18/judecatori%202016-2018.pdf>.

³⁷ Institutul Național al Justiției, informație disponibilă la: <https://www.inj.md/sites/default/files/Anexa%20201a%20HC%209-1%20lista%20judecatorilor%20inmatriculati.pdf>.

³⁸ Institutul Național al Justiției, informație disponibilă la: https://www.inj.md/sites/default/files/17/Prom.%20IX_jud..pdf.

³⁹ Institutul Național al Justiției, informație disponibilă la: <https://www.inj.md/sites/default/files/Anexa%20nr%201%201a%20HC%2012-1%20a%20candida%5%a3ilor%201a%20func%5%a3ia%20de%20judec%4%83tor%20admi%5%9fi.pdf>.

⁴⁰ Institutul Național al Justiției, informație disponibilă la: https://www.inj.md/sites/default/files/17/Prom.%20VIII_jud..pdf.

⁴¹ CEPEJ, European Commission for the Efficiency of Justice, *European Judicial Systems – Efficiency and Quality of Justice*, CEPEJ Studies No. 26, 2018.

a. The Procedure of Admission to the NIJ and the Training of Initial Applicants

Admission to the NIJ is conducted annually on the grounds of a competition within the quota established by the NIJ Council with due account for the proposals made by the SCM.⁴² Although the topic Human Rights is included in the general bibliography of the exam, prior to the initial training no focus is placed on equality and non-discrimination issues although it would be rather beneficial to include such topics as it would raise the awareness and disseminate information regarding equal opportunities and non-discrimination.

The NIJ Regulation on the organization and conducting the admission exam for the initial training of candidates mentions the composition of the Commission for admission. However, the appointment of the members goes without taking into account the need to ensure effective participation and representativeness and no obvious attempt was made to ensure at least gradual transition towards gender parity.

The procedure established by the Ministry of Health for checking the health status of male and female candidates seeking to take the position of an acting judge so as to make sure that the health requirements for exercising duties of a judge are duly met, seems to be well balanced and does not raise any questions with regard to potential discrimination.⁴³

The initial training plans for the candidates developed by NIJ do not include as part of their educational goals any references to information, skills or specific competences relevant for gender dimension while training the candidates to qualify for positions of judges and prosecutors⁴⁴. The candidates training programme in the field of human rights does not include any modules or activities on equality and non-discrimination in general or on equal opportunities for women and men in particular. This is a rather worrisome fact as it means the institution misses the opportunity of introducing the candidates to one of the most essential topics that for sure will be reflected across all the areas of their subsequent career.

The OSCE research paper⁴⁵ offers an overview of practices existing in different states as well as a summary of needs and recommendation to address the issue of non-discrimination and equal opportunities as a dedicated topic of study while also approaching it from a

⁴² The NIJ Regulation on organising admission contest for the initial training of candidates aspiring to take judges' and prosecutors' positions, as amended by the NIJ Board Decision No. 5/2 of 21 June 2019, at: <https://www.inj.md/sites/default/files/19/Regulament%20admitere%202019%20Aprobat.pdf>.

⁴³ Ministry of Health, Ordinance on checking health status of judges to determine whether they are fit for exercising the position of judge No. 479 of April 22, 2013).

⁴⁴ NIJ, Plan de formare inițială (PFI-012) a candidaților la funcțiile de judecător și de procuror 15 octombrie 2018 – 15 aprilie 2020, NIJ, Plan for initial training (PFI-012) of candidates to judge and prosecutor positions, October 15, 2018 – April 15, 2020, available at: https://www.inj.md/sites/default/files/18/PFI%202018-2020_0.pdf.

⁴⁵ OSCE, ODIHR, *Gender, Diversity and Justice*, Overview and Recommendations, 2019.

crosscutting perspective. To that end, it is advisable to incorporate the relevant aspects of gender equality into other disciplines (civil, criminal, and administrative) or into the practical aspects, case studies, and examples used.

In addition, it is important for NIJ to incorporate in its educational offer of initial training some modules or workshops for developing extra-legal skills, which are relevant for efficient exercise of the profession (soft skills) such as identification of stereotypes and prejudices that can lead to discrimination, assertive communication, stress management, conflict management, IT elements and use of some necessary applications and software.

b. Procedure Applied by the SCM in Selecting the Candidates for Judges' Positions

Law No. 154 and the SCM Regulation on the criteria for selection, career promotion and transfer of judges approved by the SCM Decision No. 613/29 of 2018⁴⁶ provide for a four-step procedure to ensure an objective, impartial and transparent process that guarantees selection of best candidates for judges' positions.⁴⁷ Following the phases of admission, training and graduation exams organized by the NIJ or its Graduation Committee, there follows a phase of evaluation by the Board for the Selection and Career of Judges (Selection Board) within the SCM, an interview and the nomination proposal made by the SCM and accordingly, the appointment by the President of the country.

The role played by the SCM Selection Board is rather essential in the selection process as well as in that of promotion. The national law stipulates that the Selection Board shall consist of four judges and three representatives of the civil society.⁴⁸ However, there is no provision on clearly stated objective to ensure representativeness, diversity or gender parity at the SCCJ level. In practice, lack of explicit legal provisions or recommendations in this regard resulted in replication of already identified gender gaps. Thus, out of seven Committee members there is only one woman and she was elected by the General Assembly of Judges in 2016. In 2018, the SCM had the possibility to nominate three members, after the election of four members by the Assembly of Judges. Given the gender gap, the SCM members had an opportunity to appoint women to this committee as well, in order to ensure gender equality. However, the SCM members have chosen only men.⁴⁹ Since the composition of the SCM is also far from being balanced from the perspective of gender and representativeness in all types of courts, this imbalance manifested at the institutional level has a potential of involuntarily leading to perpetuation of gender stereotypes and discrimination.

⁴⁶ SCM Regulation on criteria for selection, promotion and transfer of judges, approved by SCM Decision no. 613/29 of December 20, 2018 available at: https://www.csm.md/files/Acte_nor-mative/Legislatia/Interne/2018/Regulament_criterii_selectie_2018.pdf.

⁴⁷ Art. 2 of Law No. 154 of July 05, 2012 on selection, evaluation of performance and career of judges.

⁴⁸ Art. 3 para. (1) Law No. 154.

⁴⁹ Information available at: <https://www.csm.md/ro/organe-subordonate/colégiul-pentru-selectie-si-cariera-judecatorilor/membrii-cscj.html>.

Law no. 154 on selection, performance appraisal and career of judges stipulates that selection and promotion of judges shall be conducted jointly by the Selection Board and the SCM, maintaining for the SCM an average share of the appraisal result per contest at 20%.⁵⁰ Again, at a glance, the procedure seems to be suitable for ensuring access to profession on meritocratic criteria, without any impediments in terms of gender dimension. The statistical data provided by the SCM show a trend towards an increase in gender equality in terms of access to profession for women and men, which allows us to draw the conclusion that currently no special measures are needed to ensure gender equality in accessing the profession of judge. Thus, the SCM shows that, as of 31 December 2018, the number of judges admitted to the legal profession based on the seniority in work was equal for women and men (49:49) and similar in case of judges admitted to the profession through the NIJ procedures (48:47).⁵¹

Table 5. Number of judges admitted to the profession during 2009–2018 by gender, as of 31 December 2018

Judges admitted to the profession			
Seniority		NIJ graduates	
Women	Men	Women	Men
49	49	48	47

Source: Data provided by the Superior Council of Magistracy

c. Eligibility Criteria

According to items 9 and 10 of the SCM Regulation on selection criteria further amended in December 2018, the candidates for judge positions shall be assessed bearing on the following criteria of eligibility:

- results of the initial training provided by the NIJ as well as the results of exams passed with the NIJ graduation commission,
- seniority in legal positions, respectively, type of activity in legal positions,
- teaching and scientific activity, scientific degree, research, thematic reviews,
- personality features and skills appropriate for a judge (integrity, fairness, ability to manage stress, analytical skills, etc.),
- other extrajudicial activities, confirmed by certificates, diplomas, decisions, resolutions, and orders.

Previously, the selection criteria also included knowledge of information technologies (MS WORD, Excel, Internet and e-mail) as well as working knowledge of languages of

⁵⁰ Law No. 154, Art. 2, para. (1) and (1¹).

⁵¹ SCM response to request for public information, No. 1893 m/i, of 08.08.2019.

the European Court of Human Rights, skills that are still necessary for the activity of a judge and which can be further supported by the NIJ in its curricula given that they are important for professional development.

In 2018, art. 5 of the Law on selection, performance appraisal and career of judges No. 154/2012 was amended by introducing the requirement that at least 50% of the total score should result from the record obtained by taking the exam before the NIJ Graduation Commission and not more than 50% should result from the score given by the Selection Board and, as appropriate, by the SCM. As long as the NIJ adequately fulfils its mandate, this method of calculation could open the possibility for selection based on professional excellence.⁵²

Lines of action

- Appointment of Commission members for admission exams conducted at the NIJ and members of the Selection Board at the SCM by observing gender equality, gradually ensuring gender parity as well as development of educational modules on gender equality primarily intended for the members of such commissions.
- Inclusion by NIJ Council of a module on gender equality and non-discrimination as a distinct topic among other subjects for the admission examination in the field of Human Rights.
- Incorporation of equality and non-discrimination as a distinct topic pursuing specific educational objectives in relation to gender equality into the initial training plan for the candidates for judge positions, trained by the NIJ in the field of Human Rights.

⁵² Earlier, in compliance with the SCM [Regulation on](#) selection, career promotion and transfer of judges criteria, training by the NIJ or passing exam at the NIJ accounted for 30% of the maximal score.

4. Career Promotion and Appraisal –Where the Equality Ends

A mixture of politicization and stereotypes: the place of a woman is in the family and cooking, while men should stand as the leaders.

Interview No. 22, 02.07.2019

The judges' profession has historically been a monopoly controlled by men and even nowadays, at the level of public perception, it remains a masculine one. In spite of the non-discriminatory access to the profession recorded in the the last 20 years does not mean that women have equal opportunities to exercise the legal profession - the tolerated status of the woman in justice is obvious when we take into consideration the visible imbalance in promotion to a judge position in a hierarchically higher court, and in appointment of the president of the court or deputy.

None of our respondents suggested that women judges were less competent compared to their male colleagues when carrying out their professional duties. On the contrary, one of the respondents has critically observed the situations when rather unexpectedly the women judges were appointed to take the lead: *"women are more determined in assuming responsibilities; in case of a crisis they take on more responsibilities"* (Interview No. 17). In another interview, when discussing the managerial skills, our respondent has praised women: *"A good manager in a household is also a good manager in the court"* (Interview No. 18). Indeed, in the international literature focusing on the process of feminization of justice, it is noticed that the increase in the number of women in legal bodies is an advantage, while greater participation of women results in a higher degree of trust on behalf of the population.⁵³

However, the analysis of the current number of presidents of the courts and their deputies at the level of courts of first instance and courts of appeal, broken down by gender and the analysis of access of judges to higher level courts, suggests that we are witnessing a classic phenomenon of glass ceiling. Despite of the increased number of women accessing the profession under conditions which are not different than those for men and having quite logically the expectation that they would promote as well, this does not happen - women still could not break through to reach positions with higher level courts.

For the national need of 489 judges the actual number of 440 (as of 1 January 2019, there are 232 male judges and 208 women judges in the system). This looks relatively balanced at first sight.⁵⁴ The gender gap is significant though, if we aggregate the number of judges in courts of appeal: the total need amounts to 97 judges with 91 judges actually employed, out of which 49 are men and 42 are women.

⁵³ OSCE, *Linkages between gender, diversity and justice explored at ODIHR event in Warsaw*, available at: <https://www.osce.org/odihr/359546>.

⁵⁴ The statistics related to number of judges is shown as of 31 December 2018.

Table 6. *Promotion to the managerial positions with the courts*⁵⁵

	Women	%	Men	%	Total
Managerial positions with the courts of first instance	4	14,3%	24	85,7%	28
Managerial positions at the courts of appeal	3	30%	7	70%	10
Managerial positions at the SCJ	1	20%	4	80%	5

Source: Processed data based on the information made available by the Superior Council of Magistracy

A CEPEJ study has found that the phenomenon of glass ceiling exists in many societies, highlighting that the higher we climb up the hierarchical ladder, the smaller is the number of women in top ranking positions.⁵⁶ Following the relevant case law of the EU Court of Justice regarding measures taken to ensure equal treatment for women and men⁵⁷ in promotion matters, in some of the EU Member States, for instance Germany or Ireland, such discrepancies were thoroughly considered when building the mechanisms for recruitment of women to the top positions in cases when the competences are equal. This way, the principle of competency-based recruitment and promotion works in synergy with the equal opportunity principle, thus responding to a gender gap, while trying to promote the under-represented gender to managerial positions. As noticed in the CEPEJ analysis, one of the effective measures in this regard is development of formal ongoing education programs targeted towards the managerial positions as an instrument to encourage women to access positions of top responsibility.

a. The False Assumption that the Women Judges have no Interest in Career Promotion

There is a prejudice that women do not want to apply as candidates. The respondents, regardless of their gender, kept providing to us repeatedly this kind of similar explanations. One of the respondents asserted that “*women do not have the courage ... women do not take the risk to apply*” (Interview No. 20). This explanation is definitely stemming from prejudices and gender stereotypes specific to a cultural space still dominated by patriarchy. The analysis of statistical data recorded by the SCM with regard to promotion to the managerial positions during 2013-2018 dismantles this prejudice as a false bias stemming from the lack of knowledge regarding the real situation and supported by deeply imbedded stereotypes.

⁵⁵ The SCM response to the request for public information, No. 1893 m/i, of 08.08.2019.

⁵⁶ CEPEJ, European Commission for the Efficiency of Justice, *European Judicial Systems – Efficiency and Quality of Justice*, CEPEJ Studies No. 26, 2018.

⁵⁷ EU Court of Justice, **C-450/93, Eckhard Kalanke v Freie Hansestadt Bremen of 17 October 1995**; **C-409/95, Hellmut Marschall v Land Nordrhein-Westfalen**, 11 November 1997.

The answers provided when being asked to explain the reasons why the women were not interested in promotion were either general - the convenience for some of the judges who do not wish to increase their responsibilities (number of administrative meetings), the need to take into account agendas of other judges in the panel of judges for establishing proceedings, or some opinions regarding the role of women in the family - they are much more serious and expect the position to come with even higher burden of responsibilities with which they will not be able to cope due to family duties (Interview Nos. 9, 13, 14), administrative meetings are held during hours competing with family responsibilities (Interview Nos. 4, 12), women have no leadership spirit (Interview Nos. 9, 20). It was actually stated that women are more serious and for this reason they would not be willing to take responsibility for what an administrative position implies during a transitional period, when decisions to be taken have no clear grounds (Interview No. 5). One of the respondents, who herself has the personal experience of applying for a leadership position in the court in which she works, explained that one of the reasons why women do not apply is related to a certain complex of inferiority generated by social beliefs and internalized by women, a belief that men would be better leaders and that they would be preferred to a female applicant (Interview Nos. 6, 14). Yet another respondent stated that the inferiority feeling of women is stemming from the culture in which they were educated, obviously favouring the traditional role for women instead of having confidence in their own capacity to face challenges such as those associated with the leadership position (Interview Nos. 11, 17). To that end, there is a need for special education either at school or at the NIJ level offering training in the field of personal development, i.e. including some extrajudicial topics as part of educational/training courses (Interview Nos. 11, 14, 17, 22).

Statistics of judges' promotion by gender during 2013-2018

Table 7. Promotion to leadership positions at the level of courts of first instance (first tier)

	Male candidates	Female candidates	+/- %
Candidates for leadership positions	77	46	-40%
	Male candidates	Female candidates	+/- %
Promoted	56	24	-57%
Success rate, %	72.7%	52%	-20.7%

Source: Processed data based on the information available on the website maintained by the Superior Council of Magistracy

Thus, with regard to the first level of judicial instances (courts), from the start, the number of female candidates was significantly lower than that of men. However, the outcome of the competitions for being promoted is deeply unbalanced - the success rate of women is with more than 20% lower than that of men. Two out of three promoted persons are men without any objective justification for such a difference.

Table 8. Promotion to judge position (female and male judges) at the level of courts of appeal

	Male candidates	Female candidates	+/- %
Candidates	85	87	+2%
Promoted	35	30	-14%
Success rate %	41%	34.4%	-6.6%

Source: Processed data based on the information available on the website maintained by the Superior Council of Magistracy

In the case of the courts of appeal, the analysis of the percentages for the promotion shows that for an approximately equal number of male and female candidates the success rate is a bit more favourable for men, amounting to 6.6%, which is a relatively small gap, however raising the suspicion of unequal chances for women judges compared to their male colleagues.

Table 9. Promotion to management position at the level of courts of appeal

	Male candidates	Female candidates	+/- %
Candidates	10	12	+20%
Promoted	8	6	-25%
Success rate, %	80%	50%	-30%

Source: Processed data based on the information available on the website maintained by the Superior Council of Magistracy

Yet another major discrepancy supporting the finding of a glass ceiling hit by the women judges in their professional trajectory appears in the attempts to get promoted in management positions at the level of the courts of appeal. Thus, despite the notably higher percentage of women judges who somehow have found the courage to seek to access management positions, the success rate of men was higher by 30%. Only 50% of the women candidates were promoted, while the promotion rate for men was 80%.

Table 10. Promotion to judge position at the level of the Supreme Court of Justice (SCJ)

	Male candidates	Female candidates	+/- %
Candidates	24	38	+58%
Promoted	11	7	-36%
Success rate, %	45.8%	18.4%	-27.4%

Source: Processed data based on the information available on the website maintained by the Superior Council of Magistracy

The same gap of almost 30% applied in case of promotion to the position of the judge at the level of the SCJ where, despite the significantly higher number of female candidates

(58%), the promotion rate is much higher for men. While in case of men every second applicant has a chance of promotion, in case of women only one in five women is promoted.

Table 11. Promotion to the management positions at the level of the SCJ

	Male candidates	Female candidates	+/- %
Candidates	6	6	-
Promoted	6	2	-33%
Success rate, %	100%	33%	-67%

Source: Processed data based on the information available on the website maintained by the Superior Council of Magistracy

However, the biggest disparity appears in promotion to the management positions at the level of the Supreme Court of Justice. In this case, although an equal number of women (6) and men (6) applied during the reported timeframe, the promotion chances for men were three times higher: while all six men were promoted, only two of six women were promoted.

Table 12. Selection in case of competitions with a sole candidate

	Total number of competitions with only one candidate, followed by the appointment	Men	+/- % compared to total number of competitions	Women	+/- % compared to total number of competitions
Promotion to management positions at the level of first instance courts	54	38	70%	16	30%
Promotion to the courts of appeal	20	11	55%	9	45%
Promotion to management positions at the courts of appeal	12	8	67%	4	33%
Promotion to the SCJ	4	2	50%	2	50%
Promotion to management positions with the SCJ	8	6	75%	2	25%

Source: Processed data based on the information available on the website maintained by the Superior Council of Magistracy

The respondents considered the competitions with a sole candidate as being problematic, triggering suspicions of whether there was a real competition.⁵⁸ The interviews have also revealed certain suspicions regarding unfair nature of such competitions, whereby the women, as believed, have a lot to lose as the meritocracy mechanisms are corrupt (Interview No. 20). The analysis of significantly different percentages of success in promotion contests with a sole candidate confirms the above statement and leads to a new worrying conclusion that even when a woman judge is the sole candidate for promotion her chances of success vary within from 30% to 50%, depending on of the type of court where she wants to be promoted, while the chances of a man, as a sole candidate are within 50% to 75%.

The existence of gender imbalances in terms of employment or promotion to public positions is a challenge faced by many counties, including the Republic of Moldova. This problem was noticed and reported by other countries as well; the difference being that whenever such gaps were found, the national authorities attempted to promote transitional measures aimed at ensuring equal opportunities. For example, based on various legal provisions adopted in Germany to ensure equal opportunities for women and men in the labour market, the formula proposed by the EU Court of Justice in Case C-409/95, *Hellmut Marschall v Land Nordrhein-Westfalen*, was that in case of equal score between two candidates (female/male) consideration should be given in favour of promoting a woman as long as there is still a major gender imbalance in relation to professional promotion. The formula developed by the EU Court is a flexible one and allows for exceptions when, upon objective evaluation of the criteria specific to each of the individual applicants, the man's case is deemed as having more weight. In turn, the Court shall proceed with assessing these specific criteria in order to exclude any risk that they could be discriminatory with regard to female applicants.⁵⁹

b. Procedure of Promotion to a Higher Level Court or to a Managerial Position

As in the case of selection procedure of candidates to the NIJ described in Section 3.ba of the Report, the promotion procedure to a position of a judge in a hierarchically superior court and accordingly the procedure of appointment as president or deputy president of a court are at first sight non-discriminatory. It is even more difficult to explain in this context the gap between chances for professional promotion in case of women judges compared to their male colleagues, as highlighted by data aggregation in Tables 7-12, Section 4.a. How could one explain the fact that the rate of promotion for male judges is constantly higher than that of women judges and that the trend is towards widening this gap as we look higher towards to the

⁵⁸ Legal Resource Center of Moldova, *Policy document: selection and promotion of judges in the Republic of Moldova*, July 2017, available at: <http://crjm.org/wp-content/uploads/2017/12/CRJM-Selectia-si-cariera-jud-2017-ENG.pdf>.

⁵⁹ Court of Justice of the European Union, **C-450/93**, *Eckhard Kalanke v Freie Hansestadt Bremen of October 17, 1995*; C-409/95, *Hellmut Marschall v Land Nordrhein-Westfalen*, November 11, 1997.

top of the pyramid, at the SCJ? How do we get from rather apparent equality in the profession, from a 20.7% gap in terms of promotion chances at the level of first instance courts, to 67% gap in terms of promotion to leadership positions at the SCJ level? There is no answer to such important questions as there is no access to the files of all applicants. Access to the files would allow to conduct an analysis of the evaluation criteria applied in all cases in which the women as a group rather than individually received a lower score. Such access could probably allow us to draw a conclusion that somehow such criteria may unintentionally lead to discrimination. Such a cross-sectional analysis needs to be carried out periodically by the SCM, specifically to ensure genuine equality of opportunities for women and men and adequacy of evaluation criteria applied. The suspicion that the attitudinal rather than legal barriers are setting impediments on the way of promoting women to the higher level courts or to the management positions has been confirmed by one of the respondent, who stated that: *“it depends on the person in the management position – when the SCJ was led by a woman, a wave of women was promoted and the courts have significantly improved from the perspective of organisational quality”* (Interview No. 15).

The interim positions to which a number of women judges were appointed in the summer of 2019⁶⁰ is viewed by some of the respondents as an example of willingness to show a trend of increasing representation of women in top managerial positions. However, one of the respondents explained the appointment of women in situations of crisis by the fact that women, especially those who have been appointed, have an irreproachable reputation; also, the female judges appointed are in a position of high seniority in profession (Interview No. 5). On the other hand, the same respondent believed that such situation would not last for long.

Judges at different court levels contested that the question of whether the applicant was female or male in the process of selection or promotion was never an issue. Three of the respondents have stated that the biases do exist in the selection process: the bias that it was not appropriate to allow a woman rule. Such bias exists among those deciding whom to promote as well as among the candidates. In their opinion, the practice is to choose mainly men for promotion (Interview Nos. 8, 14, 20). Moreover, many of the respondents stated that male judges were organizing themselves beforehand in their social networks so that the person to win selection competition – female or male is decided *apriori* according to the preferences made by such informal groups (Interview Nos. 8, 14, 17, 20). Such attitude favours maintaining the situation with a sole candidate in competitions (Interview No. 10).

The women judges who succeed despite all stereotypes and prejudices are rare. During the interviews it was repeatedly mentioned the case of one and the same female judge who took the entire professional journey from being court clerk up to becoming the president of the SCM and Minister of Justice (Interview No. 8, 15, 18). The bias that women who manage to succeed in their professional career have a profile different from other women in the judiciary system and from other women in the society serves to reinforce another prejudice, and namely, that an ordinary woman is not suitable for a managerial position. However, the respondents welcomed the presence of women in top management positions

⁶⁰ SCM, Decision No. 211/13 of June 25, 2019, available at: <https://www.csm.md/files/Hotari-rile/2019/13/211-13.pdf>.

and associated this with periods when more women in the profession have been appointed or promoted (Interview Nos. 8, 11, 12, 18, 20, 23). Therefore, it is deemed as important to have at least one woman in each of the admission or promotion commissions (Interview Nos. 11, 12, 14). With regard to the proposal of introducing a requirement to that end, the general attitude was rather reserved arguing that the formalisation in such sensitive issues raises risks of negative outcomes and hence the preference is given to a more incremental change within the structures (Interview Nos. 11, 10).

In fact, the very general formulation of evaluation criteria for candidates to take the position of president or deputy president of a court and lack of operationalization of such general criteria allows the bias to manifest, whether intentionally or not, when assessing the criteria “quality, efficiency and integrity in the position of a judge” or “skills of the judge to perform the required job”.⁶¹

Another attempt to justify the small number of women judges promoted to higher courts or to top managerial positions was by mentioning the politicization of the appointment procedure, especially with regard to appointment of judges to the SCJ while the Parliament itself is perceived as an institution that is made up mostly of men. Moreover, it is believed that the women judges are less connected with the informal networks of power. Naturally, the appointments made by the Parliament depend on the proposals made by the SCM. The SCM has a greater responsibility in this regard. The parallelism between presence of women in the Parliament of the Republic of Moldova and the appointment of women by the Parliament to the SCM highlights the way in which the discriminatory structures perpetuate. Thus, the Parliament with 78.2% of men and 21.8% women⁶² has appointed two men and one woman in the three positions available at the SCM.

In this context it is worth noticing that the biggest lack of judges (gap between the number of judges in the human resources scheme and the number of judges actually employed) is found at the level of the SCJ, whereby, as of 1 January 2019, for the required number of 33 judges only 27 were actually in the job, out of which 15 were men and 12 were women.

Repeatedly, during the interviews conducted, it was advanced the idea that appointment of the SCJ judges by the Parliament reduces the independence of this court and lowers the chances of promotion to this court of female judges. One of the women respondents has bitterly concluded: “*even if women would apply for the top managerial positions, still men favour their own caste!*” (Interview No. 17).

⁶¹ Item 14 of the SCM Regulation on criteria for selection, career promotion and transfer of judges approved by Decision of the Superior Council of Magistracy No. 613/29 of December 20, 2018.

⁶² Genderpulse, *Share of women and men in the Parliament*, available at: <http://genderpulse.md/ro/participare-la-luarea-deciziilor/reprezentarea-femeilor-si-barbatilor-in-organele-de-luare-a-deciziilor/reprezentarea-femeilor-si-barbatilor-deputati-in-parlament>.

c. The SCM as a Non-representative Institution

„How could a gender unbalanced SCM promote judges in a gender balanced way?“

(Interview No. 20)

The small number of women in leadership positions or in higher level courts in the majority of cases is being explained by the respondents as resulting from a notable gender imbalance within the SCM, the authority vested with the competencies of ensuring self-administration of the judiciary. The Law on the Superior Council of Magistracy No. 947 of July 19, 1996, provides that the 12 members of the Superior Council of Magistracy shall include judges and law professors, as well as the President of the Supreme Court of Justice, the Minister of Justice and the Attorney General who are *ex officio* members.

Article 2 of the aforementioned law provides details regarding the appointment algorithm so as to ensure the minimal representativeness of the different types of courts although gender diversity or gender representativeness are not taken into account by the law, despite of articulating the principle of equality and non-discrimination appearing in the Constitution of the Republic of Moldova. The Law provides that:

- ” (3) Three members of the Superior Council of Magistracy shall be elected by the Parliament from among law professors with the majority of votes of the elected members of the Parliament as proposed by at least 20 members of the Parliament taking into account the opinion of the representatives of the parliamentary opposition. The members of the Superior Council of Magistracy from among licensed law professors cannot be elected for 2 consecutive terms.
- (4) Six members from among the judges including 2 alternate members shall be elected to the Superior Council of Magistracy by secret ballot of the General Assembly of Judges representing all levels of courts”.⁶³

The international standards, including those of the Council of Europe, recommend to ensure the largest representation of judges within the SCM-type bodies.⁶⁴ During 2014-2018, there were 3 women and 9 men in one mandate and respectively 2 women and 10 men in another within the SCM. One of the responders, a former member of the SCM, pointed out to the lack of representativeness in an institution mandated to ensure proper organization of justice, underlying the lack of representativeness of its members in terms of judicial demographics: *“For the SCM to be truly representative, there should be quotas according to the court level for women / men, including for the alternate judges!”* (Interview no. 23).

When asked about gender representation in governing bodies two of the respondents were convinced that the current law already covers this principle. The problem is that it was not properly specified in the internal legal regulations (Interview No. 8). In general, we

⁶³ Art. 2 of the Law on the SCM No. 947 of 19 July 1996.

⁶⁴ OSCE, ODIHR, *Gender, Diversity and Justice*, Overview and Recommendations, 2019.

have noticed a certain restraint regarding measures for introducing gender quotas, including within the bodies representing the profession under arguments of meritocracy and freedom of expression and freedom to vote (Interview Nos. 10, 13). In its turn, the voting as an apparently free choice could in fact be a reflection of the prejudices and an honest discussion regarding the involuntary perpetuation of structural discriminatory models is need. Given the discrepancies highlighted by the analysis of statistical data it would be desirable to have a framework discussion in principle regarding fair promotion and involuntary perpetuation of gender stereotypes at the level of the General Assembly of Judges. Another solution could be considered (at least in the form of recommended due diligence or as a potential approach to establishing voting options) and that is the formula proposed by the EU Court of Justice in Case C-409/95, *Hellmut Marschall v Land Nordrhein-Westfalen* whereby, if two applicants get equal score one of them being a woman and the other being a man, the option shall be considered to favour promotion of a female judge as long as there is still a major gender imbalance in promotion within the profession, except for the cases when the objective evaluation of the criteria specific to each individual application is in favour of the man, provided such determining criteria are not discriminatory in respect to the female candidates.

Action lines

- Organize a discussion within the General Assembly of Judges with regard to encouraging parity representation in the SCM in order to guarantee de facto representativeness of the institution, targeting a quota of at least 40% for women.
- Amend the SCM Regulation on criteria for promotion to judge positions in the hierarchically superior courts, amend the appointment to the positions of president of the court or deputy president, in order to include a special temporary measure implying that in case of equal score between a woman and a man, it will be taken into consideration the priority of promoting a female judge as long as there is still a massive gender imbalance in terms of promotion in the profession, except for the cases when an objective evaluation of criteria specific to each individual candidate favours the man and provided such determining criteria are not discriminatory in relation to female candidates.
- Ensure well-reasoned justification of the SCM decisions in cases of selection and promotion competitions, thus contributing to boosting their meritocratic and non-discriminatory nature and allow for identification of criteria whereby women as a group have lower scores than their male colleagues.
- Ensure that the SCM conducts periodically a cross-sectional analysis of the files of the candidates from the perspective of promotion criteria. Make sure these are relevant to the terms of reference and do not raise any suspicions of indirect discrimination or contribute to covert discrimination.
- Cancel and reschedule the competitions with only one applicant to restore confidence in the fairness and transparency of the promotion exams.
- Include in announcements for the competitions a statement on encouraging women's participation.

5. Structures for the Professional Development of Judges

a. Ongoing Professional Training

Given the lack of willingness of the NIJ management to participate in an interview, this section was compiled based on the interviews conducted with third party beneficiaries or with NIJ partners, on the responses obtained from the National Institute of Justice following our public information request No. 278 NIJ of 26 July 2019, as well as on the information available on the web page maintained by the institution.

Regretfully, the response obtained from the NIJ is rather illustrative for the paradox underlying gender equality in the Republic of Moldova. Although formally, meritocracy and gender equality are the core principles that by definition should have been guiding the activity within the Institution, there is an overall lack of understanding the difference between formal equality and substantive equality and there is no institutional policy of assuming responsibility for and ensuring gender equality with regard to either internal policies or to the educational offer.

In its response, the NIJ mentioned that: „during the period of 2016 to 2017, out of 31 providing the initial training sessions, 15 were women and 16 were men. During the period of 2017 to 2018, out of 29 trainers, 11 were women and 18 were men, while in the first semester of 2018-2019, out of 24 trainers contributing to the initial training 11 were women and 13 were men”.⁶⁵ However, the picture is still missing the overall number of trainers engaged in the ongoing training and no data on the existence of a dedicated trainer on the gender topic or on related topics and no reference could be found in the relevant curricula.

The 2019 plan for the continuing training of judges does not list among its educational objectives the need for development of competences in relation to gender equality and non-discrimination. The plan mentions just a one-day general training course delivered by the NIJ on this topic.⁶⁶

⁶⁵ Response from the National Institute of Justice to the public information request No. 278 NIJ of 26 July 2019.

⁶⁶ NIJ, Plan of the ongoing training, semester II, year 2019, available at: <https://www.NIJ.md/sites/default/files/FC/planuri/Plan%20calendaristic%20pentru%20jud%20si%20proc%20sem%20II%202019.pdf>.

In its response, the NIJ mentions being part of the project entitled: „*Women’s Access to Justice: delivering on the Istanbul Convention and other European Gender Equality Standards in the Eastern Partnership Countries*” (2019-2021), without giving any detail about its role played in the project, specific objectives pursued or whether the project focuses on gender equality with regard to women judges and other professionals engaged in the judicial system or just on the status of women as the victims or as the beneficiaries of an act of justice.

The role played by the NIJ is essential for boosting the awareness regarding the importance of the principle of gender equality and non-discrimination, which is highly important in carrying out professional activity by the judges as well as in their process of personal development. However, currently it seems that the NIJ lacks a clear understanding of the fundamental role played by the institution in the process of ensuring substantive equality within the judicial system, the importance of granting support to women judges that are paying the price for professional success through defeminisation while assuming the Sisyphean burden of multiple tasks stemming from the huge workload and requirements imposed by the professional status as well as from the internalization of certain social expectations associated with the role of a woman in the family and in society.

According to information obtained, there is no working group or an individual within the NIJ assigned for integration of gender dimensions in the activity of the institution, providing for the ongoing data collection, analysing the needs and drafting the proposals regarding the educational offer available for the empowerment of women judges.

As part of the surveys done by the OSCE at the level of Member States, it has been showed that inclusion of equality and non-discrimination horizontally as elements to be touched upon within different disciplines, through case studies or examples included as part of other disciplines is more efficient, compared to simple streamlining of information through an isolated study module that could be perceived as a formal requirement.⁶⁷

While a possibility of choosing individually the ongoing professional training courses offered to the judges is rather laudable, since it bears on the own needs and specialization profile, certain topics touching on substantive legal issues as well as on soft skills, required professional abilities should have been integrated into the mandatory modules. Likewise it might be beneficial to organize extra-judicial events for the presidents of the courts on achieving work-life balance.

b. Professional Associations

The Moldovan Association of Judges is the main professional organization vested with the authority of supporting the interest of judges. In spite of this, at the level of the Association of Judges there is no nucleus or a working group that would focus on

⁶⁷ OSCE, ODIHR, *Gender, Diversity and Justice*, Overview and Recommendations, 2019.

the problems encountered by the women judges. Although the charter of the Association does mention in Article 2 among others „protecting the rights and interests of the judges’ families”, all of the persons interviewed on this topic have stated that no specific actions or initiatives were ever taken to that end, the Association being perceived as a „vocal” one, exclusively on the topics referred to the judges’ wages and pensions and rather inactive on remaining issues.

For encouraging a plurality of voices it is essential to provide support, mentoring and/ or coagulation models to accommodate special interests and to provide balance between family and professional life . From this standpoint, it is important establishing of a formal or informal support group whether within the Association of Judges or as a separate association. Such a platform would serve in supporting diversity, identifying specific needs of women judges as well as highlighting the barriers encountered by them, while articulating their interests in relation with the decision-makers and building the capacity of other women interested to embrace the legal profession.

Lines of Action

- Develop curricula materials at the NIJ level which would incorporate gender equality issues, both transversally as well as in a distinct modules.
- Establish at the level of the NIJ a working group or assign a dedicated professional that would ensure the ongoing monitoring and analysis of developments in the field of equality in general and gender equality in justice in particular, able of proposing curricula changes/amendments in the educational offer on different disciplines as well as in relation to the modules on required skills.
- Ensure, within the NIJ, the availability of modules and workshops in the fields of information technologies (MS WORD, Excel, and Internet navigation and e-mail skills), stress management, conflict management, assertive communication, biases and stereotypes.
- Render support to establishment of an association or informal group within the existing Association of Judges that could coagulate the interests and needs of women judges and build up a mentoring program as a support network.
- Introduce at the level of the NIJ a mandatory testing of implicit biases, a test due to be applied by each of the judges or prosecutors with the results obtained to be made available only to the tested person as a possibility of perceiving one’s own biases.
- Organize at the NIJ level a series of training courses for the presidents and deputy presidents of the courts on the topics of management, budget drafting as well as on soft skills, such as managing conflicts, efficient communication and time management.

6. Gender Stereotypes in the Justice System

a. A Profession Overburdened with Gender Stereotypes

Although the majority of the interviewed persons believe that the profession of a judge is neutral, marked with objectiveness and that one should not make any differentiation, some of the respondents have stated a series of gender stereotypes and prejudices in connection with it. Since the perceptions are of generalizing nature, the affirmations below represent nothing else but perceptions *per se* and cannot describe the way all women judges are and the way they behave as compared to male judges. Moreover, as long as they remain at the level of perceptions, the ideas below can be merely counteracted at the level of a discourse by presenting opposing views. However, very often the perceptions tend to affect our behaviour whether it is the way we present ourselves before the woman judge or it is the way a woman who became a judge behaves. Every time when a woman judge is facing disadvantage due to her gender without any objective and reasonable justification, this is clearly a case of gender discrimination. Creating an intimidating, hostile or offensive environment targeted against a judge just because she is a woman could constitute a form of sexual harassment. When the harassment takes a form of unwelcome sexual advances, we are faced with a case of sexual harassment.

At the level of perception, some of the interviewed persons stated that presence of women judges in the courtroom has a positive impact while being beneficial for the act of justice. They see a woman judge as a person trying to respect the rights of all parties concerned (Interview No. 8), showing an amicable attitude, maintaining open relation, thus favouring openness of the parties to a trial in sharing all of the details, including new facts (Interview Nos. 15, 18). One of the respondents explained such an attitude by the fact that „women are gentler in regard to the litigants” (Interview No. 2). Yet another more objectively substantiated opinion is that the criminal investigation is done preponderantly by men from police and/or prosecutor’s office while at the court it is the first time when a woman is hearing the respective persons, which could trigger a positive impact making the persons to be heard before the court more disposed to present the new circumstances or even new facts (Interview No. 6). This applies especially to criminal cases, more so in cases of domestic violence and other similar cases, whereby these aspects are considered as having a positive effect.

At the same time, there is a perception that women judges abstain from engaging with the criminal section in order to avoid applying criminal sanctions, a perception arising from the consideration of women being more emotional and therefore suggesting that it will be

much harder for women to issue sanctions as compared to male judges (Interview Nos. 2, 4). On this subject the opinions varied since there were also some respondents stating that the women judges once reaching the criminal court panels would issue rather harsh sentences (Interview No.10), being more discerning and unabashed (Interview Nos. 9, 20).

Yet another perception of women judges, widely spread among the respondents, is that women would be more responsible compared to men judges (Interview Nos. 8, 11, 13, 18, 23). For example, it has been stated that women judges pay more attention to procedural details as well as to the proceedings, which implies longer court hearings in front of women judges, while the male judges are more expedient (Interview Nos. 8, 11, 12, 17, 18). This stereotype in relation to women is being used by the interviewed persons in order to justify other stereotypes or even data and examples from their personal life – for example, the stereotype that women judges would candidate in a smaller number to take a managerial position just because they take in consideration quite seriously what it is entailed by such a position. Apparently this trait is not valued (Interview Nos. 4, 13, 17, 20, 22). Another stereotype is that there are less women judges prosecuted for the acts of corruption in justice as women would be less disposed to take certain risks of criminal nature since they have family and children (Interview Nos. 9, 17, 20). Regardless of the stereotype that the women judges would be more responsible than the male judges, they are not the ones preferred in taking administrative or managerial positions (Interview Nos. 13, 17, 18).

The only professional area in which there are more men than women is represented by the investigative judges. One of the interviewed persons that has provided this example believes that it is because the investigative judges need to ensure permanent on-duty services, which would be rather difficult in case of women tied up by family obligations (Interview No. 5). For this category of judges there are certain bonuses justified by the enhanced obligations.

b. "Doamna judecător" („Mrs Judge”) or "Doamna judecătoare" („Mrs Judge”)?

JUDGE, [Rom], is a noun male and female **1**. Civil servant [male/female], appointed or elected that solves judicial proceedings by way of adjudication/ruling; [similar sounding names in Romanian] judet (**1**2), jude (**4**). **2**. A person requested to state his/her opinion in a case with the purpose of establishing the truth. • (Sports) Arbitrator. – **Adjudecates** + suf. *-ator*. Source: *DEX '09 (2009)*

The name of the profession of judge allows for declension of feminine nouns: *judecător-judge- (m) –judecătoare-judge (f)*; The Explicative Dictionary of Romanian Language (DEX 2009) mentions the declension form. Hence, from the standpoint of grammar, it is correct to use the name “judecătoare - female judge” to identify a woman holding position of a judge rather than the name „judecător- judge”. [English: Mr Justice and Mrs Justice, My Lord and My Lady - when in the court and “woman judge” and/or “female judge” in description]

We thought it is appropriate to raise this issue in this section of the report where we deal with the analysis of gender stereotypes in justice since the way of addressing and the name of a profession or position have a symbolic importance as being the first sign (whether confirmed or not) as to what extent the respective profession is opened towards acceptance of professionals belonging to the opposite sex. Moreover, the profession of a judge and court proceedings are loaded with certain solemnity and there are specific forms of addressing, highlighting the role of judges played in the courtroom.

In the past, men were the only ones able to join professions such as judges and doctors, while women were totally excluded from the list due to their inferior social status. Nowadays, the profession of a judge is accessible for both women and men. Since the language has continuously developed, it was only natural to expect that the expression of a social reality persistent for a significant amount of time and the way of people addressing in common language finds its reflection in the feminine declension of nouns when referring to a woman holding position of a judge. For example, in the 1955-1957 edition of the Contemporary Literary Romanian Language Dictionary, the term „judge” appeared as the masculine noun (mn) exclusively. Quite differently, the 2009 DEX provides for feminine declension for the professions of *profesor-profesoară* [teacher], *farmacist-farmacistă* [pharmacist], *explorator-exploratoare* [explorer], *inginer-ingineră* [engineer], but not for such professions as *medic (sm)* [doctor], *cizmar (sm)* [shoemaker], *minier (sm)* [miner].

The rules of language seem to be less stringent compared to the stereotypes reflected by the professionals from within the justice system themselves. Although the majority of the persons interviewed stated that they have never given a thought to the correct way of addressing until now and that this issue is of no importance, still the majority expressed a strong opinion that from the standpoint of grammar the correct addressing formula [Rom] would be „doamna judecător” [Mrs Judge using the masculine, (m)] rather than „doamna judecătoare” [Mrs Judge, using the feminine declension (f)]. Moreover, the interviewed persons justified their reply symbolically with the statement that the feminine declension would reduce the prestige and authority of women judges and asking the others to address them in feminine would put them into a ridiculous position: „All of us are judges” (Double Interview No. 8). The women judges – respondents express their position in several ways: „it sounds improper, as if invented” (Interview No. 11), „sounds odd to one’s ear” (Interview No. 8); one of the judges sounded convinced that the persons using declension of the term are making linguistic mistake as not knowing the rules of expression (Interview No. 2). As a consequence, for the women judges, the mode of addressing is bound to their status within the framework of their profession as judge. They feel responsible to demonstrate that although they are women from the biological standpoint, they could cope well with a profession continuously stereotyped in the society as a masculine one. As a consequence, they are tempted to remove all elements that could unveil their biological womanhood in the profession of a judge and more so the way in which they are addressed. In this context, the use of certain forms, such as „domniță” [Missy] in regard to young women judges, judge

assistants or court clerks (Interview No. 2, Interview No. 4), even if rarely encountered, especially when used by the elder male judges, are probably received with some tension as such words could suggest a diminishment of the authority of woman judge.

Among the respondents, men were the ones feeling free to affirm that they do use the feminine declension when addressing a female judge, lawyer, etc., since this way it feels natural, matching the reality, seeing a person in front of you and providing them a recognition of their value (Interview Nos. 5, 9, 12, 18). From the standpoint of linguistics, the use of the feminine declension feels correct to them since it allows for better fluency of the text while observing proper linkage between grammar components of language – title, forename, courtesy formula, etc. This aspect triggered appreciation response on behalf of one of the women colleague-judge as well as a rejection on behalf of another woman colleague who believed that it was incorrect from the standpoint of linguistics (Interview No. 5). Yet another argument used to support the practice of using the declension for occupations was that the similar approach is used rather often in other fields. Likewise, another respondent has stated the preference of using the term „judecătoare” [female judge], because it sounds more fresh”, and because of feeling tired to see the men only taking the top jobs (Interview No. 9). The same respondent, however, claims that the correct, reverential formula, which is also provided by law, is a neutral one, i.e. „The Honourable Court”.

A dialogue with the specialized linguists suggested by part of the respondents (Interview Nos. 8, 11) will not suffice given the conditions of discrepancy between the language used and gender stereotypes in relation to the profession of judge, a discrepancy also internalized by women when a reference is made to their status within the profession. It is necessary to combat these stereotypes by enhancing the awareness regarding the role of women judges as professionals along with the fact that they themselves could internalize the stereotypes and gender prejudices persisting in connection with the profession of judge. In this context, it is worth emphasizing the role played by the SCM in perpetuation or combating these stereotypes through the failure to ensure correct gender declension in the information and decisions published on its own website or in its in-house documents when applying uniformity of addressing, thus nullifying the identity of female judges.

c. Discrimination? Where is the discrimination?

Discrimination on grounds of gender consists of the less favourable treatment of a woman compared to men because she is a woman, a differentiation which infringes a right or a legitimate interest (Art. 2 of Law No. 5/2006 on ensuring equal opportunities for women and men). For example, preferring a male candidate for promotion to a managerial position, even though a woman candidate had a better or identical score.

Indirect discrimination on the criterion of gender means any action, rule, criterion, or practice, identical for women and men but which, when applied in practice, has an effect or result that is unequal for one of the sexes (Art. 2 of Law No. 5/2006 on

ensuring equal opportunities for women and men). For example, organizing the ongoing professional training courses after working hours when women are clearly busy fulfilling their family duties.

The perception of the majority of respondents, regardless of their sex, is that women are taking a bigger share in the profession of judges and that they do not encounter cases of gender discrimination in their job (the fact explicitly mentioned in Interview Nos. 9, 10, 13, double interview). Quite the contrary, some of the respondents believe that too much importance is given to the affirmation of women's rights and their protection (Interview Nos. 2, 13, 20) without bearing in mind any difficult situations that men, in their turn, could encounter at certain point of time (Interview No. 2). In this regard, there is a perception that women are favoured rather than unfavoured, while „men have no excuses” (Interview No. 2) or that women are tempted to hide „lack of desire and initiative behind the statement of being discriminated” (Interview No. 10). This type of bias could be used against public policy proposals promoting equal rights for female judges, even if the proposals would be based on objective justifications.

The only idea accepted by all respondents is that the inequality between female and male judges is a structural social problem inherited from the patriarchal pre-modern and Soviet times, when women were running the household and raising kids (Interview Nos. 3, 11, 15, 19). Nowadays, these attitudes are still reflected in the life of women judges who after their working hours are confronted with the social expectation of continuing their work in the family unlike male judges that could devote their free time preponderantly for creative activities (Interview Nos. 3, 17, 20). These social mind-set and the aforementioned structural inequalities are foundational in barring women's access to certain opportunities and rights reserved for men judges by the mere fact of being male. From the examples to follow, which were extracted from the statements made by the interviewed persons, it becomes clear that the gender-based discrimination of women is taking a subtle form, more difficult to prove, and hence, more difficult to undo.

A good share of the respondents, especially the men, both from inside and outside the profession, stated that between men, unlike among women judges, there is a certain level of communication and socialization between male judges and male representatives of other professions, just because they are men (Interview Nos. 3, 8, 9, 10, 12, 14, 18, 20, 22). These relationships emerge in the work environment and could move beyond work by sharing free time together as part of sports and recreation activities. These links are helping men in their professional career, for example, in solving certain problems through cooperation between colleagues, finding out information about certain professional opportunities, career promotion, etc. (Interview Nos. 3, 9, 12, 17). This type of networking would be rather rare among women, mainly because after their main job women assumed the responsibility for family affairs and they put more effort on this issue. (Interview Nos. 3, 9). Some of the interviewed persons believe that this “socialization” between men could be a source of vulnerability, meaning that it could entail overstepping certain limits linked to the impartiality maintained by a judge (Interview Nos. 8, 9, 20) or that preferred candidates are established to take the managerial position (Interview Nos. 4, 8, 18, 20,

22). This would unfairly disadvantage a woman judge who relies merely on her own merits in career advancement. One of the respondents gave an example of organizing a party for the entire staff of the court. During the morning meeting the president of the court asked men only to stay in the room to decide on the organizational issues, including the date for holding the party, while the women were automatically excluded from taking part in the discussion, being expected to come to the party as invitees (Interview No.14). Even if this approach would not imply intention of discrimination against women, their automatic exclusion from participation cannot be justified objectively or reasonably. At a symbolic level, the outcome is that women are placed into a certain typology, operating with gender stereotypes and biases, whereby women shall not engage in the organizational issues, since they have family responsibilities as priority, women need to be protected or „when seeing a more powerful women, men attempt not to take her seriously, and abstain from discussing things with her” (Interview No. 14). According to the opinion shared by many of the respondents, in order to cope with such challenges, the women should be more determined and tough (Interview Nos. 6, 14), which means nothing but maintaining social distance.

A system which does not ensure standards of anti-discriminatory ethics, the transparent and objective criteria and procedures of career advancement becomes an accomplice with those who have discriminatory attitudes and perceptions with regard to women, thus maintaining the structural discrimination of women. The specific legislation applicable in the field of discrimination picked up on this conclusion and proceeded to operationalize it by introducing the provisions on sharing the burden of proof. The rule entails that when a woman employee produces certain elements (including statistical data) establishing the presumption that a woman could have been disadvantaged, the employer has to accept the burden of proof that the duty to prove that there were objective, non-discriminatory criteria based on which the preference was given to a male (Art. 19 of Law on Ensuring Equality, No. 121/2012). Moreover, in other jurisdictions, in the context of obvious disproportion between the number of women and men in top managerial positions within public institutions, the employer has the duty to provide evidence (also in the context of a complaint of gender discrimination) of taking all of the reasonable measures to actively promote participation in the competition of female candidates (see hereafter a reference to the Decision of the National Council for Combating Discrimination (NCCD, Romania), No. 335 of 18.06.2014). At the same time, when the fact that the President of the Superior Council of Magistracy was always male was challenged, the NCCD, as a matter of fact, did not reject the allegations *de plano* arguing that this position was one for which a person is elected by colleagues. Instead the national equality body examined the petition and rejected it as not being substantiated with evidence. The NCCD decided that in addition to the statistical data there was a need to produce certain indicators that would attest the intention and/or desire of women to run as candidates (see hereafter the NCCD Decision No. 44 of 09.01.2008). However, in the same decision the NCCD has issued a recommendation to the Superior Council of Magistracy from Romania to amend its own Regulation on the organization and functioning of the SCM with general provisions regarding respect for the principle of equal opportunities.

Romania, the National Council for Combating Discrimination (NCCD), Decision No. 335 of 18.06.2014⁶⁸

The local council of Satu Mare, through its decision, appointed for a period of 4 years an exclusively masculine composition (7 men) to the Administrative Board of company S.C. APASERV SATU MARE S.A., the water and sanitation service public operator of the municipality. This is a fully publicly owned company. According to the local council, the proposed candidates were selected pursuant to the legal procedure, being evaluated by an independent expert, the tender was open, there were no discriminatory criteria, while general as well as specific professional expertise, executive experience along with other competencies were taken into consideration. The local council has further stated that none of the women managed to get the scoring/ points necessary for being proposed or appointed as member of the Administrative Board. Starting from the statistical data presented, the NCCD established that there was a presumption of indirect discrimination and therefore shifted the burden of proof to the local council, which was asked to prove “that there was indeed a desire to promote women candidates to the Administrative Board of ApaServ”, i.e. to prove taking special measures to attract more women into taking top managerial positions. In substantiation of its solution, the NCCD referred to the jurisdiction of the Constitutional Court with regard to the affirmative measures: „5.9. The case law of the Constitutional Court enshrines as instrument of the effective realization of equal opportunities, the adoption of affirmative measures by the state, provided that it is „not contrary to the principle of citizens *being equal before the law and public authorities, instituting special rules as far as they ensure legal rights of people to use them. The principle of equality does not mean uniformity, hence, comparable situations must not be treated differently and the different situations must not be treated in the same way.*”

Romania, the National Council for Combating Discrimination (NCCD), Decision No. 44 of 9.01.2008⁶⁹

Since its establishment, the SCM as the constitutional body, part of the judicial authority and acting as the guarantor of the independence of justice in Romania, was chaired exclusively by men. When the petition was filed, of nine elected members, 5 were women and 4 were men. The regulation on the organization and functioning of the SCM does not contain any anti-discriminatory provisions. The petition challenged the apparently neutral practice of electing the Chairman of the SCM, which is however disadvantaging the women, since men were always elected as Chairmen of the SCM. The NCCD requested statistical data from the SCM; according to data

⁶⁸ Romania, National Council for Combating Discrimination (NCCD), Decision No.335 of 18.06.2014, available at: http://nediscriminare.ro/uploads_ro/docManager/541/hotara-re_335-14_Freies_Europa_dosar_148-14_g_I_constatare_cu_avertisment.pdf.

⁶⁹ Romania, National Council for Combating Discrimination (NCCD), Decision No. 44 of 09.01.2008, available at: http://nediscriminare.ro/uploads_ro/docManager/1306/44.pdf.

produced, it follows that during the period from 1993 to 2007, there was only one woman running for the office in 2005 though without being elected. The NCCD has not found any form of discrimination, stating as follows: „*No such act could be referred to the responsibility of the SCM, with regard to the contents of the petition that could imply a differentiated treatment with regard to women. Although the statistical data constitute a source of evidence, still the data invoked in this case subject to analysis, cannot be accepted with the title of “statistical” since these are irrelevant in absence of other indicators that would attest the women’s intention or desire to consider a possibility of running as a candidate.*”

d. Harassment in the Workplace and Sexual Harassment

The harassment in the workplace means any unwanted behaviour that leads to an intimidating, hostile, degrading, humiliating or offensive environment with the purpose or effect of violating the dignity of a person just because this person is a woman without asking for any sexual favours (Art. 2 of the Law No. 121/2012 on Ensuring Equality, and accordingly, Art. 173 of the Criminal Code). For example, if the president of the court addresses insults to a judge just because she is a woman, i.e. behaving in a way that he would never admit in relation to a male judge, such acts could be referred to as harassment in the workplace on grounds of gender.

The harassment manifested with the purpose of convincing a person to have sex or other unwanted sexual conduct, resulting from menaces and/or blackmail, shall be regarded and it is punishable as sexual harassment (Art. 2 of Law 5/2006 on Ensuring Equal Opportunities between Women and Men). The Superior Council of Magistrates informed that at the level of courts there was never an in-house regulation approved with regard to prohibiting and preventing sexual harassment.⁷⁰ Likewise, the Regulation on the internal procedure of the courts does not contain explicit provisions prohibiting discrimination, harassment at work and sexual harassment,⁷¹ an absence which was also underlined by our respondents. Still, the Code of Ethics and Professional Conduct of Judges in Art. 6 on professionalism stipulates a professional responsibility of the judges in relation with the parties during the court proceedings as well as in relation with their colleagues. In a rather explicit manner, the Code provides for the duty of the judges to respect equality of all persons before the law and to treat them in an orderly manner while protecting their dignity, honour, physical and moral integrity (Art. 6. (1)). Implicitly, the Code provides for the duty of the judges to maintain their professional knowledge and aptitudes at a high level, especially in relation to management, communication and cooperation (Art. 6. (4)).⁷² These paragraphs were interpreted in the Commentaries to the Code as including

⁷⁰ SCM, Response No.1957 m/i of 14.08.2019.

⁷¹ SCM, Decision No. 503/17 of 03.06.2014 on the approval of the Regulation on the internal procedure of the judicial instances, published in the Official Gazette No. 397-399, Art. 2059, of 31.12.2014, available at: http://www.legis.md/cautare/getResults?doc_id=37532&lang=ro.

⁷² SCM, Code of ethics and professional conduct of judges, approved by the Decision of the General Meeting of Judges No. 8 of 11 September 2015, Art. 6 available at: <https://www.csm.md>.

prohibition of harassment in the workplace and sexual harassment: „... any direct sexual constraints or pressures expressed through offensive, degrading or damaging conduct shall be categorically prohibited. The sexual harassment in the workplace could be used through the most subtle methods, rather often being manifested through reference to gender, unwanted sexual attention and/or sexual constrains.”⁷³

The SCM informed us that not even at the institutional level, i.e. SCM, the Judicial Inspectorate and the Disciplinary Collegium there were no complaints registered with regard to the sexual harassment of women judges.⁷⁴ In general, the respondents do not know any cases and did not even mention rumours about such situations. Some of the interviewed persons believe that as long as there are no cases, harassment in the workplace or sexual harassment raise no problems for the judicial system and there is no need to adopt any provisions explicitly prohibiting sexual harassment. Moreover, the SCM argues that they have never received any proposals on the necessity of providing training courses on sexual harassment and its prevention within the courts from the members of the SCM, SCJ or the courts.⁷⁵

Still, almost half of the respondents do not exclude that such situations could exist although kept unknown (Interview Nos. 5, 8, 10, 11, 12). One of the respondents compares absence of complaints in cases of sexual harassment to the similar case of domestic violence – mentioning the “courage” of women to file a complaint (Interview No. 5). However, further on, the respondent contradicted his own statement affirming that such cases do not exist and „if such cases did exist people around would have had heard about them“ (Interview No. 5). Yet another person implied that there were extramarital relations between the court staff but these were voluntary (Interview No. 10). Other respondents suggested making an anonymous survey on this topic in order to determine whether there is a problem (Interview Nos. 11, 12) or using some models of intervention from other countries (Interview No. 12).

In trying to reject the idea that there would be harassment cases within the judicial courts in Moldova, the respondents made attempts to explain why this could not be true, suggesting different reasons, such as: the judges are overly busy throughout the day as the workload is huge and it leaves no place for engaging in such type of conduct (Interview Nos. 4, 6), the judges cannot influence onto the career advancement of the civil servants working in the courts and hence, there is no way to offer sexual favours in exchange of moving up the career ladder (Interview No. 5); such facts would haunt a judge throughout the career and could jeopardize professional advancement (Interview No. 10); the Republic of Moldova is a tradition-abiding society and hence would never favour emergence of such incidents (Interview No. 5); the fact that the women judges themselves would tell jokes

[md/files/Acte_normative/Codul_de_etica_al_judecatorului.pdf](https://www.csm.md/files/Acte_normative/Codul_de_etica_al_judecatorului.pdf).

⁷³ Commentaries to the Code of ethics and professional conduct of judges, approved by the Decision of the General Meeting of Judges No. 8 of 11 September 2015, Art. 6 available at: https://www.csm.md/files/Acte_normative/Legislatia/Interne/2018/Coment_Codul_etica.pdf.

⁷⁴ SCM, Response No.1957 m/i of 14.08.2019.

⁷⁵ SCM, Response No.1957 m/i of 14.08.2019.

on gender or use an obscene language in amicable interaction with friends and colleagues, at parties, etc. (Interview No. 10) and that the male libido is getting low with the age (Interview No. 10).

Any reference to the subject of sexual harassment is causing embarrassment while the subject itself is taboo. The interviewed persons are not aware of the legal definition of sexual harassment but suspect that it means unacceptable conduct, associating it with decency and common sense in relation with the female colleagues (Interview No.2).

As an option for resolving a situation implying sexual harassment given the lack of an explicit transposition of legal provisions and clear-cut procedures in the internal documents, the interviewed persons believe that harassment could be covered by the general legal provisions (Interview No. 3), whether by the criminal law or as part of the disciplinary misdemeanours already referred to in the Regulation on the internal procedures, for example, in the form of „unworthy attitude to a woman colleague“ (Interview No. 2) or „breach of the code of ethics“ (Interview No. 10); one could also file a complaint with the superiors or the internal investigation commission. Likewise, it was expressed the opinion that a complaint could also be filed with the SCM (Interview Nos. 4, 6, 8, 10, 12). On the other side, there is a remote chance that the SCM would be able to resolve the problem impartially, more so when the alleged misdemeanour involves persons appointed in managerial positions by the SCM itself (Interview Nos. 6, 8). One of the interviewed persons that has filed a complaint with the SCM seeking protection in a different case having to do with behaviour of another participant in civil proceedings received an unsatisfactory response, being advised to refer individually to the civil court or other competent authorities (Interview No.6). Still, the same person points out to the SCM implying that given the situation having regard to the conduct of one of the colleague-judge, the SCM would respond promptly since „every individual judge is part of the image of system“ (Interview No. 6).

On the other side, there is a presumption that if such incidents would emerge among the personnel, it could create conflicts that would be resolved internally in the sense of abstaining from behaviour implying sexual harassment (Interview No. 2) or transferring a female-victim from the auxiliary personnel to another judge (Interview No. 10). Some of the interviewed persons raised during the discussion topics as „compassion“ and „receptiveness“ of the staff within the institution, implying that no such conduct would be allowed or that it would be eliminated as soon as it would be discovered (Interview No. 4). It has been further argued that in such situations, the women judges could protect themselves independently (Interview No. 4).

Volanta [Rom] (means a weekly or periodic kick off meetings organized at the level of an institution) – is a standing practice maintained by the president of the court with a potential of transforming into a staff meeting whereby the participants could expect to be exposed to cases of harassment and to a humiliating environment. Apparently it is being used to draw attention in front of all employees to those male or female staff members

that have infringed the in-house regulation, including for minor things such as being few minutes late for work in the morning as well as exposing those whose rulings were quashed by the superior courts (Interview No. 8, double interview No. 14). Humiliation in public of an employee by his/her superior is not a form of reprimand provided for by labour legislation or in-house regulations. It is a form of harassment in the workplace. When such a harassment is deliberately targeted at women rather than at men, it complies with the definition of a gender-based harassment.

Lines of action

- Introduce topics on combating stereotypes as well as covering gender equality issues at schools and pre-university institutions into a manner appropriate to age, in different courses.
- Introduce topics on combatting stereotypes as well as covering gender equality issues as part of the initial and ongoing training in gender equality in different courses studied at the NIJ.
- Introduce into the Regulation on the in-house procedure of courts as well as in the Code of Ethics and Professional Conduct of Judges certain explicit provisions forbidding discrimination, harassment at work and sexual harassment as well as provisions for ensuring equal opportunities between women and men at all levels of the judicial system.
- Ensure a gender-balanced representation in the collegium of selection for promotion to the superior instance as well as to the managerial positions.
- Organize mentoring programmes for the young women judges with the support of women judges with more experience.
- Encourage activities of socialization for women judges or mixed activities, which eventually would allow participation of families or accommodating the needs of care for family members.
- Organize an open doors day for the families giving them a chance to visit the court.
- Organize supervised playgrounds for judges' children where they could stay for a couple of hours before the end of a work day of their parents.
- Accept both forms of addressing „doamnă judecătoare” [feminine preceded by Ms.] and „doamnă judecător” [masculine, preceded by Ms.] until establishing the grammatically correct form: „doamnă judecătoare”. Using feminine declension with regard to the term „judecătoare” [female judge] in the decisions and public information on the web page maintained by the SCM.
- Establish a working group/task force at the level of SCM for carrying out the annual audit, keep track of the status of gender equality within the judicial system and propose measures to the SCM plenary of launching the projects to that end, including through international cooperation.

7. Accommodating Pregnancy and Maternity

The social rights and guarantees provided to the employees in the context of pregnancy and maternity include:

- Maternity leave and child care indemnity (Art. 124 of the Labour Code and Art. 16 of Law No. 289/2004 on Temporary Work Incapacity and Other Social Insurance Benefits);
- paternity leave and paternity allowance (Art. 124¹ Labour Code);
- partially paid leave for nursing a child until 3 years of age (Art. 18 of the Law No. 289/2004 on Temporary Work Incapacity and Other Social Insurance Benefits, amended through Art. 14 of Law No. 311 of 30 November 2018);
- prohibition of dismissal (Art. 86 para. (2) and Art. 251 of Labour Code),
- prohibition of applying probation period (Art. 62 e) of Labour Code),
- the right for reduced work hours for women with children younger than 10 years (Art. 97 para. (2) of Labour Code),
- overtime work restriction (Art. 105 of Labour Code),
- prohibition to engage in night work (Art. 103 para. (5) of Labour Code);
- the right to social assistance benefits in connection with poor health of a pregnant woman (Art. 4 din Law No. 289/2004 on Temporary Work Incapacity and Other Social Insurance Benefits);
- breaks for child feeding (Art. 108 of Labour Code);
- ensuring minimum labour conditions for pregnant women that have new-borns or are breast feeding (Government Decision No. 1408 of 27 December 2016 on minimum requirements for safety at work and health protection of pregnant employees with new-borns or who are breast feeding).

Both male and female judges are benefiting of the same social rights and guarantees as all other employees in the context of pregnancy and maternity. Unlike other states, the situation of social rights and guarantees in the Republic of Moldova seems to be rather generous as offering a large number of rights and guarantees.

At the same time, it was noticed a tendency towards separating the period during which a person ensures household work in connection with child raising and care, from the period of returning to the employment market. This leave period is being treated as a block without any chance of splitting it by days or taking into account a part-time work arrangement. Even if the beneficiary of a childcare leave could return back to work while

the benefit is still paid until the expiry of the leave, this measure more likely refers to hiring another person to take care of a child in absence of a parent, while failing to resolve the need in offering certain child care services or such of arranging the working hours in such a way as to correspond with the working hours of a nursery, kindergarten, etc. In daily life, the requirements with regard to taking care and educating a child that the parents have to meet do not cease straight at the end of the childcare leave; quite the contrary, these requirements become more diversified and complicated. Thus, the parents, employed as judges, are facing a situation when they have to independently manage fixed work hours at the office as well as additional hours needed to fulfilling employment duties and parental responsibilities with regard to children between 1 to 3 years old. In lack of effective support from the state, the parents have to rely on other members of their families, usually grandparents, to cover that period of time when they are serving the job.

The problem described has a gender dimension, rather specific to women. Even if the general opinion suggests that lately not only female but also male judges are taking the childcare leaves, which is perceived as a sign of society moving towards gender equality (Interview No. 6), the statistical data show that the reasons of taking childcare leave in case of the men are actually not linked with growing/educating a child as the primary caretaker, unlike their women colleagues. Indeed, the number of male judges seeking for childcare leave went up lately from 2 out of 12 new applications in 2015 up to 8 out of 14 new applications in 2017, while dropping to 4 out of 13 in 2018.⁷⁶ During the period from 1 January 2015 through 1 August 2019, while the women judges have used on the average 20,8 months of childcare leave (children aged up to 3 years), their male colleagues have used on the average 12,3 months, while in some cases no more than just a few days or weeks (7, 9, 38, 43, and 50 days).⁷⁷ The interviews corroborate that the male judges taking childcare leave are not the main caretakers, this role is still played by the child's mother or grandparents (Interview No. 8, double interview 10). The reasons for taking a leave are in connection with some opportunities or financial gains (Interview No. 17). Some of the respondents have stated that the first male judges who applied for a childcare leave actually had health problems that required longer treatment or there was a disciplinary proceeding initiated in their regard (Interview Nos. 8, 10). Hence, it is women judges preponderantly who encounter a problem of ensuring responsibility for growing and taking care of small children while having to meet their professional obligations at the same time.

The respondents believe that the women judges are coming back to their work in less than one year of childcare leave. The statistical data serve to turndown this prejudice, showing that the women judges are taking a longer pause in professional activity to dedicate themselves to maternity. During the period from 1 January 2015 through 1 August 2019, the women judges used on the average 20.8 months of leave to take care of children aged under 3 years.⁷⁸ The number of women judges resuming their work in about 1 to 1.5 years instead of 3 years (maximum duration of childcare leave) is much below than it is generally

⁷⁶ SCM, Response No.1957 m/i of 14.08.2019, Annex Table.

⁷⁷ SCM, Response No.1957 m/i of 14.08.2019, Annex Table.

⁷⁸ SCM, Response No.1957 m/i of 14.08.2019.

believed: in 2015-2017,⁷⁹ one third (9) out of 26 female judges resumed their work in about 1 to 1.5 years of leave unlike two thirds in case of male judges (9 of 13).⁸⁰ Resuming work after a longer period of time in connection with childcare leave is not accompanied by the period of accommodation, during which a woman judge would be able to update her knowledge on the existent legislative changes/amendments, i.e. leaving this work as their individual responsibility. Likewise, the NIJ does not provide for any special courses of updating the knowledge of these persons. As an exception, one of the respondents, president of a court stated that upon the return from the childcare leave, the female judge should participate in an executive meeting during which the latter should get familiar with the latest legislative amendments (Interview No. 6). Still, from the rest of the interviews it follows that such practice is far from being regular and in fact, depends on the practice adopted by some of the presidents of the courts. At the same time, the respondents are welcoming the measure provided for in the Regulation on SCM with regard to the criteria, indicators and procedure of evaluation of the competencies of judges approved by the SCM Decision 212/8 of 05.03.2013 (items 24¹ and 24³), pursuant to which a male or female judge shall not be subject to evaluation for the period of maternity or childcare leave.

Resuming one's work earlier rises a problem of growing children up to the age of 3 years. Pursuant to Art. 108 of the Labour Code, one of the parents of a child aged under 3 years shall enjoy the right of child feeding breaks, included in pay, in addition to the lunch break granted to every employee. The Law refers cumulatively to feeding a child and hence going beyond the breastfeeding. This right, although provided for by labour legislation, remains outside practical application in the judicial system. Additional breaks shall take place at least once every 3 hours, each having a duration of minimum 30 minutes, while in case of 2 or more children such breaks should be at least one hour. The employer though not obliged, could facilitate implementation of this provision by providing within the institution of a special space/room for child feeding, complying with the established sanitary requirements. None of the respondents made any reference to such rights and measures, which implies that these are provisions of a merely declarative nature.

In none of the courts, there is space provided for breastfeeding/giving meals to children or designed for breast milk collection and storage. In some cases, the respondents referred to a possibility of being locked up in the deliberations' room so that they could proceed with expressing the breast milk (Interview No. 5) while these fail to meet the respective sanitary conditions provided for by the Labour Code as referred to earlier. Some of the interviewed persons coming from the courts enjoying good material conditions, believe that the female judges have or could have a chance to have access to a fridge into the waiting room where they could store collected breast milk and take it back home, could lock themselves up in the office to collect milk or could bring their child to the office for

⁷⁹ Calculation reflects the status during 2015-2017, since the judges that took their childcare leave in 2018 still have time to return to the jobs until 2021.

⁸⁰ SCM, Response No.1957 m/i of 14.08.2019, Annex Table.

breastfeeding. Being asked whether such cases existed, the respondents, regardless of their sex, were unable to provide any examples (Interview No. 4). In the overwhelming majority of cases there are no conditions for storage of collected breast milk. When interviewing the representatives of the Agency for Court Administration, it has been stated that some areas of relaxation were included into the terms of reference for building the new courts but no spaces for child feeding (Interview No. 21). The general conclusion is that female judges discontinue breastfeeding once going back to work; they have never heard about and never made any use of the provisions established in Art. 108 of the Labour Code.

In addition to lack of material conditions for the efficient exercising of these rights provided for by law, there are also barriers imposed by the attitude of the court president with regard to the family responsibilities of female judges. In order to get additional breaks as provided for by law or to enjoy the right to reduced work hours, the women judges (pregnant as well as the ones having children aged under 10 years) (Art. 97 para. (2) of the Labour Code), must get the approval of the president of the court. Given that the gender stereotypes entail that the profession of a judge is one being masculine or gender-neutral, and that one's professional life is separate from that of family, even though the law explicitly stipulates the respective rights, the enforcement of maternity or family related rights is not perceived as being compatible with the profession of a judge. Thus, female judges wishing to exercise their parental rights provided for by law, end up in a situation forcing them to stick with the imposed image of a professional. The above stereotypes, internalized by the women judges themselves, make them live with a feeling that in case of demanding for their rights to be observed, they are "begging" for the forbearance of the president of the court. This ends up being the reason due to which the latter prefer to abstain from exercising their right (Interview No. 8, double interview, 14). Such attitudes and conduct serve to further maintain the vicious circle of stereotyped perceptions of the judges' profession while negating the actual need for adapting the work programme for women judges in such a way as to allow them to meet their responsibilities with regard to childcare when resuming their work after the leave. Only one of the respondents affirmed that as president of the court provided for flexible work programme for the women judges that were back to work after 4 to 6 months of maternity leave (Interview No. 23).

Likewise, exercising in practice the rights to breaks or to reducing the work programme as mentioned earlier, encounters organizational restrictions: even if a woman judge enjoys a reduced work programme, still, the number of cases distributed through a random system remains unchanged and does not differ from that of a judge working full time (Interview No. 5). In order to reduce the workload proportionally in case of female judges with a reduced work programme, an analogy could be drawn with the situation of court presidents and their deputies, benefiting of a reduced workload pursuant to item 5 of the SCM Regulation on the procedure of random distribution of cases for their examination by the courts.⁸¹

⁸¹ SCM, Decision No. 110/5 of 5 February 2013, available at: https://www.csm.md/files/Acte_normative/Legislatia/Interne/2018/Regulament_PIGD_modificat_18122018.pdf.

Lines of action

- Provide for a possibility of taking a childcare leave in a floating manner, ex. one to two days per week until the child reaches the age of 3 years, concomitantly with assigning a smaller number of cases through ICMS (Integrated Case Management System) bearing on a matching rate.
- Allocate resources in the courts budget for equipping a room/space for child feeding pursuant to provisions outlined in Art. 108 of the Labour Code.
- Provide within the buildings due to be erected as part of optimization, and meant for the new headquarters of the courts some special space/room for child feeding, pursuant to Art. 108 of the Labour Code.
- Get the heads of the courts familiar with all of the rights of their employees in the context of pregnancy and maternity and the respective employer's obligations.
- Open new nurseries and kindergartens responding in a qualitative manner to the services of childcare.
- Set with the NIJ a package of trainings to be attended by both male and female judges resuming work after the childcare leave after a long absence from the job.

8. The family – the Price of Being a Successful Professional

The disproportionate workload of judges in some of the courts is a systemic problem well mirrored in the statistical data published by the Agency for Court Administration⁸² and highlighted in the interviews organized when preparing this report. In order to be able to cope with the workload, the majority of judges have to work additional hours. This situation seems to affect all judges regardless of whether they have a family or are single, since their job requires strength, reduces their free time for recreational, recuperative activities, etc.

One of the respondents gives the following description of the disproportionate situation experienced by the judges: the state imposes high professional requirements and a volume of work that exceeds by far the remuneration, while offering no commensurable social guarantees instead (Interview No. 6). At the same time, the judges that have parental responsibilities in relation to their minor children or the ones having other persons in their care find themselves under huge strain due to little time allocated for their families. Just as specified in the previous sections, women in the Moldovan society are as a rule responsible for managing family/household duties after office hours. Consequently, the women judges are the ones feeling badly about their lack of free time stolen by the oversized professional obligations.

There is a general perception that the women judges should give up on an important part of their family life in order to remain in profession, which was actually done and regretted by all of the interviewed women judges („I was a judge but how much was I a mother?” Interview No. 19). One of the respondents proceeded to illustrate the situation of women judges that have also to fulfil their family duties: „a woman goes home to do the second shift”. As shared by the majority of the interviewed persons, an important role in furthering their professional life belongs to their family, especially by their life partners.

⁸² Agency for Court Administration, Information on the volume of work at the courts during the first 6 months of 2019, available at: http://aaij.justice.md/files/document/attachments/Informa%C5%A3ia%20%20privind%20volumul%20de%20lucru%20%C3%AE%20instan%C5%A3ele%20de%20judecat%C4%83%20pentru%206%20%20%20luni%20%20ale%20%20anului%202019%3B_0.pdf, year 2018, available at: <http://aaij.justice.md/files/document/attachments/Volumul%20de%20lucru%20per%20instanta%2012%20luni%202018%282%29.pdf>, year 2017, available at: http://aaij.justice.md/files/document/attachments/volumul_lucru_per_instanta_2017_12_0.pdf.

The following three examples were provided: life partners that do understand what the professional life of a woman judge implies („The men feel sympathetic as they see job strain we have to cope with”, Interview No. 4) and as a consequence are more tolerant with regard to fulfilling by the latter of their domestic duties (Interview Nos. 4, 18); life partners that fail to understand and then divorce (Interview No. 17) and the situations when the female judges choose to remain single (Interview No. 19).

The disproportion between the professional duties and time allocated is likewise obvious in case of the judges taking top managerial positions. Some of the respondents believe that the standard load of cases established in the Regulations shall not apply to the latter (for example 75% of cases to be reviewed by the president of district/rayon court⁸³), since in some rather difficult cases distribution should go to a more experienced judge, i.e. to the ones holding managerial positions (cases involving minors, some complicated complaints) (Interview No. 2). On the one side, certain statements were made implying that such situations serve to discourage women from running for the managerial positions as they would not be able to further cope with their family responsibilities (Interview Nos. 17, 19). On the other side, the male judges, presidents of the courts are in a way forced to neglect their family due to rather huge workload.

A good share of respondents referred to the need of having support and engagement of the employer in order to alleviate the workload of the judges and implicitly the double burden carried by women judges (Interview Nos. 4, 8, 9, 12, 19, 23, 24). The impediments that were identified by the respondents as well as a set of measures that could be applied are further outlined in the report.

As believed by some of the respondents, in spite of the fact that the work of a judge has no fixed hours, some of the courts practice keeping record of entry and exit from the institution, which seems to straightjacket unjustifiably the work programme of a judge (Interview No. 5). This creates unnecessary frustration while the majority of the interviewed persons have stated that due to the overwhelming workload the judges have to work overtime while this is not taken into consideration in time record sheets.

Many of the respondents share the opinion that there is a pressing need for a more flexible work schedule for the judges, to enjoy freedom of lining up the proceedings and then to have more freedom in arranging the rest of activities (Interview No. 3, 5, 12, 13, 14, 18, 23). Three of the respondents pointed out to the Dutch model whereby the judges could work remotely (out of office) one day per week (Interview No. 13, double interview and Interview 23), which would allow them to balance out more easily their family and career responsibilities. Some other respondents advocated for the need of introducing a flexible work schedule (Interview Nos. 3, 14, 17). Justification of this measure does not refer to fulfilling family responsibilities only, it also refers to the fact that activity of a judge

⁸³ SCM, Decision No. 98/4 of 10 February 2015, <https://www.csm.md/files/Hotari-rile/2015/04/98-4.pdf>.

implies engaging in intellectual work – it is necessary to give a good thought in order to find a correct solution and find proper words to substantiate the decision (Interview No. 3). This cannot happen all the time under a 8 am – 4 pm work schedule. If the flexible work schedule is offered as a measure for women with children only then it could be perceived as a discrimination with regard to the women without children but who need more free time to create their own family or with regard to men that assume the parental role and are taking care of and supporting their own families. Two of the respondents believe that it is rather difficult for the young women judges to arrange for their personal life once they have joined the “club” (Interview Nos. 3, 10).

The current labour legislation provides certain solutions for the employees that have to meet their family caretaking obligations. For example, Art. 97 para. (2) of the Labour Code provides for the right to reduced worktime for pregnant women or employees with a child younger than 10 years of age. The employer shall be obliged, if so requested, to establish a day or a week of partial work for pregnant women as well as for the employees with a child younger than 10 years of age or a child with a disability. Yet another example is the right of an employee to have a holiday at his/her own expense up to 120 unpaid days per year for solving certain family problems (Art.120 of the Labour Code). The judges should benefit of these rights on the grounds of their labour relation. At the same time, the specifics of judges’ work implies professional responsibility bound to ensuring the continuity and celerity of cases settlement and coordination with the work schedule of other employees. As a consequence, in order to practically exercise these rights there is a need for the support of the court management and clear procedures that would allow for judges’ substitution. Some of the respondents stated that they have abstained or encountered impediments in their attempts to exercise this right given the huge workload and work schedule (Interview No. 8). Likewise, there is a perception among the respondents that there is an expectation that the women judges should not mix their personal or family problems with the professional activity (Interview No. 8) (aspect developed at large in the previous sections of the report). Placed in a situation of having to seek for the consent of the president of the court, the respondents felt like begging for indulgence from their superior for solving their household problems. Given the lack of information and reluctance in exercising these rights, explicitly taking over the provisions available in the Labour Code and placing them into the Regulation on in-house procedure is considered by the respondents as a measure that could work in favour of women judges (Interview No. 8).

Another two respondents propose to arrange for a separate room/space for children within the institution where the judges and the litigants could leave their child for a couple of hours before the end of working hours, which would give parents a chance to see their child more often compared to the current solution when their offspring is in care of a baby sitter at home (Interview Nos. 14, 23).

Lines of action

- Assign at the level of each institution a person responsible for ensuring and observing equality and non-discrimination, including gender equality in the activity of the court.
- Entrust to the NIJ organization of periodic information updating courses in order to get the employees familiar with the latest developments in legislation and jurisprudence during the specified periods.
- Organize at the level of the courts days of open doors or celebrate the 1st of June or Christmas with participation of children.
- In line with courts optimization, provide for a separate room for children where the judges and the litigants would be able to leave their child for a couple of hours before end of programme.
- Take certain measures to offer service housing and subsidizing the rent in case of young judges transferred from other locations.
- Eliminate recording entry/exit time in the institutions where such practice is still common.
- Introduce a possibility for judges to choose more flexible work schedule within 40 work hours per week, depending on the type of duties and work schedule of other staff members.

Recommendations

ØThe Parliament of the Republic of Moldova

- Amend the Law on the Selection, Performances' Appraisal and Career of Judges No. 154/2012 so as to envisage explicitly that in case of promotion to the superior court and participation in a competition for managerial positions, a special temporary measure shall be applied when there is an equal ranking between a woman and a man; in such a case consideration should be given in offering the priority to promoting a woman judge, given the existence of a massive gender imbalance in promotion as proven by the current statistical data.

ØThe Ministry of Justice

- Include considerations regarding the gender dimension into the national strategies for the reform of the justice sector and allocate funds earmarked for carrying out periodic assessments and developing public policies to ensure equal representation of women in the courts and supporting the achievement of a balance between professional and family life.
- Prioritize participation in the implementation of projects and cooperation initiatives pursuing transfer of best practices with the view of ensuring gender equality within the judicial system.

ØThe National Institute of Justice

- Carry out periodically a gender audit within the institution from the standpoint of the employees and training providers as well as from the perspective of the beneficiaries of the ongoing professional training courses.
- Develop distinct curricula elements and ensure priority of incorporation of gender dimensions into the content for selection exams as well as into the topics of courses for the initial and ongoing training by diversification of the modules offered with the view of ensuring equality and non-discrimination regarding the substantive and procedural aspects. It is also important to include certain topics touching on equal opportunities for women and men.
- Develop a module and curricula materials as part of the ongoing professional training courses or such offered with periodicity and with the purpose to increase the required skills, such as: identification and addressing stereotypes and prejudices, assertive communication, stress management, time management, balance between family and professional life.
- Allocate human and financial resources earmarked for the development of the relevant materials for gender equality dimension.

- Offer courses for updating information for both male and female judges resuming profession after a childcare leave periodically.
- Prioritize participation in the projects and international cooperation initiatives pursuing transfer of best practices with the view of ensuring gender equality within the judicial system.

ØThe Superior Council of Magistrates

- Carry out periodically gender and age auditing within the institutions with regard to the judges as well as to the court assistants and clerks, chiefs of the court secretariats, keeping track of the share of women/men employees and their access to managerial positions.
- Adopt measures to ensure gender equality as part of recruitment and career promotion to the magistrates, including gradual ensuring gender parity at the level of SCM through introduction of gender representation shares and depending on the level of the institution.
- Amend the SCM Regulation on application of the Law on Selection, Performances' Appraisal and Career of JJudges No. 154/2012 so as to include (in case of promotion to a superior court and into the procedure of carrying out the competition for taking a managerial position) a special temporary measure so that in case of equal ranking between a woman and man, promoting the equally qualified woman judge should be taken into consideration as priority in as long as there still exists a massive gender imbalance in what refers to career promotion as corroborated by the current statistical data.
- Introduce a possibility for judges to choose a flexible work schedule within the established limit of 40 workhours per week, depending on the type of duties and work schedule of other staff members.
- Prioritize participation in projects and international cooperation initiatives pursuing transfer of best practices with the view of ensuring gender equality within the judicial system.

ØThe SCJ, Courts of Appeal, and the Judges

- Carry out gender auditing within the institutions, establish the women-men ratio of the employees, how many are taking the managerial position, are employed as the judges, court clerks, court assistants or being part of the administrative personnel.
- Reduce the number of cases allocated through ICMS in line with the reduced workload rate provided to parents resuming work after childcare leave and therefore accepting a smaller amount of work.
- Encourage development at the level of institution of an organizational culture valuing integrally each male/female employee and establishing conditions for developing at full potential with due observance of legal provisions.
- Ensure awareness-raising and assume the role played by the institution in enforcement of legal provisions that are meant to contribute to establishing balance between the professional and personal life of the employees.

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