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PROMOTION GENDER EQUALITY AT WORK

The article emphasizes the importance of gender mainstreaming in the application of international labour standards, as it helps to ensure equal access for men and women to the benefits established by these standards. The article defined equal pay, overtime, working hours, vacation, benefits to mothers and family responsibilities, health care, and human dignity at work – are promoting gender equality in the workplace

Key words: ensuring equal rights, gender equality, discrimination, personal non-property labour rights.

Problem setting. The challenge of ensuring gender equality, the elimination of gender discrimination and the use of methods that are aimed at addressing the imbalance between women and men to exercise equal rights in the workplace, is one of the most urgent problems of the modern science of labour law.

Analysis of recent researches and publications. At the present time separate issues of the legal equality of women and men at work are the subject of study of Ukrainian and foreign scientists, such as: M. Bisello, R. Blackburn, N. Bolotina, J. Braithwaite, G. Chanysheva, G. Chepurko, I. Chutkova, A. Gerasimenko, F. Granella, O. Grishnova, N. Dudwick, S. Elder, V. Vlasov, I. Kiselev, J. Kluge, A. Kolev, E. Kulakovskaya, O. Kupets, H. Lehmann, I. R. Leston, O. Lipovskaya, E. Loiseau, M. Mascherini, E. Mezentsev, V. Mozhaev, K. Nowacka, N. Pignatti, B. Rohwerder, A. Thim, D. Sapsford, I. Shamshina, D. Schmidt, O. Yaroshenko, etc.

The purpose of this article is to examine the legal provision of equal rights and opportunities for women and men at work, as well as making proposals for its improvements.

Article's main body. Gender refers to the socially constructed characteristics of women and men – such as norms, roles and relationships of and between groups of women and men. It varies from society to society and can be changed. While most people are born either male or female, they are taught appropriate norms and behaviours – including how they should interact with others of the same or opposite sex within households, communities and work places. When individuals or groups do not "fit" established gender norms they often face stigma, discriminatory practices or social exclusion [1].

Gender equality is the concept which is known as equality of opportunity or formal equality, refers to equal chances or opportunities for groups of women and men to access and control social, economic and political resources, including protection under the labour law.

Accordingly, gender equality refers to the equal rights, responsibilities and opportunities of women and men and girls and boys. Equality does not mean that women and men will become the same but that women's and men's rights, responsibilities and opportunities will not depend on whether they are born male or female. Gender equality implies that the interests, needs and priorities of both women and men are taken into consideration – recognizing the diversity of different groups of women and men. Gender equality is not a 'women's issue' [2] but should concern and fully engage men as well as women. Equality between women and men is seen both as a human rights issue and as a precondition for, and indicator of, sustainable people-centred development.

It stated that women have lesser access to economic assets in Europe: they own less property; they often occupy unsecure and lower-paid occupations, and remain disproportionately affected by poverty and discrimination in employment. In most countries, women earn on average only 60 to 75% of men's wages, and the average gender pension gap in the 28 European Union member states is as high as 39% [3, p. 3].

Moreover, women's labour market involvement has steadily increased in European countries in the last fifty years, but inequalities between women and men in relation to unpaid care work are a persisting feature of gender relations. Gender stereotypes continue to influence the sharing of household and care work between women and men, whereby women continue to perform the majority of unpaid work. This reduces the opportunities for them to engage in paid employment and results in lower visibility and participation in the social and public spheres.

Ensuring equality in decision making is also agenda item. Where women in political power are concerned, since 1995, the number of single and lower houses of parliament with a membership of at least 30 per cent women has grown from 5 to 42. In nearly one in five parliaments, at least 30 per cent of the parliamentarians are women. At the global scale, although the percentage of women parliamentarians has doubled since 1995, only 22.8 per cent of members of parliament in single houses or lower houses were women and 21.3 per cent of those in upper houses or senates. In 37 countries, women constitute less than 10 per cent of parliamentarians in lower or single houses. While women remain underrepresented in the political arena, women's movements and organizations have traditionally played a key role in the advocacy of women's economic, social and political rights and remain key motors of social change. Women have also become increasingly active in the trade union movement and in a growing number of organizations of informal workers that have been created over the last decades, particularly in developing countries. In addition to fair wages and working hours, women have identified new issues necessitating campaigns, social dialogue and collective bargaining, including the gender wage gap, maternity protection, childcare services and sexual harassment in the workplace. Over recent years, trade unions have also engaged in significant national and international campaigns to promote decent work for domestic workers preceding and following the adoption of the ILO Domestic Workers Convention 2011 (№ 189) [4, p. 41].

The Inter-Parliamentary Union has been compiled the data on the basis of information provided by National Parliaments by 1st September 2016. 193 countries are classified by descending order of the percentage of women in the lower or single House. Ukraine ranks 145th out of 193 countries with regard to the number of women in Verkhovna Rada of Ukraine (12 percent) [5].

It is especially true that the gender pay gap exists across economy, in all sectors and occupations. According to the ILO, the analysis of pay differentials in occupations that have a slight overrepresentation of women including those in the category "Professionals", a high overrepresentation of women in the category "Services and sales workers", occupations that have slightly more men employed ("Managers"), and an occupation where the large majority of workers are men ("Craft and related trades workers"). The gender wage gap for "Professionals" ranges from under 10 percent to over 40 percent. In over half of the 26 countries and territories examined, there is a gap of over 20 percent. In 11 countries and territories, the gender wage gap for professionals has decreased over time. In this second highest paying occupational category, in almost all countries there is a moderate concentration of women. Studies indicate, however, that within the larger occupational category of professionals women tend to outnumber men in lower paid occupations. For example, in the United States, among health-care professionals, women make up only 36 percent of physicians compared with 90 percent of registered nurses. Similarly, in the European Union, men were also found to be overrepresented in higher paying professional occupations, such as engineers and computer technicians, in particular in the private sector [4, p. 50].

The Global Gender Gap Report 2016 shows that no country in the world has fully closed its gender gap. Globally, 54% of working-age women take part in the in the formal economy, on average, as compared to 81% of men. Women make up a larger proportion of discouraged job seekers and of those outside the labour force; and, on average, women's unemployment rate is nearly 2% higher globally. Women work three times as often as men as contributing family workers in family enterprises, and are almost twice more likely to work part-time. There also continues to be a persistent wage gap in paid work. Women's average earnings are almost half those of men, with average global earned income for women and men estimated at \$10,778 and \$19,873, respectively [6]. Countries that perform well in this dimension of gender parity span all regional and income groups. Slovenia, Norway and Sweden are some of the most gender-equal

economies among high-income countries. Ukraine ranks 69th out of 144 countries and sees good progress in closing its gender gap for legislators, senior officials and managers; however, this is offset by decreases in women's estimated earned income and overall labour force participation.

Achieving gender equality is central to the protection of human rights, the functioning of democracy, respect for the rule of law and economic growth and sustainability.

The Council of Europe's pioneering work in the field of human rights and gender equality has resulted in a solid legal and policy framework which has contributed to advancing women's rights and to bringing member states closer to de facto gender equality [7].

Broadly speaking, the Council of Europe is implementing targeted co-operation projects on gender equality issues, namely a two-year regional project funded by the EU Programmatic Co-operation Framework to improve women's access to justice in five countries of the Eastern Partnership (Armenia, Azerbaijan, Georgia, Republic of Moldova and Ukraine).

Since the 1980s the Council of Europe has helped Europe states to achieve de jure gender equality and is guiding their efforts to achieve de facto gender equality. Thereby, the Council of Europe played a major role in the development of norms and concepts such as parity democracy, gender budgeting and gender mainstreaming.

The challenges that Council of Europe member States face in the implementation of the Strategy are obviously related to the wider context mentioned above: the gap between standards and their implementation, growing threats to women's human rights, and the weakening of national gender equality mechanisms. The latter, in particular, results from budgetary cuts to gender equality authorities and bodies, which in some cases threaten the very existence of gender equality institutions in some member States. In other cases, the enlarged mandates of equality bodies, with no additional resources, result in a reduction of efforts dedicated to promoting gender equality at the national level. In addition, making the case for gender equality has become increasingly difficult due to a misconception of what "gender" means in the context of gender equality policies and measures [8, p. 9].

Ukraine has established the core elements of a legal and institutional framework for promoting gender equality and eliminating gender discrimination.

The fundamentals of gender equality are secured in the Constitution of Ukraine, which was adopted in 1996. The principles of equal gender treatment and special protection for working women are also enshrined in the Labour Code of Ukraine.

At the international level, Ukraine has signed core international documents with regard to gender equality. In particular, the country has ratified the UN Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol thereto, the ILO Equal Remuneration Convention 1951 (№ 100), the Discrimination (Employment and Occupation) Convention 1958 (№111) and the Workers with Family Responsibilities Convention 1981 (№ 156). Ukraine has also signed the Beijing Declaration and Platform for Action on gender equality and women's empowerment (1995) and the UN Millennium Declaration (2000).

The Law of Ukraine "On the Principles of Prevention and Counteracting Discrimination in Ukraine" on September 6, 2012 № 5207-VI determines the organizational and legal principles for preventing and counteracting discrimination in order to ensure equal opportunities to exercise human and civil rights and freedoms. The scope of the is contained in Article 4 which covers many, but not all, areas of life where protection from discrimination is required. The scope is defined as: public and political activities; the civil service and local government; justice; labour relations; healthcare; education; social security; housing relations; access to goods and services; and other areas of public life.

It should be emphasized that ensuring gender equality is impossible without introduction of gender-responsive budgeting.

The Council of Europe defines gender-responsive budgeting as applying the concept of an integrated approach to the problem of gender equality in the budget process. This means the assessment of budgets taking into account gender issues, including a gender aspect to all levels of the budget process and changing the structure of revenues and expenditures with a view to promoting gender equality.

While Ukrainian legislation does not directly mention gender responsive budgeting, its legal and strategic framework contains sufficient elements to form a sound legal basis for work in this direction. Moreover, the international legal commitments entered by Ukraine include a legal obligation and basis for GRB. Sweden is contributing EUR 5.3 million in 2013-2019 to work together with the Ministry of Finance to introduce gender responsive budgeting. In addition, the European Union provided EUR 0.6 million between 2011-2015 to help the ILO and UN Women implement gender mainstreaming in the budget. The 2013-2016 state programme on gender equality is financed as follows: UAH 1,268,510 from the state budget, UAH 1,787,130 from local budgets and UAH 2,841,500 from other sources (development aid, grants, etc.) [9, p. 61].

In Ukraine, gender-responsive budgeting should be viewed as a type of administrative activity related to developing budgets of different levels. Various gender-responsive budget initiatives have been implemented for over a decade with the support of different international programmes and projects. This made it possible to gain domestic experience of the gender-based budget analysis and integration of gender-based approaches into budgets and programmes of different levels [10, p.13].

It is important to build supportive networks among policy-makers, academics, civil society experts and regional and international organisations, to continue the promotion of the Council of Europe standards on women's rights and gender equality.

At national level, a range of actions to try to close the gender employment gap could be improved. For instance, in 2015, the UK Government introduced an obligation for every company with more than 250 employees to publish the difference between the average pay of their male and female employees. This is expected to increase pay transparency in large companies. Over 7 850 organisations, which together employ more than 11.2 million staff (40 % of the UK's workforce), will be affected. In Portugal, two online tools for the analysis of the gender pay gap in companies were launched in 2015: a 'self assessment survey on equal pay between men and women in companies' and a 'gender pay gap calculator'. These allow companies to quantify the actual pay gap between female and male employees, and awareness of this should enable them to tackle the underlying causes and close the gaps [11, p. 20].

Laws, policies, institutional mechanisms, co-operation with civil society and adequate funding are all necessary tools on the road to achieving real gender equality.

Development of Strategy for Preventing and Combating Discrimination in Ukraine 2014-2017 was inspired by Article 3(6) of the Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights", which names "prevention of any forms of discrimination in the enjoyment of rights and freedoms" as one of the purposes of the parliamentary control over the observance of human and citizen's rights and freedoms, and by the Law of Ukraine "On Prevention and Combating Discrimination in Ukraine", Article 10 of which grants the status of a national equality body to the Commissioner.

The Strategy envisages the following strategic objectives, the achievement of which will ensure proper control over compliance with the legal guarantees of equality and non-discrimination and reduction in the number of human rights violations of members of minority groups: 1) compliance of the national legal framework and court case law on equality and non-discrimination with international and European standards; 2) effective monitoring for public and private sector bodies' compliance with equality and non-discrimination legal standards; 3) effective response to incidents of individual and systemic discrimination and due redress; 4) effective promotion of equality and non-discrimination by elucidating and raising awareness of the issue; 5) operation of strategic networks with relevant national and international stakeholders to promote equality and non-discrimination [12].

Ukraine is a countries with A status National Human Rights Institutions (in compliance with the Paris Principles) (as of August 2016) [13, p. 113].

In 1993, the United Nations General Assembly adopted a set of principles applicable to the establishment of national human rights institutions. Known as the "Paris Principles", these have become the internationally accepted benchmark setting out core minimum standards for the role and functioning of such institutions. According to these principles, national human

rights institutions must: 1) be independent, and their independence must be guaranteed by either statutory law or constitutional provisions; 2) be pluralistic in their roles and memberships; 3) have as broad a mandate as possible; 4) have adequate powers of investigation; 5) be characterized by regular and effective functioning; 6) be adequately funded; 7) be accessible to the general public.

Gender equality has been recognised not only as a fundamental human right but also as a critical economic challenge. Gender inequality undermines a number of development goals and reduces economic growth. Lowering discrimination against women, by increasing women's opportunities and rights, would benefit all: closing gender gaps would improve women's well-being as well as increase countries' monetary living standards.

The global economy would profit from greater parity between women and men. Huge economic gains would be made if women were able to fully develop their labour market potential. For example, if the female participation rates reached the male levels in 2030, the Organisation for Economic Co-operation and Development (OECD) gross domestic product (GDP) would increase by 12 percent. Italy would see the largest increase (with an annual GDP per capita growth rate of more than 1 percentage point) followed by the Czech Republic, Greece, Hungary, Luxembourg, Poland and the Slovak Republic [14, p. 18].

But convergence in intensity and forms of labour market participation also matters: closing the gender gap, in order to allow women to play the same role in labour markets as men, would add as much as USD 28 trillion (26 percent) to annual global GDP in 2025. Tackling gender occupational segregation, women's overrepresentation in part-time jobs and the glass-ceiling could provide macroeconomic gains for ECA. The regions of Western Europe and of Eastern Europe and Central Asia would increase annual GDP by 23 percent, i.e. adding USD 5.5 trillion and USD 1.1 trillion to annual GDP in 2025, respectively [15].

Conclusions. A key requirement is the recognition by employers that women are a crucial segment of their workforce and that care responsibilities and the adaptations required to be able to reconcile them with work are not a 'women's problem' [16] but an area for action from which the workforce as a whole as well as employers can benefit. Employers' support and openness to flexible arrangements are particularly important in relation to the implementation of flexible working and parental leave.

Without an integrated support system that supports women with care responsibilities and their families in navigating transitions – for instance, between parental leave and a return to employment or between periods of informal care and employment – individual policies may fail to have their intended effect.

Thus, the implementation of these provisions will be effective within the framework forms of social dialogue that set forth in the Law of Ukraine "On Social Dialogue in Ukraine" 23.12.2010 № 2862-VI, namely: exchange of information, consultation, reconciliatory procedures, collective negotiations on conclusion of collective agreements. This social dialogue will lead to more sustainable results in promoting gender equality, monitoring of gender-sensitive policies.

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ПРОДВИЖЕНИЕ РАВЕНСТВА НА РАБОЧЕМ МЕСТЕ

Резюме

В статье подчеркивается важность учета гендерных аспектов при применении международных трудовых стандартов, поскольку это способствует обеспечению равного доступа мужчин и женщин к льготам, устанавливаемые этими стандартами. В статье определяется равное вознаграждение, сверхурочная работа, продолжительность рабочего дня, отпуск, льготы матерям и семейные обязанности, медицинское обслуживание, а также человеческое достоинство на работе – служат продвижению гендерного равенства на рабочем месте.

Ключевые слова: обеспечение равных прав, гендерное равенство, дискриминация, личные неимущественные трудовые права.

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ПРОСУВАННЯ РІВНОСТІ НА РОБОЧОМУ МІСЦІ

Резюме

У статті підкреслюється важливість врахування гендерних аспектів при застосуванні міжнародних трудових стандартів, оскільки це сприяє забезпеченню рівного доступу чоловіків та жінок до пільг, що встановлюються цими стандартами. У статті визначається рівна винагорода, надурочна робота, тривалість робочого дня, відпустки, пільги матерям і сімейні обов'язки, медичне обслуговування, а також людська гідність на роботі – служать просуванню гендерної рівності на робочому місці.

Ключові слова: забезпечення рівних прав, гендерна рівність, дискримінація, особисті немайнові трудові права.