



**Post-adoption review of the Law of Ukraine
№ 4219-IX dated 15 January 2025
“On Amendments to Certain Laws of Ukraine on Ensuring
the Rights of Persons with Disabilities to Work”
from the perspective of its compliance with European
standards**

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August 2025

The opinions expressed in this document are the responsibility of its author and do not necessarily reflect the official policy of the Council of Europe.

List of abbreviations

The Law	Law № 4219-IX dated 15 January 2025 “On Amendments to Certain Laws of Ukraine on Ensuring the Rights of Persons with Disabilities to Work”
CoE	Council of Europe
ESC	European Social Charter (Revised)
ECSR	European Committee of Social Rights
UN CRPD	UN Convention on the Rights of Persons with Disabilities

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Executive summary

This post-adoption review of the Law of Ukraine № 4219-IX of 15 January 2025 “On Amendments to Certain Laws of Ukraine on Ensuring the Rights of Persons with Disabilities to Work” from the perspective of its compliance with European standards was commissioned as part of the Council of Europe project “Strengthening the social dimension in Ukraine” which is being implemented within the framework of the Council of Europe Action Plan for Ukraine “Resilience, Recovery and Reconstruction” for the period 2023-2026. The project aims to ensure that the general public and persons from vulnerable groups, including the war-affected population in Ukraine, benefit from targeted social protection and support.

The adoption of the Law will contribute to the fulfilment of Ukraine’s obligations to the Council of Europe and the European Union regarding the prohibition of discrimination against a person, in particular, based on their health condition/disability, as well as ensure the rights of persons with disabilities to independence, social and professional integration, and participation in the life of the community, etc.

The Law introduces changes to a number of normative acts to enhance the rights of persons with disabilities to work. In particular, it increases the employment guarantees for persons with disabilities with the help of:

- the introduction of financial compensation for the work of assistants for persons with disabilities during their employment from the State institution implementing social protection measures and providing social services to persons with disabilities;
- the creation of additional guarantees for the compensation of funds from the State institution implementing social protection measures and providing social services to persons with disabilities for their professional training, as well as for adapting workplaces;
- the launch of national and local programmes to promote the employment of persons with disabilities;
- changes in the conditions for providing quotas for jobs for persons with disabilities, in particular, providing employment obligations on State and communal institutions and bodies, improving the procedure for collecting funds for the violation of quota conditions;
- changes in terms of the payment by employers to the State’s targeted fund for the social protection of persons with disabilities, which will contribute to its replenishment;
- the removal of many employment restrictions for persons with disabilities;
- the replacement of fines with a targeted contribution;
- certain steps to motivate the employment of persons with disabilities.

As for the gaps, most of these relate to one of the key elements of the Law — namely, the principles, criteria and limits of reasonable accommodation and the procedure for obtaining funds for the necessary adjustments. Important questions also remain regarding the enforcement mechanisms

of the Law. Another unresolved issue is the way the changes to tax benefits will be formulated in the amendments to the Tax Code.

In summary, the adoption of the Law is a crucial first step in the right direction. However, it should be understood that the Law is a framework and that much work remains ahead.

Legislative process

On 1 March 2025, the Law of Ukraine “On Amendments to Certain Laws of Ukraine on Ensuring the Rights of Persons with Disabilities to Work” dated 15 January 2025 No. 4219-IX came into force. It aims to create the conditions to allow persons with disabilities to exercise their right to work and, with certain exceptions, will take effect on 1 January 2026.

The Law seeks to strengthen the protection of the labour rights of persons with disabilities and facilitate their integration into the labour market. It introduces amendments to numerous acts, including the Labour Code of Ukraine and the law “On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine”. Structurally, the Law consists of two main blocks of changes: amendments to the Labour Code of Ukraine on the prohibition of discrimination based on disability in employment and the exercise of labour rights and amendments to the special law on the social protection of persons with disabilities concerning employment quotas and the creation of adapted workplaces.

Key innovations include:

- the removal of many employment restrictions for persons with disabilities,
- targeted contributions to replace fines for non-compliance with quotas,
- the introduction of a mechanism to stimulate employers to create workplaces for persons with disabilities beyond the established quotas,
- the increased responsibility of employers in instances of non-compliance with the standards for the employment of persons with disabilities in the workplace,
- reasonable accommodation and compensation for it,
- the expansion of the list of guarantees for persons with disabilities in relation to employment and job retention,
- the inclusion of State and municipal bodies in fulfilling employment requirements.

The Law is the result of the efforts of numerous institutions and organisations over many years to make the reform of employment for persons with disabilities a reality. One of the key elements that became the foundation for the reform was the White Paper entitled “Ensuring the Right to Work for Persons with Disabilities”, which was prepared in early 2020 with the support of the Council of Europe. Following this activity, in June 2021, the work began on the comprehensive and systemic draft law No. 5344d, which went through many stages over a period of four years until its final adoption and signature by the President of Ukraine. The process of drafting the Law was inclusive – organisations representing persons with disabilities were engaged in it at all stages, with many different organisations contributing to the final shape of the act. Not all their suggested amendments could be included, however.

It [is claimed](#) that the adopted law will make a significant contribution to bringing the conditions for the employment of persons with disabilities in Ukraine closer to European standards, where more than 50% of persons with disabilities are employed. In Ukraine, this figure is about 16%.

[The CoE's 2020 Report on the needs assessment with respect to policy and legal framework revision in the area of rights of persons with disabilities in Ukraine](#)

On the basis of research conducted by a group of experts in 2020, the Council of Europe published in the same year [“The Report on the needs assessment with respect to policy and legal framework revision in the area of rights of people with disabilities in Ukraine”](#). The report assessed the situation regarding the rights of persons with disabilities in Ukraine vis-à-vis Article 15 of the Charter, defined the most pressing issues, and enumerated recommendations for the Ukrainian Government to be acted upon to ensure the compliance of Ukraine's legal system with Article 15 of the ESC.

According to the report, in 2020, Ukrainian legislation did not fully meet the European requirements under Article 15 ESC. To align it with the Charter's standards, the experts recommended the following:

- amending the legal definitions of the terms “disability” and “persons with disability” in line with international standards, including with those of the Council of Europe;

- changing the system of quotas for employees with disabilities. The system of fines paid in the case of the violation of the required percentage of employees with disabilities should be reviewed in such a way as to ascertain the use of money paid in case of violation of the system of quotas for advocating for employees with disabilities. Establishing a special fund in the form of an institution that would be involved in the area of rights of persons with disabilities could be considered. The Polish regulation (Vocational and Social Rehabilitation and Employment of Persons with Disabilities Act, 27.08.1997 with amendments) could be used as an example. This would:

- introduce the principle of reasonable accommodation to enable persons with disabilities to carry out work-related tasks;

- introduce flexible forms of employment e.g. distance work, telework;

- introduce temporary work agencies;

- increase the involvement of civil society organisations representing persons with disabilities in the process of law-making. It has been recommended that the minimum standard for the involvement of such organisations in consultations about draft laws in the area of social rights should be in accordance with the motto “Nothing about us without us”.

[Ukraine's commitments under the Charter regarding the employment of persons with disabilities in Ukraine \(Article 15§2\).](#)

Ukraine ratified the Revised European Social Charter on 21 December 2006, accepting 76 of the 98 paragraphs of the Charter. It has not accepted the system of collective complaints. The Charter is automatically incorporated into domestic law.

Table of accepted provisions											
1.1	1.2	1.3	1.4	2.1	2.2	2.3	2.4	2.5	2.6	2.7	3.1
3.2	3.3	3.4	4.1	4.2	4.3	4.4	4.5	5	6.1	6.2	6.3
6.4	7.1	7.2	7.3	7.4	7.5	7.6	7.7	7.8	7.9	7.10	8.1
8.2	8.3	8.4	8.5	9	10.1	10.2	10.3	10.4	10.5	11.1	11.2
11.3	12.1	12.2	12.3	12.4	13.1	13.2	13.3	13.4	14.1	14.2	15.1
15.2	15.3	16	17.1	17.2	18.1	18.2	18.3	18.4	19.1	19.2	19.3
19.4	19.5	19.6	19.7	19.8	19.9	19.10	19.11	19.12	20	21	22
23	24	25	26.1	26.2	27.1	27.2	27.3	28	29	30	31.1
31.2	31.3							Grey = Accepted provisions			

Under Article 15§2, Ukraine is obliged, in particular, to promote the access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of persons with disabilities or, where this is not possible by reason of the disability, arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services

Article 15, by establishing a separate right to vocational training, retraining and support for persons with physical and mental disabilities, aims to offer them an increased protection in an area, namely employment, in which they are more vulnerable than the rest of the workforce¹. Under the approach adopted in Article 15, the State Party is responsible for adopting measures to help persons with disabilities participate fully and actively in the community².

Article 15§2 requires States Parties to promote an equal and effective access to employment for persons with disabilities on the open labour market³. It applies to persons with physical and/or intellectual disabilities⁴.

This obligation is not reduced in times of health crisis⁵. This requires States to take the reasonable accommodation measures required to ensure that persons with disabilities are protected from the risks caused by the virus associated with the workplace context (including travel to and from work)⁶.

States Parties need to systematically provide updated figures concerning the total number of persons with disabilities (including those of working age), those employed (on the open market and in sheltered employment), those benefiting from employment promotion measures, those seeking employment, those who are unemployed, as well as the general transfer rate of persons with disabilities from sheltered to open-market employment⁷.

Concerning the legal framework, in accordance with the standards set out in Article 15§2 ESC, legislation must prohibit discrimination on the basis of disability to create genuine equality of opportunities on the open labour market. Under Article 15§2, anti-discrimination legislation must include the adjustment of working conditions (reasonable accommodation) and confer an effective remedy on those who are found to have been unlawfully discriminated against⁸. In addition, the

¹ Conclusions XIV-2 (1998), Statement of Interpretation on Article 15

² Conclusions XIV-2 (1998), Statement of Interpretation on Article 15

³ Conclusions XX-1 (2012), Czech Republic

⁴ Conclusions I (1969), Statement of Interpretation on article 15§2

⁵ Statement on Covid-19 and social rights adopted on 24 March 2021

⁶ Statement on Covid-19 and social rights adopted on 24 March 2021

⁷ Conclusions XX-1 (2012), Czech Republic; Conclusions 2012, Cyprus

⁸ Conclusions XIX-1 (2008), Czech Republic

employers must be obliged to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment and to keep in employment persons with disabilities, in particular persons who have become disabled while in their employment as a result of an industrial accident or occupational illness⁹.

Since persons with disabilities are less likely than others to be employed in the open labour market, a crisis, such as the Covid-19 pandemic, risks marginalising them further¹⁰. In such a situation, States Parties should, firstly, ensure that job and income losses of persons with disabilities are compensated by adequate social security benefits and, secondly, reinforce efforts to integrate persons with disabilities into the labour market¹¹. In this latter respect, the pandemic conditions made it particularly important that domestic law obliges the employer to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment and to keep in employment persons with disabilities¹².

As regards the access of persons with disabilities to employment, the effective exercise of the right of persons with disabilities to vocational training and rehabilitation requires specific measures to be taken. If need be, these measures may take the form of positive action designed to improve the “employability” of disabled persons and their access to and ability to remain in employment¹³. Employment policy for disabled persons must allow them to use their skills by offering them jobs which correspond to their employment potential within the ordinary working environment¹⁴. In addition, particular emphasis must be placed on the protection of persons who are disabled as a result of an occupational accident or illness¹⁵.

The specific account taken of disabilities in working life implies the responsibility of all its participants, i.e. the State, employers and trade unions¹⁶. The aim of this provision of the Charter is therefore to achieve equal employment opportunities for persons with disabilities, by not only rethinking the disability itself but also the means to ensure disabled persons’ participation in the life of the community on an equal footing¹⁷.

States Parties enjoy a margin of discretion concerning the other measures they take in order to promote the access to employment of persons with disabilities. Article 15§2 does not require the introduction of quotas but, when such a system is applied, its effectiveness is taken into consideration when assessing conformity with Article 15§2¹⁸.

Article 15§2 of the Charter requires that persons with disabilities be employed in an ordinary working environment, except where this is not possible due to the nature of their disability¹⁹. In such

⁹ Conclusions 2007, Statement of Interpretation on Article 15§2

¹⁰ Statement on Covid-19 and social rights adopted on 24 March 2021

¹¹ Statement on Covid-19 and social rights adopted on 24 March 2021

¹² Statement on Covid-19 and social rights adopted on 24 March 2021

¹³ Conclusions XIV-2 (1998), Statement of Interpretation on Article 15

¹⁴ Conclusions XIV-2 (1998), Statement of Interpretation on Article 15

¹⁵ Conclusions XIV-2 (1998), Statement of Interpretation on Article 15

¹⁶ Conclusions XIV-2 (1998), Statement of Interpretation on Article 15

¹⁷ Conclusions XIV-2 (1998), Statement of Interpretation on Article 15

¹⁸ Conclusions XIV-2 (1998), Belgium

¹⁹ Conclusions 2005, Estonia

exceptional cases, provision may be made for sheltered employment²⁰. These sheltered employment facilities should aim to assist their beneficiaries to enter the open labour market²¹.

Persons working in sheltered employment facilities where production is the main activity are entitled to the rights stemming from the basic provisions of labour law and in particular the right to fair remuneration and trade union rights²².

Conclusions of the ECSR concerning Ukraine's commitments under Article 15§2

The European Social Charter states that States parties must provide effective access to the open labour market for persons with disabilities. Unfortunately, according to the conclusions of the European Committee of Social Rights in 2020, Ukraine has not ensured this.

Between 2008 and 2025, Ukraine has submitted 15 national reports on the application of the Charter. The [12th report](#), submitted on 21 January 2020, concerns the accepted provisions including Article 15§1, 15§2 and 15§3. [Conclusions](#) with respect to these provisions were published in March 2021.

With reference to Article 15§2 establishing the right of persons with disabilities to independence, social integration and participation in the life of the community, from the perspective of employment, the Committee found inconsistency with the Charter on the basis that:

- the employment of persons with disabilities was not effectively guaranteed
- it had not been established that the obligation to provide reasonable accommodation was effectively guaranteed.

The same conclusions were voiced by the Committee in 2016. The Committee noted from the [Concluding Observations of the UN Committee on the Rights of Persons with Disabilities](#) (CRPD/C/UKR/CO/1, September 2015) that the UN Committee was concerned that the majority of persons with disabilities in Ukraine remain unemployed. In addition, the Committee was concerned about the lack of employment opportunities for persons with intellectual and psychosocial disabilities and the absence of policies or programmes for supported employment in the open labour market.

Review of the amending Law/comments on the Law's specific provisions

Relevant terms and definitions

Introducing amendments to the Law of Ukraine "On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine", the Law "On amendments to certain legislative acts of Ukraine regarding ensuring the right of persons with disabilities to work" changes certain definitions and introduces new definitions of the key terms used in the act, including the definitions of, among other things, a "person with a disability" and a "workplace of a person with a disability" (Article 1).

²⁰ Conclusions 2005, Estonia

²¹ Conclusions 2005, Estonia

²² Conclusions XVII-2 (2005), Czech Republic

In accordance with the new wording of Article 1 para. 7 of the Law of Ukraine “On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine”, the terms “reasonable accommodation”, “universal design” and “discrimination on the basis of disability” are used in this Law within the meaning set out in the UN CRPD, and the term “disability” in line with the meaning set out in the Law of Ukraine “On the Rehabilitation of Persons with Disabilities in Ukraine”.

A person with a disability means a person with a persistent **physical, mental, intellectual or sensory impairment** which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others. This has replaced the previous definition which made reference to the “disorder of the body functions”.

The amendments, in the area under study, will be assessed to be progressive and the new definitions as compatible with the standards of international treaties, including, above all, the European Social Charter. The Committee has many times stressed the importance of moving away from a medical definition of disability towards a social definition²³. Article 1 of the UN CRPD crystallises this trend by emphasising that persons with disabilities include those with long-term disabilities including physical, mental or intellectual disabilities which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others. The Law under examination introduces a definition which is in line with those international standards.

What should also be noted is the reference for the definition of “discrimination on the basis of disability” to the meaning given in the UN CRPD. Article 2 of the UN CRPD, which prohibits discrimination “on the basis of disability”, may be read as going further than the definition in Article 1 of the Convention by including those who have had a record of disability in the past but who continue to be treated negatively and those who never had a disability but may nevertheless be treated by others as if they had a disability (“the so-called attitudinally disabled”)²⁴. The same understanding of discrimination on the basis of disability is followed by the Committee. This should be taken into consideration when interpreting Article 2 of the Law of Ukraine “On the Rehabilitation of Persons with Disabilities in Ukraine” as amended by the Law of Ukraine № 4219-IX of 15 January 2025.

Identification of progressive elements and best practices

The 2025 amending Law incorporates a number of **progressive provisions aimed at reforming the field of employment of persons with disabilities** and changes the approach towards their employment to a more supportive one. The following are the most important changes:

1. **An expansion of employment opportunities for persons with disabilities in all sectors, including in public administration and local government** – which should be noted as progressive and in line with the best European practices (Article 17).

Article 15§2 of the Charter requires States Parties to promote an equal and effective access to employment on the open labour market for persons with disabilities²⁵. It applies to persons with physical and/or intellectual disabilities²⁶. This obligation is not reduced in times of crises, including

²³ Conclusions 2020, Statement of Interpretation on Article 15§1.

²⁴ Conclusions 2020, Statement of Interpretation on Article 15§1.

²⁵ Conclusions XX-1 (2012), Czech Republic.

²⁶ Conclusions I (1969), Statement of Interpretation on article 15§2.

health crises²⁷, military actions and war. The effective exercise of the right of persons with disabilities to vocational training and rehabilitation requires specific measures to be taken, which may, if need be, take the form of positive action designed to improve the “employability” of persons with disability and their access to and ability to remain in employment. Employment policy for persons with disability must allow them to use their skills by offering them jobs which correspond to their employment potential within the ordinary working environment²⁸.

2. **A reformulation of the principles of equality, prohibition of discrimination and the obligation of the State to take positive measures** to follow good European standards, particularly the standards of the European Social Charter. It is noteworthy that the concept of discrimination on the basis of disability has been defined to **include any form of discrimination, as well as the unjustified refusal to provide reasonable accommodation and the refusal to employ a person with a disability due to the need to make reasonable accommodation and to finance the relevant measures** – all of which are prohibited by the Law (Article 17).

The Charter requires States to protect effectively the right to equality and non-discrimination. This obligation requires *inter alia* the elimination of all forms of discrimination (direct or indirect) in employment, whatever the legal nature of the professional relationship²⁹. Discrimination may arise either by treating persons in the same situation differently or by treating persons in different situations identically³⁰. A difference in treatment between persons in comparable situations constitutes discrimination in breach of the Charter if it does not pursue a legitimate aim and is not based on objective and reasonable grounds³¹. Indirect discrimination may also arise by failing to take positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all³².

3. **A provision removing legislative restrictions to the employment of persons with disabilities in many professions – as a result persons with disabilities can work in any job except for those that are directly contraindicated for health reasons.** The same rules for the employment of persons with disabilities apply to the private and public sectors of the economy (Article 17).
4. **A modification of the quota regime with the gradual introduction of an anti-discrimination approach by replacing the system of administrative and economic sanctions with the payment of a targeted contribution by employers.** The targeted contribution is paid by all employers, regardless of the form of ownership and the field of business. **Employers may choose between two options to support persons with disabilities:** employing persons with disabilities in accordance with established quotas or

²⁷ Statement on Covid-19 and social rights adopted on 24 March 2021.

²⁸ Conclusions XIV-2 (1998), Statement of Interpretation on Article 15.

²⁹ Syndicat national des professions du tourisme v. France, Complaint No. 6/1999, decision on the merits of 10 October 2000, §24; Conclusions XVI-1 (2002), Iceland.

³⁰ International Federation of Human Rights (FIDH) v. Belgium, Complaint No. 62/2010, decision on the merits of 21 March 2012, §49.

³¹ Syndicat national des professions du tourisme v. France, Complaint No. 6/1999, decision on the merits of 10 October 2000, §25.

³² Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No. 91/2013, decision on the merits of 12 October 2015, §237.

paying a contribution to support the employment of persons with disabilities which will replace the currently existing fine for non-compliance with the quotas. **Sanctions in the form of fines** are imposed on employers in the event of their failure to meet the standard for employment of persons with disabilities and the **untimely or incomplete payment of the contribution** to the state fund (Article 18-2, Article 20-2).

Under the Charter, States Parties enjoy a margin of discretion concerning measures they take in order to promote access to employment of persons with disabilities. Article 15§2 does not require the introduction of quotas but, when such a system is applied, its effectiveness is taken into consideration when assessing conformity with Article 15§2. The aim of Article 15§2 of the Charter is therefore to achieve equal employment opportunities for persons with disabilities, by not only rethinking the disability itself but also the means to obtaining the participation of disabled persons in the life of the community on an equal footing³³.

5. **The accumulation of funds from targeted contributions** is directed to the State institution responsible for social protection and services for persons with disabilities. These funds **may be used exclusively for purposes directly or indirectly linked to the employment of persons with disabilities**. Eligible uses include providing reasonable accommodation, offering workplace support services, and remunerating specialists engaged in supported employment services. (Article 11-1)
6. **The introduction of the right of local governments to establish special funds for implementing local social protection programmes** for certain categories of the population, which are part of the special fund of the local budget. In accordance with Article 11 of the Law, the procedure and conditions for spending such funds must be determined by local governments, taking into account the proposals of public associations of persons with disabilities. It is possible for the local governments – independently or with the involvement of persons with disabilities, including public associations representing them – to determine measures supporting employment of persons with disabilities within local programmes to best address the needs and challenges faced by these persons in particular communities (Article 11).
7. **The introduction of the procedure for implementing reasonable accommodation measures**. Such measures are implemented when necessary, as determined by the employer, and may be financed by the employer, the State trust fund, or other lawful sources. They must comply with State standards for equipping and adapting workplaces to different types of functional impairments. The purpose is to ensure equal opportunities for persons with disabilities to access employment, perform work, undertake vocational training, and progress in their careers or service. Under Article 17(1) of the Law, employers are required to provide reasonable accommodation in the workplace for persons with disabilities (e.g. purchase special equipment, change the scope of duties, etc.). **Examples of reasonable accommodation measures are provided in the act – which is of added value. However, the catalogue is not a finite one – and this is very important for ensuring flexibility for individual needs, encouraging innovation and preventing any exclusion.** Funds for implementing reasonable accommodation measures may be received from a

³³ Conclusions XIV-2 (1998), Statement of Interpretation on Article 15.

State institution responsible for implementing social protection measures and providing social services to persons with disabilities (in the form of compensation or subsidies). Although at least 10 percent of the cost of implementing these measures must be covered by the employer. **The law provides for an exhaustive list of grounds for refusal to provide such compensation or subsidies – an aspect which should be assessed positively because it reduces the risk of inequalities** (Article 17, Article 17-1).

8. **The financing of workplace adaptation** – the Law introduces State standards for workplace arrangement for different types of loss of functionality. An employer may receive compensation for the use of reasonable workplace adaptations for an employee with a disability from a specially created fund generated by targeted contributions.
9. The introduction of the **employer's obligation to provide the person with disabilities with reasons for refusing to conclude an employment agreement or to transfer that person to another position (i.e. a promotion) submitted in writing or in the form of an electronic document in accordance with the Law of Ukraine "On Electronic Documents and Electronic Document Management"** – a change which should be noted as progressive and in line with best European practices (Article 17).

Under Article 15§2, anti-discrimination legislation must include the adjustment of working conditions (reasonable accommodation) and confer an effective remedy for those who are found to have been unlawfully discriminated against³⁴.

10. **The establishment of specific protection for persons who have become disabled while in their employment as a result of an industrial accident or occupational illness.** Under the new Article 18, if an employee has become disabled due to an accident or occupational disease, the relevant employer is obliged to ensure the employee's return to work by taking all necessary measures for the reasonable accommodation of the employee within four months from the date of notification by the employee of their readiness to resume work, or from the date of the employee's actual return to work (Article 18).

Under Article 15§2, the employer is obliged to take steps in accordance with the requirement of reasonable accommodation to ensure effective access to employment and to keep in employment persons with disabilities, in particular persons who have become disabled while in their employment as a result of an industrial accident or occupational illness³⁵.

11. **Enhanced incentives for hiring persons with severe disabilities.** Pursuant to Article 18(2), **employers who hire individuals from Group 1 or Group 2 (persons with disabilities with visual impairments or mental disorders) will be credited with filling two jobs instead of one under employment quotas.** This provision aims to encourage job creation for the persons in the most vulnerable situation and thus is a progressive measure in line with best European practices (Article 18).

³⁴ Conclusions XIX-1 (2008), Czech Republic.

³⁵ Conclusions 2007, Statement of Interpretation on Article 15§2.

In accordance with Article 15§§1-3, measures must also focus on combating discrimination against, and promoting equal opportunities for, persons with disabilities from particularly vulnerable groups such as ethnic minorities, Roma, asylum-seekers and migrants³⁶.

12. Increased coordination between government agencies. A data exchange mechanism has been established between the Employment Service, the Pension Fund, and the State institution implementing social protection measures and providing social services to persons with disabilities. The mechanism will facilitate the improved identification of job seekers with disabilities and connect them with relevant employment opportunities – this should be highlighted as a particularly significant measure in terms of the effectiveness of the Law (Article 18-2, Article 19).

Article 15§2 of the Charter requires States Parties to promote the **equal and effective** access to employment on the open labour market for persons with disabilities. The aim and purpose of the Charter, as a human rights protection instrument, is to protect rights not merely in theory, but also in practice³⁷. The implementation of the Charter requires States Parties not only to introduce the relevant legal measures but also to take practical action to give full effect to the rights recognised in the Charter³⁸.

13. Enhanced social dialogue and guarantees for the involvement of organisations representing persons with disabilities in the decision-making process regarding their rights and interests. Under Article 12, central and local executive bodies and local self-government bodies, enterprises, institutions and organisations, regardless of their organisational and legal form, form of ownership and structure, must involve representatives of public associations of persons with disabilities in preparing decisions that affect their rights and interests (Article 12).

Article 15§3 of the Charter requires, among other things, that persons with disabilities and their representative organisations should participate in the design and ongoing review of positive action measures and that an appropriate forum should exist to enable this to happen³⁹.

14. The introduction of new services for persons with disabilities .The Law provides for essential social services that support persons with disabilities in the workplace, such as personal assistants, workplace adaptation assistance and sign language interpretation. These services aim to make employment more accessible and sustainable (Article 17 and Article 23).

³⁶ Conclusions 2020, Andorra.

³⁷ International Commission of Jurists (ICJ) v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §32; European Federation of National Organisations working with the Homeless (FEANTSA) v. Slovenia, Complaint No. 53/2008, decision on the merits of 8 September 2009, §28.

³⁸ International Association Autism-Europe v. France, Complaint No.13/2002, decision on the merits of 4 November 2003, §53.

³⁹ Conclusions 2020, Serbia; Conclusions 2005, Norway; Digest of the case law of the European Committee of Social Rights, CoE, December 2022, p. 140, available at: <https://rm.coe.int/digest-ecsr-prems-106522-web-en/1680a95dbd>

- 15. Guarantees for consultations and support for employers.** – Employers will receive additional services, including counseling from the Employment Service and the Pension Fund to better understand the hiring process for persons with disabilities and how to create inclusive workplaces. Financial support will be available even if the employment is not facilitated through the Employment Service – this measure should be recognised as progressive which offers some very important solutions (Article 18-1, Article 18-2).
- 16. Incentives for employers to create enterprises and to become entrepreneurs for integrating persons with disabilities in the labour force and sheltered employment enterprises** – by guaranteeing such enterprises/entrepreneurs the right to benefit from the taxes and fees they have paid (Article 19-1, Article 19-2).
- 17. A requirement for State and municipal institutions to actively employ persons with disabilities.** Previously, these institutions had to meet a 4% employment quota, but this applied only to general staff and not to civil servants. As a result, persons with disabilities mostly applied for low-skilled government jobs. The amendment of Article 18-2 makes public sector employment more accessible to persons with disabilities (Article 18-2, Article 20).
- 18. The establishment of a legal basis for the procedure for monitoring the compliance of jobs employing persons with disabilities with standards** and for conducting inspections of employers regarding the implementation of the Law. Article 19 provides the legal grounds for the procedure to be established by the Cabinet of Ministers of Ukraine (Article 19).
- 19. A legal guarantee of access to education at all levels that corresponds to the abilities and possibilities of persons with disabilities without discrimination, including with the obligation of ensuring universal design and reasonable accommodation, and, in some cases, including preferential access.** This change should be highlighted since it is an important precondition for increasing the employability of persons with disabilities in better-paid workplaces in line with best European practices (Article 21 and Article 22).

In accordance with the Charter's standards, securing a right to education for children and other persons with disabilities plays an important role in advancing their citizenship rights and guaranteeing their fundamental rights⁴⁰. Under Article 15§1, the existence of non-discrimination legislation is a necessary tool for the advancement of the inclusion of children with disabilities within general or mainstream educational schemes⁴¹. Vocational training of persons with disabilities is dealt with under Article 15 of the ESC for States Parties having accepted it.⁴²

⁴⁰ International Association Autism Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, §48.

⁴¹ Conclusions 2007, Statement of Interpretation on Article 15§1.

⁴² Digest of the case law of the European Committee of Social Rights, CoE, June 2022, p. 108, available at: <https://rm.coe.int/digest-ecsr-prems-106522-web-en/1680a95dbd>

Identification of potential challenges, gaps and inconsistencies

The Law incorporates many progressive provisions aimed at reforming the field of employment of persons with disabilities. However, some challenges, gaps and inconsistencies still remain, including in the text.

The following are **the most important challenges**.

1. The implementation of the Law **requires amendments to numerous codes and laws**, which poses a considerable challenge and may significantly complicate its implementation. Without those amendments, the effectiveness of the Law in some important spheres – e.g. in the area of incentives for employers to create enterprises and to become entrepreneurs for the integration of persons with disabilities in the labour force and sheltered employment enterprises – will not be effective.
2. The implementation of the law **requires the adoption of many secondary regulatory acts. Unless these are passed, the Law cannot be implemented in practice.** It must therefore be stressed that **the effective functioning of the Law will be impossible without at least some subordinate regulatory acts being adopted**. The deadline for the adoption of subordinate regulatory legal acts, as defined in the Final Provisions of the Law, which is six months from the date of its entry into force, is unlikely to be met. **The timely issuance of the subordinate regulatory acts will be decisive for the effectiveness of the Law.**

The following are **the most important gaps**:

3. **The lack of a definition of the term “reasonable accommodation”** in the text of the Law, even though it is referenced multiple times. Although making reference to the Convention on the Rights of Persons with Disabilities should be assessed positively, it would have been preferable to have included the full definition – similar or the same to the wording in Article 2 of the UN CRPD – in the national legal act. This would help avoid legal uncertainty and promote the consistent application of the provision.
4. **The principles, criteria, and limits of reasonable accommodation and universal design are not defined.** The Law stipulates that this issue is to be regulated by a separate Government Resolution. In view of the importance of the said principles, criteria and limits, and their influence on the real effectiveness of the Law, to ensure legal certainty and clarity in the analysed area, it would be recommended to introduce the principles, criteria, and limits of reasonable accommodation and universal design within the text of the Law.
5. **There are no rules/procedures on how the provision of reasonable accommodation should be financed in each particular case.** Employers are required to provide reasonable accommodation in the workplace for persons with disabilities at their own expense, at the expense of the State institution implementing social protection measures and providing social services to persons with disabilities, or using other financial sources not prohibited by law. However, there are no rules/procedures as to how the provision of reasonable accommodation should be financed in each particular case – in particular, there are no procedures or conditions under which the adaptation will be financed by the State. In accordance with Article 17-1, the procedure has to be established by the Cabinet of Ministers of Ukraine. **Taking into consideration the importance of the said procedure and its influence on the real effectiveness of the act, to ensure legal certainty and clarity in the analysed**

area, it is recommended that the rules/procedures on how the provision of reasonable accommodation will be financed in each particular case be introduced within the text of the Law.

6. **There is no mechanism for monitoring the implementation of the Law.** Such a mechanism is crucial to assess the Law's effectiveness and to define any possible gaps.
7. **The mechanisms for assessing the implementation of the obligation to provide reasonable accommodation or an unjustified refusal to do so are insufficient. There are, for example, no sanctions for the failure to fulfil the obligation to provide reasonable accommodation –** a key aspect of the policy to prevent and combat discrimination. The sanctions incorporated in the Law relate only to the lack of payment of a targeted contribution. It should be stressed that, in accordance with Article 2 of the Law, *"Discrimination on the basis of disability, which includes any form of discrimination, as well as the unjustified refusal to provide reasonable accommodation and the refusal to employ a person with a disability due to the need to make reasonable accommodation and to finance the relevant measures, is prohibited. Protection of persons with disabilities from discrimination is carried out in accordance with the Law of Ukraine "On the Principles of Preventing and Counteracting Discrimination in Ukraine"*. By introducing "the unjustified refusal to provide reasonable accommodation and the refusal to employ a person with a disability due to the need to make reasonable accommodation and to finance the relevant measures" as a separate prohibited action next to "any form of discrimination" (without the word "including"), the quoted Article introduced a prohibition against the refusal to provide reasonable accommodation and the refusal to employ a person with a disability as a separate form of activity, and not as a form of discrimination. Such a formulation excludes the possibility of introducing the mechanism of liability for discrimination, e.g. regulated by the Law of Ukraine "On the Principles of Preventing and Combating Discrimination in Ukraine".
8. **There is no legal basis for a person with a disability to initiate reasonable accommodation measures and to participate in their determination, or for their right to an effective remedy in the event that these rights are violated.** All these aspects must be guaranteed to align with the principle of involvement enshrined in Article 15§3 of the European Social Charter and Article 4.3 of the CRPD.
9. **There is no clear specification that the burden of proof regarding a disproportionate or an unjustified hardship for a reasonable accommodation lies with the implementing entity.** This makes it necessary for this rule to be incorporated within the relevant subordinate regulatory act. As of the date of this analysis, the draft Governmental act entitled "On the Approval of Principles, Criteria, and Limits of Reasonable Accommodation and Universal Design" (draft No. 66480-7-25), does not address these aspects. It also does not state that the implementing entity, when justifying a decision about a potential disproportionate hardship and having certain grounds for it, should also provide alternatives. It should therefore be stressed that the said draft provisions need to be expanded.
10. **The issue of compensation for reasonable accommodation for self-employed individuals with disabilities** needs to be incorporated in the Law. This issue remains unresolved, and must be addressed. Currently, the Resolution of the Cabinet of Ministers of Ukraine No. 893 of 2023 provides for the possibility for an individual entrepreneur to receive compensation for adapting a workplace for a person with a disability. However, the new government regulations will be adopted on the basis of the Law. **In view of the importance of the right in**

question and its influence on the real effectiveness of the act, to ensure legal certainty and clarity in the area under analysis, it is strongly recommended that the regulation of the issue of compensation for reasonable accommodation for self-employed individuals with disabilities be introduced into the text of the Law.

11. **There is no specified timeframe within which the employer will receive compensation in the event of a positive decision.** This results in a lack of certainty regarding the reimbursement of costs in a particular timeframe, and this may weaken the effectiveness of the Law.

The following are the most important inconsistencies.

12. **The draft of the Government Resolution (No. 66480-7-25) equates the principles of reasonable accommodation with those of universal design, although these are different concepts, as established in the UN CRPD and also by the Law.** It will therefore be important to clarify that universal design does not eliminate the need for individual reasonable accommodation, as explicitly stated in Article 2 of the CRPD. This point must be taken into consideration when drafting the new by-law in the discussed area.
13. In accordance with Article 17-1 “ (...) *In case of need determined by the employer, at the expense of its own funds, funds of the state fund for social protection of persons with disabilities or from other sources not prohibited by law, in order to create equal conditions for persons with disabilities to obtain employment, labour, undergo vocational training and advance in work (service) in accordance with state standards for equipment (arrangement) of the workplace for various types of functional loss (if any), established by the central executive body that ensures the formation and implementation of state policy in the field of technical regulation, standardization, metrology and metrological activity, employers shall implement reasonable accommodation measures, in particular, but not exclusively, regarding:*
(...)
other reasonable accommodation measures determined by the Cabinet of Ministers of Ukraine.”

The above formulation of the legal text lacks clarity as to whether the catalogue of measures of reasonable accommodation are open or closed. This poses a risk of misunderstandings and potential lawsuits. It is recommended that a clarification acknowledging the openness of the catalogue be introduced to reduce legal certainty in the area, since only in this event will individual needs be properly addressed.

14. In accordance with Article 18, if an employee has become disabled due to an accident or an occupational disease, the relevant employer is obliged to take measures to ensure the employee's return to work by taking all necessary measures for the reasonable accommodation of the employee within four months from the date when the employee notifies their readiness to resume work or from the date of the employee's actual return to work. **There is, however, a negative assessment in relation to the following aspect: If employers fail to fulfil the above-mentioned obligation, they must compensate the employee for lost earnings for an amount equal to three times the average salary at the employer's enterprise for the entire period of the non-fulfilment of those obligations (up to six months). The wording is unfortunate and *de facto* legalises the dismissal of employees who suffer an accident/occupational disease at work.** As a result of the analysed provision,

an employer who does not wish to continue labour relations with those injured at work may dismiss them by paying them three times the average salary for six months. **Therefore, it should be proposed that the upper limit in Article 18 paragraph 6 be eliminated and, instead, that a lower/minimum limit of compensation be introduced.**

15. **The procedure for obtaining funds for reasonable accommodation involves checking the number of persons with disabilities employed by a particular employer. This is redundant and so should be deleted to simplify the procedure.**

Gender-related impact of the Law.

Women with disabilities in Ukraine are a diverse group, differing in degree and type of impairments, place of residence (urban or rural), age, education, and family responsibilities. As of 2018, more than 1 million of Ukraine's 2.7 million persons with disabilities were women, but only a third of them were employed. Women and girls with disabilities face compounded challenges, including gender-based violence, marginalisation during wartime, and the added burden of caregiving⁴³.

The possibility to assess the gender-related impact of the Law is limited due to the lack of recent, disaggregated government data on the employment of women and girls with disabilities⁴⁴. However, what should be noted is that due to the requirement for State and municipal institutions to actively employ persons with disabilities not only as general staff but also as civil servants, women who are over-represented in the public sector but under-represented in better-paid posts, will benefit from the Law by gaining more chance to be employed at a better-paid post. **The Law will reduce the gender inequalities between women and men.**

Recommendations for improving the Law

The Law should be perceived as a major and important step to adjust the situation in the area of employment of persons with disabilities in Ukraine to European standards and the best international practices. The significance of the Law is all the greater given that it was debated and adopted during the challenging times of war. However, there is still room for improvement and certain aspects of the rights to employment of persons with disabilities still need to be corrected and supplemented. What should be highlighted is that the Law is a framework and much remains to be done. For instance, the legislative amendments, regulatory adjustments and other activities listed below may enhance the effectiveness of the Law and its compliance with European standards.

⁴³Un Women (2023): Women with disabilities in Ukraine, <https://ukraine.unwomen.org/uk/stories/ekspertna-dumka/2023/08/ekspertna-dumka-orhanizatsiyi-shcho-predstavlyayut-zhinok-z-invalidnistyu-v-ukrayini-mayut-naykrashchi-mozhlyvosti-dlya-reahuvannya-na-yikhni-humanitarni-potreby>; https://ffr.org.ua/wp-content/uploads/2023/11/invalidnist_ta_viyana-analitychnyi_zvit_za_rezultatamy_doslidzhenya.pdf

⁴⁴ United Nations Ukraine, Global Disability Fund, Report: Situational Analysis on the Rights of Persons with Disabilities in Ukraine. Country Full Report. March 2025. Available at: <https://globaldisabilityfund.org/new/wp-content/uploads/2025/03/SITAN-Ukraine.pdf>

Possible legislative and regulatory amendments that could enhance the effectiveness of the Law and its compliance with European standards

1. **Terminological consistency of the legal system needs to be improved as regards the main terms defining the rules for the employment of persons with disabilities** (e.g. reasonable accommodation, disability, person with disability) – e.g. by introducing an act amending certain acts in the area of terminology.
2. **The Law of Ukraine on Amendments to the Tax Code of Ukraine** regarding the features of the taxation of enterprises/entrepreneurs working in the integration within the labour force of persons with disabilities, enterprises of sheltered employment should proceed and be passed.
3. **Subordinate regulatory acts should be prepared carefully and issued in a timely manner** in particular those addressing the most important areas such as the procedure for reasonable accommodation.
4. **The textual definition of the term “reasonable accommodation” should be included in the text of the Law.**
5. **The principles, criteria, and limits of reasonable accommodation and universal design should be defined in the Law** (not in subordinate acts).
6. **The rules/procedures on how the provision of reasonable accommodation is financed in each particular case should be defined in the Law** (not in subordinate acts).
7. **The mechanism for monitoring the implementation of the Law** should be introduced into the text of the Law or in a separate act.
8. **Sanctions for the failure to fulfil the obligation to provide reasonable accommodation** should be introduced into the text of the Law or in another act.
9. **Sanctions for violation of the obligation to provide reasons for the refusal to conclude an employment agreement or to transfer a person with a disability to another position** should be introduced into the text of the Law.
10. **The legal basis for a person with a disability to initiate reasonable accommodation measures and participate in their determination and their right to an effective remedy in the event that these rights are violated** should be introduced into the text of the Law.
11. **The issue of compensation for the reasonable accommodation for self-employed individuals with disabilities** should be regulated in the text of the Law.
12. **Article 2 should be amended to explicitly clarify that the unjustified refusal to provide reasonable accommodation and the refusal to employ a person with a disability due to the need to make reasonable accommodation and to finance the relevant measures, is prohibited and is a form of discrimination.** E.g. the words *“Discrimination on the basis of disability, which includes any form of discrimination, as well as the unjustified refusal to provide reasonable accommodation and the refusal to employ a person with a disability due to the need to make reasonable accommodation and to finance the relevant measures, is prohibited”* should be amended to state *“Discrimination on the basis of disability, which includes any form of discrimination, including the unjustified refusal to provide reasonable accommodation and the refusal to employ a person with a disability due to the need to make reasonable accommodation and to finance the relevant measures, is prohibited”*.
13. **Article 17-1 should be amended to explicitly clarify that the catalogue of reasonable accommodation measures is open and that measures must be adjusted to each particular**

individual case. For example, the words *“other reasonable accommodation measures determined by the Cabinet of Ministers of Ukraine”* should be amended to read “other examples of reasonable accommodation measures could be determined by the Cabinet of Ministers of Ukraine”.

14. **Article 18 indent 6 should be amended in such a way as to exclude the upper limit of compensation** (up to six months). Instead, a lower limit should be introduced.
15. **Mechanisms/procedures of coordination between government agencies need to be established** – i.e. a data exchange mechanism will be established between the Employment Service, the Pension Fund, and the State institution implementing social protection measures and providing social services to persons with disabilities.
16. **It would appear that the procedure for obtaining funds for reasonable accommodation is complex and should be simplified** – at least in the case of minor changes/adjustments. In the case of measures relating to the purchase of expensive equipment or major improvements or repairs, the complex procedure may be justified. However, in the case of minor changes, the procedure should be easier and not delay the start of work.
17. **The ownership of reasonable accommodation adjustments in the case of the termination of the employment relationship of an employee with disabilities with the financing employer must be determined.**

Possible other activities that could enhance the effectiveness of the Law and Ukraine’s compliance with the best European and international standards

1. **Capacity development of labour inspectors to effectively implement and monitor adherence to the employment and social rights of persons with disabilities in line with the best European and international standards**, including providing high-level training/workshops/seminars (both online and on-site) to effectively identify cases of violations of the rights to equality, non-discrimination and reasonable accommodation and to clearly attribute them as prohibited cases of discrimination.
2. **Increasing the awareness and understanding of the role of the judiciary and lawyers in the effective enforcement of the Law**, including by providing high-level training/workshops/seminars (both online and on-site) to effectively identify, prevent and sanction cases of violations of the rights to equality, non-discrimination and reasonable accommodation, and to clearly attribute them as prohibited cases of discrimination.
3. **Increasing employers’ awareness and understanding of their duties under the Law**, including by preparing and distributing appropriate materials, including leaflets, manuals and videos.
4. **Promoting and raising persons with disabilities’ understanding of their rights under the Law and their awareness of the mechanisms available to support their employment**, including by preparing and distributing appropriate materials, including leaflets, manuals and videos.