

## CURRENT PROBLEMS OF THE IMPACT OF GENDER EQUALITY IN THE ADMINISTRATION OF JUSTICE IN UKRAINE

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**Abstract:** **Current Problems of the Impact of Gender Equality in the Administration of Justice in Ukraine**

The main purpose of the article was to study the gender equality principles in the Ukrainian justice system. This paper covered the main mechanisms of the state of modern international legal regulations on the impact of gender equality in the administration of justice. The main issues arising upon the implementation of gender equality issues in the justice system of Ukraine were identified. It was suggested that new mechanisms of further improvement of the corresponding law enforcement practice. It was concluded that particularly during the COVID-19 pandemic, the recognition of gender equality in Ukraine as a key aspect of sustainable development requires the introduction of a gender integration policy in all areas, including in the justice system, where it is necessary to recognise gender aspects upon delivering justice.

**Keywords:** gender equality; discrimination; gender statistics; gender stereotypes; female judges

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### 1. INTRODUCTION

Gender equality means that women and men are treated fairly according to their needs.<sup>1</sup> This may include equal treatment or treatment that is different but considered equivalent in terms of rights, obligations, and opportunities. In the context of development, the goal of gender equality often requires built-in measures to compensate for the historical and social disadvantage of women.<sup>2</sup> Thus, gender equality can be considered as a legal category, and as an idea, as a principle of law.<sup>3</sup> Under the concept of “gender equality”, according to I. O. Hrytsai, it is necessary to understand the equality of the legal status of women and men (equality of rights, freedoms, and obligations) and the creation of conditions for the implementation of the abilities and capabilities of each

<sup>1</sup> BAN KI-MOON. Progress of the world's women: in pursuit of justice [online]. 2011 [cit. 2021-09-12]. Available at: [https://issuu.com/unpublications/docs/11iif1isbn9789210550307\\_issuu](https://issuu.com/unpublications/docs/11iif1isbn9789210550307_issuu).

<sup>2</sup> Gender equality, justice in law and practice: essential for sustainable development [online]. 2019 [cit. 2021-09-12]. Available at: <https://news.un.org/en/story/2019/03/1035291>.

<sup>3</sup> HAZEL, K. L. – KLEYMAN, K. S. Gender and sex inequalities: implications and resistance. *Journal of Prevention & Intervention in the Community*. 2020, Vol. 48, No. 4, pp. 281–292.

person in all spheres of private, public, and national life.<sup>4</sup> Recognising gender equality brings us back to recognising our common humanity, values of freedoms, timing, and shared responsibility, as well as the very relationships – solidarity, collectivity, and struggle – that are important for achieving global justice and creating a better future for all.<sup>5</sup> The World Economic Forum annually evaluates the world's progress towards gender equality in the economic sphere, education, health and survival, and political rights. In their report, gender inequality continues to be a persistent issue with the gender gap in the economic sphere. According to the latest World Economic Forum estimates, the overall global gender gap will not disappear over the next 100 years (up from 83 estimated in 2016), and more specifically, the economic gender gap will not be closed for another 217 years.

2020 has made its own adjustments to the issue of gender equality, as the COVID-19 pandemic deals significant blows not only to the global financial and economic system, but also substantially affects human rights and gender equality. However, according to the Ukrainian Women's Congress, parity has not yet been achieved in Ukraine: only 20% of women in parliament, the gender gap in the monthly salary level is 21%, and one in two women has experienced at least one form of sexual harassment. According to the Gender Inequality Index, Ukraine ranks 52nd among 162 countries in 2020.<sup>6</sup> According to O. Kis, an increase in interest in gender issues activates the activities of not only supporters of gender equality, but also its opponents, who started frequently campaigning to discredit the terms “gender”, “gender policy”, by manipulating the consciousness of the Ukrainian population and with direct misinformation, presenting gender policy as one that is aimed at undermining the institution of the traditional family.<sup>7</sup> Therefore, it is critical, as T. I. Fulei rightly believes, that judges and lawyers understand the essence of these terms and the concepts they reflect.<sup>8</sup> Much attention is paid to the issue of “gender and judicial proceedings” in the research of foreign scientists,<sup>9</sup> but in Ukraine, for the majority of judges and lawyers, as well as their clients, the ratio of “gender” and the implementation of the judicial procedure is not always noticeable. Today, attempts to identify gender issues in the justice sector have already been described in the professional literature,<sup>10</sup> but the relevant issues require further study.

At present, in Ukraine, also due to the pandemic, there is a serious need to strengthen the impact of gender equality in the administration of justice, problems with the enforcement of which substantially weaken the role of women in all spheres of their

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<sup>4</sup> HRYTSAI, I. O. *The mechanism of ensuring the principle of gender equality: theory and practice*. Kyiv: Hi-Tech Press, 2018.

<sup>5</sup> CORNWALL, A. – RIVAS, A. From “gender equality and women's empowerment” to global justice: Reclaiming a transformative agenda for gender and development. *Third World Quarterly*. 2015, Vol. 36, No. 2, pp. 396–415.

<sup>6</sup> Gender profile of Ukraine [online]. 2020 [cit. 2021-09-10]. Available at: <https://www.ua.undp.org/content/ukraine/uk/home/gender-equality/comparative-gender-profile-of-ukraine-.html>.

<sup>7</sup> KIS, O. *Feminism in independent Ukraine: the evolution of perception* [online]. 2019 [cit. 2021-09-11]. Available at: <https://www.nas.gov.ua/EN/Messages/Pages/View.aspx?MessageID=5505>.

<sup>8</sup> FULEI, T. I. *Gender equality in the administration of justice*. Kyiv: BAITE, 2016.

<sup>9</sup> RACKLEY, E. *Women, judging and the judiciary: from difference to diversity*. London: Routledge-Cavendish, 2012.

<sup>10</sup> FULEI, T. I. *Fundamentals of gender equality*. Kyiv: Tyutyukin, 2010.

activities. In practice, for professionals, this means rendering services to clients in accordance with international standards in the field of human rights and gender equality, without prejudice and discrimination. Based on the above, it is very relevant to consider the main issues related to the impact of gender equality in the administration of justice in Ukraine.

The aim of the article was to study the gender equality principles in the Ukrainian justice system. To achieve the purpose of this study, it was necessary to define the following objectives:

- to consider the main points of the state of modern legal regulation of gender equality in Ukraine;
- to identify the issues of the impact of gender equality in the administration of justice in Ukraine;
- to analyse the current foreign legal experience of achieving gender equality in the administration of justice with subsequent possible implementation in the justice system of Ukraine.

## 2. MATERIALS AND METHODS

Ideologically diverse theoretical concepts underlying the research can be divided into three groups according to the degree of generalisation. The first is interdisciplinary paradigms (formed as a result of the development of corresponding meta-social theories). These include the modernisation paradigm and various theories of the post-industrial (information) society. They introduce a dynamic dimension to the analysis of socio-legal processes, recognising the presence of general global trends in them, but they operate in very capacious categories and are insufficient to analyse their specific mechanisms. The second group is legal theories and concepts that explain a fairly wide range of phenomena of the legal field in the field of justice administration and implementation of the leading postulates of gender equality. The third group is interdisciplinary theories and concepts that are used to analyse and explain the results of legal activity (the concept of human development, the concept of continuing education).

In this study, the dialectical method was used to clarify the essence and content of the institution of gender equality and its significance in the territory of Ukraine. The system-structural method allowed the comprehensive study of the constituent components of the studied phenomenon and to establish which legal means will allow the eradication of gender discrimination in the activities of judges and courts. The comparative legal method was used to reveal the research topic by analysing the current legislation, texts of court decisions, and international legal documents. The authors used the formal-logical method to improve the mechanism of total implementation of the principle of gender equality in the field of justice.

A special scientific method is the legal analysis of legislation, which has identified not only differences in the legal status of men and women, but also how the state, distributing the rights and responsibilities of the subjects of labor relations, can influence the gender attitudes of government and subordination, facilitating or hindering

the implementation of their gender roles. The legal analysis included: collecting information on the legal status of men and women; establishing the needs, opportunities, and limitations of women and men in legal relations; and identification of unjustified asymmetries in the legal status of men and women, which lead to violations of gender equality.

### 3. RESULTS

Issues of gender equality, non-discrimination, and violence against women occupy an important place in the global world. In 1981, the UN Convention on the Elimination of All Forms of Discrimination Against Women came into force.<sup>11</sup> The Beijing Declaration and Platform for Action, adopted during the Fourth World Conference on Women, was another important milestone.<sup>12</sup> These international instruments called for the empowerment of women and their full and equal participation in all spheres of society. In 2000, the UN Security Council Resolution 1325 on women, peace, and security was adopted.<sup>13</sup> Gender equality issues have become an integral part of the Sustainable Development Goals adopted by the UN General Assembly, in particular, Goal 5 “Ensuring Gender Equality and Empowering All Women and Girls”.<sup>14</sup> Within the framework of this objective, states have pledged to make every effort to address key challenges such as eliminating all forms of discrimination and violence against women and girls, as well as equal opportunities for participation and leadership at all levels of decision-making in political, economic, public life, and equal access to justice.

Promoting gender equality issues is among the priorities of the Council of Europe in full compliance with the global order, which is reflected in the adopted gender equality strategy for 2018–2023.<sup>15</sup> Notably, the provisions of the Council of Europe’s Gender Equality Strategy are based on a number of regulatory documents already adopted and planned for Member Countries. For example, the recommendation of the Committee of Ministers of the Council of Europe on standards and mechanisms for gender equality, among other provisions, sets a threshold of 40% to achieve equal participation of members of each gender in democratic policy-making and governance processes.<sup>16</sup> The Recommendation of the Committee of Ministers covers the essence and social

<sup>11</sup> Convention on the elimination of all forms of discrimination against women [online]. 1979 [cit. 2021-09-13]. Available at: <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>.

<sup>12</sup> The Fourth World Conference on Women [online]. 1995 [cit. 2021-09-12]. Available at: <https://www.un.org/womenwatch/daw/beijing/platform/>.

<sup>13</sup> Security council resolution No. 1325 “On women and peace and security” [online]. 2000 [cit. 2021-09-11]. Available at: <https://www.un.org/ruleoflaw/blog/document/security-council-resolution-1325-2000-on-women-and-peace-and-security/>.

<sup>14</sup> Transforming our world: The 2030 agenda for sustainable development: Resolution adopted by gender [online]. 2015 [cit. 2021-09-09]. Available at: [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_70\\_1\\_E.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf).

<sup>15</sup> Council of Europe strategy on gender equality 2018–2023 [online]. 2018 [cit. 2021-09-12]. Available at: <https://rm.coe.int/strategy-en-2018-2023/16807b58eb>.

<sup>16</sup> Recommendation CM/Rec(2007)17 of the Committee of Ministers to member states on gender equality standards and mechanisms [online]. 2007 [cit. 2021-09-11]. Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=09000016805d4aa3](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805d4aa3).

consequences of sexism and offers states a set of particular measures to reduce its negative impact.<sup>17</sup> The key focus of gender equality is on enforcement issues. Even though the European Convention on Human Rights is a gender-neutral document, the European Court of Human Rights has created a judicial practice to interpret it in terms of issues related to women's rights. Landmark decisions were made, in particular, in cases related to violence against women, gender inequality, and gender stereotyping in the judicial system.<sup>18</sup>

Along with identifying barriers and overcoming them by informing, implementing mechanisms, and developing systematic integrated assistance, the OSCE proposes the concept of an "Integrated Gender Approach in Legislation" as a central link in the integration of gender aspects into the legal system.<sup>19</sup> According to this concept, the "Integrated Gender Approach in Legislatio" usually includes several stages: gender analysis, which includes a comprehensive consideration of the perceived different needs of men and women in the corresponding regulatory area, which aims to identify factors contributing to gender inequality in the living conditions of men and women, their needs, employment levels, access to resources and development opportunities, control over assets and decision-making powers; analyse the possible consequences of the adoption of laws for men and women, including in the context of factors identified within the framework of the gender analysis at the first stage; include gender-oriented measures, concepts, and aspects in adopted laws; and develop and implement gender indicators that allow regular monitoring of the achievement of the goals set by the law. The OSCE also released Toolkit 4: Gender and Security,<sup>20</sup> which is part of the set of tools on gender issues and security.

One of the conditions for gender-based budgeting (a new technology aimed at ensuring equal rights for men and women with services paid for from the budget) is the availability of gender statistics necessary to identify, produce, and disseminate statistics reflecting the situation women and men find themselves in. Current gender data gaps and lack of data on future trends complicate women's progress monitoring in all countries of the world. If gender is considered in national statistical strategies and has a priority in data collection, then gender scarcity persists. According to some estimates, the availability of such data is only 29.2% in Europe and North America, and the availability of data on future trends (as well as data for at least two periods) is even lower – 18.5%.<sup>21</sup> The generation of gender statistics involves disaggregating data by gender and other features to identify differences and collecting data on particular issues relating to

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<sup>17</sup> Recommendation CM/Rec(2019)1 of the Committee of Ministers to member States on preventing and combating sexism: adopted by the Committee of Ministers [online]. 2019 [cit. 2021-09-13]. Available at: <https://rm.coe.int/168093b26a>.

<sup>18</sup> Training manual for judges and prosecutors on women's access to justice [online]. 2017 [cit. 2021-09-12]. Available at: [https://www.ohchr.org/Documents/Issues/Women/WRGS/TrainingManualAccessJustice\\_RU.pdf](https://www.ohchr.org/Documents/Issues/Women/WRGS/TrainingManualAccessJustice_RU.pdf).

<sup>19</sup> The global gender gap report [online]. 2017 [cit. 2021-09-10]. Available at: <https://www.weforum.org/reports/the-global-gender-gap-report-2017>.

<sup>20</sup> Gender and security toolkit. Tool 4: justice and gender [online]. 2019 [cit. 2021-09-12]. Available at: <https://www.osce.org/odihr/440831>.

<sup>21</sup> Turning promises into action: gender equality in the 2030 Agenda for sustainable development [online]. 2018 [cit. 2021-09-13]. Available at: <https://u.to/555MGw>.

one gender more than the other, or relating to gender relations between women and men. Gender statistics should also adequately reflect the differences and inequalities between women and men. In other words, the concepts and definitions used in data collection should be designed in such a way as to cover the polyvariance of different groups of women and men, their specific activities and issues. Furthermore, data collection methods that cause gender bias in data gathering should be avoided, such as underestimating reports on women's economic activities or underestimating the level of violence against women.<sup>22</sup>

It can be stated that nowadays, gender equality in Ukraine is a cross-cutting subject, and as such should be considered an integral part of the legislative process, national priorities, programmes, and budgets. Access to justice is guaranteed by effective judicial remedies. In practice, this mainly applies to criminal cases, where a thorough and effective investigation and respect for the inviolability of the individual are of key importance. However, equal access to justice is also ensured through legal aid mechanisms due to the complexity of the case and the material or emotional state of the party to the procedure. In this context, it is important to account for gender issues.<sup>23</sup> The principle of equality is stipulated in Articles 21 and 24 of the Constitution of Ukraine, numerous codes, laws, and sub-legislative acts.<sup>24</sup> Thus, in 2006, the Law of Ukraine "On Ensuring Equal Rights and Opportunities for Women and Men in Ukraine",<sup>25</sup> as well as Resolution of the Cabinet of Ministers of Ukraine No. 1834 of 27 December 2006 approved the National Programme for the Approval of Gender Equality in Ukrainian Society for the period up to 2010,<sup>26</sup> which made a provision for state support for gender research. The adoption of the Law of Ukraine No. 5207-VI "On the Basics of Preventing and Counteracting Discrimination in Ukraine" of 6 September 2012.<sup>27</sup> On 9 October 2020, the Cabinet of Ministers of Ukraine adopted Resolution No. 930 of equal rights and opportunities for women and men. According to which, a specially created unit is entrusted with the functions of analysing the level of compliance with the corresponding rights, collecting statistical material, drawing up "gender portraits", and conducting "gender audits".<sup>28</sup>

In Ukraine, judges are vested with rather broad powers, that is, they have the right to raise questions before the court of constitutional jurisdiction regarding the

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<sup>22</sup> Integrating a gender perspective into statistics [online]. 2016 [cit. 2021-09-10]. Available at: <https://unstats.un.org/unsd/demographic-social/Standards-and-Methods/files/Handbooks/gender/Integrating-a-Gender-Perspective-into-Statistics-E.pdf>.

<sup>23</sup> ROMANYAK, O. *Gender equality and justice in the Republic of Belarus* [online]. 2019 [cit. 2021-09-12]. Available at: <https://rm.coe.int/prems-189819-rus-2019-gender-ok-web/16809ef14a>.

<sup>24</sup> Constitution of Ukraine [online]. 1996 [cit. 2021-09-09]. Available at: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>.

<sup>25</sup> Law of Ukraine No. 2866-IV "On Ensuring Equal Rights and Opportunities for Women and Men" [online]. 2005, September [cit. 2021-09-10]. Available at: <https://zakon.rada.gov.ua/laws/show/2866-15#Text>.

<sup>26</sup> Resolution of the Cabinet of Ministers of Ukraine No. 1834 "On approval of the State Program for the Promotion of Gender Equality in Ukrainian Society for the period up to 2010" [online]. 2006, December [cit. 2021-09-09]. Available at: <https://zakon.rada.gov.ua/laws/show/1834-2006-%D0%BF#Text>.

<sup>27</sup> Law of Ukraine No. 5207-VI "On Principles of Preventing and Combating Discrimination in Ukraine" [online]. 2012, September [cit. 2021-09-12]. Available at: <https://zakon.rada.gov.ua/laws/show/5207-17#Text>.

<sup>28</sup> Some issues of ensuring equal rights and opportunities for women and men [online]. 2020 [cit. 2021-09-12]. Available at: <https://zakon.rada.gov.ua/laws/show/930-2020-%D0%BF#Text>.

unconstitutionality of legislative provisions that are discriminatory in nature; not required to wait for the adoption of a particular regulatory prescription to ensure protection against discriminatory attitudes; to make decisions aimed at overcoming well-established discriminatory approaches and practices; to use international and regional human rights treaties in their decisions; to directly apply constitutional provisions guaranteeing protection against gender discrimination; to refer to the case law of international and regional judicial institutions (ECHR, UN Human Rights Committee, UN Committee on the elimination of discrimination against women, the EU Court of Justice, etc.) to argue their position on a case; and to state the fact of discrimination. But Ukraine currently has several issues concerning the gender equality impact upon the administration of justice. Notably, gender issues did not receive proper attention in the strategy for the development of the judicial system of Ukraine from 2015 to 2020, which indicates its rejection as an important issue that covers all spheres of society and is related to the implementation of legal proceedings.<sup>29</sup> The current problems of the impact of gender equality in Ukraine include the insufficient level of appropriate gender statistics both relating to the judicial corps and relating to the state of judicial proceedings, as well as relating to the generalisation of corresponding judicial practice performed by courts or public organisations. That is, there is a so-called “invisibility of the issue”.

The problem in the issue of gender equality is also the fact that Ukrainian society lacks a precise interpretation of the interrelation between the terms “gender equality” and “judicial branch of government”. In this context, it was important to present at the National Academy of Sciences of Ukraine the Gender Sensitivity Index on the judiciary, designed to measure the progress of integration of the principle of equal opportunities into the justice system, including rights and responsibilities of women and men. The index includes components such as leadership and the gender balance of the judiciary; gender perspectives in the development of training programmes for judges and court staff; the administration of gender-based justice; and monitoring data in the administration of justice in cases involving gender discrimination. The qualification requirements for representatives of the judicial profession were investigated by the High Qualification Commission of Judges of Ukraine together with the international public organisation “Universal examination network” aided by the US Agency for International Development (USAID) Project “Fair Justice”.<sup>30</sup> During the analysis of the corresponding statistics, the fact of differences in the assessments of personal and moral qualities of a judge and differences in the types of professional issues faced by female judges and male judges was revealed. Very important in this regard is the fact that the training of highly professional specialists, which are judges, currently includes not only basic knowledge and skills, but also the correct interpretation of the social context of justice. As a result, attention to the implementation of the principle of equal rights and opportunities for

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<sup>29</sup> Decision of the Council of Judges of Ukraine No. 71 “On Approval of the Strategy for the Development of the Judicial System of Ukraine for 2015–2020” [online]. 2014, December [cit. 2021-09-12]. Available at: <https://zakon.rada.gov.ua/rada/show/vr071414-14#Text>.

<sup>30</sup> USAID New Justice Program [online]. 2016 [cit. 2021-09-11]. Available at: <https://newjustice.org.ua/uk/pro-program/>.



women and men in the conduct of legal proceedings acts as a considerable component of professional education and training of future judges.<sup>31</sup>

One of the problems in this area is the fact that Ukraine currently hosts an imperfect mix of gender and anti-discrimination expertise of draft regulations, which act not only as an analysis of women's rights, but also as a study of the conditions for ensuring gender equality. Today, these types of examinations are conducted by various bodies. Gender expertise is performed by the Ministry of Justice of Ukraine (in 2015, these were the Laws of Ukraine "On Resorts", "On Tourism", "On Innovation", "On Income Indexation", etc.). Anti-discrimination expertise is conducted by the legal service of the executive authority, so it is impossible to get acquainted with the systematised data on the results. Therefore, the courts mostly refuse to consider the party's references in the case to the discriminatory nature of the provision of a regulatory act, even though it had passed an anti-discrimination or gender examination, and therefore its compliance with the requirements of the principle of non-discrimination is presumed.<sup>32</sup> Gender stereotypes, which can influence both the public response and the response of the criminal justice system, are also a relevant issue. These include masculinity-femininity stereotypes, which correspond to normative ideas about somatic, mental, and behavioural properties inherent in men and women; stereotypes of combining family and professional roles according to gender; and stereotypes of the professional activity of men and women, determined by the specific features of the content of work. Notably, the percentage of female judges, according to the recommendation of the UN Economic Commission for Europe, constitutes an important indicator of gender equality in the decision-making at the state level. Thus, the representation of women in the judicial profession allows knowledge of their involvement in the decision-making to resolve disputes, protect violated rights, and punish those responsible. To date, there is still a problematic "glass ceiling" phenomenon for female judges, which complicates their career progression and preventing women from obtaining an administrative position in court. Statistics indicate that women are less likely than men to receive appointments that contribute to rapid career progression.<sup>33</sup>

Gender inequality in business interactions manifest themselves in two ways. This is a common practice of professional segregation, which makes prestigious professions and positions less accessible to women compared to men; as well as a pronounced tendency of discrimination when women receive less remuneration for work compared to men. Although age discrimination is the most common manifestation of bias in the Ukrainian labour market, gender discrimination is also quite common. At an older age, women are fully aware of the cumulative effect of double discrimination – based on gender and age, as evidenced by media publications.<sup>34</sup> Today in Ukraine, there is a situation where working women, faced with discrimination, are ready to accept the

<sup>31</sup> Gender equality in the judiciary [online]. 2021 [cit. 2021-09-11]. Available at: [http://icps.com.ua/assets/uploads/images/images/eu/genderna\\_r\\_vn\\_st\\_u\\_sudov\\_y\\_sfer\\_.pdf](http://icps.com.ua/assets/uploads/images/images/eu/genderna_r_vn_st_u_sudov_y_sfer_.pdf).

<sup>32</sup> BOBROVA, U. U. *Gender aspect of judicial activity (theoretical and legal dimension)* [online]. 2020 [cit. 2021-09-19]. Available at: <https://u.to/u55MGw>.

<sup>33</sup> OKSAMITNA, S. M. *Gender roles and stereotypes*. Kyiv: KIS, 2004.

<sup>34</sup> You are a woman and you are 50: How to find a job? [online]. 2016 [cit. 2021-09-10]. Available at: <https://u.to/8J5MGw>.



situation rather than fight for their rights, while abroad, Ukrainian women successfully defend their labour rights in courts, as Oksana Denysenko did, for example, after winning a lawsuit against her employer, the investment bank Credit Suisse – in a London court.<sup>35</sup> The process of challenging the facts of gender discrimination differs from others because the specificity lies in the difficulty of acknowledging the facts of discrimination or violence, the victims of which are most often women (shame, fear of judgment, fear of revenge), and therefore there is no recourse to the relevant structures or there is a refusal to testify due to a sense of fear, which complicates the control over the reflection of such facts and excludes the possibility of any response to them. However, according to the results of a survey of judges and lawyers, responses regarding manifestations of gender bias partially correlate with the perception that discrimination is not seen as a problem in Ukraine, but as part of culture – this perception is inherent in 43% of lawyers and 32% of judges. Almost a quarter of judges (24%) tend to deny the existence of discrimination altogether (15% of lawyers), and more than a third (37%) recognised isolated cases of unfair treatment that should not be considered discrimination (31% of lawyers). And only 6% of judges and 9% of lawyers consider discrimination a serious issue.

Of the 30,277 judges and staff who work in local and appellate courts of Ukraine as of 1 January 2021, 75% (22,756) are women and 25% (7,521) are men. Also, according to statistics, the number of women heads of judicial institutions is gradually increasing: 37% in a head position and 35% in deputy head positions. Men are more often elected as heads of institutions and deputies. However, the court staff is mostly headed by women: 499 out of 651 are headed by it, and out of 671 deputy heads, 82%.<sup>36</sup>

In 2021, the overall gender gap index in Ukraine was 71.4%. Western Europe remains the region closest to gender parity (77.6%) and has shown the fastest progress this year. Next are North America (76.4%), Latin America and the Caribbean (72.1%), Eastern Europe and Central Asia (71.2%), East Asia and the Pacific (68.9%), South Africa Sahara (67.2%), South Asia (62.7%). The Middle East and North Africa remain the region with the largest gender gap (60.9%).<sup>37</sup> Legislation in the Middle East and North Africa does not provide for gender equality, and women cannot choose housing, leave home without their husband's permission, get a job, obtain a passport, or travel abroad.<sup>38</sup>

The analysis of the above provisions suggests that there are many international legal provisions governing mechanisms for achieving gender equality, Ukrainian legislation states ensuring equal rights and opportunities for women and men, but gender inequality

<sup>35</sup> Banker who lost job while on maternity leave gets £1.5 m pay out [online]. 2010 [cit. 2021-09-10]. Available at: <https://u.to/0J5MGw>.

<sup>36</sup> DANKEVYCH, V. Y. – KAMENCHUK, T. O. – KONONOVA, O. Y. – NADTOCHII, I. I. – OHOR, H. M. Strategic planning for sustainable development of states: Administration aspect. *International Journal of Management*. 2020, Vol. 11, No. 4, pp. 511–522.

<sup>37</sup> Universal Periodic Report of the UN HRC on Ukraine [online]. 2017 [cit. 2021-09-15]. Available at: <https://www.ohchr.org/en/hrbodies/upr/pages/uaindex.aspx>.

<sup>38</sup> FANG, K. – XU, A. – HE, J. – FANG, C. – LIU, Q. Integrated assessment and division management of sustainable development in the Belt and Road countries. *Chinese Science Bulletin*. 2021, Vol. 66, No. 19, pp. 2441–2454.

remains an issue for Ukraine. The justice system is no exception. That is why it is necessary to consolidate efforts at all levels, combining the capabilities of the state, international institutions, and public organisations, to promote parity for both sexes at the level of justice administration.

#### 4. DISCUSSION

All over the world, both sexes have equal intellectual and physical abilities. At the same time, the state is an institution for men to survive both sexes in order to achieve their goals and ambitions by peaceful and more prepared means. The researchers noted that control of both sexes by customs and traditions, rules and regulations, physical strength, economic skills, level of education and other factors, and competition for inadequate resources in society are common features at both the intra- and inter-gender levels.<sup>39</sup> This leads to gender separation and marginalisation among both sexes. Research has shown that by giving women the opportunity to stand up for their rights, women become better prepared for changes in their communities.<sup>40</sup> At the same time, when such projects are implemented in conjunction with legal and institutional reforms, progress will finally be made in making women's rights into a reality. Gender justice and modernisation are the driving forces of social and cultural change in society. Modernisation through higher levels of education helps change gender roles. In most developed countries, women are considered to hold senior management positions because of gender equality and justice, which reduces the rate of domestic violence. Similarly, researchers explain that modernisation will change gender responsibility and lead to better changes in women's professional participation and, as a consequence, in various positions, including justice.<sup>41</sup>

According to researchers, the issue of gender inequality has never become as relevant as in the modern global context.<sup>42</sup> The COVID-19 pandemic has been devastating for many populations in terms of morbidity and mortality, economic growth, and emotional wellness. However, COVID-19 is likely to add a disproportionately greater impact on women, as female-dominated service industries are more affected by the accompanying recession and in the context of rising child care requirements.<sup>43</sup> Intimate partner violence can also increase, as quarantine leads to social isolation of survivors

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<sup>39</sup> HAMIDU, I. – ALHAJI ALI, M. Challenges of women participation in politics of Yobe State. Nigeria. *Sahel Analyst: Journal of Management Sciences*. 2018, Vol. 16, No. 4, pp. 98–110.

<sup>40</sup> KHAN, I. – EBADI, S. *Accessing justice: models, strategies and best practices on women's empowerment* [online]. 2013 [cit. 2021-09-11]. Available at: [https://www.idlo.int/sites/default/files/Womens\\_Access\\_to\\_Justice\\_Report\\_Summary.pdf](https://www.idlo.int/sites/default/files/Womens_Access_to_Justice_Report_Summary.pdf).

<sup>41</sup> HUSSAIN, A. – AHMAD, N. – MANZOOR, R. – HAMEED, M. Impact of modernization on gender roles – A study of advocates in Muzaffar Garh. *International Letters of Social and Humanistic Sciences*. 2015, Vol. 52, pp. 15–22.

<sup>42</sup> ALON, T. M – DOEPKE, M. – OLMSTEAD-RUMSEY, J. – TERTILT, M. *The Impact of COVID-19 on gender equality* [online]. 2020 [cit. 2021-09-12]. Available at: <https://www.nber.org/papers/w26947>.

<sup>43</sup> Id.

and a reduction in available services.<sup>44</sup> Researchers note that any recession exacerbates gender equality violations.<sup>45</sup> According to other lawyers, COVID-19 has identified weaknesses in the justice process regarding the application of gender equality.<sup>46</sup> Responding to the pandemic, courts in many countries are changing their practices in ways that improve access, including through the introduction of technologies for sharing information and conducting transactions, such as filing petitions and requesting protective court orders. Remote hearings using phones and videos have become the new norm, while some court services can be rendered via email and text messages. But, while new technologies should be welcomed, vulnerable people, including women, are at risk of being left behind.<sup>47</sup> In this situation, the courts have taken a sorting approach during the crisis, for example by postponing non-emergency cases and extending some existing court rulings. Women were given the opportunity to unconditionally extend protection orders and decisions on custody of children. More generally, judicial sorting indicates how cases can be resolved most effectively in the long run. Scientists believe that significant and long-term reforms may well be needed, given the additional threats associated with the pandemic and its economic consequences.

Researchers propose two ways to minimise the identified risks.<sup>48</sup> Firstly, the pandemic should not be allowed to widen the gender justice gap. This requires an assessment of whether judicial measures responding to the pandemic could have had planned or unintended negative consequences for women. Gender should also be considered in the context of other aspects of disadvantage, such as poverty, ethnicity, disability, language, and location. Secondly, the crisis provides an opportunity to add to the growing knowledge of what works to improve women's access to justice. This requires monitoring and evaluating new initiatives and collecting data. Most importantly, measures that help bridge the gender equity gap should be permanent and scalable as needed, rather than being regarded as temporary and reversible. To maintain gender justice during the pandemic, researchers recommend that both private and public organisations adhere to the principles of gender equality in order to ensure gender justice for the development of the national economy; parents explain to children the importance of gender equality and gender justice in society, which would help strengthen national unity as well as the national economy; in the justice sector, any gender crime should be punished to minimise the level of gender violence in society.<sup>49</sup> In their study, the researchers insist on

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<sup>44</sup> VAN GELDER, N. – PETERMAN, A. – POTTS, A. – O'DONNELL, M. *COVID-19: Reducing the risk of infection might increase the risk of intimate partner violence* [online]. 2020 [cit. 2021-09-12]. Available at: <https://www.thelancet.com/journals/eclinm/article/PIIS2589-5370%2820%2930092-4/fulltext>.

<sup>45</sup> SCHNEIDER, D. – HARKNETT, K. – MCLANAHAN, S. *Intimate partner violence in the Great Recession*. *Demography*. 2016, Vol. 53, No. 2, pp. 471–505.

<sup>46</sup> OKORO, S. – PRETTITORE, P. *Around the world, women have fewer rights than men – and COVID-19 is making it worse* [online]. 2020. [cit. 2021-09-12]. Available at: <https://www.weforum.org/agenda/2020/06/will-covid-19-widen-the-gender-justice-gap>.

<sup>47</sup> FIELDING-MILLER, R. – HATCHER, A. M. – WAGMAN, J. – SWENDEMAN, D. – UPADHYAY, U. D. *Gender, justice and empowerment: creating the world we want to see*. *An International Journal for Research, Intervention and Care*. 2020, Vol. 22, pp. 1–12.

<sup>48</sup> Id.

<sup>49</sup> ALHAJI ALI, M. – BURATAI, H. A. *Women and gender equality: justice or civilization?* *Journal of Liberty and International Affairs*. 2020, Vol. 5, No. 3, pp. 55–68.

increasing efforts to expand women's access to justice and integrate the components of legal empowerment into broader legislative reform projects aimed at providing women with quality justice. Representatives of the doctrine emphasise that the effectiveness of judicial protection of the rights and freedoms of women and men in gender-sensitive cases can be improved by including relevant academic disciplines in the training programmes of judges.<sup>50</sup> At the same time, the overall low effectiveness of judicial enforcement of the principle of gender equality is also explained by the lack of proper response to victims of gender-based offences committed against them. At the same time, the types of gender-sensitive cases that need to be tracked through the collected statistics have not yet been identified, and it is advisable to enter data on criminal cases by the gender of persons against whom restrictive measures are applied, including the types of these measures. Legal experts fairly point out that in administrative cases, monitoring is shown using the gender of persons brought to criminal responsibility, but this is not separated by types of offences. In civil cases, monitoring is based on the gender identity of the plaintiff and the adopted child, not on the type of claims.<sup>51</sup> More women are held accountable for non-compliance with parental responsibilities, although both parents are equally responsible for these responsibilities.<sup>52</sup>

Furthermore, data on the age and gender of victims and perpetrators, relationships between them, types of violence, and the geography of offences should be collected for qualitative analysis of situations related to gender-based violence. After the introduction of the Gender Sensitivity Index, the state judicial administration of Ukraine started gathering statistical data on the ratio of women to men in the judicial system. Researchers emphasise that, despite the presence of positive trends, comparison of the number of women and men who preside over local and appellate courts still indicates a considerable difference.<sup>53</sup> Therewith, women significantly predominate in the court staff. In recent years, researchers have drawn conclusions about social, as well as gender stereotypes that support the construction of a consistent and ordered picture of the social world by an individual.<sup>54</sup> Gender stereotyping in the judicial system is expressed in discriminatory opinions regarding certain qualities, features, or roles based on a person's belonging to a certain social group. Stereotypes influence judges' beliefs and understanding of gender equality, which may ultimately affect the implementation of key principles of impartiality, adversarial proceedings, and equality of parties in the court. On the other hand, gender stereotypes create additional barriers to women's access to justice when, apart from the subject of judicial proceedings, they have to make additional efforts and resources to overcome them. In this regard, measures to prevent the

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<sup>50</sup> HRYTSAI, c. d.

<sup>51</sup> RANKIN, Y. A. – THOMAS, J. O. – ERETE, S. Black women speak: Examining power, privilege, and identity in CS education. *ACM Transactions on Computing Education*. 2021, Vol. 21, No. 4, Article number 26.

<sup>52</sup> The input of the judiciary in ensuring gender equality as the subject of the rule of law donors and implementers meeting [online]. 2021 [cit. 2021-09-11]. Available at: <https://u.to/355MGw>.

<sup>53</sup> STRANG, V. Gender and pan-species democracy in the Anthropocene. *Religions*. 2021, Vol. 12, No. 12, Article number 1078.

<sup>54</sup> KABALEVSKAYA, A. I. Representations of gender stereotypes in modern social psychology. *Psychological Research*. 2012, Vol. 2, No. 22, pp. 1–4.

conditions and consequences of the social, as well as gender stereotyping in the justice sector, require increased attention in terms of improving the training of judges, developing the infrastructure of courts and related institutions, and continuously improving the system of legal aid to subjects of justice based on their real needs.<sup>55</sup> An essential recommendation for the introduction of gender equality in Ukraine in the administration of justice is knowledge of national legislation, including current international treaties and practices of the ECHR, and attitude towards it not as a declarative provision, but as certain remedies, which must be practical and provide effective protection of the violated right. Otherwise, the principle of gender equality may remain a “theoretical and illusory” right. The representatives of legal professions should have the skills to identify discriminatory situations based, in particular, on sex and gender, know and comply with the standard of proof. Other scientists also support the outlined position and call for overcoming gaps in knowledge and skills in this area, given that these actions are united by the goal of the correct legal qualification of established factual circumstances.<sup>56</sup>

The effective implementation of the principle of gender equality in justice should be performed with an emphasis on increasing the level of democracy in gender-legal relations and development of the principles of gender parity on their basis.<sup>57</sup> The solution to this problem should be approached comprehensively, implementing the achievements of science in solving gender issues, introducing a gender approach in all areas of national policy and management, judicial proceedings through improving and evaluating decision-making processes, creating legislation, and developing strategic policies and programmes in all areas and at all levels.

Researcher<sup>58</sup> of Ukraine and foreign legal scholars<sup>59</sup> note the following key initiatives regarding the implementation of gender equality in the field of justice, which can be implemented in the legislation of Ukraine:

- gender equality projects should be implemented in conjunction with legal and institutional reforms;
- gender modernisation will change gender responsibility and lead to better changes in women’s professional participation and, as a result, in various positions, including in the field of justice;
- responding to the pandemic, courts in many countries are changing their practices in ways that improve access, including through the introduction of technologies for sharing information and conducting transactions, such as filing petitions and requesting protective court orders; adapting during a crisis, for example by postponing non-emergency cases and extending existing court rulings;

<sup>55</sup> ROMANYAK, O. *Gender equality and justice in the Republic of Belarus* [online]. 2019 [cit. 2021-09-12]. Available at: <https://rm.coe.int/prems-189819-rus-2019-gender-ok-web/16809ef14a>.

<sup>56</sup> KOZYUBRA, M. I. *General theory of law*. Kyiv: Vaite, 2015.

<sup>57</sup> BOBROVA, U. U. *Gender aspect of judicial activity (theoretical and legal dimension)* [online]. 2020 [cit. 2021-09-19]. Available at: <https://u.to/u55MGw>.

<sup>58</sup> Id.

<sup>59</sup> SIRIWARDHANE, P. – KHAN, T. The gendered nature of the risk factors of the COVID-19 pandemic and gender equality: a literature review from a vulnerability perspective. *Sustainability (Switzerland)*. 2021, Vol. 13, No. 23, Article number 13375.

- researchers state important and long-term reforms in the field of gender equality in the administration of justice, considering the additional threats associated with the pandemic and the corresponding economic consequences;
- it is necessary to evaluate whether judicial responses to the pandemic could have had planned or unintended negative consequences for women, and to monitor and evaluate new initiatives and collect relevant data;
- the effectiveness of the judicial protection of the rights and freedoms of women and men in gender-sensitive cases can be improved by including relevant academic disciplines in the training programmes of judges;
- measures to prevent the conditions and consequences of the social, as well as gender stereotyping in the justice sector require increased attention in terms of improving the training of judges, developing the infrastructure of courts and related institutions, and continuously improving the system of legal aid to subjects of justice based on their real needs;
- the attitude towards the ECHR regarding the practice of considering cases of gender discrimination should not be as towards a declarative provision, but as towards certain remedies;
- implementing foreign experience in governing the gender organisation of judicial proceedings, it is proposed to include gender experts in the commission on legal reform under the president of Ukraine, the Committee on Legal Policy and Justice of the Verkhovna Rada of Ukraine, the High Qualification Commission of Judges of Ukraine, and the High Council of Justice; to provide quotas in order to ensure equal representation of female judges; to ensure the creation of control mechanisms by the Ombudsman of Ukraine regarding the application of legislation on ensuring equal rights and opportunities for women and men; to ensure the organisation of scientific and expert research on gender issues of judicial activity.

## 5. CONCLUSIONS

Achieving equality between women and men is a major goal and an integral part of the international development agenda. The principle of gender equality embodies the notion that it is impossible to achieve the exercise of human rights without men and women being fully guaranteed equal rights, responsibilities, and opportunities. This principle is consolidated in numerous international treaties, national constitutions, and legislative acts of states around the world. If gender equality is a long-term overall policy goal, ensuring gender mainstreaming is a set of strategic approaches used in a particular context, as well as the technical and institutional processes designed to achieve that goal. The sphere of justice, as the central link of a modern democratic society, requires the use of innovative methods in the field of gender equality. Without considering the relevant factors and fundamental concepts of equality established by international human rights provisions, full access to justice is hardly possible.

Ukrainian legislation ensures equal rights and opportunities for women and men, but gender inequality remains a problem for Ukraine. The recognition of gender equality in

Ukraine as a key aspect of sustainable development requires the introduction of a gender integration policy in all areas, including in the justice system, where it is necessary to recognise gender aspects upon delivering justice in a particular case; to identify situations and discriminatory actions; to identify cases where the violation of a person's rights and legitimate interests is the result of discriminatory provisions of national legislation or neutral legislative provisions that in practice lead to discriminatory consequences, as well as gender stereotypes through the lens of which legislation is applied. Strong levers in this regard are as follows: gender statistics, which should reflect gender issues related to all aspects of women's and men's lives, including their specific needs, opportunities, and contributions to society; a concrete understanding of the interrelation between the concepts of gender equality and the judicial branch of government; improving the system of gender and anti-discrimination expertise of draft regulations; and combating the presence of gender stereotypes that can affect both the public response and the response of the criminal justice system.

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