

Access to Justice

Your task

You are leading a team advising the Ministry for Justice on the development of the Justice Sector Reform Strategy 2017-2022. While your team would like to include a strong focus on access to justice for children, neither the Ministry, nor your financing partners - the EU, GIZ, and Norlam - have recommended the inclusion of relevant action points. This is despite the fact that the evaluation report of the Justice Sector Reform Strategy 2011-2016 revealed gaps in the implementation of relevant sections.

You use an upcoming meeting with the Deputy Minister of Justice to make the case for access to justice for children. Prepare a 3 minutes pitch with your team.

For inspiration and reference, please consult:

1. Tool 2.11: Sector Checklist 'Criminal Justice'
2. Tool 3.1: Matrices for assessing the environment for child participation
2. Tool 4.1: Child sensitive governance assessment tool: Rule of Law/Legal and Judicial Systems
3. Tool 4.2: Checklist for Legislation

Resources:

- Association Agreement between the European Union and the Republic of Moldova (2014): Article 138
- UNICEF in Moldova - who we are, what we do: p. 14-16
- UN Final Report on Post-2015 Country Consultations in the Republic of Moldova, 2013 (below citations p. 75)
- Regional situation - Prioritising Access to Justice for All Children - In EU neighbourhood & enlargement policies and relations with Central Asia (below citations, p. 2-3)
- Moldova ACTION PLAN for the implementation of the Justice Sector Reform Strategy for the years 2011-2016: Strategic direction 6.3. Strengthening the justice system for children

Association Agreement (2014) - Article 138

Such cooperation shall include, in particular:

- (a) the prevention and combating of all forms of exploitation (including child labour), abuse, negligence and violence against children, including by developing and strengthening the legal and institutional framework as well as through awareness-raising campaigns in that domain;
- (b) the improvement of the system of identification and assistance of children in vulnerable situations, including increased participation by children in decision-making processes and the implementation of efficient mechanisms to handle individual complaints made by children;
- (c) exchange of information and best practices on the alleviation of poverty among children, including on measures to focus social policies on children's wellbeing, and to promote and facilitate children's access to education;
- (d) the implementation of measures aimed at promoting children's rights within the family and institutions, and strengthening the capacity of parents and carers in order to ensure child development; and
- (e) accession to, ratification and implementation of the relevant international documents, including those developed within the United Nations, the Council of Europe and the Hague Conference on Private International Law, with the purpose of promoting and protecting of children's rights in line with the highest standards in the field.

UN Final Report on Post-2015 Country Consultations in the Republic of Moldova, 2013 p. 75

Corruption, red-tape, poor law enforcement, an unfair justice system, the lack of opportunities to participate in the decision-making processes - these are only a few of the issues related to the quality of governance and institutions bothering Moldovan citizens and mentioned during the consultations...

The justice sector reform has been one of the most debated topics recently in Moldova, with many experts concluding that this is a precondition to ensure a sustainable growth in the country. The Justice Sector Reform Strategy was approved in November 2011 and it seems that in the initial stages it resulted in an increase in trust in the justice sector according to several national surveys. But positive effects may be expected only in the case of its efficient implementation....

From children to people with disabilities and entrepreneurs, most of the people consulted think their rights are not respected on the streets, in hospitals, in state institutions etc. The severity of the problem is such that part of the population already appears too disillusioned to believe in a positive change in the quality of governance in Moldova. While people often suffer from their rights being violated, today, in their opinion, there is little they can do to defend themselves as the whole system is corrupted. At the same time, other groups, especially children, youth and members of the civil society organizations are eager to participate in the political process and some of them are determined to fight the unfairness and to impose respect for their and the populations' rights...

Corupție, birocrație, aplicare defectuoasă a legii, un sistem de justiție inechitabil, lipsa oportunităților de participare la procesele de luare a deciziilor – aici sunt citate doar câteva aspecte legate de calitatea guvernării și a instituțiilor care îi deranjează pe cetățenii Republicii Moldova și menționate în cadrul consultărilor.

De la copii până la persoanele cu dizabilități și antreprenori, majoritatea persoanelor consultate consideră că drepturile lor nu sunt respectate în stradă, în spitale, în instituții de stat etc. Problema are un caracter atât de grav încât o parte din populație pare deja atât de deziluzionată încât nu mai poate să creadă într-o schimbare a calității guvernării în Moldova. În timp ce cetățenii suferă din cauza faptului că drepturile lor sunt încălcate, astăzi, în opinia lor, ei pot face puține lucruri pentru a-și apăra drepturile, fiindcă întregul sistem este corupt. Totodată, alte grupuri de participanți la consultări, în special copiii și membrii organizațiilor societății civile, sunt dornici să participe la procesele politice și unii dintre ei sunt determinați să lupte împotriva nedreptăților și să îmbunătățească respectarea propriilor drepturi și drepturilor populației.

Reforma sistemului de justiție a fost unul dintre subiectele cele mai discutate recent în Moldova, iar mulți experți au concluzionat că aceasta este o condiție pentru asigurarea unei creșteri durabile a țării. Strategia de Reformă a Sistemului de Justiție a fost aprobată în noiembrie 2011 și pare să rezulte la primii săi pași într-o creștere a încrederii în justiție, potrivit mai multor sondaje realizate la nivel de țară. Efectele pozitive însă ar putea fi așteptate doar cu condiția implementării eficiente a acesteia.

Regional situation - Prioritising Access to Justice for All Children - In EU neighbourhood & enlargement policies and relations with Central Asia, p. 2-3

Daily tens of thousands of children in Europe's neighbourhood and Central Asia continue to have their rights violated – including their right to health, their right to quality education and their right to be free from abuse, violence and exploitation. Yet, only a fraction of children and families have access to a fair, timely and effective remedy. In other words, only very few among them have access to justice.

Children in the region face tremendous obstacles in accessing justice. Children are confronted with the same barriers as other citizens, including lack of awareness, court fees, distrust in the system, fear of stigma. In addition, however, children

Moldova - Case studies

face specific legal and social obstacles due to their particular status as minors. Justice systems often do not recognize or support children as legitimate complainants, whether because of age restrictions or persistent social norms tolerating violence against children or making it socially unacceptable for children to bring adults to court. Limited free legal aid is hampering children and their families to access the justice system. Vulnerable children, including children with disabilities, from a disadvantaged or poor family background or from minority communities, children without parental care, suffer disproportionately.

Justice systems in the region are generally not adapted to children's rights. Only a few countries have specialised children's courts or fully specialized judges, prosecutors and investigators to handle cases involving children, including child witnesses and child victims. as a result, children sometimes appear in court without information and assistance, and are in certain cases directly confronted with their alleged perpetrator. Justice systems that are not adapted to children risk violating their rights instead of protecting them.

Access to justice is a right in itself; but it is also an enabling right empowering children to realise the rights enshrined in the United Nations Convention on the Rights of the Child. as stated clearly by the Committee on the Rights of the Child, 'for rights to have meaning, effective remedies must be available to redress violations... (..) states need to give particular attention to ensuring that there are effective, child-sensitive procedures available to children and their representatives.

Association Agreement (2014) - Article 4

Domestic reform

The Parties shall cooperate on the following areas:

(c) making further progress on judicial and legal reform, so as to secure the independence of the judiciary, strengthen its administrative capacity and guarantee impartiality and effectiveness of law enforcement bodies;

Video

Go to: <http://bit.ly/1FZ600D> ('Two phones')

Go to: <http://bit.ly/1FZ600a> ('Under Pressure')

