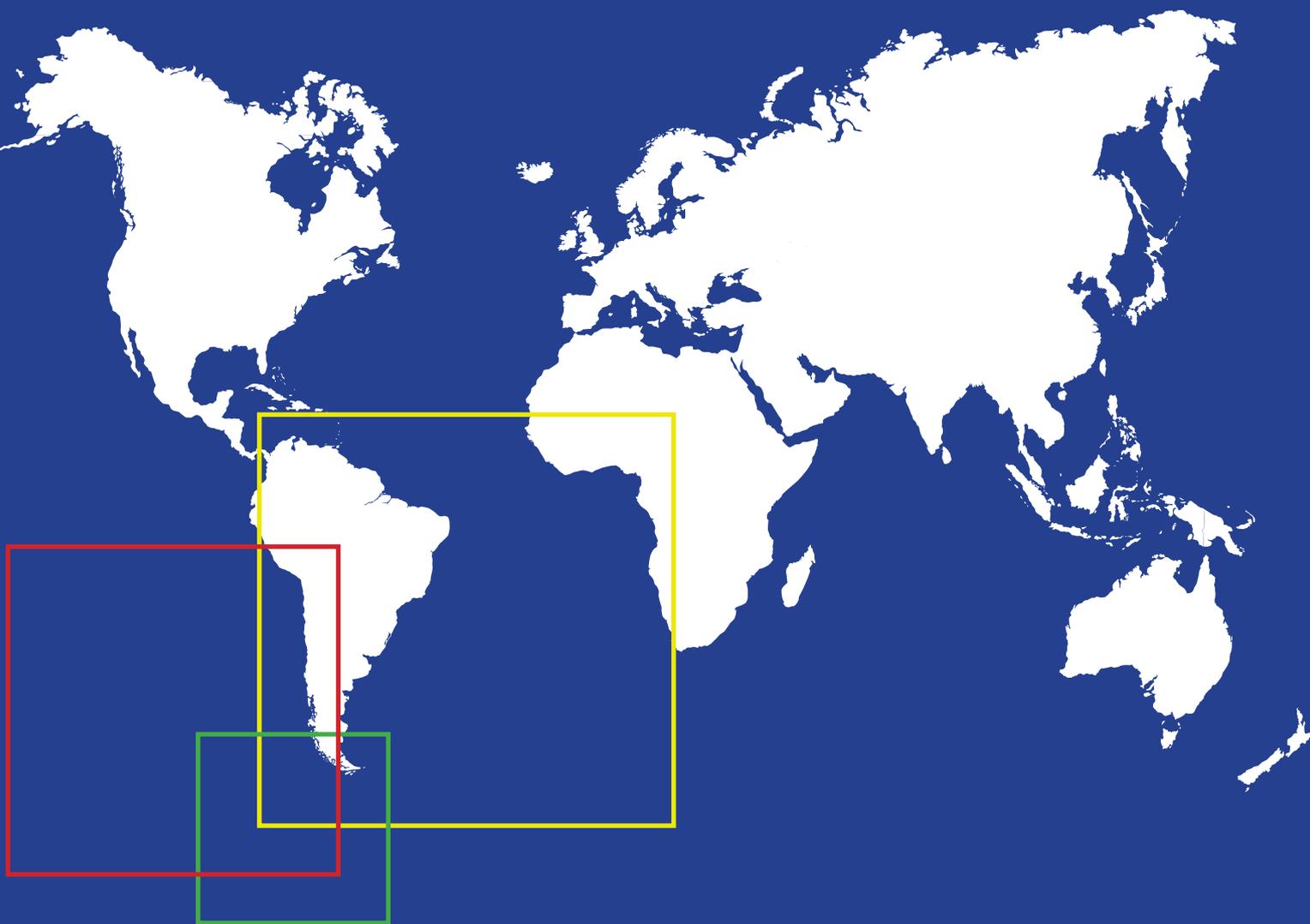




International
Labour
Office

Decent Work Country Profile UKRAINE



**Decent Work
Country Profile
UKRAINE**

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ILO Cataloguing in Publication Data

Decent work country profile: Ukraine / International Labour Office. – Geneva: ILO, 2011

1 v.

ISBN: 978-92-2-124908-5 (print);

ISBN: 978-92-2-124909-2 (web pdf)

International Labour Office

decent work / workers rights / equal employment opportunity / working conditions / family responsibilities / employment security / social security / social dialogue / Ukraine

13.01.1

General editing: V.V. Ivankevych, Director-General, Institute for Development of Social Insurance and Lending

Revision of the document: Nikolai Rogosky & Naima Pages

Translation into English: Ms. Remenchyts Mayya

Editing: Marita Wildman-Boe

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Printed by the International Labour Office, Geneva, Switzerland.

Preface

Decent work (DW) is central to efforts to reduce poverty and is a means for achieving equitable, inclusive and sustainable development. It involves opportunities for work that is productive and delivers a fair income, provides security in the workplace and social protection for workers and their families, and gives people the freedom to express their concerns, to organize and to participate in decisions that affect their lives.

In this regard, monitoring and assessing progress towards decent work at the country-level is a long-standing concern for the ILO and its constituents. The 2008 Declaration on Social Justice for a Fair Globalization details that member States may consider “the establishment of appropriate indicators or statistics, if necessary with the assistance of the ILO, to monitor and evaluate the progress made” (Paragraph II.B.ii.).

There have been a number of recent activities related to the measurement of decent work. In September 2008, the ILO convened an international Tripartite Meeting of Experts (TME) on the Measurement of Decent Work, and consequently, adopted a framework of Decent Work Indicators, based on technical guidance provided by the TME. The Governing Body endorsed the proposal to test the framework in a limited number of pilot countries. Since then, the so-called Decent Work Country Profiles have been developed for a number of countries.

These pilot profiles led to the improvement of the methodology for measuring decent work. Most importantly, it helped to better understand the role that the decent work indicators can play in the ILO country-level activities, especially for designing and monitoring the Decent Work Country Programmes. Decent work indicators can serve as a reliable baseline at the stage of defining decent work targets, and as a powerful instrument for the evaluation of the Decent Work Country Programmes.

In the past, countries have repeatedly called for the ILO to support their efforts to monitor and assess progress towards decent work. Now, with funding from the European Union, the project on Monitoring and Assessing Progress on Decent Work (MAP) (2009–2013) works with government agencies, employers’ and workers’ organizations, as well as research institutions to strengthen the capacity to self-monitor and self-assess progress towards decent work. Based on consultations with tripartite constituents and various stakeholders, ten countries have been selected to participate in the global MAP project (see www.ilo.org/map). Ukraine is one of the countries covered by the project.

The project facilitates the identification of decent work indicators that are relevant at the national level, supports data collection, and uses the collected data for an integrated policy analysis of decent work in order to make them relevant for decent work country programmes and national policies. The project also supports regional activities, and global activities (global databases, methodological tools, guidelines and manuals on measuring and assessing progress on decent work).

The DW Country Profiles cover ten substantive elements corresponding to the four strategic pillars of the Decent Work Agenda (full and productive employment, rights at work, social protection and the promotion of social dialogue): employment opportunities; adequate earnings and productive work; decent hours; combining work, family and personal life; work that should be abolished; stability and security

of work; equal opportunity and treatment in employment; safe work environment; social security; and, social dialogue, employers' and workers' representation.

The profiles compile in one document all available data on decent work, statistical and legal indicators, as well as analysis of gaps and trends where possible, while reflecting on the national context. This facilitates the evaluation of progress made towards decent work and informs national planning and policymaking. The profiles can inform initiatives such as Decent Work Country Programmes and regional activities.

The Decent Work Country Profile for Ukraine aims at critically assessing progress towards the achievement of decent work in Ukraine and at further informing social dialogue at the national level.



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Acknowledgements

The Decent Work Country Profile for Ukraine has been compiled by the International Labour Office in collaboration with the ILO constituents in Ukraine.

We would like to thank the representatives from the Ukrainian Employers' and Workers' organizations and Ministry of Labour and Social Policy as well as other agencies who participated in the national consultation workshop in September 2009, and the launch event in April 2011. We are also grateful to the academics who participated in both workshops and provided technical assistance when needed. We would also like to thank the European Union for financing this study under the ILO/EC Project "Monitoring and Assessing Progress on Decent Work". In addition, the International Labour Office would like to thank the ILO officers from ILO DWT/CO Budapest, ILO Regional Office for Europe and Central Asia and ILO-HQ (INTEGRATION, STATISTICS, SOCIAL PROTECTION, EMPLOYMENT and DIALOGUE) who have contributed to the development of various chapters of the Profile. Their names can be found in each respective chapter. The general editing of the profile has been undertaken by V.V. Ivankevych, Director-General, Institute for Development of Social Insurance and Lending.

While acknowledging the contribution of all mentioned, any errors or omissions found in the *Decent Work Country Profile Ukraine* are the sole responsibility of the International Labour Office. The information contained in the Legal Framework Indicators regarding national legislation is current through to December 2010.

Summary

Between 2000 and 2008, the Ukrainian economy grew on average by 6.9 per cent per year. This steady growth rate was achieved through reform measures and thanks to favourable trading terms and inflow of capital. The global crisis, however, put an end to this trend and left a series of problems, some of which were deeply rooted in the pre-crisis period: a crumbling infrastructure, insecure property rights, an ageing population and systemic corruption. While the initial signs of recovery are in sight, uncertainty and ambiguity remain omnipresent in the economy. Official labour market and social data do not provide adequate information regarding the degree of stress and decent work deficits that existed during the tumultuous period between 1990 and 1998, when Ukraine had become virtually a barter economy with wage arrears reaching alarming levels.

After the buoyant 2000–2008 growth, economic activity has contracted sharply with a large proportion of heavy industry closing temporarily or operating far below capacity. Real GDP shrank by 20.2 per cent and labour market conditions deteriorated dramatically (see Chapter 1 ‘Economic and social context for decent work’). This has led to a significant expansion of involuntary part-time work, administered leave and an explosion in wage arrears. An International Monetary Fund (IMF) stand-by agreement of \$ 16.4 billion has restored a degree of economic health – with an agreed GDP deficit fixed at 6 per cent – tied to reductions in public sector expenditures.

Employment growth for the population aged 15 to 64 averaged 0.6 per cent per year during 2000–2009, suggesting very low labour absorption despite higher economic growth rates. This is explained by the transition period of the 1990s, when Ukraine was consolidating its market economy after the fall of communism. The employment-to-population ratio for the age group 15 to 70 grew from 57.7 per cent in the first half of 2009 to 58.4 per cent in the first half of 2010 reaching

20.2 million people, including 18.4 million working-age persons. Nonetheless, the country is facing challenges in both employment creation and improvement of working conditions for those who are currently employed (see Chapter 2 ‘Employment opportunities’).

Wage arrears became a wide-spread phenomenon in the 1990s and remain a serious factor in eroding living standards which is also aggravated by the economic crisis (see Chapter 3 ‘Adequate earnings and productive work’). Necessary wage policy responses are currently being discussed with the Government, social partners and the IMF with a view to increasing purchasing power and pursuing economic reforms.

Even though Ukraine has not ratified the ILO Hours of Work (Industry) Convention, 1919 (No. 1), the country has enacted legislation to regulate working time at a statutory duration of 40 hours per week. In 2009, a majority of people working excessive hours (more than 48 hours per week) were employed in the following economic activities: wholesale and retail trade, motor vehicles repair, personal goods and household appliances, tourism, construction and agriculture. Between 2004 and 2009, progress towards improving working conditions for all, and especially for vulnerable groups was registered (see Chapter 4 ‘Decent hours’). Such measures should be consolidated and enhanced in order to decrease the number of persons who work excessive hours, tackle underemployment and reduce involuntary part-time employment.

Combining work, family and personal life remains a complex goal to attain in Ukraine. The assessment of the difficulty in finding a balance between work and family life varies and depends on the age of workers, with the most affected age bracket generally being between 25 and 40 years. A survey on decent work conducted in 2003 revealed that almost 28 per cent of women and more than 24 per cent of men said it was quite

difficult or impossible to have a steady working life. This is an increasingly important reason for workers to remain outside the labour force, with the women's labour market suffering the most, especially in rural areas (see Chapter 5 'Combining work, family and personal life'). Labour and social security authorities pay maternity benefits to various groups, including women registered with an employment centre as unemployed, post-graduates, doctoral students, resident medical practitioners, students of higher educational institutions and vocational education institutions, and non-working women. Recent substantial investments in improving the life of workers and maternity benefits need to be maintained by Ukraine, which moreover faces a demographic crisis and an increasing ageing population.

Considerable efforts have been made by the ILO's International Programme on the Elimination of Child Labour (IPEC) in the past ten years since it started its training programmes with educators, psychologists, social workers, civil servants and journalists. A 1999 study showed that 3.8 per cent of children aged from five to 17 years old were engaged in economic activities with a higher prevalence among boys (4.9 per cent) than girls (2.7 per cent). The worst forms of child labour prevail in agriculture, street trade, informal coal mines, the entertainment industry, sex industry and illegal activities (see Chapter 6 'Work that should be abolished'). The Worst Forms of Child Labour Convention, 1999 (No. 182) was ratified in 2000. However, individuals under the age of 18 are still allowed to perform certain types of hazardous work for training purposes or under certain specific conditions. Large-scale child prostitution and trafficking in children remain serious problems in Ukraine. From 2000 to 2008, the International Organization for Migration (IOM) returned 5,214 victims of human trafficking to Ukraine, 256 of whom were minors. Since 1991, approximately 100,000 Ukrainian citizens have become victims of human trafficking, mainly for labour exploitation. Experts have also emphasized the negative consequences of parents' departure abroad – mainly for work purposes – on children left at home with insufficient care who often become easy targets for criminal activities. Moreover, the public education system suffers from

chronic lack of funds and dropping-out is frequent among children from poor families

Since the second half of 2008, the labour market situation has deteriorated significantly, negatively affecting the stability and security of work. This is evident from the increasing pace of job losses that drove the unemployment rate to 10.3 per cent in the first quarter of 2009. Time-related under-employment also increased significantly. In 2009, 19.4 per cent of all staff employees were working short hours, some with income subsidies provided by the Government (see Chapter 7 'Stability and security of work'). A shift to self-employment was registered in 2008–2009, as a result of the closure of large agricultural farms coupled with the lack of decent jobs in the non-agricultural sector in rural areas, which led many workers to subsistence farming. Despite a certain improvement in the 2000s, security of employment for Ukrainian workers, whether in formal or informal jobs, remains low. The high level of flexibility of the labour market is combined with a very low level of protection of workers due to the disregard by many employers of the labour legislation which is due to weak control systems and state supervision.

Ukraine has undertaken important steps in the establishment of a legal and institutional framework that promotes gender equality and tackles discrimination (see Chapter 8 'Equal opportunity and treatment in employment'). While legislative progress is evident, the implementation of legislation and the development of appropriate policies are lagging behind. Gender stereotypes persist, as do lack of opportunities for women and men in public and private life. The gender pay gap between 2001 and 2004 increased considerably and exceeded 30 per cent.

Occupational safety and health is an important indicator of decent work in a country, as it demonstrates that work should on no account be undertaken at the detriment of a worker's health and that the latter must be afforded protection at all times. Non-fatal injury rates have been decreasing over the past 11 years, while only gradual progress has been made on fatal occupational injuries. A sharp decline to 5 and 8.5 deaths per 100,000 workers was registered in 2008 and 2009, respectively.

Some 76.7 per cent of accidents are caused by reasons related to organization in the workplace. Technical reasons caused 14.7 per cent of accidents, and psycho-physiological reasons are responsible for another 8.6 per cent of accidents. The general reduction in the rates of occupational injuries and fatalities may reflect a decrease in the ‘traditional’ risks which are associated with a shift from employment in high risk sectors to services. A large number of coal mines, for example, have been closed down, and the number of workers in coal mining, who work in harmful conditions, has fallen from 332,200 in 1999 to 251,800 in 2005 and to 221,400 in 2009 (see Chapter 9 ‘Safe work environment’).

Ukraine’s social security system covers the nine main branches listed in the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), with special provisions for victims of the Chernobyl nuclear accident and for veterans of the Second World War. With a 25.4 per cent of total budget expenditure spent on social protection in 2009, Ukraine has taken major steps in shifting from an inadequate general compulsory state insurance system to a more unified and coherent framework of social benefits (see Chapter 10 ‘Social security’). The share of the working-age population that contributes to the pension fund remains

insignificant in terms of covering the needs of an ageing population which faces inter-generational inequalities in the pension system and within social transfer payments. Currently, as of January 2011, several policy options, including a reformed uniform social contribution system, health care and mandatory private pension, are under discussion.

Social dialogue in Ukraine has remained underdeveloped both in its bipartite and tripartite forms (see Chapter 11 ‘Social dialogue, employers’ and workers’ representation’). The draft Labour Code of Ukraine has not yet been adopted, thus preventing the industrial relations system from functioning on a sound legal and institutional basis. Despite the Law on Social Dialogue that was recently adopted, several problems remain unsolved, such as the legal obstacles preventing the exercising of freedom of association rights which still exist in the legislation and the numerous cases of non-admission of new and small trade unions to collective bargaining. The promotion of collective bargaining in the expanding private sector also remains a priority. As a result, decent work deficit still remains one of the most burning issues for the Ukrainian society, affected by both the global financial and economic crisis and by subjective factors, in particular the insufficient activity of industrial relations partners.

List of abbreviations

AAE	All-Ukrainian Association of Employers
AUAWS	All-Ukrainian Association of Workers' Solidarity
CEACR	International Labour Organization's Committee of Experts on the Application of Conventions and Recommendations
CEU	Confederation of Employers of Ukraine
CFTUU	Confederation of Free Trade Unions of Ukraine
CIS	Commonwealth of Independent States
CPI	Consumer price index
Derzhhirpromnahliad	State Committee of Ukraine for Industrial Safety, Labour Protection and Mining Supervision
Derzhnahliadpratsi	State Department for the Supervision over Labour Legislation Observance, Ministry of Labour and Social Policy of Ukraine
EPLI	Employment Protection Legislation Index
EU	European Union
FEU	Federation of Employers of Ukraine
FGCSSIU	Fund for General Compulsory State Social Insurance of Ukraine against Unemployment
FSIA	Fund for Social Insurance against Accidents of Ukraine
FSITLWC	Fund for General Compulsory State Social Insurance against Temporary Loss of Working Capacity of Ukraine
FTUU	Federation of Trade Unions of Ukraine
GDP	Gross Domestic Product
IAESCSI	International Association of Economic and Social Councils and Similar Institutions
ICSE	International Classification of Status in Employment
IDSS	Institute for Demography and Social Studies, National Academy of Sciences of Ukraine
ILO	International Labour Organization
IMF	International Monetary Fund
IOM	International Organization for Migration
IPEC	The International Labour Organization's International Programme on the Elimination of Child Labour
ITUC	International Trade Union Confederation
ITUM	Independent Trade Union of Miners
JRB (e)	Joint Representative Body of the Employers' Party on the National Level
JRB (t)	Joint Representative Body of All-Ukrainian Trade Unions and Trade Union Associations
MAP	The International Labour Organization's Monitoring and Accessing Progress on Decent Work project
MIA	Ministry of Internal Affairs of Ukraine
MLSP	Ministry of Labour and Social Policy of Ukraine
MoE	Ministry of Economy of Ukraine
MoE	Ministry of Emergencies of Ukraine
MoF	Ministry of Finance of Ukraine

MoH	Ministry of Health of Ukraine
MoJ	Ministry of Justice of Ukraine
MSEC	Medical and social expert commission
NBU	National Bank of Ukraine
NCPLS	National Council for People's Life Safety
NCSP	National Council for Social Partnership under the President of Ukraine
NCTU	National Confederation of Trade Unions of Ukraine
NFTU	National Forum of Trade Unions
NJRB	National Joint Representative Body of All-Ukrainian Trade Unions and Trade Union Associations
NMCS	National Mediation and Conciliation Service
NPP	Nuclear power plant
NTSEC	National Tripartite Social and Economic Council under the President of Ukraine
OECD	Organization for Economic Cooperation and Development
OMI	Occupational Medicine Institute, Academy of Medical Sciences of Ukraine
PF	Pension Fund of Ukraine
PPP	Purchasing power parity
RSEC	Regional social and economic council
SES	State Employment Service
SSCU	State Statistics Committee of Ukraine
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
WHO	World Health Organization

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1 Economic and social context for decent work

The period covered by this review commences and concludes with a severe financial crisis. In the fall of 1998, Ukraine was on the precipice of defaulting on its foreign debt as currency reserves plummeted, the international financial institutions withdrew their support, and bank deposits diminished dramatically. These events unfolded rapidly in the wake of the Russian financial crash of August 1998, as international financial panic and contagion spread. In September and October 1998, the Government of Ukraine implemented a massive devaluation of the currency, as well as an anti-crisis programme, but domestic economic policy fluctuated wildly over the next two years before a sustained economic recovery could commence.

Almost a decade later, to the day, in October 2008, Ukraine faced a similar fate when a combination of domestic and international factors once again provoked a dramatic financial crisis characterized by substantial capital outflows, significant devaluation and the de facto nationalization of several large commercial banks. As a result, the real economy has gone rapidly into reverse with a real GDP decline of 15.1 percentage points in 2009.¹

However, there was a radical difference both in the broad economic trends that existed prior to these two crises, and in the contributing domestic causes that triggered the two catastrophes. By the end of the 1990s, the economic and social situation in Ukraine had become disastrous. The country had endured a decade of uninterrupted economic decline with a cumulative fall in real GDP reaching 60 per cent between 1989 and 1999. In no year during the 1990s did Ukraine record positive real GDP growth, and for several years the decline in real GDP exceeded 10 percentage

points, with the largest annual decline of around 23 percentage points occurring in 1994. Ukraine was the only post-communist country that failed to achieve a single year of economic growth for the entire decade.

As one might expect, given this economically vulnerable decade, the social situation at the outset of this review period was dismal. By 1998 Ukraine had virtually become a barter economy. Wage arrears and pension payment arrears reached alarming levels. The payment in cash of accounts between companies as well as tax bills had virtually ceased and the poorest sections of the population survived by growing vegetables in small family land holdings. This form of subsistence agriculture contributes to the relatively high share of agriculture in total employment which reached 21.6 per cent in 2000, but has since declined to 15.6 per cent in 2009. However, official labour market and social data (employment rates, unemployment rates, measures of the informal economy and measures of the working poor and poverty levels) do not adequately capture the degree of economic stress and decent work deficits that prevailed at the end of the 1990s.

While Ukraine underwent significant political reform during the 1990s, the economic reforms that characterized other post-communist states in this period were largely absent. Consequently, a period of rapid 'catch-up' economic reform took place, starting in 2000. In the first few years of the current decade, successive Governments introduced a wide variety of stabilization and structural reforms which reduced reliance on barter and significantly improved the economic environment allowing for the expansion of the private sector. This included reforms to the Government, fiscal reforms, energy reform, land reform, large scale

¹ IMF, Press Release No. 09/259, July 10, 2009.

privatization and various anticorruption measures. Given these policy developments, and the scale of economic decline that permeated the previous decade, it is hardly surprising that it was followed by a period of rapid and reasonably well sustained economic growth. Between 2000 and mid-2008, Ukraine's economy was buoyant with an average annual growth at 6.9 per cent. Real GDP growth peaked at 12.1 per cent in 2004 when government expenditure expanded rapidly in the run up to presidential elections. Thereafter, growth slowed down noticeably in 2005 before bouncing back strongly in the next two years – up to 7.3 per cent and 7.9 per cent, respectively. A swift fall in the real GDP growth rate was recorded at 2.3 per cent in 2008, and 2009 saw a 14.8 per cent real GDP decline. Similar behaviour was seen in the per capita GDP growth rate in US dollars (in 2005 prices and PPP) that reached a peak of 13 per cent in 2005 and a bottom of -14.7 per cent in 2009 (see Table 11).

However, like many other countries in Europe, the Ukrainian economic upswing faltered in the second half of 2008 as commodity prices declined sharply and export markets contracted. In October 2008, the situation deteriorated dramatically when one of the largest banks in the country was placed under receivership. This sparked massive capital outflows which in turn generated a crisis on the foreign exchange market, significant currency devaluation despite interventions by the National Bank, as well as a major credit crunch for the real economy.

The collapse of the Ukrainian economy was unusually severe even by the standards of other transition countries. By 1999, real per capita income had fallen to about 35 per cent of its 1989 level² and it was not until the turn of the century that economic growth turned positive. Average GDP growth rate was 4.5 per cent annually from 2000 to 2009. Nevertheless, recorded GDP per capita (at 2005 prices and PPP) was US\$ 6,578, 6,766 and 5,770 in 2007, 2008 and 2009, respectively (see Table 1). Actual per capita GDP may, however, be higher than that suggested by economic data, to the extent that the 'unofficial' or 'shadow' economy, estimated to

account for 15 to 45 per cent of total household income,³ is not reflected in these data.

Economic activity has contracted sharply since October 2008 with a large proportion of heavy industry temporarily closed or operating far below capacity. Real GDP declined by 20.2 per cent at an annualized rate in the first quarter of 2009. Industrial output declined by a significant 31.8 per cent in the first half of 2009 as compared to the same period a year earlier. As a result, labour market conditions have deteriorated dramatically. The unemployment rate among the population aged 15 to 70 years increased from 7.1 per cent in the first quarter of 2008 to 9.5 per cent in the first quarter of 2009 (see also Chapter 2 'Employment opportunities'), but this masks the real level of stress in the labour market. As in past recessions, labour market slack is concentrated in a significant expansion of involuntary short-time work and administered leave, as well as in an explosion in wage arrears (see also Chapter 3 'Adequate earnings and productive work', and Chapter 7 'Stability and security of work'). Some economic performance indicators show that certain signs of labour market recovery have appeared since the second quarter of 2008. In particular, the unemployment rate for the population aged 15 to 70 years was already 9.1 per cent in the first half of 2009 and 8.5 per cent in the first half of 2010.

In early November 2008, the Ukrainian Government signed a standby agreement with the IMF for US\$ 16.4 billion. The original memorandum of understanding contained provisions requiring the Government to maintain tight fiscal discipline in the latter months of 2008 and to produce a balanced budget for 2009. Much of the fiscal tightening in the original agreement was expected to result from reduced expenditure on public sector wages and benefits, as well as reductions in the overall level of social expenditure. Apparently, the Government agreed to a freeze on public sector wages during 2009.

Implementation of the above-mentioned measures has proven problematic as domestic economic

² The figures were \$1,484 (constant 2000 US\$) for 1989 and \$594 (constant 2000 US\$) for 1999; see Appendix Table A1 in *Key Indicators of the Labour Market*, 6th edition (Geneva, ILO, 2009).

³ Human Development Report Ukraine 2008. Human Development and Ukraine's European Choice (Kyiv, UNDP, 2008).

Table 1. Economic and social context for decent work

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Real GDP growth rates, in %¹	-1.9	-0.2	5.9	9.2	5.2	9.6	12.1	2.7	7.3	7.9	2.3	-14.8
Per capita GDP¹³												
US dollars in 2005 prices and PPP	3444	3468	3706	4085	4337	4793	5416	5605	6058	6578	6766	5770
US dollars in the current year prices and PPP	—	—	—	3703	3995	4510	5241	5605	6255	6992	7350	6325
Growth rate, % in 2005 prices and PPP	-1.1	0.7	6.9	10.2	6.2	10.5	13.0	3.5	8.1	8.6	2.9	-14.7
Index, 2005=100, in 2005 prices and PPP	61.4	61.9	66.1	72.9	77.4	85.5	96.6	100.0	108.1	117.4	120.7	102.9
Labour share in GDP, in %²	48.1	44.3	42.3	42.3	45.7	45.7	45.6	49.1	49.4	48.8	49.6	49.4
Labour productivity, growth rate, in %³	—	—	—	—	4.6	9.1	11.4	1.1	7.2	6.7	1.9	-11.8
Inflation rate (CPI) %⁴	10.6	22.7	28.2	12.0	0.8	5.2	9.0	13.5	9.1	12.8	25.2	15.9
Income inequality⁵												
Percentile ratio P90/P10	—	—	6.4	6.9	6.8	6.5	6.9	6.9	7.1	5.2*	5.4	5.3
Gini coefficient	—	0.28	0.29	0.30	0.29	0.29	0.29	0.30	0.30	0.25*	0.26	0.26
Poverty headcount ratio, in % ⁶	—	27.8	26.4	27.2	27.2	26.6	27.3	27.1	28.1	27.3	27.0	26.4
Employment by branch of economic activity, in %⁷												
Agriculture	—	—	21.6	20.8	20.6	20.4	19.7	19.4	17.6	16.7	15.9	15.6
Industry	—	—	27.3	26.3	25.2	24.6	24.6	24.2	24.2	23.9	23.4..	22.4
Services	—	—	51.1	52.9	54.2	55.1	55.7	56.4	58.1	59.4	60.7	62.0
Net primary school enrolment rate, in %⁸												
Male	—	—	—	—	90.9	87.4	88.0	90.6	90.2	89.4	88.9	
Female	—	—	—	—	91.0	87.4	88.2	90.8	90.3	89.4	88.7	
Female	—	—	—	—	90.7	87.4	87.7	90.5	90.0	89.3	89.1	
Net secondary school enrolment rate, in %⁹												
Male	—	—	90.7	91.0	86.5	86.9	86.3	82.3	83.8	84.5	85.0	
Female	—	—	89.1	90.1	85.8	86.4	85.9	84.7	83.4	84.1	84.5	
Female	—	—	92.5	91.9	87.2	87.5	86.8	79.7	84.3	84.9	85.5	
Adult literacy rate¹⁰												
												More than 99 per cent
Estimated % of working-age population who are HIV positive¹¹	0.5	0.6	0.7	0.8	0.9	1.1	1.3	1.5	1.5	1.6	..	
Life expectancy at birth¹²	68.0	68.2	67.9	68.3	68.3	68.2	68.2	68.0	68.1	68.2	68.04	69.66
Male	62.7	63.0	62.4	62.8	62.7	62.6	62.6	62.2	62.4	62.5	62.3	64.37
Female	73.5	73.7	73.6	74.1	74.1	74.1	74.1	74.0	74.1	74.2	73.99	74.89

Notes:

¹ SSCU data.² Calculations based on employee labour remuneration in actual prices, in per cent of GDP.³ Data by the Ministry of Economy, in per cent year-on-year: Calculated according to the Provisional Guidelines for the calculation of labour productivity over the entire economy and by economic activity, approved by the Ministry of Economy Order No. 916 of 26.12.2008.⁴ Calculated as annual CPI year-on-year.⁵ Before 2006, average cumulative per capita spending was used as the differentiation criterion; since 2007, per capita total income is used. UNAIDS/WHO according to the Report on Global AIDS Epidemic 2008. 2008 data calculated as nine-month average.⁶ National poverty line, defined as the expenditure level needed to satisfy main needs and calculated as 75 per cent of the median equivalent per capita household expenditure. No disaggregation by sex is available.^{*} Series break (see footnote³). Household surveys on population activity in Ukraine were held quarterly between 1999 and 2003 and monthly since 2004.⁷ Based on ICSE Rev. 2 (until 2000) and ICSE Rev. 3 (from 2001 onwards).⁸ The World Bank database.⁹ See footnote 8.¹⁰ UNDP data (Human Development Report). Calculated as December to December of the previous year.¹¹ UNAIDS data, the Global AIDS Epidemic Report 2008, UNAIDS/WHO.¹² The World Bank database.¹³ Data by the UNECE. UNECE Statistical Division Database, compiled from national and international (CIS, EUROSTAT, IMF, OECD) official sources. Source: World Bank (school enrolment rates), State Statistics Committee of Ukraine, UNAIDS/WHO.

conditions deteriorated far more dramatically than expected. Due to the massive economic contraction and declining tax receipts, the IMF accepted a significant widening in the general government deficit, initially to 4 per cent of GDP and more recently to 6 per cent of GDP. Despite the widening of the deficit the emphasis on reductions in public sector wages and social expenditure remained firm.

To a significant degree, Ukraine finds itself in economic crisis today because of a vast expansion of private foreign debt in recent years. The fiscal position of the country prior to the crisis was relatively sound and the level of public foreign debt was moderate. However, much of the growth in private domestic demand was financed by commercial banks and was devoted to speculation in the real estate market, conspicuous consumption expenditure and private investment. Private banks borrowed substantial amounts of foreign currency and re-lent this money at a substantial margin. As a result, over 80 per cent of the foreign debt is held by the private sector. With currency devaluation the repayments on these loans have increased substantially and the probability of default has risen significantly.

Among the social indicators, the rapid increase of HIV prevalence among the population aged 15 to 49 years is particularly notable. At 1.6 per cent in 2007, the Ukrainian prevalence rate was the highest among Eastern European countries for which data are available. With approximately 68 years, life expectancy at birth has remained low over the past twelve years, and only in 2009 did it reach 69.7 years for the first time due to lower mortality in transport (down 43 percentage points)

and reduction in mortality from all statistically observed causes, except AIDS consequences. With only 64.4 years, men's life expectancy is far lower than women's, because of differences in social attitudes and work conditions.⁴ While primary school enrolment has, by and large, remained stable, net secondary school enrolment has declined from 90.7 percent in 2000 to 82.3 percent in 2005; the decline was especially large for girls (79.7 per cent). Later, this indicator grew annually to reach 85 per cent in 2008, but to date has not yet reached the 2000 level.

The indicators for income inequality have seen a slight decrease between 1999 and 2009, with a decline in the Gini coefficient from 0.28 to 0.26 and a decrease in the percentile ratio P90/P10 – that indicates the income difference between those near the top and those near the bottom of the distribution – from 6.4 (2000) to 5.3 (2009). However, this time-series is based on consumption, where inequality generally tends to be lower. Data based on gross earnings show significantly higher inequality, with Gini coefficients around 0.41 in the mid-2000s and above 0.45 in the early 2000s (compared to 0.25 in 1992).⁵ The poverty headcount ratio, based on the national poverty line of 75 per cent of median equivalent per capita household expenditure, has not declined over the past ten years and has fluctuated around 27 per cent. In 2009, this indicator stood at 26.4 per cent.

Overall, the country has made significant progress in some areas of human development, while in other areas it has been negligible (poverty, male life expectancy, HIV and AIDS and tuberculosis, life-long quality education, gender equality, environmental protection standards).⁶

⁴ Human Development Report Ukraine 2008. Op.cit

⁵ UNU-WIDER, World Income Inequality Database, version 2C.

⁶ Human Development Report Ukraine 2008. Op.cit

Legal Framework Indicator 1. Labour administration

Law, policy or institutions: The Ministry of Labour and Social Policy of Ukraine (MLSP), guided and coordinated by the Cabinet of Ministers, is the main central executive authority that ensures the implementation of the national policy in the field of employment, social protection, social insurance, labour remuneration, occupational classification, working conditions, pension provision, social services, industrial relations, and labour migration. Sub-units have been established to fulfil these tasks. Public local authorities at the oblast (regional), district or local level perform these functions (in particular, functions of social protection, employment, and wage policy) at the local level. Some activities in the field of labour have been delegated to local governments, notably those concerning local occupational safety and health and employment programmes. Other ministries are involved in specific issues (regarding occupational safety and health, for example).

The main bodies involved in setting employment policy are the MLSP which ensures policy coordination, and the Tripartite Employment Promotion Coordinating Committee. The National Tripartite Socio-Economic Council is responsible for promoting the harmonization of the positions of the parties to social dialogue and agreement on issues concerning socio-economic and labour relations.

Further institutions: The State Supervision Department of Labour Legislation Supervision, guided by the MLSP, is in charge of labour inspection functions. Its main tasks are to supervise compliance with labour legislation (except labour protection matters); legislation on compulsory state social insurance against industrial accidents and occupational diseases; compulsory state social unemployment insurance; compulsory state social insurance against temporary disability; and to provide recommendations to employees and employers on the application of labour legislation and legislation on compulsory state social insurance. Other ministries are involved in specific aspects of labour inspection.

Social security institutions: The general policy on employment and job placement guarantees is coordinated by the MLSP but the State Employment Service, which has headquarters and services at the national, regional, inter-district, district and local levels, administers the employment insurance programmes. Several funds managed by tripartite bodies were established: FGCSSIU, FSIA and FSILTWC.

Exclusion of parts of workforce from coverage: None. Coverage in different forms.

Ratification of ILO Conventions: The Labour Administration Convention, 1978 (No. 150) was ratified in 2004; the Labour Inspection Convention, 1947 (No. 81) was ratified in 2004, but not its Protocol; the Labour Inspection (Agriculture) Convention, 1969 (No. 129) was ratified in 2004; the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) was ratified in 1956; the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) was ratified in 1956; the Labour Statistics Convention, 1985 (No. 160) was ratified in 1991; the Employment Policy Convention, 1964 (No. 122) was ratified in 1968; and the Human Resources Development Convention, 1975 (No. 142) was ratified in 1979.

The Occupational Safety and Health Convention, 1981 (No. 155); the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); and the Social Security (Minimum Standards) Convention, 1952 (No. 102) have not been ratified.

Sources:

1. The Government's report to the Committee of Experts on the implementation of Convention No. 150;
2. Sources mentioned in other Legal Framework Indicators.

2 Employment opportunities¹

Ukraine ratified the ILO Employment Policy Convention, 1964 (No. 122), in 1968 and the Government's commitment to full employment is reflected in the national legislation.² Current policies on employment have been approved by the President and the Cabinet of Ministers of Ukraine, and Action Plans have been formulated with the strategic goal of promoting productive labour, and full and freely chosen employment. These aim at addressing the serious challenges faced by the country (see Legal Framework Indicator 2 'Government commitment to full employment'). In the 1990s, Ukraine experienced a decade of economic contraction and deteriorating living standards during the transition to a market oriented economy (see Chapter 1 'Economic and social context for decent work').

Similar to many transition economies, employment opportunities in Ukraine diminished during the initial stages of economic reform in the 1990s. The upward trend in the employment-to-population ratio (for persons aged 15 to 64) which increased from 59.0 per cent in 2000 to 63.4 per cent in 2008 and to 61 per cent in 2009 (see Table 1), tends to reflect the better economic performance in the current decade. However, the employment rate is still low and employment creation in the current decade has been limited. During 2000–2009, employment growth for the population aged 15 to 64³ averaged 0.6 per cent, suggesting very low labour absorption despite higher economic growth rates. Such a state of affairs is explained by the fact that the decade of the 1990s

was described as a transition period in terms of consolidation of the Ukrainian market economy.

In the first half of 2010, the number of employed persons aged 15 to 70 increased by 36,800 persons year-on-year, to 20.2 million persons, including 18.4 million persons of working-age. The employment-to-population ratio for this age group as a whole grew from 57.7 per cent in the first half of 2009 to 58.4 per cent in the first half of 2010, and for the population aged 15 to 64 the ratio increased from 60.9 per cent to 61.4 per cent.

The unemployment rate for the age group 15 to 70 years continuously decreased during the period 2000 to 2008, from 11.6 per cent in 2000 to 6.4 per cent in 2008. Subject to the global financial crisis, the indicator increased to 8.8 per cent in 2009, but subsequently has demonstrated a steady declining trend reaching 8.5 per cent during the first half of 2010 (see Table 1).⁴

The number of unemployed as a whole decreased by 141,300 in the first half of 2010 year-on-year, arriving at a total of 1.9 million. The unemployment rate for people aged 15 to 70 as a whole dropped to 8.5 per cent of the economically active population of this age group.

In other words, employment-to-population rate growth in Ukraine during the last decade, despite being low in the face of high economic growth, appears to have been sufficient to drive the unem-

¹ By Theodoor Sparreboom, ILO Employment Trends.

² In particular, in the Law on Employment of the Population, No. 803-XII of 1 March 1991.

³ This figure most clearly shows employment of the working-age population under the existing Ukrainian pension legislation.

⁴ The unemployment rate for the labour force aged 15 to 64 continuously declined since 2000 and dropped to 6.5 per cent in 2008. In 2009, amid the global financial crisis, the indicator went up to 9.1 per cent but since then demonstrates a steady declining trend (8.7 per cent in the first half of 2010) (Table 1).

Legal Framework Indicator 2. Government commitment to full employment

Law, policy or institutions: The Law on Employment of the Population of 1 March 1991, (No. 803-XII) and the Law on Compulsory State Social Insurance against unemployment of 2 March 2000, (No. 1533-III), amongst others, put forth the broad directions and objectives of the employment policy. This policy, which promotes productive employment, is stated in the Presidential Decree of 11 July 2005 (No. 1073) on the Improvement of the State Regulation in the Sphere of Employment of the Population and Labour Markets in Ukraine.

Priorities include: enhancement of labour market competitiveness; promotion of job creation; reorientation of education and training to match labour market needs; improvement in the employability of the labour force; strengthening productive employment and avoiding undeclared work; and increased social protection for the unemployed. A Resolution of the Cabinet of Ministers of Ukraine approved the principal directions of the implementation of the state employment policy for the period up to 2009 and for 2010–2011. The execution of these resolutions is ensured, *inter alia*, by the development of plans of action (annual or biannual) approved by Order of the Cabinet of Ministers, and by regional programmes of employment of the population. Information on the fulfillment of the plans of action is provided to the MLSP and, subsequently, to the Cabinet of Ministers, on a quarterly basis by local bodies.

Evidence of implementation effectiveness: In 2010, the CEACR noted that one of the priorities of the employment policy is to minimize the negative impact of the financial and economic crisis on the labour market and that, in this context the Government adopted, *inter alia*, Law No. 799-VI of 25 December 2008 to amend certain legislative texts. The CEACR asked the Government for information on how the measures adopted have succeeded in mitigating the impact of the crisis and have been translated into the generation of productive and lasting employment opportunities for the unemployed and other categories of vulnerable workers. The CEACR also noted that the development of a flexible and employment-oriented system of vocational guidance and training is among the priorities of the SES. In 2009, the number of participants in available training programmes, decreased by 36 per cent compared to 2008, when there were 49 per cent fewer people participating in paid social work and 35 per cent fewer jobseekers placed. The Committee invited the Government to provide an assessment of the efficiency and relevance of training programmes and other initiatives undertaken in collaboration with the social partners in promoting the return of unemployed persons to productive employment, and of the measures taken to improve the coordination of employment and education and training policies with a view to enhancing the employability and competitiveness of the labour force. The CEACR further noted that, out of 542,800 registered unemployed persons in 2010, 214,100 were less than 35 years of age. The CEACR asked for further information on efforts made to improve this situation and the results achieved in terms of designing targeted programmes and incentives for the promotion of sustainable job creation for the youth.

Ratification of ILO Conventions: The Employment Policy Convention, 1964 (No. 122) was ratified in 1968.

Sources:

CEACR comments

(<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displayAllComments.cfm?hdroff=1&ctry=0600&conv=C122&Lang=EN>) and Government report on the application of Convention No. 122.

ployment rate down.⁵ However, migration is also likely to have been a factor driving the decrease in the unemployment rate, to the extent that those who are available for work and see few job opportunities in Ukraine have been more likely to look outside the country to secure employment than the employed population. Available data show that discouraged workers, who have given up their search for jobs and have left the labour market but stayed in the country, make up a decreasing proportion of the economically inactive population. This proportion stood very low at 1.5 per cent of

the inactive population in 2009. Interestingly, the proportion of homemakers (defined as inactive persons fulfilling domestic tasks and engaged in housekeeping while being sponsored by somebody) increased from 11.6 per cent in 2000 to 18.6 per cent in 2009. Some of these persons may have been classified as discouraged workers in previous years.

The employment-to-population rate for youth is much lower than for other age groups, in part because many youth are in full-time education. The youth employment-to-population rate stood at 34.5 per cent in 2009, and the share of youth neither in education nor in employment decreased from 21.4 per cent in 2000 to 18.7 per cent in

⁵ The average period of unemployment for the age group 15 to 70 declined from 23 months in 2000 to nine months in 2009, while the average period of job search declined from ten months in 2000 to six months in 2009.

Table 2. Employment opportunities

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	H1 2010**
Employment-to-population ratio, 15 to 70 years, in %¹	62.8	55.0	55.8	55.4	56.0	56.2	56.7*	57.7	57.9	58.7	59.3	57.7	58.4
male	64.9	59.6	60.5	59.9	60.1	60.3	60.9*	62.8	63.5	64.3	65.2	62.1	62.7
female	60.8	50.9	51.6	51.5	52.2	52.6	52.9*	53.1	53.0	53.7	54.0	53.9	54.5
Employment-to-population ratio, 15 to 64 years, in %¹	–	58.6	59.0	58.6	59.1	59.7	60.4*	61.5	62.1	62.9	63.4	61.0	61.4
male	–	62.9	63.3	62.5	62.9	63.2	64.1*	66.1	67.1	67.9	68.6	64.8	65.1
female	–	54.9	55.1	55.0	55.7	56.5	56.9*	57.3	57.5	58.3	58.5	57.6	57.9
Unemployment rate, 15 to 70 years, in %¹	11.3**	11.6	11.6	10.9	9.6	9.1	8.6*	7.2	6.8	6.4	6.4	8.8	8.5
male	11.9**	11.8	11.6	11.0	9.8	9.4	8.9*	7.5	7.0	6.7	6.6	10.3	9.8
female	10.8**	11.3	11.6	10.8	9.5	8.7	8.3*	6.8	6.6	6.0	6.1	7.3	7.0
Unemployment rate, 15 to 64 years, in %¹	–	11.7	11.8	11.1	9.8	9.2	8.8*	7.4	7.0	6.5	6.5	9.1	8.7
male	–	12.0	11.8	11.2	10.0	9.6	9.0*	7.7	7.2	6.8	6.8	10.5	10.0
female	–	11.5	11.8	11.0	9.6	8.9	8.5*	7.0	6.8	6.2	6.3	7.5	7.2
Youth not in education and not in employment, 15 to 24 years, in %¹	–	23.8	21.4	20.4	18.2	16.6	18.0*	17.1	16.2	15.8	16.0	18.7	–
male	–	20.7	18.3	18.1	16.0	13.8	16.3*	14.3	12.8	12.9	12.5	16.8	–
female	–	27.0	24.6	22.7	20.5	19.4	19.8*	20.1	19.6	18.8	19.7	20.8	–
Informal employment (national definition), in %²	–	13.6	14.8	16.4	17.3	17.2	19.4*	21.5	22.3	22.3	21.8	22.1	22.4
male	–	13.3	14.2	16.0	16.9	16.9	20.2*	21.2	22.2	22.3	22.2	23.1	23.6
female	–	13.9	15.4	16.8	17.8	17.4	18.6*	21.7	22.4	22.3	21.3	21.1	21.2

Notes:

¹ Data for the years 1999-2003 were revised according to the methodology used from 2004 onwards and the demographic structure of the population as obtained from the All-Ukrainian Census of 2001. The information for 1998 was not recalculated.

² According to the national methodology, the informal sector of the economy includes all persons employed in unregistered enterprises, which by their size (in terms of total number of employed) belong to the household sector.

Informal sector enterprises are considered those which meet the following criteria: market orientation; limited number of employees; lack of state registration of business activities.

Given the national distribution of informal employment relationships, criteria for the definition of the number of employed in this sector are expanded by including those who worked under an oral agreement with an employer in the formal sector, i.e. without a formal employment contract which provides the minimum social security entitlements.

* Sample surveys on population activity in Ukraine were held on the quarterly basis since 1999-2003 and on a monthly basis since 2004.

** H1: first half of the year

Source: State Statistics Committee of Ukraine, based on the sample population (household) survey on population activity in Ukraine.

2009. To an important extent, this is due to the well-developed and well-utilized education system in Ukraine, which has gross enrolment rates in both secondary and tertiary education, outperforming the regional average of Central and Eastern Europe in recent years.

Employment-to-population rates only capture the volume of employment in a relative dimension, whereas insights into the quality of employ-

ment can be gained from examining the status in employment, among other indicators. Wage and salaried workers are more likely to benefit from elements associated with decent employment, such as employment protection, social security and a voice at work, than own-account workers or contributing family workers. The share of wage and salaried workers in total employment has declined from 89.9 per cent in 2000 to 81.5 per cent in 2009. The decline was almost the same for women (8.3 per-

centage points) as for men (8.4 percentage points), similar to the resulting shares of wage employment in total male and female employment that are still fairly close (80.9 and 82.2 per cent, respectively). The total number of workers increased by 1.7 million between 2000 and 2009.

The proportion of workers aged 15 to 70 years in informal employment increased from 14.8 percent in 2000 to 22.1 percent in 2009. Contrary to the year 2000, the share of informal employment was slightly greater among men than among women. In absolute numbers, informal employment expanded by almost 1.5 million from 2,985,100 in 2000 to 4,469,900 in 2009. Interestingly, initial reforms in the general compulsory state social insurance⁶ were followed by the first wave of decreasing annual employment rates in this sector from 1.6 percentage points in 2000 to 0.1 percentage points in 2002. Afterwards, annual employment growth rates in the informal economy reached a peak in 2004 and 2005 (2.2 and 2.1 percentage points, respectively), which coincided with the implementation of pension reform in Ukraine⁷. Shortly thereafter, during the following years, there was a considerable slowdown in this indicator's rise which even included a decrease in 2008 (-0.5 percentage points). However, there was a growth again in 2009 and during the first half of 2010 by 0.3 and 0.2 percentage points, respectively. This increase more than explains the growth of the general employment rate over that period. The number of other employed persons, not classified as informally employed, dropped by 1.5 million. This confirms the overall positive trend in the other employment indicators discussed above.

The analysis of selected employment indicators confirms that following the dramatic period of

economic transition during the 1990s, Ukraine has begun, during the current decade, to experience a period of stabilization with regard to labour market developments. Employment opportunities have expanded, and labour market indicators such as the employment-to-population rate and the unemployment rate have improved. Nevertheless, given the high rates of economic growth during much of the current decade, employment generation has been limited, and at least part of the improvement in labour markets seems to be due to outward migration. Furthermore, the expansion in employment that did occur can be attributed to a rising proportion of workers in vulnerable employment or in informal employment. Thus, no progress appears to have been made during 2000–2009 in increasing the quality of employment opportunities. The country therefore not only faces challenges in employment creation, but also in improving working conditions for those who are currently employed.

More recently, these challenges have been greatly exacerbated by the global economic crisis, as Ukraine has been among the countries that have been hardest hit. Ukraine is dependent on one leading export commodity, namely metals, for which prices and demand have slumped in world markets. Globally, there are signs of a recovery, but it seems too early to establish whether and to what extent a turnaround has taken place that would benefit exports. Accordingly, economic and labour market policies in Ukraine are focused on mitigating the impact of the economic crisis. Therefore, it is essential to continue to monitor employment and labour markets, not only with a view to the crisis itself, but equally to assess the effectiveness of policy responses.

⁶ In particular, the amounts of individual income (profit), on which contributions to the general compulsory state social insurance funds are charged, were limited by a ceiling value in 1999.

⁷ The Laws of Ukraine on the General Compulsory State Pension Insurance and on the Non-State Pension Insurance of 9 July 2003 that came into force since 2004.

Legal Framework Indicator 3. Unemployment insurance

Law, policy or institutions: The unemployment insurance system is governed by the Law on the Employment of Population (No. 803-XII of 1991), as amended, the Law on General Compulsory State Social Insurance against Unemployment of 2000, as amended, and the Law on the Rates of Contributions to Some Types of General Compulsory State Social Insurance (No. 2213-III of 2001), as amended. General policy coordination is provided by the MLSP; the Public Employment Service and its local offices administer the programme.

Qualifying conditions: Insured persons must have worked, on a full-time or part-time basis, for not less than 26 calendar weeks over the 12 months preceding the beginning of their unemployment to be entitled to benefits. The insured must be registered at an employment office and be able and willing to work. The benefit may be reduced, suspended, or terminated if the worker is discharged for violating work rules, leaving employment without good cause, violating conditions for job placement or vocational training, or filing a fraudulent claim. The scope of insured persons was recently expanded to include working pensioners, persons employed on civil contracts, military personnel, foreigners and stateless persons residing in Ukraine (Law on Amending Some Laws of Ukraine to Reduce the Global Financial Crisis' Impact on the Employment of Population No. 799-VI of 25 December 2008); however, criteria to justify the employment of foreigners have been stiffened.

Benefits (level and duration): *Unemployment benefit:* with up to two years of covered employment, the benefit is based on 50 per cent of average earnings; between two and six years – 55 per cent; between six and ten years – 60 per cent; over ten years – 70 per cent. For the first 90 calendar days, 100 per cent of the benefit is paid; 80 per cent for the next 90 calendar days; 70 per cent thereafter. Benefits are paid for up to 360 days in a two-year period. For insured persons within two years of retirement, benefits are paid for up to 720 calendar days. The minimum benefit is equal to 23 per cent of the minimum subsistence level and is established annually by the FGCSSIU board, subject to the Fund's real capability. The maximum benefit is equal to the regional average wage in the previous month. Benefits are paid from the eighth day following registration with the employment service; persons who have left their place of work of their own volition without compelling reasons start receiving benefits 91 days after registration.

Unemployment assistance: for unemployed persons who have exhausted their entitlement to unemployment benefits, when the monthly average income for each family member does not exceed the established legal minimum.

Dependent's supplement: paid after reception of unemployment benefits for 360 days and unemployment assistance for 180 days. Partial unemployment benefits have been introduced as a temporary measure for workers of enterprises experiencing stoppages (Law No. 799-VI of 25 December 2008).

Financing: Coverage is compulsory for employees (contributions from an insured person amount to 0.6 per cent of earnings and from employers to 1.6 per cent of payroll; central and local governments pay subsidies as needed). Coverage and contributions are voluntary for self-employed persons (2.2 per cent); there are special provisions for victims of the Chernobyl catastrophe. Persons under civil contracts contribute 0.6 per cent of their income.

Evidence of application effectiveness: No information located by the ILO.

Coverage of workers in law: See above (percentage not located by the ILO).

Coverage of workers in practice: According to information provided by SSCU, there were 449,700 registered unemployed as of 1 December 2010, of which 321,500 received unemployment benefits.

Ratification of ILO Conventions: The Social Security (Minimum Standards) Convention, 1952 (No. 102) and the Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) have not been ratified.

Sources:

NATLEX Database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=UKR);

ISSA country profile (<http://www.issa.int/aiss/Observatory/Country-Profiles/Regions/Europe/Ukraine>);

Government report to the CEACR on the application of Convention No. 158 (Termination of employment);

State Statistics Committee of Ukraine.

3 Adequate earnings and productive work¹

Wage developments throughout the early transition period of the 1990s were characterized by an extraordinary fall in real wages, mainly due to hyperinflation and a restrictive wages and incomes policy.² Non-payment of wages or delays in the payment of wages also became a widespread phenomenon, further eroding living standards of ordinary workers. Since 2000, there has been a rebound of wages and a ‘catching up’ process that partly reflects the depth of the previous decline. Real wage increase in that period is impressive: from 1999, when average wages (in constant 2000 hryvnias³) fell to 228.2 hryvnias, they grew 3.2-fold in real terms in the ten years up to 2009 (726.3 hryvnias; see Table 3). This is equivalent to an annual compounded growth rate of about 12 per cent. According to the World Bank, the rise in wages was driven by improved labour productivity, and “real wages rose without raising the unit costs of production and without harming the competitiveness of Ukrainian goods and services in world trade”.⁴

Along with the real wage increases, the wage share in GDP also recovered and reached 49.4 per cent in 2009, or slightly above its 1998 level (see Chapter 1 ‘Economic and social context for decent work’).

At the same time, there has been a progressive increase in the monthly minimum wage, both in nominal and in real terms. While this helped wage earners at the bottom of the wage scale, the increase

in minimum wages did not keep pace with overall wage developments and, in addition, the ratio of minimum wages as a percentage of average wages has tended to decline in the past nine years, from 41.7 per cent in 2000 to 29.5 per cent in 2008. It was not until 2009 and the first half of 2010 that the indicator was seen to rapidly return to its previous positions: 33.7 per cent and 41.6 per cent, respectively (see Table 2). During 2009, the minimum labour remuneration level was raised by law from UAH 605 to UAH 744 which was equal to the subsistence minimum as of the year end. However, the minimum wage in Ukraine was much lower as compared to relevant EU standards. It should also be noted that, according to European practice, the government’s social actions concerning minimum wages are considered to be sufficient only when the ratio between minimum and average wages is within the 50 per cent to 60 per cent range.

Unfortunately, the problem of wage arrears in Ukraine remains unsolved. A continuous annual decrease of the arrears occurred during a ten-year period which was due to strong interventions by public authorities, from UAH 6,401 million in the early 1990s to UAH 669 million in early 2008, or almost tenfold. However, unfortunately, in 2008 and 2009, it rose again by 2.2 times due to the unfolding global financial crisis, and reached UAH 1,473.3 million as of 1 January 2010.

Wage increases, combined with increases in social transfers (notably pensions), has had a positive effect on poverty reduction. Using a poverty line based on minimum needs for food and non-food goods and services⁵, the World Bank estimates that the poverty headcount ratio has fallen

¹ Written by Daniel Vaughan-Whitehead, ILO Conditions of Work and Employment Programme (TRAVAIL), Social Protection Department.

² The Ukrainian challenge: Reforming labour market and social policy (ILO-CEET, Central European University Press, 1995).

³ Ukrainian currency

⁴ Ukraine: Poverty Update, Report No. 39887-UA (Washington, D.C., World Bank, June 2007), p. 2.

⁵ Ibid.

Table 3. Adequate earnings and productive work

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	H1, 2010
Working poor (relative poverty line)¹	–	24.1	21.6	22.6	22.6	21.1	22.3	22.3	22.2	21.7	21.1	20.6	–
Poverty level according to the national relative rate ¹	–	27.8	26.4	27.2	27.2	26.6	27.3	27.1	28.1	27.3	27.0	26.4	–
Poverty headcount rate, in % (absolute poverty line)²	–	–	–	31.7	25.5	19.5	14.0	7.9	–	–	–	–	–
% of population whose per capita cumulative monthly income is below the subsistence minimum³	–	–	39.2	39.9	39.8	35.2	30.3	25.3	23.1	13.2	8.1	9.5	–
million people	–	–	80.2	82.7	83.3	76.2	65.6	55.3	50.9	29.3	18.1	21.4	–
% of entire population	–	–	80.2	82.7	83.3	76.2	65.6	55.3	50.9	29.3	18.1	21.4	–
Average monthly wage ⁴ in current hryvnias	153	178	230	311	376	462	590	806	1041	1351	1806	1906	2108
Average monthly wage ⁴ in constant 2000 hryvnias	240.6	228.2	230.0	277.7	333.0	389.0	455.7	548.5	649.3	747.0	797.6	726.3	769.6
Average monthly wage growth rates in constant 2000 prices, in %⁵	-3.2	-5.2	0.8	20.7	19.9	16.8	17.1	20.4	18.4	15.0	6.8	-8.9	6.0
Real wage growth rate⁶	-3.8	-8.9	-0.9	19.3	18.2	15.2	23.8	20.3	18.3	12.5	6.3	-9.2	8.6
Monthly minimum wage ⁷ in current hryvnias	50	74	96	118	153	187	216	300	365	430	533	643	877
Monthly minimum wage ⁷ in constant 2000 hryvnias	78.6	94.9	96	105.4	135.7	157.6	166.9	204.2	227.8	237.8	235.5	245	
Minimum wage in % of average wage	32.7	41.6	41.7	37.9	40.7	40.5	36.6	37.2	35.1	31.8	29.5	33.7	41.6
Minimum wage in % of subsistence minimum ⁷	–	–	33.4	35.6	41.9	51.2	57.2	66.2	73.7	77.7	82.1	96.1	100
Wage arrears, beginning of the year ⁸ in current millions of hryvnias	5.166	6.519	6.401	4.928	2.657	2.548	2.232	1.111	960	806	669	1.189	1473.3
Wage arrears, beginning of the year ⁸ in constant millions of hryvnias as of the end of 2000	8.125	8.358	6.401	4.402	2.355	2.147	1.725	0.756	0.599	0.446	0.296	0.453	
Low pay rate (below 2/3 of median of hourly earnings)*			26.2	26.7	28.2	26.6	28.5	28.4	26.5	29.5	29.2	28.9	26.7**

Notes:

¹ World Bank estimate, based on a relative poverty line (75 per cent of median household consumption expenditure per adult). No disaggregation by sex is available.

² World Bank estimate, based on an absolute poverty line of UAH 1813 per person per year, in 2003 prices.

³ SSCU, population with average cumulative per capita income below the subsistence minimum. In 2000-2006, average cumulative per capita spending was used as the differentiation criterion. Data for 2000, 2004 and 2006-2008 refer to the fourth quarter.

⁴ Wage data – SSCU; CPI data – IMF, World Economic Outlook, October 2010.

⁵ Calculated as percent growth on the year-on-year basis (SSCU).

⁶ Calculated according to the methodology approved by the SSCU Order No. 219 of 7.06.2002. The real wage growth rates are calculated year-on-year (for the first half – to the first half of the previous year) and adjusted to corresponding consumer price indices.

⁷ MLSP database (information on minimum wage rates beginning from October 1991, according to statutory decisions and actual implementation).

⁸ SSCU, tables 'Wage arrears by region' and 'Wage arrears by region, 2009'; period-end CPI data – IMF, World Economic Outlook, April 2009. Since wage arrears data refer to 1 January, the CPI value at 31 December of the previous year was used to convert current into constant hryvnias.

* Statistics by men and women not available.

** June 2010.

Sources: SSCU, based on IDSS data; IMF, World Economic Outlook, April 2009; World Bank, Ukraine: Poverty Update, Report No. 39887-UA.

Legal Framework Indicator 4. Minimum wage

Law, policy or institutions: Relevant laws include the Wages Act (Order No. 108/95-VR of 24 March 1995) and the Law on the minimum subsistence level (No. 966-XIV of 15 July 1999), as amended. According to the Wages Act, the amount of the minimum wage is set in the Law on State Budget by the supreme Council of Ukraine on the recommendation of the Cabinet of Ministers, once a year, during the adoption of the national budget with consideration of proposals by the social partners; the minimum wage shall not be set at a level lower than the minimum subsistence level. The minimum wage for workers in particular sectors or enterprises can be regulated by collective agreements; the minimum wage provided by a collective agreement cannot be lower than that provided by law. In case of financial difficulties of the enterprise, the minimum wage can be fixed by collective agreement at a lower level than the national minimum wage for a period not exceeding six months. Information concerning the level of the minimum wage is published in official journals and the media. Compliance with minimum wage requirements is monitored by labour inspectors and experts from the Ministry of Labour and Social Policy.

The law covers all workers engaged in an employment relationship on the basis of a labour contract with enterprises, establishments, and organizations with all forms of ownership and management, as well as with individual citizens.

Minimum wage levels: The Law on the State Budget normally provides for the gradual increase of the minimum wage during the year. For example, the minimum wage rate was 605 hryvnias per month in January 2009, 869 hryvnias in January 2010, and was increased to 922 hryvnias in December 2010.

Coverage of workers in law: See above (percentage not located by the ILO).

Coverage of workers in practice: Percentage not located by the ILO.

Evidence of effective implementation: No information located by the Organization.

Ratification of ILO Conventions: The Minimum Wage Fixing Convention, 1970 (No. 131) was ratified in 2006.

Sources:

1. NATLEX Database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=UKR) and National legislation (<http://portal.rada.gov.ua/control/en/index>);
2. TRAVAIL legal database – Minimum Wages; (http://www.ilo.org/dyn/travail/travmain.sectionReport1?p_lang=en&p_countries=UA&p_sc_id=1&p_year=2009&p_structure=1);
3. Government report on the application of Convention No. 131 and CEACR comments (<http://webfusion.ilo.org/intranet/db/standards/normes/appl/appl-displaycomment.cfm?hdroff=1&ctry=0600&year=2009&type=R&conv=C131&lang=EN>).

from 31.7 per cent in 2001 to 7.9 per cent in 2005. However, the poverty line used for this purpose was extremely low, at 1,813 hryvnias per person and year. This is equivalent to only UAH 151 per month, and much lower than the subsistence minimum set by the Verkhovna Rada of Ukraine (Ukraine's Parliament). Using a higher poverty line obviously raises poverty rates. The monitoring of poverty indicators however indicates a better situation. The poverty level determined by a relative (national) poverty rate (75 per cent of median cumulative spending per adult) has shown a decreasing trend in Ukraine for the last four years. The poverty level reached 28.1 per cent in 2006 but it dropped by almost 2 percentage points in 2009, down to 26.4 per cent. The poverty line was raised to almost double its level during that period, from UAH 430 in 2006 to UAH 835 in 2009. According to data from the State Statistics Committee of Ukraine (SSCU) in 2009, 21.4 per cent of the population still had per capita aggregate

monthly income which was below the subsistence minimum. Although this is still a high share, it was a significant improvement compared to 2002, when 80 per cent of the population was in this situation and to 2005 when 55 per cent had levels of per capita aggregate spending which were below the minimum subsistence level.⁶ In the meantime, the working poor rate (based on this national relative poverty line) has fallen from 24.1 per cent in 1999 to 20.6 per cent in 2009 (see Table 2).

Nevertheless, the situation remained difficult, even prior to the current economic crisis. Despite their progressive increase, minimum wages did not seem to be sufficient to ensure minimum living standards for the workers and their families.

⁶ In 2002-2006. The household 'cumulative spending' was used as a differentiation criterion, and since 2007 calculations are based on household income.

In 2009, 9.5 million persons still had per capita aggregate income levels which were below the minimum subsistence level. The minimum wage also remained below the minimum subsistence level, even if significant progress had been made (an increase from 33 per cent in 2000 to 96 per cent in 2009 – see Table 2), that would explain why the percentage of working poor continued to be a significant problem. The calculations of the Institute for Demography and Social Studies, National Academy of Sciences, Ukraine (IDSS) show that the share of the working poor, according to the relative poverty line used in Ukraine, remained stagnant at 21 to 22 per cent throughout the decade. Income inequality between the richest and poorest population groups also remained at a high level. The P90/P10 ratio was 6.4 in 2000, 7.1 in 2006, and 5.3 in 2009.⁷

The economic crisis of 2008–2009 aggravated the situation (see Chapter 1). In 2008, for the first time in seven years, the minimum wage did not increase in line with or above the rate of inflation, and actually declined by 1 per cent in real terms. As a result, minimum wages fell further in comparison to average wages (the average wage level being at 29.5 per cent), and also to 80 per cent of the poverty line. Although the minimum wage was again increased in 2009 (to UAH 625 from 1 April onwards, and UAH 630 from 1 July onwards),⁸ that allowed the minimum wage to rise in real terms by only UAH 7.2, or by only 2.9 percentage points, to its 2007 level.

Average wages continued to rise in the first half of 2008, but stagnated in nominal terms from July 2008 onwards. However, compared to the previous year, real wages rose only modestly in 2008 (6.8 per cent) and started to fall significantly in the first half of 2009, by 10.1 per cent, particularly as concerns the public administration.⁹ At the same time, the number of workers who saw their incomes decline because of administrative leaves or shorter hours grew rapidly (see Chapter 4 ‘Decent hours’, and Chapter 7 ‘Stability and security of work’). The average monthly nominal

wage of staff members of enterprises, institutions or organizations rose by 5.5 per cent compared to 2008 and amounted to UAH 1,906. That was the lowest annual growth rate of the entire period of recorded monthly national statistical observations on labour statistics (since 1992).

It should be noted that the increase in hourly wages was on average almost twice as high per month. Hence, the growth rates of the average monthly nominal wage were affected by the increase in forced part-time employment and the declining efficiency of the use of working time in 2009. For example, the full-time employment rate for employees decreased as a whole from 98.2 per cent in 2008 to 94.7 per cent in 2009, and for industry it decreased from 94.7 per cent to 89.4 per cent. The number of workers who shifted to short hours for economic reasons grew in comparison to the previous year: by 71.1 per cent in the entire economy, and by 50.4 per cent in industry. Furthermore, there was an increase by almost a half in the number of workers who were sent on leave without pay for the period of work termination. During 2009, each worker worked for 1,599 hours on average, representing 83.4 per cent of the working time fund established at enterprises, against 1,687 hours and 86.8 per cent in 2008.

Year-on-year wage growth in 2009 was seen across all economic activities. The growth rates varied between 2.3 per cent in forestry and related services, to 25.8 per cent in water transport. An exception consisted of public administration and construction entities where wage rates decreased by 2.6 per cent and 17.5 per cent, respectively. As far as industrial activities are concerned, the growth varied between 0.4 per cent in metallurgy and the production of finished metal goods and 13.4 per cent in the production and distribution of electricity, gas and water. Meanwhile, the decrease of the nominal wage by 0.3–10.3 per cent was recorded at enterprises producing rubber and plastic goods, in chemical production, wood processing and production of wooden articles (except furniture), manufacture of machines and equipment, manufacture of other non-metal mineral products, and production of vehicles and transport equipment.

In 2009, there has been a growth in the number of workers whose labour remuneration is within the

⁷ SSCU, Kyiv, 2010.

⁸ See the Law on the State Budget of Ukraine for 2009.

⁹ See SSCU, table ‘Real wages by region, 2009’.

statutory minimum wage bracket. In this respect, the total number of workers increased by a third at year-end compared to 2008. Meanwhile, for those who worked the full monthly standard time (7 million workers), this indicator was 4.2 per cent. Overall, payable wages of half the workers were less than the country's average.

A certain disparity in labour remuneration between men and women has persisted in Ukraine for the last 12 years. This disparity deepened after 1998 (the wage ratio between women and men decreased from 74.2 per cent in 1998 to 68.6 per cent in 2003 and 2004), but has begun to decline gradually since 2005 (the wage ratio increases every year and amounted to 77.2 per cent in 2009 and 77.9 per cent in the first half of 2010). In 2009, the greatest wage gap between women and men was observed in the extractive industry (47 per cent) as well as in the postal and communications services, and in enterprises providing communal and personal services, transport and communications where it was between 32.7 and 40.6 per cent.

Wage arrears (which had been contained and also reduced since 2002) have also rapidly re-emerged with the economic crisis. It is significant to report that such wage arrears in 2009 did not only affect bankrupted or inactive enterprises, but also those that are still economically active. These wage arrears in 2009 represented 65 per cent of the total (compared to 64 per cent in the previous year).

The combined effect of declining wages, a rising proportion of workers on administrative leave or short hours, and growing wage arrears has clearly made workers more vulnerable and weakened their bargaining position. If the trend continues, its first

direct impact will be to further reduce workers' purchasing power with negative repercussions for aggregate demand, a general fall in consumption and effects on output. The second impact will be to place an increasing proportion of the working population below the minimum subsistence level or poverty line, thus automatically leading to a radical increase in the percentage of the working poor (see Table 2).

In this context, responses from the national authorities with regard to wage policy will be required in order to face the global financial and economic crisis. It will be essential to discuss current policy orientations – notably through the memorandum agreement with the IMF – to analyse their expected impact on wages, notably in the public sector, and on minimum wage earners. The overall impact of wages on enterprises' operations, and on their capacity to pay wages in a context of restrictive credit policy should also be analysed. While labour costs and wage developments do not seem to have been significant causes of the recession, the proposed reforms that will confront the economic crisis seem to impose a heavy burden on wages in the public sector, on pensions and minimum wages.

In the current crisis, maintaining the purchasing power of workers could have a positive impact on the economic recovery. Such a wage policy could be facilitated by strengthening the tripartite consultation process on wages and incomes policy. At the same time, it is urgent to protect those who are made the most vulnerable by the impact of the crisis, i.e. those at the bottom of the wage scale. Increases in the minimum wage could be a tool to achieve this objective and tripartite dialogue could be employed to reach a consensus on this issue.

4 Decent hours¹

Adequate working hours is a main concern for workers, and the regulation of working hours has historically been an important aspect in improving overall working conditions. Working hours is the subject of the first international convention adopted by the member states of the ILO, namely the Hours of Work (Industry) Convention, 1919 (No. 1), which established the general limit of six working days and eight hours per day. Although Ukraine has not ratified this convention, legislation has been enacted to regulate working hours (see Legal Framework Indicator 5 'Maximum hours of work'). This section reviews the situation in Ukraine with respect to excessive hours of work and employees who are involuntarily working short hours. At the same time, the decent hours question should be considered from the perspective of employers providing the possibility of flexible labour schedules and free time for family responsibilities, education or secondary employment opportunities. Furthermore, such flexibility should also allow the possibility for an employee to work short hours at his/her own will.

The statutory duration of the working week in Ukraine is 40 hours. The data collected by the SSCU revealed that the share of employed persons who work long hours (more than 40 hours per week) remained relatively stable at around 9 per cent from 1999 to 2003. In 2004, the share fluctuated around 13 per cent and dropped to 11 per cent in 2009. During the period from 1999 to 2009, the share was considerably higher among men than among women, and for example, in 2009, it was 13.7 per cent for men and 8.2 per cent for women.

The ratio of persons working more than 48 hours, which is the limit set forth in Convention No. 1, showed a slightly different trend (see Table 3). It remained stable at a comparatively low level of around 4 per cent between 1999 and 2003, and increased to 6.9 per cent in 2004. It started to decline modestly thereafter and dropped to 4.1 per cent in 2009.

When disaggregated by sex, the data reveal consistent gender differences: during the entire period, men were about twice as likely as women to work excessive hours. Further differentiation by age reveals that men aged 40 to 49 constitute the largest group of persons working excessive hours, followed by men of the 35 to 39 age group. At the same time, women aged 50 to 59 rank second in terms of the number of women working excessive hours, whereas the top position is occupied by women of the 40 to 49 age group.

The analysis by status in employment of persons who worked excessive hours demonstrates that the large majority of them were employees (79.9 per cent in 2009), followed by own-account workers, excluding persons working privately in agriculture (16.5 per cent). Relatively few economic activities account for the excessive hours worked by a majority of workers. In 2009, these activities were found to be in the wholesale and retail trade; repair of motor vehicles; personal goods and household appliances; hotels and restaurants (324,800 workers), followed by construction (124,700 workers) and agriculture (71,200 workers).

Whereas some employees work hours in excess of the legal maximum, others face an inadequate volume of work. This phenomenon is often related to underemployment. In Ukraine, information is

¹ By Igor Chernyshev, ILO Department of Statistics.

Legal Framework Indicator 5. Maximum hours of work

Law, policy or institutions: The Labour Code (1971), as amended, regulates working hours in Ukraine. The Labour Code applies to workers in all enterprises regardless of property pattern, the type of activity or the sector of economy. The Code also applies to persons employed by other persons under an employment agreement. Labour relations in cooperatives, collective agricultural enterprises, farms, and enterprises with foreign investments are governed by special legal acts.

Number of hours allowed: The normal duration of working time cannot exceed 40 hours a week. Shorter hours are provided for younger workers (e.g. the duration of working time may not be greater than 36 hours per week for workers between 16 and 18 years old. This is halved if the worker is studying). Enterprises can establish a shorter working week or day through a collective agreement. Increasing working time by agreement may not exceed four hours per 48 hours of work, or 120 hours per year.

Evidence of implementation effectiveness: No information located by the ILO.

Coverage of workers in law: See above (percentage not located by the ILO).

Coverage of workers in practice: No information located by the ILO.

Ratification of ILO Conventions: The Forty-Hour Week Convention, 1935 (No. 47) was ratified in 1956; the Weekly Rest (Industry) Convention, 1921 (No. 14); and the Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106) were ratified in 1968. The Hours of Work (Industry) Convention, 1919 (No. 1); and the Hours of Work (Commerce and Offices), 1930 (No. 30) have not been ratified.

Source:

National legislation in NATLEX http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=UKR.

collected from enterprises on workers who are in a situation of involuntary underemployment, i.e. they are available to work full time, but work short hours at the initiative of the employer. During the period from 1995 to 2009, the evolution of the proportion of employees who work short hours has witnessed two major periods of upheavals due to the severe problems of the Ukrainian economy that culminated in the late 1990s, and more recently to the current financial and economic crisis (see Chapter 1).

Thus, with the exception of those working at statistically small enterprises and for individual entrepreneurs, the number of employees finding themselves in underemployment tripled between 1995 and 1997 and continued to grow until 1999 when it reached 17.6 per cent. Beginning in 2000, this percentage started to decline and in 2007 reached its historically lowest level of 4.4 per cent. However, in 2008, it shot up again to 10.6 per cent and continued its ascent to 19.4 per cent in 2009. In other words, during that period virtually every fifth employee in Ukraine worked fewer hours than he or she would have liked to.

In 2009, the number of workers who shifted to short hours for economic reasons increased year-on-year by an average of 71.1 per cent for the entire economy and by 50.4 per cent for industry. The number of workers granted unpaid leave for the work termination period increased by more than a half. The greatest increase in the number of such workers was found in the manufacturing, construction, education and trade sectors. The number of persons working short hours grew 1.7 times in 2009 year-on-year, or by 857,700, to a high of 2,063,300 (19.4 per cent of the average registered number of staff workers). Core sectors where the number of such workers increased considerably included industry (by 331,400), transport and communications (by 171,100), trade (by 99,200), and construction (by 64,900). However, as early as August 2010, 530,900 persons, or 5 per cent of employees, were working short hours, compared to 1 million in August 2009. It should be noted that with certain trends emerging in late 2009 and in 2010 which showed labour demand expansion, the indicator of the relative number of workers in forced part-time employment began to decline again reaching 12.3 per cent in the first half of 2010.

Table 4. Decent hours

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	H1, 2010
Excessive hours (more than 48 hours per week)¹	–	4.0	3.5	3.9	3.7	4.1	6.9*	6.3	6.0	5.7	5.7	4.1	–
Male	–	5.3	4.4	4.9	4.8	5.4	8.6*	8.4	8.2	8.0	7.9	5.4	–
Female	–	2.8	2.5	2.8	2.6	2.9	5.2*	4.0	3.6	3.2	3.2	2.7	–
Employees on short hours, in % of registered employees²	17.5	17.6	13.3	13.3	12.4	11.3	8.8	7.4	5.4	4.4	10.6	19.4	12.3

Notes:

¹ Data for the years 1999-2003 were revised according to the demographic structure of the population as obtained from the All-Ukrainian Census of 2001. This information for 1998 was not recalculated.

² Workers who were in a situation of involuntary underemployment (were available to work full time, but worked short hours at the initiative of the employer). Information about 'involuntary underemployment' was obtained from the enterprises.

* Sample surveys on population activity in Ukraine were held on a quarterly basis during 1999-2003 and on a monthly basis since 2004.

Source: SSCU, based on the Household Survey on Population Activity in Ukraine and Enterprise Survey.

Analysis of this decent work dimension has led to the following conclusions. Between 2004 and 2009, some progress was made in Ukraine towards improving working conditions which was geared towards a decrease in the number of employees working excessive hours. The most vulnerable groups in 2009 consisted of male groups of middle working age (40 to 49 and 35 to 39 years) and, with slightly lower numbers, female groups of middle working age, pre-pensionable and pension age (40 to 49 and 50 to 59 years). This phenomenon undoubtedly proves that income levels are declining and that there is a need for many families to get out of the 'credit trap' of banks and credit unions into which many of them may have fallen because of the financial crisis. Moreover, the number of employees working long hours largely outnumbered that of own-account workers.

The wholesale and retail trade, repair of motor vehicles, personal goods and household appliances, hotels and restaurants, and construction have been the sectors which employed the highest number of persons working excessive hours. While the former sectors benefited from some progress in terms of improved working conditions, persons employed in the construction sector continued to suffer from considerable overtime. In conclusion, in spite of general progress made in this dimension of decent work, Ukraine should continue implementing a series of measures geared towards a decrease in persons working excessive hours due to economic reasons, as well as towards the reduction of cases that lead to involuntary part-time employment, for example enterprise stoppages which occur for economic reasons and unpaid leave.

Legal Framework Indicator 6. Paid annual leave

Law, policy or institutions: The Labour Code (1971), as amended, and the Act on Leave (1996) provide for annual leave. The Labour Code applies to workers in all enterprises regardless of property pattern, the type of activity or the sector of economy. The Code also applies to persons employed by other persons under an employment agreement. Labour relations in cooperatives, collective agricultural enterprises, farms, and enterprises with foreign investments are governed by special legal acts.

Levels of leave: In addition to national holidays, workers are entitled to a minimum of 24 calendar days of paid leave (31 days if the worker is younger than 18). Some categories of workers are entitled to a longer duration of paid annual leave (workers in the mining industry, forestry workers, managers in educational institutions, persons with disability).

Evidence of implementation effectiveness: No information located by the Organization.

Coverage of workers in law: See above (percentage not located by the ILO).

Coverage of workers in practice: No percentage located by the Organization.

Ratification of ILO Conventions: The Holidays with Pay Convention (Revised), 1970 (No. 132) was ratified in 2001.

Source:

National legislation in NATLEX (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=UKR).

5 Combining work, family and personal life¹

Giving workers the opportunity to combine work with family responsibilities and aspirations for their personal life is an important element of the Decent Work Agenda, and the Ukrainian Government is working towards fully implementing national legislation that was adopted with this aim. The country has ratified the Maternity Protection Convention (Revised), 1952 (No. 103) and the Workers with Family Responsibilities Convention, 1981 (No. 156), but not the new Maternity Protection Convention, 2000 (No. 183) (see Legal Framework Indicator 7 ‘Maternity leave’ and Legal Framework Indicator 8 ‘Parental leave’). In a Direct Request, the ILO’s Committee of Experts on the Applications of Conventions and Recommendations (CEACR) noted that a draft national programme on the promotion of gender equality in Ukrainian society for 2006–10 had been prepared which, *inter alia*, provides for measures aiming at creating equal conditions for men and women to combine work and family responsibilities.² This will also be promoted to a considerable extent by the adoption of the new Labour Code of Ukraine by the Verkhovna Rada of Ukraine³.

During the past twelve years, the relative share of workers who have been on leave to care for a child until his/her attainment of a statutory age amounted to 3.4 per cent of the number of workers employed. However, fluctuations of this indicator were observed during that period, particularly the drop from 4 per cent in 1998 to 2.9 per cent in 2001 and the gradual upturn in subsequent years

reaching 4.2 percent in 2009. Moreover, the total number of such workers only began to grow again in 2005, and in 2009 still has not caught up with the 1998 level remaining at 23.5 percentage points lower.

The current challenges become apparent from a sample population survey on decent work that was conducted by the State Statistics Committee of Ukraine in 2003. Almost 28 per cent of women and more than 24 per cent of men of working age who were surveyed said that it was relatively difficult to combine work with family responsibilities, and approximately every tenth respondent said that it was quite difficult or impossible for them to do so. For parents of pre-school age children, the task is significantly more difficult. Among them, about half of all respondents stated that it was relatively difficult, difficult or impossible to combine the two. Unsurprisingly, the proportion is higher among women, who traditionally perform a wide range of family duties. Assessment of the difficulty of combining work and family responsibilities varies depending on the age of the workers, the most difficult phase generally being between the ages of 25 and 40 years.

In families with small children, one parent can remain at home while keeping their employment because the law guarantees work security until the child reaches a certain age: 3 years old, or 6 years if the child needs care according to a medical opinion issued by a medical consultative commission. While mothers predominantly make use of this provision, some of them work full-time in addition to their care responsibilities. Research shows that working mothers with children of pre-school age do not have shorter working hours than women without children, and that some 14 per cent of

¹ By Valeria Nesterenko, ILO Policy Integration Department.

² CEACR: Individual Direct Request concerning Workers with Family Responsibilities Convention, 1981 (No. 156) Ukraine (ratification: 2000) Response submitted: 2008.

³ The draft Labour Code of Ukraine is likely to be considered in the second reading and adopted by the Verkhovna Rada before the end of 2010.

Legal Framework Indicator 7. Maternity leave

Law, policy or institutions: Relevant legislation includes the Labour Code (1971), as amended, the Law on the State Assistance to Families with Children (1992), the Act on leave (1996), and the Act on mandatory state social insurance against temporary disability and expenses caused by birth and burial (2001). The law covers employed women, including women who are on leave to pursue education or training, women unemployed as a result of enterprise liquidation, registered unemployed women and wives of military personnel. The MLSP, the MoF and the FSITLWC provide general oversight of the programme for cash benefits.

Benefits (level and duration): Female employees are entitled to a maternity leave of 126 days (70 days before and 56 days after the expected date of childbirth; 70 days in case of complicated or multiple births) with an allowance equal to 100 per cent of average monthly earnings. For women on leave for education and training, the allowance is equal to 100 per cent of the stipend; women who have been registered as unemployed for at least 10 months receive 100 per cent of the minimum wage; spouses of members of armed forces receive 100 per cent of the earnings of the spouse. Non-working women and women who are not insured under the State social insurance system receive cash benefits from the social protection authorities at a rate of 25 per cent of the legally established monthly minimum subsistence level.

Financing: Cash benefits (both sickness and maternity benefits): contributions from insured persons (0.25 per cent to 0.5 per cent of earnings) and from employers (2.5 per cent of payroll). Self-employed: 3 per cent of the declared income. Allocations from the state budget for health care increased to 7.4 per cent of the total social expenditure in 2007.

Evidence of implementation effectiveness: In its report to the CEACR on Convention No. 156 (see Legal Framework Indicator 8) the Government informed that many young women give up their social benefits in order to keep working.

Coverage of workers in law: See above (percentage not located by the ILO).

Coverage of workers in practice: No percentage located by the ILO.

Ratification of ILO Conventions: The Maternity Protection Convention (Revised), 1952 (No. 103) was ratified in 1956.

The Social Security (Minimum Standards) Convention, 1952, (No. 102); and the Maternity Protection Convention, 2000 (No.183) have not been ratified.

Sources:

1. ISSA data base, supplemented by Social Security Throughout the World (Social Security Administration of the United States, September 2008);
2. The Government's Report to the Committee of Experts on the Convention No. 103;
3. NATLEX database (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=UKR).

them actually work long hours (i.e. more than the 40 hours per week as stipulated by national legislation – see also Chapter 4 ‘Decent hours’ and Legal Framework Indicator 5 ‘Maximum hours of work’).⁴ The decision to offer part-time work can be made by the employer to parents who have children aged less than 14 years (and those who have older disabled children). The pay of workers who work part-time is based on the time worked (i.e. they have a reduced take-home pay), but these workers have the right to maintain all the benefits and rights of regular full-time employees.⁵

⁴ Data refer to 2003, see State Statistics Committee of Ukraine, An excerpt from a concise review of results of a population survey held by state statistics bodies in September 2009 concerning subjective assessment of some aspects of working life in the decent work context.

⁵ Article 56 of the Labour Code.

The relative number of female workers on maternity leave fell from 0.9 per cent of the number of female employees in 1998 to 0.6 per cent in 2000, and has remained more or less stable during the last ten years within the 0.5–0.6 per cent range. At the same time, the total number of such female workers has decreased steadily. In particular, the number of female workers on maternity leave was 134,800 in 1998 but fell to 58,900 in 2009. Minor increases in the number of such workers which were seen in 2007 (+0.8 thousand or 1.3 per cent) and 2008 (+5.8 thousand or 9.2 per cent) are most likely explained by the growing confidence of young families in the governmental measures to support families and encourage fertility which had been implemented since early 2005. Unfortunately, that growing trend later disappeared due to

Legal Framework Indicator 8. Parental leave

Law, policy or institutions: Relevant legislation includes the Labour Code (1971), as amended, and the Law of 2006 on Ensuring Equal Rights and Equal Opportunities of Women and Men. According to the Government's report on the application of Convention No. 156, a draft State programme on the promotion of gender equality in Ukrainian society for 2006–10 had been prepared which, *inter alia*, provides for measures aiming at creating equal conditions for men and women to combine work and family responsibilities.

Benefits (level and duration): According to the Law of 2006, an employer is required to provide men and women with the possibility of combining work and family responsibilities. Any relative of the child is entitled to take child care leave until the child reaches the age of 3 (6 upon presentation of a medical certificate) and has the right to 50 per cent of the minimum wage and to the family's average gross monthly per capita income of the preceding six months. A person on child care leave may work part-time or at home. In case of adoption, either parent can take 56 days of leave.

Evidence of implementation effectiveness: No information located by the ILO.

Coverage of workers in law: Percentage not located by the ILO.

Coverage of workers in practice: No percentage located by the ILO.

Ratification of ILO Conventions: The Workers with Family Responsibilities Convention, 1981 (No. 156) was ratified in 2000.

Sources:

1. National legislation (see NATLEX database) (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=UKR);
2. The Government's report to the Committee of Experts and the Committee's comments on Convention No. 156 (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displaycomment.cfm?hdroff=1&ctry=0600&year=2007&type=O&conv=C156&lang=EN> and <http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displaycomment.cfm?hdroff=1&ctry=0600&year=2007&type=R&conv=C156&lang=EN>).

the financial and economic crisis that also shook the expectations of young families and unsettled the positions of young female workers in the labour market.

Ukrainian legislation provides maternity leave rights according to international standards. On presenting a medical certificate, women are granted paid maternity leave for a total duration of 18 weeks. This is in line with the Maternity Protection Recommendation, 2000 (No. 191) (see also Legal Framework Indicator 7 'Maternity leave'). Women have the right to return to the same job after their maternity leave. Guaranteed parental leave is available for both parents:⁶ by request of the parent, he or she can be granted parental leave to take care of a child under the age of three, and receives benefits from the state budget funds accordingly. The employer can decide to grant a longer leave with or without pay. Parental leave can also be granted to grandparents or other relatives who are taking care of the child (see also Legal Framework Indicator 8 'Parental leave').

The Ukrainian Government devotes substantial funds to maternity benefits with disbursements from the state budget and the Fund for General Compulsory State Social Insurance against Temporary Loss of Working Capacity of Ukraine (FSITLWC). For example, the amount of funds disbursed for the payment of maternity benefits to insured persons within the system of general compulsory state social insurance against temporary loss of working capacity increased 4.9 times – from 9.2 percentage points (UAH 307.3 million) of the Fund's total expenditure in 2004 to 19.9 percentage points (UAH 1,493.5 million) in 2009.⁷ The budget expenditure in 2009 for maternity benefits granted to uninsured women within this system amounted to UAH 204.7 million, which was 2.5 times greater than it was in 2004 (UAH 82.8 million).

Pregnant women are entitled to maternity benefits, whether they are insured by the system of general compulsory state social insurance or not. Maternity leave benefits are paid to working women for 126 days at a rate equal to 100 per cent of previous

⁶ See ILO IFP-SES at <http://www.ilo.org/public/english/protection/ses/info/database/ukraine.htm>

⁷ Data on FSITLWC performance for 2004-2009.

Table 5. Combining work, family and personal life

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	H1, 2010
Relative number of workers on leave to care for a child until attainment of a statutory age, in % of the registered number of employees	4.0	3.6	3.2	2.9	3.0	3.0	3.1	3.2	3.3	3.4	3.7	4.2	
Relative number of women on maternity leave, in % of the registered number of employees	0.9	0.7	0.6	0.6	0.6	0.6	0.6	0.5	0.5	0.5	0.6	0.5	
Share of economically inactive population (due to performing household (family) duties, care for children, sick and other family members), in % ¹	–	6.2	8.2	10.8	10.8	10.6	11.2*	13.3	14.5	14.9	15.7	16.4	17.2
Men	–	1.6	2.3	4.7	5.2	5.4	3.8*	3.6	5.6	6.2	6.2	7.1	7.7
Women	–	9.3	12.3	15.1	14.8	14.2	16.3*	19.6	20.3	20.5	21.7	22.5	23.4
Share of children enrolled in pre-school education, in % ²	–	39	40	41	48	49	50	51	53	54	54	5.6	–
Total fertility rate (per 1 woman)	1.2	1.1	1.1	1.1	1.1	1.2	1.2	1.2	1.3	1.3	1.5	1.5	–

Notes:

¹ Data for the years 1999-2003 were revised according to the demographic structure of the population as obtained from the All-Ukrainian Census of 2001. Sample surveys on population activity in Ukraine were held on a quarterly basis since 1999-2003 and on a monthly basis since 2004.

² This indicator is calculated as the ratio of the total number of children in preschool facilities to the total number of children aged 1 to 6 (net of children in the first forms organized in schools).

* Series break because of a shift from quarterly to monthly surveys.

Source: SSCU, based on household surveys on population activity in Ukraine and enterprise survey.

earnings (for details see Legal Framework Indicator 7 ‘Maternity leave’). The payment is made by the employer as long as the employee provides all the necessary documents; the employer is subsequently reimbursed by the FSITLWC (concerning insured persons).

In addition, labour and social security authorities pay various maternity benefits to various groups: (i) women dismissed because of the liquidation of an enterprise, institution or organization receive 100 per cent of their average monthly income; (ii) unemployed women registered with an employment centre receive 100 per cent of the minimum unemployment benefit rate; (iii) post-graduates, doctoral students, resident medical practitioners, students of higher educational insti-

tutions of accreditation levels I-IV and vocational education institutions receive 100 per cent of the equivalent of a monthly scholarship; and (iv) non-working women receive 25 per cent of the legal minimum for subsistence.

This legislation could indirectly create a disincentive for the employment of women aged 22 to 30 years, as an employer could reasonably expect that women in this age group are most likely to get married and have children (the average age at child birth in Ukraine is 25.5 years).⁸

The provision of child care is another crucial measure which allows working parents, and in

⁸ Eurostat Yearbook 2006-2007.

particular women, to combine work and care responsibilities. In 2004, the Committee of Experts had expressed concern with regard to the deteriorating situation of community child-care and family services and facilities in Ukraine, especially in rural areas, and drew attention to the negative impact on the employment situation of workers with family responsibilities, and in particular on women with family responsibilities.⁹ More recently, the Committee noted that 8,832 pre-school institutions were available in rural areas, compared to 6,676 in urban areas, and that coverage of pre-school education had improved in recent years. The share of children enrolled in pre-school education increased from 39 per cent of all pre-school age children in 1999 to 57 per cent of such children in 2009 (see Table 4). However, according to the SSCU, rural areas are still not fully covered by pre-school day-care services and less than 33 per cent of pre-school age children attend such schools in these areas.

The difficulties encountered in combining work and family responsibilities can also be a major and increasingly important reason for workers to remain outside the labour force. Data from the SSCU show that the share of the inactive population who does not seek employment because of family responsibilities (i.e., taking care of children and other family members) grew from 6.2 per cent in 1999 to 16.4 per cent in 2009 (see Table 4). The data confirm that women's participation in the labour market suffers the most: the share of the female population that was economically inactive grew from 9.3 per cent in 1999 to 22.5 per cent in 2009. Despite a substantial increase for men from 1.6 per cent in 1999 of the total male population that was inactive to 7.1 per cent in 2009, their share remained far below the corresponding female share. The total number of people who remained inactive increased from 852,300 in 1999 (765,900 women and 86,400 men) to 2,154,700 in 2009 (1,769,800 women and 384,900 men). Again, these figures show a large disparity between genders.

One of the main reasons for the high number of economically inactive women is the increase in family benefits, which are linked to the minimum wage. The first component of the family benefit is the state birth allowance that is paid by the Government in order to overcome a demographic crisis and provide proper conditions for the healthy development of a child. The total expenditure¹⁰ for family benefits for the first year (UAH 1,526.8 million) when this type of benefits (state birth allowance) was introduced in 2005 exceeded the total expenditure for 2004 (UAH 225.7 million) and continued to grow annually. In 2009, it had grown to UAH 8,426.1 million, which was 5.5 times greater than in 2005. The total allowance which consists of both a lump sum and instalments is paid to one of the parents (caretaker) of the child regardless of whether they continue to work, in the amount of 12,240 hryvnias for the first child, 25,000 hryvnias for the second child, and 50,000 hryvnias for the third child and for subsequent children. The allowance is paid as a lump-sum in the amount of 4,800 hryvnias at the birth of the first child, 4,840 hryvnias – of the second child, and 5,000 hryvnias – of the third child. The rest of the allowance is paid in instalments during the following 12 months (UAH 620 per month) for the first child, during 24 months (UAH 840 per month) for the second child, and during 36 months (UAH 1,250 per month) for the third and for subsequent children.¹¹

The second component of the family benefit is composed of parental leave benefits that are granted for three years if one of the parents decides to give up work in order to take care of the child or decides to work on a part-time basis. The benefit is equal to the difference between 100 per cent of the subsistence minimum specified for able-bodied persons and the family's average monthly gross per capita income for the preceding six months, but not less

⁹ CEACR: Individual Direct Request concerning Convention No. 156, Workers with Family Responsibilities, 1981 Ukraine (ratification: 2000) Response submitted: 2004.

¹⁰ Prior to 2007, financing was provided from the FSITLWC and State Budget funds. Since 2007, this expenditure has been completely financed from the State Budget via the labour and social protection authorities.

¹¹ The procedure of assignment and payment of the state assistance to families with children was approved by the Cabinet of Ministers Resolution No. 1751; for children born after 31 December 2007 see also the Cabinet of Ministers Resolution No. 57 of 22 February 2008.

than 130 hryvnias (guaranteed minimum).¹² Total expenditure¹³ for this type of benefit increased 3.4 times from 2004 to 2009.

The third component consists of benefits granted by the Government for every child according to his/her parents' status. Total expenditure for these benefits increased 2.4 times from 2004 to 2009.

While the cash benefits have improved conditions for families, the structure of benefits has raised concerns that it encourages parents to remain outside the labour market, rather than providing conditions for combining work and family responsibilities. It is largely women who take up parental leave entitlements, which restricts their competitiveness in the labour market. As a result, women's marginalization in the labour market takes the form of employment in low-paid work that does not match a woman's education, qualifications or ambitions, and does not provide proper social security or employment guarantees (see also Chapter 8 'Equal opportunities and labour relations'). According to the results of social surveys, women in low-paid work change their employment very often, frequently do not receive wages for extended periods, and commonly are the only income earner in the household. Many of them consider their work undesirable and see it

as a short-term solution, despite the fact that they continue working at these types of jobs for a long period of time, with their skills decreasing all the while.¹⁴

In sum, the Ukrainian Government has recently made a substantial investment in order to improve the conditions for workers with family responsibilities and has increased expenditure on maternity benefits, social child allowances and parental leave benefits. The Committee of Experts recently encouraged the Government to promote further social dialogue on these issues, and to provide information on any developments or outcomes, including on any steps that ensure that measures aimed at enabling workers to reconcile work and family obligations are made available and used by men and women.¹⁵ Improvements in social care provisions, including with regard to children under the age of three years, could also be an appropriate strategy to increase the employment rate of women, promote positive gender equality outcomes, and increase fertility.¹⁶ Meeting the implementation challenges of such measures will be essential in allowing parents to combine work and family responsibilities, as well as in countering Ukraine's demographic crisis of low fertility which is coupled with a high proportion of old-age men and women.

¹² The Law on the State Assistance to Families with Children.

¹³ Prior to 2007, financing was provided from the FSITLWC and State Budget funds. Since 2007, this expenditure has been completely financed from the State Budget via the labour and social protection authorities.

¹⁴ See also Ministry of Ukraine for Family, Youth and Sport, "Women at the labour market and the ways to solve their problems", 1998; article by E. Libanova, O.Makarova: "Women's access to labour market", p. 42.

¹⁵ CEACR: Individual Direct Request concerning Workers with Family Responsibilities Convention, 1981 (No. 156) Ukraine (ratification: 2000) Submitted: 2008.

¹⁶ Despite the Government's investment into family benefits, the total fertility rate in Ukraine is still below replacement level, having increased from 1.2 live births per woman in 1998 to 1.5 in 2009, which is still below the rate at independence in 1991 (1.8), see SSCU data.

6 Work that should be abolished¹

The transition to a market economy in Ukraine led to the collapse of the old state-run social institutions that formerly provided aid to families with children. As a result, families were no longer able to maintain sufficient living standards to meet their children's most basic daily needs, such as food and clothing. According to the report *Child Labour in Ukraine in 1999*² and at the time of its publication, 3.8 per cent of children aged 5 to 17 years were engaged in an economic activity in Ukraine, with a higher prevalence of economic work among boys (4.9 per cent) than among girls (2.7 per cent) and a higher prevalence in rural areas (5.2 per cent) than in urban areas (3.2 per cent). Economically active children aged 15 to 17 were employed mainly in sectors such as agriculture (46 per cent), trade (26 per cent) and service (19 per cent). In terms of school attendance, the overall attendance rate among children was 86.4 per cent, with almost no variation between boys (86.2 per cent) and girls (86.6 per cent). The long duration of the children's working day was also brought to light in the report, causing serious concern. Almost 6 per cent of working children aged 13 to 14 years worked longer hours than adults (41 hours per week), whereas 2 per cent of children aged 15 to 17 years worked more than 56 hours per week. The report concluded that the level of child employment was inversely related to the level of family well-being, and that the main reason children entered employment was a lack of material well-being in the household. The likelihood of a child entering employment was also

found to increase with the number of children in the household.

According to the results of a quick evaluation study carried out by the ILO's International Programme on the Elimination of Child Labour (IPEC) in 2006, the worst forms of child labour in Ukraine are common in agriculture, street trade, informal coal mines, the entertainment industry (work in bars and night clubs), sex industry (prostitution and pornography), and other illegal activities. During the nine years of ILO-IPEC programme's activities in Ukraine, considerable work was undertaken to increase awareness among trainers, educators, psychologists, social workers, civil servants of various levels, and journalists of the means that can be used to eliminate the worst forms of child labour.

Ukraine has adopted a number of legal measures to address the issue of child labour. The ILO Minimum Age Convention, 1973 (No. 138) was ratified in 1979 by the Presidium of the UkrSSR Supreme Council, and the Worst Forms of Child Labour Convention, 1999 (No. 182) was ratified in 2000 by the Verkhovna Rada of Ukraine. Age 16 was specified as the minimum age for employment; and individuals under the age of 18 are allowed to perform certain types of hazardous work for training purposes under certain specific conditions. However, the inadequacy of the existing provisions which regulate the instruction and monitoring of minors who are trainees before and during training was pointed out in a report by the Committee of Experts (see also Legal Framework Indicator 9 'Child labour'). Existing national legislation forbids the employment of children under the age of 18 from engaging in any type of employment or work which, by its nature or

¹ By Mustafa Hakki Ozel, ILO International Programme on the Elimination of Child Labour (IPEC)

² *Child Labour in Ukraine 1999*, Statistical Bulletin, Kyiv 2001, ILO, State Statistics Committee of Ukraine. See also Ukraine Child Labour Data Country Brief. Geneva: ILO, available at <http://www.ilo.org/ippecinfo/product/download.do?type=document&id=7806>

Legal Framework Indicator 9. Child labour

Law, policy or institutions: The general minimum age for admission to employment under the Labour Code (1971), as amended, is 16 years. Light work, with parental consent, is authorized for students in general vocational and technical education or specialized secondary education from the age of 14. Moreover, exploitation of children who are under the legally employable age is a criminal offence under the 2001 Criminal Code.

Under the legislation however, children of 15 years of age may exceptionally be authorized to work with the consent of their parents or parent substitutes. This has been raised for many years by the CEACR and was also discussed by the Conference Committee on the Application of Standards in 2004. Furthermore, the CEACR noted that the legislation seems to allow children between the ages of 14 and 16 who are enrolled in vocational technical institutions to perform, under certain conditions, certain types of hazardous work. The CEACR has noted that the legislation does not stipulate a minimum age for admission to training and does not adequately protect trainees who are performing hazardous work. It has requested the Government to ensure that children who participate in vocational training programmes or apprenticeships be allowed to perform hazardous work only from the age of 16 years, in conformity with Convention No. 138. In addition, section 3(1) of the Labour Code excludes self-employment from its scope of application. With the input of the ILO, a draft Labour Code was prepared, which is reported to comply with ILO standards.

Evidence of implementation effectiveness: In its report to the CEACR, the Government stressed the difficulty in accessing workplaces and applying administrative sanctions in the informal sector. The Government also reported that, as a result of inspections carried out in 2008 in 660 enterprises, violations of child labour legislation were identified with respect to 2,237 minors. Of these, 66 of the working children were under the age of 14 years, and in turn, 64 of them were engaged in agricultural work. Other violations were committed with regard to record-keeping of young persons' information by employers, children working under severe and harmful working conditions, and long working hours. Some 453 orders and directives were issued by labour inspectors against employers for violations of the provisions of child labour, and 351 notices were issued to the court to bring employers to administrative responsibility. The Committee of Experts noted that children under the minimum age are currently being assisted by state bodies in their search for employment. ILO assistance has been provided, and under a programme that ended in 2006, a number of children were freed from child labour or prevented from entering it, and the Child Labour Monitoring System has been established; additional information is awaited on its effectiveness. More detailed information can be found in the CEACR comments.

Ratification of ILO Conventions: The Minimum Age Convention, 1973 (No. 138) was ratified in 1979, and the Worst Forms of Child Labour Convention, 1999 (No. 182) was ratified in 2000.

Source:

2009 CEACR comments and Government reports under Conventions No. 138 and No. 182.

the circumstances in which it is carried out, is likely to jeopardize their health, safety or morals. However, in practice, the number of young people under the age of 16 who are involved in hazardous work has increased, particularly in the informal economy. The supervision of the use of child labour in the informal economy remains an issue.³

According to the U.S. Human Rights Practices Country Report on Ukraine (2007),⁴ Ukraine is a country of origin for the international trafficking of men, women and children to Russia, Turkey, the Middle East and Western and Central Europe, particularly to Poland and the Czech Republic, as

well as a transit country for the trafficking of individuals from Central Asia, Russia and Moldova to Turkey and the United Arab Emirates. The children who are trafficked are generally between the ages of 13 and 18. Girls are more likely to be sexually exploited, whereas boys are reported to be used as cheap labour in illegally operated mines, in construction and agriculture, or to peddle drugs.⁵

In the period from 2000 to 2008, IOM returned 5,214 victims of human trafficking to Ukraine from various countries and provided necessary assistance including reception, referral to shelters and reintegration support. Of these, 256 persons were minors. According to the results of a recent

³ Conclusion of the Committee of Experts on the ILO Convention No. 138, Ukraine, 2008.

⁴ US Dept. of State 2008 Country Report on Human Rights Practices, Ukraine, February 25, 2009.

⁵ Report of the Committee of Experts on the Application of Conventions and Recommendations, Observation, CEACR 2007 / 78th session.

Table 6. Work that should be abolished

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Child labour, in % of the total number of children in the corresponding age group¹		3.8										
Boys		4.9										
Girls		2.7										

Notes:

1. Children aged 5 to 17 years. Results from the National Child Labour Survey (ILO/SIMPOC, 1999).

Source: National Child Labour Survey, 1999.

IOM study, some 100,000 Ukrainian citizens have become victims of human trafficking since 1991, mainly for labour exploitation.

Large-scale child prostitution and trafficking in children remain pressing problems in Ukraine. Children are lured into the meshes of trafficking both from inside and outside the country. Children are recruited for cross-border human trafficking mainly through friends and acquaintances, and for internal trafficking through the intermediary of family members, who are often parents of the victims.⁶ Children who become victims of internal trafficking are often exposed to violence.

The public education system in Ukraine suffers from chronic underfunding and dropping-out is an ongoing problem among children from poor families.⁷ These trends are supported by data on the net secondary enrolment rate which indicate a decline from 90.7 per cent in 2000 to 85.0 per cent in 2008 (see also Chapter 1 ‘Economic and social context for decent work’). Contrary to this trend, there has been an increase in the number of students attending tertiary education from 1.9 million in 2000–01 to 2.6 million in early 2009–10, partially due to the establishment of private higher educational institutions.⁸

At the national level, since 2005, the responsible authority, the Derzhnahladpratsi (State Department for the Supervision over Labour Legislation

Observance, Ministry of Labour and Social Policy of Ukraine) has been involved in the implementation of the ILO-IPEC project on “Institutional Development of Labour Inspection through Participation in a System of Child Labour Monitoring in Two Pilot Regions, Donetsk and Kherson”. Within the framework of this project, a series of extra-curricular activities were organized for targeted children based on the ILO-IPEC methodology, “SCREAM, Supporting Children’s Rights through Education, Arts and Media”, and a number of other informal education methodologies and programmes, such as peer-to-peer teaching, step-by-step education, critical thinking and economic education, were introduced in order to improve the standard of education provided to children.

Furthermore, a number of government programmes have been implemented to address the situation of particularly vulnerable children, including street children. These include the “State Programme to Combat Child Homelessness and Neglect for 2006–2010”, the “Concept Programme on Reforming the Boarding System for Child-Orphans and Children Deprived of Parental Care” (2006) and the State Programme “National Action Plan to Implement the Convention on the Rights of the Child for 2006–2016” (2007). As a result of these and other government initiatives, children have received social and psychological rehabilitation through placement in orphanages and have been re-enrolled in school. In addition, a system of social family monitoring was introduced in 2005 that aims to help families in difficult situations and prevent children from being placed in state care.⁹

⁶ Report of the UN Special Rapporteur on Child Trafficking, Child Prostitution and Child Pornography, January 2007.

⁷ US Dept. of State 2008, *ibid.* 25, 2009.

⁸ See indicator ‘7.18 Number of students enrolled in tertiary education (ISCED 5)’, UNICEF Transmonee data-base at: <http://www.unicef-irc.org/databases/transmonee/>

⁹ Direct Request by the Committee of Experts, 2008.

Legal Framework Indicator 10. Forced labour

Law, policy or institutions: The Constitution of Ukraine contains provisions prohibiting the use of forced labour (Article 43). Trafficking is considered a criminal offence under the Criminal Code of 2001 and is punishable by imprisonment of three to eight years; if trafficking involves children, the penalty is five to 12 years of imprisonment. Various measures have been adopted by Ukraine to prevent and combat trafficking; a National Plan of Action (2007-2010) to combat human trafficking was adopted in March 2007.

Evidence of implementation effectiveness: The Government reported that it completed 82 criminal investigations and arrested 56 people on trafficking charges in 2007. The Interior Ministry reported that the number of prosecutions for labour trafficking increased from three in 2006 to 23 in 2007. The ILO has noted that human resources to combat trafficking have been strengthened considerably, and specialist training has also been provided for members of the judiciary. By 2008, 30 anti-trafficking officers were employed by the Anti-Trafficking Department of Ukraine's Ministry of Internal Affairs, with similar units existing at the oblast and precinct levels, creating a total of over 600 anti-trafficking officers in all. Specialist training on human trafficking is also provided for members of the security services, and for judges as part of their normal training curriculum. However, both the ILO (IPEC and CEACR) and the United Nations Committee on the Rights of the Child have expressed concern over information that Ukraine is not only a source country of trafficking of victims but also an important transit route from other countries in the region.

In its comments concerning the application of Convention No. 105 (2007 and 2009 Direct Requests), the CEACR has expressed concern about various provisions on offences concerning the expression of political views, participation in strikes and labour discipline that may result in sentences involving labour; it is awaiting further explanations from the Government.

Ratification of ILO Conventions: The Forced Labour Convention (No. 29), 1930, was ratified in 1956; the Abolition of Forced Labour Convention (No. 105), 1957; and the Worst Forms of Child Labour Convention (No. 182), 1999, were ratified in 2000.

Sources:

1. CEACR comments under Conventions No. 29, No. 105 and No. 182;
2. J. Kane: *Child trafficking – the people involved: A synthesis of findings from Albania, Republic of Moldova, Romania and Ukraine* (Geneva, ILO/IPEC, 2005);
3. ILO: *The cost of coercion – Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, Report IB, International Labour conference, 98th Session, Geneva, 2009.

According to the Government, inspections carried out by the Derzhnahlidpratsi during 2005–2006 identified 335 violations of legislation with respect to overtime or night employment of minors. As many as 995 orders were issued to eliminate these violations and 68 employers were subjected to administrative penalties (in 2010, 150 such violations were identified, 274 orders were issued to eliminate the violations and 199 administrative penalties were applied). In addition, 40 cases relating to the illegal exploitation of child labour were documented. During the same period, 175 minors who were victims of child labour were documented as being involved in criminal activity, drinking alcohol and begging or gambling. Moreover, 2,743 cases relating to crimes committed by adults against children (including organization/operation of an illegal establishment and the production of narcotics/psychotropic substances) were reported in 2005.¹⁰

¹⁰ Ibid.

A number of successes however have been registered with regard to the elimination of child labour in Ukraine. Data provided by the Service for Minors indicate that out of 7,050 children who did not attend school in 2006, 3,223 (46 per cent) were reintroduced to school.¹¹

During the nine years that ILO-IPEC implemented programme activities in Ukraine, 5,750 children were withdrawn from the worst forms of child labour or prevented from trafficking-related situations, through the provision of necessary services such as: pre-vocational guidance, vocational training, job placement, out-of-class activities, computer courses, extra-curricular training sessions according to the ILO's SCREAM methodology, individual lessons and tutoring, medical services, legal advice, summer camps, provision of school supplies, etc. More than 4,000 parents of working children, of children withdrawn

¹¹ Ibid.

from child labour, and of children from a 'risk group' were given legal advice and were familiarized with child labour problems and the possible consequences of early job placement of their children. Moreover, improvements in parent monitoring and inspection has led to a reduction in the number of derelict and homeless children. In Ukraine, 37,200 homeless children were found during 2007, 31,000 during 2008, and 22,700 during 2009.

Finally, the problem of migrant workers' children remains insufficiently studied. In particular, most experts draw attention to the negative consequences on children of their parents' departure abroad, particularly when they are left with insufficient care causing various deviances in behaviour such as absence from school for no good reason, worse performance in school, disobedience, alcoholism, drug addiction, vagrancy, and criminal activities.

7 Stability and security of work¹

Following the transition crisis of the 1990s the labour market situation in Ukraine went through a period of consolidation which started from 2000 and continued through the first half of 2008. In 2009, however, the situation worsened because of the financial and economic crisis. Employment rates during this period had increased moderately for both sexes, albeit remaining at low levels as compared to those in Central and Eastern Europe, with open unemployment declining from 2000 onwards. However, employment growth took the form of an increase in self-employment and informal employment. Other non-standard forms of employment remained marginal, such as part-time work, or temporary contracts (see Chapter 2 ‘Employment opportunities’).²

While some shift from wage employment to self-employment occurred with more than a two-fold increase, between 2000 and 2009 (from 8.3 to 17.1 per cent of total employment), it should not be perceived as negative. Further analysis shows that this shift should be attributed mainly to the expansion of subsistence farming which was due in part to closures of large agricultural farms and a lack of decent jobs in the non-agricultural sector in rural areas. As a result, the share of self-employed workers in rural areas rose, increasing

from 18.2 to 38.7 per cent between 2000 and 2009. Another contributing factor was the growth of self-employment in (residential) construction, trade, transport and personal services, i.e. in sectors and activities characterized by often arduous working conditions.³ Moreover, in 2009, female self-employed workers contributed more to total female employment (18.1 per cent) than is the case for men (16 per cent).

The decline in standard employment relationships is also evident from the indicator of informal employment. As discussed in Chapter 2 above, informal employment increased dramatically from 13.6 per cent in 1999 to 22.1 per cent in 2009 with a strong potential to rise further. The bulk of it (66 per cent) is concentrated in agriculture. Other sectors with relatively high shares of informal employment are retail trade, hotels and restaurants, construction, transport, and some other economic activities. Informal employment in non-agricultural sectors is concentrated mainly in urban areas, where wage employment accounts for 67.7 per cent of total informal employment.

Since the second half of 2008, the situation of the labour market has deteriorated significantly, impacting negatively on the stability and security of work. This is evident from the increasing pace of job losses that drove the unemployment rate to 10.3 per cent in the first quarter of 2009. Time-related underemployment also increased significantly and in 2009, 19.4 per cent of all employees were working short hours (some with income subsidies provided by the Government).

¹ By Alena Nesporova, Deputy Director, ILO Regional Office for Europe and Central Asia.

² Part two, Article 23 of the Labour Code allows using fixed-term employment agreements only when labour relations cannot be established for an indefinite term considering the character of the work to be done or its conditions or the worker's interests, and in other cases provided for by law. According to Article 39¹ of the Labour Code, if labour relations actually continue after the expiration of the employment agreement and none of the parties demands their termination, validity of such an agreement is deemed as extended for an indefinite term. Labour agreements that were re-concluded for one or more times, except as provided for by Article 23(2) of the Labour Code, are deemed as extended for an indefinite term.

³ The European Training Foundation, The Black Sea Labour Market Reports: Ukraine Country Report. January 2009.

Table 7. Stability and security of work

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	H1, 2010
Employees on administrative leave during reference period, in % of registered employees¹	22.4	22.0	16.1	7.2	5.1	3.2	2.0	1.8	1.2	1.1	1.6	2.6	2.9
Persons who worked on the basis of civil-law agreement, in % of the total employment²	–	1.2	1.2	1.6	2.0	1.9	1.8	1.7	1.7	1.6	1.3	1.2	1.0

Notes:

¹ Based on enterprise surveys; companies report how many of their registered employees were on administrative leave (in most cases unpaid) during the reference period. The number of employees on such leave is calculated regardless of the duration and number of distinct periods of administrative leave. For example, if the same employee was on administrative leave twice during the year, it was counted as one incidence.

² A civil-law agreement is a written contract that includes a description of work that the worker has to perform, the deadline for this work, as well as the payment. Unlike a standard employment contract, civil law agreements do not include specific hours of work (as the payment is based on the result and not the process of work), social security benefits, pension contributions, job security, insurance, etc. This indicator is expressed as a percentage of total employment from a sample household survey on population activity.

Source: SSCU, enterprise survey, household survey on population activity in Ukraine.

This is a sharp reversal of the previous trend that had provoked a decline in the number of employees working short hours from 17.5 per cent in 1998 to 4.4 per cent in 2007 (see Chapter 4 ‘Decent hours’). A similar reversal is also evident for the share of workers on administrative leave that had fallen from 22.4 per cent to 1.1 per cent over the same period (see Table 6). However in 2009, 2.6 per cent of registered working persons were on administrative leave because of the global financial and economic crisis which further aggravated the instability of enterprises and reduced employment guarantees for workers. This situation prompted a growth in wage arrears in 2009 which increased by 23.9 percentage points.

With regard to the Ukrainian employment protection legislation (EPL)⁴ that regulates the hiring and discharging of workers, the ILO made an assessment for the late 1990s, using the OECD methodology.⁵ The EPL strictness index equalled 2.3, pointing to a rather deregulated labour market, which was fully in line with the average figure for the EU candidate countries (2.4) and the

EU Member States (2.5).⁶ During the last decade, the Government of Ukraine and its social partners started intensive work on drafting a new Labour Code of Ukraine with support from the ILO with the rationale of adapting the labour legislation to a new market economy. However, the new Labour Code of Ukraine has not yet been adopted because of differences between employers’ organizations and workers’ organizations on some of its provisions. Since the new EU Member States (EU-10) liberalized their EPL to an even greater extent between the end of the 1990s and 2003 (their average EPL index for 2003 went down to 2.2), Ukraine has a slightly stricter EPL than the EU-10.⁷

The overall EPL index can be broken down into three components – indefinite-term employment agreements (contracts), fixed-term employment agreements (contracts), and collective dismissals. The use of the index reveals that the termination of indefinite-term employment agreements (contracts) on the employer’s initiative is more strictly regulated in Ukraine than in the EU-10 (index 3.8 versus 2.6 in 2003) while regulation of fixed-

⁴ Labour Code (1971), the Law on the Employment of Population (1991).

⁵ See OECD, *Employment Outlook 2003*, Paris 2003; Cazes, S. and Nesporova, A., *Labour markets in transition: Balancing flexibility and security in Central and Eastern Europe*. ILO, Geneva 2003.

⁶ The EPL strictness index varies within the range between 0 (fully liberal EPL) and 6 (fully restrictive EPL). This applies to consolidated EPL indices as well as indices measuring regulation strictness for fixed-term contracts (open-ended contracts), temporary contracts, and collective dismissals.

⁷ Cazes, S. and Nesporova, A., *Flexicurity: A relevant approach in Central and Eastern Europe*. ILO, Geneva 2006.

Legal Framework Indicator 11. Termination of employment

Law, policy or institutions: The Labour Code (1971), as amended, regulates termination of employment. Specific decrees regulate the termination of employment of temporary and seasonal workers.

Justified/prohibited grounds: Sections 40 and 41 of the Labour Code list as valid reasons for terminating employment at the employer's initiative: (1) operational necessity (changes in the organization of production and labour: liquidation, reorganization, re-profiling, staff reduction); (2) the worker's capabilities (unsuitability for the post or work in terms of skills or state of health; temporary incapacity for work lasting more than four months); (3) the worker's conduct. A worker may be dismissed in cases of consistent failure to fulfill the terms of the employment contract or company regulations, if disciplinary sanctions have been applied previously (certain conditions apply: for example, worker's actions or inactions must be unlawful, the worker must be guilty, or the contraventions must be systematic). A union representative needs to consider the employer's proposal to dismiss the worker. There are provisions against discrimination on grounds of "national origin, social or material status, racial or national affiliation, sex, language, political or religious conviction, occupation, place of residence, or other factors" (Section 2-1 of the Labour Code). There is also special protection for pregnant women or women with children, and trade union members. Workers on probation may have their contract terminated without the consent of the relevant trade union body if they are not suitable for the work for which they were hired (Section 28 of the Labour Code). Temporary or seasonal contracts may be terminated if the worker fails to come to work due to temporary incapacity for more than two consecutive weeks.

Notice periods: Workers must be personally informed of the termination of their contracts not less than two months before the event when dismissed on grounds of production or substantial labour changes within the organization. A severance allowance of not less than the average monthly remuneration is paid to the worker when laid off. When terminations are carried out owing to production or labour changes in an organization, the SES must be informed in writing no less than two months in advance. The information required includes the reasons and timetable for the terminations, and a list of the jobs, specialist posts, qualifications and wages of the persons to be made redundant. Within 19 days of the terminations, a list of the actual employees made redundant must be submitted to the Service.

Evidence of implementation effectiveness: No information located by the ILO.

Coverage of workers in law: No percentage located.

Coverage of workers in practice: No percentage could be located.

Ratification of ILO Conventions: The Termination of Employment Convention, 1982 (No. 158) was ratified in 1994.

Sources:

National legislation listed in NATLEX (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=UKR);

Government 2006 report on the application of Convention No. 158

term employment agreements (contracts) is rather liberal (with an index value of 1.9, but still stricter than 1.2 for the EU-10). However, the index reflects no provisions for collective dismissals in Ukraine (0 versus 3.4 in EU-10)⁸. This index demonstrates that there is an inequality with regard to employment security which might create a problem in terms of recruitment for regular jobs. In practice, labour legislation is often not observed, which together with the numerous flexible forms of employment points to a high degree of flexibility in the labour market and a rather low level of protection of workers against dismissal, with all

those working on fixed-term employment agreements (contracts) being first in line.⁹

Certain additional job security guarantees are provided to those workers who are covered by collective agreements. Data for 2009 show that the overall collective agreement coverage of workers in the formal sector reaches 83.9 per cent (see Chapter 11 'Social dialogue, employers' and workers' representation'). However, there is a large difference between state enterprises, where well over 80 per cent of workers are covered by collective agreements, privatized enterprises

⁸ ILO, Delivering decent work in Europe and Central Asia. Report of the Director-General for the 8th European Regional Meeting, Volume I, Part 2, chapter 3.

⁹ See e.g. Rutkowski, J., Scarpetta, S. and Banerji, A., Enhancing job opportunities: Eastern Europe and the former Soviet Union. World Bank, Washington, DC 2005.

where slightly more than 60 per cent are covered, and private enterprises, where less than 10 per cent are covered.¹⁰

Employment security means a shift from security at (current) jobs to security through higher employability of workers which is provided by better access to training and skills improvement opportunities (statistics show that staff skills improvement is conducted in Ukraine once every 11 years on average while the European practice demands it every three to four years), job search assistance, active labour market programmes, income support during job search, and coverage by social insurance and security. The efficiency of the Public Employment Service (PES) in placing registered jobseekers in new jobs has improved significantly over the past decade. In 1999, it placed only 18.9 per cent of all registered jobseekers, but that figure rose to 43.3 per cent and 32.8 per cent, respectively, in 2008 and 2009. However, vacancies reported to the PES by employers are usually of low quality while high quality jobs are often filled through other channels. The situation in the registered labour market features a steadily decreasing labour demand. Since the crisis outset, the number of actual vacancies in the labour market has dropped from 198,600 as of 1 October 2008 to 65,800 as of 1 January 2010.

Currently, there are seven unemployed job applicants for each vacancy. It should be noted at the same time that the lowest average unemployment duration among the unemployed – nine months in this case – was recorded in 2009, for the first time during ten years of observations, whereas the figure in 2000 was 23 months. Nevertheless, the total expenditure on labour market policies, including operational costs of the PES, remains well below 1 per cent of GDP (0.72 in 2003 to 0.65 in 2009).

Overall, employment security for Ukrainian workers is low, regardless of their status as formal or informal workers, and despite a certain improvement in the 2000s. Moreover, due to the economic crisis, the gains of recent years with respect to employment stability can be considered lost. Therefore, one can conclude that in Ukraine a high labour market flexibility is combined with a low level of workers' protection because in practice employers do not regard the labour legislation as a significant deterrent for the hiring and firing of workers, and in many cases ignore it all together. Certain strict provisions of the labour legislation may hinder enterprise growth but cannot be regarded as a serious obstacle given the existing weaknesses of the state supervision and control system.

¹⁰ Ukrainian longitudinal monitoring survey, 2004.

8 Equal opportunity and treatment in employment¹

Ukraine has achieved some progress in the legal context with regard to the promotion of gender equality. At the international level, two of the relevant fundamental conventions had already been ratified at the time of Ukraine's independence, namely the Equal Remuneration Convention, 1951 (No. 100) and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111). Ukraine ratified the Workers with Family Responsibilities Convention, 1981 (No. 156) in 2000 (see also Legal Framework Indicator 12 'Equal opportunity and treatment' and Legal Framework Indicator 13 'Equal remuneration of men and women for work of equal value'). Ukraine is also a state party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (since 1981) and its Optional Protocol (since 2003).

At the national level, Ukraine has established the core elements of a legal and institutional framework that promotes gender equality and addresses discrimination. In addition to the equality commitment enshrined in the Constitution (adopted in 1996), the Law on Ensuring Equal Rights and Opportunities of Women and Men was adopted in 2005 (in force since 2006), and three State Programmes on Ensuring Gender Equality in Ukrainian Society have been adopted since 2000 and continued until 2010. A more recent State Programme has been adopted for 2011–2015. Subsequently, relevant regional programmes have been developed and are in the process of being implemented.

In a 2008 observation, the ILO's CEARC made reference to the Law on Ensuring Equal Rights

and Opportunities of Women and Men and urged the Government of Ukraine to take necessary steps to amend it in order to give full expression to the principle of equal remuneration for men and women for work of equal value. In the current legislation on labour and labour remuneration, the right to equal remuneration of men and women is linked to skills and working conditions.²

While the legislative progress is noticeable, the implementation of laws and the development of supporting and appropriate policies are less dynamic. Research has shown the lack of equal opportunities for women and men in public, as well as private life, and women's greater vulnerability to multiple forms of discrimination, both direct and indirect, in the world of work. Gender stereotypes persist.³ At the same time, observers have noted that a high number of women workers are on maternity and parental leave (partly due to generous provisions as regards different types of leave and state social benefits), which, perhaps, partly compensates for the non-competitiveness in the labour market of women who have children (see also Chapter 5 'Combining work, family and personal life').⁴

Occupational segregation stagnated between 1999 and 2009, and the index of dissimilarity

¹ Verena Schmidt, ILO DWT/CO-Budapest.

² ILO 2009. Report of the Committee of Experts on the Application of Conventions and Recommendations. Report III (Part 1A), International Labour Conference, 98th Session, Geneva, 2009. See also ILO, 2011, Report of the Committee of Experts on the Application of Conventions and Recommendations. Report III (Part 1A), International Labour Conference, 100th Session, Geneva, 2011.

³ Human Rights Watch: *Women's Work: Discrimination against Women in the Ukrainian Labor Force* (New York, 2003).

⁴ G. Standing and L. Zsoldos: *Worker Insecurities in Ukrainian Industry: The 2000 ULFS*, (Geneva, ILO, 2001).

Legal Framework Indicator 12. Equal opportunity and treatment

Law, policy or institutions: The Constitution, in its Article 24, provides for non-discrimination on the grounds of race, colour of skin, political, religious and other beliefs, sex, ethnic and social origin, property status, place of residence, linguistic and other characteristics. The Labour Code (1971), as amended, in its Article 2-1, guarantees equal employment rights for all citizens irrespective of their origin, social or material circumstance, race, nationality, sex, language, political and religious convictions, occupation, place of domicile or any other circumstance. The Law on Ensuring Equal Rights and Equal Opportunities of Women and Men came into force in 2006 and was welcomed by the CEACR in its 2008 observation. The CEACR recommended however that the definition of sexual harassment be expanded. The CEACR noted that a round table organized by the Parliamentary Committee on Social Policy and Labour in May 2010 resulted in the adoption of a series of recommendations, including: providing a clearer definition of gender-based discrimination covering both direct and indirect discrimination; collecting and analysing appropriate data disaggregated by sex on employment and occupation; developing a National Programme on Gender Equality; conducting large-scale public awareness-raising activities on gender equality and the need to eliminate gender-based stereotypes; and taking measures to strengthen the capacity of the enforcement bodies to identify and eliminate gender discrimination.

Evidence of implementation effectiveness: In its 2008 observation, the CEACR noted comments of the Confederation of Free Trade Unions of Ukraine (CFTUU) alleging widespread discrimination against women, and asked for the Government's comments. On a number of occasions the CEACR has sought information from the Government concerning the measures taken or envisaged to ensure and promote equality of opportunity and treatment in employment and occupation on the grounds of race, colour and national extraction, particularly the measures taken in respect of the Crimean Tatars and the Roma. The CEACR noted, in particular, the concluding observations of 17 August 2006 of the United Nations Committee on the Elimination of Racial Discrimination (CERD) in this regard (CERD/C/UKR/CO/18, paragraphs 11, 14 and 15) and the fact that similar issues were raised more recently by the European Commission against Racism and Intolerance in its third report on Ukraine (CRI (2008)4, of 12 February 2008).

Coverage of workers in law: No exclusions noted from the legislation.

Ratification of ILO Conventions: The Equal Remuneration Convention, 1951 (No. 100) was ratified in 1956; and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) was ratified in 1961.

Sources:

1. Government reports on Convention No.100 and Convention No.111;
2. CEACR 2008 and 2010 comments on the application of Conventions No. 100 and No. 111.

(ID) remained at 0.37 – 0.35 during that period⁵ (with slight variations occurring between the end points). Although comparability of the index of dissimilarity between countries is limited due to differences in occupational classifications, this is a relatively low value as the index for non-agricultural occupations was 0.59 in European transition countries in 2001 and 0.51 in industrialized countries in 2001.⁶

The employment rate for women (15 to 70 years) was 53.9 per cent in 2009 whereas the figure for men reached 62.1 per cent. The unemployment rate for the same age category of women was

7.3 per cent while men had a somewhat higher rate of 10.3 per cent. In 2009, 50.8 per cent of the persons taking vocational training in order to increase their competitiveness in the labour market were women, whereas the women's share among participants of public works programmes was 54.3 per cent. More than half the persons (51.1 per cent) who were registered with the employment service in 2009 were women; 29.9 per cent of them were placed in a job through the public employment service, and 7.3 per cent underwent vocational training.

The female share of employment amongst legislators, senior officials and managers also stagnated at 38.6 per cent between 1999 and 2008, with some variations in the intervening years. In 2009 and the first half of 2010, this indicator stood at 41.4 percent. The female share of employment in these occupations seems higher in Ukraine than in

⁵ The Index of Dissimilarity is the most commonly used index to measure occupational segregation. The index ranges from 0 to 1 with 0 meaning no segregation or spatial disparity and 1 being complete segregation between the two groups.

⁶ R. Anker, H. Melkas, A. Korten (2003): Gender Based Occupational Segregation in the 1990s. Declaration WP 16. ILO, Geneva, p.10. Based on figures from Poland and the Czech Republic.

Legal Framework Indicator 13. Equal remuneration of men and women for work of equal value

Law, policy or institutions: The Constitution of Ukraine, the Labour Code (1971), as amended, the Law on Labour Remuneration, and the 2006 Law on Ensuring Equal Rights and Equal Opportunities of Men and Women. National plans of action have been adopted regularly with the aim of improving the situation of women. Section 17 of the 2006 law requires the employer to ensure equal pay for men and women for work involving equal skills and working conditions. Section 18 provides that collective agreements at the different levels should include provisions which ensure equal rights and opportunities of women and men, and that agreements should, *inter alia*, envisage the elimination of inequality in the remuneration of labour of men and women, wherever it exists. In its 2008 observation, the CEACR asked the Government to amend the legislation to give full legislative expression to the principle of equal value, which is a broader concept than the legislation provides.

Evidence of implementation effectiveness: The CEACR noted in its 2008 observation that, according to data provided in the Government's report, women earned around 27 per cent less than men in 2006 and 2007. While noting a reduction of the wage gap in its 2010 observation, the CEACR noted that it was still very high.¹ The CEACR noted in 2010 that the manner in which wages are being established is unclear and it asked the Government to take specific measures to promote the use of objective job evaluation methods free from gender bias with a view to promoting and ensuring the establishment of wages and salary scales in accordance with the principle of equal remuneration for men and women for work of equal value.

Coverage of workers in law: No exclusions noted.

Ratification of ILO Conventions: The Equal Remuneration Convention, 1951 (No. 100) was ratified in 1956; and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) was ratified in 1961.

Sources:

1. Government reports on Convention No. 100 and Convention No. 111;
2. CEACR 2008 and 2010 comments on the application of Conventions No. 100.

Table 8. Equal opportunity and treatment in employment

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	H1, 2010
Occupational segregation by sex (Index of Dissimilarity)^{1, 2}	–	0.37	0.38	0.37	0.36	0.36	0.21*	0.33	0.33	0.34	0.35	0.35	
Female share of employment in ISCO-88 major group 1 (legislators, senior officials and managers)^{1, 3}	–	38.6	36.7	37.4	38.5	39.6	43.1*	38.2	38.3	39.4	38.6	41.1	41.1
Gender wage gap (unweighted), in %⁴	25.57	27.67	29.00	30.25	30.65	31.34	31.40	29.17	27.22	27.12	24.76	22.83	22.11

Notes:

¹ Data for the years 1999-2003 were revised according to the demographic structure of the population as obtained from the All-Ukrainian Census of 2001.

² The Index of Dissimilarity is calculated as $ID = \frac{1}{2} \left| \frac{W_i}{W} - \frac{M_i}{M} \right|$, where W_i stands for female employment in occupation i , W for total female employment, M_i for male employment in occupation i , and M for total male employment. Based on ISCO-88 sub-major groups (i.e. 2 digit-level). The index ranges from 0 to 1, with 0 meaning no segregation or spatial disparity, and 1 being complete segregation between the two groups.

³ An unusually large share of total employment (ca. 10 per cent) is concentrated in ISCO-88 sub-major group 12 (corporate managers).

⁴ Based on average monthly wages of employees in current Ukrainian hryvnas from enterprise surveys. The gender wage gap is a measure for the difference between the wages of female and male workers, expressed in percentage of men's wages. Positive values mean that women's wages are lower than those of men.

* Sample surveys on population activity in Ukraine were held on a quarterly basis since 1999-2003 and on a monthly basis since 2004.

Source: SSCU, enterprise survey, household survey on population activity in Ukraine.

other European countries (32.6 per cent for transition countries and 27.6 per cent in industrialized countries in 2000).⁷ However, the share of workers attributed to these high-status occupations in Ukraine is unusually large (7.9 per cent in 2009).

The gender pay gap, which is the shortfall of the monthly wages of female workers as compared to those of their male counterparts, was 25.8 per cent in 1998 and decreased to 22.8 per cent and 22.1 per cent in 2009 and the first half of 2010, respectively. Between 2001 and 2004, the gender pay gap had increased considerably and exceeded 30 per cent (see Table 7). The gender pay gap is much higher in Ukraine than in the EU-27, where it averaged 17.5 per cent in 2007.⁸ However, the comparability between the Ukrainian data (based on monthly earnings) and those from other countries is limited, since the latter are based on average hourly earnings. The gender pay gap remains despite the fact that women attain a higher level of

education than men (34.5 per cent of women hold a degree in higher education, versus 27.4 per cent for men). Examining the presence of women in top-paid jobs in terms of possible changes in gender pay gaps, does not show any clear tendency towards reducing gender income inequalities. More men than women are employed at high-paid jobs, whereas women are more often employed at low-paid jobs, both within government and business entities.⁹

In 2010, the ILO's CEACR requested Ukraine to provide more information on discrimination on the basis of race, colour and national extraction (see also Legal Framework Indicator 12 'Equal opportunity and treatment based on all grounds').

Overall, Ukraine has made some progress regarding laws on equal opportunity and equal treatment, but the effective implementation of such measures remains a challenge.

⁷ Ibidem, p. 13. Own calculations.

⁸ See Eurostat, Gender pay gap in unadjusted form, http://epp.eurostat.ec.europa.eu/portal/page/portal/structural_indicators/indicators/employment.

⁹ UNDP: Human Development Report, United Nations: New York and Geneva, 2007.

9 Safe work environment¹

Occupational accident and disease statistics, as a reflection of occupational safety and health conditions, are important indicators to measure progress towards decent work. They reflect a fundamental aspect of decent work, namely that work should not be to the detriment of a worker's health and that his or her life is protected while at work. Data on occupational injuries are essential as they can play a role in planning preventive measures, developing regulations, procedures and safety campaigns, as well as in the safe conduct of work, and prevention of occupational injuries. Moreover, when measured over a period of time, the data can reveal progress or deterioration in occupational safety and health, and thus the effectiveness of prevention measures.

Non-fatal injury rates have been decreasing over the past eleven years, while only gradual progress has been made on fatal occupational injuries. As can be seen from Table 8, the occupational fatality rates start from a very high base² (10.2 deaths per 100,000 workers in 1998) and, while decreasing moderately, also show fluctuations from year to year rather than a consistent improvement (and even an increase to 9.3 deaths per 100,000 workers in 2007). Afterwards, this indicator demonstrated a sharp decline to 8 and 5.5 deaths per 100,000 workers in 2008 and 2009, respectively. Some 76.7 per cent of accidents are caused by reasons related to organization in the workplace.

Technical reasons caused 14.7 per cent of accidents, and psycho-physiological reasons are responsible for 8.6 per cent of accidents.

According to the State Statistics Committee of Ukraine, the number of workers in the basic economic sectors in 2009 who work in conditions that fail to meet sanitary and hygienic standards stands at 27.8 per cent of the registered number of staff workers, which represents 2.3 percentage points more than in 2002 (25.5 per cent), and has been growing every year for the past eight years. This means that every fourth person works in conditions where they are exposed to harmful production factors which exceed maximum allowable levels. More than 296,000 women, or 22.6 per cent of the number of working women, are currently employed in harmful and hazardous working conditions.

Most workers are exposed to a combination of several harmful factors, both chemical and physical, the impact of which is worsened by hard and strenuous work as well as by considerable psycho-emotional pressure. These situations should be exposed by the results of a workplace assessment for working conditions which is held once every five years. However, this activity is not conducted to a full extent and its quality, especially when conducted by departmental laboratories, gives rise to reasonable complaints. According to the State Expert Examination of Working Conditions, a workplace assessment was not conducted at all at 23 per cent of industrial enterprises, and its quality was deemed unsatisfactory in every 18th case. Employers' unwillingness to face up to the objective state of affairs has a bearing on this outcome.

The occupational pathology incidence rate per 10,000 workers has grown during the last eleven

¹ By Ann Elizabeth Rice, ILO Programme on Safety and Health at Work and the Environment (SafeWork).

² The equivalent figure for a group of Northern European countries is 1.7 per 100,000 workers (2005) and 3.9 per 100,000 workers in a group of central European countries. See ILO, *Delivering decent work in Europe and Central Asia*, Report of the Director-General, Volume 1, Part 2, 8th European Regional Meeting. Geneva: ILO, 2009, page 82. See also the section on working injuries in Ella Libanova, *Decent Work Country Report – Ukraine*, background report for the 8th European Regional Meeting. Geneva: ILO, 2008, page 37ff. Both reports are available at <http://www.ilo.org/public/english/region/eurpro/geneva/what/events/lisbon2009/index.htm>.

Table 9. Safe work environment¹

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	H1, 2010
Fatal occupational injury rate, per 100,000 employees	10.2	9.2	9.5	10.5	10	9.4	8.9	8.4	8.3	9.3	8.0	5.5	
male	18.8	17.1	–	19.5	18.7	18.2	17.0	15.7	15.7	17.8	15.6	10.9	
female	1.4	1.3	–	1.3	1.5	1.0	1.2	1.4	1.2	1.5	1.1	0.7	
Non-fatal occupational injury rate, per 100,000 employees	333	294	253	258	216	205	186	172	160	155	135	113	
male	563	499	–	428	362	341	306	279	258	257	223	190	
female	100	87	–	85	74	75	69	69	66	60	55	44	
Average number of days of absence from work per injured employee	28.9	28.9	–	30.3	32.1	33.5	36.1	36.3	37.8	37.6	39.6	39.6	
Number of persons working in conditions that fail to meet sanitary and hygienic standards, in % of registered number of employees³					25.5	26.1	26.9			27.5		27.8	
Occupational pathology incidence rates, per 10,000 employees	1.85	1.21	1.21	3.12	5.53	5.59	5.38	4.61	4.81	5.61	5.21	4.8	
Social insurance fund's spending on prevention of occupational injuries, in % of total spending²							6.3	0.4	0.3	1.0	3.2	0.03	
Average monthly payments on fatality²													
In current UAH				119.0	213.3	264.6	305.1	383.4	497.7	636.8	747.8	812.8	
In constant 2000 UAH				106.3	189.1	222.9	235.7	261.0	310.6	352.2	330.3	309.8	

Sources:

¹ ILO Laborsta, based on SSCU data.² FSIA data.³ Such reports are collected every two years starting from 2005.

Note:

* The number of man-days of incapacity is the ratio of the number of man-days of incapacity to the total number of injured with loss of working capacity for one or more working days and with fatality.

years from 1.85 in 1998 to 4.8 in 2009, or by 2.6 times. Occupational morbidity has been better recorded since 2001–2004, and a new law has been adopted (the Law on General Compulsory State Social Insurance against an Occupational Accident and Disease that Caused Loss of Working Capacity). Comparing occupational morbidity in Ukraine with corresponding data from European countries shows that these figures are much lower in Ukraine although, in comparison, working conditions are considerably worse. Long-term observations demonstrate that occupational

pathology in Ukraine is caused by the impact from more than 100 harmful production factors and is diagnosed in workers representing more than 200 occupations.³

The analysis of occupational morbidity by industry branch shows an increase in its rates in coal mining, metallurgy and machine-building, whereas in agriculture it has declined more than

³ The OMI's information and analytical materials for the parliamentary hearing "On industrial safety and labour protection", 2010.

Legal Framework Indicator 14. Employment injury benefits

Law, policy or institutions: Ukraine's social insurance system is governed, *inter alia*, by the Law on General Compulsory State Social Insurance against an Occupational Accident and Disease that Caused Loss of Working Capacity (No. 1105-XIV of 23 September 1999), as amended. The Fundamentals of Legislation of Ukraine on General Compulsory State Social Insurance (1998) provide that a separate law may introduce general compulsory medical insurance but such law has not been passed so far. The legislation applies to all employees working under employment agreements, except military personnel and militia. Self-employed workers can be covered by voluntary insurance against accidents.

Qualifying conditions: There is no minimum qualifying period to become entitled to benefits in case of occupational accident or disease.

Benefits (level and duration): If an insured event occurs, the FSIA indemnifies the worker against the damage caused or, in case of death, indemnifies the persons who were maintained by the worker:

a) *Temporary injury benefit:* The benefit is equal to 100 per cent of the insured's earnings and is paid from the first day of incapacity until recovery or until an award for a permanent disability pension is made. The first five days of temporary incapacity are paid for by the employer.

b) *Lump-sum benefit in case of steady loss of occupational capacity or in case of the victim's death:* In case of a steady loss of occupational capacity as ascertained by the MSEC, the Fund makes a lump-sum payment to the victim, the amount of which is determined on the basis of the victim's average monthly earnings. If the commission investigating the accident ascertains that the health detriment has occurred not only through the employer's fault but also through violation by the victim of regulations on occupational safety, the rate of the lump-sum benefit is reduced pursuant to the commission's opinion but not more than by 50 per cent.

c) *Monthly cash benefit in case of partial or full loss of working capacity that compensates a relevant part of the victim's lost earnings* (depending on the degree of the victim's loss of occupational capacity): The amount of the monthly benefit must not be higher than the victim's average monthly earnings prior to the accident. If, with the monthly insurance benefit, the victim receives a disability pension for the same accident, the sum must not be higher than the victim's average monthly earnings prior to the health damage.

d) *Disability pension due to an occupational accident or occupational disease* (assigned by the PF).

e) *Survivor's pension in connection with the survivor's death from an occupational accident or occupational disease* (assigned by the PF).

f) *Child benefit in case of damage to the foetus due to the woman's occupational injury or occupational disease during her pregnancy*, because of which the child was born with disabilities: Such a child is considered to be insured and receives a FSIA benefit until the age of 18 or until the completion of study but not past the age of 23.

Financing: Contributions for insurance against occupational accidents and diseases are paid only by the employer. The contribution rate varies between 0.56 per cent (for enterprises belonging to the first class of occupational risk) to 13.5 per cent (for enterprises belonging to the 67th class of occupational risk).

Evidence of implementation effectiveness: No information located by the Organization.

Coverage of workers in law: No percentage located by the ILO.

Coverage of workers in practice: No percentage located by the ILO.

Ratification of ILO Conventions: The Social Security (Minimum Standards) Convention, 1952 (No. 102); and the Employment Injury Benefits Convention, 1964 (No. 121) have not been ratified.

Sources:

1. ILO: General Survey concerning the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981. Report III (IB), International Labour Conference, the 98th session, Geneva, 2009 (http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_103485.pdf);
2. Database of the International Social Security Association (ISSA) (<http://www.issa.int/aiss/Observatory/Country-Profiles/Regions/Europe/Ukraine/>);
3. Information provided by V.V. Ivankevych, Director-General, Institute for Development of Social Insurance and Lending.

nine-fold since 1991. Coal mining, one of the most dangerous activities in terms of working conditions, is responsible for 70–80 per cent of all occupational morbidity cases in Ukraine. About 2,000 new pneumoconiosis cases are diagnosed every year, thereby greatly increasing the rate of mortality caused by bronchopulmonary diseases. Moreover, a higher prevalence of lung cancer and tuberculosis has been found among the miners of underground coal mines who suffer from pneumoconiosis.

Furthermore, the number of new malignant neoplasm cases is increasing in Ukraine every year. The WHO International Agency for Research on Cancer emphasizes that the factors of the environment, everyday life and production cause the development of almost 80 per cent of all malignant neoplasms, up to 70 per cent cases being caused by chemical exposure. According to the WHO findings, up to 33 per cent of all potential cancer cases can be prevented by correct and targeted prophylactic measures. However, no less than 875,000 persons (about 15 per cent of the working population) are exposed to chemical substances in Ukraine every year, mostly in the extractive industry (53.3 per cent) and manufacturing industry (15.2 per cent). The main reasons for this situation include large-scale violations of occupational safety regulations and bad working conditions (53.7 per cent); imperfect production technologies, industrial accident (32.7 per cent); or missing or defective sanitary equipment (13.6 per cent). There are substantial problems in securing sanitary supervision for cancer-hazardous productions and in organizing lifelong medical services for workers employed in such productions. Major causes that contribute to insufficient identification of occupational diseases include low quality of preventive medical examinations, an extremely important component of preliminary sanitary supervision. The number of active factory health posts in 2009 (301) is 11.3 times less than in 1991 (3,398). Laboratory and clinical diagnostic studies are ensured only at 30–40 per cent of the need. As a result, occupational diseases are only identified in late phases when a health disorder is irreversible and occupational rehabilitation has become impossible. Almost half of occupational diseases are now discovered when a

sick person actively seeks medical aid rather than during preventive medical examinations. Because of that, diseases are often detected when they are already in the development stages that irreversibly render the patient disabled.⁴

The general reduction in the rates of occupational injuries and fatalities may reflect a decrease in the ‘traditional’ risks which is associated with a shift from employment in high risk sectors to services – as has been the case in Ukraine in recent years. A large number of coal mines, for example, have been closed down, and the number of workers in coal mining who work in harmful conditions, has fallen from 332,200 in 1999 to 251,800 in 2005 and to 221,400 in 2009.⁵ The reduction could also indicate an increased awareness and a better organization of the control of occupational safety and health conditions, which would lead to the prevention of occupational accidents. In this case, it would be expected that the decline in occupational injuries and fatalities would be steady and not fluctuate from year to year. However, the statistics show that there are increases in the fatal injury rates in some years, notably in 2000, 2001 and 2007, which were caused by a series of particularly deadly explosions in the coal mining sector.

The fluctuation in occupational fatality rates is also evident for women workers. The rates are much lower than for men but follow the same trends and reflect a highly segregated labour market with a concentration of women in such sectors as services, agriculture and light industry. This may signify a general lack of gender perspective, which leads to the exclusion of women and their concerns as regards the segregated labour market. This outcome potentially affects priority-setting (which focuses on traditionally hazardous sectors and highly visible accidents suffered mainly by men), standard-setting, research on occupational safety and health, and even the recognition and compensation of occupational accidents and diseases. Furthermore, the emphasis that Ukraine assigns to the protection of women through its legislative and regulatory base seeks to exclude

⁴ The OMI’s information and analytical materials for the parliamentary hearing “On industrial safety and labour protection”, 2010.

⁵ See E.Libanova, *op. cit.*, p. 37.

Legal Framework Indicator 15. OSH labour inspection

Law, policy or institutions: *Legislative authority:* Decree of the Cabinet of Ministers of Ukraine (No. 1771 of 29 November 2000) on the approval of the Regulations on the State Department for the Supervision over Labour Legislation Observance. The CEACR noted in 2007 (from the Government's first report on Convention No. 81) that there are three independent labour inspection systems, operating under the control of three different authorities, each responsible for different legislative fields: (i) the State Department for the Supervision of Labour Legislation, under the authority of the MLSP, which through its territorial bodies supervises the application by enterprises of the legislation on general conditions of work and compulsory social insurance; (ii) the State Department for Industrial Safety, the Protection of Workers and the Supervision of Mines, under the Ministry for Emergency Situations and the Protection of the Population against the Consequences of the Chernobyl Disaster, which through its territorial bodies supervises the application of the legislative provisions relating to the protection of workers; and (iii) the State Department for Sanitation and Epidemiological Surveillance, under the authority of the Ministry of Health, which is responsible, through its territorial bodies for labour inspection in connection with occupational health and safety. The Committee noted the Government's intention to create an integrated inspection system which would be responsible for ensuring the application of the legal provisions relating both to general conditions of work and occupational health and safety. The Government indicated that mining and transport undertakings could be excluded from the scope of such a system.

The Law on Labour Protection applies to legal and natural persons who, according to legislation in force, use hired labour, as well as to all working persons, except military personnel and militia.

Evidence of implementation effectiveness: The CEACR noted that an annual inspection report containing the information required on all the issues covered in the Convention, based on cooperation between the various existing inspection systems, should be published and a copy provided to the ILO. The Committee expressed concern over the lack of training provided to labour inspectors, although it was noted that training workshops for inspectors have been held. It noted with concern the information provided by the Government that labour inspectors lacked transport facilities and equipment to carry out their duties. Moreover, only 5 per cent of the workplaces liable to inspection had been inspected in 2008. More resources are needed. Trade unions within the enterprise play a major role in ensuring compliance with occupational safety and health requirements and cooperation with the employer. In its 2010 observation on Convention No. 81, the CEACR commented on Act No. 877-V, adopted on 5 April 2007 by the Supreme Council concerning the fundamental principles of state supervision in the area of economic activity and an Order of the Cabinet of Ministers, adopted on 23 May 2009, concerning temporary restrictions on state supervision activities in the area of economic activity, applicable until 31 December 2010. It requested that the Government take the necessary measures to align its legislation with the Convention, in particular with regard to the rights and powers of labour inspectors.

Coverage of workers in law: No percentage located by the ILO.

Coverage of workers in practice: No percentage located by the ILO.

Ratification of ILO Conventions: The Labour Inspection Convention, 1947 (No. 81) was ratified in 2004, but not its protocol; and the Labour Inspection (Agriculture) Convention, 1969 (No. 129) was ratified in 2004.

Sources:

1. Government reports and CEACR 2007 and 2010 comments on Convention No. 81;
2. National legislation listed in NATLEX http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=UKR.

women from dangerous work⁶ and thus effectively legitimizes the gender divide and side-steps the issue of making the workplace safe for all workers.

Of particular interest in Ukraine is the severity of injuries which has significantly increased over the past decade. This is indicated by the average

number of days of absence from work per injured worker, which rose from 28.9 days in 1998 to 39.6 days in 2009. The severity of occupational injuries in a country can also be determined by the number of fatalities which result from occupational injuries. This figure for Ukraine indicates that over the last ten years, one worker has died out of every 21 injuries, a ratio that has steadily worsened since 1998, when one worker died for every 34 injuries. In 2007 and 2008, one worker died for every 17 injuries, and even in 2009 the indicator again improved, for the first time over

⁶ For example, the *List of heavy-duty works and works with harmful and dangerous working conditions where the use of women's labour is prohibited*, approved by the Ministry of Health, Order No. 256 of 1993. Also see the "National Profile on Occupational Safety and Health in Ukraine", 2009 (Budapest, ILO, forthcoming).

the last twelve years, to 21 injuries.⁷ Again, this enormous difference may be due to the importance of coal mining in Ukraine and the particularly dangerous working conditions of this industry.⁸ It could also mean that less serious injuries are not being reported, in spite of a structure which has been developed for the reporting and notification of occupational accidents and diseases. This, however, would cast a doubt on whether any real progress has been achieved with respect to non-fatal injuries, or if the decline is driven by underreporting in recent years – a point to which national trade union associations have drawn attention.

Ukraine has an extensive legislative and regulatory base which governs safety and health at work.⁹ The main responsibility for inspecting occupational safety and health conditions rests with Derzhhirpromnahliad (the Ukrainian State Committee for Industrial Safety, Labour Protection and Mining Supervision). At the same time, the Fund for Social Insurance against Accidents of Ukraine (FSIA), introduced in 2001, is responsible for promoting safety at work. Several other agencies issue regulations and conduct inspections to enforce them¹⁰, precluding any coherence in state activities towards improving occupational safety and health in practice. This is the case in spite of a national policy in the field of occupational safety, as well as national requirements for

the coordination of activities and cooperation¹¹ in the field of occupational safety and health. Of particular concern is the manner in which regulations are focused on technical details, and the lack of a modern approach to promoting the prevention of occupational injuries and occupational morbidity. For example, Ukraine still relies on a classification of occupations to determine harmful conditions and attestation of workplaces,¹² rather than promoting risk assessment in all workplaces in order to determine preventive measures which would eliminate harmful and hazardous factors in each workplace.

The lack of a preventive approach is also reflected in the allocation of expenditures by the FSIA: in 2008, only 3.2 per cent of the Fund's budget expenditure was spent on preventive measures. While this was significantly higher than in the previous three years (after 2004 when the Fund's spending for these purposes was 6.3 per cent), the resources devoted to prevention remain low and do not allow the Fund to effectively pursue its preventive tasks, even though these are acknowledged as a priority by law. In 2009 and 2010, the Fund's spending on preventive measures was frozen altogether because of an existing deficit in receipts from coal mining enterprises (about UAH 700 million). In effect, the Fund serves mainly as a payment processing institution for the payment of compensations and benefits to victims of occupational accidents and diseases according to the degree of lost working capacity, as well as to families of persons who died as a result of an occupational accident or disease.¹³

In summary, reported occupational injury rates in Ukraine have halved since 1998. However, this may be due more to closures of hazardous workplaces, especially of coal mines, rather than to any significant impact of improved occupational safety and health measures. The occupational fatality

⁷ Calculations based on data reported in Table 9. See also statistics reported by the Ministry of Labour and Social Policy as published in Ella Libanova (see footnote 2).

⁸ The majority of occupational accidents take place in the mining sector (13.5 injuries per 1,000 employed), particularly in coal mining (19.5 per 1,000 employed) compared with a rate of 2.9 per 1,000 employed in the processing industries (5.9 per 1,000 employed in the tobacco industry and 4.7 injuries per 1,000 employed in the textile sector), and 2.1 injuries per 1,000 employed in the agricultural sector. The fatality rates from occupational injuries are 33 per 1,000 in the mining sector, 30/100,000 in construction and 12/100,000 in agriculture. See Ella Libanova.

⁹ The main legislative texts are the Law on Labour Protection, the Labour Code and the Law on Compulsory State Social Insurance against Industrial Accidents and Occupational Diseases Resulting in Disability. See the report of the Government of Ukraine, in accordance with the provisions of Article 19 of the Constitution of the ILO, on non-ratified Conventions and Recommendations, concerning Convention No. 155 on Occupational Safety and Health and the Working Environment (1981), submitted in 2008. See also the "National Profile on Occupational Safety and Health in Ukraine", 2009 (Budapest, ILO, forthcoming).

¹⁰ Other agencies include the Work Safety Inspection Commission, the State Sanitary and Epidemiological Inspectorate (Ministry of Health), the State Fire Inspection, the Work Safety Office of the Trade Unions, among others. See the "National Profile on Occupational Safety and Health in Ukraine", 2009 (Budapest, ILO, forthcoming).

¹¹ See *op.cit.*

¹² Order No. 528 of 2001 of the Ministry of Health on the "Hygienic classification of work types based on harmful and hazardous occupational factors and work stress".

¹³ L. Handrich and O. Betliy "Reforming the work accident insurance in Ukraine: Introducing economic incentives and private sector competition." Institute for Economic Research and Policy Consulting in Ukraine, German Advisory Group on Economic Reform. http://ierpc.org/ierpc/papers/v20_en.pdf. See also "Decent Work in Ukraine: The economic and social context".

rate, on the other hand, has maintained its high level, and even increased in 2007, for both men and women. The severity of occupational injuries, already extremely high in relation to other countries, has also increased substantially, as indicated by the average number of days of absence from work per injured worker and the number of deaths in relation to occupational injuries. Ukraine has thus not made substantial progress towards safe work over the past eleven years.

To achieve greater progress in ensuring safe working conditions and minimizing occupational injury and morbidity rates, measures should be taken to prepare a special governmental programme for a medium-term period (four to five years) that would provide for:

- creating conditions for the coordination of actions and appropriate financial resources for all state structures, and employers' and workers' organizations in this field;
- developing an occupational safety culture, first of all concerning assurances for each worker of his/her own safety at the workplace;
- prohibiting the use of workers' labour at workplaces with unsafe and harmful working conditions for longer than a scientifically-based limited period (in order to prevent occupational diseases);
- determining an employer's economic interest in ensuring safe working conditions at the workplace, conducting timely workplace assessments and periodic medical examinations of workers;
- reforming the legislation on labour protection and on general compulsory state social insurance against occupational accidents and diseases in order to concentrate the expenditure on labour protection and insurance against occupational accidents and diseases, and on preventive measures for safe work, social security and protection of people's life and health in the course of their work activities;
- drafting a new wording of the Law on General Compulsory State Social Insurance against an Occupational Accident and Disease that Caused Loss of Working Capacity;
- shifting the FSIA's functions of financial provision and assignment of disability pensions and survivor's pensions in connection with the survivor's death from an occupational accident or disease to those of a Pension Fund according to uniform rules of general compulsory insurance.

10 Social security¹

Ukraine's social security system covers the nine main branches of social security listed in the Social Security (Minimum Standards) Convention, 1952 (No. 102), even though the country has not ratified the convention.² These are: medical care, benefits for temporary incapacity to work, unemployment benefits, old-age benefits, occupational accident or disease benefits, family and maternity benefits, disability benefits and survivors' benefits. Special provisions exist for victims of the Chernobyl nuclear power plant (NPP) accident and veterans of the Second World War (see Chapters 2, 5 and 9 above and Legal Framework Indicators 16-18).³

From a low base of 13.6 per cent of total budget expenditure in 1998, state social security expenditure has increased to 25.4 per cent in 2009. This level is higher than in some other Central European countries, but below the average of the European Union.⁴ The increase over the last years was largely due, first of all, to a growing total expenditure for pension provisions and the introduction of general compulsory state social insurance systems, which occurred in the first five years of the new millennium, and were almost unrelated to health care.

Health care provision in Ukraine is in the form of a universal public system financed by the Government. Health care expenditure fluctuated between 3 to 4 per cent of GDP during the last decade (3.5 per cent in 1998, 2.9 per cent in 1999

and 2000, and 4 per cent in 2009).⁵ Households pay only voluntary contributions but also pay for medicine. In 2006, only every third household in the country spent money on medical services,⁶ whereas in 2009, 44.4 per cent, or almost every second household, paid for medical services (out-patient and hospital services).

With pensioners making up an increasing share of the population, pension spending is expected to rise further in the future to accommodate the higher number of pensioners. The share of the population above the pensionable age (55 for women and 60 years for men), rose from 21.5 per cent at independence (1991) to 24.5 per cent in 2009, and by 2020, it is set to reach 28.4 per cent.⁷ The share of the population above the pensionable age who received a pension increased from 89.4 per cent in 1999 to 94.4 per cent in 2009 (see Table 9). While pension coverage is almost universal, there are still people above this age who are not fully covered. The social vulnerability of many pensioners can be detected from the level of most pensions which are still relatively low. The ratio of average pensions to average wages has fluctuated considerably over the past twelve years. Starting at 39.5 per cent of the average wage in 1998, the ratio reached a low 36.4 per cent in 2000 and 52.4 per cent in 2009 (mainly because of the decrease of the average monthly wage growth rate).⁸

Without supplementary income from employment or savings, pensioners thus have incomes that are

¹ By Valeria Nesterenko, ILO Policy Integration Department.

² The Government of Ukraine is considering ratification of Convention No. 102 and the European Code of Social Security.

³ See ISSA website at <http://www.issa.int/aiss/Observatory/Country-Profiles/Regions/Europe/Ukraine>.

⁴ See Eurostat, figures for 2006 available at: http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/3-02062009-BP/EN/3-02062009-BP-EN.PDF.

⁵ Unless stated otherwise, all data are from the State Statistics Committee of Ukraine (<http://www.ukrstat.gov.ua/>).

⁶ E. Libanova. Poverty of population in Ukraine, (IDSS), 2008.

⁷ Estimates and forecasts of economically active population for 1980-2020, ILO, see LABORSTA database, <http://laborsta.ilo.org/STP/guest>.

⁸ Calculated on the basis of SSCU data.

Legal Framework Indicator 16. Pension

Law, policy or institutions: The Law on Pension Provision (No.1788-XII, 1992), as amended; the Law on General Compulsory State Pension Insurance (No.1058-IV, 2003), as amended; the Law on Non-State Pension Provision (No.1058-IV, 2003), as amended; the Law on State Social Assistance to Persons Not Entitled to Pension and to Persons with Disabilities (2005), are all relevant to the issue. The MLSP is responsible for policy and provides general coordination; the Pension Fund administers pensions. Regional (oblast) and local social protection departments administer the programme.

Coverage of the law: All employed Ukrainian citizens, foreigners, and stateless persons employed under employment agreements or under civil-law agreements; self-employed persons. Voluntary coverage is possible. Special provisions for victims of the Chernobyl NPP accident.

Qualifying conditions: Men aged 60 or women aged 55 with at least five years of covered employment. Requirements are reduced for those who worked for at least five years under arduous or hazardous conditions, for mothers of five or more children or of disabled children, for disabled war veterans, and for other specified categories. In all cases, contributions must be paid for the entire period of covered employment. Covered employment can include years spent in higher education, the armed services, caring for disabled persons or children younger than age 3, or being unemployed and seeking a job, if contributions are paid for these periods. The pension is paid to unemployed workers between ages 58.5 and 60 for men or ages 53.5 and 55 for women who meet the requirements for covered employment and who were working for an enterprise that was liquidated or reorganized. The pension ceases if the beneficiary is reemployed.

Social pension: low-income citizens who are not working and not eligible for an old-age pension from age 63 for men or age 58 for women according to a means-test.

Benefits (level and duration): Benefits are calculated according to a formula specified by the law, and depend on the rate of wages from which insurance contributions were paid to the Pension Fund and pensionable service. The cost of one pensionable service year is 1.35. The pension is paid monthly. The minimum old-age pension is equal to the minimum subsistence level for a disabled person. Payment of old-age pensions can be deferred. *Partial pension:* After the Law on State Social Assistance to Persons Not Entitled to Pension and to Persons with Disabilities took effect on 1 January 2005, social pensions have been transformed into social assistance. Pensions assigned as per the Law on Pension Provision (as the Law on General Compulsory State Pension Insurance took effect on 1 January 2004, most provisions of the Law on Pension Provision (No. 1788-XII, 1992) became invalid) and social pensions, at the pensioner's wish, continue to be paid by the bodies of the Pension Fund of Ukraine until expiration of their payment period. *Part-time pension* is paid if the insured has less than 25 years (men) or 20 years (women) of covered employment, and insurance contributions have been paid for that period. *Adjustment of pensions:* periodical adjustment for inflation and changes in the national average wage.

Financing: Contributions from insured persons (2 per cent of wages or earnings) and employers' (33.2 per cent of payroll). Self-employed: fixed-rate amount equal to 33.2 per cent of the minimum wage. The Government finances state and social pensions as well as part of the pensions assigned in other pension schemes that are higher than insurance pensions assigned on general terms. If necessary, subsidies from central and local executive authorities are granted. Contributions from insured persons and employers are also used to pay occupational injury benefits and family benefits; contributions from self-employed persons are used to finance family benefits while the Government's contribution is also spent on occupational injury benefits.

Coverage of workers in law: See above (no percentage located by the ILO).

Coverage of workers in practice: No information located by the Organization.

Evidence of implementation effectiveness: No information located by the Organization.

Ratification of ILO Conventions: The Social Security (Minimum Standards) Convention, 1952 (No. 102); and the Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128) have not been ratified.

Sources:

1. ISSA data base, supplemented by Social Security Throughout the World (Social Security Administration of the United States, September 2008);
2. V.V. Ivankevych, Director-General, Institute for Development of Social Insurance and Lending.

far below those of employed persons.⁹ The IDSS also reports that 58.1 per cent of households that

consist only of pensioners were spending more than 60 per cent of their income on food in 2009. Especially noticeable is the vulnerability of single women pensioners, attributable to the fact that during their working lives they generally earned

⁹ Private pension institutions are not common in Ukraine, and only 497.1 thousand people (2.24 per cent of the employed population) have a private pension plan.

Legal Framework Indicator 17. Incapacity to work due to sickness / sick leave

Law, policy or institutions: Social insurance (cash benefits) is regulated by the Law on the General Compulsory State Social Insurance against Temporary Loss of Working Capacity and in Connection with Expenses Caused by Burial (No. 2213-III, 2001). The MLSP, the MoF and the Social Insurance Fund provide general oversight of the programme for cash benefits.

Coverage of the law: Employed persons, including employees on leave to pursue education or training; those unemployed as a result of enterprise liquidation; registered unemployed persons; and military personnel.

Qualifying conditions: No minimum qualifying period.

Benefits (level and duration): *Cash benefits:* 60 per cent of the insured's average gross earnings over the last three months if less than five years of service; 80 per cent with five to eight years of service; 100 per cent with eight or more years of service or for a person injured due to the Chernobyl NPP accident, a person caring for a child injured due to the Chernobyl NPP accident, a veteran of WWII, or a surviving spouse of a war veteran or soldier killed in combat. The insured persons employed on seasonal and temporary works are paid benefits for temporary incapacity to work due to a disease or injury not connected with an occupational accident for no longer than 75 calendar days during a calendar year. *Waiting period:* The benefit is paid after a five-day waiting period for a maximum of six months or until certification of permanent disability. The benefit is equal to 100 per cent of the insured's earnings for a working parent caring for a sick family member for up to 14 days per case.

Financing: Cash benefits (for both sickness and maternity benefits): contributions from insured persons (0.25 per cent to 0.5 per cent of earnings) and from employers (2.5 per cent of payroll). Self-employed: 3 per cent of declared income. Medical benefits: Government budget.

Evidence of implementation effectiveness: No information available.

Coverage of workers in law: See above (No percentage located by the ILO).

Coverage of workers in practice: No percentage located by the Office.

Ratification of ILO Conventions: The Social Security (Minimum Standards) Convention, 1952 (No. 102); and the Medical Care and Sickness Benefits Convention, 1969 (No. 130) have not been ratified.

Sources:

1. ISSA data base, supplemented by Social Security Throughout the World (Social Security Administration of the United States, September 2008);
2. Information provided by V.V. Ivankevych, Director-General, Institute for Development of Social Insurance and Lending.

a lower salary than men (about 70–80 per cent of men's salaries) because they were employed in less profitable production areas. As a result, there is a large portion of women who receive the minimum pension, which is rarely higher than the subsistence minimum for non-able-bodied persons. Women's pensions are actually about one third lower than those of men.¹⁰ The life expectancy of women after retirement is 23 years against 14 years for men, and women more often remain widowed (more than half of women aged 60 years and over are widows). In sum, single retired women have a lower income compared to households consisting of retired spouses.¹¹

Increasing the normal retirement age from the current level of 55 years for women and 60 years for men is currently an important issue of debate in Ukraine. According to the Pension Fund's data, some 2.8 million pensioners (or 20 per cent of all retirees) still worked in 2009. Most of these received old-age benefits (80 per cent),¹² while the remainder was on early retirement on privileged terms or due to disability.¹³ Analysis of employment by age shows that the overall employment rate for persons aged 15–64 years in Ukraine is lower than in most European countries, but employment among the pensionable-age population is far higher than in other countries. This can

¹⁰ Official presentation of E. Libanova (IDSS) at the round table held by the UN Population Fund, July 3rd, 2009.

¹¹ E. Libanova. Poverty of population in Ukraine, (IDSS), 2008, p. 181.

¹² According to Article 42 of the Law on General Compulsory State Pension Insurance, working retirees keep receiving pensions.

¹³ International Conference Report on Population and Development, UN Organization, 2009, p.102.

Table 10. Social security

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Share of population above pension age benefiting from a pension, in %¹	89.6	89.4	89.0	88.8	89.4	90.5	91.2	93.9	93.7	95.4	95.0	94.4
Share of working-age population contributing to the Pension Fund²			40.9	38.8	46.4	42.9	43.1	43.2	43.6	43.5	54.8	55
State Social security expenditure, in % of GDP	4.1	3.2	3.5	4.1	5.6	4.9	5.6	9.0	7.6	6.7	7.8*	8.6
State Social security expenditure, in % of total expenditure	13.6	11.9	12.4	15.0	21.0	17.1	18.8	28.1	23.6	21.3	23.7	25.4
Health care expenditure, in % of GDP	3.5	2.9	2.9	3.1	3.3	3.6	3.5	3.5	3.6	3.7	3.5	4.0
Average pension/average wage ³ , in %	39.5	38.8	36.4	39.4	36.3	39.43	53.6	50.5	45.9	55.6	49.7	52.4

Notes:

¹ The regular pension age is 55 years for women and 60 years for men. No disaggregation by sex is available.

² Data from the ILO Social Security Department http://www.ilo.org/dyn/lossiadadmin/ssiindic.viewMultiIndic?p_lang=en&p_indicator_code=CP-1a per cent200A&p_geoaid=804.

This indicator reflects to what extent the current working-age population is protected in old age. It is calculated as the number of current affiliates to a social security institution providing benefits in old age as a proportion of the working-age population. This version of the old age demographic protection ratio might slightly overstate the future level of protection if some of the currently affiliated members do not build up sufficient entitlements during working age. Females aged 15-54, males aged 15-59.

³ The ratio of the average pension rate as of 1 January to the average wage for the preceding year.

Source: SSCU; Social Security Department, ILO http://www.ilo.org/dyn/lossiadadmin/ssiindic.viewMultiIndic?p_lang=en&p_indicator_code=CP-1a per cent200A&p_geoaid=804.

be explained both by the low pension age and the often inadequate level of pensions.

Another issue of debate is the inter-generational inequality regarding the pension system. The current generation of pensioners, who used to finance the old pension system during their working life, receive a pension with a much lower purchasing power than was the norm in previous years. At the same time, the current working population realizes that if the current pension system is maintained, they will most likely not have an opportunity to receive an appropriate pension, which leads to an increasing reluctance on the part of the insurance contribution payers to finance the pay-as-you-go (distributive) system.¹⁴

The Public Employment Service (PES) and the executive board of the Fund for General Compulsory State Social Insurance of Ukraine against

Unemployment (FGCSSIU) take various measures to promote employment among the population. If there is no suitable job available, the PES provides cash benefits to the unemployed according to the procedure specified by the Ukrainian legislation in force. In 2009, there were 2,143,400 unemployed persons benefitting from the assistance of the employment service; 702,700 were placed in jobs with the employment service's referral; 157,100 unemployed underwent vocational training; 240,900 unemployed took part in paid public works; 3,462,000 were covered by vocational guidance services; and 1,449,000 received unemployment benefits.

One of the largest shares of insurance payments is related to occupational accidents, directly caused by conditions of work and safety (see Chapter 8 'Safe work'). In 2009, the contribution of enterprises varied from 0.56 per cent for enterprises belonging to the first class of professional risk, up to 13.5 per cent for enterprises belonging to the 67th class (the largest number of the enterprises

¹⁴ See also A. Dobronogov, System Analysis of Social Security in a Transition Economy: the Ukrainian Case, International Institute for Applied System Analysis Report, 1998.

Legal Framework Indicator 18. Incapacity to work due to invalidity

Law, policy or institutions: The Social insurance and social assistance schemes are governed by the Law on Pension Provision (No. _1788-XII, 1992), as amended; the Law on General Compulsory State Pension Insurance (No. 1058-IV, 2003), as amended; the Law on Non-State Pension Provision (No. 1058-IV, 2003), as amended; and, the Law on State Social Assistance to Persons Not Entitled to Pension and to Persons with Disabilities (2005). The MLSP is responsible for policy and provides general coordination. The Pension Fund administers pensions. Regional (oblast) and local social protection departments administer the programme.

Coverage in law: All employed Ukrainian citizens, foreigners and stateless persons employed under employment agreements or civil-law agreements, and self-employed persons. Voluntary coverage is possible. There are special provisions for victims of the Chernobyl NPP accident.

Qualifying conditions: *Total disability* (incapacity for any work): paid for a Group I disability (requiring constant attendance) or a Group II disability (not requiring constant attendance). *Partial pension for total disability:* paid if the insured has less than 25 years (men) or 20 years (women) of covered employment. If the insured has insufficient years of covered employment, the monthly benefit is reduced in proportion to the number of years below the required number of years of coverage. *Partial disability:* paid for a Group III disability (incapacity for usual work).

Benefits (level and duration): *Disability pension:* The insured has a minimum of two to five years of covered employment, depending on the age when the disability began. The full disability pension for Group I is equal to 100 per cent of the old-age pension or 90 per cent for Group II. *Partial pension for total disability:* In case the insured person has insufficient years of covered employment, the pension is reduced in proportion to the number of years below the required number. *Partial disability for Group III:* The monthly pension is equal to 50 per cent of the old-age pension. *Social pension (disability):* between 30 per cent and 200 per cent of the minimum old-age pension (equal to the minimum level of subsistence for a disabled person) depending on the assessed degree of disability. *Carer's allowance (disability):* The monthly allowance is paid to a carer of a Group I disabled child younger than age 16. The carer must not be employed, but may receive an unemployment benefit. *Social pension (disability):* A means-tested pension is paid to low-income citizens who are not working and not eligible for a disability pension or work injury benefit.

Financing: Same as for old-age and survivors' pensions, work injury benefits and family allowances.

Evidence of implementation effectiveness: No information available.

Coverage of workers in law: No percentage was located by the ILO.

Coverage of workers in practice: No percentage located.

Ratification of ILO Conventions: The Social Security (Minimum Standards) Convention, 1952 (No. 102); and the Invalidity, Old-age and Survivors' Benefits Convention, 1967 (No. 128) have not been ratified.

Source:

ISSA data base, supplemented by Social Security Throughout the World, (Social Security Administration of the United States, September 2008).

that are classed as last is found in the Eastern part of Ukraine, where a high percentage of employment is in coal mining).¹⁵ The rate of payment for occupational accidents and diseases increases much faster than rates for other benefits and sometimes reaches the level of an average wage.¹⁶ This insurance system can also be described as lacking efficiency, considering its financial capacity and purpose as it continues to finance insurance

payments that compensate loss of earnings even after a victim has attained pensionable age and has been assigned a pension, as well as reimburses expenditure of the pension fund (where the victim was insured on general terms) for a disability pension and survivor's pension due to an occupational accident or occupational disease.

In 2009, cash and non-cash social transfers (including pensions) made up 27.1 per cent of household income and thus had a significant influence on household income and overall income distribution. While income inequality is primarily a result of wage inequality, the uneven dis-

¹⁵ Article 47, Law on General Compulsory State Social Insurance against an Occupational Accident and Disease that Caused Loss of Working Capacity.

¹⁶ E. Libanova, Decent Work Country Report – Ukraine (ILO, Regional Office for Europe and Central Asia, March 2008), p.41.

tribution of pension payments, in particular, has also greatly contributed to income inequality in Ukraine. Although other components such as unemployment benefits, family benefits and state social assistance have had a dampening effect on inequality, the overall effect of social transfer payments has nevertheless been an increase in inequality. This is in contrast to other countries, where transfer payments generally moderate income inequality.¹⁷

The benefit for temporary incapacity to work is paid by the employer (for the first five days of incapacity – from the employer's funds, for subsequent days of incapacity – from FSITLWC) based on the sick leave certificate. Expenditure for the payment of the benefits for temporary incapacity to work has grown 2.8 times over the past six years, from UAH 1,437.0 million in 2004 to UAH 3,955.3 million in 2009. The share of such expenditure in the Fund's total spending increased by 9.8 percentage points over the same period, from 42.8 per cent to 52.6 per cent. Attention should be drawn to the fact that the share of payments has decreased by 3.8 percentage points during the past two years, from 56.4 per cent in 2007.

The share of the working-age population who pays insurance contributions to the pension fund remains insignificant. It has grown by 14.1 percentage points during the past ten years; from

40.9 per cent in 2000 to 55 per cent in 2009, which is a consequence of the personalization of insurance contributions and the transition to insurance principles in the pay-as-you-go pension scheme (see Table 8).¹⁸

In sum, the above leads to the conclusion that the social security system in Ukraine has been improved during the past decade. In particular, the systems of general compulsory state social insurance have been implemented with regard to unemployment, temporary loss of working capacity, expenses caused by birth and burial, occupational accidents and occupational diseases, and pension insurance. However, the system still suffers from inadequacies and is in need of further improvements, particularly in the case of the pension system reform which should aim to ensure long-term financial sustainability and adequate income levels for all pensioners. A plan to introduce mandatory private pensions has already been formulated, but implementation is continually being postponed. All other areas of the general compulsory state social insurance equally need serious reform in the context of the introduction of a uniform social contribution scheme from 1 January 2011. Moreover, there is a need for the legislative implementation of a system of general compulsory state medical social insurance which should be accompanied by a total reform of the health care system towards a more unified and coherent system.

¹⁷ Calculated on the data from E. Libanova. Poverty of population in Ukraine, monograph (IDSS), 2008, p.135.

¹⁸ ILO Social Security Department, Old age demographic protection ratio, August 6th, 2009.

11 Social dialogue, employers' and workers' representation¹

Ukraine has ratified most of the international labour conventions related to social dialogue, including the two fundamental conventions, namely the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98), as well as the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), an important convention for consultation procedures.² It thus appears that Ukraine has a good record of ratification of conventions that could contribute to the strengthening of social dialogue in the country.

After Ukraine gained independence in 1991, the Code of Labour Laws from the Soviet era was amended and several other laws were adopted³ with the aim of setting up a legal framework for the establishment of independent employers' and workers' organizations. The country also adopted a legal framework for social dialogue and labour relations in their bipartite and tripartite forms and created supporting institutions, in particular the National Council for Social Partnership that subsequently ceased to exist when a new consultative and advisory body on social dialogue was estab-

lished on the same basis under the President of Ukraine: the National Tripartite Social and Economic Council (NTSEC).⁴ The Council has the following key objectives: promoting alignment of positions adopted by social dialogue parties on ways of further developing socioeconomic and labour relations, and promoting the conclusion of agreements on the regulation of such relations; and, developing and submitting to the President of Ukraine, the Verhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine, proposals on the formulation and implementation of the national socioeconomic policy. The NTSEC consists of 20 representatives of the Cabinet of Ministers of Ukraine, 20 representatives of the all-Ukrainian workers organizations, and 20 representatives of employers' organizations with similar institutions established at the regional level. At the same time, in 1998, the President of Ukraine established the National Mediation and Conciliation Service (NMCS)⁵, whose competences include: registering the claims filed by workers and collective labour disputes (conflicts); analysing the claims, identifying and summarizing the reasons of collective labour disputes (conflicts), preparing proposals for their settlement; training mediators and arbiters specializing in the settlement of collective labour disputes (conflicts); drafting lists of arbiters and mediators; verifying, as necessary, the mandates of representatives of the parties to a collective labour dispute (conflict); mediating in the

¹ By Youcef Ghellab, ILO Industrial and Employment Relations Department (DIALOGUE).

² Other issues related to social dialogue are also covered by the Employment Policy Convention, 1964 (No. 122) and the Human Resources Development Convention, 1975 (No. 142) ratified by Ukraine as well.

³ The Law on Collective Agreements; the Law on the Procedure of Settlement of Collective Labour Disputes (Conflicts); the Law on Trade Unions, their Rights and Guarantees of their Activities; the Law on Employers' Organizations.

⁴ Pursuant to the Decree of the President of Ukraine No. 1871/2005.

⁵ Decree of the President of Ukraine No. 1258/98 of 17 November 1998 *On the establishment of the National Mediation and Conciliation Service.*

settlement of a collective labour dispute (conflict); and, involving members of Parliament, representatives of public authorities and local governments in the conciliation procedures.⁶

Generally, the activities of the NMCS positively affect industrial relations and help in preventing the emergence and settlement of collective disputes. Due to the negotiating and conciliation procedures initiated by the NMCS between employers and workers and their organizations the number of strikes decreased from 687 in 1998 to four in 2004, or by 172 times. In subsequent years, the number of strikes was at most nine per year (2006), while there was only one strike in 2008 and four strikes in 2009. Annual loss caused by strikes over that period decreased from UAH 122.2 million to 0.1 million.⁷ The number of workers taking part in strikes also dropped, almost 325 times (from 98,700 in 1998 to 300 in 2009), and the working time lost per one striking worker decreased 2.8 times during ten years of NMCS activity (from 106 hours in 1998 to 38 hours in 2007). It should be pointed out, however, that the latter indicator increased considerably in 2008 and 2009, despite few workers being engaged in such strikes, in all totalling 465 and 828 hours per striking worker, respectively. This is evidence of the protracted character of collective labour disputes (conflicts) that most likely results from the financial and economic crisis. Since the average strike duration was more than 100 days, this can also be proof, as seen by workers' organizations, of the relative weakness of the mechanisms put into place to settle labour conflicts.⁸

The NMCS registered 197 collective labour disputes between 2007 and 2009 (49 in 2007, 72 in 2008, and 76 in 2009) involving 64,712 workers of 213 enterprises. When entering into the disputes, the workers put forward 563 claims, 41.4 per cent of which were related to the conclusion of and compliance with enterprise-level collective agreements. With the support of the NMCS and due to interaction with relevant social dialogue parties during the conciliation procedures, 245 collective

labour disputes have been settled and de-registered during that period, and 676 claims of employees have been satisfied, including 22 claims on the conclusion or amendment of a collective agreement and 235 concerning compliance with a collective agreement.⁹

The working practice of the NMCS demonstrates that the situation with regard to industrial relations is mostly stable within enterprises where collective agreements have been concluded. As a result, collective disputes arise less frequently and emerging problems are mostly settled by negotiation.

The above-mentioned legal and institutional steps taken in the 1990s, though significant, proved insufficient to ensure an effective transformation of the system of labour relations in Ukraine. Social partners faced certain obstacles in exercising their rights to freedom of association – for instance, in the registration process, social partners were not allowed to participate in negotiations as regards the conclusion of the General Agreement and other agreements.¹⁰ Furthermore, the exercise of the right to strike faced some impediments which were based in the legislation, as was pointed out by the CEACR.¹¹ Workers' representatives were confronted with problems of anti-union discrimination in certain sectors and enterprises, as reported by the ILO supervisory bodies (see Legal Framework Indicator 19 'Freedom of association and the right to organize' and Legal Framework Indicator 20 'Collective bargaining').

Since 2003, when Article 16 of the Law on Trade Unions was amended, workers organizations have been given legal status through a process involving notification of compliance.¹² As of 1 October 2010, 161 all-Ukrainian associations of workers' organizations and 21 all-Ukrainian associations of employers' organizations are registered with the Ministry of Justice.

⁶ Article 15, Law on the Procedure of Settlement of Collective Labour Disputes (Conflicts).

⁷ SSCU cancelled this indicator since 2007.

⁸ FTUU information by letter of 18.01.2011.

⁹ NMCS, October 2010.

¹⁰ This refers to cases of non-admission of new and small trade unions by stronger trade unions and their associations to collective bargaining at the production and sectoral level.

¹¹ CEACR 2008, 79th session.

¹² Legalization is performed by the Ministry of Justice and its departments at relevant levels by means of including the trade union in the register of citizens' associations and issuing a certificate of legalization indicating the trade union's status.

Legal Framework Indicator 19. Freedom of association and the right to organize

Law, policy or institutions: The right to join and form organizations is established in Article 36 of the Constitution of Ukraine, which also provides that no one may be forced to join an association of citizens. Other relevant legal acts in force include the Labour Code, the Law on Citizens' Associations, the Law on Trade Unions, and the Law on Employers' Organizations. The right to strike is guaranteed under Article 44 of the Constitution and under the Law on Trade Unions. According to the Law on Trade Unions, all workers in an employment relationship and self-employed persons may be members of a trade union. Judges are excluded. The CEACR has requested several times that the Government ensures the right of judges to establish organizations.

Evidence of implementation effectiveness: The CEACR has commented for some years, amongst other issues, on Section 31 of the Law on Employers' Organizations, according to which the bodies of the State authority shall exercise control over economic activities of employers' organizations and their associations; the CEACR asks for this Section 31 to be repealed. It has asked for the amendment of Section 19 of the Act on procedure for the settlement of collective labour disputes which provides that a decision to call a strike has to be supported by a majority of the workers or two-thirds of the delegates of a conference. The Committee recalled that if the national legislation requires a vote to be held, it should ensure that account is taken only of the votes cast and that the majority is fixed at a reasonable level. Comments were made in 2006 by the International Confederation of Free Trade Unions (now, International Trade Union Confederation – ITUC) on the issue of trade union registration, restrictions on the right to strike, interference in trade union activities and harassment of trade unionists. Most of these concerns were dealt with by the ILO's Committee on Freedom of Association which noted with interest the information provided by the Government on the outcome of investigations into the cases of alleged violations of trade union rights and considered that no further examination was needed (see 350th Report).

Coverage of workers and employers in law: See above (No percentage located by the Office).

Coverage of workers and employers in practice: No percentage located by the Office.

Ratification of ILO Conventions: The Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); and the Right to Organize and collective Bargaining convention, 1949 (No. 98) were both ratified in 1956.

Sources:

1. National legislation listed in NATLEX (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=UKR);
2. Comments of the CEACR on the application of Convention No. 87 (<http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang=EN>);
3. Committee on Freedom of Association, Report No. 350 (Vol. XCI, 2008, Series B, No. 2), Case No. 2388, Para. 211-214.

Nevertheless, according to official statistics, the coverage of enterprise-level collective agreements in Ukraine is rather high, and it rose from 68.9 per cent to 83.9 per cent during the period from 1998 to 2009. At the same time, the number of workers covered by enterprise-level collective agreements decreased during that period from 10,613.3 million to 9,038.3 million and is much lower, about 70 per cent, if compared to the total number of employed workers (2010 – 12.8 million).¹³ According to the Law on Collective Agreements, collective agreements are concluded on a bilateral basis at the national, sectoral and regional levels, whereas enterprise-level collective agreements are concluded at the production unit level. According to law, regional and sectoral agreements are subject to informative registration with the Ministry of Justice. As

of 1 October 2010 in Ukraine, under the General Agreement for 2008–2009,¹⁴ 27 regional and 92 sectoral agreements were concluded and implemented. A positive trend could be seen in 2009 in the rate of enterprise-level collective agreement coverage as compared to 2008, which included eight (57.1 per cent) out of 14 economic activities. According to the State's Statistics Committee of Ukraine, 99,754 enterprise-level collective agreements were concluded and registered as of 31 March 2010, covering 81.7 per cent of the registered number of employees.¹⁵

¹⁴ On 9 November 2010, the Government, trade unions and employers signed the tenth General Agreement on regulation of basic principles and standards of the implementation of socioeconomic policy and labour relations in Ukraine for 2010-2012.

¹⁵ It should be noted that this coverage rate only applies to workers of large and medium-sized enterprises, i.e. the enterprises submitting statistical reports on this matter. Small enterprises do not submit statistical reports on collective agreement regulation.

¹³ FTUU information by letter of 18.01.2011.

Legal Framework Indicator 20. Collective bargaining right

Law, policy or institutions: The right to form and join organizations is provided by Article 36 of the Constitution of Ukraine which also provides that no one may be forced to join an association of citizens or be restricted in his right to belong or not to belong to political parties or public organizations. Other relevant laws in force include the Labour Code of Ukraine, the Law on Citizens' Associations, the Law on Trade Unions, and the Law on Employers' Organizations. The right to strike is guaranteed by the Constitution of Ukraine, the Law on the Procedure of Settlement of Collective Labour Disputes (Conflicts) and the Law on Trade Unions.

Evidence of implementation effectiveness: The CEACR received the Government's observation concerning comments from the International Trade Union Confederation (ITUC) on the application of the Convention and alleging, in particular, acts of anti-union discrimination and interference, as well as poor enforcement of court decisions examining cases of violations of trade union rights.

Coverage of workers in law: No percentage located by the ILO.

Coverage of workers in practice: No percentage located by the ILO.

Ratification of ILO Conventions: The Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87); and the Right to Organize and Collective Bargaining Convention, 1949 (No. 98) were both ratified in 1956.

Sources:

1. National legislation listed in NATLEX (http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=UKR);
2. 2010 comments of the CEACR (<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-displayAllComments.cfm?hdroff=1&ctry=0600&conv=C087&Lang=EN>).

This trend was observed despite an obvious decline in the trade unions' influence over the same period (as can be seen in Table 10). The number of trade union members in Ukraine's largest trade union federation (FTUU) dropped by almost half during the period from 1998 (14.2 million) to 2009 (8.7 million).¹⁶ This figure corresponded to 75 per cent of all workers in 1998 but only to 42.1 per cent of all workers in 2008 and 40.3 per cent in 2009. It should be noted that, at the start of negotiations for the conclusion of a new general agreement for 2010–2012 (late 2009 and early 2010), two joint representative bodies of trade unions were established on the trade unions' side, which united for collective bargaining: the Joint Representative Body of All-Ukrainian Trade Unions and Trade Union Associations (JRB(t)) and the National Joint Representative Body of All-Ukrainian Trade Unions and Trade Union Associations (NJRJB) with 10.1 and 4.1 million trade union members, respectively.¹⁷

On the employers' side, the Federation of Employers of Ukraine declared 27,300 members in 2008

(or 6.8 per cent of all registered enterprises), compared to 7,900 in 2004 (or 2.4 per cent of all registered enterprises). Again, data from the other employers' federations are not available. Judicial disputes among Ukrainian employers' organizations concerning their representation in the management of the general compulsory state social insurance, which took place in 2008–2009, forced the employers' organizations to join into the Joint Representative Body of the Employers' Party on the National Level (JRB(e)), the highest representative body of all-Ukrainian associations of employers' organizations.¹⁸

The JRB(e) members include employers' organizations (associations thereof) in all 27 administrative-territorial units,¹⁹ as well as in most economic activities: transport and communications; utility services; agriculture; hotels and restaurants; culture, sports, recreation and entertainment; textile production; metallurgy; machine-building and metal-working activities; health care, medical and microbiological industries; mining activities, including coal mining; glass industry; construc-

¹⁶ This number includes 1,335,000 students who are members of member organization trade unions, and 553,700 retired trade union members. Data on other national trade union associations are not available.

¹⁷ It should be remembered that existing legislation and trade union statutes do not rule out double membership opportunities.

¹⁸ At present, the JRB activities cover all the all-Ukrainian associations of employers' organizations created on territorial or sectoral grounds and legalized by the Ministry of Justice.

¹⁹ Specified by part 2, Article 133, Constitution of Ukraine.

Table 11. Social dialogue, employers' and workers' representation

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	H1, 2010
Gross union density rate, in %¹	75,0	73,2	66,9	63,5	59,2	54,6	53,3	50,6	48,5	45,8	42,1	40,3	—
Enterprises belonging to employers' organization, in %³	—	—	—	—	—	—	2,4	4,2	4,0	6,5	6,8	—	—
Percentage of workers at enterprises belonging to employers' organization in total of employees ⁴ , %	—	—	—	—	—	—	10,3	9,9	10,0	14,3	27,3	—	—
Collective bargaining coverage rate, in % (formal sector)	68,9	71,9	75,6	78,2	80,3	82,0	83,1	82,1	82,7	82,4	83,4	83,9	83,2

Notes:

- ¹ The gross union density rate of the trade unions members of the FTUU is calculated as the number of trade union members (incl. students) over the number of wage and salaried workers, expressed in per cent.
- ² The indicator is calculated on the basis of state statistical surveys, which cover business entities, public organizations, financial institutions and institutions funded through the state budget. The survey does not cover small businesses and the self-employed. The collective bargaining coverage rate is calculated as the number of employees in establishments covered by collective agreements over the total number of employees in establishments covered by the survey, expressed in per cent.
- ³ Calculated as the total number of enterprises that are members in an employers' organization over the total number of registered enterprises, expressed in per cent.
- ⁴ Calculated as the number of employees working in enterprises belonging to an employers' organization over the total number of employees (as recorded in the Household Survey on Population Activity in Ukraine), expressed in per cent.

Sources: State Statistics Committee of Ukraine, based on annual reports of Ukrainian trade unions and FEU, and ILO.

tion, design and architecture; and chemical industry. The enterprises directly or indirectly covered by the JRB(e)'s scope of competence employ about 8.5 million people.

Amongst its activities, the JRB(e) represents the interests of business associations that are partners and/or associate members of relevant associations and who as JRB(e) members protect the interests of entrepreneurs.²⁰

European experience demonstrates an increasing role played by social dialogue and collective agreement regulation at the sectoral level. Deregulation of the economy and industrial relations is evident in the new General Agreement for 2010–2012²¹ and is provided for in the draft Labour Code of

Ukraine, which also calls for stronger collective bargaining at the sectoral level. At the same time, national workers' organizations draw attention to the fact that, out of 92 sectoral agreements signed in Ukraine, only 20 were concluded with the involvement of associations of employers' organizations, and nine out of 15 sectoral associations of employers' organizations legalized by the Ministry of Justice do not take part in sectoral agreements for unknown reasons. The mechanism by which the validity of such agreements are extended to enterprises that are assigned on industrial grounds to a certain sector because of their basic activity in spite of being outside of the parties' scope of competence is not applied. As a result, the scope of sectoral agreements is considerably narrowed, and employers who are not members of relevant associations and organizations refuse to apply the guarantees established by such agreements.²²

At the beginning of the new millennium, the Government engaged a new wave of reforms with

²⁰ Information from the JRB (e) Secretariat Head by letter No. 220 of 7.05.2010.

²¹ On 9 November 2010, the Government, trade unions and employers signed the tenth General Agreement on regulation of basic principles and standards of the implementation of socioeconomic policy and labour relations in Ukraine for 2010–2012. A great number of obligations and provisions of the Agreement concern the level of sectoral agreements and enterprise-level agreements.

²² FTUU information by letter of 18.01.2011.

regard to the legal and institutional framework of social dialogue and labour relations. First of all, it initiated the formulation of a draft Labour Code of Ukraine in 2002, a process which has not been completed thus far. In particular, since late 2003, there has been a persistent divergence of views between the social partners on several provisions of the draft Labour Code.

Presently, national tripartite social dialogue operates on the basis of the Presidential Decree of 29 December 2005 No. 1871²³ as amended in 2008 and 2010. The regulation, as seen above, established the NTSEC as a consultative and advisory body to the President of Ukraine, as well as similar tripartite institutions at the regional level. There are 27 regional social and economic councils (RSEC): 24 in oblasts (regional districts), two in Kyiv and Sevastopol, and one republican, in the Autonomous Republic of Crimea. These RSEC are autonomous in their functioning while maintaining relations with the NTSEC. They are all operational but their effectiveness varies from one region to another, and they all face a problem of lack of resources. The functioning of the NTSEC has also presented difficulties. Because of the NTSEC's reform and due to the establishment of the legislative framework applicable to its activities, most of its work was irregular for most of 2006 and 2007, but has been more stable since 2008. For example, it held three meetings in 2009 and four in 2010. Furthermore, appreciable steps have been taken to develop the Council's international relations and in June 2008, a session of the International Association of Economic and Social Councils and Similar Institutions' (IAESCSI) General Assembly admitted the NTSEC as a full member to this international association (see Legal Framework Indicator 21 'Tripartite consultations').

The activities of the NTSEC and RSECs should be brought into conformity with the Law on Social Dialogue in Ukraine, which was adopted in December 2010 (No. 2862-VI of 23 December 2010).²⁴

In April 2008, the Government and social partners concluded the General Agreement between the

Cabinet of Ministers of Ukraine, all-Ukrainian associations of employers' and entrepreneurs' organizations and all-Ukrainian trade unions and trade union associations for 2008–2009. However, the implementation of this agreement rapidly faced problems due, *inter alia*, to the initiation in 2009 by the FTUU of a collective labour dispute with the Cabinet of Ministers of Ukraine based on non-compliance with the General Agreement provisions and failure to secure workers' rights under the crisis. This collective labour dispute was considered by a conciliation commission and labour arbitration. At present, collective bargaining in view of concluding the General Agreement for a new term has been completed. As a result, the General Agreement on regulation of basic principles and standards of the implementation of socio-economic policy and labour relations in Ukraine for 2010–2012 was signed on 9 November 2010.

When the economic crisis began to affect Ukraine in autumn 2008, there was thus no established practice of functioning social dialogue which could address the social and economic consequences on workers and their families on the one hand, and on employers on the other. However, in collaboration with the ILO, the Government and social partners started to engage with regard to this problem in January 2009. The Minister of Labour and Social Policy initiated a series of consultations with social partners on the strategy needed to address the economic crisis and the Prime Minister invited them to attend meetings of the Cabinet of Ministers during which an anti-crisis programme was discussed. The social partners prepared their own proposals of measures to address the consequences of the economic crisis on workers and their families and on employers, and submitted them to the Government. The tripartite consultations, which have taken place between the Government and social partners, have led to a consensus and to the adoption of a relevant action plan. At the same time, the social partners remain critical as concerns the anti-crisis measures implemented by the Government, and the existing level of social dialogue in the current economic turbulences which face the country. The Government of Ukraine approved an action plan for the organization of social dialogue in Ukraine, according to which social partners are

²³ Decree by the President of Ukraine No. 1871 of 29.12.2005, *On the development of social dialogue in Ukraine*.

²⁴ http://www.ilo.org/dyn/natlex/natlex_browse.country?p_lang=en&p_country=UKR.

Legal Framework Indicator 21. Tripartite consultations

Law, policy or institutions: The Decree of the President of Ukraine of 29 December 2005 on the Development of Social Dialogue in Ukraine established the National Tripartite Social and Economic Council (NTSEC – replacing the National Council for Social Partnership) with a view to enhancing the role of the trade unions and employers' organizations and their associations in the elaboration of the economic and social policy of the State and further the promotion of social dialogue. Article 5 of the Regulations on the NTSEC provides that the NTSEC shall ensure the elaboration and discussion of Ukraine's annual reports to the ILO (Government of Ukraine report on the application of Convention No. 144). See also the Law on Collective Agreements and the Law on Social Dialogue in Ukraine.

Evidence of implementation effectiveness: The Government reports consultations in the NTSEC, resulting in recommendations for the ratification of several Conventions. The Government has also communicated to the CEACR the General agreement for 2008–2009, signed on 15 April 2008 between the cabinet of Ministers of Ukraine, the All-Ukrainian associations of the employers' organizations and entrepreneurs and the All-Ukrainian trade unions and the federations of the trade unions. The NTSEC has however been facing difficulties in its functioning due to a lack of cooperation amongst employers' associations and workers' organizations and limited resources allocated by public authorities.

Ratification of ILO Conventions: The Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) was ratified in 1994.

Sources:

1. Government report on Convention No. 144;
2. CEACR 2008 comments (<http://webfusion.ilo.org/public/db/standards/normes/app/appl-displayAllComments.cfm?hdroff=1&ctry=0600&conv=C087&Lang=EN>).

members of the collegiums of ministries, other central and local executive authorities, and public councils established under them. In addition, tripartite working groups for various activity areas have been established pursuant to the above-mentioned order. At present, social partners are acting in accordance with the proposals related to social dialogue put forward in the National Trade Union Report to the President of Ukraine, Viktor Yanukovich, *Labour in Ukraine: Need for Qualitative Changes for Public Efficiency and Decent Life*.

From a decent work perspective, it can be stated in conclusion that social dialogue in Ukraine has remained underdeveloped both in its bipartite and tripartite forms. The draft Labour Code of Ukraine has not yet been adopted, thus preventing the industrial relations system from functioning on a sound legal and institutional basis. Despite the Law on Social Dialogue that was recently adopted in Ukraine, several problems remain unsolved, such as the legal obstacles preventing the exercising of freedom of association rights which still exist in the legislation and the numerous cases of non-admission of new and small trade unions to collective bargaining. The promotion of collective bargaining in the expanding private sector also remains a priority. As a result, decent work deficit still remains one of the most burning issues for the Ukrainian society,

affected by both the global financial and economic crisis and by subjective factors, in particular the insufficient activity of industrial relations partners.

A particular challenge remains as regards the need for social cohesion and consolidation of actions and efforts in order to find a compromise between social partners, public authorities, and the Verkhovna Rada of Ukraine, so that the draft Labour Code can be adopted and come into force. This would create the necessary conditions for improved social dialogue and collective bargaining. A step forward in this respect has been the adoption of the Law on Social Dialogue in Ukraine that provides a compromise on the critically important question of the representation capacity of the all-Ukrainian trade union associations.²⁵

For the first time ever in Ukraine's history, the Government has held active consultations with social partners on the agreement of the State Budget 2010 indicators. These took place within the NTSEC framework. Moreover, at the NTSEC plenary meetings during 2010, social partners discussed such subjects as the reform of Ukraine's tax system, protection of the domestic market, securing competitiveness of domestic goods manufacturers, key aspects of the draft State Budget 2011, etc.

²⁵ FTUU, CFTUU, NCTU, NFTU, AUAWs.

Another law which calls for an amendment is the Law on Employers' Organizations. It is equally important that the National Conciliation and Mediation Service be granted the necessary resources to enable it to function effectively and provide effective support to workers and employers and their organizations in their bipartite relations and negotiations. Cooperation among the different employers' and workers' organizations would enable them to speak each with one voice in order to strengthen their positions. A promising step forward was the creation of the JRB(e) as the highest representative body of all-Ukrainian associations of employers' organizations by three all-Ukrainian associations of employers' organizations²⁶ on 7 July 2009. Its aim is to represent the

interests of the employers' organizations and associations thereof at the national level and elaborate a common agreed-upon position on the formulation and realization of Ukraine's national social and economic policy. A similar body exists on the trade unions' side in order to improve cooperation among workers' organizations. Finally, the Government could improve social dialogue by reaching out in a more systematic way to social partners, by listening to them and taking into consideration their opinions and suggestions, and by allocating additional resources to the NTSEC and RSEC in order to augment their functioning capacity.

²⁶ FEU, CEU, AAE.

Published by the International Labour Office (ILO)
with financial assistance from the European Union
under the ILO/EC Project “Monitoring
and Assessing Progress on Decent Work” (MAP).



ISBN 978-92-2-124908-5



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