

## INPUT PROVIDED INTO THE OHCHR COMPILATION FOR THE UNIVERSAL PERIODIC REVIEW OF UKRAINE

This contribution covers 5 main areas of UNDP development interventions in Ukraine



Empowered lives.  
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### A. WOMEN'S RIGHTS AND GENDER EQUALITY

#### I. Background

Equality of rights for women and men is enshrined in the country's Constitution under Article 24 stipulating equal rights and freedoms for Ukrainian citizens regardless of their sex. The Law "On Ensuring Equal Rights and Opportunities of Women and Men" adopted in 2005 has provisions that expand on the principles quoted in the supreme law. This legislation stipulates inadmissibility of gender discrimination, and lays down the foundations for a national system of bodies, regulations, links and competencies for advancing gender equality (the National Gender Machinery - NGM).

Despite these legal provisions and fundamental proclamations of gender equality, there are persistent challenges in this realm. As of 15 May 2011, Ukraine was ranked 57 among 146 countries assessed by the Gender Inequality Index with a score of 0.335<sup>1</sup>. Women currently account for only 8.1% of Ukrainian parliamentarians (35 out of 450)—this number has hovered below 9% since independence in 1991<sup>2</sup>. There are no women amongst the 25 appointed oblast governors. In the last two years only one woman was appointed to the Cabinet of Ministers (February 2012). Official statistics cite a gender pay gap of 22.2% (January 2011).

CEDAW, ratified by Ukraine on 24 December 1980, obliges the country to provide periodic reports that both depict the current situation and outline measures to redress shortcomings. The latest periodic report of Ukraine was reviewed in January 2010. The Convention Committee requested Ukraine to provide (within a time-frame of two years) written information on the steps undertaken to implement recommendations regarding human trafficking and representation of women in high level elected and appointed bodies. As of March 2012 the information has not been submitted.

#### II. Achievements and good practices

- *Steps towards institutionalization of gender equality mechanisms*

Pursuant to 2005 Law provisions, the Government made certain steps to increase operability of the NGM. As of early December 2010, the NGM comprised: documents (2005 Law "On Ensuring Equal Rights and Opportunities of Women and Men", 2005 Presidential Decree "On Improving the Work of Central and Local Government Bodies for Ensuring Equal Rights and Opportunities of Women and Men", the Draft State Gender Equality Programme); parliamentary and government bodies (Ministry of Family, Youth and Sports, Parliamentary Sub-Committee on Gender Policy); advisory bodies (Gender advisor to the Prime Minister, to Ministers and Heads of Oblast State Administrations, Inter-Agency Council for Equal Rights of Women and Men); non-governmental agencies (Gender Resource Centers and Gender Education Centers in the regions). The major Administrative reform of late 2010 liquidated the Ministry of Family, Youth and Sports. Its gender equality functions were transferred to the Ministry of Social Policy in late 2011.

- *Institutionalization of gender studies in higher education*

The first 5 Departments of Gender Studies were established at universities in 2010-11. Along with the network of 9 Gender Education Centers, they are expected to make a meaningful contribution to the dialogue in academia and practitioners' circles regarding gender equality issues. Gender-sensitivity curricula were incorporated at several pedagogical universities and the National Academy of Public Administration.

- *Capacity-building for civil servants and educators*

Close to 18,000 state officials and 24,000 educators were reached through gender sensitivity and equality cascade trainings in 2009-2011.

#### III. Challenges

- *MDG Goal 6 is highly unlikely to be achieved*

<sup>1</sup> <http://hdrstats.undp.org/en/indicators/68606.html>

<sup>2</sup> [http://www.gender.org.ua/images/lib/osnovy\\_v\\_parlamentu.pdf](http://www.gender.org.ua/images/lib/osnovy_v_parlamentu.pdf)

Over the past 4 years, no significant increase of women's political representation has been observed. According to the National Democratic Institute, the recently established mixed electoral system will likely lead to a setback in gender representation levels to those of the 1998-2002 Parliament (approximately 7%), thus erasing the limited progress since then.

- *Disintegration of the NGM in 2010-2011*

The process of institutional reorganization and transfer of responsibilities regarding gender equality between agencies lasted 11 months until November 2011. In the meantime the majority of NGM elements were stalled. The Draft State Gender Equality Programme (2011-2015) was not adopted.

#### **IV. Recommendations**

- Design (in close cooperation with the civil society) and adopt the new State Gender Equality Programme (2012-2016). This document needs to take a holistic stance regarding gender equality, contain clear targets and benchmarks, build on good practices and lessons learned from the previous State Programme and contain sufficient funding for implementation of activities.
- Fully recover and strengthen the NGM by increasing its range of authority and visibility. Its efficacy needs to be grounded in adequate human and financial resources. Capacity of national and sub-national bodies to coordinate efforts in the realm of gender equality needs to be enhanced. Civil society needs to be continuously involved in relevant initiatives.
- Affirmative action (quota system) needs to be exercised to amplify women's voices in decision-making at all levels.
- Written report on the progress in the area of women's participation in high-level governmental bodies is to be submitted to CEDAW soonest (deadline passed in January 2012).

### **B. DOMESTIC VIOLENCE PREVENTION AND RESPONSE**

#### **I. Background**

Ukraine was one of the first Eastern European countries to develop national legislation in the area of domestic violence prevention and response. Its Law "On Preventing Violence in the Family" dates back to 2001. On 7 November 2011, Ukraine signed the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence. There is no reliable data on prevalence of domestic violence in the country. At the same time, research commissioned by UNDP in 2010 shows that 44 % of Ukrainians faced domestic violence at least once in their lives. Almost every third police referral is related to this type of violence<sup>3</sup>.

#### **II. Achievements and good practices**

- *Capacity development of the judiciary*

Intensive cooperation between UNDP and the National School of Judges resulted in trainings for over 290 judges on fundamental principles of court hearings related to domestic violence. Several guidelines for judges, containing overviews and analysis of UN and European standards of domestic violence prevention, were produced and approved.

- *Capacity development of law enforcers*

63% of district police officers of the country were reached through the cascade trainings on domestic violence prevention and response organized jointly by UNDP, EU and the Government.

#### **III. Challenges and issues**

- *Legislative drawbacks*

The Law of Ukraine "On Preventing Violence in the Family" has a number of important flaws. It narrows the definition of domestic violence to "violence in the family"; it also presupposes administrative, not criminal, responsibility for the perpetrator, which in most cases makes the law an ineffectual deterrent.

- *Lack of reliable statistics*

Lack of robust, holistic and relevant statistics in the area of domestic violence prevention and response (including disaggregation by sex and age, scope, nature and consequences of this phenomenon) hinders effective policy development and implementation.

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<sup>3</sup> Submission of the Ukrainian Parliament Commissioner for Human Rights on implementation of the Convention on Elimination of All Forms of Discrimination against Women in Ukraine. 45th session of the UN Committee on the Elimination of Discrimination against Women – consideration of combined sixth and seventh periodic reports of Ukraine

- *Weak referral system for victims of violence; lack of cooperation between governmental bodies*

Consolidated data on existing providers of social services, and standards for such services provision are inexistent. Data collected by UNDP research (2011) shows that the country has 1,893 government-run centers for families, children and youth; 21 centers for social and psychological assistance; 82 shelters for children; 32 centers for social and psychological rehabilitation of children; and only 9 centers for medical and social rehabilitation of survivors of domestic violence.

A comprehensive service delivery system to domestic violence survivors is missing; the quality of services is low, while the infrastructure is scarce and underdeveloped. Access to services is often hindered by the lack of updated information about relevant centers and institutions and their contact details. The state system of domestic violence prevention and response lacks coordination between key authorities (Ministry of Interior, Ministry of Social Policy, Ministry of Health etc.) The situation deteriorated even more after the administrative reform of 2010.

#### **IV. Recommendations**

- Conduct a comprehensive review of the 2001 Law “On Preventing Violence in the Family” to introduce a number of changes. Amongst these are more effective penalties specifically targeted at perpetrators, a wider, more inclusive definition of “domestic violence”, introduction of restraining orders and other provisions which can make this piece of legislation compliant with widely accepted UN and EU standards (in particular, the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence to which Ukraine is party).
- Improve both quality and quantity of research on the prevalence, causes and consequences of violence against women. Ensure consistent and comprehensive data collection in this sphere.
- Develop a national referral system to ensure quality and accessibility of social services provided to survivors of violence as well as a clear coordinating mechanism for all government parties involved in this issue.

### **C. RIGHTS OF PEOPLE WITH DISABILITIES**

#### **I. Background**

There are no reliable figures on the number of people living with disabilities (PWD) in Ukraine. The Government officially recognizes about 2.7 million people as disabled (about 6% of the population), but experts consider this figure to be an understatement. The rights of PWD are regulated by the Constitution of Ukraine and a number of special Laws, inter alia “On Foundations of Social Protection for People with Disabilities”, “On Rehabilitation of People with Disabilities”, “On State Social Assistance to People with Disabilities from Childhood and Disabled Children”. Apart from that, Ukraine took up a number of international commitments, including the UN Convention on the Rights of People with Disabilities and its Optional Protocol (ratified on 16 December 2009, entered into force on 6 March 2010).

#### **II. Achievements and good practices**

- On 22 December 2011 the Law “On Amending Several Laws of Ukraine on PWD Rights” was adopted. This regulation provided further harmonization of baseline national laws with the UN Convention on the Rights of PWD. Terms as “person with disabilities”, “discrimination on the basis of disability”, “reasonable accommodation” and “universal design” were defined in line with the Convention. This Law also established requirements for all institutions to ensure the accessibility of physical infrastructure, transport, and information; the status of sign language was officially spelled out.
- Several policy documents that ensure the rights for secondary and higher education for children and adolescents with disabilities were approved during 2008-2011. Among them are the Concept of Inclusive Education (2010) and the Cabinet of Ministers Decree on the Procedure for Organizing Inclusive Education in Schools (2011).
- An Action Plan for the establishment of a barrier-free living environment for people with disabilities and other low mobile populations for 2009-2015 “Barrier-free Ukraine” was approved by the Cabinet of Ministers in 2009. The Government has also approved the Concept for the National Programme for Implementation of the Convention on the Rights of PWD, and the Development of Rehabilitative Systems until 2020.

#### **III. Challenges and issues**

- The motion to accommodate PWD needs remains declarative: implementation of policies and adopted regulations remains poor, in particular due to the lack of funding. Adapting buildings, living environment, and transport for people with disabilities is contingent both upon the ability of enterprises and targeted financial allocations from the state budget. Merely 11% of educational institutions are fully accessible for children with disabilities, and 3% are partly accessible.
- Current Ukrainian legislation sets a 4% quota for enterprises to hire disabled people. In order to comply with this requirement, employers (while submitting the data on job vacancies to the State Employment Service) provide data on “regular vacancies” and “vacancies for the disabled”. In practice, the vacancies in the latter category are reserved for low-skilled labor that receive a minimum wage.

#### **IV. Recommendations**

- Design and adopt the National Programme for Implementation of the Convention on the Rights of People with Disabilities, and the Development of Rehabilitative Systems until 2020. The Programme has to be designed as a logical framework, contain clear targets and benchmarks, and contain sufficient funding for implementation of specified activities.
- Ensure proper enforcement of legislation, and increase the penalties for all responsible parties (incl. local authorities and businesses) for failing to ensure the rights of people with disabilities.
- Initiate comprehensive reform of social support to people with disabilities, aiming to develop a system of innovative, community-based, targeted social services to PWD.
- Eliminate the discriminatory division of vacancies for employment-seeking PWD by introducing necessary procedural changes (through an Order of the Ministry of Social Policy).

### **D. PROPERTY (LAND) RIGHTS<sup>4</sup>**

#### **I. Background**

In spite of relatively well developed legislative and policy frameworks, the actual level of protection of property rights in Ukraine remains rather low. According to the International Property Rights Index Report (IPRI 2011), Ukraine holds 117th position among 129 states surveyed.

Since Ukraine gained its independence in 1991, the land reform has gone through several stages. Initially, government land ownership was transformed to collective ownership, while the second stage provided for the emergence of private property (by issuance of a land title that enabled the owner to either lease the land out or to toil it individually). Several laws providing a legal framework for property rights protection are either already in force or will soon be adopted. In 2011 the Law “On the State Land Cadastre” was adopted, as well as the law to end the land sale moratorium in January 2013. Currently, there is a general lack of awareness among Ukrainians (especially the poor rural population) about opportunities as well as challenges which the end of the moratorium may bring. A significant proportion of rural population—some estimates suggest a figure of 50% — is not in favor of lifting the moratorium.

#### **II. Achievements and good practices**

- The recently adopted Law “On the State Land Cadastre” is progressive. A Cadastral Information System is being set up in land registration offices across the country to hold the data on land parcel location and ownership. The system is expected to be operational by mid-2012. Access to basic information will be open to anyone, while more detailed information will be granted on a commercial basis. Implementation of the unified electronic system of cadastral registration actions will allow any land owner to check the status of his/her land property registration online. In order to effectively protect land rights and create a truly transparent system, the cadastre needs to be linked to the Land Rights Registry held by the Ministry of Justice. The cross-reference and information exchange systems are currently in the process of development.
- The soon to be implemented Law of Ukraine “On the Land Market” will facilitate the formation of a functioning market for land resources in the country, and will finalize the land reform. The Law “On Free Legal Aid” was adopted in June 2011, stipulating legal support to land owners and contributing to better protection of their property rights.

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<sup>4</sup> This section mainly focuses on issues related to raising ‘legal’ awareness for effective land property rights, and is not addressing other forms of property rights, e.g. corporate and intellectual property rights, which are beyond UNDP’s scope of work in Ukraine.

### III. Challenges and issues

- Protracted registration process of land property rights; non-systemic property rights registration (according to existing legislation, registration of property rights is necessary only if one wishes to *transfer* these rights).
- The Decree of the Cabinet of Ministers dated 1 August 2011 #835 stipulates that the necessary documents are granted by the State Agency of Land Resources on a commercial basis. This regulation effectively bars poor citizens of Ukraine from free exercise of their property rights.
- Due to the failure and/or delay to enforce national court rulings, thousands of citizens have to resort to the European Court of Human Rights.
- A complicated mechanism of free transfer of land plots to citizens envisaged by articles 118-121 of the Land Code of Ukraine that creates opportunities for corruption within land-related transactions.
- The possibility of expropriation of land and real estate (this includes compulsory purchase of land for public needs or compulsory eviction where a building has been declared uninhabitable). While some efforts have been made to regulate the rights of those who are being re-housed (Art.12 of the Law "On Comprehensive Reconstruction of Residential Areas under the Obsolete Housing"), these regulations and guarantees are vague and diluted.
- Many rural landowners have extremely poor legal awareness of their existing property rights under Ukrainian legislation.

### IV. Recommendations

- Create necessary institutional and legal frameworks to ensure protection of rights of small land owners in anticipation of the end to the land sale moratorium.
- Improve the process of registration and transfer of property rights, eg by introducing fixed time limits for each procedure and setting low fixed fees, as well as computerizing land registries.
- Ensure efficient and prompt enforcement of court rulings with regard to land property rights.
- Facilitate free transfer of land plots to citizens as foreseen by the articles 118-121 of the Land Code of Ukraine and introduce anti-corruption mechanisms and measures.
- Regulate expropriation of land on the grounds of public necessity by bringing this process into full compliance with the Constitution as well as Ukraine's international obligations.
- Enhance legal awareness of the population (in particular rural land owners) with regard to their property rights. This may be achieved through information campaigns as well as developing and strengthening the system of pro bono primary and secondary legal aid.

## E. ENVIRONMENTAL RIGHTS

### I. Background

The Constitution of Ukraine secured environmental rights at the highest legislative level. The 1991 Law "On Environmental Protection" became another legal basis for realization of environmental rights of citizens of Ukraine. Ukraine is currently party to 17 international conventions and more than 40 protocols in the area of environmental protection.

### II. Challenges

Environmental rights are not yet viewed as inalienable human rights in the country. Proper implementation of the Aarhus Convention in Ukraine is lacking. Difficulties exist with obtaining the information on implementation of the Kyoto Protocol to the UN Framework Convention on Climate Change. Lack of monitoring for international agreement implementation in Ukraine, low level of public awareness on environmental rights and limited court practice on the environmental cases hinder the realization of environmental rights in the country. Although an Annual Report on the Environmental Situation in Ukraine is to be prepared by the Ministry of Ecology and Natural Resources, there have been no such reports publicized since 2008.

### III. Recommendations

- Ensure proper implementation of the Ukrainian environment protection legislation currently in force.
- Ensure timely submission of mandatory national reports regarding progress in implementation of international conventions and protocols.