



**Ukraine's compliance with the Convention on the Elimination of All Forms of
Discrimination against Women**

**Report for the Pre-Sessional Working Group of the Committee on the Elimination of
Discrimination against Women**

Submitted by Labor Initiatives,

Ukrainian non-governmental organization

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Labor Initiatives is a non-governmental organization committed to the promotion and protection of labour rights and rule of law in Ukraine and regionally. Established in 2014, Labor Initiatives has a legal clinic and workers' rights center that provides workers with free consultations on various labor issues. Labor Initiatives lawyers conduct monitoring of changes in legislation related to workers' rights, freedom of associations and peaceful assembly. The organization also conducts trainings and seminars to promote labor rights and freedom of association. Labor Initiatives partners with both internationally recognized national trade union centers in Ukraine, the Confederation of Free Trade Unions of Ukraine and the Federation of Trade Unions of Ukraine. Labor Initiative is supported

Labor Initiatives · Petluri str.10, office 3 · Kiev · Ukraine

Phone: +38-063-363-64-74 · Email: info@trudovi.org · Website: <http://trudovi.org/>

EXECUTIVE SUMMARY

1. According to the Global Gender Gap Report 2015, which is a global study of countries in terms of gender equity according to World Economic Forum Ukraine ranked at 67th place among 142 countries.¹ Ukraine dropped in its rating by 11 positions in 2015, having placing 56th in 2014.
2. Article 11 of CEDAW addresses women's rights in the employment context by requiring parties to "take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure on the basis of equality of men and women, the same rights". Article 11 covers (a) equal opportunity in employment; (b) pay equity, (c) marital and pregnancy protections and (d) sexual harassment. In 2009 the Committee expressed its concern with discriminatory recruitment practices and limited employment opportunities for women in spite of their academic qualifications and emphasized the need to implement special measures to ensure equal participation of women in highly skilled jobs.²
3. Article 24 of the Ukrainian Constitution explicitly guarantees that equality of rights of men and women shall be ensured.³ Similarly, the Law of Ukraine On Ensuring Equal Rights and Opportunities of Women and Men was passed in 2005, with the aim of ensuring equity of men and women in all spheres of society, including employment, and provides special measures to address existing inequalities. Article 17 sets out that equal rights and opportunities shall be granted to men and women in the field of employment, job promotion, skills development and retraining. Similarly, discriminatory job advertisements and prospective employer inquiries into the private life of job applicants are prohibited.⁴ In 2013, the Law On Preventing and Combating Discrimination was adopted. This Law establishes the "principle of non-discrimination" and defines the procedure for discrimination cases. But the law still "lives on paper" as public servants don't pay attention to respect the principle of non-discrimination and judicial practice of applying the law hasn't formed yet.⁵ A new labor code is currently under consideration, but an expected final draft has not yet been circulated or made available for analysis.
4. Despite the formal commitment to gender equity in law, numerous barriers for equal access to employment opportunities continue to exist in Ukraine. Similarly, there are contradictory laws and policies in effect. Paternalist approaches towards the "protection" of women co-exist with more progressive laws with an equity approach.

¹ Global Gender Gap Report 2015. World Economic Forum, Switzerland 2015, <http://reports.weforum.org/global-gender-gap-report-2015>

² List of issues and questions with regard to the consideration of periodic reports. Committee on the Elimination of Discrimination against Women. 6 July 2009. CEDAW/C/UKR/Q/7, para. 25, 27

³ Constitution of Ukraine (Vidomosti Verkhovnoi Rady (VVR), 1996, # 30, p. 141) <http://zakon3.rada.gov.ua/laws/show/254k/96-bp>

⁴ Law of Ukraine On Ensuring Equal Rights and Opportunities for Women and Men (Vidomosti Verkhovnoi Rady (VVR), 2005, # 52, p. 561) <http://zakon5.rada.gov.ua/laws/show/2866-15>

⁵ Iryna Fedorovych. The law on discrimination on paper and in practice. Coalition on combating discrimination - <http://www.discrimi.net/zakon-ukrayiny-pro-dyskryminatsiyu-na-paperi-ta-na-praktytsi/>

For example, article 24 of the Constitution urges special measures for the safety and health of women, and refers to the creation of “conditions that would allow women to combine work and motherhood”.⁶ State parties to CEDAW are obligated to improve not only *de jure*, but also *de facto* discrimination against women. Similarly, state parties are obliged to address the persistence of gender stereotypes in law, as well as general society.

5. Notwithstanding the fact that the law envisages liability for discrimination in any sphere, there are no efficient mechanisms for implementation and imposition of sanctions in the field of employment opportunities and remedies for gender based discrimination.

A. Inequality in pay between men and women remains high in Ukraine

Article 11(1)(d) provides the “right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of quality of work.” The right to equal pay for equal work takes account of the fact that lower wages for women are not only the result of direct discrimination but also of horizontal segregation of jobs and payment of lower wages in predominately female workforces. The CEDAW Committee has linked the existence of a segregated labor market and low pay for women with gender stereotypes, which perpetuate the attitude that women play a secondary role in the workforce and are available as cheap, part-time workers, or where precarious or informal work is acceptable.

Pay Gap

6. Article 43 of the Constitution of Ukraine guarantees the equal rights of women and men to earn their living by work, which they freely choose or to which they freely agree.⁷ Under Article 94 of the Code of Labor Laws of Ukraine any reduction in payment for work based on age, sex, race, or other personal affiliation is prohibited.⁸ The Law of Ukraine On Ensuring Equal Rights and Opportunities for Women and Men aims to ensure the equal rights and opportunities of both genders in the area of employment, as well as equal pay.⁹ Despite the existence of the above-mentioned legislation, which requires that men and women in the same work place will be given equal pay for equal work, significant gender pay gaps persist.¹⁰

⁶ Constitution of Ukraine (Vidomosti Verkhovnoi Rady (VVR), 1996, # 30, p. 141) <http://zakon3.rada.gov.ua/laws/show/254k/96-bp>

⁷ *Ibid.*

⁸ Code of Labor Laws of Ukraine (Approved by the Law #322-VIII, 10.12.71 VVR, 1971, addendum to #50, p. 375) <http://zakon3.rada.gov.ua/laws/show/322-08>

⁹ Law of Ukraine On Ensuring Equal Rights and Opportunities for Women and Men (Vidomosti Verkhovnoi Rady (VVR), 2005, # 52, p. 561) <http://zakon5.rada.gov.ua/laws/show/2866-15>

¹⁰ Equity and rights is the best gift for women (INFOGRAPHIC), March 4, 2016

<http://www.kvpu.org.ua/uk/news/6/1159-rivnistidotrymanniapravnaikrashchyipodarunokzhinkaminfohrafika>

Gap in Employment Opportunities

7. According to the information of the State Statistics Department of Ukraine the number of working women aged 15-70 is 7.9 million, while the number of working men is 8.6 million.¹¹ Minister of Social policy of Ukraine reported on the share of informally employed salaried workers in 2015 was 26.4 % or 4.3 million people, reaching more than 50% in western regions of Ukraine.¹² This was caused partially by minimal economic incentives to formal employment, deficient regulatory mechanisms for the labor market, high levels of corruption in administrative functions, lack of state policy in the sphere of employment and lack of new jobs.

Women less employed & earn less

8. The minimum wage in Ukraine as of 01.01.2016 was 1378 UAH (55 USD) per month, as of 01.05.2016 it was 1450 UAH (58 USD) and as of 01.12.2016 it will be 1600 UAH (64 USD).¹³ The official number of unemployed women in 2015 was 692.000 people, while the number of unemployed men was 962.500 people.¹⁴ According to the data by the State Statistics Department of Ukraine the average salary for women in Ukraine was 3966 UAH (159 USD), while the average salary of a man was 5379 UAH (215 USD).¹⁵ The Confederation of Free Trade Unions of Ukraine estimated that the gender pay gap was 27 percent in 2015.¹⁶

Female Dominated fields have the lowest wage

9. According to official statistics, in all the industries, with the exception of cultural and administrative ones, the salary of men was higher. Further, industries dominated by female workers had the lowest relative wages. These industries include post and courier, education, health care, and cultural spheres. Women had lower salaries due to limited opportunities for promotion and specific types of industries.¹⁷

Suggested Questions:

- *Under ITO CEDAW obligations, the state is obliged to take all appropriate measures, including temporary special measures to address women's disadvantaged position in the labor market; What special measures has Ukraine taken to address the disadvantaged position of women in the labor market?*
- *In particular, what measures has Ukraine taken to prevent discrimination in recruitment and promotion for employment?*

¹¹ Economic activity of population by sex and place of residence in 2015, State Statistics Department of Ukraine, <http://www.ukrstat.gov.ua/>

¹² Statement of Lyudmila Denisova, Minister of social policy in Ukraine (March 10, 2016, 5:20 PM) <http://www.slovoidilo.ua/2016/03/10/novyna/ekonomika/neoficijne-pracevlashtuvannya-sered-molodi-syahnulo-36-denisova>

¹³ Law of Ukraine on State Budget in Ukraine 2016 (Vidomosti Verkhovnoi Rady (VVR), 2016, # 5, p. 54) <http://zakon3.rada.gov.ua/laws/show/928-19>

¹⁴ The number of registered unemployed by gender in 2015, State Statistics Department of Ukraine, <http://www.ukrstat.gov.ua/>

¹⁵ The average monthly wage of women and men by types of economic activity in 2016, <http://www.ukrstat.gov.ua/>

¹⁶ Equality and rights is the best gift for women (INFOGRAPHIC), March 4, 2016 <http://www.kvpu.org.ua/uk/news/6/1159-rivnistidotrymanniapravnaikrashchyipodarunokzhinkaminfohrafika>

¹⁷ Who are paid more: the average salary across all industries, November 11, 2015 <https://ukr.media/business/265348/>

- *How has Ukraine given effect to CEDAW recommendation that data and statistics be disaggregated by gender, ethnicity, age, in order to capture intersectional discrimination in the labor market?*
- *What measures have been put in place to study job evaluation systems based on gender-neutral criteria?*

B. Equal Opportunities in Employment

Article 11(1)(b) guarantees women the “right to the same employment opportunities, including the application of the same criteria for selection in matters of employment.”

10. Occupational segregation remains significant due to (1) lack of enforcement mechanisms and procedures in the sphere, and (2) cultural and historic background of the society.¹⁸
11. Under the Law of Ukraine On Employment of Population it is prohibited to specify in the job advertisements limitations as to the age or gender of the applicant, offer jobs only to women or only to men.¹⁹ Due to the lack of enforcement employers frequently search for people of certain gender or physical capability and appearance. Moreover, prevalent stereotypes on the women’s role in the society remain an obstruction for gender equity.²⁰
12. The recent statistics of the State Employment Service of Ukraine show that there were a significant number of women unemployed in the fields of science and technology, finances, health care and art and culture (ranging up to 81% out of the general quantity of the unemployed). The average percentage across the fields of unemployment of women's unemployment is 56.5%.²¹

Prohibited Work

13. Ukrainian legislation limits women’s employment opportunities and prohibits over 500 professions for women.²² These include occupation such as bulldozer operator or bus driver (with over 15 passengers) and many more. The list of prohibited professions for women was created in Soviet times with an ideological focus on

¹⁸ Report of the Ukrainian Helsinki Human Rights Union. Women's work: discrimination against women on the Ukrainian labor market. <http://www.helsinki.org.ua/files/docs/1157723430.pdf>

¹⁹ Law of Ukraine On Employment of Population (Vidomosti Verkhovnoi Rady (VVR), 2013, # 24, p. 243) <http://zakon2.rada.gov.ua/laws/show/5067-17>

²⁰ Report of the Ukrainian Helsinki Human Rights Union. Women's work: discrimination against women on the Ukrainian labor market. <http://www.helsinki.org.ua/files/docs/1157723430.pdf>

²¹ Analytic report of the State Employment Service of Ukraine (April, 2016) <http://www.dcz.gov.ua/statdatacatalog/document?id=351058>

²² The List of heavy works and works with harmful and dangerous working conditions, which prohibits the use of womens’ labour, approved by the Ministry of health protection of Ukraine # 256, Dec. 29,1993 <http://zakon2.rada.gov.ua/laws/show/z0051-94>

women's role in reproduction. It is clearly unjustifiably based on gender stereotypes, which prejudice women in gaining employment.

Informal Work

14. High percentage of women are engaged in informal economic activity. It is widely reported that employers discriminate in the conclusion of labor contracts with women due to the fact that officially employed women have rights to maternity leave, child care sick leaves, and other child care leaves from 3 to 6 years. Additionally, lawyers with Labor Initiatives reported frequent cases where employers explicitly stated the desire to avoid paying the taxes from their salaries, social payments and vacations (for both men and women). During the 2012 inspection process of the State Inspection of Ukraine on Labor (of 2.5 thousand enterprises), more than 900 violations were detected in the sphere of employed women's rights — late payment of child care leave pays, engagement of pregnant women and mothers of the children under 3 years old in work prohibited by the law, non-payment of sick-leave payments, among other issues.²³ Given the small sampling of work places, the high rate of violations likely indicates a very large number of violations nationwide.

Suggested Questions:

- *What measures has Ukraine taken to eliminate occupational segregation, both horizontal and vertical?*
- *Can Ukraine provide more info on its policies to increase the number of women employed in science and technology, finances, healthcare and art?*
- *What legislative, administrative and other measures guaranteeing access to social security/other labor benefits for women domestic workers and women workers in the informal economy has been taken?*
- *Can Ukraine provide detailed breakdown of enterprises that are male run vs. enterprises that are female run; and the difference in income levels between the two?*
- *What measures has Ukraine taken to mitigate the gender pay gap; the gender employment and the persistence of occupational segregation in the labor market, particularly in view of women's higher education advancement not translating into equivalent jobs and salaries?*
- *How does government ensure that opportunities available for women in occupations that are not traditionally pursued by them?*
- *What steps is Ukraine taking to repeal dated legislation that prohibits women from working in certain positions and at certain times, based on discriminatory gender stereotypes and discriminatory paternalism in protective measure?*

²³ Report on the implementation in Ukraine of the UN Convention on the Elimination of all Forms of Discrimination against Women. The eighth periodic report. The Ministry of Social Policy of Ukraine United Nations Population Fund. http://www.un.org.ua/images/CEDAW_report_eng.pdf

C. Maternity/Paternity Protection:

Article 11 (2) : In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures: 11 (2) (b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances.

15. Code of Labor Laws of Ukraine places severe limitations on pregnant women, or women with children under three from engaging in night work, over-time work, work on weekends and business trips.²⁴ These laws are problematic because they are based on discriminatory assumptions that the sole or primary responsibility for taking care of children rests upon women, as the restrictions apply to mothers and not fathers. Such restrictions also fail to take into account the ways in which protectionism harms women's ability to develop or advance professionally. In addition, Code of Labor Laws in Ukraine suggests that employers could provide part-time work to certain categories of mothers, but not fathers. This reinforces the notion that the main responsibility for childcare is with mothers.
16. Recently, The Strategy of State Personnel Policy for 2012-2020 guarantees real enjoyment of "the reconciliation between family and professional responsibilities" but actually reflects a traditionalist view on women's position in the society.²⁵ Yet, this reinforces stereotypical attitudes regarding the roles of men and women and existing gender inequity.

Suggested Questions:

- *Can Ukraine provide disaggregated data with respect to men and women taking paid and unpaid paternity leave?*
- *What measures has Ukraine put in place to encourage men to take paternity leave and educate that childcare responsibilities should be divided equally between men and women?*
- *What effect has the amendment of the Law of Ukraine on Obligatory State Pension Insurance Law of 2013, changing the childbirth allowance so that it is no longer paid from the government budget, but rather from a contributory system of obligatory social insurance had?*
- *What is the impact of laws prohibiting pregnant women from engaging in many forms of work on women's employment opportunities?*
- *What measures has Ukraine taken to ensure that women public sector employees receive full maternity benefits, without a three-month delay?*

²⁴ Code of Labor Laws of Ukraine (Approved by the Law #322-VIII, 10.12.71 VVR, 1971, addendum to #50, p. 375) <http://zakon3.rada.gov.ua/laws/show/322-08>

²⁵ Strategy of State Personnel Policy for 2012-2020, approved by Decree of the President of Ukraine #45/2012 Feb 12, 2012; <http://zakon2.rada.gov.ua/laws/show/45/2012>

- *To what extent do women working outside formal employment utilize the Law on State Social Insurance in Case of Temporary Incapacity for Work and Expenses Incurred due to a funeral (“TIW”) to claim maternity benefits? What steps has Ukraine taken to ensure that these amounts are sufficient?*
- *What concrete steps have been taken by Government to implement Article 5 of the Convention to combat traditional stereotypes?*
- *What concrete steps has Ukraine taken to create a more equal division of informal care tasks between men and women?*

D. Child Care at Work

17. The CEDAW Committee has expressed concern where the responsibility for childcare and family is placed exclusively on women, since this encourages women’s marginalization in the economy and exacerbates poverty.

Suggested Questions:

- *What is the number of state-provided child care centers? Can Ukraine disaggregate rural from urban child care centers?*

E. Sexual Harassment

18. In General Recommendation 19, the Committee stressed that gender-specific violence is a form of discrimination under the Convention and that State parties are not only directly responsible for the acts of State organs but may also be responsible for private acts if they fail, with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation. In this scenario, not only must the state put appropriate law and policy measures in place, but it must also properly administer and give effect to them.

Suggested Questions:

- *Can Ukraine provide national statistics, disaggregated by gender and sector, to understand the extent of the gender-based violation at work?*
- *What measures has Ukraine taken to put in place a duty on employers to prevent gender-based violation at work?*