

# UKRAINE

## LEGISLATION, COMBATING DOMESTIC VIOLENCE AND VIOLENCE AGAINST WOMEN, PRACTICAL MEASURES, STUDIES/RESEARCHES, STATISTICS

### *Legislation*

According to the provisions of parts one and three of article 7 of the law of Ukraine on "the Judiciary and the Status of Judges" (hereinafter - the Law), everyone shall enjoy a guaranteed protection of their rights, freedoms and interests by an independent and impartial court established according to law. Everyone shall have the right to take part in the consideration of his/her case in a court of any level in the manner prescribed by the procedural law.

Article 9 of the Law envisages that justice in Ukraine shall be administered on the basis of equality of all participants in court proceedings before the law and the court irrespective of race, colour of skin, political, religious or other convictions, sex, ethnic or social origin, property status, domicile, linguistic or other characteristics.

The relevant provisions are contained in the procedural legislation, which provides that there can be no privileges or restrictions of the rights of participants in many ways, including in terms of gender. Thus, article 10 of the Code of Administrative Legal Proceedings of Ukraine provides that all participants in the administrative process are equal before the law and court. In accordance with article 5 of the Code of Civil Procedure of Ukraine, the court shall respect, honour and treat with dignity all participants of civil processes and perform justice on the basis of their equality before the law and court. According to article 4 of the Economic Procedural Code of Ukraine, justice in the economic courts is based on the principle of equality of all participants in the judicial process before the law and court. Article 65 of the Law establishes that the selection of candidates for the position of judges is ensured by the equality of their rights, regardless of many characteristics, including sex.

Appropriate guarantees are provided by the Law of Ukraine on "arbitration courts".

According to article 24 of the Constitution of Ukraine, citizens have equal constitutional rights and freedoms and are equal before the law. The equal rights of women and men are ensured, inter alia, by legal defence. In order to ensure further progress of this article of the Constitution of Ukraine the Verkhovna Rada of Ukraine adopted the Law of Ukraine on "ensuring equal rights and opportunities of women and men". Its goal is to achieve parity status between women and men in all spheres of society. In accordance with paragraph 7 of article 1 of this Law, gender equality is the equal legal status of women and men and equal opportunities to exercise it which allows persons of both sexes to participate in all spheres of social life on equal terms. Discrimination on grounds of sex is prohibited (part one of article 6 of the Law on ensuring equal rights and opportunities of women and men). According to part 1 of article 22 of this Law, a person who thinks that she/he is a victim of discrimination on the ground of sex or became an object of sexual harassment shall have the right to appeal to the central executive body, local authorities, Ukrainian Parliament Commissioner for Human Rights and/or the courts, in the manner prescribed by this law.

### *Domestic violence and violence against women*

During 2014, 119,997 appeals on domestic violence were finalised. Among them there were 702 in respect of children; 90% were from women (108,037); and 83,022 persons are now registered in the internal affairs bodies under the pretext of domestic violence as a result.

To ensure the integrated approach of protection of victims of domestic violence, ratification by Ukraine of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) is being prepared.

To replace the current Law of Ukraine on "Prevention of Domestic Violence", the draft law on "the prevention and countering of domestic violence" was drafted. The proposals regarding the amendment of the Criminal Code of Ukraine, Criminal Procedure Code of Ukraine, Code of Ukraine on Administrative Offences, draft law on "the Offences" have been prepared.

In order to assist victims of domestic violence, there are 19 centres for social and psychological assistance in Ukraine, which provide 24-hour assistance. During 2014, 482 families with children and 10,092 persons received assistance at these centres. 8,174 families who found themselves in difficult circumstances or suffered from domestic violence were registered by social services dealing with families, children and youth. This figure includes 2,141 families in receipt of social assistance. In total 22,556 victims of domestic violence were covered by social assistance.

Research is being carried out for a comprehensive study of the needs of women, who are victims of violence, with a view to helping them and improving the quality of the assistance. In particular, one area of research carried out was within the framework of preparation for the 8<sup>th</sup> State Report on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): ([http://www.mlsp.gov.ua/labour/control/uk/publish/category?cat\\_id=166710](http://www.mlsp.gov.ua/labour/control/uk/publish/category?cat_id=166710)).

The issue of violence against women becomes especially sensitive in situations of armed conflict in Ukraine. The need to provide assistance to victims of violence during the conflict, rehabilitation of victims, an elaboration and implementation of reintegration programmes in post-conflict period, taking into account the special needs of women and children, are growing.

Ukraine continues to elaborate the National Action Plan (NAP) for implementing UN Security Council Resolution No. 1325. The NAP includes measures to assess the impact of armed conflicts on women and girls, as well as a violence against women in conflict areas, access to justice for women and girls, affected by conflicts and trafficking in human beings; ensuring the criminal investigation and legal prosecution of persons, who perpetrated crimes against women, suffered from the conflict.

The implementation of the two projects «Rapid response to social and economic problems of internally displaced persons in Ukraine» (UN project), and «Comprehensive stabilizing support for internally displaced persons and people affected in Ukraine» (IOM project) will be launched soon. These two projects will help to normalise the situation of internally displaced persons, their integration and social advancement in Ukraine.

Among the aspects on the prevention of domestic violence is the co-operation with the international governmental and non-governmental organisations. Every year, at the initiative of the Public Safety Department of the Ministry of Internal Affairs of Ukraine, the interregional scientific conference on the improvement of domestic violence prevention takes place, with the assistance of OSCE, UNDP, organisations such as: the International Women's Right Centre – La Strada Ukraine, The Volunteer, Women's Information and Co-ordination Center (NGO from Dnipropetrovsk), and jointly with the heads of the district police inspectors service of the Main Internal Affairs Department, Internal Affairs Department, with the Criminal Militia Department on Children Affairs officials and higher educational institutions of the Ministry of Internal Affairs of Ukraine.

Within the "16 Days of Activism against Gender Violence" campaign by the Ministry of Internal Affairs of Ukraine initiative and with the assistance of the OSCE Project Coordinator in Ukraine, with

the involvement of the heads of the district police inspectors service of the Main Internal Affairs Department, Internal Affairs Department, the Ministry of Social Policy officials and other interested authorities, the International conference "Combating the gender-based violence, the best international practices" took place. The aim of the event was to familiarise the participants with the good practices in combating such phenomenon within OSCE participating states and to discuss the peculiarities of the legislation and law enforcement response to domestic violence.

Nowadays the activities of the Ministry of Internal Affairs is aimed towards improving the forms and methods of achieving state policy in the sphere of prevention of domestic violence, namely the law, education, vocational and elucidative activities, the implementation of new forms and methods of preventive work with persons disposed to commit offences, as well as drafting and introduction of normative legal acts, that would help to solve problems in a family environment.

### *Practice and Research*

With the expert support provided by the Secretariat of the Ukrainian Parliament Commissioner for Human Rights and the United Nations Development Programme (UNDP), research of "Monitoring of national judicial practice of handling criminal, civil cases and cases on administrative offences related to domestic violence" was drafted by Olga Shapovalova, a retired judge of the Supreme Court of Ukraine.

In general, there are many problems that are not conducive to effective protection of victims of domestic violence and bringing the offenders to administrative or criminal liability for domestic violence and caused by the imperfection of legislation on domestic violence prevention, the complexity of proving the guilt of persons who commit domestic violence, the level of awareness among judges and law enforcement agencies about the causes and consequences of violence. These findings confirm the results of the above study.

The study of national judicial practice and the analysis of the decisions on administrative offences indicate that in most cases the administrative charges for domestic violence (article 173-2 of the Code of Ukraine on Administrative Offences) apply to men and only in some cases (approximately 5-7% of the total number of persons to whom administrative proceedings apply) to women. This means that the gender aspects of domestic violence should be taken into account by judges in the application of laws in Ukraine on the prevention of domestic violence and by the state in shaping gender policy in Ukraine.

Because bringing a case for domestic violence requires establishing the residence of the perpetrator and the victim as one family, this complicates significantly making the perpetrator responsible and in some cases, entails the termination of the proceedings. Therefore, when a person, who is a relative or a friend comes to visit and who is accused of committing domestic violence is not living with the victim as one family, that person cannot be made administratively responsible.

The study of court decisions on civil cases confirms that the courts very often impose fines in cases of domestic violence. Only about 40% of cases concerning an administrative penalty in the form of fines which are paid by offenders on a voluntary basis. This means that more than half of all judgments resulting in imposition of fines are not adhered to. Besides that, many persons who were responsible for domestic violence are unemployed which makes it impossible to execute the administrative orders, and can result in the victims paying the fines themselves.

It can also happen that proceedings under Part 2 of Article 173-2 of the Code on Administrative Offences of Ukraine where domestic violence has been detected are closed because more than one

year has passed from the moment when the person was held responsible for the first violation. In such cases, courts close the proceedings because of a lack of administrative elements relating to the actions of the guilty person or return case materials to the internal affairs bodies for the recompletion.

The analysis of judgments of the crimes, the responsibility for which is provided in Part 1 of Article 115 of the Criminal Code of Ukraine (premeditated murder) and which are registered in the Unified State Register of Court Decisions give grounds to conclude that almost 90% of cases of committing of premeditated murder without aggravating circumstances took place in relation to close relatives, spouses, cohabitants and/or family members of the guilty person.

The analysis of some court decisions have shown low efficiency of the work of law enforcement and judicial authorities which consists in the fact that criminal cases are under investigation for several years, and as a result offenders are released from punishment because the statute of limitations has passed.

For this reason it is advisable to inform people about the legal basis for preventing and combating domestic violence and the types of assistance available to victims, as well as about the procedures for court applications or protection of their own interests in the proceedings. At the same time, it is advisable to conduct trainings for judges and employees of internal affairs bodies on a regular basis, and to explain the specifics of the investigation and procedures in cases of domestic violence, as well as the necessity of preventing the specified offences.

#### *Statistics indicators*

The State Statistics Service of Ukraine takes measures aimed at revision and identification of the priorities to make improvements to the methodology for modern Ukrainian gender statistics. Thus, during 2010-2012, an assessment of the national base for gender statistics, as to its compliance with the needs of national users and recommendations of international organisations was made. Also, an expert poll of users was conducted as to the assessment of the status and outlooks for the development of this type of statistics. Based on the results of this analysis, recommendations were prepared about the priority directions to develop gender statistics in Ukraine. The development of these recommendations was based on regulations from the Manual on Development of Gender Statistics: Practical Usage prepared by the UN European Economic Commission (UNECE). The generalised statistical information on gender issues is made public once every two years in the thematic statistical abstract Women and Men in Ukraine. Also, indicators with distribution by sex are published as well in other statistical editions dedicated to selected sectoral topics.

The 62<sup>nd</sup> Session of the Conference of European Statisticians (April, 2014) took a new list of gender equality indicators as a basis. In January 2015, the relevant indicators were released in the UNECE publication Gender Equality Indicators. In this regard the State Statistics Service of Ukraine is taking the necessary measures for the adaptation of gender equality indicators to the national environment. This adaptation will allow Ukraine to make an inventory of the national database and revise the methodology behind the definition of indicators and the methods to collect those indicators. It is also will be the next stage on the way to implement the harmonized methodological approaches to gender statistics at international level. In the future, the usage of relevant indicators will ensure the reconciliation of data on gender equality at international level.

#### **USEFUL LINKS:**

[HTTP://WWW.MLSP.GOV.UA/LABOUR/CONTROL/UK/PUBLISH/CATEGORY?CAT\\_ID=166710;](http://www.mlsp.gov.ua/labour/control/uk/publish/category?cat_id=166710)

[HTTP://WWW.UA.UNDP.ORG/CONTENT/UKRAINE/UK/HOME/LIBRARY/DEMOCRATIC\\_GOVERNANCE/-----HTML](http://www.ua.undp.org/content/ukraine/uk/home/library/democratic_governance/-----HTML)