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ГЕНДЕРНІ ВИМІРЮВАННЯ В СИСТЕМІ КООРДИНАТ ПУБЛІЧНОГО УПРАВЛІННЯ І АДМІНІСТРУВАННЯ

Анотація. Нині тривають конституційні реформи, спрямовані на розвиток демократичної правової держави та євроінтеграції. Рівні права та можливості для обох статей є одним із фундаментальних принципів демократії та поваги до особистості. Гендерна рівність пронизує всі положення Конституції Киргизії та України. Фактично, Основний закон визначає гендерну стратегію для держави. Найважливішою лінією жіночого руху останніх років є лобіювання необхідних змін у законах та законопроектах, що стосуються гендерних питань. У дослідженні аналізуються деякі аспекти представництва жінок у діяльності державних органів в Україні та Киргизькій Республіці. У дослідженні представлені теоретичні та практичні думки, експертні оцінки щодо представництва жінок у правовій державі. Також вирішуються проблеми реформування законодавства та основ суспільних відносин з початку 1990-х років і до теперішнього часу, що призвело до переосмислення сутності гендерної рівності та сприяло активізації розвитку нових підходів до правове регулювання у даній предметній сфері. Під час аналізу було відзначено, що для виконання міжнародних зобов'язань щодо досягнення гендерної рівності у досліджуваних країнах були розроблені конституційні рамки та гарантії дотримання принципу рівності, що також конституційовано положеннями Основного закону Республіки Киргизстан та Конституції України

Ключові слова: гендерна рівність, виборчі права, баланс, участь жінок, права людини

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GENDER DIMENSIONS IN THE COORDINATE SYSTEM OF PUBLIC MANAGEMENT AND ADMINISTRATION

Abstract. *Nowadays, constitutional reforms are continuing, which are aimed at the development of a democratic state governed by the rule of law and European integration. Equal rights and opportunities for both genders constitute one of the fundamental principles of democracy and respect for the individual. Gender equality permeates all the provisions of the Constitutions of Kyrgyzstan and Ukraine. In fact, the Fundamental Law determines the gender strategy for the state. The most important line of the women's movement in recent years has been lobbying for necessary changes in laws and draft laws related to gender issues. The study analyses some aspects of women's representation in the activities of government bodies in Ukraine and the Kyrgyz Republic. The study presents theoretical and practical opinions, expert assessments on the representation of women in a state governed by the rule of law. The problems of reforming the legislation and the foundations of public relations since the beginning of the 1990s and up to the present time are also addressed, leading to a rethinking of the essence of gender equality and contributing to the activation of the development of new approaches to legal regulation in the given subject area. During the analysis, it was noted that to perform international obligations to achieve gender equality in the countries under study, constitutional framework and guarantees of adherence to the principle of equality were developed, which is also constituted in the provisions of the Fundamental Law of the Kyrgyz Republic and the Constitution of Ukraine*

Keywords: *gender equality, electoral rights, balance, women's participation, human rights*

INTRODUCTION

Over the past decades, society has undergone considerable changes in the understanding and legitimisation of gender relations, and steps are constantly being taken to introduce an institutional mechanism for ensuring gender equality. The successful implementation and regulation of gender relations in society involves the affirmation of the value of gender equality both in society as a whole and in its various institutions in particular. These predominantly include the prevention of gender discrimination, ensuring equal participation of women and men in making socially important decisions (primarily in politics and in the labour market in general), ensuring equal opportunities for women and men to combine professional and family responsibilities, preventing gender-based violence, etc. The general principles of law, one of which is the principle of equality, represent the basic values, fundamental provisions, standards in ensuring the rights and freedoms of a person and a citizen; therefore, every developed state attempts to consolidate them in the provisions of its constitution. The corresponding principles are also consolidated in the Constitution of Ukraine. In particular, its provisions embody the internationally recognised principle of equal rights and freedoms of women and men. Equal rights and opportunities for both genders constitute one of the fundamental principles of democracy and respect for

the individual. An important component of the establishment of democracy is the gender component, which ensures the enjoyment of constitutional human rights and freedoms without gender-based discrimination. The establishment of a true democracy in all areas can only take place in a society with a factual principle of equal and equivalent civil dignity of women and men, ensuring equal opportunities for each of its members. Despite the fact that “women's participation in development” is currently an almost mandatory part of the catechisms of social and economic justice in most developing countries, the implementation of gender policy ambitions through State institutions has improved the situation of women only on the verge of survival at best, and has consistently failed to increase women's participation in decision-making, whether in the family, society, bureaucratic institutions, or the State. This persistent institutional failure to respond to the needs and interests of women in development, despite the constant efforts of gender policy advocates to adapt feminist political ambitions to changing development programmes, and despite the sometimes sincere good intentions of governments, draws theoretical attention to the gender aspects and public administration policies that underlie this particular model of institutional failure [1; 2].

The problem here is not just that the ambitions of feminist politics are being turned to dust by the slow click of bureaucratic mechanisms in the way of such redistributive policies. Instead, this study argues that public administration constitutes a gender-based process in and of itself, so that its outcomes, internal organisation, and culture reflect and promote the interests of men. “Gender” refers to socially constructed and institutionalised forms of identity that are associated with biological gender differences, and “gender approach” is the process that generates these forms through the provision or retention of significant social, political, and economic resources and values. The economic and political centrality of public services in the context of development is such that we use the term “gender policy” as an abbreviation for policies aimed at redistributing resources and values in the development process between the genders to change the asymmetry of importance and power associated with gender differences. Gender policy differs from the more familiar term “Women's Development Policy” in that the emphasis on gender constitutes a reminder that men are as limited as they are involved in the opportunities to contribute to this process [3-6]. Due to this, women can reflect and reproduce the pathologies of female marginality that arise as a result of the interaction of a wide range of other institutions. At the same time, they constitute an important stage to take a stand against this process and transform it in the interests of women. By the mid-1990s, the Kyrgyz Republic began the process of reforming legislation, which continues at the current stage due to the constant transformations of social and political life. In the same vein, the role of women in Kyrgyz society was re-evaluated at the level of their involvement in the sphere of state-building and governance. There was an anthropological turn, when women began to be granted a greater amount of rights, and which logically led to their development in the Kyrgyz Republic.

The presented understanding is conditioned by the recognition of the importance of the principle of equality in a state governed by the rule of law, which Kyrgyzstan has been gradually moving towards over the past 30 years. The development of gender equality in the Kyrgyz Republic is based on the recognition of international obligations through the development of the constitutional framework in the provisions of the Fundamental Law of the Kyrgyz Republic [7]. Admittedly, these processes were activated much earlier, but in the current conditions of social and legal reality, they have come to the fore. The issues of sustainable gender differentiation require close attention, both in the general conceptual aspect and in the specific historical conditions.

1. MATERIALS AND METHODS

Equality is one of the fundamental ideals underlying the French Constitution. The principle of gender equality was included in the preamble to the Constitution of 1946, which, like the Constitution of 1958, referred to the Declaration of the Rights of Man and of the Citizen of 1789. The reinstatement of the position of Secretary of State for Women's Rights and Equality in the Workplace in 2000 gave a new impetus to the national policy of gender equality and the full integration of gender equality into the legal framework of the European Union (EU). After the 2012 elections, an increased commitment to gender equality led to the re-establishment of the independent Ministry for Women's Rights, which had been closed two decades earlier. This has led to the mandatory adoption of a gender equality action plan by each ministry, as well as the appointment of gender equality officers in each policy area, reporting to the Minister for Women's Rights. However, the Government has currently reduced the level of responsibility for promoting gender equality to an Assistant Minister/Secretary of State [8-11]. France's approach to gender agenda mainstreaming is expected to be implemented through the institutionalisation of gender equality structures and inter-agency cooperation. For example, the Women's Rights and Gender Equality Service (SDFE) is responsible for addressing gender inequality issues at the local level.

While there is a legal framework to address the current problems of unequal power sharing between the genders, in practice it becomes increasingly dependent on goodwill and the ability to establish inter-agency cooperation, with specific structures and methodologies seemingly abandoned. France has a tradition of legislation on gender equality in the employment sector and professional life. Since the Equal Pay Act of December 22, 1972, at least 12 laws have been passed on this subject area until 2014. In February 2019, the Ministry of Labour launched the Index of Gender Equality (Indice d'Égalité de Genre) to measure and combat the gender pay gap and other gender inequalities at work [12]. Although France has experience with the adoption of legislation on gender equality, the first explicit references to the consideration of existing problems with the unequal division of rights and opportunities between the genders in national policy documents emerged only in 2000. It developed as a way to promote gender equality in society and public policy from the late 1990s to the early 2000s. Regional, departmental, and local authorities can initiate their individual gender equality policies. Decentralised services, such as the SDFE, monitor the implementation of the national gender equality policy at the regional or departmental level.

The policy-making of the European Union (EU) has also had a considerable impact on the institutionalisation of gender equality policy in Germany, while EU initiatives to address the existing problems of unequal distribution of rights and opportunities between the genders have stimulated discussion of appropriate tools and institutional mechanisms. The Fundamental Law of the Federal Republic of Germany of 1949 (Grundgesetz, GG), which is essentially the German Constitution, guarantees the principle of gender equality (Article 3 II GG). The Fundamental Law has been applied to the reunified state of Germany since 1990 and guarantees the equality of all citizens. The GG specifically addresses equality between women and men and obliges the German State to promote gender equality and eliminate existing inequalities. The gender equality mandate under the Constitution was amended in 1994 as follows: “The state promotes the effective implementation of equal rights for women and men and works to eliminate existing shortcomings” [13].

By a Cabinet decision of 23 June 1999, the Federal Government recognised the goal of gender equality as the guiding principle of its activities and adopted the consideration of existing problems with the unequal division of rights and opportunities between the genders as a joint strategy of all federal ministries.

2. RESULTS AND DISCUSSION

It is important to focus on the fact that the current spectrum of Kyrgyz parties purposefully affects the level of women's participation in political processes. It is no secret that in traditional societies, including the Kyrgyz Republic, there are still stereotypes about the secondary role of women. If the parties do not recognise their significant role, then, accordingly, the prospects for their election to more responsible positions become practically unachievable. The authors consider the participation of women in the system of government as an achievement of democracy, which allows recognising the difference of opinions and positions, which contain many debatable conceptual legal issues.

In the Kyrgyz Republic (the KR), as in many democratic states, men and women have equal rights, effective prerequisites for their implementation are laid down, which is implemented in the Constitution of the Kyrgyz Republic (2016) [7], the Laws of the Kyrgyz Republic “On State Guarantees of Equal Rights and Equal Opportunities for Men and Women” [14], “On State Civil Service and Municipal Service” [15]. The above-mentioned laws guarantee the provision of equal rights in all areas. One of the tasks of the conceptual order was the creation of an effective mechanism for ensuring equality of rights. This approach of the legislator has found the implementation of ensuring gender equality by the following means:

- optimisation of the regulation that takes into account the gender balance and gender-sensitive indicators;
- development of the institutional framework for gender equality;
- initiation of broad-based programmes in the country format;
- elimination of the imbalance in capabilities;
- integration of gender policy into long-term development programmes;
- mandatory recognition and implementation of the generally recognised provisions of the KR in this area.

The current state of affairs was preceded by a long journey. In the KR, work was initiated in 2012, and then the National Strategy for Achieving Gender Equality until 2020 was adopted [16], which defined the stages of the development of women's rights. According to the recognition of leading legal experts and human rights organisations, national practice can be recognised as positive, not only in one country, but also in the context of the whole CIS in general. Next, the study analyses a number of provisions of this Strategy. This concerned equal provision of rights through the implementation of the institutional framework: equality of rights and obligations; equality of opportunities for the genders; equality in family and domestic relations. Admittedly, all these achievements are not exhaustive, since there are still unimplemented points that also require detailed information. Thus, the equality of rights is stated in the Electoral Code of the KR with the

principle of double quotas, which can be interpreted as follows: “When determining the list of candidates, the party must take into account no more than 70% of persons of the same gender, with a difference in the order of candidates in the lists and not exceed three positions”. Consideration of this theoretical position corresponds to the expansion of the representation of women. Recognising the current imbalance, the Kyrgyz Government adopted the above-mentioned Strategy, which primarily affected the political leadership, economic and social activity, and social passionarity of Kyrgyz women. To achieve the objectives set out in the Strategy, a National Action Plan (NAP) was adopted [16], which details all aspects of gender equality. A similar law regulating the rights of men and women in Ukraine and establishing a balance for both genders in all sectors was adopted in 2005 [17].

The Government of the Kyrgyz Republic and local self-government bodies are also actively working to increase the number of women in various segments of the economy. According to the latest data, private preschool institutions are being supported, which will allow women to go beyond the household sphere. Innovations in the provision of micro-loans in rural areas and their access to broader resources can be considered a certain achievement, which will increase the level of financial independence of women in the Kyrgyz Republic. The government is also working on the development of adult education as another lever outside the Kyrgyz Republic, with the unemployment problem of surplus labour resources remaining the stumbling block for the state. Undoubtedly, the measures taken by the state will improve the situation in all segments of the economy, education, culture, and healthcare. Proceeding from forecasts, the employment structure in the KR will be transformed as well, which will affect the migration of the working-age population, including women. There is also controversy surrounding the recognition of the value of care-giving and household management on the principles of shared responsibility. In a number of states, namely in Germany, this issue has already been addressed at the legislative level. In 2012-2014, the specificity and peculiarity of the labour market in the KR were fully taken into account [16]. In Ukrainian legislation, such issues are regulated by the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men”, namely, in the section on “Ensuring equal rights and opportunities for women and men in the socio-economic sphere” [17].

In 2013, by Government Resolution No. 109 “On Functional Changes in the System of State Bodies of the Kyrgyz Republic”, gender equality was coordinated by the Ministry of Social Development of the Kyrgyz Republic. In 2012, the National Council for Gender Development was established [18]. This is a consultative and advisory coordinating body, which includes the Government of the Kyrgyz Republic, deputies of the Kyrgyz Republic, heads of state bodies, local self-government, and trade unions. Thus, to achieve 30% representation of women among the deputies of the Supreme Council of the Kyrgyz Republic, as well as for other quotas, certain measures were implemented. For example, the 2012 elections under the majority system did not fully meet the expectations of women's involvement. Their participation in local elections was the result of the lack of implementation measures in the legislation of the Kyrgyz Republic. Therewith, the number of women on quotas is gradually increasing, an example of which is the elections in a number of districts as of 2019-2020.

First of all, the gender balance in the legal field is regulated in Ukraine by the Constitution. Article 24 of the Constitution of Ukraine stipulates that citizens have equal constitutional rights and freedoms and are equal before the law. There can be no privileges or restrictions based on race, skin colour, political, religious or other beliefs, attitude towards gender, ethnic and social origin, property status, place of residence, language, or other attributes [19]. Equality of rights of women and men is ensured by:

- providing men and women with equal opportunities in socio-political and cultural activities, in obtaining education and professional training, in work and remuneration for it;
- special measures for the protection of labour and health of women, the establishment of pension benefits; the creation of conditions that allow women to combine work with motherhood;
- legal protection, material and moral support for motherhood and childhood, including the provision of paid leave and other benefits to pregnant women and mothers. The gender issue is also regulated by the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men”. There is a clear definition of discrimination and a number of mechanisms that should ensure equal rights for both genders in the state [17]. The problem of insufficient implementation of the principle of ensuring equal rights and opportunities for women and men is expected to be solved by applying an integrated approach and implementing measures aimed at meeting such priorities;
- improvement of the legal framework, the mechanism for conducting gender-legal expertise and the introduction of statistical indicators in the field of ensuring equal rights and opportunities for women and men. One of them is the indicator of the gender component in economic and social development programmes, taking into account the current needs of industries and regions [20-22].

Through the execution of the Programme, it is planned to improve the mechanism for ensuring equal rights and opportunities for women and men to contribute to the establishment of a basis for comprehensive implementation of the provisions of the law of Ukraine “On Ensuring Equal Rights and Opportunities of Women and Men”, international obligations and recommendations of the international monitoring bodies on sustainable implementation of the principles of gender equality.

The following results are expected to be achieved:

- expanding women's and men's access to goods and services by applying the principle of gender equality in all spheres of society's life by taking into account the gender component and the special needs of different categories of women and men related to such basic characteristics as age, place of residence, disability, and socio-economic status;
- the increase in the share of women among people's deputies of Ukraine, deputies of regional councils and local councils (cities of regional significance);
- reducing the wage gap between women and men;
- introduction of amendments to regulations on the improvement of the mechanism for conducting gender-legal expertise;
- establishing a comprehensive system for responding to and preventing gender-based discrimination;
- introduction of issues on ensuring equal rights and opportunities for women and men in the programmes of advanced training courses for civil servants, local government officials, and employees of state institutions on a permanent basis and ensuring the training of at least 10 percent of civil servants, local government officials, and employees of state institutions;
- ensuring the availability of statistical information on gender determination for indicators that comply with the EU acquis;
- creation of an effective system of cooperation between state authorities, international organisations, and public associations, whose activities are aimed at ensuring equal rights and opportunities for women and men in society [23; 24].

In the shadow report of the Committee on the Elimination of Discrimination against Women (CEDAW) for 2016, representatives of civil society noted that the strategic consideration of existing problems with the unequal division of rights and opportunities between the genders is not implemented comprehensively, fully, and sustainably [25-27], and noted problems with data collection (such as the creation of an independent institution), gender budgeting, and a specific implementation plan. Ukraine ranks 69th on the gender equality index (in the ranking among 142 countries). The index is calculated based on statistical data on the ratio of inequality between men and women in four important areas: economic participation and career opportunities, education, health and survival, and political rights and opportunities. The top 10 countries on the gender equality index included Iceland, Norway, Finland, Sweden, Ireland, Rwanda, the Philippines, Switzerland, Slovenia, and New Zealand. Comparing these data with the indicators of previous years, it is obvious that the state of gender equality in Ukraine has deteriorated. Thus, Ukraine indicated the best result in 2006, taking the 48th place. Then, according to some of the four computational parameters, Ukraine approached the level of 1.00, which means full gender equality in this area. Ukraine's position also declined quite significantly during the period from 2014 (56th place) to 2015 (67th place).

According to the results of the above-mentioned study, Ukraine traditionally has the best indicators in the field of access to education for both genders. As for higher education, women have even better indicators (in the ratio of 88 to 77). The number of women deputies (12%) in the national parliament and local representative bodies, in the highest positions of the executive branch or in local government bodies is extremely low. And although this trend of a certain “estrangement” of women from political and economic participation, in general, is yet inherent in global trends, the indicators still differ substantially. On average, women hold 22% of seats in national parliaments worldwide. A new impetus for the development of gender policy in Ukraine was the Association Agreement with the European Union [28; 29]. Ensuring equal opportunities for women and men, and combating discrimination are important goals of cooperation defined by the Agreement. These principles, combined with the best practices of the EU, have made it possible to prepare a result-oriented “State Programme for Ensuring Equal Rights and Opportunities for Women and Men for the period up to 2016” [30]. Furthermore, in 2016, the issue of gender balance in state structures was included in the “Strategies for the Development of Public Administration for the period 2016-2020” [31]. In 2003, the Council of Europe adopted a Recommendation on the Balanced Participation of Women and Men in Political and Public Decision-making. The governments of the Member States committed to achieving a minimum representation of 40% of women and men in political and public life through legislative, administrative, and supportive measures, and to adopt indicators to measure progress. In most Council of Europe Member States, the full and equal participation of women in political and public life, including in

legislative, executive, judicial, diplomatic, and administrative bodies at the local, regional, and national levels, is still below the minimum target of 40 % of the total number of people. Although women make up half of the population and half of the electorate, their percentage remains insufficient in all political and state processes. Women make up only a quarter of decision-makers in most areas of power (Fig. 1).

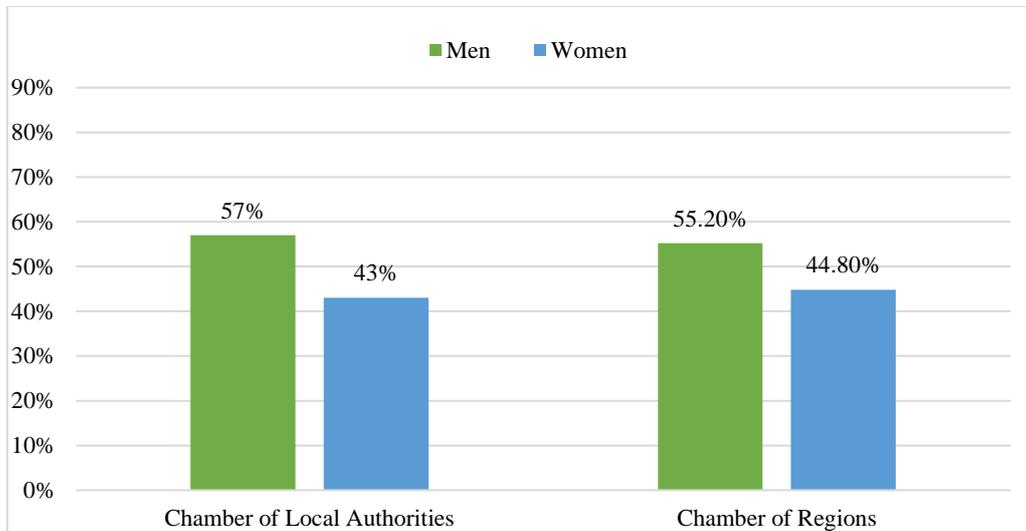


Figure 1. Gender balance in the Parliamentary Assembly of the Council of Europe

The diplomatic sector has a solid glass ceiling. The highest percentage of women (30.5%) were found in the lowest category (envoy advisers), while only 13% of women held the highest-level positions: ambassadors Extraordinary and Plenipotentiary. In most countries, the average participation of women in all four categories was below 20%. Both chambers of the Congress of Local and Regional Authorities of the Council of Europe exceeded the planned 40% in 2016: in the Chamber of Local Authorities, on average, 43% are women, and in the Chamber of Regional Authorities – 44.8%. The average percentage of women representatives and their deputies in the Parliamentary Assembly of the Council of Europe was 35.7% (Fig. 2, 3).

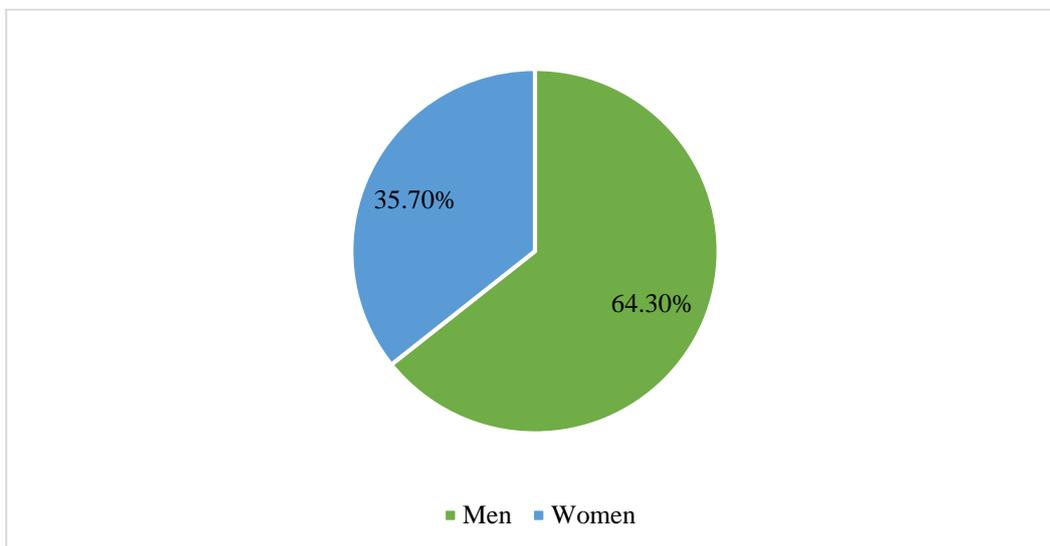


Figure 2. Percentage of women and men in the Parliamentary Assembly

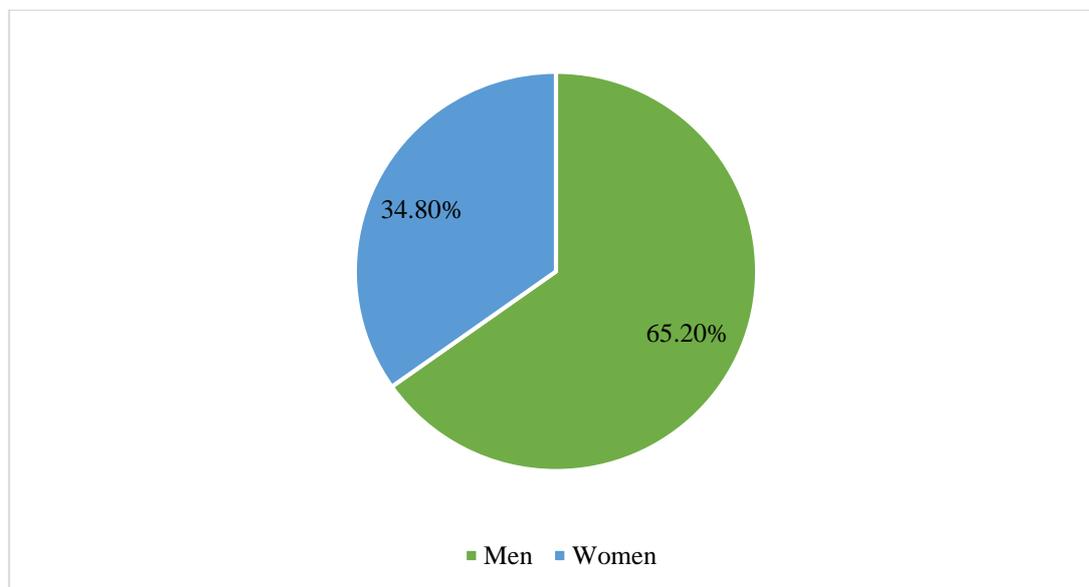


Figure 3. Percentage of female and male judges of the European Court of Human Rights

In the European Court of Human Rights, an average of 34.8% of female judges remain below the minimum target of 40%. The Praesidium of the Court was still dominated by men.

CONCLUSIONS

Truly democratic institutions must reflect gender differences. The balanced participation of women and men in political and public decision-making is a key indicator of gender equality and women's full enjoyment of their human rights, a condition for equality, social justice, and cohesion. Summarising the results of the analysis, the following was identified: in the KR are implemented universally recognised provisions and principles of gender equality, which are compulsory in nature; institutional mechanisms are established for equal representation; the provisions, the principles of equality and non-discrimination form the basis of the Constitution and are reflected in the current legislation; the introduction of peremptory provisions of representation in political parties, as well as optimisation of quotas have become the next stage of institutionalisation; statistical data testifies to the increase in the participation of women in government authorities of the KR.

In Ukraine, the gender issue also requires further scientific research. As in many other areas of public life, the “pathos” and strictness of Ukrainian legislation are catastrophically devalued by the non-binding nature of its implementation and the lack of direct prescriptions. That is why many legislative provisions governing the electoral process, state financing of political parties, secondary education, social insurance, labour, and family relations should be reviewed.

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