



Office for Democratic Institutions and Human Rights

WEBINAR ON GENDER, DIVERSITY AND JUSTICE IN SOUTH EASTERN EUROPE

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ODIHR Meeting Report



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WEBINAR

GENDER, DIVERSITY AND JUSTICE IN SOUTH EASTERN EUROPE

MEETING SUMMARY

With the support of OSCE field operations in South Eastern Europe, ODIHR organized a webinar dedicated to discussing the participation of women, minorities and people with disabilities in the justice sectors of South Eastern Europe. The meeting was attended by judicial and self-governing bodies from throughout the region, including from Kosovo¹, as well as OSCE field operations, civil society organizations and ombuds institutions.

The aim of the event was to:

- Make participants aware of the advantages of increasing the participation of underrepresented groups in the justice sector as well as the recommendations that ODIHR has developed in this regard;
- Develop concrete and specific advice to the participating institutions on how to increase the participation of underrepresented groups; and
- Showcase how ODIHR together with OSCE field operations, can co-operate with the participating States, including through legal opinions and monitoring of judicial selection, to implement the recommendations of the ODIHR study on gender, diversity and justice.

Introduction

During her opening remarks, **Ms. Meaghan Fitzgerald**, Acting Head of ODIHR's Democratization Department, mentioned the ODIHR [study](#) published in 2019, which found that women, minorities and people with disabilities are often underrepresented in the justice sectors of the OSCE participating States. She remarked that equality is not only a matter of fairness, but also helps to generate trust in the justice system. The study was presented, including its four categories of recommendations for how to increase the participation of underrepresented groups in the justice sector:

1. Gender and diversity in selection and recruitment
2. Gender and diversity in retention of justice sector personnel
3. Sensitize justice system actors and legal education
4. Incorporating gender and minority perspectives

During the keynote address, **Ms. Shawna Wilson**, Executive Director, International Association of Women Judges, introduced the IAWJ which has over 6,150 judges as members in more than 100 countries and territories, including many OSCE participating States. One of the fundamental ideas of the IAWJ is that female judges bring different perspectives to the judiciary which are not more or less valuable than those of male judges, but they are different and therefore important to the justice sector. The IAWJ conducts national and regional activities, for instance anti-trafficking activities in Haiti, Dominican Republic, Kenya and Uganda as well as activities to ensure that LGBTI people are afforded equal rights and protections in Africa. In some jurisdictions, Ms. Wilson noted, women make up a majority of the judiciary. There may be several contributing factors to this. For example, in some jurisdictions, the judiciary is a low paid profession and viewed as a clerical or bureaucratic position. Even in states where there are significant numbers of women judges, there can still be

¹ All references to Kosovo, whether to the territory, institutions or population, should be understood in compliance with United Nations Security Council Resolution 1244.

discrimination. For instance, women judges may get fewer desirable cases assigned to them or may be expected to clean common areas, such as kitchens, for male judges.

During the **panel discussion**, the panellists shared their perspectives and made recommendations for the inclusion of women, minorities and people with disabilities in the justice sectors in South Eastern Europe. **Ms. Sabina Garahan**, Academic and Consultant, University of Essex, presented statistics² on the participation of women in the justice sector.

Proportion of female judges	First instance	Second instance	Supreme Court	Overall
Albania	51%	40%	9%	47%
Bosnia and Herzegovina	63%	67%	61%	64%
Montenegro	58%	57%	67%	58%
North Macedonia	61%	55%	52%	60%
Serbia	70%	75%	58%	70%

Ms. Garahan as well as other speakers expressed regret that there are little or no reliable statistics available for the participation in the justice sector of minorities or people with disabilities. The availability of such statistics would greatly facilitate efforts to ensure diversity within the justice sector. Statistics detailing the makeup of the prosecution services would also be helpful.

Several speakers addressed the fact that women are often overrepresented in the judiciary in the region. **Mr. Nebojša Đuričić**, Judge, Second Basic Court in Belgrade, emphasized the importance of looking at the percentage of men and women in different court divisions. For instance, in the Civil Departments of the courts in Serbia, women outnumber men by far, whereas in the Criminal Departments, representation is more equal. Mr. Đuričić noted that the reason for the disparity is the financial crisis in the 1990s when many men became advocates whereas women stayed in public service. He added that stereotyping is an issue that must be resolved. Several court presidents are women, but many still believe that male judges are more suited for management. **Ms. Kosana Beker**, Program Director, Women's Association FemPlatz, mentioned that in South Eastern Europe, laws against discrimination are often quite progressive, but enforcement of these laws can be improved.

Several good practices from other countries were shared by the speakers. In Norway, institutions are obliged to take active and specific measures to achieve gender equality. In Germany, there is a special commissioner for gender equality in each court. Ireland and Azerbaijan have undertaken a full analysis of all impediments to full access for people with disabilities to court buildings and other institutions.

The speakers also referred to the participation of minorities in the justice sector. **Ms. Tihana Leko**, Senior Adviser, OSCE Office of the High Commissioner for National Minorities, elaborated on the work that the OSCE High Commissioner on National Minorities is doing in this regard. HCNM has issued specific [recommendations](#) on access to justice for minorities. Ms. Leko stated that minorities are often underrepresented in the justice system for several reasons, including negative experiences with justice institutions, lack of relevant experience, discrimination and lack of information about professional opportunities. Policymakers should

² European judicial systems - Efficiency and quality of justice, CEPEJ Studies no. 26, <https://rm.coe.int/rapport-avec-couv-18-09-2018-en/16808def9c>.

analyse if and why minorities are underrepresented. When the causes have been identified, specific measures can be implemented to tackle systematic inequalities.

Several speakers emphasized the role of professional organizations such as the Association of Women Judges of Bosnia and Herzegovina, headed by **Ms. Adisa Zahiragic**. Such organizations can inspire trust in the justice sector and work on gender and diversity issues, for instance by being consulted on draft laws.

During the webinar, the participants provided the following **recommendations**:

- Participating States should take active measures to encourage members of underrepresented groups to acquire the necessary qualifications for being a judge or a prosecutor, as stipulated in the Kyiv Recommendations on Judicial Independence.³
- Authorities responsible for admission to legal education and recruitment to the justice sector should engage with minority communities and organize community outreach events for young women and men to learn about opportunities in the justice sector. Community engagement also helps to overcome a deep-seated mistrust of the system within marginalised communities.
- Justice sector institutions should consider introducing diversity focal points, to whom staff could turn in case of alleged instances of workplace bias, discrimination or stereotyping. The focal points should have the authority to investigate complaints and/or to make recommendations to management or to external actors.
- Bearing in mind intersectional discrimination, participating States should introduce publicly funded scholarships and fellowships for low-income law students (including, but not limited to, minority students), and facilitate and promote private scholarships and fellowships in legal education for this target group, including by introducing tax breaks for private and non-governmental organizations providing such funding.
- Justice sector institutions should promote legal internships, externships and clerkships for minority law students at courts and prosecutor's offices.
- Academic institutions should incorporate topics specific to minorities and people with disabilities in legal education, including continuing legal education, to sensitize justice sector professionals to related issues and to prevent unconscious bias and stereotyping. They should include information on communication between justice sector professionals and people with disabilities, including sensory disabilities and intellectual disabilities.
- Participating States should enforce existing legislative frameworks by strengthening existing mechanisms and establishing new mechanisms to promote equal representation of women and minorities in the justice sector based on international good practices; one example is the position of special commissioner for gender equality in each court in Germany. Participating States may draw upon the support of the OSCE and other international organizations when conducting such efforts.
- Participating States should consider establishing committees that analyse and make recommendations on accessibility. Alternatively, participating States may entrust these tasks to existing committees, bodies or institutions. The same applies for committees focused on gender parity and representation of minorities.
- Courts should improve access to facilities and case file materials, considering the varied needs of justice sector professionals and justice system users with disabilities.

³ Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia, <https://www.osce.org/odihr/KyivRec>.

- Justice sector institutions should promote digitalization, including the introduction of accessible and disability friendly online justice content, to the extent possible and as far as compatible with fair trial principles. Enforceable standards on accessibility for people with disabilities should apply to all public sector websites. Justice system digitalisation should be accompanied by targeted efforts to promote internet use and access by marginalised groups, which is especially important during the COVID-19 pandemic and the subsequent increase in remote working.
- Justice sector institutions should produce sex disaggregated statistics on the distribution of judicial posts. This can help raise awareness of the existing issues in ensuring gender balance and can lead to an increase in the number of women in certain important posts. Factors behind gender imbalance should be tracked and targeted measures developed in response.
- Participating States should consider targeted measures to support the promotion of women to senior positions in the justice sector, including court presidents.

ANNEX: Agenda



WEBINAR – Gender, Diversity and Justice in South Eastern Europe

12 November 2020, 14:00

13:45 – 14:00	Registration of participants
14:00 – 14:10	Opening remarks Meaghan Fitzgerald, Acting Head of Democratization Department, ODIHR
14:10 – 14:20	Keynote speech Shawna Wilson, Executive Director, International Association of Women Judges
14:20 – 14:30	ODIHR's work on Gender, Diversity and Justice Ola Quarnstrom, Rule of Law Officer, ODIHR
14:30 – 15:30	Panel discussion <ul style="list-style-type: none">- Sabina Garahan, Academic and Consultant, University of Essex- Kosana Beker, Program Director, Women's Association FemPlatz- Nebojša Đuričić, Judge, Second Basic Court in Belgrade- Tihana Leko, Senior Adviser, OSCE Office of the High Commissioner for National Minorities- Adisa Zahiragić, Association of Women Judges in Bosnia and Herzegovina
15:30 – 16:00	<i>Questions and answers</i>
16:00 – 16:10	Summary of the recommendations – Sabina Garahan, University of Essex
16:10 – 16:15	Wrap up Ghenadie Barba, Chief of ODIHR Rule of Law Unit