

## **Information of the Ukrainian Parliament Commissioner for Human Rights on issues for the 12th session of the UN Open-ended Working Group on ageing (2)**

### **1. The right to work and access to the labor market**

Elderly citizens have the right to work on an equal footing with other citizens. Refusal to hire and dismiss an employee on the grounds of reaching retirement age is prohibited. The terms of employment contracts with senior citizens may not aggravate the situation or restrict their rights under labor law.

According to the State Statistics Service, as of January 1, 2022, 2.7 million working pensioners were registered in Ukraine.

Article 24 of the Constitution of Ukraine emphasizes that «citizens have equal constitutional rights and freedoms and are equal before the law». Article 2 of the Labor Code of Ukraine declares that «Ukraine shall ensure equality of employment rights for all citizens, regardless of origin, social and property status, race and nationality, sex, language, political opinion, religion, occupation, place of residence and other circumstances».

The Law of Ukraine «On Basic Principles of Social Protection of Labor Veterans and Other Elderly Citizens in Ukraine» stipulates that discrimination against elderly citizens in the field of labor and in other areas is prohibited.

The Law of Ukraine «On Principles of Preventing and Combating Discrimination in Ukraine» is generalized and aimed at combating all types of discrimination. Issues of age discrimination are not properly addressed.

National labor legislation establishes a high level of working conditions, protection of labor rights of workers defined by international instruments ratified by Ukraine, in particular, the Convention on Discrimination in Respect of Employment and Occupation № 111<sup>1</sup> and the Recommendation on Discrimination in Respect of Employment and Occupation № 111<sup>2</sup>.

The Law of Ukraine «On Employment»<sup>3</sup>, as well as the Law of Ukraine «On Advertising», clarify and explain discrimination in certain aspects of labor relations.

Article 11 of the law, in addition to guarantees of protection against discrimination in the field of labor, prohibits advertisements (vacancies), in particular, to specify age restrictions for candidates.

A positive development is the adoption of the Law of Ukraine «On Amendments to the Law of Ukraine «On Advertising» on Combating Discrimination on the Grounds of Sex» 1750-IX<sup>4</sup>, which entered into force on 08.01.2022.

In particular, Article 24 of the Law of Ukraine «On Advertising» prohibits advertising of vacancies (employment) to indicate the age of candidates... and

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<sup>1</sup> [https://zakon.rada.gov.ua/laws/show/993\\_161?find=1&text=%D0%B2%D1%96%D0%BA%D1%83#w1\\_1](https://zakon.rada.gov.ua/laws/show/993_161?find=1&text=%D0%B2%D1%96%D0%BA%D1%83#w1_1)

<sup>2</sup> [https://zakon.rada.gov.ua/laws/show/993\\_602#Text](https://zakon.rada.gov.ua/laws/show/993_602#Text)

<sup>3</sup> <https://zakon.rada.gov.ua/laws/show/5067-17#Text>

<sup>4</sup> <https://zakon.rada.gov.ua/laws/show/1750-20#n2>

stipulates that the advertiser pays to the state budget a fine of ten times the minimum wage<sup>5</sup>.

The Law of Ukraine «On Employment» provides incentives for employers to create new jobs for unemployed citizens who are not competitive enough in the labor market. In particular, an employer who employs citizens who need additional guarantees to promote employment is reimbursed on a monthly basis during the year for the actual costs in the amount of a single contribution per person for the month for which it is paid.

The Law of Ukraine «On Employment» provides for additional social guarantees for employment at the expense of the quota of jobs for persons who have 10 or less years before the right to an old-age pension.

In order to ensure a gradual transition from employment to its termination, programs for preparation for retirement are implemented. These may include sparing working conditions, a gradual reduction in working hours at the employee's request, as well as measures to empower older people in further education and to lead a healthy lifestyle.

For older workers, the generally established working hours are used. At the request of older workers, part-time work can be established

The problem remains with the lack of evaluation of unpaid domestic work, which is one of the barriers to the realization of women's, including older women's, rights to economic and political activity.

Article 55 of Constitution stipulates that the rights and freedoms of man and citizen are protected by the court; everyone is guaranteed the right to appeal in court against decisions, actions or omissions of public and local authorities and officials. The Law of Ukraine «On the Judiciary and the Status of Judges» stipulates that access to justice for every person is ensured in accordance with the Constitution of Ukraine and in the manner prescribed by the laws of Ukraine (part three of Article 7).

Therefore, Ukrainian legislation does not contain any age restrictions on access to justice.

An additional guarantee of the realization of the right to justice of the elderly is that the Commissioner personally or through her representative in the manner prescribed by law has the right to apply to the court for protection of rights and freedoms of persons who due to physical condition, old age, incapacity or limited capacity are unable to protect their rights and freedoms; to take part in court proceedings in cases in which proceedings are opened on her claims (applications, petitions).

According to the Constitution of Ukraine, everyone has state-guaranteed equal rights to protection of rights and freedoms in court and to participate in the consideration of their case in the manner prescribed by procedural law.

The Law of Ukraine of 02.06.2011 № 3460-VI «On Free Legal Aid» provides for the right to free legal aid.

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<sup>5</sup> <https://zakon.rada.gov.ua/laws/show/270/96-%D0%B2%D1%80#n357>

When exercising the right to free legal aid, privileges or restrictions may not be applied to persons on the grounds of race, color, political, religious or other beliefs or other grounds, in particular, age.

The condition mentioned in paragraph 10 of Article 13 of the Law of Ukraine «On the Ukrainian Parliament Commissioner for Human Rights» - the inability of the citizen, in particular, due to his physical condition, old age or other valid reasons to apply to the court for protection of rights and freedoms - is the basis for the exercise by the Commissioner of the right to apply to the court to protect the rights, freedoms and interests of these persons.

The inability of elderly prisoners to receive qualified medical care leads to an increase in the incidence of severe and chronic diseases and mortality.

Significant attention was paid to this issue in the annual reports of the Commissioner in 2018-2020, recommendations were provided on the provision of appropriate medical care to detainees.

On February 10, 2022, the Commissioner presented a special report «The state of observance of the rights of prisoners to medical care during the reform of the health care system of the State Penitentiary Service of Ukraine in the period 2018-2021».