

“Litigating cases of discriminatory ill-treatment and discrimination based on gender”



The theme of the public lecture held on the 2nd of November 2010 was “Litigating cases of discriminatory ill-treatment and discrimination based on gender”. The event was produced and presented by Promo-LEX in partnership with the Equal Rights Trust. The event took

place at the National Institute of Justice.

The lecture presented the fourth edition of the Newsletter “The Equal Rights Review” translated into Romanian. The Equal Rights Review is a biannual publication edited by the Equal Rights Trust, which focuses on promoting equality as a fundamental human right and as a basic principle of social justice.” The strategic role of this publication is to promote the non-discrimination Act. Promo-LEX’s contribution is important as it produces a Romanian translation of the bulletin, allowing it to reach a wider audience, thereby producing a greater impact”, said Mrs. Libby Clarke, a lawyer and expert on Human Rights in Equal Rights Trust

The main issues addressed at this event were related to discriminatory actions against women, namely domestic violence and rape. According to the statistics, victims of violence in the family and sexual assaults are mainly women. Unfortunately, in the Republic of Moldova protection in cases of rape is afforded mainly to two categories: women who can

prove they have actively resisted certifiable by physical injuries and girls aged up to 13 years, "said Doina Ioana Straisteanu, Lawyer and expert on Human Rights. The discussion focused on legal provisions and their weak enforcement in preventing and prosecuting these crimes.

According to Law No. 45 on preventing and combating domestic violence a new protection order was established, which aims to provide emergency protection to the victim, such as: ordering the aggressor to leave the joint residence and / or prohibition of approaching the victim (including a distance specific restraining order). However, enforcement of these protection orders is highly deficient, as the police and social workers who are required by the law to carry them out are not performing their duties in preventing and combating domestic violence to an acceptable degree. The main reasons for this are: firstly – they are unaware of their duties in the field and are ignorant of the law, and secondly – the perception of this phenomenon as an irrelevant action and not a crime.

Another issue on violence against women is the way in which the rape is investigated. The prosecution focuses on the behavior of the victim, not the aggressor, giving the impression that the investigation focuses on collecting evidence to undermine and contradict the victims story. "Methodological Guidelines on investigation of sexual crimes", issued on August 15, 2008, by the General Prosecutor's Department of criminal investigation, included a set of practical recommendations for prosecutors in the prosecution of sexual offenses. According to this, the prosecution must be based on a demonstration of the victim's physical resistance to the act. Under such a system the guide would seem to encourage a form of constrained yet still forced sexual act: "Since it is typical teenage behavior to be shy when sexual intercourse takes place voluntarily, the partner is faced with applying an appropriate form of some physical effort. (...) such

“violence” cannot be classified as physical restraint in the context of rape”, or “whether the victims’ resistance was circumstantial (formal) rather than categorical (ie could be interpreted in the sense of an acceptance of intercourse), the committed cannot be classified as rape”, as quoted by the Guidelines.

The event was organized within the project “Strengthening Legal Protection from and Raising Awareness of Discriminatory Ill-Treatment in Republic of Moldova, including Transnistria”, with financial support from the European Union and co-financed by the United Nations Development Programme, Moldova.

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