

Country Visit: Moldova
Report of the Special Representative of the OSCE Chair-in-Office
on Gender Issues, Wendy Patten
11-15 April 2011

Introduction and Purpose of Trip

As Moldova seeks to consolidate gains in democratic governance, its commitment and capacity to address the needs and concerns of women will factor importantly in the country's success. Women in Moldova have made progress in some areas, but they continue to face significant barriers to equality and full respect for their human rights, especially women in rural areas. As the UN Special Rapporteur on Violence Against Women observed, "[o]ne of the most common gendered outcomes of the post-Soviet transition is the dual burden of economic exclusion and patriarchal transgression in women's lives."¹ While preventing trafficking in women rightly has been an important focus of both government and civil society in Moldova, domestic violence remains largely hidden despite the enactment of legislation to address the problem in 2007.

The purpose of the OSCE Special Representative's visit was to advance efforts to prevent and combat domestic violence in Moldova, as well as to promote women's rights and gender equality more broadly. In particular, the objectives of the visit were to discuss combating domestic violence with government officials and with justice system institutions (police, prosecutors, and judges), engage with non-governmental organizations (NGOs) and members of civil society who are active on this issue, and encourage more concerted action to address domestic violence. In addition, the visit highlighted the importance of comprehensive and sustained efforts to implement national legislation and international commitments on domestic violence, which remains a persistent problem throughout the OSCE region.

OSCE Framework and International Standards

Human rights and fundamental freedoms lie at the core of OSCE principles, which are rooted in a comprehensive vision of security across three dimensions: politico-military, economic and environmental, and human. Respecting and protecting the human rights of women as well as men is a core obligation of states under both OSCE and international standards. The OSCE participating States have made commitments regarding violence against women, including the

¹ *Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Erturk, Mission to the Republic of Moldova, A/HRC/11/6/Add.4, p. 23 (8 May 2009).*

2004 OSCE Action Plan for the Promotion of Gender Equality, which makes combating gender-based violence one of its central priorities. In adopting a 2005 decision on preventing and combating violence against women (MC Dec. 15/05), the Ministerial Council expressed deep concern about the level of domestic violence, its persistence, and its human and political costs. In this decision, the OSCE makes clear that domestic violence is a human rights issue, affirming that states have an obligation to exercise due diligence to prevent, investigate, and punish violence against women and protect and assist victims. The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, adopted in 2011 and opened for signature by Council of Europe member states, is also relevant in this regard.

Background: Domestic Violence in Moldova

Domestic violence is a widespread problem with serious consequences. According to a survey conducted in 2005, 41 percent of Moldovan women experience some form of domestic violence during their lifetime.² A recently-released 2011 study by the National Bureau of Statistics shows a prevalence rate of more than 60 percent. The variation among studies highlights the challenge of capturing the full scope of a problem that remains largely invisible and significantly under-reported. Still, it is abundantly clear that a large number of Moldovan women are subjected to violence by their husbands or partners.³

The government has responded to the problem by adopting the Law on Preventing and Combating Domestic Violence, No. 45, in 2007 and corresponding amendments to relevant provisions of Moldovan law via Law No. 167 in 2010. Taken together, these laws provide a basic legislative and institutional framework for addressing domestic violence. Improvements should be considered on an ongoing basis as stakeholders work with the law and identify gaps and problems, much as was done with 2010 amendments. In this same way, regular monitoring of implementation can help strengthen the legislative and institutional framework.

Implementation of National Anti-Domestic Violence Legislation

The Government of Moldova has taken a very important step forward with the adoption of legislation to prevent and combat domestic violence in 2007, which took effect in 2008. The Government also has supported initiatives funded by international donors to train police, judges, prosecutors, and social workers, facilitate initial implementation of the legislation, and raise public awareness about domestic violence, notably through an annual campaign entitled “16

² Winrock International, *Women at Risk in the Republic of Moldova: National Representative Survey*, p. 63 (June 2005), available at http://www.atnet.md/public/46/en/Women%20At%20Risk_eng.pdf.

³ As is typical elsewhere in the world, women in Moldova comprise the overwhelming majority of victims of domestic violence (more than 90 percent). This report focuses on domestic violence as a form of violence against women and on the need for gender-sensitive approaches to this problem.

Days of Activism Against Gender-Based Violence.” The government’s active dialogue with civil society and its willingness to cooperate with NGOs working in this area is also positive.

Still, Moldova faces significant challenges in preventing and combating domestic violence. These challenges include full and effective implementation of the 2007 legislation and 2010 amendments, discrimination against women, social attitudes and entrenched stereotypes regarding gender roles, and insufficient recognition of the nature and scope of the problem. Despite the enactment of anti-domestic violence legislation, domestic violence is still largely seen as a private matter rather than a criminal one. To their credit, many officials acknowledged many of these challenges in discussing their efforts to date and next steps to address this issue.

In Moldova as in other countries in the OSCE region, effective implementation of national legislation on domestic violence is a central challenge. Moldova has taken initial steps, such as training and limited specialized services for domestic violence survivors, but much more needs to be done to translate the legislation into a tangible reality for women confronting abuse. To fulfill the promise of the legislation, there is a pressing need to build capacity in ministries and other state institutions to understand the dynamics of domestic violence, address the problem effectively, and carry out their responsibilities for implementing the legislation throughout the country.

Implementation is especially needed at the district (rayon) and community level. There is insufficient understanding of the new law and the responsibilities it confers on local state authorities in many communities around the country. Despite having received training in numerous instances, local multi-disciplinary teams respond to domestic violence cases with varying levels of knowledge, skill, and diligence. Women throughout Moldova need to understand who to contact, what help is available, and how the state will respond. If the local officials do not handle cases properly, it will have a negative impact on public trust in the police and local authorities, which will dissuade women from reporting cases of domestic violence. Every local police officer, local prosecutor, and local social worker should treat implementation of laws on domestic violence as an important priority.

Implementation by the Justice System

Issuance and enforcement of protection orders remains a serious problem. No orders were issued for nearly the first year that the law was in force. At the time of the Special Representative’s visit, only 63 protection orders had been issued since 2009, more than half of which had been issued in one district, Caușeni, which is discussed in greater detail below. (As of November 2011, 222 protection orders had been issued). Police rarely initiate cases. Judges are reluctant to issue protection orders within the 24-hour period required under the legislation, leaving victims’ needs for immediate protection from abuse unmet. Several options could be considered to provide victims with immediate protection against further violence while also facilitating judicial

handling of cases. Increased support and training could be provided to judges and courts to help them manage cases effectively within the 24-hour timeframe, including the use of specialized judges for domestic violence cases where feasible (such as in larger courts). Greater availability of legal assistance for victims and more police training will also help in preparing protection order cases for court. Another option would be to adopt a two-tiered system of protection orders in which judges can issue a temporary ex-parte order on the same day as requested. The temporary order would last for a short period of time (e.g., 7-15 days) and afford the full range of relief available under the law (although typically temporary ex parte orders do not order batterer treatment or monetary payments). Then, before the temporary order expires (which can be extended if needed), judges can issue a protection order that remains in effect for a longer period of time (e.g., 6 months to 2 years, extendable).

Judges are also reluctant to order abusers to leave the home as part of a protection order, even though it is a form of relief authorized under the legislation. Some judges will order the abuser to leave the home only after the violence has become severe, citing concern for the abuser's property rights. Cases can arise in which protection orders require the abuser to stay away from the victim, while allowing the abuser to continue living with the victim in a small home. The victim's right to physical security is very often subordinated in such cases. Additional training is needed to assist justice system personnel in understanding and assessing the risks that failure to order the abuser to leave the home can pose to a victim's safety in domestic violence cases.

Enforcement of protection orders – both initial execution and response to violations – is weak. Law enforcement officials need to understand the risk of escalated violence when a woman leaves an abusive relationship and the need for ongoing safety planning. It is well known that violence at the time of separation from the abuser can be potentially very serious, including the murder of a woman by her abusive partner. Judges, prosecutors, and law enforcement officials identified enforcement of protection orders as one of the principal challenges in implementing the anti-domestic violence legislation. The Ministry of Interior expressed strong interest in developing protocols on protection order enforcement, covering issues such as evicting the abuser, monitoring compliance with the order, and protecting the victim. Efforts led by the Ministry of Labour, Social Protection and Family to create guidelines on handling domestic violence cases for social and health workers as well as district police are potentially significant as well.

Domestic violence is criminalized under Moldovan law but infrequently prosecuted. As seen elsewhere in the world, the majority of domestic violence crimes are typically simple assaults, but this type of violence has a tendency to escalate, becoming more serious over time. Effective action by the criminal justice system to hold perpetrators accountable for their criminal conduct is essential. Charges should be appropriate to fit the criminal violation, rather than using administrative sanctions in cases where prosecution is warranted. The frequent use of fines and reconciliation processes are of particular concern, especially in serious cases of violence. These

measures often leave the victim more vulnerable to escalating violence, as the punishment does not fit the crime and does not effectively deter offenses in the future. Reconciliation is often a consequence of a lack of understanding of the dynamics of domestic violence by law enforcement, prosecutors, and the judiciary, as well as pressure on the victim by the perpetrator.

Promising Practices

The Special Representative's visit to Caușeni district highlights the importance of effective implementation of the legislation and of comprehensive anti-domestic violence measures at the district and community level. That is where so many women will need legal protection and assistance and where police and prosecutors will determine whether crimes of domestic violence will be treated like crimes. Caușeni district's efforts offer a strong example of leadership and commitment by local stakeholders and the difference they can make if they are motivated to take combating domestic violence seriously. Local officials and NGOs were collaborating to implement the type of coordinated community response that holds the greatest promise for preventing and combating domestic violence. Police, prosecutors, social workers, shelter staff, and the legal services NGO were working together to provide services, protection, and assistance in domestic violence cases.

In October 2010, the Office of the Prosecutor General issued an order detailing the procedures used by the Caușeni Prosecutor's office, sharing their methods and sample documents with prosecutors throughout the country. For example, to execute a protection order in Caușeni district, police and social workers go together to the abuser's home to explain the order to the abuser and provide initial assistance to the victim. A special officer on duty monitors protection orders and pays a visit to the victim every seven days to inquire as to whether the abuser is complying with the order. Although they have informed victims that they can call the police at any time, this proactive approach has been important in increasing the confidence of victims in contacting local officials for help, while at the same time conveying the serious consequences of committing acts of domestic violence to abusers. Other districts across Moldova can use, adapt, or improve upon Caușeni's methods to better address domestic violence.

Training and Capacity Building

The Moldovan government has made strides in implementing domestic violence training programs for justice and social protection personnel. With international support, the National Institute of Justice has carried out trainings for prosecutors, judges, and associated personnel, while the Ministry of Interior has begun to develop training programs at the Police Academy as well as in-service training for active-duty police officers. The Ministry of Labour and Social Protection has training programs on domestic violence for social workers, health care providers, and police as part of multi-disciplinary teams. These programs are a promising start, but more regular and more extensive training that reaches personnel in all parts of the country is needed.

The government should devote adequate budgetary resources to training and address the problem of frequent turnover of police and social assistants, which impedes effective training of multi-disciplinary teams at the local level. It should also consider creative ways of providing ongoing technical assistance to local police, prosecutors, and social workers, drawing on international organizations and donors for support as appropriate and helpful.

Domestic Violence and Trafficking in Persons

In Moldova, major government efforts to combat domestic violence have been incorporated into pre-existing programs that focus on combating trafficking in persons. Some response capabilities are similar, such as protection and assistance to victims (e.g., safe shelter and social, medical and counseling services for sexual violence and other trauma), but the dynamics of trafficking differ from those of domestic violence in important ways. Domestic violence victims will not be adequately protected and assisted if they are viewed primarily through the lens of potential trafficking victims. Each problem requires distinct specialized expertise and a targeted approach to justice system responses, victim assistance, and public education and outreach.

For example, when asked if they received any referrals from the National Referral System (NRS), which was created to handle referrals for trafficking victims but is being expanded to handle domestic violence cases, a domestic violence NGO indicated that very few if any of the participants had come to their program via the NRS or police referrals. Instead, domestic violence survivors learned about the program mainly through the NGO's own outreach efforts. While this is only one example, it illustrates the potential pitfalls of incorporating domestic violence into anti-trafficking response systems, namely, a dominant focus on trafficking and insufficient attention to domestic violence. Some of the same mechanisms can be used, such as coordinated multidisciplinary efforts at the local level, but there is a need for targeted approaches to each of these problems that understands them as distinct phenomena.

Victim Services and Assistance

The shelters and service providers that the Special Representative visited have adopted solid approaches to assisting survivors of domestic violence. The shelters sought to provide comprehensive services for women and their children, including counseling, social services, and legal assistance. Lack of funding, however, is a major problem. There are insufficient bed spaces and not enough shelters and service providers around the country, especially in rural areas, where the dearth of services is particularly acute. Shelters, crisis centers, and legal aid require adequate budgetary resources in order to meet the needs of survivors of domestic violence.

A misconception that was frequently raised with the Special Representative bears mention. Various interlocutors asserted that alcohol abuse is a primary cause of domestic violence. While alcohol abuse can exacerbate domestic violence, alcohol abuse is not in and of itself a cause of

domestic violence. While substance abuse programs merit support in assisting persons with alcohol and drug addiction, substance abuse programs will not eradicate domestic violence. Domestic violence is rooted in patriarchal norms about power and control in relationships. Efforts to combat gender discrimination, change social attitudes that view women as inferior, and promote women's legal and economic empowerment are necessary components of a comprehensive effort to prevent and combat domestic violence.

Conclusion

The fight against domestic violence should be seen as fundamental to justice and the rule of law. We cannot speak of human security when women are not safe from violence in their own homes. This is both a human rights issue and a rule of law issue. Countries seeking to strengthen democracy and the rule of law need to recognize the importance of combating gender-based violence and give it priority at both the national and local levels.

Recommendations

- Fully and effectively implement Moldova's anti-domestic violence legislation in each district and community of Moldova. The law needs to be put into practice at the local level, where women confront domestic violence. It is critically important to send a strong signal from the very highest levels of government that full implementation is a major priority. Local police, prosecutors, and government officials should prioritize a comprehensive, coordinated community response to domestic violence, looking to the example of coordinated efforts in Caușeni district. Implementation efforts need to be sustained beyond international donor support through the provision of adequate budgetary and human resources.
- Recognize the differences between domestic violence and trafficking in persons and ensure that responses to domestic violence are not simply incorporated into programs that are primarily designed to combat human trafficking. While some programmatic elements are similar (e.g., safe shelter and services for sexual violence and other trauma), the dynamics of trafficking differ from those of domestic violence in important ways. A targeted approach to each problem is needed in order to combat it successfully.
- Strengthen law enforcement's response to domestic violence. There is a pressing need to build police capacity to handle domestic violence cases – both protection of victims and enforcement of criminal laws and protection orders against perpetrators. While training courses are an important step, training alone is not sufficient. Participants must be able to put what they have learned into practice and respond to domestic violence cases in a serious and effective manner. Law enforcement must fully and effectively enforce protection orders as part of efforts to prevent further violence. The Ministry of Interior

should develop effective mechanisms to provide guidance to police officers and hold them accountable for responding appropriately in domestic violence cases.

- Improve the prosecution of domestic violence crimes, ensuring that cases are fully investigated and charged appropriately and that fines or other administrative sanctions are not used when criminal prosecution is warranted. Prosecutors should receive in-depth training on domestic violence so they can work with victims and collect and present evidence in ways that are both effective and sensitive to the victim's experience.
- Undertake fatality reviews and safety audits in domestic violence homicides. These reviews, which involve all relevant justice and government officials, shelters, crisis centers, legal advocates, and other members of local civil society, can be a very helpful tool in identifying gaps or weaknesses in the protection system and recommending corrective action to improve coordinated response strategies and prevent future domestic violence homicides. Moldovan officials can learn from fatality review and safety audit methodologies used elsewhere in the world and adapt them to the Moldovan context.
- Expand and improve training for justice system personnel so that it is more in-depth, reaches all personnel, and is repeated on a regular basis. Training should cover responsibilities under the domestic violence legislation and related laws, the nature of domestic violence and the dynamics of victimization, and effective handling of cases. Experts in domestic violence should be invited to participate in training programs and assist in developing high-quality curricula. For police, training programs should be carried out not only at the Police Academy, where new recruits are educated, but also at the Police College, where current police officers receive in-service training. Training should also be expanded for social workers and health care providers. Emphasis should be given to training at the local level with representatives of district police and multi-disciplinary teams, so that they can learn to work together on domestic violence cases in a coordinated manner. To enhance the impact of training programs, the government should consider creative ways of providing hands-on assistance at the district level to justice system and social protection personnel.
- Greatly expand access to safe shelter and medical, psychological, social, and legal services for survivors of domestic violence. The need for such services in rural areas is especially acute. The government should provide adequate budgetary resources to create and sustain comprehensive services throughout the country. More legal aid providers who are specially trained in domestic violence are needed, as well as legal rights education for women and girls. International donors should provide additional support to both state authorities and civil society organizations in these critical areas.

- Ensure that adequate procedures are in place to ensure victim confidentiality – for law enforcement, prosecutors, courts, social workers, health care providers, fatality review teams, and other relevant personnel. Such procedures are critically important in cases involving domestic violence as well as other forms of gender-based violence, including for any automated systems that are implemented for tracking and handling such cases.
- Nascent efforts to develop batterer treatment programs should be informed by lessons learned in other countries. Such programs should reflect a solid understanding of why men batter and implement established methods for changing the behavior of those who use violence in relationships, with rigorous assessment of program effectiveness.
- Promote women’s economic empowerment and support equal opportunities for women in the economic sphere. Economic insecurity can limit women’s options in dealing with domestic violence, often making it difficult for them to leave abusive relationships.
- Implement a nationwide public education campaign on domestic violence, including mass media, education of adolescent boys and girls in schools, and messages targeted to both perpetrators and victims. Potential victims should receive information regarding their rights under the law and where and how to seek protection and assistance. Public education should be conducted on an ongoing basis and should emphasize that domestic violence is not a private matter but a crime that has serious consequences.
- Monitor the handling of domestic violence cases by the justice and social protection systems. While government institutions should monitor their own performance, NGOs should also monitor the government’s handling of cases to provide an independent voice from civil society and bring to bear the perspective of domestic violence survivors. Regular monitoring can help ensure proper handling of cases, identify gaps and problems, and facilitate the development of smart solutions.
- Incorporate implementation of Moldovan domestic violence legislation into efforts to strengthen local governance and the rule of law. Such efforts should improve the capacity of law enforcement and local government to meet the needs of domestic violence survivors and handle domestic cases appropriately. International support for justice sector reform and strengthening local governance should make preventing and combating domestic violence a key part of their assistance programming.
- Strengthen the legislative and institutional framework for promoting gender equality and women’s rights. In particular, improve the 2006 Law on Equal Opportunities for Men and Women by including mechanisms for implementation and legal remedies in case of violation. Moldova should also consider establishing an independent national body to promote gender equality and women’s human rights.

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APPENDIX – LIST OF MEETINGS

Chisinau, 11-15 April

Ministry of Foreign Affairs and European Integration

Mr. Andrei Galbur, Director, Multilateral Co-operation Department

Mr. Vladimir Cuc, Head of OSCE and International Security Division, Multilateral Co-operation Department

Ms. Corina Călugăru, Counselor, Multilateral Co-operation Department

Group meeting with NGOs

Centre for Partnership and Development

Interaction

Resonance

Social Aspect

Soros Foundation Moldova

Gender-Centru

Winrock International

Sotis

Group meeting with lawyers working on domestic violence:

Ms. Tatiana Catană, Law Centre for Women and Centre for Protection and Assistance

Ms. Diana Ionița, International Organization for Migration

Ms. Doina Ioana Străisteanu, lawyer for victims of domestic violence

Ms. Angelina Zaporojan-Pirgari, Law Centre for Women

Deputy Prime Minister and Chair of Governmental Committee on Gender Equality

H.E. Mihai Moldovanu

Ministry of Internal Affairs

Mr. Iurie Cheptănaru, Deputy Minister of Internal Affairs, Head of Police

Mr. Marin Maxian, Head of the Prevention Department

Ministry of Labour, Social Protection and Family

Mr. Sergiu Sainciuc, Deputy Minister

Ms. Lilia Pascal, Head of Direction on Equal Opportunities and Violence Prevention

Ms. Diana Donoaga, NRS Co-ordinator

Ms. Valentina Bodrug-Lungu, Consultant

Superior Council of Magistrates

Mr. Nicolae Timofti, Chair

Ms. Dina Rotarciuc, Member

Ms. Ecaterina Buzu, Head of SCM Apparatus

Participation in the Anti-Trafficking and Gender Technical Co-ordination Meeting

Ministry of Justice

H.E. Alexandru Tănase, Minister of Justice

Mr. Vladimir Grosu, Governmental Delegate to European Court of Human Rights

General Prosecutor's Office

Mr. Eugen Rusu, Deputy Prosecutor-General

Ms. Iurie Perevoznic, Head of Section on Minors and Human Rights

Visit to Casa Marioarei Shelter

Ms. Elena Burca, Chair of the Board

Ms. Victoria Cernat, Executive Director

National Institute of Justice

Ms. Anastasia Pascari, Director

Mr. Veaceslav Didâc, Deputy Director

Ms. Viorica Puica, Head of Continuous Training Department

Caușeni District, 14 April

Maternal Centre Pro Familia NGO

Caușeni Law Centre NGO

Chief Prosecutor of the Caușeni Rayon and staff

Mr. Ion Oboroceanu

Visit to local court

Meeting at police commissariat