

SUBMISSION ON THE LIST OF ISSUES CONCERNING UKRAINE TO THE CEDAW PRE-SESSIONAL WORKING GROUP 66 25-29 JULY 2016

I. About authors

This paper deals with Ukraine and the issue of women situation in 12 main realms of influence of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in particular.

The report is initiated by the group of Ukrainian non-governmental women's organizations-members of the Gender Strategy Platform. It has been prepared by 14 non-governmental women's and research organizations specializing in the defense of the women's rights in Ukraine. Report preparation and provision is coordinated by the Kyiv Gender Studies Institute working in the field of combating women discrimination since 1999.

Gender Strategy Platform as an organization initiating the report unites 48 women and human rights defending non-governmental organizations and has been founded at the end of 2010 aiming at the counteraction against the negative tendencies in the women's rights realm defined at the time.

II. Proposals on the list of questions (Introduction)

While preparing this document authors followed the Final Provisions of the Committee and Articles 1-16 of the Convention and used the accessible statistics and research that have revealed the situation with non-discrimination of women in the realm of the Convention influence and main problematic fields defined by the Final Provisions.

Governmental Periodic Report VIII presented for examination at the 66-th session of the Committee is focused mainly on the 2010-2013 period that is important. At the time the Government was headed by the ex-President Victor Yanukovych dismissed as a result of the Dignity Revolution. At the same time the policy on non-discrimination on the grounds of gender of the incumbent Government is no less interesting and even more important.

Nowaday Ukraine has shaped its course to carry out reforms, which is undoubtedly going to deal with all the realms of women's life. The situation in the fields that are subject to reforming is very important from the standpoint of the women's interests support and following the equality observation in the reforms development as well as including activities aimed at the support of women's interests since it will establish the legal regulations for the future.

The Committee should be able to obtain more information concerning this situation in order to have an opportunity to put relevant questions to the Government and to develop appropriate recommendations.

III. Main points

Key issues concern Ukrainian women's capability to influence their own lives through the access to the different stages of decision making, developing of gender-sensitive policies and programs, adequate reflection of women's and different groups' of woman situation in the national statistics, lack of possibility or presence of possibility to actively counteract

against the practices assaulting their dignity, impairing their chances for decent life or containing attempted acts against their security.

Whereas this document contains review and comments of the public organizations on the selected Final Provisions of the Committee on the elimination of the discrimination against women, Ukraine, made at the Forty fifth session of the Committee on Elimination of Discrimination against Women, 18 January – 5 February, 2010. These are Final Provisions 10, 11-12, 18-19, 22-23 in particular.

Concluding observation # 10

On the government obligations to follow all the regulations of the Convention

The state of Ukraine has devoted not so much attention to the following of the Convention regulations as well as concerns and recommendations delivered in the Final Provisions of this Convention.

Victor Yanukovych's government observed policy of human rights impairing and scaled-back the equality policy and actions aimed at the women interests support that had been launched in Ukraine in 2000.

Revolution and later the war caused the domestic issues of the nation's life on the back burner including equality maintenance and non-discrimination.

Government of the day headed by Petro Poroshenko has launched reforms in a number of realms that will influence the situation of women very much. At the moment National Reforms Council¹, has declared 18 priority reforms that include reform of healthcare, education, election legislation, access to justice, tax reform, etc.² All of these reforms deal with the fields that are highly important for women.

Not all of the top-priority reforms contain gender equality component or activities aimed at women interests support. One of the positives is the reform of one of the most repressive institutions, the Ukrainian police, where at the moment a number of women have increased to 25% and recently policewomen have come to patrol streets for the first time in Ukrainian history. There are however certain negative aspects of the healthcare reform. The main part of the stated 18 top-priority reforms include gender equality attitudes nor in the content neither in the body of its developers and experts. Gender assessment of the reforms consequences does not take place. The government does not raise a point the necessity of such an assessment.

The level of awareness on the Convention and the Final Provisions. Employees of Ministries and institutions as well as judiciary branch demonstrated awareness on the Convention during the public arrangements devoted to the issues of gender equality. However, a number of persons informed on these issues mainly consist of singular professionals who deal with gender equality issues according to their position requirements. Besides, we do not see the implementation of the Convention and the Final Provisions requirements in the branch policies.

Questions to the Government

- How is women's non-discrimination provided in the 18 reforms that have been already launched?
- Are gender experts engaged into the development of these 18 reforms? If they are then what reforms in particular do they work on? What kind of positions do they have? Are

¹National Reforms Council / Access <http://reforms.in.ua/en>

² PRIORITY REFORMS - PROGRESS OF TASKS IN 2015 / Access: <http://reforms.in.ua/ua/skorkardy>

they the vendors of the reforms, are they consultants or do they have advisory capacity, etc.?

- Are these 18 reforms' consequences for the population assessed and are they disaggregated according to the gender?
- What kind of gender initiatives are in the plans of the Government in the field of 1) healthcare; 2) education; 3) tax reform; 4) judicial reform.

Concluding observation # 11-12

On the binding force of the Convention for all the branches of power and for the activities of the national parliament (Verkhovna Rada) in particular

The parliament activities in the field of the gender equality support has been active in both convocations though it was aimed at both the implementation of the gender equality policy as well as at the counteraction against this policy.

The parliament of the 7th convocation implemented pro-gender as well as anti-gender initiatives. Legislative body (7th convocation) discussed the bills on the criminalization of abortions, non-admission of adoption Ukrainian citizens by people being in the same-sex marriage, etc. At the same time two interfactional associations defending women and men equality worked in the parliament, they were pro-governmental "Equality"³ and oppositional "For Equal Opportunities".⁴ Legislators of the 8th convocation rather intensified activities on the equality acquisition. A number of women-member of parliament have increased to some extent (of 1,4%). Members of the Interfactional Association "Equal Opportunities" have also increased in number (49 people), their activities took four main trends (gender equality in 1)parliament work; 2) political participation; 3) peacemaking and security; 4) education and enlightenment).

Parliamentary Subcommittee on Gender Equality Issues and Non-discrimination has become more active.⁵ However, the results of their legislative drafting activities aimed at the women non-discrimination implementation are more modest. They contain a couple of important for the promotion of women laws. The Law on the Local Election⁶ containing the gender quotas norm, the Law on Basis of Discrimination Prevention and Counteraction against Discrimination⁷ and the Istanbul Convention (adopted at the first reading) are among them.

Questions to the Government

- How the Government as a body possessing the legislative initiative right plans to solve the problem of the implementation of the sanctions against the nonobservance of legislature on gender equality, which are not present in the Law on equality of 2005, in the Laws on election legislature and in the Laws on labor market regulations.

³ Irina Berezhnaya: Association "Equality" will address gender and social, not political issue / Access: <http://pda.berezhnaya.com.ua/official/4f2086d68bc1.html>

⁴ In Verkhovna Rada create Interfactional Association "Equal Opportunities" / Access: <http://oksanaprodan.com.ua/u-verhovni-vadi-ukrajiny-stvorene-mfo-rivni-mozhlyvosti/>

⁵ Committee on Human Rights, National Minorities and International Relations. Committee Structure / Access: http://w1.c1.rada.gov.ua/pls/site2/p_komity?pidid=2637

⁶ Ukraine Law On Local Elections, of 14.07.2015 # 595-VIII (Revision as of 01.01.2016) / Access: https://www.google.com.ua/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwiBiJGZw_LNAhWjAJokHUX2AJQQFggaMAA&url=http%3A%2F%2Fzakon.rada.gov.ua%2Fgo%2F595-19&usq=AFQjCNH_SwtE59C25RV9P4JPBTljqG2dOw&sig2=SN1DnS_I7R0ijd5-WaeSBO&bvm=bv.126993452.d.bGs

⁷ Law of Ukraine On Principles of evention and Combating Discrimination in Ukraine, of 06.09.2012 # 5207-VI / Access: <http://zakon0.rada.gov.ua/laws/show/5207-17/print1459505718343329>

Concluding observation # 18-19

National machinery for the advancement of women

The machinery of gender equality support and woman's situation in Ukraine improvement has constituted a multidivisional institutional system at the beginning of 2010. Special authorized body of the executive power, the Ministry of Family, Youth and Sport of Ukraine was at its core⁸.

As a result of the administrative reform of 2010 this body has been eliminated.⁹ The executive power vertical bearing a responsibility for the equality policy was ruined. The system of the advisory bodies and the advisors on gender issues in particular having been created at a time in the regional administrations offices (operating on a voluntary basis) stopped its functioning.

Basically, the authority of the Ministry of Family, Youth and Sport in the implementation of the gender equality policy has been passed to the Ministry of Social Policy of Ukraine in a year. However, the handover of the authority through the branch executive vertical from one ministry to another has not been done. On the regional level this authority could belong to professionals of three ministries, which are the Ministry of the Social Policy, the Ministry of Science and Education and reinstated in 2014 Ministry of Youth and Sport. The situation came to life when from 2010 till 2013 there was no body developing the equality policy as well as coordinating such a policy implemented by the Central Executive Power Bodies.

Lack of the strict executive power vertical in the realm of women situation improvement had a negative impact upon the activities of the state structures of the local level and local self-government bodies. In fact, the activity has become paralyzed.

After the Ministry of Family, Youth and Sport had been eliminated the activities of a number of advisory and consultive bodies taking care of men and woman equality issues also stopped, Expert Council on the Issues of Applying on Facts of Gender-based Discrimination¹⁰ in particular. It was one of two bodies that could be applied in case of gender-based discrimination. Basically, functions of supervision on women rights observation and non-discrimination has become a responsibility of the office of the Human-rights Ombudsman that has a relevant position in its staff.¹¹

Factual authorities in the gender equality policy implementation by the Ministry of Social Policy have been restored in 2013. At that time the Gender Policy Department and Children Healthcare (now – Department of Family and Gender Policy and Counteraction against Human Trafficking) was restored. During two last years the state machinery of the woman situation improvement starts being restored bit by bit, which is reflected in the State Report VIII in details.

At the same time there are two main issues dealing with the operation of the renovated national machinery for the advancement of women.

⁸ Law of Ukraine On Ensuring Equal Rights And Opportunities Of Women And Men, of 08.09.2005 # 2866-IV (Revision as of 30.05.2014) / Access: <http://zakon3.rada.gov.ua/laws/show/2866-15>

⁹ Decree of the President of Ukraine on optimization system of central executive bodies of 09.12.2010 № 1085/2010/ Access: <http://zakon4.rada.gov.ua/laws/show/1085/2010>

¹⁰ Activity of Expert Council on the Issues of Applying on Facts of Gender-based Discrimination / Access: http://www.mlsp.gov.ua/labour/control/uk/publish/article;jsessionid=EF1F344D302982B9D4D701FFEF2C6A5E.app1?art_id=161714&cat_id=160780

¹¹ Authorized Representative - Head of the Department for children's rights, non-discrimination and gender equality, Filipishyna Aksana / Access: http://www1.ombudsman.gov.ua/index.php?option=com_content&view=article&id=2822

First of them concerns the institutionalization of the policy of counteraction against gender equality, which in Ukraine takes the form of “family support policy”. During those years while men’s and women’s equality policy had been disarranging the pro-family policy had been actively institutionalizing in Ukraine. So, beginning from February, 2016, the institute of the governmental Family Ombudsman (possessing the responsibility of the deputy Minister level)¹², whose functions are to work on the policy of family support and to provide control over the observation of “rights and legal interests of family members”. This situation is rather threatening as the policy aimed at the observation of women’s interests is substituted (replaced) by the pro-family policy therefore replacing human/women’s rights by the “traditional values defense”.

The second concerns conditions of developing the policy aimed at the women’s interests’ defense including branch policies (education policy, healthcare maintaining policy, social protection and maintenance; combining work and maternity and labor market equality policy; equal representation in business sector and in the security and non-violence sector, etc).

Under present conditions program documents on women’s rights observation such as the State Program of Equal Rights and Opportunities Provision are involuntarily formulated by the members of the Department of Gender Policy (3 people) of the Ministry or some of the invited specialists. Without basing upon the field research centers using gender analyses and assessment techniques and lacking gender disaggregated statistics in many fields this provides little possibility to see women’s problems as a priority and sets the declarative tone of these documents.

Thus, national system of the gender differentiated statistics conducted on the crimes against a personality and sexual freedom does not allow to monitor these crimes as committed on the ground of belonging to females. Lacking this data we cannot obtain an idea of the scale of gender-based violence and to react to it using political means.

Questions to the Government

- How does the Government plan to combine activities of the Ministry of Social Policies as a specially authorized body on issues of gender equality observation with activities of the newly created institute of the Governmental Family Ombudsman who is higher in his/her status, possesses his/her own executive vertical and human resources as well as an authority to provide control and “to eliminate violation of rights and legitimate interests of family-members”.
- How under these conditions does the Government plan to provide substantial authorities, status and human resources enabling to fulfill its mandate and an efficient impact upon women’s situation improvement?
- What kind of measures is the Government going to undertake for engaging gender analysis and gender assessment to the branch policies development as well as for gender equality policy on the local (region, district) level?
- Does the Government plan to develop and launch programs for women belonging to the socially vulnerable groups?
- What kind of arrangements does the Government plan to obtain gender disaggregated data in the fields of the Convention operation?

Concluding observation # 22-23

¹² Decree of Cabinet of Ministers of Ukraine on February 24, 2016, # 131 on the Government Agent for family / Access: <http://zakon0.rada.gov.ua/laws/show/131-2016-%D0%B>

On the temporary special measures in Ukraine

We observe advancement in the issue of quotas on women's political representation. The amendments to three Laws have been adopted– the Law on Political Parties of 2013, the Law on Issues of Election Conducting Improvement of 2013 and the Law on Local Elections of 2015 that envisage minimal level of representation of persons belonging to the same gender in a party list not less than 30%. However, any of these Laws does not envisage sanctions for the violation of this norm. Thus, percentage of women-members of the parliament has not increased sufficiently after the adoption of the quota (from 8.1 to 11.4% in the 7th and the 8th convocations relatively).

Temporary leveling out arrangements are undertaken nor in the public sector jobs neither in other state budget institutions (education, healthcare, etc.) where women are substantially represented in number but not on decision making level. They have not been undertaken in the commercial economics sector also where 78% of Ukrainian enterprises are run by men and only 22% - by women. This can be especially well observed in big business sector where the share of women in management is super-low and constitutes only 6%.¹³

Besides, they are involved not as a result of the complex strategy, which is lacking, but as a result of local initiatives on increasing women's political representation level in the highest executive power body, which is not enough.

Questions to the Government

- Does the Government plan to develop the complex attitude towards gender fixing quotas as means of increasing level of women's representation in business sector, political realm and in public sector?
- Does the Government as a subject of legislative initiative plan to develop or to support mechanism of rejecting registration of parties as election process subjects in case of their non-observation of gender quotas in the list of candidates?
- Does the Government plan to engage indicators on the socially vulnerable women's groups into the statistical reports (women of indigenous communities, handicapped women, woman infected with socially dangerous, women discriminated on the grounds of their SOGI), which would help to develop gender balanced policy in the best interests of women who undergo multiple discrimination?

¹³ According to the data of World Bank, 2012

Annex 1. List of experts and organizations

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Olesya Bryazhunova, Youth Committee of Independent Trade Unions Confederation

Tetyana Doronina, Ukrainian Network of Gender Education Centres

Nataliia Isaieva, UGO "Legalife-Ukraine"

Svitlana Moroz, Charity organisation "Club "Svitanok" - Representing the Ukrainian network of people living with HIV

Ola Ponomareva, Charity organisation "Club "Svitanok" - Representing the Ukrainian network of people living with HIV

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