

Gender, Diversity and Justice

Overview and
Recommendations



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Published by the OSCE Office for Democratic Institutions and Human Rights
(ODIHR)
Ul. Miodowa 10
00–251 Warsaw
Poland

www.osce.org/odihr

ISBN: 978-83-66089-70-9

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Printed in Poland by Poligrafus Jacek Adamiak

Table of Contents

1. INTRODUCTION	4
1.1 Study Summary	6
1.2 Glossary	8
2. ANALYSIS	11
2.1 Overview of gender and diversity among justice system actors	12
2.2 Key findings and good practices	14
Representation of women	14
Representation of minorities	15
Representation of persons with disabilities	17
Overarching strategies to increase gender parity and diversity	18
3. KEY RECOMMENDATIONS	22
3.1 Gender and diversity in selection and recruitment	23
3.2 Gender and diversity in retention of justice sector personnel	23
3.3 Sensitize justice system actors and legal education	24
3.4 Incorporating gender and minority perspectives	25
4. ENDNOTES	28

1. Introduction



Support of the rule of law in OSCE participating States, including justice sector reform, is an integral part of the work of the OSCE Office for Democratic Institutions and Human Rights (ODIHR). ODIHR has worked with a number of participating States to address low levels of trust in justice systems, including in trust of courts and prosecution services. Judges and prosecutors are often perceived as belonging to a closed club, one inaccessible to ordinary citizens. When the demographic composition of those working in the justice system does not mirror that of the population at large, this perception may be further reinforced.

In response to these concerns, ODIHR held a number of expert meetings with justice sector stakeholders from across the OSCE region. Participants reflected on barriers experienced by women and minorities in accessing justice, as well as to equal representation and effective participation in justice systems. ODIHR has subsequently continued to develop its portfolio of work in this area in order to better understand and raise awareness of the nature and scope of these barriers, and to develop recommendations on how to overcome them.¹

This paper offers analysis and recommendations for building a more inclusive justice system, drawing on results of a needs assessment study carried out by ODIHR in 2017.² The study, which relied on both desk-based research³ and the collection of field data,⁴ was structured around two separate but interlinked themes: a) gender and diversity among justice system actors, in terms of recruitment and selection of a diverse workforce and ensuring workplace equality; and b) the effects of gender and diversity among justice system actors on the fairness of outcomes, as perceived by end users of justice systems. This

paper outlines specific challenges identified by the needs assessment study and highlights some of the good practice solutions used to address them.⁵

The paper and needs assessment study do not provide a comprehensive analysis of all gender issues relevant to woman and men in the justice system. Rather, they focus on those found in the OSCE commitments and international standards related to gender equality in justice systems, such as representation and non-discrimination. Workplace treatment is examined insofar as it relates to these concepts, while sexual harassment in the workplace lies outside the scope of the paper. Roma and Sinti and persons with disabilities were selected as particular minority groups in focus during the needs assessment phase of the study, in order to best align with existing available resources and expertise.

The paper's analysis and recommendations are designed to support OSCE participating States in meeting their commitments to provide "for specific measures to achieve the goal of gender balance [...] in all judicial and executive bodies" (Athens 2009)⁶ and to ensure "that judges are properly qualified, trained and selected on a non-discriminatory basis" (Moscow 1991).⁷ They are intended for a diverse range of audiences, including policymakers in individual OSCE participating States, judges, prosecutors and other legal professionals, and civil society representatives engaged in promoting the rule of law.

1.1 Study Summary

The needs assessment study findings confirm that gender balance and minority representation in justice systems are important factors in fairer justice system outcomes. This is due to

a number of factors, including greater public trust in justice systems where 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.

The study also probed qualitative aspects of the representation of women and minorities, including persons with disabilities, in justice systems. Even in participating States where there is gender parity among justice system actors, gender-based barriers to promotion and career advancement persist. Ethnic minorities remain underrepresented among justice system actors, even in participating States with high rates of ethnic minority representation. This is clearly illustrated in the case of Roma and Sinti communities, whose situation has been examined in more detail in ODIHR's needs assessment study in light of specific OSCE commitments relating to Roma and Sinti participation in public and political life.⁸ Persons with disabilities are also underrepresented among the men and women working as judges and prosecutors throughout the OSCE region.

With regard to quantitative representation, the needs assessment study participants expressed skepticism toward affirmative action in justice sector job recruitment, unless implemented as a last resort and for the shortest time possible. Affirmative action in legal education, by contrast, was seen more favorably.

The study findings regarding workplace treatment of women show that greater awareness of the issues of implicit bias and stereotyping is needed among justice sector professionals. Even in countries where women's representation in the justice

sector has recently seen improvement, there appears to remain a degree of patronizing treatment toward women on the part of men co-workers.

Complaint mechanisms for alleged instances of bias or discrimination on any grounds in the workplace appear to be underutilized in the majority of participating States covered by the needs assessment study, and little evidence was found of disciplinary mechanisms being used in cases of alleged discrimination.

This paper is based on research, is multidisciplinary in nature and presents a more detailed overview of the above issues. It draws on standards set forth in a wide range of normative instruments, soft law and other sources of international law.

1.2 Glossary

The glossary below explains key terms used in this paper, drawing on terminology from the fields of justice, human resources, sociology, gender studies and disability studies.

Affirmative action	The use of temporary special measures (for example, in education or employment) for persons from certain underrepresented groups, as a means of countering inequality generated by past or current discrimination. ⁹
Continuing education	Specialized education for members of a profession intended to update their knowledge and skills.
Direct discrimination	Differential treatment of a person or group because of their background or a certain personal characteristic.

Diversity

For the purposes of this paper, “diversity” refers to workplace diversity, i.e., fair representation in the workforce of different groups of society within a setting that recognizes and respects differences, thereby promoting full realization of the potential of all employees.

Implicit bias

Attitudes or stereotypes that affect understanding, actions and decisions in an unconscious manner. These biases, which encompass both favorable and unfavorable assessments, are activated involuntarily and without an individual’s awareness or intentional control. Also referred to as “unconscious bias.”

Indirect discrimination

Differential treatment by means of rules, regulations or procedures that may appear to be neutral, but that actually result in differential treatment for certain groups of people.

Intersectionality

Intersectionality and intersectional discrimination refer to situations where multiple grounds of discrimination operate at the same time, e.g., when a Romani woman with a disability experiences discrimination on the basis of her ethnicity, gender and disability status, in combination.

Justice system actors	For the purposes of this paper, the term “justice system actors” refers to the men and women who are state authorities involved in the adjudication of criminal, civil or administrative disputes, including judges, court staff, prosecutors and staff of prosecution offices. The term does not refer to police, law enforcement and penitentiary or correctional service personnel, as they were outside the scope of the needs assessment.
Linguistic minority	A community that uses a language different from the one spoken by the national majority, distinct from an ethnic minority, although the two may fully or partially overlap.
Minority	A member of a group who, because of their physical or cultural characteristics, are singled out from others in the society in which they live and experience unequal treatment. This could include members of ethnic, religious, linguistic or other groups.
Pre-service training	Training to prepare job candidates for the requirements of certain positions.
Reasonable accommodation	Provision of a necessary individual support or adjustment that allows a person with a disability to play an active role in society.
Retention	The degree to which the current employees of an organization remain with the organization over a given time period.

2. Analysis



2.1 Overview of gender and diversity among justice system actors

Challenges related to gender equality and diversity permeate the entire fabric of a society, including the justice system. In response, OSCE participating States committed to achieving the goal of gender balance and non-discrimination in justice systems.¹⁰ Additionally, in Brussels in 2006, OSCE participating States recognized “the positive contribution that all individuals can make to the harmonious pluralistic character of our societies by promoting policies focusing on equality of opportunity, rights, access to justice and public services, and on fostering dialogue and effective participation.”¹¹ Furthermore, in the Moscow Document the OSCE participating States committed to protecting the human rights of persons with disabilities and “to take steps to ensure the equal opportunity of such persons to participate fully in the life of their society”.¹²

An independent, impartial and gender-sensitive judiciary has a crucial role in advancing women’s and men’s human rights, achieving gender equality and ensuring that gender considerations are mainstreamed into the administration of justice.¹³ Therefore, states should make an effort to evaluate the structure and composition of their judiciaries to ensure adequate representation of women and provide necessary conditions for the advancement of gender equality within judiciaries.¹⁴

The representation of minorities among justice system actors is another important aspect of diversity. ODIHR’s 2010 Kyiv Recommendations on Judicial Independence in Eastern Europe, the South Caucasus and Central Asia address the representation of minorities in judiciaries, stressing that their composition should reflect the composition of their populations. They

recommend that “[i]n order to increase the representation of minorities in the judiciary, underrepresented groups should be encouraged to acquire the necessary qualifications for being a judge” and emphasize that no one should “be excluded because they are a member of a certain minority group.”¹⁵

The OSCE High Commissioner on National Minorities’ Graz Recommendations on Access to Justice and National Minorities also urges participating States to ensure that “[t]he composition of courts, tribunals, prosecution offices, law-enforcement agencies, correctional services, enforcement agencies (or bailiffs) and human rights institutions, [...] aim to reflect the diversity of the population at all levels.”¹⁶

As regards the participation of persons with disabilities, Article 27 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD)¹⁷ prescribes their right to work, on an equal basis with others. This includes the right to gain a living by “work freely chosen or accepted in a labor market and work environment that is open, inclusive and accessible to persons with disabilities.” In general, the Convention obliges state parties to take appropriate measures to ensure the protection of the right to work of persons with disabilities, throughout all employment processes, including, for example, recruitment, remuneration, access to vocational training and career advancement, working conditions and terms of separation.¹⁸ Persons with disabilities also have the right to participate on an equal basis in the justice system, not only as users of the system, but also as judges, prosecutors, jurors and lawyers. Article 13 of the CRPD emphasizes the obligation of state parties to “make appropriate accommodations to ensure that persons with disabilities have the same opportunity as others to participate in all legal proceedings”.

“Participation on an equal basis” in justice sector professions implies not only that selection and employment criteria must be non-discriminatory, but also that state parties are obliged to take positive measures to create an enabling environment for the realization of full and equal participation of persons with disabilities.¹⁹

Overall, participants in ODIHR’s needs assessment study agreed that lack of diversity among justice system actors has a far-reaching impact, beyond workplace dynamics. Diversity can influence judicial decision-making and ultimately affect the fairness of justice system outcomes.

2.2 Key findings and good practices

Representation of women

The needs assessment study found²⁰ that gender-based barriers to promotion and career advancement persist even in participating States with balanced representation of women. As a consequence, women are not proportionally represented in senior management positions, even where there is equal or slightly higher representation in the justice sector in general.

The OSCE Athens Ministerial Council Decision on Women’s Participation in Political and Public Life provides guidance in this context, calling on participating States to “consider providing for specific measures to achieve the goal of gender balance in all legislative, judicial and executive bodies”.²¹

Some respondents noted that men were more likely than women to leave the justice sector for private-sector jobs, which reportedly contributes to a phenomenon referred to as “feminization” of the justice sector. For instance, some noted that,

even though public sector employment is perceived as a fair and stable work environment, prosecutors and judges who are men are slightly more likely to quit the profession than women. Respondents ascribed this to lower pay on the one hand and more “family-friendly” working hours in the public sector compared to law firms and corporations on the other. It was also noted that the phenomenon is not exclusive to the justice sector and that in many societies men are seen primarily as breadwinners, therefore obliged to earn more, while women are seen primarily as caretakers.

In light of this, the reduction and elimination of the gender gap in parental leave policies has been observed to have a positive impact. It incentivizes men to take parental leave and thereby contributes to gender equality in the workplace.

Representation of minorities

The representation of minorities varies considerably across the countries examined in ODIHR’s needs assessment study, depending both on the participating State and the minority group concerned.

There is evidence that even in participating States with high rates of ethnic minority representation in public life, certain minorities remain underrepresented. Historically marginalized minorities, who are often stigmatized and stereotyped, in particular, encounter deeply entrenched barriers to representation.

Roma and Sinti men and women, for example, are largely unrepresented in judiciaries and prosecutor’s offices. In at least some participating States, Roma and Sinti people are perceived to suffer varying degrees of disparate treatment in judicial proceedings, particularly in criminal proceedings, due to the widespread

stereotype of being prone to criminality. Another common stereotype given as an example by survey respondents is that Roma and Sinti are perceived as less fit as parents, which puts this group at a higher risk of parental-rights termination.

The low levels of educational attainment of Roma and Sinti populations is one factor that contributes to their underrepresentation in the justice sector. Lower economic status, rooted in historical discrimination and social stigmatization, could also make it difficult for aspiring Roma and Sinti law students to undertake the lengthy training needed prior to judicial and prosecutorial qualification examinations.

With regard to LGBTI representation in the justice sector, the situation varies considerably across the OSCE region, from high levels of acceptance in some places to pervasive discriminatory attitudes in others resulting in a complete absence of openly LGBTI individuals among justice system actors. According to survey respondents, in some participating States, a growing share of public sector professionals, including justice sector actors, openly identify as LGBTI, and there does not appear to be fear of discrimination in that respect. On the other end of the spectrum, in other jurisdictions, not a single judge or prosecutor interviewed for the needs assessment was able to recall even one openly LGBTI judge or prosecutor.

The survey made clear that more justice sector actors with minority backgrounds would help dispel harmful stereotypes and generate more trust in the justice sector, both within the underrepresented minority communities they serve and throughout the population as a whole.

Representation of persons with disabilities

Persons with disabilities are also underrepresented among justice system actors throughout the OSCE region.²² The low representation of persons with disabilities is seen by some justice sector professionals not as a result of discrimination, but rather as an “objective limitation” on the capacity of persons with disabilities to serve as judges or prosecutors. This is of great concern.

Persons with disabilities may be perceived as incapable of serving as judges or prosecutors due to their disability, when in reality barriers to accessibility have not been adequately eliminated, or reasonable accommodation has not been provided.

Participating States that require candidates for judgeships and prosecutorial positions to obtain “medical clearance” may unduly limit participation of candidates with disabilities, without any justification related to actual job requirements.

Similarly, focus groups involving persons with disabilities conducted as part of the needs assessment showed that, in at least some participating States, prosecutors and judges seem reluctant to call persons with disabilities as witnesses, not only because of the need to make procedural accommodations, but also, possibly, because they place less trust in their testimony. People with disabilities expressed feeling as if they were treated as less intelligent, competent and valuable during court proceedings, or even pitied because of their disabilities. Both of these attitudes were experienced as equally degrading and humiliating.

This indicates that the shift from the medical model, in which persons with disabilities are seen as service receivers who

need to be pitied, to a rights-based model of disability has not occurred, or materialized only partially, in at least some participating States.²³ Therefore, there is a need to focus more on attitude and behavior change to both create a more enabling environment and to remove the barriers that prevent persons with disabilities from gaining access to work in the justice sector.

Overarching strategies to increase gender parity and diversity

Prevention of discrimination in qualification examinations on the basis of characteristics such as gender, ethnicity, disability or intersecting factors, was recognized in the needs assessment study as a key precondition for ensuring diversity. One good practice identified in this regard was anonymous testing until the final, face-to-face phase of recruitment processes.

Despite objective challenges in attracting a diverse pool of candidates for justice sector jobs, affirmative action was viewed with a fair share of skepticism by some of the respondents to ODIHR's needs assessment study. Both men and women, non-minority and minority respondents expressed disagreement with affirmative action, unless implemented as a last resort and for the shortest time possible. The general opinion was that such special measures risk creating a negative opinion of women and minority professionals, thereby risking that their chances for fair treatment and equal opportunities for professional growth would be undermined.

On the other hand, a number of survey respondents consider measures to increase diversity in education (as opposed to recruitment) as both appropriate and a viable method for increasing the number of judicial professionals from underrepresented groups in the long term.

In order to properly address stereotyping and gender bias in justice systems, sensitizing justice sector actors through education and training is key. This includes not only formal but also non-formal and informal education. Both men and women study participants overwhelmingly stressed workplace diversity as a good practice to promote learning and sensitivity. They pointed out that working side by side with judges and prosecutors from groups underrepresented in the justice sector can help overcome implicit biases and unconscious stereotyping.

Another option highlighted by respondents of the needs assessment study to facilitate diverse representation in justice systems was the use of lay judges. Including members of minority communities in justice systems in this way increases diversity and can pave the way towards inclusion.

Mainstreaming gender and diversity considerations into legal education curricula and content is another good practice. Survey respondents suggested that the audience may be less open to standalone modules on gender and diversity and may perceive them as questioning their professionalism and values. By contrast, mainstreaming relevant content, including through case studies and practical examples, was seen as helpful. Mainstreaming equality and non-discrimination in curricula can expose unconscious biases and illustrate less obvious dimensions of diversity. A good practice may be to introduce mandatory implicit-bias testing for judges and prosecutors, with the results only disclosed to the test-taker. The test-taker would then become aware of and be able to take steps to mitigate her or his own implicit bias.

Community engagement can also counter stigma and encourage more minority candidates to apply for justice sector jobs.

Respondents suggested encouraging justice sector actors to volunteer in the communities they serve, as well as organizing community outreach events for young women and men to learn about opportunities in the justice sector.

The provision of student financial aid was also recognized as good way of attracting candidates from underrepresented groups. The study found that such financial aid schemes work well in conjunction with community engagement. Community engagement has been found to help overcome deep-seated mistrust of the system within marginalized communities. This mistrust can hold young, educated individuals back from applying for justice sector jobs. One participating State provides a positive example where public financial aid schemes target disadvantaged groups in order to enable them to go to university. Persons from these groups, including Roma and Sinti, persons with disabilities or indigent applicants who clear the admission threshold are guaranteed acceptance in this scheme.

Employee grievance or complaint mechanisms for alleged instances of bias or discrimination in the workplace appear to be underutilized in the majority of participating States covered by the needs assessment study. The appointment of diversity focal points at the workplace, to whom staff could turn in case of alleged instances of workplace bias, discrimination and stereotyping, has been identified as good practice which may contribute to making these mechanisms more accessible.

While disciplinary mechanisms to hold justice system actors accountable for discriminatory behavior exist in all states examined, they are reportedly almost never implemented in cases of alleged discrimination in promotion or case allocation.

Against this backdrop, it is possible that the perception of workplace fairness is influenced not only by objective factors. The lack of awareness among justice sector practitioners of what constitutes workplace discrimination and what threshold can legitimately trigger a complaint may play an equally decisive role. Furthermore, the effectiveness, and perceived effectiveness, of a complaint mechanism is a factor in whether it is used. If complaints of workplace discrimination do not result in thorough investigation and remedial action, this will discourage complaints altogether.

3. Key Recommendations



The findings outlined above have led to the following non-exhaustive, but cross-cutting set of recommendations on how to address the gaps, challenges and shortcomings in gender parity and diversity in justice systems throughout the OSCE region.

3.1 Gender and diversity in selection and recruitment

1. Promote gender parity and minority representation among justice system actors by encouraging strategic selection and recruitment, in particular by working with underrepresented group representatives who are in the legal profession to help identify good candidates and encourage them in their quests for appointment.
2. Regularly assess the factors behind low minority application rates and develop targeted measures to address these (e.g., via outreach campaigns or meetings at historically minority schools).
3. Ensure gender balance and diversity on selection and recruitment boards.

3.2 Gender and diversity in retention of justice sector personnel

4. Ensure that staff policies undergo thorough review and analysis to eliminate indirect discrimination, and that they remain works in progress and responsive to employee input and concerns.
5. Review access to social benefits in light of gender and diversity considerations and promote better work-family balance for justice sector professionals, in particular, by bridging the gender gap in access to parental leave.

6. Develop policies on reasonable accommodation, recruitment and retention of persons with disabilities in the workforce of the justice sector.
7. Consider introducing mandatory pre-service orientation for incoming staff to address workplace equality and the eradication of implicit bias, among other issues.
8. Improve the effectiveness of existing justice sector workplace complaint mechanisms or, where such do not exist, develop and introduce viable mechanisms. Such complaint mechanisms should provide an effective remedy, preserve judicial independence and enjoy independence from court administration, in particular. They should be supported by adequate human resources to ensure meaningful review of complaints, as well as to raise employee awareness of what constitutes workplace discrimination and the circumstances that may trigger action.

3.3 Sensitize justice system actors and legal education

9. Promote sensitivity among justice system actors through pre-service (as applicable) and continuous legal education, training and capacity building.
10. Mainstream gender and diversity considerations into legal education, including continuing legal education, curricula and content, in addition to standalone modules on gender and diversity. Case studies and practical examples should be part of such mainstreaming. Incorporate women-specific topics in legal education, e.g., relating to violence against women.
11. Support community outreach by justice system actors as a way to sensitize relevant practitioners to the concerns of the

communities they serve, including particularly vulnerable groups. Such outreach should include meetings with local communities and outreach to groups that are underrepresented among justice system actors, including women's organizations, organizations representing persons with disabilities and organizations working on Roma and Sinti issues.

12. Promote better representation and inclusion of women and minorities to combat practitioners' implicit biases by exposing them to a diverse working environment.
13. Promote the enrollment of women and minority students in law schools and in judicial and prosecutorial training (where pre-service training is a requirement), in particular by conducting outreach activities in minority communities.
14. Bearing in mind intersectional discrimination, 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 for this target group, including by introducing tax breaks for private and non-governmental organizations providing such funding.
15. Promote legal internships, externships and clerkships for minority law students at courts and prosecutor's offices.

3.4 Incorporating gender and minority perspectives

16. Promote gender parity and minority representation among justice system actors by encouraging underrepresented groups in the legal profession to advocate for better representation and support the inclusion of gender and diversity concerns on domestic political agendas.

17. Develop and implement mechanisms to regularly monitor the impact of gender and diversity mainstreaming policies and make requisite adjustments.
18. In participating States with sizeable linguistic minorities, consider introducing publicly funded language training courses for justice sector professionals. This should include both state language courses for minority professionals and – where the minority language is permitted for official use in court – minority language courses on a voluntary basis.
19. Promote and support minority staff networking and the participation of minority networks in shaping organizational agendas, while paying special attention to maintaining the nonpartisan and secular nature of justice sector institutions.
20. Improve the accessibility of courthouse facilities and case file materials, taking into account the varied needs of justice sector professionals and justice system users with disabilities.
21. Promote digitalization of the justice system, including the introduction of accessible and disability-friendly online justice content,²⁴ to the extent possible and as far as compatible with fair-trial principles. Enforceable standards on accessibility for persons with disabilities should apply to all public sector websites. Justice system digitalization should be accompanied by targeted efforts to promote internet penetration and access to the internet by marginalized groups.
22. Review legislation to ensure that victims with and without disabilities are treated equally. This recommendation is without prejudice to recognition of temporary or permanent incapacitation of the victim as an aggravating circumstance in criminal cases.

23. Incorporate disability-specific topics in legal education, including continuing legal education, curricula and content, to sensitize justice sector professionals on the rights-based approach to disability and to mitigate against unconscious bias and stereotyping. In particular, include information on communication between justice sector professionals and persons with disabilities, including sensory disabilities and intellectual disabilities.
24. Incorporate topics specific to ethnic minorities in legal education, including continuing legal education, to sensitize justice sector professionals to related issues and to prevent unconscious bias and stereotyping, with particular attention to Roma and Sinti. Ideally, this should not only include legal issues but also information on the nature and scale of anti-Roma racism, as well as the situation with regard to systemic discrimination against Roma and Sinti.
25. Promote civil society monitoring of criminal, civil and administrative proceedings as a tool for detecting instances of bias, stereotyping and discrimination in the justice system, and to initiate public debate.

4. Endnotes

- 1 This was also the topic of discussion at a Supplementary Human Dimension Meeting (SHDM) held in Vienna on 16-17 November 2017, titled “*Access to Justice as a Key Element of the Rule of Law*”. See the full meeting report at: <<https://www.osce.org/odihr/383745?download=true>>.
- 2 The paper was developed drawing on the findings of a needs assessment study carried out by ODIHR in 2017. The study looked into gender and diversity in the justice systems of nine OSCE participating States: Bosnia and Herzegovina, Denmark, Kazakhstan, Kyrgyzstan, Montenegro, Serbia, Spain, Ukraine and the United Kingdom. These participating States were chosen to represent most OSCE sub-regions, including Western Europe, South Eastern Europe, Eastern Europe and Central Asia. The paper is also informed by the findings of a November 017 meeting with stakeholders from most of the participating States covered by the needs assessment study.
- 3 Desk-based research analyzed available legislative, regulatory and policy instruments; assessments and surveys by other actors; training plans and strategies of relevant professional training institutions; and other sources of secondary data.
- 4 Field data were collected through in-depth interviews with policymakers and independent experts (academics and civil society); semi-structured interviews with representatives of the judiciary and prosecutorial bodies; and short paper-based or online questionnaires and focus group discussions involving end users of the justice system.
- 5 See news item “Linkages between gender, diversity and justice explored at ODIHR event in Warsaw” at <https://www.osce.org/odihr/359546>.
- 6 OSCE Ministerial Council, Decision No. 7/09, “Women’s Participation in Political and Public Life”, Athens, 2 December 2009, para 1, <<https://www.osce.org/mc/67621>>.
- 7 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, Moscow, 10 September to 4 October 1991, para 19.2 (iv), <<https://www.osce.org/odihr/elections/14310>>.

- 8 Numerous OSCE commitments, some dating back to as early as 1990, specifically address discrimination against Roma and Sinti and barriers to their full and equal participation in public life. ODIHR's Contact Point for Roma and Sinti Issues was established in 1994. It was the first such office established to promote Roma and Sinti human rights and their integration in society. Key documents on ODIHR's mandate on Roma and Sinti issues can be found at <<https://www.osce.org/odihhr/154691>>.
- 10 OSCE Ministerial Council, Decision No. 7/09, *op. cit.*, note 6, para 1 and Moscow Document, *op. cit.*, note 7, para 19.2 (iv).
- 9 Note Article 4(1) UN Convention on the Elimination of All Forms of Discrimination against Women, which states that "Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved." See also UN Committee on the Elimination of Racial Discrimination, General Recommendation 32, para. 12.
- 11 OSCE Ministerial Council, Decision No. 13/06, "Combating Intolerance and Discrimination and Promoting Mutual Respect and Understanding", Brussels, 5 December 2006, para 3, <<https://www.osce.org/mc/25065>>.
- 12 Moscow Document, *op. cit.*, note 7, para 41.2.
- 13 UN General Assembly, Report of the Special Rapporteur on the independence of judges and lawyers, A/HRC/17/30, 29 April 2011, para. 45.
- 14 *Ibid.*, para. 47.
- 15 OSCE/ODIHR and Max Planck Minerva Research Group on Judicial Independence, "Kyiv Recommendations on Judicial Independence in Eastern Europe, South Caucasus and Central Asia", June 2010, <<https://www.osce.org/odihhr/kyivrec?download=true>>.
- 16 OSCE High Commissioner on National Minorities, "The Graz Recommendations on Access to Justice and National Minorities", November 2017, Recommendation 5, <<https://www.osce.org/hcnm/graz-recommendations>>.
- 17 UN General Assembly, Convention on the Rights of Persons with

Disabilities, A/RES/61/106, 24 January 2007. See also Article 13 of the Convention, which imposes a positive duty on state parties to provide the necessary accommodations in order to facilitate effective role of persons with disabilities as direct and indirect participants in legal proceedings. The Convention entered into force on 3 May 2008. It has 161 signatories and 177 parties (<https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>).

- 18 See Centre for Disability Law and Policy (CDLP), National University of Ireland, Galway, *Submission to the UN Committee on the Rights of Persons with disabilities – Day of General Discussion on the rights of persons with disabilities to equality and non-discrimination (Article 5 of the CRPD)*, 2017, <<http://www.nuigalway.ie/centre-disability-law-policy/research/legislativesubmissions/>>.
- 19 See recommended standards for judicial selection and training set forth in Part II of ODIHR's Kyiv Recommendations, as referenced in note 16.
- 20 The needs assessment study looked into gender and diversity in the justice systems of nine participating States (Bosnia and Herzegovina, Denmark, Kazakhstan, Kyrgyzstan, Montenegro, Serbia, Spain, Ukraine, the United Kingdom) representing most OSCE sub-regions (Western Europe, South-East Europe, Eastern Europe and Central Asia).
- 21 OSCE Ministerial Council, Decision No. 7/09, *op. cit.*, note 6, para 1.
- 22 According to World Health Organization statistics, around one billion people worldwide have some form of disability. While not always supported by reliable data, expert discussions and the work carried out as part of ODIHR's needs assessment study showed that representation of persons with disabilities among justice system actors – as in all areas of public and political life – is low. The UN CRPD Committee has expressed concern at the lack or low level of disaggregated and reliable statistical data regarding persons with disabilities, especially women with disabilities.
- 23 Over the last decade, the concept of disability has shifted from the so-called “medical and charity” approach to a human rights-based approach. This reframes the issue so that persons with disabilities are no longer seen as patients or service receivers who need to be pitied or “fixed” to fit in with society. Rather, persons with disabilities are recognized as full and equal members of their communities who can take

active roles in public life, provided they receive the necessary support and assistance. See *Guidelines on Promoting the Political Participation of Persons with Disabilities* (Warsaw: OSCE/ODIHR, 2019) <<https://www.osce.org/odihr/414344>>.

- 24 This includes, for example, easy-to-read formats, the option to switch on voiceover subtitles, including sounds and provision of transcripts for audio and video content for persons with visual impairments.



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