Review of Ukraine
Joint submission to the UN Committee on Economic, Social and Cultural Rights, 67th session (17 February – 6 March 2020)

This submission is made by the Women's International League for Peace and Freedom, together with the NGO Center “Women’s Perspectives”, the NGO “Insight”, the Charity Fund “Child Smile”, the “Women’s Network for Dialogue and Inclusive Peace,” Kharkiv Regional Foundation “Public Alternative,” Charity Fund “Slavic Heart,” Center for Social and Labor Research, NGO “East Donbass Regional Development Agency,” as well as Viktoriia Zinchuk, Oksana Dutchak, Alena Tkalich.

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Impacts of armed conflict and of austerity measures on women’s economic and social rights (articles 2.1 and art. 3)

Gendered impacts of cuts in social services and benefits

The sixth year of the ongoing armed conflict in the East of Ukraine has significantly transformed socio-economic structures and has irreversibly changed the daily lives of millions of Ukrainians. In times of conflict, social infrastructure is affected the most, and its breakdown disproportionately affects women. Indeed, women make up for the reduction of social services through an increase of their unpaid care work; this reduces, *inter alia*, women’s time for paid work and participation in social, political, economic and cultural spaces and puts further pressure on women’s health. According to data from the Ministry of Social Policy for 2013 only 1% of men took parental leave; this shows that the responsibility for childcare falls almost entirely on women. Thus, reduction in the availability of educational facilities or lack thereof has a disproportionate impact on them. Conflicts exacerbate patriarchal norms, including pre-existing patterns of gender-based discrimination. It also reinforces gender stereotypes, and adds roles and burdens on women such as caretaking of combatants and the wounded.

The impact of the armed conflict has also been compounded by the negative effects of macro-economic reforms, implemented as part of the conditionalities attached to lending provided by International Financial Institutions, that have led to the narrowing of access to social services, which, in turn, has significantly reduced the quality of life and safety of women in Ukraine. Violations of women’s economic and social rights resulting from implementation of austerity measures has contributed to the feminization of poverty and the deepening of gender inequalities within the family and in society as a whole. Such impacts are highlighted in a joint submission by WILPF with Ukrainian partner organisations to the Universal Periodic Review (UPR), titled “Obstacles to Women’s Meaningful Participation in Peace Efforts in Ukraine” (March 2017). The UPR submission shows how the introduction of austerity policies, such as the increase in gas prices and the reduction in public sector workforce has an adverse impact on women. Furthermore, reductions in public spending on health, education, social assistance and safety nets including child benefits, have placed additional burdens on women’s unpaid care labour, especially in rural areas, shrinking their space for engagement with the labour market. (A copy of the UPR submission is submitted as an Annex.) As recognised by the UN

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Independent Expert on Foreign Debt after his country visit to Ukraine, the “reduction in State services and subsidies directly affect women the most, whether because they assume the domestic (and unpaid) caring for children and older persons, among others, because they depend more on certain State services and social programmes, or because they are paid less or lose their jobs.”

Similar conclusions were drawn from the results of a pilot ethnographic study of time use in Ukraine. The study highlighted, inter alia, that without adjustments to public provisioning and state social protection as well as changes in gender relations, women’s health and wellbeing can be expected to decline with further negative effects with respect to household and community wellbeing. These micro or household level effects severely affect women’s ability to enjoy most economic, social and cultural rights and put many women on the brink of survival. These may also, inter alia, have an impact on sustainable peace and conflict resolution given that women’s labour is integral to the recovery of communities from conflict, especially in displacement, and that women’s organizing is known to be one of the societal contributors to sustainable peace. If this labour is depleted women capacities to contribute to recovery and peace processes will be severely constrained.

The care work women perform within their families and communities remains invisible in the process of economic and political decision-making. While there is a growing narrative on “preserving family values” within State institutions, there is no support to the development of socio-economic infrastructure to support parenthood. A woman who spends a third of her time on unpaid care work has limited access to participation in social, political, economic and cultural spaces and has a limited decision-making power.

The State’s social spending in the form of additional benefits to women who take care of children and persons with disabilities, single mothers etc., has also decreased substantially due to inflation and austerity measures that led to de facto freeze in benefit levels, which have not changed since 2014.

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3 See section “Women, austerity and discrimination”, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights. A/HRC/40/57/Add.1, December 2018. The Expert also expressed deep concerns “about the situation of women and the overall inequality between men and women, which has increased in recent years.” He noted, inter alia, that “austerity measures implemented as part of the fiscal consolidation required by IMF have included specific measures that disproportionately impact on the human rights of women.”

4 Pilot Ethnographic Study of Time Use in Ukraine (Report, April 2018) Jacqui True, Center for Gender, Peace and Security at Monash University (Monash GPS) and Women's International League for Peace and Freedom (The outcome of the study is on file with WILPF)
and improper indexation of the “subsistence minimum.” This is an amount of money supposedly needed for the “normal” functioning of a person. Most State social security benefits and pensions are calculated based on the “subsistence minimum” and only increase when this goes up. The amount of the “subsistence minimum” was frozen in 2014 and is now meaningless (it is twice lower than the “actual subsistence minimum” that the Ministry of Social Policy started to calculate since the end of 2015, which is still significantly underestimated.5)

However, since the value of the State social security benefits and pensions is anchored to the “subsistence minimum,” its method of calculation is very important as it leads to the deterioration of the standards of living of people. Moreover, currently, the government is planning to reform the “subsistence minimum” by untying 150 social payments and other indicators from it. In practice this will mean that they will not be indexed automatically, thus making the perspective of their indexation unlikely, something that would further exacerbate the current shortcomings.

Impacts of decentralisation on access to social services

In April 2014, the Cabinet of Ministers approved a process of decentralisation to meet the IMF requirements.6 The process has led to, among other things, a significant transfer of responsibilities for the financing of education, science and healthcare to local budgets, most of which have very limited financial resources especially in poorer regions, e.g. close to the conflict zone. This has led to a reduction of the number of beds in hospitals and staff cuts, and in many cases local authorities were forced to close schools, hospitals and polyclinics due to lack of resources. Shifting to a system in which “funds follow the patient” de facto stops the financing of healthcare institutions in small towns and rural areas.

This policy has negative impacts particularly in regions close to the conflict zone: oftentimes there is no regular transport connection between cities, hospitals lack specialised doctors and certain medical examinations or tests are simply unavailable. In order to access medical services in district or regional urban centres in areas close to the armed conflict, those living in areas close to the conflict have to

5 The actual subsistence minimum is calculated from the same consumer basket as the subsistence minimum, but is based on actual prices. However, this consumption basket and, hence, subsistence minimum itself was ruled to be illegal by the court in 2018 and 2019 due to procedural issues and calculation methods. The consumption basket used to set the subsistence minimum for example did not include expenses for accommodation, or sanitary products for women. Since the Ministry started to calculate the “actual subsistence minimum,” the legal minimum wage has never reached its level.
spend up to 100% or 200% of their monthly income on transport. In such a situation, many do not even try to access medical care. Since women are in significant contact with social infrastructure due to the distribution of gender roles, this situation has a disproportionate negative effect on women. Limited access to medical care also creates additional burden to women’s access to reproductive health services. For example, because of the poor condition of roads, closure of roads, checkpoints and the exorbitant costs of transport, and because many consider the roads insecure, some women do not consider that it is safe to travel, even for emergency obstetric care.

In October 2019, the Ministry of Health announced that it had developed criteria for establishing “a capable (effective) network of primary, specialized and emergency medical care” that it defines as “an organizationally integrated set of healthcare providers capable of providing high-quality, comprehensive, continuous and patient-centered care in accordance with the socio-demographic characteristics of the population, features of its settlement in the respective planning area.” (unofficial translation) However, it is too early to assess whether the measure that has been announced will adequately respond to current concerns.

A report by the Charity Fund “Child Smile” summarises various negative experiences of women caused by the combination of the cuts in social spending and the decentralization process in the regions affected by the conflict. The report shows that the gaps in the access to quality social services are not specific to the Zaporizhia region alone, but rather reflect a broader pattern that affected Ukrainian women after the introduction of austerity measures. Among other things, it calls for systemic, adapted and sustainable initiatives to support social infrastructure.

The success of these initiatives is dependent on the participation of civil society, not at least of women’s organizations and activists, in decision-making processes on social policy as well as on efficient cooperation between the State, civil society and international institutions. Participants in the research particularly expressed an urgent need to strengthen pre-school services and to establish a system of affordable after-school childcare services. Such measures can support women’s access to a broader spectrum of professions, including full-time jobs with higher wages and social benefits.

8 Report titled: “Improving women participation in community decision making in Zaporizhzhia region.” This report presents the results of the focus group discussions among 63 participants (social workers, local NGO representatives, activists) from the Zaporizhzhia region.
Besides educational support, after-school programs can also provide a stimulating environment and activities for children as well as help them develop new personal and social skills.

One problem raised in the study is that the pre-school institutions mostly enrol children who are three years old or older. Before they reach that age, their mothers have to take unpaid parental leave. This system keeps women out of the labour market for long periods of time, including due to discrimination in employment practices, thus making them financially insecure and dependent on their partners. Overcrowded pre-school establishments in big cities and lack of such structures in rural areas create additional barriers for women to enter the labour market even after the end of the three-year parental leave. It is worth noting that low salaries within the pre-school education system, especially in big cities where the cost of living is substantially higher, results in lack of staff and high staff turnover in pre-school education facilities.

**Recommendations**

- Undertake immediate human rights and gender impact assessments of austerity measures, including of the decentralisation process, focusing on the impacts on access to social services (including on healthcare and childcare) and on the most marginalised groups including women and communities affected by the conflict, such as IDPs. In such assessment the government should pay special attention to the impacts of cuts in social services on women’s unpaid care work (including in relation to the care of combatants and of the wounded for communities affected by the conflict), on women’s poverty and access to decent work; as well as access to quality and affordable education, childcare and healthcare services.

- Take all necessary immediate measures to redress the negative impacts of austerity measures on the enjoyment of economic and social rights including through the reallocation of public funding, with gender-sensitive budgeting methods, to reinforce access to social services.

- Introduce measures and legislation for minimum budget allocations to social services, with gender-responsive budgeting, in order to ensure indiscriminate access to social infrastructure across Ukraine and to mitigate the effects of decentralization on access to social services.

- Ensure that relevant social and labour policies recognize and value unpaid care work and address its impact on women’s access to work and promote the sharing of family responsibilities between men and women by undertaking awareness-raising campaigns to combat gender stereotypes and raise awareness of the legal requirement of gender equality and its benefits for the society.
- Ensure access to essential health services and medical aid in all regions of the country, and to that end, increase the budget allocation for the health sector, paying special attention to rural areas and areas close to the conflict zone.
- Increase the budget for the educational sector, strengthen pre-school education institutions, establish a system of affordable after-school childcare services and improve the availability, accessibility and quality of general education, especially in rural areas.
- Expand social security coverage and bring the levels of social payments, including childcare payments, payments to single mothers, in line with consumer price index through ensuring that value of social benefits be linked to an adequate consumer basket and revised annually.

**Right to Just and favourable conditions of work (articles. 2.2, 3, 7 and 10)**

**Discrimination against women with regard to the right to work (art. 3 and art. 7)**

High levels of informality and abuse of flexible employment by employers are characteristic features of the Ukrainian labour market. Flexible and non-typical forms of employment are being actively promoted as supposedly providing a free and flexible schedule. In reality, this leads to no clear distinction between work time and rest, and no opportunity for a leave of absence or sick leave. On the other hand, women themselves often refuse to be officially employed since it would deprive them of State subsidy for utility services (e.g. heating), which during winter can exceed their monthly income. Workers who earn poverty-level wages may also seek to increase personal income by working in undeclared jobs so as not to pay taxes, which amount can be crucial for the survival of their families. Deregulation of the labour market (e.g. moratorium on inspections, including labour inspections, enforced until the start of 2019) did not bring the expected “revitalization” of the market; instead, an increase in workplace accidents has been registered, wage arrears and exhaustion of the labour force. These measures compounded with the lack of social infrastructure and the low

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11 http://ief.org.ua/docs/mg/306.pdf
13 http://www.fssu.gov.ua/fse/control/main/uk/publish/article/966388?fbclid=IwAR1PAfP355PFMg05U6Kg4O_LxINMmTGZaieNDQ5OykG2nV_m1HshsY104
involvement of men in unpaid care and domestic labour (e.g. childcare) only increased the workload for women both in the private and public spheres.

Until its revocation in 2017, an order of the Ministry of Health (No. 256 of 1993, titled the Order “On approval of the List of difficult professions and professions with harmful and dangerous working conditions, which prohibit the employment of women”) was in place and banned women from entering up to 450 professions. Its revocation was regarded as a positive step as it lifted legal barriers to women’s employment. However, one of the consequences of the revocation is that currently there is no list of tasks prohibited for pregnant women, women who have recently given birth or breastfeeding women due to harmful or dangerous work conditions. Ukrainian legislation in this regard should be harmonized with ILO and EU standards in this regard (e.g. Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding).

Among problems that concern all groups of women are: hidden unemployment; discrimination in hiring for reasons such as childbirth, pregnancy, having a small child, interruption of employment due to parental leave (this can be until the child is three or, in some cases, six years old.) Limited childcare support can also create a barrier for employment (even if a child is attending a kindergarten or school, they usually do not spend the whole day there); moving to a new city also often means no opportunity of childcare support from grandparents, friends or other relatives; statistically women are more often involved with the children’s care and education. Stereotypical gender division of labour, combined with a lack of social infrastructure (e.g. kindergartens) and the above-mentioned legal discriminatory provisions, prevent women from accessing a number of better paid jobs.

The practice of breaks for breastfeeding in the workplace is close to non-existent in Ukrainian companies. Moreover, there are cases of women not being reinstated in their position after taking a parental leave. Professional segregation based on sex is also present in the labour market and

14 https://zakon.rada.gov.ua/laws/show/z0051-94
16 https://commons.com.ua/ru/nasilki-osvitnih-reform/
statistically, women are paid less,\textsuperscript{19} which, in addition to being discriminatory, increases their vulnerability including for women IDPs (see later in the text). Banks are also more likely to refuse loans and other financial instruments to women, particularly if additional risks are present, such as IDP status.

Despite the fact that there is a law “On ensuring equal rights and opportunities for women and men”,\textsuperscript{20} there are no guidelines, nor adequate labour inspections to verify the implementation of its provisions that ensure equal rights and opportunities for men and women regarding salaries, parental leave, working conditions and the possibility to combine professional and family obligations into the General agreement on the regulation of labour relations and socio-economic interests of workers and employers, as well as into industrial (cross-industrial), territorial and collective agreements. In March 2019, the Coordination Centre for Legal Aid Provision\textsuperscript{21}, which is a governmental institution established within the Ministry of Justice’s system, adopted Guidelines for the identification of gender discrimination cases and mechanisms for legal aid provision. This is a positive measure as it can provide a framework to help assess cases of gender discrimination; however, is too early to assess its effectiveness. Policies that promote gender equality in the workplace and which aim at increasing female representation in management positions of business entities are not implemented, nor are policies on the prevention of cases of sexual and other harassment in the workplace.

Integrating women into the job market through initiatives on women entrepreneurship does not automatically increase their economic independence. New dependencies may arise, social bonds may be lost or women could suffer from lack of time for other activities, especially as entrepreneurship is often risky and requires major investment in time and resources. In addition, entrepreneurship is often precarious in terms of social protection, particularly regarding sick leave and retirement benefits. Many programs that encourage women to join or create businesses can lead to psychological pressure, especially in cases of small enterprises focussed on quick growth and success. The provision of support for these activities should be part of a broader strategy to dismantle structural inequalities in Ukraine and must pay attention to women’s access to resources such as land/property/capital, working conditions, social benefits, salary levels, and the gender pay-gap.


\textsuperscript{20} https://zakon.rada.gov.ua/laws/show/2866-15

\textsuperscript{21} https://namati.org/network/organization/coordination-centre-for-legal-aid-provision/
Obstacles to IDPs’ right to work (articles 2.2 and 7)
The conflict and displacement have increased burdens on women to secure livelihoods for their families in addition to carrying out their unpaid roles of care and domestic work. Displacement creates additional challenges (e.g. placement of children in a school or kindergarten, organization of household chores, arranging medical services) to organizing domestic life - an area traditionally regarded as women’s domain. Statistically, the situation where a woman used to be a housewife before the conflict is quite common. Women who have not worked for a long time face particular challenges in finding employment. As noted earlier, banks are also more likely to refuse loans and other financial instruments to women, particularly if additional risks are present, such as an IDP status.

Sociological surveys carried out as part of the project “Gender component in IDPs: local policies, legal instruments and business practices” implemented by Kharkiv Regional Foundation “Public Alternative,” within the Council of Europe funded project “Internal displacement in Ukraine: building strong solution”, indicate that IDPs face employment rejection more often compared to other jobseekers; women IDPs, especially mothers of young children and/or women over 40, are particularly subject to this; as a result, unemployment is higher for IDPs and for women IDPs in particular. Statistically, women are paid less, which also increases their vulnerability as IDPs since the pay should cover rent and other primary needs. Oftentimes this becomes an additional reason to refuse official employment.

Concerns relating to parental leave (articles 3, 7 and 10)
The draft Law “Amending Certain Legislative Acts of Ukraine on Providing Additional Guarantees Concerning Combined Family and Work Obligations,” registered in the Parliament in September 2018, aims at removing gender discrimination concerning parental leave and combined family and work obligations. However, Article 25 of the Law on the Leave of Absence is discriminatory against fathers. It indeed obligates the employer to grant a voluntary unpaid leave of absence to certain categories of mothers (e.g. mothers with children with disabilities) while fathers have this right only in cases of single parenthood. Article 19 of the abovementioned law ensures the right for additional annual paid leave.

22 Focus groups with IDPs in four regions of Ukraine, including the Kharkov, Zaporozhye and Donetsk Lugansk, focusing on the gender dimensions of internal displacement and conducted in October/November 2019. The results will be published in 2020.

of absence up to 10 days for certain categories of mothers and is applicable to men only in cases of single parenthood.

**Recommendations**

- Introduce effective measures to combat employer practices that undermine labour rights prescribed for women in the legislation. This includes practices relating to part-time and precarious employment, often preferred by women due to the necessity to combine work and childcare. Employment should provide all the social guarantees; and it should be remunerated according to the employee’s role and responsibilities, standards in the industry, and the current market rate of similar positions.
- Adopt legislative measures and implement programmes and services to support comprehensively women’s right to work and achieving a work-life balance and work-family balance for women and families.
- Amend the Law on the Leave of Absence to address existing discriminatory provisions against fathers.
- Implement with adequate sanctions and through efficient labour inspections the legislation prohibiting the discrimination of employees based on their family status.
- Ratify ILO Convention 183 on Maternity Protection Convention (2000) and further enhance the degree of maternity protection, extending protection to pregnant and nursing women from any employment-related discrimination that may occur, for instance, at recruitment or unjustifiable lay-off.
- Strengthen labour inspections including with regard to the control of gender equality-related and anti-discrimination laws in the workplace.
- Encourage employers to implement programs for gender equality devoting special attention to women in vulnerable situations and to assess at all levels of the organisation the risks of violations to women’s rights deriving from their business activities, including but not limited to, discrimination and gender-based violence.
- Ensure targeted investments and ear-marked financial support for women's participation in paid work, through *inter alia* support in organization and establishment of independent unions (so as to advocate and ensure decency in employment); establishment of social entrepreneurship, individual businesses, women-run cooperatives, or any other ways that strengthen women’s position in the economy.
- Consider the possibility of tax incentives, such as exemptions, for IDPs who create and/or own businesses and implement State programs to support female IDPs involved in entrepreneurship including in access to credit.
Promote policies in the private sector that are supportive of IDPs, such as interest-free or low-interest credit opportunities for IDP employees, possibility of partial rent compensation for them, and provide business incentives to hire IDPs.

Challenges faced by IDPs in accessing housing (articles 2.2 and 11)
In 2017, the CEDAW Committee urged Ukraine to, *inter alia,* “(a) Address the specific needs of the different groups of internally displaced women who are subjected to multiple forms of discrimination, including widows, women with disabilities, older women, Roma women and lesbian, bisexual or transgender women, and provide long-term interventions to address the needs of internally displaced women and girls; (b) Ensure the effective implementation of the Act on Ensuring the Rights and Freedoms of Internally Displaced Persons by issuing regulations to enable it to be made operational; (c) Ensure that internally displaced women and girls have adequate access to health services, education, food, shelter, free movement, registration, social benefits and opportunities to secure justice and durable solutions, as well as sustainable employment opportunities.” Prior to that, in 2016, the Committee on the Elimination of Racial Discrimination (CERD) had recommended, *inter alia,* that Ukraine “to facilitate access to housing for internally displaced persons or provide them with the assistance needed to find alternative housing” and (...) to adopt a national policy on internally displaced persons and establish a national mechanism mandated to prevent and protect against internal displacement.

The NGO “Center for Women’s Perspectives” conducted a gender-focused analysis of the results of an all-Ukrainian survey (i.e. carried out in all regions of Ukraine) on IDP rights carried out by the Ukrainian Institute for Social Research after Oleksandr Yaremenko from 27 September to 24 October 2017 in 24 regions of Ukraine and the city of Kyiv, in which a total 2002 respondents were interviewed. This gender-focused analysis has indicated differences in the situation of men and women IDPs, rooted in gender roles and associated stereotypes. For instance, the survey shows that a far greater “responsibility” and additional pressure to ensure the upbringing of children is put on women IDPs (27,1% of men and 41,6% of women live with children under 18). Women are much more vulnerable economically: they are three times more often than men IDPs living with large families, almost two times more often with low-income families and 9% more often with families living under the poverty line. The situation with regard to employment is similar. Less than half (40,7 %) of the respondents stated that they were working (had a job / employment), namely 46,1% of men and 35,9 % of women. The sociological surveys carried out as part of the project “Gender component in IDPs: local policies, legal instruments and business practices” by the Kharkiv Regional Foundation “Public Alternative”
revealed the following challenges for women IDPs with regard to access to housing. The practice of informal rental agreements, which is common to Ukraine – often because the property owners want to avoid rental income tax – has negative impact on IDPs. Without an official rental contract, IDPs cannot apply for social benefits. This practice exacerbates poverty among IDP women who statistically have lower incomes than men.

**Recommendations**

- Ensure the availability of high-quality, timely and reliable data on IDPs disaggregated by socioeconomic status, gender, age, disability, geographic location and other characteristics relevant to the national context, on single-parent IDP families disaggregated by data, and on whether single-parent IDP families receive a state allowance and have received accommodation.

- Ensure that the executive authorities (central and local) who handle matters concerning IDPs are fully staffed; increase the staff’s awareness of women’s rights during conflict and internal displacement, international and regional standards for the protection of the rights of IDPs, of those in more vulnerable situations in particular; conduct educational and training measures aimed at improving the expertise and skills of the representatives of respective executive authorities.

- Establish mandatory educational courses on gender equality, devoting special attention to the situation of conflict and internal displacement, for professionals at employment agencies, banks, centres for free legal aid as well as for lawyers and judges; implement respective training programs at the universities that have educational programs in jurisprudence and international law. Women IDPs have on average lower income which creates additional challenges for them when it comes to buying a home. The specific situation and needs of female-headed households (due to various circumstances: a woman living alone; a woman raising one or more children alone; the husband is unemployed; the husband died/ stayed in the occupied territory/ is not involved in the children’s upbringing/ does not contribute to it financially) should be taken into account in housing policies and programs.

- Establish procedures for state and local housing authorities to conduct an inventory of the temporary and social housing stock, as well as any vacant premises that can be used to provide temporary and social housing to IDPs.

- Ensure that IDPs be regularly and timely informed on current housing capacities and take into account the specific needs of women IDPs in assigning temporary and social housing to IDPs.

- Elaborate a registry of national communal housing stock to identify free premises that can be used for providing social housing for IDPs.
Develop regional (or at the level of Amalgamated Territorial Communities (ATC)) programs to provide accommodation for groups in particular vulnerable situations. The programs should include analysis of needs for accommodation (considering various factors), analysis of the housing stock and resources available, including inventory of non-governmental initiatives and programs in place in the region and analysis of professional resources among the population registered at local unemployment agencies.

Require councils at oblast, rayon, city and local levels to assess the existing housing stock/other buildings stock that could be refurbished to satisfy IDPs’ social housing needs, and to share this information regularly with central authorities, donors and other stakeholders who could contribute its refurbishment.

Ensure that pregnant women, mothers with young children, female heads of household, persons with disabilities and elderly persons, be entitled to assistance that takes into account their special needs in terms of housing, including through prioritising provision of accommodation to them or support in purchasing one.

Raise awareness among real-estate and other companies that provide housing services and implement measures to monitor and address discrimination by property owners, such as refusal to sign lease, based on the IDP status of the tenants, their gender or the fact that they have small children.

Provide tax incentives, such as the exemption from rental income taxes, to property owners who lease accommodation to IDPs and stimulate construction and real estate companies, such as through tax incentives, to offer favourable lease or sale terms to IDPs, in particular to those in more vulnerable situation;

Consider IDPs’ needs when compiling the “community passport” (паспорт громади) of an Amalgamated Territorial Community (ATC).

Ensure certainty about IDPs as members of an ATC by adopting a decision at the city council/executive committee level and including corresponding provisions to the ATC Statute.

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24 The process of decentralization that started in 2014 involved, inter alia, a re-drawing of local administrative units (territorial-administrative reform) through the establishment of Amalgamated Territorial Communities (ATC) or ‘hromada’.

25 The паспорт громади (“community passport”) is an inventory of data such as the administrative-territorial distribution, structure of the land, composition (e.g. number families with children) and employment situation of the population. See, for example, https://otg.cn.ua/2018/12/25/news-vlada/navishho-otg-pasporty-gromad/
Access to mental health and psychosocial support in conflict-affected communities (article 12)

The conflict has inflicted significant human suffering, forced displacement of civilians and destruction of private property and social infrastructure in the Luhansk and Donetsk Regions including through the use of explosive weapons. As a result of such traumatic experiences, the population of these regions is more prone to suffering from mental health issues. According to the Unified Information Base of IDPs created by the government, 1.4 million people have been registered as internally displaced persons. Because of the conflict, IDPs experience difficulties with housing and employment, suffer from poverty and do not feel integrated in hosting communities.

Psychological support programs are needed for the population in conflict-affected regions, including former combatants. Former combatants - women and men - need comprehensive psychological aid and adaptive programs; the same is true for their family members who are the first ones to face challenges related to posttraumatic stress disorders. In December 2018, the Government adopted a state programme on physical, medical and psychological rehabilitation, and social and professional re-adaptation of veterans of the armed conflict in eastern Ukraine. A 2019 UN Women Study found that while this programme includes some gender-sensitive measures, it did not include consultations with demobilised women and men on their needs in its development. In addition, the programme does not include any monitoring and evaluation framework, nor costing, which creates challenges for its implementation.

The needs of teachers, social workers and school psychologists living in areas close to conflict zones are largely overlooked. These actors who are mainly women (80% of education professionals in

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28 Cabinet of Ministers Resolution no. 1021 of 5 December 2018 ‘On approval of the State Target Programme on physical, medical and psychological rehabilitation and social and professional re-adaptation of participants of the anti-terrorist operation and persons taking part in the measures on ensuring the national security and defence, the containment and deterrence of the armed aggression of the Russian Federation in Donetsk and Luhansk regions, for the period until 2022’
Ukraine are women who are the first responders in terms of psychological support, for example for children after shelling attacks. They do not have any support programs for their own psychological support and the absence of systemic support for these groups of women often leads to their burnout and secondary traumatization.

In addition, only a small number of victims of the conflict seek professional psychological help. According to data of the Kyiv International Institute of Sociology (KIIS) from research conducted in focus groups in the Donetsk and Luhansk regions, the majority of interviewees (83.9%) have never sought help in relation to emotional and psychological issues. Where people did seek help, they consulted institutions that are not specialized in mental health problems: pharmacies (9.4%), family or district doctors and therapists (3.4%), churches (1.7%), neurologists at polyclinics or hospitals (1.4%).

Some of the most common barriers in access to mental health services are:

- Accessibility: the lack of mental health professionals in rural areas;
- The costs of mental health services and medicines;
- The lack of mental health-related policies at regional level due to the migration of health professionals to urban centres where salaries are higher;
- The lack of awareness of the population regarding various mental issues, as well as taboos associated with mental health. For instance, army servicemen and veterans do not want to be seen as weak because of seeking help from a psychotherapist and women are also ashamed of seeking mental health services.
- The lack of trust of the public in the qualifications of psychologists and psychotherapists due to insufficient State control of the quality of mental health services, including over licensing and professional certification;
- A large part of mental health related initiatives are provided by civil society organizations due to the lack of a systemic approach by the authorities, in the planning and implementation as well as due to the lack of control by the state regarding their quality, ethics and safety;

32 https://www.kiis.com.ua/?lang=ukr&cat=reports&id=910&page=1
33 https://reliefweb.int/sites/reliefweb.int/files/resources/Ukraine_HiddenBurdensConflictIDPs_EN_2017.pdf
The mental health care system in Ukraine is mostly aimed at hospital psychiatric treatment and most funds are directed towards psychiatric services in hospitals. There are no specialized State institutions that provide psychosocial services.

Recommendations

- Develop systematic State policies and programs on providing mental health services and psychosocial aid to all those affected by the conflict, including IDPs and teachers, social workers and school psychologists living in areas close to the conflict zones.
- Monitor and evaluate the on-going mental health needs of IDPs and of the communities affected by the conflict.
- Take measures to ensure accessibility and affordability of mental health care services and medicines for IDPs.
- Disseminate information to the general public about the consequences of traumatic exposure and experiences with the aim of educating the public on mental health and to fight stigma associated with mental health issues.
- Ensure adequate gender-sensitive and trauma-sensitive training of mental health and social service providers, including for former combatants, and ensure adequate controls by relevant authorities.
- Conduct gender-based analysis of women and men former combatants’ needs of social protection, medical services and psychological rehabilitation and assess with gender-sensitivity the effectiveness of the Programme on the Physical, Medical and Psychological Rehabilitation and Social and Professional Adaptation of Anti-Terrorist Operation.

**Gender-based violence and discrimination, including domestic violence (articles 3 and 12)**

**Background information**

also underlined the absence of definition of gender-based violence in Ukrainian law, that domestic violence was not criminalized and deplored the lack of shelters for victims of gender-based violence. The Committee recommended to Ukraine to criminalise domestic violence and to accelerate the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention.) It also recommended, *inter alia*, to provide mandatory capacity-building programmes for law enforcement officials on the strict application of legislation criminalizing violence against women and on gender-sensitive procedures to deal with women who are victims of violence, in particular women with disabilities. In 2017, Ukraine also accepted many UPR recommendations on the issue of domestic violence and of ratification of the Istanbul Convention.

In December 2017, Ukraine adopted the Law On Prevention and Combating Domestic Violence, which came into force on January 7 2018 and the Law On Amendments to the Criminal and Procedural Codes of Ukraine”, which came into force in January 2019. Both laws aimed at implementing some of the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence, also known as the Istanbul Convention. Ukraine has signed the Istanbul Convention in 2011 but still has not ratified it yet. It was considered by Parliament several times but did not get sufficient votes.

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37 See the matrix of recommendations prepared by the OHCHR for the UPR of Ukraine, third cycle, available at: https://www.ohchr.org/EN/HRBodies/UPR/Pages/UAindex.aspx
40 https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210
41 https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures
Advances made by the new laws on domestic violence and remaining concerns

One of the main changes is the criminalization of domestic violence with the addition of Article 1261 to the Criminal Code of Ukraine. Amendments have also been made to Articles 152 and 153 concerning sexual violence by a spouse or intimate partner. For the first time, the legislation also recognizes the decline in the quality of life of survivors of domestic violence among other harms. Besides criminalization of domestic violence, an important innovation is the expanded list of circumstances aggravating the punishment in article 67 of the Criminal Code. Article 67 prescribes heavier penalty for committing rape or sexual violence against a spouse or another person with whom the offender has (used to have) a family or a close relationship. Sexual violence committed by a family member or a close person is a very common phenomenon, at the same time it is one of the most hidden and least identified. Because of the stereotypes about the wife’s marital duties and tolerance to sexual violence, victims of sexual violence committed by a family member or a partner oftentimes do not identify sexual coercion as violence and face serious problems accessing justice.

Considering the general inefficiency of measures taken by law enforcement agencies and courts to protect those who suffer from domestic violence, women often have to protect themselves and their children from their perpetrator. The Criminal Code of Ukraine was however expanded by including provisions to ensure the safety and protection of victims of domestic violence.

It is not uncommon for a woman who has been suffering from domestic violence for a long time to injure or even kill her aggressor. Analysis of Ukrainian court practice indicates that in most cases, the investigators, prosecutors and the courts do not take previous history of domestic violence into account when qualifying the offence and defining a sentence for women who committed acts of violence against their aggressor. Amendments made to the Criminal Code are aimed at solving this problem but it is unclear how the courts will implement these new provisions.

The most important legislative change concerning responsibility for sexual violence is the criminalization of sexual acts without consent. Ukraine became the 11th European country to define rape and sexual violence through lack of consent. This marks a fundamental change in understanding sexual violence and in identifying offences. Previous law de facto reflected “rape culture” present in society. It was possible to bring someone to justice only in cases where the use of force, threats, or abuse of vulnerability were proved. Analysis of the latest legislative changes allows us to make a shift towards a “culture of consent”. According to the Commentary to Article 152 of the Criminal Code, consent is considered voluntary when it comes as a result of the exercise of a person’s free will.
considering the surrounding circumstances. This definition is however not unequivocal and open to interpretation by courts. Additional guidance to courts is, thus, required for its effective implementation. It is worth noting that the Explanatory Report to the Istanbul Convention underlines that prosecutions “will require a context-sensitive assessment of the evidence to establish on a case-by-case basis whether the victim has freely consented to the sexual act performed.” 42

Challenges for the effective implementation of the law

Lack of training and of gender-sensitivity among law enforcement

A lot of criticism was pointed at the new legislation, particularly that it is impossible to prove the absence of consent in such crimes and that women may abuse the law with frivolous claims.43 This situation reflects the existing tolerance of sexual violence and of a victim-blaming mind-set in society. Thus, without gender-responsive methodology in the investigations of domestic violence and adequate training of law enforcement and judicial staff including of judges and prosecutors on gender-sensitivity, gender stereotypes among law-enforcement and in courts, create additional barriers in access to justice for women who suffered from violence and may impede the implementation of the new laws on domestic violence, including of the new consent-based definition of rape.

Increase in conservative and far right rhetoric

The main barrier to the ratification of the Istanbul Convention is caused by the actions of the Ukrainian Council of Churches and of certain radical right-wing legislative initiatives.44 The Council of Churches is particularly concerned about the word “gender” used in the Convention. In their opinion, the Istanbul Convention might become an instrument to promote new gender roles and same-sex relationships.45 According to the Council, they pose a threat to the “traditional institution of the family” in Ukraine.46 Before the ratification of the Istanbul Convention started, the “anti-gender initiatives” have organized

42 It further states that “Such an assessment must recognize the wide range of behavioural responses to sexual violence and rape which victims exhibit and shall not be based on assumptions of typical behaviour in such situations. It is equally important to ensure that interpretations of rape legislation and the prosecution of rape cases are not influenced by gender stereotypes and myths about male and female sexuality.” Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, para. 192, available at: https://rm.coe.int/16800d383a
several lobbying campaigns. They included statements in media, advertising, public events as well as outreach to legislators to convince them not to vote for the ratification of the agreement. The Convention has not been ratified yet. In August 2019, newly elected MPs from the President’s party stated that they would consult the Ukrainian Council of Churches on whether to ratify the Istanbul Convention.

Attempts to replace the protection of women’s rights and the prevention of domestic violence with a narrative on “preserving family values” are also growing within State institutions, including through the creation of a multi-party association of more than 300 members of parliament on “Values, Dignity and the Family”. Radical legal and religious initiatives have been proposed to restrict abortion or ban “LGBTIQ propaganda” as well as to create special government bodies on family protection and - both nationally and regionally, to organise regional “Family forums” and to include “family values” into educational programs at schools, etc. Government support (on national, regional and local levels) to radical far-right groups, political parties and youth initiatives is also rising. Budget funds are for instance provided to military camps and other endeavours that promote militarization, traditional patriarchal gender roles and that teach children and youth how to handle weapons.

Feminist and LGBT+ activists are among the main targets of street violence and confrontations of the ultra-right groups. For instance, during the period from 15 October 2018 to 15 October 2019, 14 incidents of ultra-right violence and 6 incidents of confrontation were aimed against feminist/LGBT+ activists. Ukraine accepted several UPR recommendations in 2017 to prevent and combat all forms of discrimination including on the basis of sexual orientation and gender identity. It also accepted a recommendation from Ecuador to: “Prohibit political statements and platforms that promote racism,

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48 http://vrciro.org.ua/ua/statements/554-uccro-appeal-to-parliament-against-istanbul-convention
49 https://rada.gov.ua/news/Novyh/187743.html
50 https://www.kyivpost.com/multimedia/photo/protest-held-kyiv-law-limiting-right-abortion
56 See the matrix of recommendations prepared by the OHCHR for the UPR of Ukraine, third cycle, available at: https://www.ohchr.org/EN/HRBodies/UPR/Pages/UAindex.aspx
xenophobia, hate speech, or speech aimed at inciting hatred or intolerance towards ethnic, religious or any other minorities.” 57 Ukrainian law includes concepts such as “hate crime” and “hate incident” but hate crimes against the LGBTIQ community are often restricted by the police to charges of “hooliganism” for instance in the charges brought against people who beat organisers of the Gay Pride in Kyiv in 2012. 58

Gender-based violence in conflict-affected areas

Lastly, a significant number of women have suffered from sexual and gender-based violence induced by the conflict both from the armed groups controlling certain parts of the Donetsk and Luhansk Regions and from Ukrainian armed and security forces. 59 It is also reported that some women and girls are compelled to have “sex for survival”. 60 It is necessary to take measures ensuring that women in adverse circumstances have access to vital goods and services as well as to income-generating activities including via microcredit and opportunities for self-employment in order to reduce the risk of being compelled to have “sex for survival”.

Recommendations

- Urgently ratify the Istanbul Convention.
- Provide relevant and gender-sensitive training for legal professionals, investigators, prosecutors and police officers in order to enhance their capacity to investigate, document and prosecute gender-based violence, including domestic violence cases and ensure that the Ministry of Internal Affairs and National Police institutionalize and approve permanent staff of the Special Domestic Violence Police Divisions “POLINA.”
- Organize training courses for police and prosecutors to effectively investigate and prosecute hate crimes, including on the basis of gender identity or sexual orientation and ensure that such crimes are not considered by law enforcement agencies as hooliganism, but as particularly grave crimes motivated by hatred and prejudice against certain social groups. The investigation of such crimes should be prioritized and prosecuted as crimes involving aggravated circumstances with dissuasive sanctions.

57 Ibid.
● Prohibit funding to far right or any other organizations that promote hate speech, intolerance and violence against minorities, including on the basis of sexual orientation, gender identity, ethnic or religious grounds.

● Guarantee the protection of the right to peaceful assembly for all citizens, without discrimination on the basis of gender, gender identity, sexual orientation, social origin or other differences.

● Implement the State Strategy for Human Rights Education, systematically providing interactive human rights education, and promoting non-discrimination and tolerance in schools and other educational institutions.

● Provide financial support to local organizations that uphold human rights for all and which support minorities and marginalized groups, including feminist groups and LGTBIQ groups.

● Take measures to ensure that women and girls in conflict-affected areas have access to vital goods and services as well as to activities that bring income including via microcredit and opportunities for self-employment in order to reduce the risk of being compelled to have “survival sex.”

● Ensure that the Ministry of Internal Affairs develop and approve the methodology to ensure effective investigation of rape and sexual violence crimes, including in conflict-affected areas.