

## EaP CSF INPUT

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### **Challenges in adopting domestic violence legislation and ensuring effective implementation**

#### *Istanbul Convention*

Ukraine failed to ratify the Istanbul Convention also due to the strong opposition and counteraction of the All-Ukrainian Council of Churches. On January 17, 2020 an inter-factional union formed in Verkhovna Rada under the name of “Values, Dignity, Family”. The union consists of 307 deputies from all the factions except the faction “Voice”. The goal of the union is declared as “*protecting the everlasting values of Ukrainian society and opposing the attempts at destroying the fundamental natural right in the name of a political fad*”. Servant of the People's deputies promised to prepare laws that would “strengthen family values, the principles of dignified society and upbringing of children and youth based on family values”. The leader of the Servant of the People party, deputy Oleksandr Kornienko, stated that the prospects of the Istanbul Convention being ratified by the Verkhovna Rada are now very low.<sup>1</sup> Ratifying the convention remains an urgent and necessary step to ensure effective prevention and fighting violence against women and domestic violence.

#### *Mobile divisions for domestic violence “POLINA”*

Special mobile divisions for domestic violence “POLINA” work in large cities. However, the activities of these groups are not regulated by a specific law and they are not a separate police department. POLINA groups include district police officers and patrol police officers, who are dispatched to work in POLINA on a monthly basis. This rotation negatively affects the groups' efficiency and stability, and raising problems with staff training and responsibility. Several women's organisations have reported that the services for victims of domestic violence (assistance, shelters, but also mobile teams) are inadequate in terms of outreach, accessibility and quality of the service provided, which is in most cases delivered by staff lacking professional training and survivor-centred approach.

#### *Sexual violence legislation*

In January 2019, amendments to the Ukrainian Criminal Code defining rape and sexual violence through lack of consent entered into force. However, until now, neither methodology nor guidelines for investigation of sexual violence crimes have been developed. According

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<sup>1</sup> More info: [https://ukr.lb.ua/news/2020/01/21/447769\\_korniienko\\_perspektivi\\_ratifikatsii.html](https://ukr.lb.ua/news/2020/01/21/447769_korniienko_perspektivi_ratifikatsii.html)

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to the state register of court decisions, in 2019 there were no prosecution cases for rape or sexual violence on the grounds of lack of consent. All prosecution cases were investigated under the previous law, with rape identified on the grounds of use of force or vulnerable condition of the victim. This gives ground to presume that rape and sexual violence perpetrated without the use of force remain latent crimes, for which victims do not have adequate access to justice.

### *Statistics on domestic violence*

The collection of statistical data on domestic violence by the police has improved over the last years. However, the following information – which is critical for monitoring work and particularly important for cases in which women are killed – is still not being collected:

- a. statistic disaggregated by age of the victim and the perpetrator;
- b. background on the relationship between the victim and the perpetrator;
- c. place where the crime was perpetrated (home or public place).

Police and court practice on urgent prohibiting orders and restraining orders is improving. However, perpetrators' property and housing rights are often given priority over the victims' rights to protection and authorities' prejudice and discrimination against victims remains a serious source of concern.

### **Rights of internally displaced persons (IDPs)**

#### *Pension rights and payment of arrears*

In 2018, the Supreme Court delivered a ruling in a model case concerning the resumption of pensions and arrears payment to IDPs. As a result, first instance courts issued about four thousand decisions on similar cases. However, the rulings did nothing to help the plaintiffs: pension debts have not been paid in 90% of these cases according to the NGO *Right to Protection*. Bodies of the Pension Fund of Ukraine (PFU), in defiance of the law, are refusing to comply with court decisions, citing the absence of a special procedures on returning pension debts. According to the PFU, its bodies were ordered by courts to pay UAH 543.1 million to IDPs in 2019 alone, but only UAH 43.0 million out of this sum have actually been paid (7.9%). PFU's total debt for these cases was UAH 599.8 million as of June 1, 2019 (taking into account unpaid sums from 2018 cases). In 2019, at least 40 pensioners who applied to court, had positive decisions but died prior to their execution.<sup>2</sup>

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<sup>2</sup> More info: [https://www.vplyv.org.ua/wp-content/uploads/2020/02/Prev\\_Property\\_Rights\\_A4-Engl.pdf](https://www.vplyv.org.ua/wp-content/uploads/2020/02/Prev_Property_Rights_A4-Engl.pdf)

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### *Real estate appraisal procedure*

The real estate appraisal procedure for internally displaced persons for the purpose of damage compensation caused by military operations must be significantly improved. Legal aid service to IDPs should be ensured to support them in filing lawsuits to obtain compensation of damages.

### **Consumer rights**

Consumer rights are being systematically violated in breach of state obligations under Chapter 20 of the EU-Ukraine Association Agreement and the State's constitutional guarantees to Ukrainian consumers are not fulfilled. The relevant authorities - the Ministry of Economic Development, Trade and Agriculture of Ukraine and the State Service of Ukraine on Food Safety and Consumer Protection – are unable to offer an effective state system for handling consumer complaints and fail to:

- a. ensure the proper technical operation of their sites;
- b. register complaints and consumer complaints;
- c. ensure effective mechanisms for the so-called "real consumer protection", fuelling consumers' disdain for the state protection of their rights and their declarative nature, and resulting in consumers' practical defencelessness against the arbitrariness of dishonest businessmen.

### **More Information**

*The Eastern Partnership Civil Society Forum (EaP CSF) is a unique multi-layered regional civil society platform aimed at promoting European integration, facilitating reforms and democratic transformations in the six Eastern Partnership countries - Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. Serving as the civil society and people-to-people dimension of the Eastern Partnership, the EaP CSF strives to strengthen civil society in the region, boost pluralism in public discourse and policy making by promoting participatory democracy and fundamental freedoms.*

*For more information, please visit the EaP CSF website at [www.eap-csf.eu](http://www.eap-csf.eu)*