

Legal aspects of mechanism of public gender policy forming and realisation

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Abstract: Introduction. In accordance with the requirements of time the staffing of public institutions must take into account current trends in the integration and strengthening of gender equality policy, so there is a timely need for systematic integration of gender issues. The question of gender, gender equality, gender equality problems, and the effective mechanism of its providing, is all no longer acquired to actuality in the world and in Ukraine. A review of the legislative provision of the gender approach and analysis of the institutional support for the implementation of the state gender policy is presented. **Methodology.** The solution of the research tasks was carried out using general scientific methods: benchmarking study and synthesis (for systematisation and generalisation of legislative support for the introduction of gender equality in Ukraine), classification (for the description of the institutional ensuring for the implementation of the state gender policy), abstracting, analysis and synthesis (for the development recommendations on mechanisms and means of improving the state gender policy in Ukraine). **Results and conclusions.** According to the results of the research, recommendations were made for the modernization of the state gender policy, which envisage further improvement of the Ukrainian legislation in accordance with the European requirements for gender equality; integrating the gender perspective into all state plans and programmes; ensuring favourable conditions for women to participate in social development management processes.

Keywords: gender, forming mechanisms, gender policy realisation, legislation.

[es] Aspectos jurídicos del mecanismo de formación y realización de la política pública de género

Resumen: Introducción. De acuerdo con las exigencias del momento, la dotación de personal de las instituciones públicas debe tener en cuenta las tendencias actuales en la integración y el fortalecimiento de la política de igualdad de género, por lo que hay una necesidad oportuna de la integración sistemática de las cuestiones de género. La cuestión del género, la igualdad de género, los problemas de la igualdad de género y el mecanismo efectivo de su provisión, ya no se adquiere en la actualidad en el mundo y en Ucrania. Se presenta una revisión de la disposición legislativa del enfoque de género y el análisis del apoyo institucional para la aplicación de la política estatal de género. **Metodología.** La solución de las tareas de investigación se llevó a cabo utilizando métodos científicos generales: estudio de referencia y síntesis (para la sistematización y generalización del apoyo legislativo para la introducción de la igualdad de género en Ucrania), clasificación (para la descripción del aseguramiento institucional para la aplicación de la política estatal de género), abstracción, análisis y síntesis (para la elaboración de recomendaciones sobre los mecanismos y medios para mejorar la política estatal de género en Ucrania). **Resultados y conclusiones.** De acuerdo con los resultados de la investigación, se formularon recomendaciones para la modernización de la política estatal de género, que contemplan la mejora de la legislación ucraniana de acuerdo con los requisitos europeos en materia de igualdad de género; la integración de la perspectiva de género en todos los planes y programas estatales; y la garantía de condiciones favorables para que las mujeres participen en los procesos de gestión del desarrollo social.

Palabras clave: género, mecanismos de formación, realización de la política de género, legislación.

[pt] Aspectos legais do mecanismo de formação e realização da política pública de género

Resumo: Introdução. De acordo com os requisitos de tempo, o pessoal das instituições públicas deve ter em conta as tendências actuais na integração e no reforço da política de igualdade de género, pelo que existe uma necessidade atempada de integração sistemática das questões de género. A questão do género, a igualdade de género, os problemas de igualdade de género, e o mecanismo

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eficaz da sua provisão, já não se adquire à actualidade no mundo e na Ucrânia. É apresentada uma revisão da disposição legislativa da abordagem do género e uma análise do apoio institucional para a implementação da política estatal de género. **Metodologia.** A solução das tarefas de investigação foi realizada utilizando métodos científicos gerais: estudo e síntese de benchmarking (para sistematização e generalização do apoio legislativo para a introdução da igualdade de género na Ucrânia), classificação (para a descrição da instituição que assegura a implementação da política estatal de género), abstracção, análise e síntese (para as recomendações de desenvolvimento sobre mecanismos e meios de melhorar a política estatal de género na Ucrânia). **Resultados e conclusões.** De acordo com os resultados da investigação, foram feitas recomendações para a modernização da política estatal de género, que prevêm a melhoria da legislação ucraniana de acordo com os requisitos europeus para a igualdade de género; integração da perspectiva de género em todos os planos e programas estatais; garantia de condições favoráveis à participação das mulheres nos processos de gestão do desenvolvimento social. **Palavras-chave:** género, mecanismos de formação, implementação de políticas de género, legislação.

Sumario: 1. Introduction. 2. Methods and objective. 3. Analysis of recent research and problem statement. 4. Presentation of the basic material of the research. 5. Conclusions. 6. Contribution. References.

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1. Introduction

In accordance with the requirements of time the staffing of public institutions must take into account current trends in the integration and strengthening of gender equality policy, so there is a timely need for systematic integration of gender issues. The question of gender, gender equality, gender equality problems, and the effective mechanism of its providing, is all no longer acquired to actuality in the world and in Ukraine. Gender approach in science is fundamentally new and envisages the change of the valued orientations of man and revision of many traditional ideas about the world.

Gender researches develop in different directions and are interdisciplinary, and the basis of gender research methodology are not only biological and physical differences between men and women, but cultural and social value, what society gives to these differences. The use of gender approach does possible rethinking of culture, society, people place in this society, since their rights and possibilities must not depend on sex. The effective management, creation of corresponding as well as perfection of operating gender processes for which the state is responsible play the basic role, form and realise the gender policy.

Moreover, the implementation of such mechanisms declared in current legislation is the main task for public institutions which have the power to implement such mechanisms into reality.

2. Methods and objective

The solution of the research tasks was carried out using general scientific methods: benchmarking study and synthesis (for systematisation and generalisation of legislative support for the introduction of gender equality in Ukraine), classification (for the description of the institutional ensuring for the implementation of the state gender policy), abstracting, analysis and synthesis (for the development recommendations on mechanisms and means of improving the state gender policy in Ukraine).

The aim is to consider modern views on the essence and content of gender, gender equality, scientific and theoretical justification of areas of improvement of organisational and legal support for their effective implementation in public life.

The state of elaboration of gender policy formulation and implementation problems in the system of activity of government authorities of Ukraine remains an unsolved comprehensive analysis of the legal nature of gender inequality, the mechanism of adaptation of the best European experience in the development of gender strategies, and the introduction of a particular model of gender policy.

3. Analysis of recent research and problem statement

Various aspects of the essence of gender, gender equality have been studied by many scientists. The process of forming gender policy and determining ways to implement is covered in the works of such scientists as Wildt, van der Vloten, Bonnie, Borhorst, Stratigaki, Peletchek, Bolotina, Dashkovskaya, Karlova, Karpachova, Karpenko, Kopylenko, Kotyuk, Lazar, Levchenko, Lobanova, Matvienko, Melnyk, Onishchenko and others. The works of these researchers, of course, have scientific and practical significance, and their proposals and conclusions have a significant contribution to the development of science and can be used to improve existing regulations, but in this area there are many not considered both theoretical and practical issues.

Considering a modern gender situation in the state and following tasks certain in the international documents of the special actuality ratified by Ukraine acquire research of problems in relation to perfection of mechanisms of realisation of the proclaimed intentions. Gender equality is in fact a fundamental component of the mechanism of human rights realisation, which characterises the level of development of society and democracy of the state. Applied interpretation of the concept of “gender equality” and the development of an effective mechanism for its implementation is the key to creating an effective system of staffing and functioning of government authorities, so this will create conditions for the formation of civil society, staffing of highly qualified specialists of government authorities.

4. Presentation of the basic material of the research

Appearance of term “gender” gave an opportunity to distinguish the social aspect of sexual division of society and not succeeded in disserting upon a natural difference or absence such between the persons of different sex, certainly to examine “gender equality”, but not “sexual equality” or “equality between sexes”. In the scientific literature, gender, gender equality (inequality) are defined differently, because the word “gender” has relatively recently come into use and received terminological status. The idea of the need to distinguish between biological and social sex first appeared in M. Mead’s book “Gender, temperament in three primitive societies” (1935), and the word “gender” was introduced into scientific circulation by the american psychologist R. Stoller in 1968. “Borrowing” it from linguistics, where the term means “grammatical gender”. A concept “gender” was entered in social sciences of Ann Okley in 70th of XX century.

It comes from the Greek word “genos”, which means origin, the material carrier of heredity, the close meaning corresponds to the Ukrainian concept of “genus”, “genus experience”. To date, scientists have formed various gender theories: status (Berger), socio-role (Eagle), androgynous management (Sergeant), gender selection of leaders (Nouman & Sutton) and the concept of: gender flow (Gutek), “natural” complementarity of articles (Parsons & Bales), information processing (Hamilton), tokenism, human development, a comprehensive approach to the formation of gender equality, parity democracy, equality of outcome and others (Levchenko, 2003). Studies suggest that for most of these theories and concepts, the starting point is to distinguish between “sex” and “gender”, where the latter is considered a complex socio-cultural construct that reflects differences in roles, behavior, mental and emotional characteristics between male and female, as the social role of man in all spheres of life. Thus, the anatomical and biological features of man (sex) affect “gender”, revealing the relationship between them, arguing that man in his development goes from “sex” to “gender”.

Undertaken studies ground to assert that for most to initial positions theories and conceptions there is distinction of concepts “sex” and “gender”, where the last is considered a difficult sociocultural designer, that represents differences in roles, behavior, mental and emotional descriptions between the masculine and woman beginning, as a social role of man in all spheres of vital functions. Thus, the anatomic and biological features of man (sexes) influence on “gender”, exposing intercommunication between them, asserting that a man in the development is directed from “sex” to “gender”.

Initially, the interest of foreign researchers was focused mainly on proving the existence of gender, i.e. in identifying the non-biological conditionality of the differences between men and women in culture and society. Since the end of the 1980s, research interest has focused on identifying the dependence of gender relations and gender roles on the cultural type. Today, “gender” is understood as the distribution of roles between the sexes in society with all the consequences of such a division: economic, political, social, cultural and psychological, which inevitably follow from this. That is, gender is understood as an organised model of social relations between women and men, which not only characterises their communication and interaction in the family, but also determines the social relations in the main institutions of society.

Gender relations are constantly reviewed and, consequently, the political, economic, social and cultural conditions of the external environment are changing at the local, national and international levels. Thus, gender is also defined as a spectrum of characteristics that relate to masculinity and femininity, and depending on the context, such characteristics can be understood as social structures (gender and other social roles) or gender identity. Sometimes the term “gender” is mistakenly used as a synonym for the word “gender”, although from the beginning the term “gender” was introduced in contrast.

The concept of “gender” has become widespread due to the development of feminist theory and gender studies, although many sources describe “gender” as “social sex”, in modern feminist and gender studies such an understanding is considered obsolete. Criticizing the understanding of gender as a derivative of biological sex, modern research considers both of these categories as social constructs that are in complex interaction with each other.

The term “gender” (from the latin genus – “sex”) - in feminist and gender studies is a social and biological characteristic, which defines the concepts of “man” and “woman”, psychosocial, sociocultural roles of men and women as individuals, as well as psychological and biological features influenced by biological sex, holistic mental representation of sex, filled with unique dynamic deep, cognitive and behavioral concepts of female

and male, acquired by the individual as a result of individual gender. Gender is defined as a certain social construct that determines the social sex of a person and, unlike biological sex, gender is a set of social role self-identifications (self-determinations), which may coincide with purely biological features or contradict them (Chernyakhivska, 2019).

Melnyk and Shevchenko determine that gender is a socio-cultural, symbolic construction of gender, which is designed to define a specific associative relationship, ensure full communication and maintain social order. In other words, gender is a system of values, norms and characteristics of male and female behaviour, lifestyle and way of thinking, roles and relations of women and men, acquired by them as individuals in the process of socialisation, which is primarily determined by social, political, economic and cultural contexts of life and captures the perception of women and men depending on their gender. In the context of research and meaningful comparison of different definitions of gender and comparing them with practice, it is important to outline the concept of “gender differentiation” as a process in which biological differences between men and women are used as a means of social classification (Melnyk, 2004).

Thus, gender is a set of social and cultural norms that society obliges people to follow depending on their biological sex; social organization of differences that determine the sex of a person; culturological characteristics of the behavior of a man or woman in a certain place at a certain time (a kind of cultural model, including a set of requirements of cultural expectations at the level of personal and interpersonal interaction, a system that produces differences), system of social, legal, cultural norms that determine the status of men and women in society, at the level of personal and interpersonal interaction in society, family, team and society in general.

On the basis of the concept of “gender” is formed such a category as “gender equality” - is the equal legal status of women and men and equal opportunities for its implementation, which allows persons of both sexes to participate equally in all spheres of society in accordance with the Constitution of Ukraine. Ronald Inglehart defines gender equality as a sensitive indicator of how developed and democratic a state is, as countries with high representation of women in political institutions not only have a higher level of civil rights and freedoms. Such states are more economically developed because they create conditions for political and economic diversity, tolerance, inclusiveness and interpersonal trust. The assertion of the value of gender equality provides a transition to post-materialist values of self-realisation, which contribute to the economic development of countries (Komentar do rozdilii II «Shliub. Prava ta oboviazky podruzzhzia» Simeinoho kodeksu Ukrainy, 2004).

Gender equality means equal conditions for women and men in the realisation of all human rights and opportunities for participation in political, economic, social and cultural development, as well as equal use of its results, as equality is necessary for human development, normal social, economic, cultural and political system of the state. Gender equality involves understanding different aspects of women’s lives due not only to gender, but also age, race, class, national, ethnic and regional characteristics, sexual orientation, mental and physical disabilities, language, religious beliefs and this involves understanding the nature of men’s relationships. and women, different social realities, life expectations and economic circumstances faced by women and men. Women may be at a disadvantage due to race (skin color), sexual orientation, socio-economic status, region, different level of opportunity, age, but public policy and legislation must take these components into account, as equal (impersonal) treatment of women is not yet available. ensures their equality, because such an “equal” attitude neglects the fact of the originality of life of each of them.

Equal opportunities for the realisation of constitutional rights of man, person and citizen in the country, equal opportunities for representation of women and men in public bodies, with an effective mechanism for civil rights and freedoms, is an indicator of a high level of civilised society. The gender concept of social development and social transformations aimed at social progress presupposes public and state views on the life of both sexes as equals, a balance of opportunities for their development, overcoming all forms of historical injustice and evaluating the results of their activities, providing conditions for self-development and self-expression of women and men as equals in rights, freedoms, duties and responsibilities (Pro Zabezpechennia Rivnykh Prav ta Mozhlyvostei Zhinok i Cholovikiv: Zakon Ukrainy, 2005). Thus, *gender equality* is a component of the mechanism of realisation of human rights, which characterises the level of development of society and democracy of the state.

International experience provides the following positive practices for gender equality:

1. Adoption of specialised laws on gender equality.
2. Making changes to the introduction of equal rights and opportunities for women and men in existing laws and the constitution.
3. Introduction of a specialised institution of the Ombudsman for Equal Rights and Opportunities.
4. creation of parliamentary structures (groups, committees, commissions) with equal rights and opportunities. Parliament’s information policy on promoting gender equality in society is important.
5. Introduction of foundations, organisations and their networks, the activities of which are aimed at achieving gender parity in politics.

Along with gender equality, gender inequality is seen as an idea and a situation where women and men are not equal in rights, opportunities and perceptions of them. The term refers to the unequal treatment or perception of people, attitudes towards them, caused in whole or in part by the sex or gender of these people. Women lag behind men in many areas (opportunities), including education, labour market opportunities, political representation, and pay for equal work (Lazar, 2016). The issue of gender equality is not only a theoretical study and derivation of concepts and categories in this area, but, in practice, the development and adoption at the state level of a legal framework that would comply with international regulations on its practical implementation in all spheres of public life. not only the actual consolidation of constitutional guarantees of human rights in the context of gender equality.

The term “gender mainstreaming” is that the gender dimension becomes a component of all strategic areas of public policy, the subject of consideration in all government programs and strategic areas of society, the inclusion of gender in all areas of public policy helps to take into account the interests of both sexes as full participants. development. The application of gender aspects (from raising awareness in basic gender issues to comprehensive targeted gender programs) will depend on the specific shortcomings and priorities identified in the gender assessment process.

The grounds for implementing a gender approach are the following factors:

1. gender approach is a manifestation of democracy (no one can be discriminated against on the basis of their gender);
2. because society consists of women and men, it is impossible to achieve sustainable development of society without gender analysis of existing conditions, so to ensure the development of society it is necessary that gender approaches become part of all parts and directions of policy.

The implementation of gender policy of foreign countries is based on the following principles: parity of rights of women and men in all spheres of public life (balance of their participation in decision-making); protection of motherhood, fatherhood and childhood; equality in remuneration; equal treatment in labour relations; a combination of professional and family responsibilities, some of which in Ukraine require identification in the relevant legal documents. The coming to power of women in foreign countries takes place mainly in two types of states: stable democracies with inert traditions of political life (Scandinavian countries, Germany) or countries in the recent past with a rigid authoritarian regime (Latin America), due to democratisation of electoral processes.

Globally, the largest representation of women is observed in the parliaments of Scandinavia, South and North America, Europe, Africa, Asia and the Arab countries. In recent years, there has been a trend for women to hold top management positions in government (India, Ireland, Latvia, Liberia, Finland, the Philippines, Chile, Switzerland, Germany) and to be appointed to “male” positions, including ministerial positions defence (Argentina, Chile, Latvia, France, Czech Republic). In the post-Soviet countries, the situation regarding the implementation of the principle of equality is almost the same, where gender equality is only declared, with the exception of the Baltic countries, especially Lithuania, which is an example of overcoming negative gender stereotypes and prejudice. Noteworthy is the rating of the Republic of Belarus, which ranks 52nd among other countries in terms of women’s representation in parliament, and exceeds similar figures in all CIS countries: the Republic of Moldova, Azerbaijan, Georgia, Kazakhstan, the Russian Federation, Ukraine (Lazor, Lazor & Lazar, 2017).

The mechanism of legal support for the formation and implementation of gender policy in foreign countries differs significantly, most of which have a special law that regulates equal rights and opportunities in many areas (Sweden, Denmark, Norway, Iceland, Finland), while in the US these issues are regulated by separate laws. The institutional mechanism of formation and implementation of foreign gender policy is carried out by various relevant state and public gender structures. Examples of functioning presidential structures are the Equality Council (Norway), the National Council for Women, the Family and Gender Development (Kyrgyz Republic); parliamentary - committees (Belgium, Portugal), commissions (Spain, Slovenia), parliamentary delegations, groups, associations (Estonia, Lithuania, France), Gender Council under the Speaker of Parliament (Georgia); ombudsman - institutions of the Gender Commissioner (Bosnia and Herzegovina, Lithuania, Germany, Norway, Finland, Sweden).

Another common trend in the implementation of gender policy is the practical activities of executive institutions: ministries, committees (Denmark, Iceland, Canada, Norway, Portugal, Slovenia, France); departments, services, offices in the ministries (Belgium, Iceland, Norway, France); inter-ministerial structures (Canada, Hungary, Finland); positions of advisers, coordinators in ministries (Canada, Kyrgyz Republic, Norway, Slovenia, Sweden, Japan); councils of equal status, councils of ministers, committees of state secretaries, agencies, commissions, resource centres (Georgia, Iceland, Canada, Norway, Portugal, the Republic of Belarus, Finland, Sweden, Japan) (Levchenko, 2003).

Temporary committees, commissions or working groups within governments are often formed to address gender issues in drafting the necessary documents, analysing information, and developing recommendations.

In the system of local authorities, special departments, divisions, counselling centres, local committees or local monitoring committees on gender equality are created, and equality experts are introduced into the staff. States can be differentiated into masculine (Arab and Muslim countries, Britain, Italy, Japan) and feminine (Sweden, Norway, Denmark, Finland, the Netherlands, Portugal, France). Ukraine, probably in terms of gender, is in a transitional stage, which is characterised by a combination of masculine and feminine traits with the intensification of the latter, but the predominance of the former today.

Positive experiences of legislative support for gender equality exist in many countries, such as Iceland (Law on Equal Status of Women and Men, 1991), Lithuania (Law on Equal Opportunities, 1998), and Norway (Law on Equal Opportunities). On equality between the sexes (1978), in the United Kingdom, the UK Sex Discrimination Act (1975) provides that, in certain circumstances, such as the under-representation of one group, employers may provide training for employees in that group to encourage them to take up new jobs or apply for other posts. However, employers are not allowed to discriminate in favor of members of the same sex during recruitment, except in cases where this is determined by the specifics of the job. In Australia, the Fair Work Act of 2009 gives different groups of workers the right to demand a change in work schedule. The law defines groups of employees who may require a flexible work schedule (Uvarova & Daineko, 2019).

In affirming the principle of equal opportunities, the European Union has focused on a new gender concept: from the principle of equal treatment, which provides for equal rights and opportunities for all citizens, to a strategy of positive action. The strategy envisages shifting the emphasis from ensuring equal opportunities to ensuring appropriate social conditions that would promote the establishment of *de facto* gender equality. Standards for equal treatment for women and men are part of both primary and secondary EU legislation enshrined in the 1997 Amsterdam Treaty and contained in EU Directives, and EU Member States are required to transpose these provisions into national law. There are no direct directives on the representation of women and men in government in European law, but the Amsterdam Treaty and other documents encourage member states to take appropriate steps.

The introduction of gender aspects in the formation of Ukrainian legislation is an issue of social justice, the solution of which is necessary to ensure equal and sustainable human development through the use of the most effective and efficient methods of state intervention. This approach is seen as a process of evaluating any planned activity, including legislation, strategies and programs in all areas and at all levels in terms of its impact on women and men. This theory is based primarily on the fact that the interests and experience of women, as well as men, are an integral criterion in the process of developing a common concept, monitoring and evaluation of public policy in the political, economic and social spheres in order to women and men could benefit equally, and inequality was eradicated.

The basis of Ukraine's gender policy is international norms enshrined in the Universal Declaration of Human Rights ..., the Convention on the Political Rights of Women ..., the Convention on the Elimination of All Forms of Discrimination against Women and other legal acts. During the independence of Ukraine in the context of European integration, a number of regulations have been developed and approved, which form the legal basis in this area. The normative legal acts of the national level that regulate relations in the field of state gender policy in Ukraine include, first of all, the Constitution of Ukraine. In accordance with the requirements of the above-mentioned UN Convention, Ukraine has included the principle of equality of women and men in the Constitution of Ukraine, the relevant provisions of which are the basis for further development of gender legislation. Thus, Articles 21, 23 and 24 of the Constitution of Ukraine provide equal rights for all citizens. Thus, the equality of human and civil rights and freedoms, regardless of gender, is determined and guaranteed by Art. 24 of the Constitution of Ukraine, which, in particular, states: "Citizens have equal constitutional rights and freedoms and are equal before the law. There may be no privileges or restrictions on the grounds of race, color, political, religious or other beliefs, sex, ethnic or social origin, property status, place of residence, language or other characteristics.

Equality of rights of women and men is ensured by: providing women with equal opportunities with men in socio-political and cultural activities, in education and training, in work and remuneration for it; special measures for the protection of labour and women's health, the establishment of pension benefits; creating conditions that enable women to combine work with motherhood; legal protection, material and moral support of motherhood and childhood, including the provision of paid leave and other benefits to pregnant women and mothers. The principle of gender equality is also enshrined in Art. 51 of the Constitution of Ukraine: "Marriage is based on the free consent of a woman and a man. Each spouse has equal rights and responsibilities in marriage and family... The family, childhood, motherhood and fatherhood are protected by the state (Nadolny I., 1998). With the adoption of the Basic Law, the constitutional and legal regulation of equal rights and opportunities for women and men in Ukraine has not only not been completed, but on the contrary, intensified and deepened by specifying the relevant constitutional norms in codes, laws, decrees and other legal acts. In Article 43 of the Basic Law, the state guarantees equal opportunities in choosing a profession and type of employment, implements programs of vocational training, training and retraining in accordance with social needs.

Everyone has the right to work, which includes the opportunity to earn a living by work which he / she freely chooses or agrees to freely, but at the same time prohibits the involvement of women and minors in work

that is dangerous to their health (Konstytutsiia Ukrainy. Zakon Ukrainu, 1996). The Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” was one of the first to define “discrimination on the grounds of sex”. It prohibits discrimination in general (art. 6), discrimination against civil servants (art. 16) and discrimination in employment (art. 17). The Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine” (2012) contains a definition of “discrimination” under a number of protected rights. It allows positive action to be taken to accelerate progress towards equality for low-income groups. Article 4 of the Law of Ukraine “On Principles of Preventing and Combating Discrimination in Ukraine” is consistent with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and focuses on employment and the civil service (Pro Rekomendatsii parlamentskuh sluhan na temu: “Rivni prava ta rivni mozhlivosti d Ukraini: realii ta perspektivy”: Postanova Verkhovnoii Rady Ukrainu, 2007).

Due to amendments to the Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Prevention and Counteraction to Discrimination” (2014), important definitions are made on the elimination of direct and indirect discrimination, as well as on discriminatory intent. The legal framework also requires that draft laws be analyzed to ensure that the principle of equal rights and opportunities for women and men is respected and that they are not discriminatory on any grounds.

Exclusively determined by law, as written in Art. 92 of the Constitution of Ukraine, human and civil rights and freedoms, guarantees of these rights and freedoms, basic responsibilities of a citizen; basics of social protection, forms and types of pension provision; principles of regulation of labour and employment, marriage, family, protection of childhood, motherhood and fatherhood; education, culture and health; principles of formation and activity of political parties, other associations of citizens, mass media; organisation and activity of executive bodies, basics of civil service; organisation and procedure for holding elections and referendums. The interests of women and men are protected by national laws and codes. At the same time, the provisions of the laws do not establish appropriate procedures and mechanisms to ensure gender equality, and therefore remain declarative.

The Law № 12 of the Convention for the Protection of Human Rights and Fundamental Freedoms also stipulates that the law should specify constitutionally enshrined rights and freedoms, establish appropriate guarantees for the enjoyment of all constitutional rights without discrimination on the grounds of sex (Azarov D., Grishchuk V., Savchenko, 2018). Thus, in accordance with Part 1 of Art. 1 of the Protocol, the exercise of any right recognized by law shall be ensured without discrimination on grounds of sex, race, language, religion, political or other opinion, national or social origin, belonging to a national minority, property status, birth or any other circumstance. The Beijing Platform for Action emphasised that until national law and national practice - family, civil, criminal, labour and commercial codes and administrative rules and regulations - ensure full recognition and effective protection, enforcement, enforcement and enforcement. women, provided for in international human rights treaties, these treaties will not apply. A positive step in exercising parliamentary control over the observance of constitutional rights and freedoms of man and citizen was the creation of a new constitutional body - the Verkhovna Rada of Ukraine Commissioner for Human Rights. This step is in line with the strategic goal of the 1995 Beijing Platform for Action, which seeks to intensify and encourage the development of women’s rights programs in national human rights institutions and related programs.

In 2012, Strategy of Public Personnel Policy for 2012–2021, which provides for gender equality in the system of public administration and recognizes it as one of the priority areas for the development of gender democracy, was adopted by the Decree of the President of Ukraine. The importance of addressing the above mentioned issues is due to the following factors: - real gender equality in the context of units staffing will increase their representativeness, mobility and combat effectiveness, reduce discrimination, and as a result will generally improve the combat readiness of the sector as a whole; - gender mainstreaming is needed in the context of compliance with international and regional legislation, instruments and regulation on gender equality and security, which Ukraine has ratified (UN Convention on the Elimination of All Forms of Discrimination against Women (1979), the Beijing Declaration and Platform for Action (1995), UN Security Council Resolution 1325 “Women, Peace, Security” (2000), etc.); - the existence at the national level of a legal framework that obliges to adhere to the principle of equal rights and opportunities for men and women (Constitution of Ukraine (Articles 21, 23, 24, etc.), the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men”, Law of Ukraine “On Principles of Prevention and Counteraction of Discrimination in Ukraine”, State Social Program for Ensuring Equal Rights and Opportunities for Women and Men for the Period up to 2021, etc.).

An important step in promoting gender equality and empowering women and men is the creation of a legal framework on gender equality, in particular, the adoption of the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” as of September 08, 2005, which defines institutional mechanisms for ensuring gender equality. The Law “On Ensuring Equal Rights and Opportunities for Women and Men” aims to achieve parity between women and men in all social spheres. First, current legislation and draft regulations are the subjects of mandatory gender examination. Secondly, there should be a special gender coordinator in executive authorities, enterprises, institutions and organisations. Third, the Cabinet of Ministers of Ukraine have to adopt and ensure the implementation of the national action plan on the implementation of gender

equality. Fourth, complaints of cases of discrimination on the grounds of sex could be sent directly to the Verkhovna Rada of Ukraine by the Commissioner for Human Rights.

Job advertisements in the media often contain requirements about age, gender and even the appearance of the employee. From now on, such requirements are prohibited, except for specific work that could only be performed by persons of a certain sex. Employers are also prohibited from requesting information about candidates' personal lives and plans to have a child. Instead, women and men will have to pay the same salary with the same qualifications under equal working conditions. However, according to the law, compulsory conscription for men and the difference in the retirement age for women and men are not considered as discrimination on the grounds of sex. The law also provides for the education of a culture of gender equality, namely, equal distribution of professional and family responsibilities among students. Educational institutions should provide them with textbooks and manuals that should be free of stereotypes about the role of women and men. The creation of state structures of gender policy is a positive feature of the Law, but implementation mechanisms require more detailed elaboration.

Also, the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men" provides as follows: sexual harassment is acts of a sexual nature, expressed verbally (threats, intimidation, obscene remarks) or physically (touching, slapping), humiliating or insulting persons, who are in a relationship of labor, service, material or other subordination; the employer's responsibility is to take measures to prevent and protect against sexual harassment and other forms of gender-based violence. However, today there is almost no practice of implementing the relevant provisions of the law, although Article 154 "Coercion to engage in sexual intercourse" is provided for in the Criminal Code of Ukraine (Shevchenko, 2016).

Ensuring gender equality in Ukraine is one of the main priorities of the state policy in the field of Euro-Atlantic integration in accordance with NATO standards and recommendations. First, the Annual National Program under the auspices of the NATO-Ukraine Commission for 2018, according to which one of the important tasks is to ensure equal rights and opportunities for women and men in the security sector and defence of Ukraine, was adopted by the Decree of the President of Ukraine as of March 28, 2018 №89/2018. In the context of the above mentioned and in order to strengthen the capabilities of the Defence Forces, increase their readiness to perform assigned tasks and participate in joint combat operations (operations) with NATO units, Strategic Defence Bulletin of Ukraine and the National Action Plan on the Implementation of UN Security Council Resolution 1325 "Women, Peace, Security" for the period up to 2020, approved by the order of the Cabinet of Ministers of Ukraine as of February 24, 2016 № 113-r, were also implemented by the Decree of the President of Ukraine as of June 06, 2016 № 240/2016.

Therefore, the policy in the field of gender equality and implementation of tasks aimed at its improvement are important priorities. Priorities in the field of gender policy include the development of a Plan for the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, streamlining gender legal examination of draft regulations, introduction of gender advisers and gender education in the higher educational institutions. Among the priorities set by Ukraine in relation to the Goal of Ensuring Gender Equality are to overcome the difference in opportunities for self-realisation in the public and private spheres for men and women both at the legislative level and in everyday life (Melnyk T., 2004). Gender mainstreaming is integrated into the professional communication of security and defence sector (SDC) professionals, as women can bring a number of benefits to SDC activities, as they better network and find common ground with civil society and the use of mixed groups of both sexes. It could help to increase the security of the armed forces. The involvement of women servicemen in liaising with the local population has helped reduce hostility to the military mission in general, as wells as protect the local population. Moreover, understanding of differences between women's and men's security needs and actions was an important factor for protection of civilians during operations and for the overall purpose of the mission (Komentar do rozdilii II "Shliub. Prava ta oboviazky podruzzhzia" Simeinoho kodeksu Ukrainy, 2004).

The system of normative-legal provision in the sphere of realisation of the gender policy The Ukrainians consists with:

- constitutional regulation of gender relations (legitimacy of the most important gender-parity principles and citizens rights);
- gender-legal regulation (based on the norms of general and special laws, codes, decrees, regulations, orders of the President of Ukraine and other normative legal acts);
- international legal regulation (cooperation of the conventional type, inter-parliamentary cooperation, interaction of executive authorities, information-scientific cooperation, interaction of NGOs, etc.)

The peculiarity of the formation of state gender policy in Ukraine is the following. Firstly, it is built on the basis of international regulations ratified by Ukraine, and secondly, regulated by national regulations on equality between women and men. Thus, the legal regulation of the state gender policy in Ukraine is carried out by normative legal acts of two levels: supranational and national. The legal acts of the supranational level, as we have noted, include the Universal Declaration of Human Rights, adopted by the UN General Assembly on December 10, 1948, the UN

Convention on the Elimination of All Forms of Discrimination against Women, ratified by Ukraine on March 12, 1980, and the UN Millennium Declaration, signed by the President of Ukraine at the Millennium Summit in September 2000. The implementation of the provisions of the UN Convention on the Elimination of All Forms of Discrimination against Women in Ukraine revealed certain problems, so in 1995 the recommendations of the participants of the parliamentary hearings on the implementation of the Convention in Ukraine were adopted as a result of parliamentary hearings “On the elimination of all forms of discrimination against women”. They were approved by the Resolution of the Verkhovna Rada of Ukraine “On Recommendations of the Participants of the Parliamentary Hearings on the Implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women” in Ukraine. These documents of the Cabinet of Ministers of Ukraine recommend that the parliamentary commissions take measures for implementation and create an appropriate regulatory framework.

The UN Committee on the Elimination of Discrimination against Women under Articles 1 and 2 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women of 7 September 2000 has the power to accept and consider individual complaints from individuals about violations of the rights guaranteed by this Convention (Law of Ukraine “On Ratification of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women” of June 5, 2003 № 946-IV). CEDAW Key Provisions are as follows: the Principle of Equality aims to guarantee real (rather than formal) equality. Real equality can also be understood as equality of results: women must be guaranteed equal opportunities, just as real conditions are created to access such opportunities and achieve equal results with men. We are talking about different spheres of life, such as equal participation in the development of state and local policies, freedom from violence, equal remuneration for work performed, etc. True equality implies the need to eliminate manifestations of direct and indirect discrimination, de jure discrimination and de facto discrimination, discrimination in the public and private spheres.

The principle of effective equality requires a different treatment of women in a number of cases, for instance, when it is related to biological and social differences between women and men (the most striking example is the necessity to treat women in employment during pregnancy, for a certain period of time after childbirth and breastfeeding); when necessary to overcome the effects of past and / or current discrimination against women (as exemplified by the different set of measures used at the corporate level to ensure a more balanced representation of women in company management; the representation of women in relevant positions is a consequence of the long-standing stereotype that women are not as successful business leaders as men; when it is necessary to redistribute power and resources between women and men to ensure more adequate balance (as an example, the introduction of quotas women in elections, which can be used to address the apparent imbalance between women and men in parliament) (Oliynyk, 2001).

Another important legal act at the supranational level is the Beijing Declaration and Platform for Action, endorsed by the Fourth World Conference on Women, which identifies 12 problem strategies (poverty, education and training, health, violence against women, armed conflict, economics, power and decision-making, gender equality mechanisms, human rights, the media, the environment and girls “issues”), which are recognized as priorities in the outcome documents of the UN General Assembly Special Session “Women in 2000: Gender Equality, Development and Peace in the XXI century” (June 2000) and is the basis for the formation of legal norms of gender equality in Ukraine.

Development of international and regional agreements terms in the field of human rights protection in the decisions of relevant international and regional institutions - UN Committees, the European Court of Human Rights, the Court of Justice of the EU. Familiarity with the practice of these institutions enriches the knowledge of specific patterns of behaviour, equips with information on good and bad practices, mechanisms for implementing certain provisions of international and regional documents, as well as gives an idea of their relevant understanding and scope, existing approaches to their involvement in solving specific cases.

The influence of the judiciary in ensuring the implementation of gender equality and overcoming discrimination on the grounds of sex or gender identity is also due to the fact that judges are endowed with a wide range of opportunities: they can bring before the court of constitutional jurisdiction the unconstitutionality of a legislative terms of discriminatory nature; they should not wait for the adoption of a specific regulation in order to provide protection against discrimination that leads to human rights violations; judges can make decisions aimed at overcoming established discriminatory approaches and practices; they can use in their decisions the language of international and regional human rights treaties (even if such a treaty has not been ratified; it can be used as a convincing rather than a binding source of law), which will only increase the legitimacy of the decision made by such court in a particular case; judges have the opportunity to directly apply constitutional provisions that guarantee protection against discrimination, enshrine equality, in particular, gender equality; judges may refer to the case law of international and regional judicial institutions to justify their position in the case.

The overall goals of programs to ensure equal rights and opportunities for women and men in Ukraine are as follows:

- harmonisation of the legal framework of the state gender policy with the international legislation on ensuring gender equality;

- creation of information and methodological resource of the state gender policy in a complex with the normative-legal base, which regulates its formation and realisation;
- monitoring the state of the normative-legal base of the state gender policy, in particular the problems that need legal regulation, as well as the results of law enforcement as a result of the introduction of all normative-legal acts; formation of the state gender policy in Ukraine is based on the basis of international normative legal acts ratified by Ukraine and regulation by national normative legal acts on equality between women and men;
- creation of a system of comprehensive support for civic activity of young people, aimed at self-determination and self-realisation, formation of the necessary legal, humanitarian and economic preconditions;
- providing social guarantees, ensuring a systematic and comprehensive policy in the field of family and demographic development, aimed at forming a self-sufficient family and its ability to consciously give birth and raise children;
- Implementation of gender equality principles, strengthening existing and creating new mechanisms to prevent discrimination on the grounds of sex, expanding the use of positive action, ensuring the economic independence of each sex;
- creating conditions for greater participation of women in making socially important decisions, for combining professional and family responsibilities, eradicating gender-based violence and overcoming gender stereotypes;
- implementation of comprehensive measures at the national and regional levels to prevent trafficking in human beings, support and protection of victims of trafficking in human beings, investigation and punishment of those involved in trafficking in human beings, as well as identification of specific perpetrators and funding;
- introduction of the concept of gender integration in the management system, development and implementation of effective mechanisms that will ensure women's participation in socially important decisions, the formation of gender culture and the elimination of gender stereotypes in society;
- inclusion of gender approaches in the system of professional development and training of civil servants and officials.

The EU-Ukraine Action Plan contains some provisions related to gender equality, but the issue of ensuring a real gender balance in our country needs to be further addressed, as Ukraine has adopted a number of international documents that provide for its further development through gender democratisation, based on consensus to achieve equal opportunities for women and men. Modern state policy of Ukraine is aimed at achieving equality of women and men in society, overcoming all forms of discrimination on the grounds of sex, creating the necessary social and political preconditions for the realization of rights and opportunities of women and men in all spheres of work, social and personal life. Effective management of gender processes by the state and creation of effective mechanisms of gender equality play an important role in the formation and implementation of gender policy. The implementation of public policy aimed at ensuring equal rights and opportunities for women and men depends on the effectiveness of the institutional mechanism as a key link in ensuring gender equality.

An important issue today is the legislative process to ensure equal rights and equal opportunities for women and men, based on the fact that human rights are an integral part of universal human rights. At the present stage of development of Ukrainian society there is a break in gender stereotypes and the gender approach is becoming a factor in the separation of powers. An important component of public administration culture is the culture of civil servants as a relatively stable system of professional knowledge, assessments and norms of communication, which is directly combined with the political and legal culture of society and determined by traditions and national characteristics of society and its socio-political system. The content of the culture of public administration includes: achievements in the organisation and implementation of the management process; organisation of managerial work; use of control techniques; requirements for the management system and employees, due to the norms and principles of public morality, ethics, law, etc (Pro zasady zapobihannia ta protyidii dyskryminatsii v Ukraini: Zakon Ukrainu, 2012). At the present stage, the policy of ensuring gender parity is separated into a distinct area of state activity, due to the importance and scale of gender issues. Gender policy is implemented through mechanisms that are traditionally interpreted as specific tools used by the state and the community to promote gender principles in various spheres of life.

From a legal point of view, Ukraine provides non-discriminatory legislation for women, but that legislation is in a process of transformation from gender-neutral to gender-sensitive. In general, the laws of Ukraine do not contain discriminatory norms and restrictions concerning the participation of women in political or public activities. At the constitutional level, fundamental human rights are enshrined, as well as guarantees for their protection. Human and civil rights in Ukraine are protected by national laws and codes, while the provisions of the laws do not establish appropriate procedures to ensure equality of the sexes, and therefore remain declarative. According to the Constitution of Ukraine, the constitutional rights and freedoms of man and citizen are directly effective and they determine the content of laws and other normative legal acts. However, given the impossibility of introducing the principle of gender parity at the present stage through mechanisms

which are valid or not yet worked out, the state should undertake for some time some protectionism to ensure gender equality of the social sex which is in a discriminatory position (Uvarova & Daineko, 2019).

Thus, the mechanisms of formation and implementation of gender policy form a system elements of which are general and special mechanisms that for the most part use it is complex. General mechanisms are used in all industries and spheres, and special ones are specific to a certain direction, level, or object. Among the general mechanisms we offer to distinguish: information-scientific - formation no means of scientific and informational monitoring of their functioning; legal - regulation of the process of formation and implementation of gender policy; institutional - reorganisation of existing and formation of new institutions; personnel - formation of professional staff; financial-economic - ensuring the financing of the formation and implementation of genes of modern politics.

There are no direct directives in European legislation, but the adopted international gender legal instruments encourage member states to take appropriate steps to comply with these norms and standards. Among the special mechanisms it is proposed to introduce gender quotas, gender education, as well as to improve gender-statistical reporting. Ukraine, as a member of the United Nations, the Council of Europe, as a European state during the years of independence has made a confident step towards realising the need for gender transformation, joining the world gender technologies, identifying certain areas of gender democracy, the desire to determine its place in the system of social democracy, legal relations (intensification of women's social movement and the creation of public organisations of male parents, and a steady trend to reduce the percentage of unemployed women, increase the number of women entrepreneurs, women politicians).

Creating a developed institutional and legal system taking into account gender approaches will lead to reforming most institutions and creating new ones, adopting amendments to the Constitution and legal documents, which will strengthen competition of ideas and improve the quality of governance, as different proposals will require more professional justification. Changes in the competence of state bodies regarding gender content will determine further directions of gender policy development. The effectiveness of mechanisms for the formation and implementation of gender policy depends on the state of interaction between the actors who implement it, and therefore permanent elements of the mechanisms should be the study of these issues, preliminary evaluation, monitoring and evaluation of its results, as well as feedback, which is a causal factor of change. In order to implement the gender policy mechanism, it is necessary to determine the relevant requirements, division of responsibilities and competencies of its subjects.

5. Conclusions

Thus, the process of formation of a democratic state and civil society in Ukraine, their social orientation, the formation of the relevant legal framework, the implementation of international obligations, and thus - the country's entry as an equal to the world and European community, requires a conceptual definition, development and implementation of gender policy as a basis for the formation of gender culture, development of gender activity of men and women, adaptation to the world conditions of creating gender democracy as a component of social democracy. Forming of gender politics depends upon civil servants that can be specially appointed in the structural subdivision for presentation of suggestions in relation to gender development or carry out these duties on the instructions of guidance. Civil servants participating in the development of public policy must realise responsibility for the justice of such politics, programs and legislation, both for women and for men and for the valuable this job processing they must be well-informed with gender questions and to own skills of gender analysis.

The legal adjustment of public gender policy in Ukraine comes true by the normative-legal acts of two levels: international and national. Formation and development of the national level of normative-legal base of the state gender policy in Ukraine according to the concept of necessary and sufficient structure of normative-legal bases, goes through the following stages: creation of a functional kernel, development of necessary structure of normative-legal documents, development of sufficient structure of normative-legal documents documents, which makes it possible to organise the already developed array of legal acts of different legal force.

Introducing new mechanisms to ensure the constitutional principle of equality of women and men, it is necessary to realise that the creation and functioning of legal mechanisms alone is insufficient, as the most perfect laws and government decisions will not be effective without overcoming the existing low level of gender culture. It is necessary to create a sufficient information and consultation network in all regions of the country, among other measures, should become one of the priorities of the Ministry of Justice, the Ministry of Family, Youth and Sports, local executive authorities.

Uptodate state policy focuses on creating equal opportunities for women and men, considering international treaties signed by Ukraine, and state strategies provide for the creation of a legal framework to ensure de facto equality between women and men, a mechanism to protect against discrimination against women and men. It is important not only to create a sufficient legal framework, but also to comply with it, as this problem has not lost relevance and there are facts of violation and disregard of current legislation.

6. Contribution

The organisation of professional training, increasing the participation of women in strengthening democracy, establishing peace and security, improving the system of protection of women and men affected by conflict (identification, creating a system of assistance, informing about assistance) are priority areas of modern reforms, in particular, aimed at creating new mechanisms for achieving gender equality.

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