

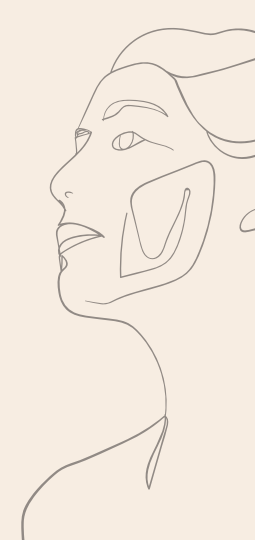
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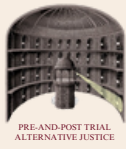
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Doing justice to gender-based violence

*Report of the online
Higher Education Seminar
February 29, 2024*





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The report

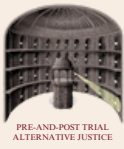
This document was written for the EUROJUSTICE and PRE-AND-POST - Trial Alternative Justice (GA No. 101092130) projects, co-funded by the European Commission.

The objective of these projects is to promote European legal culture in the national context through training events, in-person and online, to stimulate dialogue among legal practitioners, practitioners and legal experts on specific issues, such as, for example, gender-based violence. The online seminar “Doing Justice to Gender Violence” constituted an advanced training initiative aimed at the judiciary, designed to critically address gender stereotypes and promote a more aware and sensitive justice system with respect to issues of gender-based violence and secondary victimization.

This report outlines the most relevant topics covered during the seminar, which took place on the Zoom platform last February 29, 2024 from 2:00 pm to 6:00 pm.

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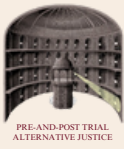


The seminar

The seminar aimed to provide magistrates and female magistrates with theoretical and practical tools to **identify, neutralize and overcome gender stereotypes** that can influence trial decisions, particularly in dealing with cases of gender-based violence. Although gender-based violence is in fact one of the most serious and widespread forms of human rights violations, it still happens all too often that victims suffer so-called **secondary victimization**.

Secondary victimization refers to that phenomenon whereby the victim of violence (which could be defined as “primary”) re-experiences the conditions of traumatic suffering again at the hands of parties other than the perpetrator but who for institutional reasons make her re-experience the violence she has suffered (medical personnel, social services, interrogation by law enforcement, evidentiary incident, testimony in court, etc.). This type of victimization can result from a plurality of factors, including insensitive or disrespectful treatment by authorities, bias on the part of legal or mental health professionals. In this sense, cases of family abuse are emblematic there is often a complex cycle of denunciation, retraction, and repeated violence, not infrequently culminating in the killing of a family member by the abuser.

As pointed out by lawyer Luisa Pola, a founding member of EquALL and tutor in the seminar exercise, *“Gender stereotypes affect the world of law, conditioning both those who create laws, i.e., the legislature, and those who enforce them, i.e., the judiciary, as well as all those public or private actors who for various reasons interact with victims: police, social workers, medical personnel. Through targeted training actions involving all legal workers and practitioners, stereotypes can be defused, but these can only be eliminated in the face of a significant*



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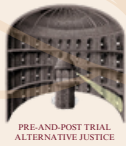


cultural evolution. Although vastly improvable, there are legal instruments in Italy to prevent and punish gender-based violence, yet they are not adequately applied precisely because gender stereotypes sometimes intervene by distorting the logical thinking of various legal practitioners and operators. The Cedaw Committee and Grevio came to the same conclusions on this point: the Italian legislature is conforming to the correct regulatory standards on gender-based violence, however, cultural backwardness steeped in stereotypes and prejudices results in a distorted reading of the laws, evidence of which is: the low rate of prosecutions and convictions resulting in impunity for perpetrators, the secondary victimization of women who report, and the difficulties of women in obtaining restraining and removal orders."

Doing justice to gender-based violence

The seminar opened with a detailed presentation of the European project framework by Sergio Bianchi, Director of Agenfor International, and Costanza Hermanin, President of EquALL. This introduction provided the context and map of the seminar's objectives, highlighting the **urgency and need for an informed and informed approach** to the issue of gender-based violence within the justice system.

Following the introduction, in the speeches of Prof. Anton Giulio Lana and Dr Avvocata Ilaria Boiano, some of the most relevant judgments on gender-based violence, particularly against women, were analyzed, including the European Court of Human Rights' *Talpis v. Italy* judgment (judgment of March 2, 2017, appeal no. 41237/14), the April 7,



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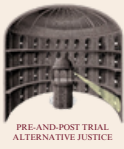
2022 judgment of the European Court of Human Rights in *Landi v. Italy* (Appeal No. 10929/19), the June 16, 2022 judgment of the European Court of Human Rights in *De Giorgi v. Italy* (Appeal No. 23735/19), the July 7, 2022 judgment of the European Court of Human Rights in *M.S. v. Italy* (Application No. 32715/19), *I.M. v. Italy* of the EDU Court (judgment of Nov. 10, 2022, appeal No. 25426/20) and the judgment *J.L. v. Italy* of the EDU Court (judgment of May 27, 2021, appeal No. 5671/16).

The European Court of Human Rights' rulings on domestic and gender-based violence in Italy represent key steps in the battle for human rights. **Each decision** not only **highlights the shortcomings of Italy's victim protection system**, but also **pushes for necessary regulatory reforms**.

In **Talpis v. Italy**, for example, **the Court highlighted the serious failure of Italian authorities to adequately protect victims of family violence**, in the attempted murder of the woman and the tragic murder of her son, **despite continuous complaints made to the relevant authorities**. This case resulted in Italy being convicted of violating the right to life and the prohibition of inhuman and degrading treatment and the prohibition of discrimination, for failing to provide sufficient protection to a woman and her children who were victims of domestic violence, thereby endorsing such violent conduct. This is a clear indication of how **crucial it is to intervene early and effectively**.

Similarly, **Landi v. Italy** highlighted the importance of **implementing effective protective measures for victims of domestic violence, even in the absence of formal complaints**.

Once again the human affair ended tragically with the killing of one of the couple's children and the attempted murder of the woman. The EDU Court, while noting the normative progress of the Italian legislation in combating the phenomenon of domestic violence,



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nevertheless condemned it under Article 2 ECHR (right to life) for the judicial

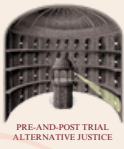
authority's failure to take appropriate protective measures to avert the violent conduct carried out against the plaintiff, regardless of whether or not there had been complaints or changes in the victim's perception of risk.

As mentioned, the case law of the Strasbourg Court has a direct impact on domestic policies, stimulating the changes needed to improve and strengthen the protection of victims of violence.

The judgments handed down in **De Giorgi v. Italy** and **M.S. v. Italy** **further testify to the need to adequately protect victims and provide them with full access to justice.** The Court criticizes the lack of appropriate responses to abusive situations and emphasizes the obligation of states to act proactively to protect those who are most vulnerable by recognizing the substantive and procedural violation of Article 3 ECHR (prohibition of torture), in that the Italian state failed to adequately investigate in depth the family abuse, violence and threats complained of by the applicant.

The case **I.M. v. Italy** concerns the suspension of parental responsibility in situations of domestic violence: the EDU Court stigmatized the decisions of the national judge, in this case a Tribunale per i Minorenni, for failing to adequately protect the children's right to free psycho-physical development; in fact, the children were exposed to a serious risk to their safety when they had to meet their father, who was violent, in conditions that were not capable of ensuring the containment of his aggressiveness. The Court also **emphasized the need to prioritize the safety and well-being of the children in decisions regarding their custody.**

Finally, **J.L. v. Italy** insists on the need for non-discriminatory treatment



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by institutions, ensuring that all victims of violence, regardless of their gender, receive adequate support and protection. This is an important reminder of the principle of equity and the need for an inclusive and respectful approach to all victims.

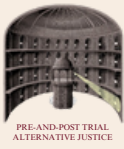
Again, it is important to emphasize how these decisions of the EDU Court not only call attention to the need for effective legal protection and response to human rights violations, but also influence the legislative and political culture at the national and international level, fostering a progressive change in the approach to victims of domestic and gender-based violence.

The practical exercise

Following the presentation of the judgments, Prof. Orsetta Giolo and Prof. Maria Giulia Bernardini led the practical exercise, together with EquALL members, several times highlighting **how deeply gender stereotypes can be ingrained in language and legal procedures, and thus influencing the dynamics of legal proceedings and, consequently, the judgments issued themselves.**

During the exercise, the participants and panelists analyzed legal texts with a focus on those expressions and formulations that, often unconsciously, may have a discriminatory impact on the parties involved in the process. The working group examined various court documents, identifying not only overtly stereotypical language but also more subtle and insidious language that might slip by in the absence of critical analysis.

For example, descriptions of victims and accused persons often rely on assumptions about their gender roles, **influencing how their actions and decisions about their credibility are interpreted.**



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Once the stereotypes (e.g., those related to the victim's clothing) were identified, the participants and participants were guided through the next stage of reformulating the texts, replacing problematic terms and phrases with gender-neutral alternatives.

This passage, not only showed how it is possible to **communicate in a more equitable and balanced way**, but also confirmed that **language modification can help change the legal narrative in a more inclusive and just sense**.

The reflections that emerged highlighted **the need for cultural change within the legal profession**. Legal practitioners, including the investigating and prosecuting judiciary as well as the legal profession, were encouraged to review their practices and engage in continuing education to reduce the risk of secondary victimization, given that as already pointed out, the justice system itself may be contributing to the trauma of victims through insensitive or discriminatory treatment.

The activity emphasized **the importance of continuing education for all legal professionals and practitioners**. Continuous updating on best practices to avoid gender bias and stereotyping can strengthen the integrity of the justice system and ensure that justice is truly fair and impartial.

This proactive approach is essential to maintain people's trust in the legal system and to ensure that all citizens and citizens, regardless of their gender, receive fair and equal treatment before the law.

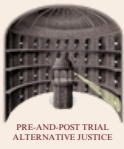
The role of media

In her talk, Dr. Manuela Perrone explored how **media language can sometimes help perpetuate gender stereotypes or distort perceptions of gender-based violence**. A common example of this phenomenon is the use of minimizing or justifying terms, where violent actions are labeled with formulas that mitigate their severity. Similarly, overemphasis on graphic or emotionally charged details can turn the journalistic narrative into a sensationalist tool that diverts attention from the real facts.

Some good communication practices were then outlined, stressing the need to adopt precise and responsible language. He suggested avoiding sensationalism and rather focusing on educating and raising public awareness of gender-based violence issues.

The proposed European Directive on Gender-based Violence

Finally, Prof. Costanza Hermanin presented the proposed European Directive on Gender-based Violence, which aims to **unify definitions of gender-based violence**, including domestic abuse, sexual violence, stalking, and forced marriage, **to ensure a coordinated and homogeneous legal response across the EU**. The importance of a proactive and innovative vision in education was reiterated as a key factor in ensuring an adequate response to the needs of contemporary society.



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Conclusions

The seminar provided an opportunity for professionals in the field to dialogue and discuss today's challenges in combating gender-based violence, as well as to promote the dissemination of good practices in the field.

The event was a collaboration between Agenfor International, the Ministry of Justice, with scientific and organizational direction by EquALL Association.

The activity focused on the research and selection of experts and experts in the field of gender-based violence and law, identifying authoritative figures capable of combining theoretical and practical skills.

The 'goal was to offer participants and attendees a comprehensive and meaningful training, capable of providing not only theoretical knowledge but also practical tools for dealing with gender-based violence in its particular manifestation of secondary victimization.

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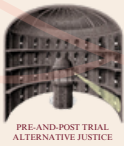


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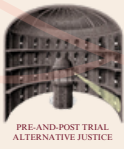




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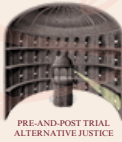


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