

Contribution of the Council of Europe to the request on challenges, lessons learned, and best practices to enhance the implementation of the UNGA resolution 78/227 “Equal access to justice for all”

The Council of Europe, through its various organs and monitoring bodies, works consistently towards enhancing the functioning of criminal justice systems across its (46) member States to ensure equal access to justice for all individuals, particularly focusing on vulnerable and marginalised groups.

This contribution outlines the **challenges** faced, **lessons learned**, **best practices** identified, and **enabling factors** necessary to enhance the implementation of the UNGA resolution 78/227 “Equal access to justice for all”.

Access to justice is a human right enshrined in Article 6 of the European Convention on Human Rights (ECHR), which guarantees the right to a fair trial. The European Court of Human Rights (ECtHR) has adjudicated numerous cases addressing various aspects of access to justice, including access to legal representation and effective legal aid, the accessibility and impartiality of courts and the rights of defendants and victims. The ECtHR has insisted that “the right of access to court must not only exist, it must also be effective”. In 2023 alone, on the 1,014 judgements delivered by the ECtHR, over a third (372) detected violations of Article 6 of the ECHR, highlighting the need to address issues of fairness, equality and accessibility in legal proceedings.

Among the **challenges**, we would underline inequality in access to legal representation or legal aid - particularly for persons from disadvantaged socio-economic backgrounds and minorities-, discrimination based on race, ethnicity, gender, sexual orientation, social origin or other grounds, overloaded/under resourced justice systems causing delays in the delivery of justice, and lack of awareness or legal skills to ensure all individuals can access justice. Then, transborder criminal and civil cases involve complexities that arise from jurisdictional, legal and linguistic differences. Armed conflict disrupts legal systems, displace population, and can result in an increased incidence of crimes and human rights violations and impunity in conflict zones. Unexpected challenges such as the 2008 financial crisis or the Covid-19 pandemic can complicate access to justice. Specific challenges in a rapidly evolving environment in areas such as cybercrime, disinformation, AI, climate change, erosion of the rule of law, instrumentalisation of migration, or shrinking space for civil society can negatively affect the right of access to a court and fair trial guarantees.

On **lessons learned**, it is relevant to consult the vast case law of the ECtHR on Article 6 of the ECHR (and its analysis identifying systematic problems) and the supervisory role of the execution of its judgments by the Council of Europe Committee of Ministers (f.i. see factsheet on excessive formalism by courts) as well as the results and reports of the most relevant Council of Europe monitoring bodies and intergovernmental committees. The most relevant ones on the topic of “access to justice” include the Venice Commission that develops international standards regarding the rule of law and in particular judicial independence, and provides legal opinions on (draft) legislation; the European Social Charter and the European Committee of Social Rights; the Group of States against Corruption (GRECO) that highlights areas where corruption affects the fairness of justice, the European Committee on Legal Co-operation (CDCJ) that sets standards in the field of public and private law and covers areas such as

access to justice for children¹, legal aid² or access to justice for the very poor³; the [European Committee on Crime Problems](#) (CDPC) that sets standards in the fields of criminal law, criminology and penology and plans to enhance its work on the topics of restorative justice and victims' right; and the [European Commission for the Efficiency of Justice](#) (CEPEJ) that promotes standards and tools to orientate public policies of justice [bringing users closer to justice](#). The findings and work of monitoring bodies such as the Group of Experts on Action against Trafficking in Human Beings ([GRETA](#)), the Group of Experts on Action against Violence against Women and Domestic Violence ([GREVIO](#)), or the Cybercrime Convention Committee ([T-CY](#)) are relevant for specific victims' groups.

Best practices worth mentioning are (non-exhaustive list):

Establishing comprehensive [Legal Aid systems](#) and [Victim Support Services](#)— both of which are crucial for providing equal access to justice, especially for vulnerable groups.

Implementing [Alternative Dispute Resolution Mechanisms](#): including mediation and restorative justice practices, can resolve conflicts more equitably and efficiently.

[Specialised courts](#) for specific types of cases, such as juvenile, family, gender violence or labour courts, which exist in various CoE member States.

Promoting the [Digitalisation](#) of justice to save time and reduce bureaucracy.

[Monitoring, data collection and analysis](#) (done by the ECtHR and all other CoE listed monitoring bodies and committees) to identify systematic problems and ensure an efficient allocation of resources.

The CEPEJ offers a variety of [guidelines](#) on mediation, judicial time management, digitalisation, organisation and accessibility of courts, etc.

[Training and Capacity Building](#): Training judicial officers and law enforcement personnel on human rights and non-discrimination principles is essential. The CoE's Programme for [Human Rights Education for Legal Professionals](#) (HELP) has been and is instrumental in providing such training across CoE MS. Notably, HELP [online courses](#) cover Access to Justice for Women, Rights of Persons with Disabilities, Violence against women, Trafficking in Human Beings, Child-friendly Justice, Anti-discrimination, International Humanitarian Law (relevant for conflict times), prison-related courses and migration/asylum-related courses including those for specific groups such as children, LGBTI+ or youngsters. Other courses cover specialised areas where Council of Europe Conventions exist, such as Cybercrime, Data Protection, Medicrime, Sports or [International Cooperation in Criminal Matters](#). Various ECtHR factsheet outline key judgements and principles relating to Access to Justice for All. Further information is available on the [Knowledge-sharing platform of the ECtHR](#).

Finally, **enabling factors** include having [strong legislative frameworks](#) that protect human rights and guarantee fairness, **inclusive policy development** involving members from the groups or minorities concerned, and relevant civil society and international organisations, [inter-institutional cooperation](#) at national level and [international cooperation](#) for cross-border crimes or addressing common

¹ [Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice](#) (2010) which remain a reference point and cover civil and administrative law alongside a component on criminal law.

² [Guidelines of the Committee of Ministers of the Council of Europe on the efficiency and the effectiveness of legal aid schemes in the areas of civil and administrative law](#) (2021); and the [Guidelines on online dispute resolution mechanisms in civil and administrative court proceedings](#) (2021).

³ [Recommendation No. R \(93\)1 on effective access to the law and to justice for the very poor](#).

challenges, public awareness campaigns to increase the knowledge of rights, availability of legal aid and support services, and continous and specialised legal training in areas related to access to justice.

The Council looks forward to contributing to the discussions at the upcoming expert meeting, subject to available resources, and working collaboratively with other stakeholders to advance the goals of the UNGA Resolution 78/227. The CoE is ready to share its experiences supporting its MS in enhancing their criminal justice systems to ensure access to justice for all and collaborate further in this critical area.