



EQUAL RIGHTS TRUST

Shadow report submitted to the 66th session of the Committee on the Elimination of All Forms of Discrimination against Women in relation to the eighth periodic report of

Ukraine

February 2017

Statement of Interest

1. The Equal Rights Trust submits this shadow report to the 66th session of the Committee on the Elimination of Discrimination against Women (the Committee) in advance of its consideration of the eighth periodic report submitted by Ukraine.
2. The Equal Rights Trust exists to combat discrimination and promote equality as a fundamental human right and a basic principle of social justice. We focus on the complex relationship between different types of discrimination and inequality, developing strategies for translating the principles of equality into practice.
3. The Trust has been actively involved in challenging discrimination in Ukraine since 2013. In the project “Empowering Civil Society to Challenge Discrimination against LGBTI Persons in Ukraine”, the Trust worked in partnership with the Nash Mir Centre and other members of the Coalition on Combating Discrimination to advocate improvements to anti-discrimination law. In the course of this project, the Trust and its partners undertook research on patterns of discrimination and inequality in Ukraine, including discrimination and inequality affecting women, and on the legal and policy framework on discrimination, which culminated in publication of the report: *In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine*.
4. This submission is based on the findings and conclusions of *In the Crosscurrents*. The first part of the submission provides an overview of Ukraine’s legislative framework for protection against discrimination on the grounds of gender. The second part presents the findings of our research on patterns discrimination against women in Ukraine. Copies of the *In the Crosscurrents* report are enclosed for further reference.

Article 2 – Discriminatory Legal Provisions

5. Article 2(f) of the CEDAW requires Ukraine “to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women”. Despite enacting strong protective legislation, Ukraine retains a number of discriminatory legal provisions, which typically take one of two forms: (i) provisions which prevent or limit the ability of women to undertake certain

types of work;¹ or (ii) provisions which purport to give advantages or preferences to women but in fact reinforce negative gender stereotypes.²

6. Article 4 of the Law of Ukraine “On Equal Rights and Opportunities for Women and Men”, adopted in 2005, requires that all legislation be subjected to a “gender-related assessment”.³ The government has issued guidelines on gender-related assessments which require assessment against the Convention and other relevant international treaties.⁴ The Ministry of Justice publishes a list of laws to be reviewed each year, and issues reports of each assessment making recommendations for amendments to the legislation if necessary.
7. As of May 2015, the Ministry of Justice had conducted gender assessments of 38 laws.⁵ Of these, ten laws were found to contain discriminatory provisions, but only six of these had been amended. These include the Law of Ukraine “On Leave”,⁶ the Law of Ukraine “On State Support to Families with Children”,⁷ the Law of Ukraine “On Service in Local Government”,⁸ the Code of Labour Laws of Ukraine,⁹ the Criminal Executive Code of Ukraine,¹⁰ and the Law of Ukraine “On Education”.¹¹ Examples of provisions that were

¹ See, for example, Кодекс законів про працю України (Затверджується Законом № 322-VIII від 10.12.71 БВР, 1971, додаток до № 50, с. 375), as amended between 1973 and 2015. Articles 55 and 175 prohibit employers from requiring women to work at night, except as a temporary measure in those sectors where there is a special need.

² See, for example, Закон України “Про освіту” (Відомості Верховної Ради УРСР, 1991, № 34, с. 451), as amended between 1993 and 2014. Article 56, paragraph 5 requires teachers to educate children and young people to respect women. The inclusion of “women” but not men may suggest that respect for women requires special treatment and protection, which would in effect perpetuate stereotypes and be inconsistent with the principle of gender equality.

³ Defined as an “analysis of the current legislation and draft legal acts, resulting in an opinion on their compliance with the principle of equal rights and opportunities for women and men.

⁴ Міністерства Юстиції України, *Методичні рекомендації щодо проведення гендерно-правової експертизи чинного законодавства*, available at: <http://www.minjust.gov.ua/15654>; М Міністерства Юстиції України, *Методичні рекомендації щодо проведення гендерно-правової експертизи проектів нормативно-правових актів*, available at: <http://www.minjust.gov.ua/15653>.

⁵ The Ministry of Justice of Ukraine maintains a dedicated website on the gender assessments, available at: http://www.minjust.gov.ua/law_gendpravexp.

⁶ Закон України “Про відпустки” (Відомості Верховної Ради України, 1997, № 2, с. 4), as amended between 2000 and 2014.

⁷ Закон України “Про державну допомогу сім'ям з дітьми” (Відомості Верховної Ради України, 1993, № 5, с. 21), as amended between 1994 and 2015.

⁸ Закон України “Про службу в органах місцевого самоврядування” (Відомості Верховної Ради України, 2001, № 33, с. 175), as amended between 2003 and 2015.

⁹ See above, note 1.

¹⁰ Кримінально-Виконавчий Кодекс України (Відомості Верховної Ради України, 2004, № 3–4, с. 21), as amended between 2005 and 2015.

¹¹ See above, note 2, Article 56.

considered discriminatory included allowing social assistance for single mothers but not for single fathers;¹² allowing employers to transfer pregnant women and women with children under three years old to another job considered to be less demanding;¹³ requiring teachers to educate children to respect, among other things, their parents, women, the elderly, traditions and customs, and the national, historical and cultural values of Ukraine.¹⁴

Article 2 – Elimination of Violence against Women

8. As the Committee has noted in its General Recommendation No. 19, violence against women “seriously inhibits women’s ability to enjoy rights and freedoms on a basis of equality with men” and is “discrimination within the meaning of article 1 of the Convention”.¹⁵ The Committee has clarified the state’s duty to eliminate violence against women and to provide redress, stressing in particular that under Article 2, state parties “may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation”.¹⁶
9. Domestic violence is a particularly pervasive form of gender-based violence affecting women in Ukraine. The Ukrainian Helsinki Committee reported that in 2013, there were 160,730 complaints of domestic violence,¹⁷ a figure which is similar to previous years. Figures on the gender of the complainant is available for all complaints made during the first six months of 2013, and indicates that 88% of complaints were made by women,¹⁸ an estimate which is supported by the non-governmental organisation International Women’s Rights Centre “La Strada Ukraine”.¹⁹
10. With a total adult female population of approximately 21 million, a recent average of 160,000 complaints of domestic violence per year and 90% of these being made by women, this would indicate 1 in 145 adult women making a complaint of domestic

¹² See above, note 6, Article 18-1, 18-3.

¹³ See above, note 9, Article 178.

¹⁴ See above, note 1, Article 56.

¹⁵ Committee on the Elimination of Discrimination against Women, *General Recommendation No. 19 on Violence against Women*, UN Doc. A/47/38, 1992, Paras 1 and 7.

¹⁶ *Ibid.*, Para 9.

¹⁷ Ukrainian Helsinki Human Rights Union, *Annual Human Rights Report: Human Rights in Ukraine 2013, 2014*, available at: <http://helsinki.org.ua/index.php?id=1398093906>.

¹⁸ United States Department of State, *Human Rights Report 2013: Ukraine*, 2014, available at: <http://www.state.gov/j/drl/rls/hrrpt/2013/eur/220342.htm>.

¹⁹ Oksana, P. “60% українських дітей до 14 років страждають від насильства в сім’ї”, *Zaxid*, 25 April 2013, available at: http://zaxid.net/news/showNews.do?60_ukrayinskih_ditey_do_14_rokiv_strazhdayut_vid_nasilstva_v_simyi&objectId=1283817 (in Ukrainian).

violence each year. However, civil society actors argue that this number of official complaints is only the tip of the iceberg. La Strada Ukraine estimate that the official number of complaints reflects only 10% to 15% of the total number of incidents.²⁰ Many victims report that even when they report domestic violence to the state authorities, their complaints are not taken seriously.²¹

11. In 2001, the Law of Ukraine “On Prevention of Violence in the Family”²² was adopted, in response to concerns over the level of domestic violence in the country. Article 8 of the Law requires there to be a shelter for those affected by domestic violence in all major cities. In practice, however, there is not even one in each of the oblasts: as of 1 January 2015, a total of 19 shelters had been established.²³ Ukraine has acknowledged that there are a number of issues in respect of access to shelters, including health and age limitations.²⁴

Article 7 – Political and Public Life

12. Article 7 of the Convention requires states to “take all appropriate measures to eliminate discrimination against women in the political and public life of the country”. It requires states to ensure that women have equal rights to: vote; be eligible for election; participate in the formation and implementation of government policy; hold public office; and participate in non-governmental organisations and associations concerned with public and political life.
13. Women are grossly underrepresented in political life and decision-making in Ukraine. In 2012, the proportion of women in the Verkhovna Rada (the parliament of Ukraine) was 9.7%. In response to the low representation of women, in 2013, the Verkhovna Rada adopted the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine Regarding the Improvement of Legislation on Elections”²⁵ which came into force on 1 February 2014. Among other changes, the Law amends the Law of Ukraine “On Political

²⁰ Drachuk, S., “Violence against women in Ukraine and war in Donbas”, *EuroMaidanPress*, 25 November 2014, available at: <http://euromaidanpress.com/2014/11/25/violence-against-women-in-ukraine-and-war-in-donbas/>.

²¹ Ukrainian Helsinki Human Rights Union, *Human Rights in Ukraine 2013, Chapter 22. Gender Discrimination and Violence against Women*, available at: <http://helsinki.org.ua/index.php?id=1398093906>.

²² Закон України “Про попередження насильства в сім’ї” (Відомості Верховної Ради України, 2002, № 10, с. 70), as amended between 2007 and 2012.

²³ Information obtained from the Ministry of Social Policy of Ukraine, March 2015.

²⁴ Committee on the Elimination of Discrimination against Women, *Eighth periodic report of States parties due in 2014: Ukraine*, UN Doc. CEDAW/C/UKR/8, 5 October 2015, Paras 129-133.

²⁵ Закон України “Про внесення змін до деяких законодавчих актів України щодо вдосконалення законодавства з питань проведення виборів” (Відомості Верховної Ради, 2014, № 22, с. 794).

Parties in Ukraine” to insert a requirement that party lists at elections include at least 30% women.²⁶

14. However, the Law does not contain any means by which compliance can be monitored and enforced. At the 2014 election, only around 25% of candidates on party lists were women,²⁷ whilst only around 13% of candidates in the single-member constituencies were women.²⁸ Furthermore, following the parliamentary election in 2014, of the 420 deputies elected, just 49 were women.²⁹ At 11.7%, the proportion of women in the Verkhovna Rada elected in 2014 was barely higher than the figure for the 2012 elections.

Article 11 – Employment

15. Ukraine is obligated to “take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights” by virtue of Article 11 of the Convention. Despite these obligations, women in Ukraine face significant discrimination and disadvantage in many aspects of employment.

Discriminatory recruitment practices

16. Article 11(1)(b) of the Convention requires Ukraine to ensure “the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment”, on a basis of equality of men and women. Evidence gathered for our report indicates that women are exposed to discrimination in recruitment.
17. Job advertisements which seek only women or men are prohibited by national law.³⁰ Despite this, job advertisements in official job magazines continue to include requirements regarding the sex of the candidates, particularly for jobs as receptionists or in the textiles sector, indicating that the law is not being properly enforced. Researchers

²⁶ Article 8, paragraph 10 of Закон України Про політичні партії в Україні (Відомості Верховної Ради України, 2001, № 23, с. 118), as amended between 2003 and 2015, reads: “[T]he size of the quota, which determines the minimum level of representation of women and men in the list of candidates of parties for deputies of Ukraine in the nationwide constituency shall be not less than 30 per cent of the candidates on the list.”

²⁷ International Election Observation Mission, Ukraine – Early Parliamentary Elections, 26 October 2014, Statement of Preliminary Findings, p. 8.

²⁸ *Ibid.*

²⁹ Inter-Parliamentary Union, *Women in national parliaments*, available at: <http://www.ipu.org/wmn-e/classif.htm>.

³⁰ Article 17 of the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” prohibits job advertisements which seek only women or men, and prohibits employers from making different demands of employees based on their gender or requiring information about their personal life or plans to have children. The 2013 Law of Ukraine “On Employment of the Population” prohibits advertisements seeking candidates of only one gender and amends the Law of Ukraine “On Advertising” accordingly.

for our report analysed the magazine “Offer a Job” for the period May 2012 to December 2013 and found that:

- a) There were many job advertisements where the sex and age of the eligible candidates for the vacant position were indicated;
 - b) Common job advertisements where only women were eligible included those for accountants, embroiderers, ironers, secretaries, office managers, dishwashers, cloth binders, housekeepers, bookbinders and dancers;
 - c) In some cases, marital status was specified alongside the sex and age sought, for example: “Married women with school-age children are preferred”.
18. Moreover, women interviewed by the Equal Rights Trust stated that young women attending job interviews are asked personal questions about their marital status and plans regarding children during job interviews, with employers reluctant to hire women seen as a “risk”.³¹ For example, Ksenia was 22 years old, single and without children. She attended a job interview for a position in a private company. One of the first questions related to her marital status. She was informed that she was required to provide a written commitment not to take maternity leave for two years as the company did not pay for such leave. Were this to happen, she would be required to resign of her own volition or else she would be dismissed for absenteeism or misconduct (she was informed that a reason would be found).³²

Unequal pay

19. Estimates of the pay gap in Ukraine vary, though all show that women are paid less than men. Since 2012, the State Statistics Committee has published annually the average monthly wage for men and women. This data shows a significant pay gap, with a 22.4% between men and women in 2012 and a 23.7% gap in 2014.³³
20. One woman, Valentyna, spoke to the Equal Rights Trust of her experience of pay inequality. Valentyna was 27 years old, married and the mother of one child. She had completed higher economic and financial education and was given a job at Nadra Bank. When she was hired, there were two similar vacancies in the organisation and she and a man were hired to fill them. Despite a perfect work record, she later discovered that her male colleague had been paid a higher salary than her, despite their positions being similar. When she challenged the bank’s director, she was told that “men took no maternity leave” and so the higher salary was a “bonus for riskless behaviour”. A few

³¹ Ла Страда-Україна, Звіт за результатами моніторингу. Гендерна дискримінація, 2014, prepared for this report; Equal Rights Trust interview with Halyna, 10 February 2014, Kyiv; Equal Rights Trust interview with Ksenia, 11 February 2014, Kyiv.

³² Equal Rights Trust interview with Ksenia, 11 February 2014, Kyiv.

³³ Equal Rights Trust, *In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine*, 2015, p. 50. See also, State Statistics Committee, *Average monthly wages and salaries of women and men by type of economic activity*, 2016, available at: http://ukrstat.org/en/operativ/operativ2016/gdn/Szp_ed/Szp_ed_e/Szp_ed_2016_e.html.

months later she left her position.³⁴

Sexual harassment

21. Evidence collected by non-governmental organisations indicates that sexual harassment of women in the workplace is widespread, despite having been prohibited by the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” since 2006. There are no official statistics collected on the incidence of sexual harassment, but women’s organisations estimate that one in four women in Ukraine will experience sexual harassment at work.³⁵
22. One example of this was given to the Trust by N., the head of a section within a department of the Ministry of Defence. After a period of sick leave, she was invited into her manager’s office, purportedly to discuss work-related issues. When they were alone, he started to remove items of clothing and sexually harass her. She refused his advances, but did not inform the police as she feared this would make the situation worse. Following this, he started to use his seniority in order to put pressure on her and force her to quit her job. He prohibited other employees from communicating with her, forced them to submit complaints against her, launched an inquiry against her with no basis, refused to provide leave, pressed her psychologically, and was aggressive in his tone towards her, making it difficult for her to do her job. Finally, under the premise of restructuring the department, he removed her from the staff without offering her another position elsewhere.³⁶

Recommendations

1. Ukraine should undertake a review of certain legislative provisions which are discriminatory on the grounds of gender, including, but not limited to, provisions within the Constitution, the Code of Labour Laws of Ukraine, the Family Code of Ukraine, the Law of Ukraine “On Leave”, the Law of Ukraine “On Service in Local Government”, and the Law of Ukraine “On State Support to Families with Children”;³⁷
2. In accordance with Article 5 of the Law of Ukraine “On Equal Rights and Opportunities for Women and Men”, the Cabinet of Ministers should ensure that all draft legislation is assessed for its compliance with the principle of gender equality;
3. The Cabinet of Ministers should take immediate steps to tackle the high levels of domestic violence against women as well as its underreporting, including through appropriate training for police officers and prosecutors;
4. The Cabinet of Ministers and the Verkhovna Rada should take specific positive action measures to address the low representation of women in many areas of political and public life, including in the Verkhovna Rada and in local government and should

³⁴ Equal Rights Trust interview with Valentyna, 11 February 2014, Kyiv.

³⁵ Коваленко, Н. and Шерстюк, Н. “Від сексуальних домагань на роботі страждають чверть українських жінок (правозахисники)”, *Радіо Свобода*, 31 May 2010.

³⁶ Equal Rights Trust interview with N., 18 February 2014, Kyiv.

³⁷ See Equal Rights Trust, *In the Crosscurrents: Addressing Discrimination and Inequality in Ukraine*, 2015, pp. 368-374, for a comprehensive list of discriminatory provisions in need of review or reform.

consider the adoption of legislation providing for specific positive action measures in those fields of work where women are under-represented;

5. The Cabinet of Ministers should enforce vigorously Article 17 of the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” and Article 11 of the Law of Ukraine “On Employment of the Population” which prohibit advertisements seeking candidates of only one gender as well as employers making different demands from employees based on their sex or requiring from them information about their personal life or plans to have children;
6. The Cabinet of Ministers should take immediate steps to tackle the persistently high gender pay gap;
7. The Ministry of Education should provide education aimed at eliminating gender stereotypes and gender roles and at promoting gender equality in schools and at all ages;
8. The Cabinet of Ministers should ensure civil servants and all other public officials, including the police and judges, receive specific training on gender equality, with ongoing refresher courses available;
9. The Cabinet of Ministers should also consider informational and awareness-raising campaigns aiming to eliminate gender stereotypes regarding the role of men and women in society amongst the population at large;