

**IMPLEMENTATION OF ACCOUNTABILITY MECHANISMS  
FOR VIOLATION OF LEGISLATION ON ENSURING EQUAL  
RIGHTS AND OPPORTUNITIES FOR WOMEN AND MEN  
IN UKRAINE: PROBLEMS AND PROSPECTS  
FOR IMPROVEMENT**

**Kuzava V. I.**

*PhD Student,*

*Lesya Ukrainka Volyn National University*

*Lutsk, Ukraine*

The Universal Declaration of Human Rights of 1948 [1] proclaims that all people are born free and equal in dignity and rights, regardless of sex, which has become a fundamental principle for the formation of the modern understanding of gender equality. The Constitution of Ukraine [2], as the fundamental law of the state, also guarantees the equality of citizens and prohibits any privileges or restrictions on the basis of sex. It enshrines the equal rights of women and men in all spheres of public life, in particular in labor, education and political activity.

Despite the presence of an appropriate regulatory and legal framework at the highest level, implementation of gender equality in Ukraine remains a challenging task. The mechanisms of accountability for violations of legislation in this area still raise significant concerns about their effectiveness and practical implementation.

According to the article 24 of the Law of Ukraine “On ensuring equal rights and opportunities of women and men” [3] and article 16 of the Law of Ukraine “On the principles of preventing and combating discrimination in Ukraine” [4], persons guilty of violating the requirements of the legislation on ensuring equal rights and opportunities of women and men shall bear civil, administrative and criminal liability in accordance with the law.

However, the Code of Ukraine on Administrative Offenses still does not have an article that would provide administrative liability for discrimination in Ukraine, despite the explicit requirement in both laws. Accordingly, Ukraine still does not even have an effective mechanism for administrative liability for violating the principle of equality. For example, the Code of Ukraine on Administrative Offenses does not have relevant norms that propose liability for this behavior, nor does it have sanctions that could provide liability for violating the principle of equality. Furthermore, the legislative level has not regulated the procedure for bringing administrative liability in these cases, and the agencies that would have the power to decide the cases, as well as formalize the offenses, have also not been

defined [5, p. 34]. The absence of these mechanisms complicates effective enforcement of the principle of equality through administrative liability [6, p. 28].

Of particular concern is the approach to combating discrimination in the Ukrainian labor sphere. According to Article 60-2 of the Labor Code [7], “an employee may request from the employer a temporary transfer to remote work for a period of up to two months if actions containing signs of discrimination were committed against him at the workplace. At the same time, the employer may refuse the employee such a transfer if remote work is not possible, taking into account the employee’s job function, as well as if the employee has not provided facts confirming that discrimination, sexual harassment, or other forms of violence have taken place”. This norm is extremely problematic, as it shifts the burden of proving the fact of discrimination to the victim himself and, in fact, does not provide for any mechanism for punishment for the violator [5, p. 35]. Thus, the existing legislative regulation not only does not guarantee the protection of persons who have been discriminated against, but also creates additional obstacles to the exercise of their rights [8, p. 13].

To remedy the situation, it is necessary to comprehensively strengthen accountability for violations of gender legislation by improving legal mechanisms.

First of all, it is necessary to amend the Code of Ukraine on Administrative Offenses, providing for a separate article that will establish administrative liability for violations of the principle of equality. This norm should contain sanctions in the form of fines for individuals and legal entities that commit discriminatory actions or fail to ensure an appropriate response to such cases. Furthermore, fines for violation of equality legislation should be sufficiently significant to ensure a preventive effect. It would be reasonable to introduce a differentiated scale of sanctions: a minimum fine for individuals (for example, heads of enterprises or institutions that allow discriminatory actions) of UAH 17,000, and for legal entities – up to UAH 80,000 with the possibility of increasing the fine in case of repeated violation [9, p. 86-87].

Secondly, one of the institutional weaknesses of Ukraine's anti-discrimination regime is the lack of diversified system of sanctions. The introduction of a more differentiated system of sanctions, such as reputational penalties or varying fines based on the nature and frequency of the violation, or the status of the violator (individual or legal entity), is a necessary condition for ensuring that anti-discrimination norms are not merely symbolic [5, p. 35-36]. For example, in Portugal, besides fines, administrative sanctions include in particular the following measures, which are available for all types of discrimination: publication of the decision; confiscation of property; prohibition of the exercise of a profession or activity which involves a public capacity or which depends on authorisation or official approval by the public authorities; removal of the right to participate in public markets; prohibition of access to establishments; suspension

of licences and other authorisations; removal of the right to the benefits granted by public bodies or services [10, p. 28].

Thirdly, equally critical is the need to revise formalistic procedures that place the full burden of proof on the claimant, disregarding the nature of discriminatory practices and conflicting with European standards. In line with the relevant EU directives, Ukraine should adopt a model in which the initial presentation of facts suggesting discrimination triggers a shift in the burden of proof to the employer [11]. Such a mechanism reflects the recognition that direct evidence of discriminatory intent is rarely available to claimants, and that employers are generally in a better position to provide objective justification for their actions [5, p. 36].

In conclusion, the current mechanism of accountability for violations of the right to equal rights and opportunities for women and men contains a number of gaps. Without the introduction of comprehensive and stricter sanctions, as well as a burden of proof to the employer, the implementation of the principles of equality will continue to be inconsistent and ineffective. These changes are appropriate and necessary to establish an effective legislative framework that will harmonize Ukrainian legislation with international obligations and contribute to the practical implementation of gender equality.

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## **МЕЖІ СФЕРИ ДІЇ ТРУДОВОГО ПРАВА ТА ДОМАШНЯ РОБОТА: ФЕМІНІСТИЧНА ІНТЕРПРЕТАЦІЯ**

**Луценко О. Є.**

*кандидат юридичних наук, доцентка,*

*доцентка кафедри трудового права,*

*Національний юридичний університет імені Ярослава Мудрого*

*м. Харків, Україна*

У світовій парадигмі гендер фігурує в побудові ринків праці та трудових правовідносин, у цьому контексті багато зарубіжних дослідників із трудового права з феміністичними налаштуваннями наголошують на важливості включення домашньої праці (*domestic labour*) та домашньої