

GENDER EQUALITY COURSES FOR JUDICIARY AS A TOOL TO ENHANCE ACCESS TO JUSTICE

Fuley Tetyana

DOI: <https://doi.org/10.61345/1339-7915.2024.3.7>

Annotation. The article discusses how to design and deliver gender equality training for judges to boost their gender awareness and ensure gender-sensitive justice. In recognizing how specific the judicial training is, the article suggests an approach to using multiple methods in well-designed, holistic yet adaptable combination, taking account of the judicial skills, to make a value-shift transformation. The first part of this article provides contextual background for judicial training on gender equality and sets out some of the common features all gender equality courses for the judiciary to possess. The author accented that gender equality courses for judiciary have to address such challenges as to overcome prejudiced (either skeptical or even aggressive) perception of the gender related issues as the consequence of strong anti-gender movements as a part of Russian propaganda, to deal with the invisibility of the gender inequality, to demonstrate gender sensitive situations and cases in courts and the practical application of the gender (in)equality in judicial work. Therefore, the course design requires combination of the content (“what”), methodological approaches (“how”) and performance/delivery (“who”), considering also “in what context”. The second part of the article highlights some specificities of each of four gender equality target-oriented courses designed for different target groups within judiciary, namely sitting judges, court presidents, judges-trainers, and judges-to-be (so called “candidates for the position of judge”). Finally, the author elaborates the idea of importance of carrying out gender awareness raising among judiciary, aimed, inter alia, at countering gender stereotypes and gender bias, as well as enabling judges to see gender inequality, through displaying situations and cases using gender-sensitive pedagogical tools. Thus, integrating a gender perspective into judicial training would eventually contribute to countering gender discrimination and could serve as practical tools to enhance access to justice.

Key words: access to justice, judicial training, gender, gender equality, gender stereotypes.

1. Introduction.

Ensuring equal access to justice for women and girls is one of the strategic objectives set in the Council of Europe new Gender Equality Strategy 2024-2029 (CM(2024)17-final) [1, para. 59–65]. It is also worth noting, that guaranteeing equal access of women to justice was one of the priority areas in the first strategy 2014-2017 as well as in the second strategy 2018-2023. So, over the past 10 years, access to justice remains the priority sphere to achieve gender equality for the Council of Europe.

However, effective gender equality, including the access to justice area, is still far from being a reality. The Covid-19 pandemic has challenged decades of gender equality advancements and has demonstrated that despite the progress has been made, significant backsliding has occurred at many levels: the rise in domestic violence, unemployment, the resurgence of very traditional role expectations, as well as in the field of equal access to justice. Women face a variety of legal, institutional, socio-economic and cultural barriers in their access to justice [1, para. 60].

One of the tools to promote equal access to justice is gender equality training (GE training). More specifically, according to the GE Strategy, the Council of Europe action in this area will seek to, i.e.

continue to address the harmful impact of gender stereotyping on judicial decision making through research, monitoring, training, education, capacity building and the promotion of good practices at national and regional levels, in line with Council of Europe instruments and international law, and in co-operation with other regional and international organisations; develop and disseminate training tools and materials on gender equality, violence against women and access to justice, including the Human Rights Education for Legal Professional (HELP) courses on such topics, adapted to the specific needs of all actors in the judicial chain, and in support of strategic litigation in this field; incorporate such curricula in continuous training programmes for all professionals in the justice chain [1, para. 65].

Moreover, “training” is seen as a type of action to achieve every strategic objective, i.e.:

- Strategic Objective 1 – Preventing and combating gender stereotypes and sexism – through identifying, compiling and disseminating good practices to eradicate gender stereotypes for girls and boys, women and men in the education and professional/vocational training systems <...> [1, para. 47];
- Strategic Objective 2 – Preventing and combating violence against women and girls and domestic violence – through initial and in-service training for relevant professionals [1, para. 50];
- Strategic Objective 4 – Achieving balanced participation of women and men in political, public, social and economic life – through identify and support measures and good practices that promote gender equality in relation to <...>– training of decision makers in both public institutions and political parties, gender-sensitive functioning of decision-making bodies <...> [1, para. 75];
- Strategic Objective 5 – Ensuring women’s empowerment and gender equality in relation to global and geopolitical challenges – through support the systematic integration of a gender equality perspective, <...> for example through awareness and training activities for relevant stakeholders [1, para. 81];
- Strategic Objective 6 – Achieving gender mainstreaming and including an intersectional approach in all policies and measures – through training of relevant actors who are promoting gender mainstreaming in their national policies and measures [1, para. 84] and targeted training on gender equality and gender mainstreaming, including an intersectional perspective, of Council of Europe staff and experts [1, para. 89].

To sum this up, training is defined as an effective tool for achieving all strategic objectives in the Council of Europe Gender Equality Strategy 2024-2029. Obviously, this is because “Gender training makes a difference. If implemented systematically it facilitates more efficient actions towards gender equality and a positive change in the attitudes of policymakers” [2, p. 4]. Given that other tool is to identify, compile and disseminate good practices from member States and beyond to reduce obstacles and facilitate women’s equal access to justice [1, para. 65], Ukrainian experience regarding training for Ukrainian judiciary can be an example of such good practices and worth being analyzed.

2. Review of academic publications.

During last decade, a lot of scholars – among them C. Canals, J. Chapin, M. Dioum, T.B. Dawson, J. McBrien, J. Elwood, H. Longlands, A. Mizala, P. Mlama, L. Morley, L. Murage, M. Skovgaard, E. Unterhalter, R. P. Vaughan, M. Wagah, V. Warne, R. Washinka – have studied the problems of promoting gender equality in and through education. Among Ukrainian academicians in the area worth mentioning the publications of T. Govorun, O. Kikinezhdzi, I. Muntyan, O. Plahotnik, O. Tsokur, N. Chukhim and others. In addition to various research publications, it is worth noting several gender equality training manuals published by the European Institute for Gender Equality as well as other institutions [2; 3]. One of the areas developed recently is integrating gender responsive pedagogy into higher education. Due attention is paid for the law schools, and Council of Europe published a

checklist for gender mainstreaming, elaborated by A.L. Humbert [4]. As gender training for judiciary is concerned, only several publications are available so far, i.e., selected findings and recommendations from Bosnia and Herzegovina (2014) [5] and publication edited by U. Schultz, T. B. Dawson and G. Shaw (2019) [6]. Also, several toolkits worth considering for training programs for judiciary, the most noticeable are one elaborated by E. Gordon for the DCAF, OSCE/ODIHR, UN Women (2019) [7] and recently published by the OECD (2023) [8]. However, the interconnections between the GE courses for judges and access to justice was rarely specifically considered by scholars. The most noteworthy is training manual for judges and prosecutors, written by E. Duban and I. Radačić (2017) [9], accompanied by country chapter for Ukraine (2016) [10] and national study on barriers, remedies and good practices for women's access to justice, prepared in 2017 by O. Uvarova and updated in 2022 by T. Buhaiets in the context of the EU/Council of Europe joint programme, the Partnership for Good Governance [11]. It is worth noting, that recommendation to address the research needs in this national study include further explore the level of awareness among judges on international standards in the areas of gender-based discrimination and how this is connected to ensuring women's access to justice, evaluate the readiness of judges to apply international standards in the area of protection from gender-based discrimination, including cases where the claimant does not associate violations of her rights and legitimate interests with gender-based discrimination and develop methods for the identification by judges of cases where the violation of rights and legitimate interests is the result of discriminatory legislation; gender-neutral legislation that de facto has discriminatory consequences; and judicial gender stereotypes [11, p. 43]. So, this article is aimed to highlight and elaborate some of these recommendations.

3. Research objectives.

The purpose of the article is to unfold the features of gender equality courses for judges, to highlight how they differ from other courses developed for judiciary, and how they can be designed and used as a tool for advancing access to justice.

4. Analysis and discussion.

The training of judges has its own specific characteristics since judiciary is highly professional target audience enjoyed a special status. Declaration of Judicial Training Principles [12], adopted by the International Organization for Judicial Training (IOJT) in 2017, and Judicial training principles [13], adopted at the General Assembly of the European Judicial Training Network (EJTN) in 2016, sets out guiding principles for judicial training that reflect how member states conceptualize and strive to implement judicial training. Both IOJT and EJTN principles, acknowledging the complexity of the judicial role, underline that judicial training should be multidisciplinary and include not only legal and non-legal knowledge, but also essentially intended for the transmission of professional techniques and values [12, 8; 13, 1]. Also, such training should be judge-led and delivered primarily by members of the judiciary who have been trained for this purpose [12, 9; 13, 6]. Judicial training should reflect best practices in professional and adult training program design. It should employ a wide range of up-to-date methodologies [12, 10] and active and modern educational techniques [13, 7]. Overall, judicial training is fundamental to judicial independence, the rule of law, and the protection of the rights of all people [12, 1]. In accordance with the principles of judicial independence the design, content and delivery of judicial training are exclusively for national institutions responsible for judicial training to determine [13, 5].

Over the past 10 years, the National School of Judges in Ukraine (NSJ) developed several courses for judiciary, focused on gender equality (GE courses) as well as on more specialized topic in the area, i.e., preventing domestic violence and dealing with domestic violence cases, sexual assault cases, etc. In this article four GE courses will be analyzed. These courses were designed within the framework of the international technical cooperation projects, such as two Ukrainian-Canadian Projects "Judicial Education for Economic Growth" (JEEG), "Support to Judicial Reform Project" (SJRP) and "Safeguarding Human Rights through Courts", implemented by the OSCE Project Co-ordinator in

Ukraine with the financial support from the Global Affairs Canada. It is worth highlighting, that these four GE courses were target-oriented and covered different target groups within judiciary, namely (1) sitting judges, (2) court presidents, (3) judges-trainers, and (4) judges-to-be (so called “candidates for the position of judge”). In addition, after a full-scale Russian invasion, a GE course for judges has been updated considering the challenges of a full-scale invasion, martial law and international armed conflict.

All abovementioned GE courses, on the one hand, have some common features, on the other hand, each of them has its own characteristics.

It should be noted that each course developed by NSJ takes into consideration core requirements set in the Concept Paper of the National Standards of Judicial Training [14] – a document which reflects (and further elaborates) the same principles of judicial training mentioned by both IOJT and EJTN. Design of each training course includes certain mandatory elements such as identification of learning objectives to cover 3 dimension (so called 3D) – knowledge, skills, values; course agenda (structure, time, methods used); materials (including videos) and handouts (legal instruments such as conventions, domestic legislation and case law, case studies for work in small groups, quiz for knowledge check, etc); further reading, etc. Training methodology, as recommended by IOJT and EJTN principles, reflects modern training techniques for highly qualified adult professionals; some of the best examples of effective interactive training tools can be find in the manual [15].

As Dr. A.L. Humbert recommended for law schools, gender mainstreaming in higher education involves addressing four main questions: “what?”, “how?”, “who?” and “in what context?” [4, p. 4]. This is also relevant (obviously with necessary amendment/update due to the abovementioned principle of judicial training) for GE courses for judges. “What?” address the target-oriented gender-sensitive content and means ensuring that subject specific content concerning a judge’s everyday work (like studying case files, assessing evidence, managing courtroom and resolving disputes) includes a gender equality perspective. “How?” refers for gender sensitive pedagogy for highly experienced legal professionals. “Who?” involves, first, selection of gender sensitive judges (“gender champions”) as future trainers, and second, setting the train-the-trainer process for them to be able to combine “what” and “how”, considering the subject area, status and role of judiciary and learning objectives. “In what context?” requires institutional commitment at all levels.

However, the GE courses significantly differ from the courses on other topics (subject matters) developed by NSJ, not only because of need to address four questions of “what?”, “how?”, “who?” and “in what context?” [4, p. 4], but mostly due to other challenges emerged. In the process of piloting the very first GE course back in 2015 [16], the NSJ team (composed of judges and NSJ researchers) realized the fact of a biased perception from training participants of any gender sensitive topic. The course participants demonstrated either skeptical or even aggressive perception of any gender related issue and strongly associated/linked term “gender” with LGBT rather than with “socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men”, as it stipulated in the Art. 3 (c) of the Istanbul Convention (CETS No. 210) [17]. This was a clear consequence of the strong influence of anti-gender movements inspired by Russian propaganda, as part of Russia’s hybrid war against Ukraine. Prof. T. Snyder in “The Road to Unfreedom” demonstrated how the Russian leadership promoted the idea of a false foreign threat to Russian sovereignty to distract from domestic political problems, and the “decline of the West” had a noticeable sexual and gender color [18, p. 59-62]. It is also worth agreeing with I. Grabovska, that “anti-gender” movements in the state, as shown by Putin’s policy of fighting for “primordial grievances”, are closely related not only to conservative traditions and classical nationalism, but often also to neo-totalitarian and neo-imperial aspirations. Not to mention the fundamental struggle against the “westernization” of aggressive Russian traditionalists. They certainly include everything related to gender and feminist issues to the process of “westernization” [19]. As noted in the Council of Europe Gender Equality Strategy, “Anti-gender and gender-critical narratives are often used as a tool to promote a broader agenda of opposing gender equality and women’s rights. They undermine the understanding of gender as a social construct. These narratives seek to justify discriminatory practices and policies against individuals who challenge traditional gender roles and norms” [1, para. 3]. The scope, scale and depth of the destructive influence of anti-gender

movements are evidenced not only by a powerful discrediting campaign against the ratification of the Istanbul Convention, but also by the fact that even the supporters of ratification, reporting a package of draft laws in the Ukrainian Parliament (November 17, 2016) assured the MPs, that the term “gender” would be removed from the draft law No. 5294 in order it to be passed in the first reading [20]. This describes “in what context” the GE courses have been designed. The ratification of the Istanbul Convention by Ukrainian Parliament took place after the full-scaled invasion in 2022 [21].

So, the very fact that the GE topic itself was not perceived neutrally by judiciary could not be ignored in further GE course design. Therefore, in addition to all other issues to be addressed in judicial training, the GE courses have been designed to:

- overcome prejudice;
- address the issue the invisibility of the gender inequality;
- demonstrate situations judges deal with in their daily work which at the beginning of the training were not recognized as gender-sensitive;
- show the practical application of the problem in judicial work.

Apart from the prejudice, invisibility of the gender inequality was one of the main issues to be addressed. Given the role of the judiciary in promoting the rule of law and protecting human rights, the course design team was convinced that it is impossible to promote and protect “what you cannot see and do not believe in”. Therefore, the main task of the course design team was not only to overcome prejudices perception of the word “gender”, but also to make the gender inequality visible to the training participants. To achieve this, it had to be demonstrated in situations that every judge faces in everyday life, both private and professional, but does not notice as gender sensitive.

All these challenges require careful selection of “what” and a smart combo of “how” delivered by quite powerful “who”. Therefore, each GE training course for judiciary includes modules, covering (1) the concept of gender equality and why it is important for judges; (2) gender inequality (manifestations of inequality between men and women in various spheres of life); and (3) gender stereotypes and its effect on judicial decision making. Also, at the first glance, methodological approaches of each GE course were quite similar; it was a combination of icebreakers, demonstration of short videos, case studies and group discussion, legal instrument analysis, quiz, etc. However, there is one significant difference between these and all other courses for judiciary: when dealing with topics like judgment writing or courtroom management the application of skills-based methodology should prevail, while when teaching gender equality, the applied methodologies should be not only skills-based, but also value-based.

At the beginning of the GE training the participants’ perception which contained prejudices had to be overcome, and it was not the easy task. Only after that the next module of the course can start. It envisaged trainer-led analysis of legal documents (before-hand carefully selected for handouts). For judges, analysis of legal acts has proven to be more efficient compared to listening presentations or lectures, because it resembles the study of a dossier (so familiar for every judge) and requires skills judges already possessed. So, this method is good both for the conceptual framework awareness and skills mastering. Another methodological tip, which has proven its efficiency during the piloting of the first GE course and afterwards has been used in the next GE courses, envisaged a group discussion of the case study based on the European Court of Human Rights’ (ECtHR) judgement. It is worth noting that for each of the GE courses the different judgements were chosen, and participants in post-training questionnaires inevitably praised those modules as an opportunity to update their knowledge and skills to apply the ECtHR case law as the “extra bonus” because of GE training.

To sum up, the GE courses have many common features and can be described as a following circle: to overcome the prejudiced perception; to demonstrate the problem as a real (not an imaginary) one, make it visible for judges and show where and how it manifests itself in a daily work, then to



raise awareness and address the lack of knowledge (i.e. familiarize with the concepts of “gender”, “gender equality”, “gender mainstreaming”, “gender approach” in the administration of justice, etc.), then to give a chance to obtain and/or master skills through practicing for recognizing/identifying gender-sensitive situations, as well as gender stereotypes and ways to respond to them, solving case studies, etc., to demonstrate what consequences gender stereotypes can have in the courtroom and in judicial decision-making, and transform the participants’ views/attitudes on the issue of gender equality.

However, to succeed in this ambitious goal, the course team should match methodological approaches with specifics of the target audience in each GE course.

Designing GE course for judges is not a simple or indisputable process. For each GE course, the unique and practically oriented title, relevant examples, and methodological tools were carefully chosen, considering the target audience and the perception of the problem at the time being. Seven years have passed since the first course was developed (2015) and two since it was updated (2022), it is obvious that there were changes that should be considered: new legislation, COVID-19 pandemic, full-scale invasion, a change in attitude to the “gender” (from perceiving it as marginal one to trendsetting), etc.

For instance, in 2015 the labor/employment sphere had been chosen as the most appropriate for the first stand-alone course for judges of local/district courts. This decision was based on the several interrelated factors, among them: (1) employment, in particular, labor sphere, was the one in which the gender inequality had been officially recognized and confirmed by both statistical data and surveys; (2) judges considered a lot of labor disputes. However, the legislation is quite complex and inconsistent, combining Code of Labor as of 1971, which has been written under completely different socio-economic conditions of Soviet times and contains outdated provisions, and new laws passed by the Verkhovna Rada of Ukraine, i.e. Law “On Ensuring Equal Rights and Opportunities for Women and Men in Ukraine” No. 2866-IV as of September 8, 2005 [22] and Law “On Fundamental Principles of Preventing and Combating Discrimination in Ukraine” No. 5207-VI as of September 6, 2012 [23], as well as a lot of international treaties; (3) paid labor remains not only the main source of income but also an element of a person’s self-identification in contemporary societies, so the public-private interplay and significant prevalence of gender stereotypes in the field of employment make it quite suitable for the GE course. Although this GE course has been developed before the national study [11] was conducted, and therefore recommendations mentioned earlier [11, p. 43] have not been drafted yet, the GE course aimed to address the similar issues, i.e.: to evaluate how gender-neutral legislation, that de facto has discriminatory consequences, was applied, whether international standards of gender equality in the labor/employment area could be applied, if gender stereotypes in court would be recognized, etc.

As one of the innovative “cherry on the cake” for this course was analyzing of “Impression from an Office” written by Natasha Yosefowitz and reflecting the situations described in the abovementioned poem as if it happened inside the court premises. For instance, “He/she has lunch with the court president – what can this tell us?”. So, participants were asked to identify gender-sensitive situations, including gender stereotypes, in court, and to look at the court as at a gendered place. Another example was demonstration of short videos using “mirroring” situation (a female judge comments on a young male attorney being late for a court hearing due to traffic, and a male judge comments on a young female attorney being late for the same reason). During the training judges can express their opinion in the form of express test (using clickers), discuss episodes in small groups and compile a list of recommendations on managing the court hearing process using a gender sensitive approach.

Despite the approbation of the course [16] was not easygoing for the trainers, it received good feedback from the participants, who admitted the mindset change after training. It must be admitted, however, that in 2015 and a couple of next years gender-related topics were not considered as a priority to be included in the mandatory training program for the judiciary, mostly because of strong anti-gender hysteria at the time. However, this course served as the springboard for the next GE courses, especially for judges elected to administrative positions (presidents or vice-presidents of courts) and for judges-trainers of NSJ.

Course on “Gender Aspects in Activities of the Court President” was designed specifically taking into consideration three principal roles the court presidents fulfil, as it underlined in the CCEJ Opinion No. 19 on the role of Court Presidents, namely: role of representing the court and fellow judges; to ensure the effective functioning of the court and thus to enhance its service to society; to perform jurisdictional functions [24, para. 6]. This course was successfully delivered in 2018-2019 for several groups of local court presidents in different region of Ukraine. Among the features worth highlighting are the following: the ice-breaking quiz demonstrates that a female and a male judge as the court president are not perceived in the same way; while talking about management/leadership experience, most participants acknowledged that “it is easier to solve your problems with a man”: women-court president are seen as “the better half” and the “decoration of the judiciary system”. Also, the participants are invited to discuss why some requirements as “to demonstrate character and respective features” to be elected as a court president are voiced only for female candidates. The scenario for the group work reflected the labor dispute involving business trip, which was widespread: female manager of a logistics company (mother of a 2-year-old child) was prohibited to have business trips and lost a significant part of her earnings (per diems). The prohibition was based on Art. 176 of the Ukrainian Labor Code (1971) according to which “Pregnant women and women with children under three years of age may not be engaged in night work, overtime work, and work on weekends or sent on business trips” (the amendment to the Code as of 1991). Therefore, the small group discussion develops around the question how this provision of the Labor Code corresponds to the 1996 Constitution of Ukraine and special laws [22; 23] as well as Ukraine’s international commitments prohibiting gender-based discrimination. The participants had to discuss whether the prohibition of business trips for a woman having a child under three years is discriminatory, which decision should be made, and how should it be justified. So, the case study echoed the recommendation proposed by authors of the national study [11, p. 43]. It should be noted that this scenario was based on the real case [25], and the participants were able to analyze and discuss the judgement as well.

Also, by viewing a short video (part of the TED talk by Dame Stephanie Shirley “Why do ambitious women have flat heads?”) the court presidents had a chance to practice the skill to identify a gender sensitive situation as well as examples of gender stereotypes quoted in the video. This part of the course was designed as a contest: a group that fails to give the next example leaves, while the one that spotted the largest number of gender stereotypes wins. During the process of the course development, there were certain concerns as to how esteemed court presidents will play the knockout game, yet this contest is very popular, and this is a very efficient teaching method that animates the otherwise serious course.

The third course was on “Gender Equality through the Prism of Prohibition of Discrimination in the Light of Case Law of the European Court of Human Rights (ECtHR)”. This 2-day course was developed specifically for judges-trainers of the NSJ – all of them previously undertook an in-depth training on the ECtHR case law and participated in the development and piloting courses on implementation of the ECtHR jurisprudence on different field of laws (property law, family law, procedural aspects (such as court approval of the pre-trial detention, etc.)). Respectively, all these judges-trainers of the NSJ value human rights, have strong knowledge of the ECtHR jurisprudence and skill bases methodology. At the same time, not all of them had a sufficient level of gender competency. This course was designed specifically to raise awareness of a gender sensitivity of the NSJ trainers. By delivering this course during several years, the NSJ created a network of gender focal points within judiciary.

As can be seen from the title of the course, the issues of gender equality were presented in the context of prohibition of discrimination, thus significant attention was paid to the algorithm of examination of complaints concerning discrimination, including gender-based discrimination. The materials of the course have been published and are available [26]. Since this course was designed during the first phase of the nationwide open competition for the Supreme Court, it included some gender-sensitive part of the interviews with the candidates. For instance, some female candidates were asked questions like, “You are a young woman, you have a family, two six-year-old kids, and you are from another city, your family lives there. You will have to move to the capital. Do you think you will manage in general? Will you be able to preserve your family, to take care of your kids, and

work with such extreme workload administering justice?” or “Your mother is almost 80. Does she have someone else in Ukraine except for you? (...) Perhaps, her health condition, age, the need for someone’s assistance – will this be an obstacle for your exercise of justice in the cassation court where the workload is quite heavy, much heavier than in the district administrative court where you work? There are tens of thousands of backlog cases” [26, p. 64]. During the training, participants were asked to discuss these situations – to which extent they were perceived as unbiased from the point of view of an external observer. Another practical exercise was developed based on General recommendation No. 33 on women’s access to justice (CEDAW/C/GC/33). The participants were encouraged to analyze some recommendations in small groups [26, p. 65].

Filling in the post-training questionnaires, judges-trainers admitted that for most of their colleagues, it was not the right time for tackling this problem (“there are more important things to think about”). Yet, they also mentioned that the cases became more frequent – both in everyday life situations and in professional activities – during examination when gender equality issues are raised and need to be addressed, i.e.: “Recently, men have been showing more interest in raising children. I can compare it to the situation we had several years ago. As to the cases – I had to situations in divorce disputes when the mother asked to recognize the place of the child’s permanent residence with her, while the father objected, since the child can live with him as well”.

Analysis of responses to the question “Which knowledge/skills/abilities received during the training were you able to use?” demonstrated that the judges found the following knowledge/skills/abilities the most useful:

- recognizing gender stereotypes;
- analyze situations with regard to the presence/absence of discrimination;
- see and identify manifestations of discrimination;
- differentiate “violation of rights or protected interest of the claimant” and “gender-based inequality”;
- look through “gender lenses” / identify gender aspects in different situations;
- talk about gender-sensitive issues in professional activities;
- change the mindset and attitudes to the problem of gender equality.

The fourth course titled “Eliminating Gender Stereotypes” has been chosen as a part of initial judicial training curriculum. As mentioned earlier, each previous GE course contains a separate module on gender stereotypes, and the role of judicial training in combating gender stereotypes has been understood and already highlighted in one of the author’s previous articles [27]. So, it became obvious that a stand-alone course on the gender stereotypes is a must. By choosing the topic of the gender stereotypes it was considered that gender stereotypes were officially recognized as one of the main manifestations of inequality of women and men and overcoming them is one of the goals for the Council of Europe for the last decade. Future judges should be able to recognize, realize, and analyze stereotypes and view them critically, what requires knowledge of the mechanisms of their replication and dissemination, as well as the ways to overcome them.

Two main features of the course are deserved to be highlighted. First, is the demonstration of the video of former Prosecutor General full of stereotypical and sexist statements [28, p. 30-31]. The learning objective was not only to obtain the skill to recognize gender stereotypes and sexist statements, but also to foster the culture of zero tolerance to such statements through demonstration how inappropriate and even “wild” such humiliating speeches are perceived in modern society. Also, participants have suggested the most effective remedy as an access to justice component.

Second, contrary to “the former Prosecutor General speech”, is Latif Hüseyinov’s speech on the 8th Lviv Annual International Forum on the ECtHR caselaw (Lviv, November 22, 2019) on judicial reasoning [29], in which he referred to the judgement in the case of *Carvalho Pinto de Sousa Morais v. Portugal*

[30]. By picking this example for the module on analyzing gender stereotypes using the ECtHR judgment, the NSJ team aimed to underline the significance of the gender sensitive topic raised by high-ranking man – judge of the ECtHR and esteemed academician – and therefore address not only the “what” and “how” but also “who” issue to demonstrate which impact might gender stereotypes have on judge’s perception of the party’s arguments and a whole decision making process [28, p. 106-112]. It should be emphasized that this was highly appreciated by the participants, especially the “who?” component – as it shows the importance of involving men (including ones from even more patriarchal and traditional societies than Ukrainian) in the gender mainstreaming and not referring for the gender as only “women about women’s problems” issue. Of all GE courses, this one was the easiest one to deliver, partially because of combination of content (“what?”), methods (“how?”) and execution (“who”) was the most successful, and due to some shift in judicial perception towards “gender” over time.

To summarize, the GE courses for judges with a focus on practical application in the daily work of judges, aimed to improve access to justice through raising the awareness of the judicial corps on the issue of gender inequality, gender stereotypes and gender-based discrimination. All the courses contributed to make Ukrainian judiciary more gender sensitive and make the gender inequality “visible”. Simultaneously, GE courses covered many accesses to justice issues, particularly a fair hearing by an impartial court, legal advice and representation during the case by a lawyer (who also must be treated impartially by a court), equity of arms, predictable application of the law, judicial reasoning, and the effectiveness of legal remedies available. Since access to justice, at least according to European law, covers the standards of a fair trial and of an effective remedy [31], through addressing question “what?” and “how?” many access to justice related issues were covered in the GE courses, such as access to a court and availability to challenge a decision that is de facto gender discriminatory, the existence of legislation and its enforceability, to determine which laws were applicable and in line with the State’s international commitments, to interpret domestic legislation in the light of Constitution and international standards of gender equality, to evaluate evidence, to respond to the arguments of the parties, to respond to gender stereotypes in the courtroom or to avoid gender-stereotyped assumptions while dealing with cases, to resolve dispute in a gender sensitive manner, etc. – all these issues were “woven” during the GE trainings and thus contributed to the improvement of access to justice. In addition, the trainings served as a platform where existing barriers (legislative and socio-cultural) to access to justice and ways to overcome them were discussed as well as participants’ experiences and good practices of gender mainstreaming were disseminated.

5. Conclusions.

Gender equality training (GE training) has been seen as a type of action to achieve every strategic objective, set in the CoE GE Strategy, i.e. as one of the tools to ensure equal access to justice. So, the NSJ experience in designing and delivering GE courses for judiciary can be an example of good practices to be disseminated.

The GE courses significantly differ from the courses on other topics for judges, not only considered the need to address four questions of “what?”, “how?”, “who?” and “in what context?” – relevant to implementing gender mainstreaming in training, but mostly because of a biased perception of the topic and of the word “gender” itself as a consequence of strong Russian-led anti-gender movement. Therefore, at the beginning of the training the participants’ prejudiced perception should have been overcome. Each GE training course for judiciary includes modules, covering the concept of “gender” and “gender equality” and why it is important for judges; manifestations of inequality between men and women in various spheres of life; and gender stereotypes and its effect on judicial decision making. Also, the GE courses have many common methodological features, they composed of a lot of icebreakers and practical exercises, demonstration of videos, case studies, quizzes, etc., therefore, is focused on achieving clearly formulated learning objectives. When teaching judges judicial skills such as judgment writing or courtroom management the skills-based methodology should be applied, however when teaching gender equality, the methodological approach should be not only skills-based, but also value-based. Matching methodological approaches and specifics

of the target audience (sitting judges, court presidents, judges-trainers, future judges), the GE course design team carefully selected target-oriented gender-sensitive content and tools ensuring that subject specific content concerning a judge's everyday work (like studying case files, assessing evidence, managing courtroom and resolving disputes) includes a gender equality perspective in each course. All the courses contributed to making Ukrainian judiciary more gender sensitive and making the gender inequality "visible". Simultaneously, GE courses covered many accesses to justice issues, particularly a fair hearing by an impartial court, and an effective remedy, and can be an effective tool to ensure equal access to justice.

References:

1. Gender Equality Strategy (2024-2029). CM(2024)17-final. URL: https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680ae569b.
2. Gender Equality Training. Gender Mainstreaming Toolkit. European Institute for Gender Equality. Luxembourg: Publications Office of the European Union, 2016.
3. Gender equality training manual. HelpAge International. 2020.
4. Gender mainstreaming higher education: checklist for law schools. URL: <https://rm.coe.int/checklist-gender-mainstreaming-eng-pdf-enhanced/1680a099b8>.
5. Halilović M., Huhtanen H. Gender and the Judiciary: The Implications of Gender within the Judiciary of Bosnia and Herzegovina. Research Report. Sarajevo, Geneva: DCAF, 2014. 114 p.; Halilović M., Huhtanen H. Gender and the Judiciary: Selected findings and recommendations on the Implications of gender within the judiciary of Bosnia and Herzegovina. Sarajevo, Geneva: DCAF/Atlantic Initiative, 2014. 24 p.
6. Gender and Judicial Education. Raising Gender Awareness of Judges. Ed. by Ulrike Schultz, T. Brettel Dawson, Gisela Shaw. Routledge, 2019. 148 p.
7. DCAF, OSCE/ODIHR, UN Women (2019) "Justice and Gender", in Gender and Security Toolkit. Geneva: DCAF, OSCE/ODIHR, UN Women. 76 p.; Eleanor Gordon. "Justice and Gender", in Gender and Security Toolkit. Geneva: DCAF, OSCE/ODIHR, UN Women (2019).
8. Toolkit for mainstreaming and implementing gender equality. OECD. 2023.
9. Training Manual for Judges and Prosecutors on Ensuring Women's Access to Justice General Part. 2017. URL: <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>.
10. Training Manual for Judges and Prosecutors on Ensuring Women's Access to Justice. Country chapter for Ukraine. URL: <https://rm.coe.int/training-manual-for-judges-and-prosecutors-on-ensuring-women-s-access-/1680764299>
11. Barriers, remedies and good practices for women's access to justice in Ukraine. Council of Europe, 2023. 52 p.
12. IOJT Declaration of Judicial Training Principles. URL: https://ncfsc-web.squiz.cloud/__data/assets/pdf_file/0014/6152/2017-principles.pdf.
13. EJTN judicial training principles. URL: https://portal.ejtn.eu/PageFiles/15756/Judicial%20Training%20Principles_EN.pdf.
14. Kontsepsiia natsionalnykh standartiv suddivskoi osvity [Concept Paper of the National Standards of Judicial Training]. URL: <https://nsj.gov.ua/ua/about/symbols/> [in Ukrainian].
15. Fuley T., Kuchiv O. Efektyvni interaktyvni metody navchannia z pytan zastosuvannia Konventsii ta praktyky YeSPL u suddivskii osviti [Effective interactive training methods on the application of the ECHR and the ECtHR case law in judicial education]. Kyiv, 2020. 140 p. [in Ukrainian].

16. Aprobatsiia treninhu z pytan gendernoi rivnosti [Approbation of training on gender equality]. December 16-17, 2015. URL: <https://www.nsj.gov.ua/ua/news/aprobatsiya-treningu-z-pitan-endernoi-rivnosti/> [in Ukrainian].
17. Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210). URL: <https://rm.coe.int/168008482e>.
18. Snyder T. Shliakh do nesvobody : Rosiia, Yevropa, Ameryka [The Road to Unfreedom : Russia, Europe, America]. Lviv, Choven, 2020. 392 p. [in Ukrainian].
19. Grabovska I. Yevrostandarty ta ukrainska henderna polityka: tochky peretynu [European Standards and Ukrainian Gender Policy: Crossing Points]. Molodyi vchenyi. 2028. No. 7 (59). S. 474-478. [in Ukrainian].
20. Piata sesiia Verkhovnoi Rady Ukrainy VIII sklykannia. Zasidannia trydtsiat chetverte. 17 lystopada 2016 roku, 10 hodyna [The fifth session of the Verkhovna Rada of Ukraine of the VIII convocation. The thirty-fourth meeting. November 17, 2016, 10 a.m.] URL: <https://www.rada.gov.ua/meeting/stenogr/show/6366.html> [in Ukrainian].
21. Pro ratyfikatsiiu Konventsii Rady Yevropy pro zapobihannia nasylstvu stosovno zhinok i domashnomu nasylstvu ta borotbu iz tsymy yavyshchamy : Zakon Ukrainy vid 20 chervnia 2022 r. No. 2319-IX [On ratification of Council of Europe Convention on preventing and combating violence against women and domestic violence : Law of Ukraine as of June 20, 2022 No. 2319-IX] URL: <https://zakon.rada.gov.ua/laws/show/2319-20#Text> [in Ukrainian].
22. Pro zabezpechennia rivnykh prav ta mozhlyvostei zhinok i cholovikiv : Zakon Ukrainy vid 8 veresnia 2005 roku No. 2866-IV [On Ensuring Equal Rights and Opportunities for Women and Men in Ukraine : Law of Ukraine as of September 8, 2005 No. 2866-IV]. URL: <https://zakon.rada.gov.ua/laws/show/2866-15#Text> [in Ukrainian].
23. Pro zasady zapobihannia ta protydii dyskryminatsii v Ukraini : Zakon Ukrainy vid 6 veresnia 2012 roku No. 5207-VI [On Fundamental Principles of Preventing and Combating Discrimination in Ukraine : Law of Ukraine as of September 6, 2012 No. 5207-VI]. URL: <https://zakon.rada.gov.ua/laws/show/5207-17#Text> [in Ukrainian].
24. Consultative Council of European Judges. Opinion No. 19 (2016). The role of Court Presidents. Strasbourg, 2016. URL: <https://rm.coe.int/opinion-no-19-on-the-role-of-court-presidents/16806dc2c4>.
25. Rishennia Boryspilskoho miskraionnoho sudu vid 12 kvitnia 2016 r. u spravi №359/2320/16-ts. [Judgment of the Boryspil city-rayon court as of April 12, 2016, Case No. 359/2320/16-ц]. URL: <http://www.reyestr.court.gov.ua/Review/57237515> [in Ukrainian].
26. Zbirka navchalnykh materialiv kursu dlia uchasykiv treninhu «Genderna rivnist kriz pryzmu zaborony dyskryminatsii u svitli praktyky Yevropeiskoho sudu z prav liudyny» [Training Materials of the course "Gender Equality through the Prism of Prohibition of Discrimination in the Light of Case Law of the European Court of Human Rights (ECtHR)". Kyiv, VAITE, 2018. 134 p. <https://www.osce.org/uk/project-coordinator-in-ukraine/407900?download=true> [in Ukrainian].
27. Fuley T. Rol suddivskoi osvity u podolanni hendernykh stereotypiv [The Role of the Judicial Education in Combating Gender Stereotypes]. Slovo Natsionalnoi shkoly suddiv Ukrainy. 2016. No. 1 (14). P. 18-29. [in Ukrainian].
28. Podolannia gendernykh stereotypiv pry zdiisnenni pravosuddia [Overcoming gender stereotypes in the administration of justice]. Navchalnyi kurs (u formi treninhu) dlia spetsialnoi pidhotovky kandydativ na posadu suddi: Naukovo-metodychnyi posibnyk dlia treneriv i trenerok / Za zah. red. T.I. Fuley. Kyiv, FOP Klymenko O.O., 2021. 148 s. URL: https://www.nsj.gov.ua/files/1632139702FINAL%20Overcoming%20Gender%20Stereotypes%20_0109.pdf [in Ukrainian].



29. 8th International Forum on the European Court of Human Rights caselaw OSCE Project Co-ordinator in Ukraine. November 21, 2019. URL: https://www.youtube.com/watch?v=KGSIB8x-lz0&feature=emb_err_watch_on_yt ; 05:30:26-05:35:06.
30. Carvalho Pinto de Sousa Morais v. Portugal, application no. 17484/15, ECtHR judgement as of July 25, 2017. URL: <http://hudoc.echr.coe.int/eng?i=001-175659>.
31. Handbook on European law relating to access to justice. Luxembourg: Publications Office of the European Union, 2016.

Tetyana Fuley,

*PhD in Law (candidate of legal science),
Head of Department of scientific judicial research
and scientific methodological support of judicial education,
National School of Judges of Ukraine, Kyiv, Ukraine
E-mail: science.nsj@gmail.com
ORCID: 0000-0002-9800-8785*