

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



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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**

*Conducted within the framework of the
Council of Europe project “Promoting
social human rights as a key factor of
sustainable democracy in Ukraine”*

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June 2020

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Executive summary

1. The aim of this report is to assess the current situation in the area of rights of people with disabilities in Ukraine vis-à-vis Art. 15 of the European Social Charter (Revised) (hereinafter - ESC or Charter)¹, define the most pressing issues and prepare recommendations for the Ukrainian Government to be followed up in order to ensure the compliance of the Ukrainian legal system with Art. 15 ESC.

2. The report provides an analysis of the results of findings concerning the situation in Ukraine in the area of rights of people with disabilities, including legal frameworks in line with the European standards.

3. The report has seven parts: executive summary, introductory remarks, description of the relevant European standards, the overview of the findings including legal frameworks, conclusions, recommendations and a roadmap.

4. Ukraine joined the Council of Europe on 9 November 1995 as its 37th member state. To date the country has signed and ratified 86 treaties of the Council of Europe and has committed to the work of a number of the Council of Europe mechanisms. Ukraine ratified the European Social Charter (Revised) on 21 December 2006, accepting 76 of its 98 paragraphs including Art. 15 para. 1 – 3. It has not yet ratified the Additional Protocol providing for a system of collective complaints².

5. To support Ukraine to fulfil its accession commitments towards the Council of Europe, a number of initiatives, mainly focusing on assisting Ukraine's integration in a common European legal space, have been undertaken. The new Council of Europe-Ukraine Action Plan for 2018-2021 was adopted on 21 February 2018, providing for a comprehensive framework for co-operation between the Council of Europe and Ukraine³. One of the priority areas for this co-operation is enhancing the respect of social rights in Ukraine. To assist Ukraine to enhance the respect of social rights in line with the European Social Charter, the project **"Promoting social human rights as a key factor of sustainable democracy in Ukraine"** was launched.

1. ETS No 163, available at: <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/163>.

2. See the country factsheet: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805ac112>.

3. Council of Europe-Ukraine Action Plan for 2018-2021, adopted on 21 February 2018, CM/Del/Dec(2018)1308/21bisc.

6. Ukraine still needs support in adjusting its legal system and practice to the standards of the Council of Europe, especially demanded under the European Social Charter. Although over the last few years a lot of work has been done, especially on the legal frameworks, there are still areas in which the situation in Ukraine does not comply with the European standards and obligations imposed under the European Social Charter are not fulfilled. The reforms introduced in recent years advanced at a fast pace, and monitoring of their effects is now inevitable.

7. One of the areas, within the field of social rights, most needing further activities of Ukrainian authorities is the area of rights of persons with disabilities. In the abovementioned area Ukrainian regulations do not fully meet the European requirements and the practice of exercising the rights is even farther from the European standards.

8. Activities that should be taken to adjust the situation in Ukraine in the area of social rights to the standards of the Council of Europe, especially demanded under Art. 15 of the European Social Charter, should go into two directions: changes in law and changes in practice adjusting the reality to the legal standards.

9. In the area of changes in the legal system the work on adjusting the standards of protection to the European ones should be continued and those shortcomings which still exist should be eliminated – wherever possible – in the process of amending existing regulations. New laws should be introduced in those areas where existing acts do not cover the issues that need regulation.

10. In the area of practice there is even more that can and should be done to adjust the standards of protection of the rights of people with disabilities in Ukraine to the European ones. The most important activity that can and should be taken is ensuring the compliance of practice with the law, which can be done by raising the awareness and knowledge of the protection of social rights, ensuring the enforcement of court judgements and decisions, promoting social dialogue and monitoring the area of protection of the rights of people with disabilities regularly and effectively.

11. Raising the awareness and knowledge on the protection of the rights of people with disabilities should be done at all levels and among different groups of people. It is advisable to achieve this goal through measures especially such as trainings for representatives of professions that include involvement in social protection matters and candidates for these professions and awareness raising campaigns that should be widely promoted. Inclusiveness must be mainstreamed in all aspects of life.

Introductory remarks

1. The Council of Europe Project “Promoting social human rights as a key factor of sustainable democracy in Ukraine” has requested **Dr Monika Smusz-Kulesza** to draft, with the support of **Mr Maksym Shcherbatiuk** and **Mr Bogdan Moisa**, a 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 is based on the analysis of the Ukrainian legislative and regulatory framework and the policy in the abovementioned area, as well as on the findings being the result of the meetings with various stakeholders during the fact-finding mission in Kyiv, Kharkiv and Lviv.

2. In particular, the experts were requested to analyse the legal and institutional frameworks currently in place in Ukraine related to social rights in line with the European standards, paying special attention to the area of the rights of persons with disabilities under Art. 15 ESC.

3. On 10 – 15 February 2020 the Council of Europe (CoE) organised meetings with stakeholders during a fact-finding mission in Kyiv, Kharkiv and Lviv, the results of which are reflected in this report. The experts met representatives of **relevant authorities of national level** (the Ministry of Social Policy, the Commissioner for Rights of People with Disabilities, the Parliamentary Committee on Social Policy and Rights of Veterans, the Ombudsperson’s Office, the Government Commissioner for Gender Equality), **local self-government bodies** (Kyiv City State Administration, Kharkiv City Council, Lviv City Council), **academia** (Taras Shevchenko National University of Kyiv), **international counterparts** and **civil society** (NGOs: “National Assembly of People with Disabilities”, “Coalition for Protection of Rights of Persons with Intellectual Disability”, “Social Synergy”, “Fight for Right”, “We are Together”, “Centre for Inclusive Design”, “Ukrainian Child Rights Network”, “Association of Social Workers of Kyiv”, “Kharkiv Human Rights Protection Group”, “Kharkiv Association of Lawyers with Visual Impairments”, Kharkiv Regional Foundation “Public Alternative”, “Shyroko Pole”, Human rights organisation “SIM” and human rights specialists and activists).

4. The results of the desk research and the fact-finding mission in the form of the “Draft of 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” were widely shared and consulted with all the stakeholders. Comments on the draft that were sent to the Council of Europe Office in Ukraine were taken into consideration in the report.

5. The experts express their gratitude to the team of the Project and particularly the Senior Project Officer Ms Siuzanna Mnatsakanian for all the support provided and excellent organisation of the fact-finding mission.

6. The report is based on an analysis of different laws and regulations, in particular: the Labour Code (selected articles); the Criminal Code (selected articles); the Law of Ukraine “On the Prevention and Combating Discrimination in Ukraine” (selected articles); the Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine” (selected articles); the Law of Ukraine “On Social Services” (selected articles), the Law of Ukraine “On Rehabilitation of Persons with Disabilities in Ukraine” (selected articles), the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” (selected articles); the amendments to the Law “On Education of Ukraine Regarding the Accessibility of People with Special Educational Needs to Educational Services” (selected articles).

7. Different action plans and reports were also taken into account in the preparation of this report, such as for example: the Cabinet of Ministers of Ukraine Resolution of 14 May 2015, No. 450-r, on Approval of the Action Plan to ensure implementation of the provisions of the European Social Charter (Revised) for 2015-2019; the Cabinet of Ministers of Ukraine Resolution of 16 March 2016 No. 161-r, on Approval of the Poverty Reduction Strategy.

8. At the meetings of 10-15 February 2020 in Kyiv, Kharkiv and Lviv the consultants identified the preliminarily chosen area of rights of people with disabilities as requiring further legislative and non-legislative action. In the abovementioned area a lot of adjustments and improvements have been introduced in the past five years, but still important shortcomings have been identified.

9. In the past five years Ukraine has been undergoing important changes in law aiming at improving the level of social rights protection. The most important have been the reform of the education system, the reform of the health care system, the reform of the social services system and the reform of the system of institutional care and education of children. Apart from those, since 2015 Ukraine has been undergoing the decentralisation reform started with the “Concept of the Reform of Self-Government and Territorial Organisation of Power in Ukraine”.

10. In addition to the comprehensive reforms of the education system and the health care system, important amendments were introduced in the regulation of remuneration, social assistance and rehabilitation systems.

11. The group of consultants points out that its task is to assess not only the law, but also the compliance of practice with the obligations arising from the Charter.

Relevant european standards

a). The rights of persons with disabilities under Art. 15 ESC

1. The European Social Charter guarantees persons with disabilities the right to independence, social integration and participation in the life of the community (Part I, point 15). All of these must be exercised without discrimination based on disability (Part V, Art. E). The rights apply to all persons with disabilities regardless of the nature and origin of their disability and irrespective of their age.

2. Pursuant to Art. 15 ESC:

“Article 15 –The right of persons with disabilities to independence, social integration and participation in the life of the community”

With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

1) to take the necessary measures to provide persons with disabilities with guidance, education and vocational training in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private;

2) to promote their 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 the disabled or, where this is not possible by reason of the disability, by 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;

3) to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure”

3. The protection of the rights of persons with disabilities afforded by Article 15 ESC has been extended, as compared to that afforded by Article 15 of the 1961 Charter, as it no longer applies only to vocational training, rehabilitation and social resettlement but to the

right of persons with disabilities to independent social integration, personal autonomy and participation in the life of the community in general. The words "effective exercise of the right to independence" contained in the introductory sentence to the provision imply, *inter alia*, that persons with disabilities should have the right to an independent life⁴.

4. Article 15 ESC reflects and advances the change in disability policy away from segregation and treating persons with disabilities as objects of pity and towards inclusion, choice and respecting them equally - an approach that the Council of Europe contributed to promote, with the adoption by the Committee of Ministers of Recommendation (92) 6 of 1992 on a coherent policy for people with disabilities⁵.

5. The underlying vision of Article 15 ESC is one of equal citizenship for persons with disabilities and, fittingly, the primary rights are those of "independence, social integration and participation in the life of the community"⁶. In the light of this, the non-discrimination norm has a very important role in the disability context and forms an integral part of Article 15 of the Charter⁷.

6. Article 15 applies to all persons with disabilities regardless of the nature and origin of their disability and irrespective of their age. In the regulations of the Council of Europe there is no legal definition of disability or person/people with disability. In its decisions and conclusions⁸ the European Committee of Social Rights turns directly to the definition endorsed by the WHO in its International Classification of Functioning, Disability and Health⁹. The abovementioned document, known more commonly as the ICF, is a classification of health and health-related domains and the WHO framework for measuring health and disability at both individual and population levels. The ICF was officially endorsed by all 191 WHO Member States in the Fifty-fourth World Health Assembly on 22 May 2001¹⁰ as the international standard to describe and measure health and disability.

7. Before the ICF, two major conceptual models of disability had been proposed. The medical model views disability as a feature of the person, directly caused by disease, trauma or other health condition, which requires medical care provided in the form of individual treatment by professionals. Disability, on this model, calls for medical or other treatment or intervention, to 'correct' the problem with the individual. The social model of disability, on the other hand, sees disability as a socially-created problem and not at all an attribute of an individual. On the social model, disability demands a political response, since the problem is created by an unaccommodating physical environment brought about by attitudes and other features of the social environment.

8. The idea of the ICF is that, on their own, neither model is adequate, although both are partially valid. Disability is a complex phenomena that is both a problem at the level of a person's body and a complex and primarily social phenomena. Disability is always an interaction between features of the person and features of the overall context in which the

4. Explanatory Report to the European Social Charter (Revised) Strasbourg, 3.V.1996, p. 63.

5. Council of Europe Committee of Ministers Recommendation No. R (92) 6 Of The Committee of Ministers to Member States on a Coherent Policy For People With Disabilities (Adopted by the Committee of Ministers on 9 April 1992 at the 474th meeting of the Ministers' Deputies), available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804ce0f8>.

6. Association internationale Autisme-Europe (AIAE) v. France, Complaint No. 13/2002, Decision on the merits of 4 November 2003, §48; Conclusions 2003 - Interpretative Statement - Article 15; Digest 2018, p. 157.

7. Conclusions 2003, Statement of Interpretation on article 15; Digest 2018, p. 157.

8. The ECSR, Conclusions 2016 - Hungary - Article 15 § 1.

9. The World Health Organisation, International Classification of Functioning, Disability and Health (ICF), available at: <https://www.who.int/classifications/icf/en/>.

10. Resolution WHA 54.21.

person lives. Some aspects of disability are almost entirely internal to the person, while other are almost entirely external. In other words, both medical and social responses are appropriate to the problems associated with disability; we cannot wholly reject either kind of intervention. A better model of disability, in short, is one that synthesises what is true in the medical and social models, without making the mistake each makes in reducing the whole, complex notion of disability to one of its aspects. This more useful model of disability might be called the biopsychosocial model. The ICF is based on this model, an integration of medical and social. The ICF provides, by this synthesis, a coherent view of different perspectives of health: biological, individual and social¹¹.

■ 9. While assessing state legislations under Article 15 ESC, the European Committee of Social Rights finds incompatibility of definitions of disability with the ESC where the definitions of disability and persons with disabilities focus on impairments of an individual rather than on the barriers that he/she faces as such definitions fail to encompass all persons with disabilities, including e.g. those with psychosocial disabilities¹².

■ 10. An equality of treatment should exist, not only by law but also in practice, between persons with and without disabilities - nationals of the Contracting Party and foreigners - "in so far as they are nationals of other Parties" and "are lawfully resident or regularly working within the territory of the Party concerned"¹³.

■ 11. Under Article 15 ESC States must aim to develop a coherent policy for people with disabilities. The provision takes a modern approach to how the protection of the persons with disabilities shall be carried out, for example by providing that guidance, education and vocational training be provided whenever possible in the framework of general schemes rather than in specialised institutions, an approach which corresponds to that of Recommendation No. R (92) 6 of the Committee of Ministers of the Council of Europe. It not only provides the possibility, but to a large extent obliges Parties to adopt positive measures for persons with disabilities¹⁴.

■ 12. **Article 15 § 1 ESC establishes the right of persons with disabilities to guidance, education and vocational training** in the framework of general schemes wherever possible or, where this is not possible, through specialised bodies, public or private. Securing a right to education for children and others with disabilities plays an important role in advancing their citizenship rights and guaranteeing their fundamental rights¹⁵.

■ 13. The rights to vocational guidance and training are laid down in Article 1 § 4 and Articles 9 and 10 ESC, and Article 15 § 1 ESC refers specifically to persons with disabilities. Article 15 ESC, by establishing a separate right to guidance, education and vocational training for people with disabilities, aims to offer increased protection to these persons in an area, namely education and employment, in which they are more vulnerable than the rest of the listeners and workforce. Under the approach adopted in Article 15 ESC, the state is responsible for adopting measures to help persons with disabilities participate fully and actively in the community. In other words, the effective exercise of the right of persons with disabilities to vocational training and rehabilitation requires specific measures to be taken,

11. WHO, Towards a Common Language for Functioning, Disability and Health ICF, World Health Organisation, Geneva 2002, p.8-9, available at <https://www.who.int/classifications/icf/icfbeginnersguide.pdf?ua=1>.

12. The ECSR, Conclusions 2016 - Hungary - Article 15 § 1.

13. ESC/RevESC Appendix, item 1; Association internationale Autisme-Europe (AIAE) v. France, Complaint No. 13/2002, Decision on the merits of 4 November 2003, § 48; Conclusions XIV-2 (1998), Statement of Interpretation on article 15; Digest 2018, p. 157.

14. Explanatory Report to the European Social Charter (Revised) Strasbourg, 3.V.1996, p.

15. Association internationale Autisme-Europe (AIAE) v. France, Complaint No. 13/2002, Decision on the merits of 4 November 2003, §48; Digest 2018, p. 157.

which may, if need be, take the form of positive action designed to improve the "employability" of persons with disabilities and their access to and ability to remain in employment. In addition, particular emphasis must be put on the protection of persons who are disabled as a result of an occupational accident or illness¹⁶.

14. Under Article 15 § 1 ESC, the existence of non-discrimination legislation is considered necessary as an important tool for the advancement of the inclusion of children with disabilities into general or mainstream educational schemes. Such legislation should, as a minimum, require a compelling justification for special or segregated educational systems and confer an effective remedy on those who are found to have been unlawfully excluded or segregated or otherwise denied an effective right to education. Legislation may consist of general anti-discrimination legislation, specific legislation concerning education, or a combination of the two¹⁷.

15. According to Article 15 § 1 ESC, all persons with disabilities (children, adolescents and adults who face particular disadvantages in education, such as persons with intellectual disabilities) have the right to education and training: primary education, general and vocational secondary education as well as other forms of vocational training. As under Article 10 of the Charter, vocational training under Article 15 encompasses all types of higher education¹⁸.

16. Article 15 § 1 ESC makes it an obligation for States Parties to provide education for persons with disabilities, together with vocational guidance and training, in one or other of the pillars of the education system, in other words mainstream or special schools. The priority to be given to education in mainstream establishments, which is referred to explicitly in the Article, is subject to a conditionality clause, which if interpreted as it ordinarily would be and with due regard for the context and purpose of the provision, indicates to the public authorities that in order to secure the independence, social integration and participation in the life of the community of persons with disabilities through their education, they must take account of the type of disability concerned, how serious it is and a variety of individual circumstances to be examined on a case-by-case basis. Consequently, Article 15 § 1 of the Charter does not leave States Parties a wide margin of appreciation when it comes to choosing the type of school in which they will promote the independence, integration and participation of persons with disabilities, as this must clearly be a mainstream school¹⁹.

17. Lessons provided in mainstream schools and, if need be, in special schools must be adequate²⁰. This means that in order to guarantee an equal and non-discriminatory treatment of persons with disabilities, mainstream and special schools must ensure adapted teaching²¹.

18. State Parties to ESC are required to provide the human assistance needed for the school career of the persons concerned. Such assistance is a particularly important mean of being able to keep, especially children and adolescents with autism, in mainstream schools²².

16. Conclusions XIV-2 - Statement of interpretation - Article 15.

17. Conclusions 2007 - Statement of interpretation - Article 15 § 1.

18. Conclusions 2012, Ireland; Digest 2018, p. 157.

19. European Action of the Disabled (AEH) v. France, complaint No. 81/2012, Decision on the merits of 11 September 2013, §78; Digest 2018, p. 158.

20. Association internationale Autisme-Europe (AIAE) v. France, Complaint No. 13/2002, Decision on the merits of 4 November 2003, § 48.

21. European Action of the Disabled (AEH) v. France, Complaint No. 81/2012, Decision on the merits of 11 September 2013, § 85.

22. European Action of the Disabled (AEH) v. France, Complaint No. 81/2012, Decision on the merits of 11 September 2013, § 85.

The margin of appreciation in that matter applies only to the means that State Parties deem most appropriate to ensure that this assistance is provided, bearing in mind the cultural, political or financial circumstances in which their education system operates. However, this is subject to the provision that, at all events, the choices made and the means adopted are not of a nature or are not applied in a way that deprives the established right of its effectiveness and turns it into a purely theoretical right²³.

19. State must take measures (such as the support of teachers and the accessibility of premises) in order to enable integration and must demonstrate that tangible progress is being made in setting up education systems which exclude nobody²⁴.

20. 'Integration' and 'inclusion' are two different notions and one does not necessarily lead to the other. The right to an inclusive education is about the child's right to participate in mainstream school and the school's obligation to accept the child taking account the best interests of the child as well as its abilities and educational needs as a primary consideration²⁵.

21. Education and training are the essential foundation to obtain a position in the open labour market and to be able to lead a self-determined life. Young persons with disabilities with an education below the upper secondary level are per se subject to various disadvantages on the employment market. States must take measures in order to enable integration and guarantee that both mainstream and special schools ensure adequate teaching. Furthermore, States must demonstrate that tangible progress is being made in setting up inclusive and adapted education systems²⁶.

22. Specialised institutions shall ensure, through their internal organisation and/or their working methods, the predominance of guidance, education and vocational training over the other functions and duties that they may be required to perform under domestic law²⁷.

23. Article 15 § 1 ESC establishes one of the rights protected by the Charter which are exceptionally complex and particularly expensive to resolve. Therefore, the measures taken by a State to achieve the Charter's objectives must meet the following three criteria: "(i) a reasonable timeframe, (ii) measurable progress and (iii) financing consistent with the maximum use of available resources"²⁸.

24. The European Committee of Social Rights in the process of assessing whether the situation in the state stays in conformity with Art. 15 § 1 ESC concentrates on four areas: definition of disability, anti-discrimination regulations, education and vocational training.

25. The European Committee of Social Rights in the process of assessing whether the situation in the state is in conformity with Art. 15 § 1 ESC and so if children and adults with disabilities have effective equal access to education and vocational training, takes into consideration²⁹:

23. European Action of the Disabled (AEH) v. France, complaint No. 81/2012, Decision on the merits of 11 September 2013, §§ 80-81; Digest 2018, p. 158.

24. Conclusions 2005, Cyprus.

25. MDAC v. Belgium, Complaint No. 109/2014, Decision on the merits of 16 October 2014, § 66; Digest 2018, p. 158.

26. Conclusions XX-1 (2012), Austria; Digest 2018, p. 158.

27. European Action of the Disabled (AEH) v. France, Complaint No. 81/2012, Decision on the merits of 11 September 2013, §111; Digest 2018, p. 158.

28. Autism-Europe v. France, cited above, § 53.

29. Conclusions 2016 - Serbia - Article 15 § 1.

- the total number of persons with disabilities, including the number of children;
- the number of students with disabilities attending mainstream education and vocational training courses;
- the number of students with disabilities attending special education and training courses;
- the number of children with disabilities who are not in education and the measures taken to remedy this³⁰;
- the number of persons with disabilities who leave the education system with no qualifications³¹;
- the percentage of students with disabilities entering the labour market following mainstream or special education and/or training³²;
- data on the success rate of children with disabilities by comparison with other children and the success rate in terms of access to vocational training, continuation of studies or entry into the open labour market³³;
- data on the number of people receiving vocational training in a mainstream or a special establishment compared to the number of requests for admission;
- data on the percentage of students with disabilities entering the labour market following mainstream or special education and/or training³⁴.

■ **26. The European Committee of Social Rights found violation of Art. 15 § 1 ESC in cases of:**

- lack of effective integration of children and youths with disabilities into the mainstream education and into mainstream vocational training facilities - where youths with disabilities are little integrated into mainstream institutions and into mainstream vocational training facilities, and so special and separate facilities remain the norm³⁵ or where minority³⁶ or almost half of pupils with special educational needs attend special schools³⁷;
- lack of equal access of children with disabilities to education – in situation where many children with disabilities are placed in institutions, particularly those with mental disabilities (who account for about 80% of all children living in institutions), and do not therefore have equal access to education³⁸.

■ **27. Article 15 § 2 ESC establishes the right of persons with disabilities to promote their access to employment and to adjust the working conditions to the needs of the persons with disabilities** or, where this is not possible by reason of the disability, by 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. It is understood that the term "sheltered employment" also covers working co-operatives³⁹.

■ **28. Art. 15 § 2 ESC requires states to promote access to employment on the open labour market for persons with disabilities. It applies to both persons with physical and intellectual disabilities⁴⁰.**

■ **29. To this aim, legislation must prohibit discrimination on the basis of disability in employment as well as the dismissal on the basis of disability, to create genuine equality of**

30. Conclusions 2016 - Hungary - Article 15 § 1.

31. Conclusions 2016 - Hungary - Article 15 § 1.

32. Conclusions 2016 - Serbia - Article 15 § 1.

33. Conclusions 2016 - Hungary - Article 15 § 1.

34. Conclusions 2016 - France - Article 15 § 1.

35. Conclusions XVI-2 - Malta - Article 15 § 1.

36. Conclusions 2016 - Ukraine - Article 15 § 1.

37. Conclusions 2016 - Austria - Article 15 § 1, Conclusions 2016 - Romania - Article 15 § 1.

38. Conclusions 2016 - Serbia - Article 15 § 1.

39. Explanatory Report to the European Social Charter (Revised) Strasbourg, 3.V.1996, p. 65.

40. Conclusions XX-1 (2012), Czech Republic; Conclusions I (1969), Statement of Interpretation on article 15 § 2.

opportunities on the open labour market⁴¹. In addition, regarding work conditions, there must be obligations on 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 disabilities, in particular persons who have become disabled while in their employment as a result of an industrial accident or occupational disease⁴². Apart from that, regulations must confer an effective remedy on those who are found to have been unlawfully discriminated⁴³.

■ 30. State Parties to ESC enjoy a margin of discretion concerning the other measures they take in order to promote access to employment of persons with disabilities. Article 15 § 2 ESC does not require the introduction of quotas⁴⁴.

■ 31. Sheltered employment facilities must be reserved for those persons with disabilities who, due to their disability, cannot be integrated into the open labour market. They should aim to assist their beneficiaries to enter the open labour market⁴⁵. Persons working in sheltered employment facilities where production is the main activity are entitled to the basic provisions of labour law and in particular the right to fair remuneration and trade union rights⁴⁶.

■ 32. The European Committee of Social Rights in the process of assessing whether the situation in the state is in conformity with Art. 15 § 2 ESC concentrates on three areas: employment of persons with disability, anti-discrimination regulations and measures to encourage the employment of persons with disabilities.

■ 33. The European Committee of Social Rights in the process of assessing whether the situation in the state stays in conformity with Art. 15 § 2 ESC and so if persons with disabilities have effective equal access to employment, takes into consideration not only proper legislation, including the judicial and non-judicial remedies provided for in the event of discrimination on the ground of disability, but also its justiciability and practical aspects such as e.g. the figures on the total number of persons with disabilities, the number of people with disabilities of working age, the number in employment (in the open market or in sheltered employment), the number benefiting from employment promotion measures, the number seeking employment and the number who are unemployed⁴⁷.

■ 34. The European Committee of Social Rights found violation of Art. 15 § 2 ESC in cases of:

- lack of legislation prohibiting discrimination on grounds of disability in the field of employment⁴⁸;
- lack of adequate protection against discrimination on the grounds of disability – lack of measures protecting employees with disabilities from dismissal and lack of obligation for the employers to continue to employ a person who becomes disabled following an occupational injury or disease⁴⁹;
- excessively low wage levels in sheltered employment facilities (persons employed performing production orientated work in sheltered workshops were not subject to the usual terms and conditions of employment and that their pay was much lower than that in the open

41. Conclusions 2003, Slovenia; Conclusions 2012, Russian Federation.

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

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

44. Conclusions XIV-2 (1998), Belgium.

45. Digest 2018, p. 158.

46. Conclusions XVII-2 (2005), Czech Republic.

47. Conclusions 2016 - Armenia - Article 15 § 2.

48. Conclusions XVI-2 - Belgium - Article 15 § 2; Conclusions XVI-2 - Spain - Article 15 § -.

49. Conclusions XVI-2 - Denmark - Article 15 § 2.

- working environment (varying between 5 % and 30 %)⁵⁰;
- lack of guaranteed effective access to the open labour market⁵¹;
- not respected legal obligation to provide reasonable accommodation⁵².

■ **35. Article 15 § 3 ESC establishes the right of persons with disabilities to promote their full social integration and participation in the life of the community** in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.

■ 36. The right of persons with disabilities to social integration provided for by Art. 15 § 3 ESC implies that barriers to communication and mobility be removed in order to enable access to transport (land, rail, sea and air), housing (public, social and private), cultural activities and leisure (social and sporting activities)⁵³. To this end Art. 15 § 3 ESC requires the existence of comprehensive non-discrimination legislation covering both the public and private sphere in fields such as housing, transport, telecommunications and cultural and leisure activities and effective remedies for those who have been unlawfully treated⁵⁴. Such legislation may consist of general anti-discrimination legislation, specific legislation or a combination of the two⁵⁵.

■ 37. Article 15 § 3 ESC also requires the adoption of a coherent policy in the disability context: positive action measures to achieve the goals of social integration and full participation of persons with disabilities. Such measures should have a clear legal basis and be coordinated⁵⁶. People with disabilities should have a voice in the design, implementation and review of policies concerning them⁵⁷.

■ 38. To give meaningful effect to this, undertaking mechanisms must be established to assess the barriers to communication and mobility faced by persons with disabilities and identify the support measures that are required to assist them in overcoming these barriers. Furthermore, technical aids must be available either for free or subject to a contribution towards their cost and taking into account the beneficiary's means. Such aids may for example take the form of prostheses, walkers, wheelchairs, guide dogs and appropriate housing support arrangements. Support services, such as personal assistance and auxiliary aids, must be available, either for free or subject to an appropriate contribution towards their cost and taking into account the beneficiary's means⁵⁸;

■ 39. Telecommunications and new information technology must be accessible and sign language must have an official status⁵⁹.

■ 40. Public transports (land, rail, sea and air), all newly constructed or renovated public buildings, facilities and buildings open to the public, and cultural and leisure activities should be physically accessible⁶⁰.

■ 41. The needs of persons with disabilities must be taken into account in housing policies,

50. Conclusions XVI-2 - Denmark - Article 15 § 2.

51. Conclusions 2016 - Serbia - Article 15 § 2.

52. Conclusions 2016 - Serbia - Article 15 § 2.

53. Conclusions 2005, Norway.

54. Conclusions 2007, Slovenia.

55. Conclusions 2012, Estonia.

56. Digest 2018, p. 161.

57. Conclusions 2003, Italy.

58. Conclusions 2008, Statement of interpretation on Article 15 § 3; Digest 2018, p. 161 – 162.

59. Conclusions 2005, Estonia; Conclusions 2003, Slovenia.

60. Conclusions 2003, Italy.

including the construction of an adequate supply of suitable, public, social or private, housing. Further, financial assistance should be provided for the adaptation of existing housing⁶¹.

■ 42. The European Committee of Social Rights in the process of assessing whether the situation in the state is in conformity with Art. 15 § 3 ESC concentrates on nine areas: anti-discrimination legislation and integrated approach, consultation, forms of financial aid to increase the autonomy of persons with disabilities, measures to overcome obstacles, technical aids, communication, mobility and transport, housing, culture and leisure.

■ 43. The European Committee of Social Rights in the process of assessing whether the situation in the state is in conformity with Art. 15 § 3 ESC and so if persons with disabilities fully participate in the life of community, takes into consideration not only proper legislation, including the judicial and non-judicial remedies provided for in the event of discrimination on the ground of disability, but also its justiciability and practical aspects such as e.g.: the availability of different grants to adjust the environment to the needs of a person with disability - convert housing, car, remove architectural and communication barriers, purchase assistance products; the eligibility for supporting goods and services free of charge or with reduced price - technical aids, public transport; actions being taken to encourage access to new communication technologies.

■ 44. The European Committee of Social Rights found violation of Art. 15 § 3 ESC in cases of:

- ▶ lack of anti-discrimination legislation for persons with disabilities which specifically covers the areas of housing, transport, communications, culture and leisure⁶²;
- ▶ lack of effective remedies available to people with disabilities alleging discriminatory treatment⁶³;
- ▶ lack of effective access to housing⁶⁴;
- ▶ lack of effective accessibility for people with disabilities to different means of transport⁶⁵;
- ▶ lack of effective access to technical aids⁶⁶.

b). Council of Europe Disability Strategy 2017-2023⁶⁷

■ 1. The new Council of Europe Strategy on the Rights of Persons with Disabilities 2017–2023 was drafted in 2016 by Council of Europe member States in co-operation with civil society and other stakeholders. The overall goal of the Council of Europe Disability Strategy 2017-2023 (the Strategy) is to achieve equality, dignity and equal opportunities for persons with disabilities. This requires ensuring independence, freedom of choice, full and effective participation in all areas of life and society, including living in the community⁶⁸.

■ 2. The Strategy concentrates around five priority areas (equality and non-discrimination; awareness raising; accessibility; equal recognition before the law; freedom from exploitation, violence and abuse) and targets five cross-cutting themes (participation, co-operation and co-ordination; universal design and reasonable accommodation; gender equality perspective; multiple discrimination; education and training).

61. Conclusions 2003, Italy.

62. Conclusions 2016 - Estonia - Article 15 § 3.

63. Conclusions 2016 - Andorra - Article 15 § 3, Conclusions 2016 - Hungary - Article 15 § 3.

64. Conclusions 2012 - Andorra - Article 15 § 3, Conclusions 2016 - Hungary - Article 15 § 3.

65. Conclusions 2016 - Armenia - Article 15 § 3.

66. Conclusions 2012 - Andorra - Article 15 § 3.

67. Council of Europe, Human Rights: A Reality For All, Council of Europe Disability Strategy 2017-2023, available at: <https://rm.coe.int/16806fe7d4>.

68. Par. 16.

3. Proper implementation of the Strategy demands disability to be understood as the result of **interaction between individual impairments and existing attitudinal and environmental barriers**. Disability must be seen as hindering the full enjoyment of human rights and fundamental freedoms and preventing persons with disabilities from participating effectively and equally in the society⁶⁹.

4. Special attention must be paid to persons with **multiple, complex and intersecting impairments** as they face additional barriers and are at higher risk of institutionalisation, exclusion and poverty. Measures to prevent or remove existing barriers are necessary investments for sustainable development and improved accessibility.

5. Accessibility challenges can be avoided or greatly diminished through intelligent and not necessarily costly applications of the **universal design**, which benefits everyone. In addition to necessary accessibility measures related to groups, individual barriers can further be overcome by individually tailored reasonable accommodation. Denial of **reasonable accommodation** as well as denial of access can constitute discrimination.

6. **Gender equality** concerns must be included in the planning, budgeting, implementation, monitoring and evaluation of all policies, programmes and activities in the field of disability and vice versa both at national and local levels.

7. **The non-discrimination principle** must be applied across all the areas. Multiple discrimination and its especially harmful effects, including to the development of children and young people, must be acknowledged as existing and taken into consideration in all the work and activities at both national and local levels⁷⁰.

8. **Quality education**, including human rights education, is a prerequisite for persons with disabilities to enjoy human rights on an equal basis with others. This also includes early intervention and family support. Education and training programmes, campaigns and materials aimed at professionals need to include a disability dimension to ensure that professionals have the requisite skills and knowledge, to fulfil their duties in an equal and inclusive way. Such programmes need to take into account due respect for the rights of persons with disabilities and guarantee high quality services in the mainstream as required by and in compliance with international standards.

9. Persons with disabilities are still confronted with indifference, unacceptable attitudes and stereotypes based on existing prejudices, fear and distrust in their abilities. Action should be aimed at **changing these negative attitudes and stereotypes** through effective awareness raising policies, strategies and actions involving all relevant stakeholders, including the media.

10. **Accessibility** cannot be viewed only as accessibility to the built environment, as it is a much wider concept. It extends also to accessibility of products and services, including the channels in which services are delivered. Accessibility is connected to all the areas of life and therefore needs to be seen from the perspective of equality and non-discrimination. It applies equally to public and private sectors. Accessibility is, in other words, an enabler for persons with disabilities in all areas of life. However, special focus should be given to access to information, information technologies and the communication sector. It is important that all persons benefit from technological advancements and that no-one is left behind, including persons with multiple disabilities and complex needs. Attention needs to be paid to

69. Par. 35.

70. Par. 46.

appropriate and alternative communication modes, means and formats, access to printed word and copyright issues⁷¹.

■ 11. States are required as far as possible to replace **substituted decision-making** with systems of supported decision-making. Possible limitations on decision-making should be considered on an individual basis, be proportional and be restricted to the extent to which it is absolutely necessary. Limitations should not take place when less interfering means are sufficient in light of the situation, and accessible and effective legal safeguards must be provided to ensure that such measures are not abused.

■ 12. State is obliged to **prevent all forms of exploitation, violence and abuse** and to protect persons with disabilities from them. Also, promotion of recovery, rehabilitation and reintegration are necessary parts of state's obligations. Hate crime and bullying, especially on the internet, must be seen as forms of exploitation, violence and abuse that affect especially children and young persons with disabilities.

71. Par. 56 and 59.

Overview of the findings (including legal frameworks)

a) General overview of the findings with respect to the rights of persons with disabilities vis-à-vis Art. 15

1. According to the statistics of the State Statistical Service of Ukraine used by the Ministry of Social Policy "Number of persons with disabilities" there were **2.659.700 persons with disabilities in Ukraine as of January 1, 2019, including 161.600 children**⁷², which shows the increase in comparison to January 1, 2018 when there were 2.635.600 persons with disabilities, including 159.000 children and to January 1, 2016 when there were 2.614.061 including 153.547 children⁷³.

2. Pursuant to Article 41 of the Law of Ukraine On Rehabilitation of Persons with Disabilities in Ukraine, the information resources about the rehabilitation of persons with disabilities are compiled as a **centralised repository of data on disability issues** that contains information on rehabilitation institutions, the nature and causes of disabilities, the level of education and vocational training of persons (children) with disabilities, the composition of their families, their income levels and their needs and provisions with respect to technical and other rehabilitation equipment, medical products, rehabilitation services, treatment in sanatoriums and adapted means of transport etc.

3. The **statistics** on issues relating to persons with disabilities are **incomplete**; there is no clear regulation on the procedure of collecting proper data, the database does not include all persons with disabilities; there are no thorough statistics covering particular types of disabilities and there is no obligation for sex-disaggregated and age-disaggregated data collecting. The database includes only people who were officially classified into one of three groups of disability, those who have disabilities but were not officially classified are not included in the statistics. The statistics of the Ministry of Health are different from those of the Ministry of Social Policy since the latter keeps records only of those who applied for disablement pensions.

4. Judicial statistics on cases regarding people with disabilities are also imperfect. The State Statistics Service of Ukraine (SSSU) collects data on the number of all plaintiffs with disabilities by type of complaint (administrative and civil), but there are no data concerning the type of complaints and types of violations mentioned in the claims.

72. Statistical digest "Social Protection of the Population of Ukraine" prepared by the State Statistics Service of Ukraine

73. Statistical digest "Social Protection of the Population of Ukraine" prepared by the State Statistics Service of Ukraine http://www.ukrstat.gov.ua/druk/publicat/kat_u/2018/zb/07/zb_szn_2017.pdf

5. Pursuant to Art. 1 par. 1 and 3 of the Law of Ukraine “On Rehabilitation of Persons with Disabilities in Ukraine”, **“person with disability”** is a person with persistent impairment of body functions which, in interaction with the external environment, can result in the limitation of his/her everyday activities, and as a result of which the State is required both to create the conditions necessary to enable such person to exercise his/her rights on an equal basis with other citizens and also to ensure his/her social protection (the same definition is included in Article 2 para 1 of the Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine”). **“Disability”** is a degree of health loss in connection with an illness, trauma (or its consequences), or congenital defects which, in interaction with the external environment, can result in the limitation of a person's everyday activities, and as a result of which the State is required both to create the conditions necessary to enable such person to exercise his/her rights on an equal basis with other citizens and also to ensure his/her social protection.

6. Pursuant to Art. 3 of the Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine”, disability as a measure of health loss shall be determined by expert examination in the medical and social assessment bodies of the central executive authority, which ensures the state health policy-making.

7. There are three **groups of disability (I, II and III)**, pursuant to Article 7 of the Law “On Rehabilitation of Persons with Disabilities in Ukraine” and to the “Regulation on medical and social expert examination and provisions on the procedure, conditions, and criteria of assigning disability” approved by Cabinet of Ministers Resolution No. 1317 of 3 December 2009. The Instruction on disability group assignment was approved by the Order of the Ministry of Health dated 05.09.2011 No. 561⁷⁴.

8. Pursuant to art. 7 of the Law of Ukraine “On Rehabilitation of Persons with Disabilities in Ukraine”, depending on the degree of persistent impairment of bodily functions caused by illness, trauma (its consequences) or congenital impairments and possible limitation of everyday activities while communicating with outside environment caused by the loss of health, persons recognised as having a disability, are assigned to one of the three disability groups: group I, group II, or group III.

9. The disability group I is divided into sub-group A and sub-group B depending on the degree of the loss of health by a person with a disability and the limits of a need for permanent outside care, assistance or follow-up care. The sub-group A of the group I includes persons with extremely high degree of health loss, extreme dependence on permanent outside care, assistance or follow-up care by other persons, who are essentially unable to care for themselves. The sub-group B of the group I includes persons with high degree of health loss, high dependence on other persons in securing vital functions of their day-to-day living, who are able to perform certain elements of self-care.

10. Ukraine **ratified the European Social Charter (Revised)** on 21 December 2006, accepting 76 of its 98 paragraphs including Art. 15 para. 1 – 3. It has not yet ratified the Additional Protocol providing for a system of collective complaints. Furthermore, on 16 December 2009 Ukraine ratified the United Nations Convention on the Rights of Persons with Disabilities and its Optional Protocol, which came into force on 6 March 2010. Since then large scale legislative work has been done with the involvement of the civil society. Still, there is even more to be done, yet.

74. Order of the Ministry of Health on Instruction on Disability Group Assignment No. 561, as of 05.09.2011, registered at the Ministry of Justice on November 14, 2011 under No. 1295/20033.

11. Legislation of Ukraine is based on **the principle of non-discrimination**, which regardless of the specific features provides for: ensuring the equality of the rights and freedoms of persons and/or groups of persons; ensuring equality before the law of persons and/or groups of persons; respect for the dignity of each person; ensuring equal opportunities for persons and/or groups of persons. Pursuant to Article 3 para 1 – 3 of the Law of Ukraine “On the Prevention and Combating Discrimination in Ukraine”⁷⁵, the legislation on preventing and combating discrimination consists of the Constitution, this law and other legal acts. If an international treaty of Ukraine, ratified by the Verkhovna Rada (Parliament) of Ukraine, is setting the other rules than those stipulated in this law, the rules of the international treaty shall apply.

12. Pursuant to Article 7 of the Law Of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine” legal and regulatory acts relating to the material, social, household and medical support for persons with disabilities shall be developed involving public organisations of persons with disabilities. Local self-government bodies shall be obliged to inform persons with disabilities about changes and amendments to the legislation on social security of persons with disabilities.

13. The Law “On the Prevention and Combating Discrimination in Ukraine”, enacted on 6 September 2012, sets up general prohibition of discrimination (in Article 6) and establishes anti-discrimination principles (in Article 2). The Law forbids direct and indirect discrimination, based, among other things, on disability and applies in particular to the field of education, public services and relations between employers and employees.

14. Pursuant to Article 1 § 1 points 6 and 3 of the Law “On the Prevention and Combating Discrimination in Ukraine”, **direct discrimination** occurs when a person or a group of people is treated less favourably than another person or a group of people being in a similar situation, except where such treatment has a legitimate, objectively justified purpose and the ways of achieving that purpose are appropriate and necessary; indirect discrimination occurs when the implementation or application of formally neutral rules, evaluation criteria, requirements or practice for a person or a group of persons characterised by their specific grounds results in less favourable conditions than for other persons or groups of persons, except where their implementation or application has a legitimate, objectively justified purpose, the means of achieving which are appropriate and necessary.

15. Article 14 of the Law of Ukraine “On the Prevention and Combating Discrimination in Ukraine” envisages that a person who believes that discrimination has arisen against him or her shall have the right to file a complaint with the state bodies, authorities of the Autonomous Republic of Crimea, local self-government bodies and their officials, the Parliament Commissioner for Human Rights and/or the court in the order determined by law. There is an issue of the inconsistency of Ukrainian legislation regarding the definition of reasonable accommodation as a form of discrimination. The Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine” gives only reference definitions of this concept, and the Law “On the Prevention and Combating Discrimination in Ukraine” does not contain the phrase “denial of reasonable accommodation” in the list of discrimination forms.

16. Under Article 15 and 16 of the Law “On the Prevention and Combating Discrimination in Ukraine”, the person has the right to compensation for material damage and moral damage caused to him\her as a result of 16. Under Article 15 and 16 of the Law “On the

75. No. 52-07-VI.

Prevention and Combating Discrimination in Ukraine”, the person has the right to **compensation for material damage and moral damage** caused to him\her as a result of discrimination. The procedure for compensation for material damage and moral damage is determined by the Civil Code of Ukraine and other laws. Persons guilty of violation of the requirements of the law on preventing and combating discrimination shall bear civil, administrative and criminal responsibility.

■ 17. As to **civil responsibility** - the Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine”⁷⁶ establishes prohibition of discrimination against people with disabilities, but it does not include any provisions on civil liability in case of violation of this rule. Articles 15 and 16 of the Law “On the Prevention and Combating Discrimination in Ukraine” are applicable.

■ 18. **Procedural aspects** of civil liability are covered by the Code of Civil Procedure. Pursuant to Art. 81 of the abovementioned Code “In cases of discrimination, the plaintiff is required to provide factual evidence that discrimination has taken place. If such information is provided, the defendant shall rely on proof of its absence.” There are issues with application of the quoted provision, in particular, because of the unusual nature of this rule for lawyers and judges and, accordingly, the rare cases of its application. Quoted principle was established in the middle of 2014 as one of the steps to implementation of the EU Council Directive 97/80/EC of 15 December 1997. Order No. 33 of the Ministry of Justice “On Approval of Guidelines for the Identification of Cases of Gender Discrimination and Mechanism for Providing Legal Assistance” approved on 12th March 2019 includes recommendations on the interpretation of this Article.

■ 19. There is no regulation of **administrative responsibility**. The law “On the Prevention and Combating Discrimination in Ukraine” sets up administrative responsibility formally but there is no provision establishing such liability in the Code of Ukraine on Administrative Offences. In this area, the provision of the law “On the Prevention and Combating Discrimination in Ukraine” remains formal.

■ 20. As to **criminal responsibility** - the Criminal Code of Ukraine envisages **criminal liability for violation of the principle of equality** of citizens, based among other things on disability in Article 161, entitled Violation of equality of citizens depending on their racial, national identity, religious beliefs, disability and other grounds. Pursuant to Art. 161 para 1 of the Criminal Code, deliberate actions aimed at inciting national, racial or religious hatred, degrading national honour and dignity, or offending the feelings of citizens in connection with their religious beliefs, as well as directly or indirectly limiting rights or establishing direct or indirect privileges of citizens based on race, colour, political, religious and other beliefs, gender, disability, ethnic and social background, wealth, place of residence, linguistic or other characteristics - shall be punishable by a fine of two hundred to five hundred non-taxable minimum incomes, or restraint of liberty for a term up to five years, with deprivation of the right to occupy certain posts or engage in certain activities for a term up to three years or without such deprivation. Under Art. 161 para 2, the same acts combined with violence, deception or threats, as well as those committed by an official - shall be punishable by a fine of five hundred to one thousand non-taxable minimum incomes, or imprisonment for a term of two to five years, with deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years or without such. Pursuant to Art. 161 para 3, the actions provided for in paragraphs 1 or 2 of this Article, which have been committed by an organised group of persons or have caused severe consequences - shall be

76. The Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine” on March 21, 1991 No. 875-XII.

punishable by imprisonment for a term of five to eight years.” Court statistics show that there are not many cases under Art. 161 of the Criminal Code⁷⁷ relating to violation of the principle of equality of citizens. If sentences under Article 161 of the Criminal Code take place, they are for hate speech or hate crimes.

21. According to the information provided by the National Police of Ukraine at the request of the Ukrainian Parliament Commissioner for Human Rights, in 2017 pre-trial investigation was conducted in **95 hate-motivated criminal offenses**. Among them there were 42 bias against Christians and members of other religions (excluding anti-Semitism and prejudice against Muslims), 26 – violations concerning nationality/ethnicity, 6 concerning anti-Semitism, 4 concerning language, 3 against Roma and Sinti, 2 concerning sexual orientation, **1 concerning disability** and 11 concerning other basis. Only 4 of 95 criminal proceedings, qualified as "bias against Christians and members of other religions (not including anti-Semitism and prejudice against Muslims)," have been sent to prosecution in court⁷⁸.

22. Since 2014, Ukraine has been conducting a **decentralisation process** that seeks to fundamentally restructure centre–periphery relations. This reform of local governance implies a devolution and delegation of power from the national to the municipal level (and, to a lesser degree, to the regional and upper sub regional levels). In late 2014 and early 2015, fiscal decentralisation was introduced and the fusion of small local municipalities into bigger and more self-sustaining ‘amalgamated territorial communities’ (ATCs) began. These new entities have gained considerable tax-raising powers and now benefit from direct transfers from the central state budget⁷⁹. As a result of the reform the competence to deliver social services was transferred to local authorities.

23. In 2019 the Law of Ukraine “On Social Services” was introduced that defined the basic organisational and legal framework for the provision of social services aimed at prevention of complicated life situations, overcoming, or minimising their negative consequences, to individuals/families in complicated life situations. Under the definition included in Article 1 para 1 point 15 of the abovementioned law, complicated life situations are circumstances affecting the life, health condition, and development of an individual, functioning of a family that an individual/family cannot overcome by themselves. Disability has been enumerated as one of the factors that may cause complicated life situations among many differentiated factors e.g. older age; partial or complete loss of motor activities, memory; incurable diseases, diseases requiring durable treatment; mental and behavioural disorders, including due to the consumption of psychoactive substances; behavioural disorders of children caused by parents’ divorce; or gender-based violence.

24. The Law of Ukraine “On Social Services” defines basic goals (Article 2) and basic principles of Social Service Provision (Article 3). Social services shall be provided to prevent and overcome complicated life situations and minimise their negative consequences. Among basic principles the observance of human rights, children’s rights, and rights of people with disabilities has been put at the first place. Besides, ensuring equal rights and opportunities for women and men; respect to honour and dignity; tolerance; accessibility and openness; personalised approach and integrated approach have also been put among the basic principles of the law.

25. For the time being, there have been some awareness raising activities conducted in

77. https://supreme.court.gov.ua/userfiles/media/Analiz_kramin_sud_2018.pdf, p. 160.

78. https://helsinki.org.ua/wp-content/uploads/2018/08/CCPR-Alternative-Report_UHHRU_Ukraine.pdf.

79. V. Romanova, A. Umland, Ukraine’s Decentralization Reforms Since 2014. Initial Achievements and Future Challenges. Research Paper, Ukraine Forum, September 2019. Available at: <https://www.chathamhouse.org/sites/default/files/2019-09-24-UkraineDecentralization.pdf>.

Ukraine with the involvement of international organisations and NGOs. Still the society has a **problem with accepting people with disabilities**. People with disabilities are confronted with indifference, unacceptable attitudes and stereotypes based on existing prejudices, fear and distrust in their abilities. They are seen as those who need social money and not as someone who should participate in the life of the community and policy making process. People with disabilities of group III are seen as those who overuse social services by part of the society.

■ 26. Part of people with disabilities have rather **low level of awareness** of their rights and possibilities. Very often they do not fight for their rights, do not report offence that they face and do not know who they can turn to in search for help and support. Low level of awareness of part of people with disabilities demonstrates also in their demanding attitude. Many people with disabilities see no other possibility than relying on social payments.

■ 27. **The judiciary is seen as inefficient.** People do not trust their claim can be dealt with within reasonable time. There is an opinion that court proceedings are costly and long-lasting. Many people with disabilities are afraid of court proceedings, they feel they will not get any support there. The low efficiency of judicial protection is facilitated by obstacles for people with disabilities in access to justice, both physical (architectural) and informational, and a low level of trust in courts.

■ 28. **The problems that were most often mentioned by Ukrainian stakeholders were:**

- ▶ low level of income of persons with disabilities resulting in low standard of life and high poverty rate;
- ▶ insufficient support provided to most vulnerable groups of persons with disabilities – children, IDPs and people affected by armed conflict, the elderly, women, the families and guardians of the abovementioned groups;
- ▶ lack of accessibility of public infrastructure for people with disability: inaccessible state and local authority buildings, public and private service providing points;
- ▶ insufficient support provided to unemployed people with disabilities: insufficient trainings, no real support in the process of searching for employment, poor job opportunities;
- ▶ shortcomings and lack of efficiency of the system of quotas in employment;
- ▶ problems connected with functioning of the system of social services for people with disabilities under the new Law of Ukraine “On Social Services”; shortcomings of the regulation;
- ▶ chaos caused by the process of deinstitutionalisation;
- ▶ long-lasting civil and administrative court proceedings⁸⁰;
- ▶ long-lasting process of acquiring the status of disability;
- ▶ lack of availability of educational, social and medical services for people with multiple, complex and severe disabilities;
- ▶ lack of a regulatory framework for early intervention services, as a service that prevents institutionalisation of children with disabilities, helps the development of their inclusion and socialisation;
- ▶ problems with obtaining an ID card in case of people with disability (the difficulty of photographing, requiring a signature from a person who cannot do this);
- ▶ problems with the organisation of military registration (the need for medical examination at the military enlistment office, which is not ready to conduct them for persons with disabilities).

80. See also: The ECtHR, Case of Svetlana Naumenko v Ukraine, Application no. 41984/98, Judgment of 9 November 2004; The ECtHR, Case of Of Mrit v V. Ukraine, Application no. 66561/01, Judgement of 30 March 2004.

29. Women and girls with disabilities in Ukraine face additional barriers in their access to human rights and activities in comparison to men. They are also at greater risk of all forms of violence, both within and outside home. The problem that was most often mentioned from this perspective was the problem of lack of gynaecological chairs adjusted to the needs of women with disabilities.

30. The biggest challenge seems to be the situation of persons with mental disability, including children, and the process of involving them in the process of education, vocational training and then into the labour market. It is also the most challenging and sensitive issue in the process of deinstitutionalisation.

31. Information and communication continue to be largely inaccessible for many persons with disabilities, especially people with hearing and visual impairments.

32. There is still **problem with undocumented people**, especially in the rural areas, that touches mostly Roma minority and IDPs. People who do not have ID cards are not entitled to make use of any services offered to the society; they cannot get employed, they cannot sign a contract with a doctor, they cannot benefit from social services or take part in court proceedings. The procedure of acquiring ID cards by undocumented people is long and complex and requires a visit to the local authorities. Undocumented people with disabilities who often do not have any family and live in the rural areas far away from the city are not capable of going through the procedure alone without support and assistance.

33. **At the local level** – during the meetings in Kyiv, Kharkiv and Lviv – problems with implementation of new laws were greatly stressed, especially lack or shortcomings of the provisions regulating the new system of social services that is currently a responsibility of local authorities. The City Council authorities highlighted great pace at which the reform was introduced and lack of time to adjust to new provisions. Apart from that, they stressed lack of information, lack of support in implementing the law and lack of proper register of both – the service providers and the service receivers. Furthermore the problem of lack of clear eligibility criteria was raised.

34. Another issue raised **at the local level** was the lack or inadequate quality of the necessary legislative regulation both at the national level – where orders of Ministries are needed and at the local level – where sub-legislative regulations are necessary to implement the provisions of the laws which determine, inter alia, the provision of social security for people with disabilities.

35. **Local NGOs raised the problem of funding for non-governmental organisations.** According to the knowledge of Lviv NGOs currently only 4 NGOs - chosen without any competition and clear transparent procedure - receive state funding from State Budget. At the same time, funding for organisations of people with disabilities is only possible from local budgets. In this context, it should be noted that on March 3, 2020, amendments were introduced to the legislation on the financing of public organisations of people with disabilities. Namely, the resolution of the Cabinet of Ministers of Ukraine No. 166 "Some issues of providing financial support to public associations of persons with disabilities" was adopted, which stipulates that the state budget funds from the State Budget are allocated for financial support of organisations of people with disabilities on a competitive basis.

36. **Local NGOs paid attention to the situation of people with hearing impairments** and the fact that sign language is not used anywhere. There are no teachers of sign language at kindergartens, schools and universities. Sign language is not used in public institutions, public utility places and public transport. Only one TV channel has sign language translation 24 hours a day.

37. **Another problem raised by local NGOs** is the problem with the system of medical tests that people must obligatory undergo to confirm their status of a person with disability. The system is not adjusted to different kinds of disabilities and each person must undergo the same tests every few years. Even people with severe permanent disabilities e.g. without a leg or legs must go through the tests several times. Apart from this, there is no possibility to acquire a duplicate of certificate in case of e.g. losing it, to get a certificate in such a case the person must undergo the tests one more time.

b) Overview of the findings with respect to the rights of persons with disabilities vis-à-vis Art. 15 § 1 ESC
(guidance, education and vocational training)

1. Ukraine's education sector is undergoing ambitious reforms directed at a fundamental transformation of the sector. Important new laws have been passed in recent years – for Higher Education in 2014, for Research and Scientific Activity in 2015, and the Law "On Education" in 2017.

2. At the school level, reforms are large-scale covering the transformation of both the structure and the content of school education. Besides, in the framework of the decentralisation reform in Ukraine, decentralisation in education is also taking place, i.e. a transfer of governance from the national/oblast level to the local one, i.e. rayon education authorities and/or amalgamated territorial communities⁸¹.

3. Pursuant to Art. 1 par. 2 of the Law of Ukraine "On Rehabilitation of Persons with Disabilities in Ukraine", "child with disability" is a person under 18 years of age (age of legal adulthood) with persistent impairment of body function which, in interaction with the external environment, can result in the limitation of his/her everyday activities, and as a result of which the State is required both to create the conditions necessary to enable such child to exercise his/her rights on an equal basis with other citizens and also to ensure his/her social protection.

4. The UN Convention on the Rights of the Child has been officially translated into Ukrainian language. In the translation the notion of "mentally or physically disabled child" was officially translated as "inferior/defective child"⁸². Following this official translation, many reference materials use this term.

5. The Order of Ministry of Education No 104/52 regulates inclusive education at the pre-school level. Pursuant to its provisions, admission of children to inclusive groups is carried out by the head of the preschool educational institution during the calendar year, if there are places on the basis of the application of the parents or persons who replace them, medical certificate on the state of health of the child with the conclusion that the child can attend the preschool institution, the certificate of the district doctor about the epidemiological environment, birth certificates.

81. O. Lokshyna, The Secondary Education Reform in Ukraine: Moving to the EU Standards, *Annales Universitatis Mariae Curie – Skłodowska, Lublin – Polonia*, VOL. XXXII, 1. 2019, p. 100.

82. https://zakon.rada.gov.ua/laws/show/995_021.

6. On 5 September 2017, the education reform was launched with the adoption of the Law of Ukraine "On Education"⁸³. This Law gave the parents of the pupils with special needs the right to claim for inclusive education. Upon request of parents, schools have the obligation to establish inclusive classes. Parents have the right to choose the school for their children – special one or general one.

7. Under the law "On Education", inclusive education is defined as "a system of state-guaranteed educational services based on the principles of non-discrimination, respect for human diversity, effective involvement and inclusion of all its participants in the educational process".

8. For the first time in 2017, the Ukrainian Government allocated a subsidy for inclusive education in the amount of UAH 209.4 million, and the State Budget for 2018 provided more than UAH 508 million of such a subsidy.

9. In 2014-2015, 5.000 pupils with special needs attended special classes in mainstream educational institutions, while 2.200 of them attended inclusive class-groups in secondary schools of mainstream education. The total number of children with disabilities attending mainstream educational institutions was 59.600. Out of a total of some 168.280 children having disabilities, only a minority appeared to be attending mainstream schools⁸⁴.

10. In 2017, the total number of children with disabilities attending mainstream educational institutions was 68.700⁸⁵. According to the statistics of the Ministry of Education in 2016/2017 4.000 pupils with special needs attended inclusive class-groups in secondary schools of mainstream education. In 2017/2018 the number increased up to 7.179 and according to non-official data in 2018/2019 11.914 children with special needs filed documents to be included in inclusive class-groups in secondary schools of mainstream education. As to other educational institutions – in 2017 the number of 9.447 children with disabilities attended pre-school educational institutions, which is double the number from the previous year. Apart from this, 4.828 young people with disabilities attended vocational and technical mainstream institutions and 13.216 higher ones. In 2016/2017, 71 children with Down syndrome attended inclusive class-groups in secondary schools of mainstream education, in 2017/2018 the number increased up to 146.

11. As of 2018/2019, 8.417 inclusive classes were opened in 3.790 secondary education institutions, the total number of teaching assistants in inclusive classes was 6.636. In mainstream secondary education 11.866 students attended inclusive classes and 6.230 attended special classes, while at the same year 37.887 students were in special schools and 12.115 students with special educational needs benefited from individual form of training⁸⁶.

12. In 2017-2018, 30.000 children attended **special schools**⁸⁷. As of 2018/2019 there were 325 special schools attended by 37.887 children with 9.898 teachers working in those schools. The Ministry of Education is going to take action for deinstitutionalisation of special schools.

13. In 2017 "National Strategy on the Reformation of the System for Institutional Care and Upbringing of Children for 2017-2026" was launched by the Government of Ukraine.

83. No. 2145-VIII.

84. Statistical digest "Social Protection of the Population of Ukraine" prepared by the State Statistics Service of Ukraine.

85. http://www.ukrstat.gov.ua/druk/publicat/kat_u/2018/zb/07/zb_szn_2017.pdf.

86. <https://mon.gov.ua/storage/app/media/inkluzyvne-navchannya/statistika-inklyuziya.pdf>.

87. Statistical digest "Social Protection of the Population of Ukraine" prepared by the State Statistics Service of Ukraine http://www.ukrstat.gov.ua/druk/publicat/kat_u/2018/zb/07/zb_szn_2017.pdf.

The Strategy's objective is to change the system of institutional care and upbringing of children to a system that provides for the care and upbringing of the child in the family or in the environment as close to the family as possible. It is anticipated that the goal will be achieved through the establishment of an appropriate institutional environment, including the one at the territorial community level, proper support for families with children, and formation of alternative models for placement of children to the boarding schools. The expected results are, in particular, the following:

- an increase in the number of children covered by the inclusive education every year (starting from 2018) by 30% from the total number of children with special educational needs;
- a decrease (starting from 2018) in the number of children being brought up at facilities for institutional care and upbringing of children by 10% from the number of such children as of January 1, 2018;
- annual reduction (starting from 2019) in the number of facilities providing institutional care and upbringing of children (other than special boarding schools and educational and rehabilitation centres) by 10% from the number of such facilities, and for special boarding schools and educational and rehabilitation centres – by 5% from the number of such facilities as of January 1, 2018;
- termination by 2026 of all types of facilities for institutional care and upbringing of children, giving residence to more than 15 boarders.

14. Implementation of the Strategy is planned to be carried out in three stages. At the first, preparatory stage, an appropriate institutional framework was to be established with introduction of amendments to the legislation on deinstitutionalisation; regional plans and local programmes for provision of services at the community level were to be adopted; and an appropriate environment for training and work of specialists was to be arranged, including experts on the provision of rehabilitation services for children. The second stage is the main one. During the period from 2019 to 2024, liquidation and reorganisation of residential care facilities into day-care centres, setting up a system of community-based services, and reorganisation of the boarding schools are planned. The third stage of the Strategy will assess the efficiency of its implementation and achievement of the expected results. As for the time that has passed, the implementation of the first stage has very low performance indicators (according to experts – not more than 35%) and the action plan on the second stage of implementation has not yet been approved (it should have been approved in the second quarter of 2019).

15. The law of Ukraine "On the Prevention and Combating Discrimination in Ukraine" (Article 4) prohibits discrimination on the basis of disability in education.

16. The right to **equal access to complete general secondary education** has been established in Article 9 of the law "On Complete General Secondary Education". Pursuant to the abovementioned provision, equal access to complete general secondary education shall be ensured by: defining the rules for enrolment at educational institutions; enrolment at primary schools and gymnasiums without competition, except in cases specified by law; territorial accessibility to complete general secondary education; financing educational institutions at the expense of the state and local budgets in an amount sufficient to meet state standards and licensing conditions; compliance with legal requirements regarding the accessibility of educational institutions for persons with special educational needs; teaching subjects (integrated courses) in ways that are most appropriate for persons of the appropriate

age, including by adapting/modifying the content of educational subjects (integrated courses) for persons with special educational needs; use of developmental means and methods of study that take into account the special educational needs of pupils and contribute to the successful mastery of the content of the study and development of the child; study of blind, deaf, deafblind children with the help of the languages, methods and ways of communication most appropriate for such children in an educational environment (space) that maximizes the acquisition of knowledge and social development, in particular through the use in the educational process of the Ukrainian Sign Language and/or Braille alphabet; compliance with the principles of universal design and/or reasonable accommodation according to the best interests of the child. At the same time the concept of “special educational needs” has not yet been defined in the legislation, therefore, diagnoses are used during the subvention distribution, that is, the medical model of disability still prevails.

17. Under Article 8 para 5 of the law “On Complete General Secondary Education”, school buses, including those specially equipped to transport persons with sight, hearing loss, musculoskeletal disorders and other people with reduced mobility, shall be provided by local authorities at the expense of local budgets to transport pupils and teaching staff to the educational institution (place of study, work) and back (place of residence). Transportation by other vehicles (including those with pre-determined stops) may be carried out provided that the number of pupils and teaching staff who need such transportation does not exceed 8 persons. Pursuant to Art. 8 para 2 of this law, children with special educational needs who reside in the service territory of a public educational institution shall have the right to be enrolled as a priority to receive primary and basic secondary education as prescribed the legislation.

18. In 2018, following the Law “On Complete General Secondary Education” and the Cabinet of Ministers Resolution No 545 of 12.07.2017 “On Approval of the Regulations on Inclusive-Resource Centre”, the development of **a network of inclusive-resource centres** started. Centres provide psychological and pedagogical support for children with special educational needs from 2 to 18 years old.

19. Pursuant to Article 26 of the law “On Complete General Secondary Education”, the needs of pupils with special educational needs in an individual development programme and individual curriculum shall be determined in accordance with the opinion of the Inclusive Resource Centre on a comprehensive psychological and pedagogical assessment of a child's development, taking into account the International Classification of Functioning, Disability and Health for Children and Youth. The implementation of this classification by the state is an important issue in this context. The Cabinet of Ministers of Ukraine Order No. 1008 of December 27, 2017, “On Approving the Action Plan on the Implementation of the International Classification of Functioning, Disability and Health and the International Classification of Functioning, Disability and Health of Children and Youth in Ukraine” is practically not being implemented, and so the implementation of any tasks and initiatives related to the ICF is under threat.

20. As of January 1, 2020, 603 inclusive resource centres in the regions were established.

21. The Cabinet of Ministers Resolution No 603 of 14.02.2017 approved the Procedure and Conditions for subvention from the state budget to local budgets for the provision of state support to persons with special educational needs.

22. In 2018, the subvention was directed to provision of corrective-developmental services and purchase of corrective training facilities for students enrolled in special and inclusive classes of general secondary education institutions - UAH 304.000.000; equipping of inclusive-resource centres - UAH 100.000.000⁸⁸.

23. There have been some awareness raising actions conducted with the involvement of international organisations and NGOs, still the society has a **problem with accepting children with disabilities**. Children with disabilities are still confronted with indifference, unacceptable attitudes and stereotypes based on existing prejudices, fear and distrust in their abilities. There is still a high proportion of parents who do not want their children to attend general education institutions to hide the special needs of the child. Concerns about special needs children attending general schools are expressed also by parents of other pupils who are afraid about the level of education in such classes. Even the teachers and other school staff are not free from concerns. There are cases when such anxiety develops into bullying of the child with a disability.

24. Apart from that there is still a high proportion of parents who do not want their children with disabilities to attend general education institutions and prefer them to attend special schools.

25. The organisation of vocational training in vocational education institutions is carried out in accordance with the resolution of the Cabinet of Ministers of Ukraine dated 10.07.2019 No. 636 "On Approval of the Organisation of Inclusive Education in Vocational Education Institutions". According to Article 14 of the Law "On Vocational Education" admission to the institutions of vocational education of persons with disabilities, which is not contraindicated training in the chosen direction (specialty), in the case of entrance examinations is carried out without competition.

26. Pursuant to Order No. 636, the head of a vocational education institution forms an inclusive group for the special educational needs applicants who have been admitted to training on the basis of a written request from them or one of their parents (or other legal representative), as well as a conclusion about a complex psycho-pedagogical assessment of the child's development (if any) provided by the Inclusive Resource Centre (subject to general secondary education), an individual disability rehabilitation programme. It is important that the maximum number of persons with special educational needs in one group is determined on the ground, taking into account the individual characteristics of the cognitive activity of such educational recipients, specialties, audience adaptability, etc.

27. In order to organise inclusive education in the vocational education institutions, a team of psychological and pedagogical support is created within the existing staff. The functions of this command are specified in clause 9 of Order 636.

28. The organisation of inclusive education for students with special educational needs, who simultaneously with the acquisition of vocational education qualifications receive general secondary education is carried out in accordance with the Procedure for the organisation of inclusive education in general educational institutions. This order was approved by the Cabinet of Ministers of Ukraine Resolution No. 872.

29. Vocational training is also delivered by Centres for Integrated Rehabilitation for Persons with Disabilities. The Centres are rehabilitation institutions whose purpose is to

88. YY Seventh periodic report to UN CESCR submitted by Ukraine under articles 16 and 17 of the Covenant, due in 2019 (clause 323).

implement a complex of rehabilitation activities aimed at creating conditions for the comprehensive development of persons with disabilities and/or children with disabilities and/or children under the age of three who are at risk of disability, mastering their knowledge skills, attaining and maintaining their maximum independence, physical, mental, social and professional skills in order to realise personal potential. The functions of the centres include conducting activities (provision of services), in particular in the field of vocational guidance, mastering people with disabilities, including in the workshops, identifying their opportunities for further vocational training and/or future employment. The centres are established in accordance with Articles 10 and 17 of the Law of Ukraine "On Rehabilitation of Persons with Disabilities in Ukraine".

■ 30. As to **higher education**, Article 3 para 2 of the law of Ukraine "On Higher Education" places among the principles of the state policy in the field of higher education e.g. the principle of accessibility of higher education. The state policy in the field of higher education shall be shaped and implemented, among others, through creating and providing equal conditions for access to the higher education, including ensuring additional support throughout the educational process for individuals with special educational needs, in particular, student counselling, free access to the infrastructure of the higher educational institution and through independent state support for training of specialists with special educational needs by providing them with additional support, including counselling, and creating for them a free access to the educational process, in particular by ensuring free access to the infrastructure of the higher educational institution.

■ 31. Article 62 of the abovementioned law enumerates the rights of persons attending higher educational institutions. Among them there is the right to free provision of information for education in the available formats, using technologies that provide for restrictions caused by health reasons (for persons with special educational needs); the right to protection from any form of exploitation, physical, or mental abuse and the right to special study and rehabilitation support, and free access to the infrastructure of a higher educational institution, based on their medical and social indications, in case of restrictions caused by health reasons .

■ 32. According to statistics⁸⁹ from 2.5 million students of national educational institutions of I-IV levels of accreditation, just over 10 thousand are people with special needs. In practice, this is less than 1% of the total number of people with disabilities (up to 40 years of age). Children with disabilities are included in the list of categories receiving "social scholarships".

■ 33. Some Ukrainian universities declare some specialisation in working with particular groups of people with disabilities. For example, the Kiev Polytechnic Institute declares the effectiveness of working with students with hearing impairments. The National Pedagogical University named after Drahomanov was one of the first in Ukraine to develop targeted educational programs for students with disabilities (Scientific and Methodological Centre for Education and Social Rehabilitation of Persons with Disabilities)⁹⁰.

■ 34. For a long time, there was an attempt to create even **a specialised university** that would work primarily in the field of inclusive education. It is about the Open International University for Human Development "Ukraine" which had up to 30 regional offices at different times. About 6% of students with disabilities study at the university annually, while in Ukraine - about 0.04%. The largest group among them is students with diseases of the

89. <https://invak.info/obuchenie/inklyuzivna-osvita-v-ukrayini-toj-muruye-toj-rujnuye.html>.

90. https://gazeta.ua/articles/life/_inklyuzivna-osvita-v-ukrayini-toj-muruye-toj-rujnuye/818388.

musculoskeletal system, with hearing, visual and nervous system impairments. This institution went through the conclusion of specialised cooperation agreements (and, consequently, financing) with a number of representatives of local authorities. In particular, this was the case in **Kyiv, Mykolaiv and Rivne**⁹¹. The universities that have been established provide high quality education and tuition for people with disabilities.

■ 35. In **Lviv** region a problem of a special school for children with hearing impairments was raised. The school is to be closed and children are to be moved to general schools. Parents raised the problem of lack of proper preparation of teachers and lack of equipment in general school to support their children with disabilities. Another problem that was raised in this context was the problem of great diversity of special needs that children with disabilities have – that are unwilling to be satisfied in general education institutions, in the opinion of their parents, such as e.g. fear of crowded areas, problems with the level of noise etc.

■ 36. In **Lviv** parents of children with disabilities created “Dzherelo Centre”⁹². Dzherelo is a training and rehabilitation centre that provides rehabilitation, educational, psychological and other family-centred services to children and young people with special needs. The range of services includes early intervention, counselling, day care, rehabilitation programmes, which are provided by a highly qualified interdisciplinary team of professionals in collaboration with parents. Dzherelo promotes the integration of people with special needs into society and is a model of innovative social services for children and young people with special needs. It develops and implements the latest standards of social services and is a resource centre at the regional and national levels. Since 2008, the Centre has been providing services and developing with the support of the Lviv City Council.

■ 37. In **Kyiv** the problem with getting certificates confirming a child is an orphan was raised. There was an example of over two-years procedure of acquiring them given. Local authorities stressed the fact that in the time of waiting for the certificate the child was deprived of the possibility to acquire services that one would be able to benefit from in case of having the certificate.

■ 38. In **Kyiv** although the buildings of many universities have become more accessible for people with disabilities, still in practice they are not attended by students with disabilities. The reasons for such a situation are different. First of all there is no information on the level of accessibility of particular institutions of higher education provided by the state. Secondly, problems with accessibility of city infrastructure and transport discourage young people from enrolling to universities.

■ 39. **Kharkiv NGOs** paid attention to the problem of lack of special programmes in general schools supporting the inclusiveness of children with disabilities. The programme of inclusive education was introduced, but in practice the inclusiveness finishes at the point of sole attending the classes. There is no support directed at the special needs of children with disabilities.

c) Overview of the findings with respect to the rights of persons with disabilities vis-à-vis Art. 15 § 2 ESC (employment)

■ 1. Pursuant to Art. 172 of the Labour Code, in cases provided for by law, the owner or the body authorised by him/her shall undertake to organise training, retraining and employment of persons with disabilities in accordance with medical recommendations,

91. https://gazeta.ua/articles/life/_inklyuzivna-osvita-v-ukrayini-toj-muruye-toj-rujnuye/818388.

92. <https://dzherelocentre.org.ua/en/>.

establish at their request a part-time working day or a part-time working week and create preferential working conditions.

■ 2. Persons with disabilities shall not be involved in overtime or night work without their consent (Articles 55 and 63 of the Labour Code).

■ 3. Pursuant to Art. 56 of the Labour Code, according to the agreement between the employee and the owner or body authorised by him/her, both at employment, and later on the part-time working day or part-time working week may be established. At the request of a pregnant woman, woman having a child under fourteen years old or a child with disability, including child she cares of, or woman caring of ill family member according to medical opinion, the owner or body authorised by him/her shall undertake to establish for her a part-time working day or part-time working week. At the same time, it worth mentioning that main provisions of the Labour Code with regard to work conditions for parents taking care of children with disabilities concern women (Articles 51, 56, 63, 177, 1821, 184, 185, 232) which is discriminatory to men.

■ 4. In the Labour Code there are no provisions on other – than part-time work – flexible forms of employment such as e.g. telework⁹³ or housework. The draft of new Labour Law defines these forms and sets up the regulation of these forms of employment.

■ 5. According to the Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine” (Art. 18) “The rights of persons with disabilities to work and gainful employment, including under the condition of working at home, shall be ensured by their direct address to enterprises, institutions, organisations or to the state employment service”.

■ 6. Pursuant to art. 19 of the Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine”, a standard number of jobs for employment of persons with disabilities shall be established for enterprises, institutions, organisations, including enterprises, organisations of public organisations of persons with disabilities, individuals employing hired labour, **at the rate of four percent** of the average headcount of full-time employees of recorded staff for a year, and in the amount of one job if 8 to 25 people are employed (par. 1). Enterprises, institutions, organisations, including enterprises, organisations of public organisations of persons with disabilities, individuals employing hired labour, shall independently calculate the number of jobs for employment of persons with disabilities in accordance with the standard number established by paragraph one of this Article, and provide for employment of persons with disabilities. In the calculations, the number of jobs is rounded to the integer value (par. 2).

■ 7. Under Art. 12 of the Law of Ukraine “On Labour Protection”, enterprises using the work of persons with disabilities shall undertake to create working conditions, taking into account the recommendations of the Disability Determination Service and individual rehabilitation programmes, and take additional labour safety measures corresponding to the specifics of this category of workers. In cases provided for by law, the employer shall undertake to organise training, job retraining and employment of persons with disabilities in accordance with medical recommendations. Persons with disabilities may be involved in

93. In accordance with the Law “On Amendments to Certain Legislative Acts Aimed at Providing Additional Social and Economic Guarantees in Connection with the Spread of Coronavirus Disease (COVID-2019) (№ 540-IX), Article 60 of the Labour Code has been amended. Pursuant to the amended Article 60, at the time of threat of epidemic, pandemic and (or) at the time of threat of military, man-made, natural or other nature, the condition of remote (home) work and flexible working hours may be established in the order of the owner or his authorized body, without obligatory conclusion in writing of the employment contract on remote (home) work.

overtime and night work only with their consent and provided that this does not conflict with the recommendations of the Disability Determination Service.

■ 8. Pursuant to Art. 14 of the Law of Ukraine "On Employment of Population", persons with disabilities who have not reached the retirement age established in Article 26 of the Law of Ukraine "On Compulsory State Pension Insurance" are one of the categories of individuals who have additional guarantees for assistance in job placement.

■ 9. In Ukraine, **Comprehensive Rehabilitation Centres** are responsible for providing rehabilitation services, retraining and accompanying individuals with searching for jobs, but their work in the area of support in acquiring employment is not effective. In parallel, Special State Service of Employment provides job-search support, which is more effective, but there are no special programmes or services for people with disabilities.

■ 10. In the Zhytomyrska oblast there has been a joint **pilot project** of the State Service of Employment and the Charity Fund "Stabilization Support Services"⁹⁴ introduced. The aim of the project is to test the need for and the effectiveness of a **Specialized Career Advisor for Persons with Disabilities**. The main focus of this project are unemployed former anti-terroristic operation fighters, including persons with disabilities.

■ 11. Since January 2019, the State Employment Service has launched **Career Counsellor Institutes**. In practice, they operate only in some regions. Career Advisors help the youths and the unemployed, including people with disabilities, to start and build their careers. They help to choose the necessary level and direction of further education, profession and place of work using individual and group methods that promote self-knowledge and by obtaining information about existing professions. The advisors cooperate with employers on the selection of candidates for the position, public employment services, other institutions and organisations of the labour market, educational institutions, vocational training and retraining. Furthermore, they keep records of consultants, assesses quality and monitor the effectiveness of consulting services.

■ 12. The situation of people with disabilities on the labour market is difficult. On one hand – due to the quota system – in big cities there are job vacancies for employees with disabilities for the least skilled work, on the other – people with disabilities living in small towns or in the rural area cannot find jobs. In 2019 the Boryspil Airport announced 168 vacancies at the posts of cleaners for people with disabilities. Apart from the problem with finding a job there is another one with very low level of salaries. Most employed people with disabilities get the minimum salary which is hardly enough to make a living by a non-disabled person and which is not enough to cover the increased costs evoked by disability (e.g. increased cost of medicine, equipment, special diet, special transport needs, assistance etc.).

■ 13. The situation of **pensioners with disability** is even worse. Pensions of people with disabilities are mostly the lowest due to low level of salaries paid to workers with disabilities. A lot of pensioners with disabilities receive pensions at the subsistence level and so amounting to UAH 1.638 (\$ 58). The subsistence level estimated by Ukrainian experts in fact do not reflect the minimum amount of income needed to survive and is below that level. This way, pensions at the subsistence level actually put the pensioners receiving them at risk of extreme poverty.

94. <https://en.sss-ua.org>.

14. According to the Prime Minister of Ukraine "The subsistence minimum, which is declared on paper, is not responsible for reality. Obviously, for this money a person cannot live normally, worthily.

15. Last years some biggest employers e.g. Auchan and The New Post introduced new policy of employment involving people with disabilities e.g. people with hearing impairments. The example was not followed on a bigger scale. There is no data on the results of this policy. No data on the possibility of advancing to higher or managerial posts.

16. The system of subventions to enterprises, institutions, organisations and individuals employing hired labour for the creation of special jobs for employment of persons with disabilities registered with the state employment service as unemployed or those who are looking for a job is very complex and difficult. Apart from that it excludes self-employed persons with disability who cannot get granting subvention for ensuring reasonable accommodation at their place of work.

17. The Labour Code and other provisions of labour legislation do not differentiate the situation of different people with disabilities, especially the situation of people with different categories of disability (e.g. I and III) and different nature of disability (mental and physical). As a result, unemployment and reliance on social payments is the highest among people with disability of category I and with mental disability.

18. According to the Ministry of Social Policy, as of January 1, 2018, there were 235,400 people with disabilities of working age group I in Ukraine. The level of unemployment among persons with group I disability was over 93% (II group - 80%; III group - 64%)⁹⁵. The employment issue for I group is quite acute, as it is very difficult for an employer to adapt a workplace for an employee who has severe limitations on the scope and nature of the work performed. In addition, there are restrictions imposed on Group I by the Medical and Social Expert Commission - the employer is prohibited from hiring a person with a disability who is contraindicated in the performance of certain work. The complexity is also compounded by the low mobility of this group, which is a serious challenge for the person with a disability - how to get to work or home, go to lunch, etc. However, 17,401 people from this group still work, accounting for 6.9 % of the entire category. Of these, almost 55 % of the employed are men with disabilities and over 45 % are women. It should also be noted that workers with disabilities of group I are also found among persons of retirement age.

19. Persons with group I disability are not protected even in a supported labour market. There are examples of lawsuits against the court of blind people (group I disability), who were released in 2015 from the Ukrainian Society of the Blind. One person was fired due to disagreement over significant work changes because they were offered one day a week. Otherwise, the person was fired due to the dismissal, although according to court records, the position continued to exist. Court records show that despite the dismissal of these individuals, 15 new employees were recruited to the company during the six months during the same period⁹⁶.

95. <https://www.civic-synergy.org.ua/analytics/v-ukrayini-chysel-nist-nepratsevlashtovanyh-osib-z-invalidnistyu-i-grupy-stanovyt-ponad-93/>.

96. <https://www.civic-synergy.org.ua/analytics/v-ukrayini-chysel-nist-nepratsevlashtovanyh-osib-z-invalidnistyu-i-grupy-stanovyt-ponad-93/>.

d) Overview of the findings with respect to the rights of persons with disabilities vis-à-vis Art. 15 § 3 ESC (social integration and participation in the life of the community)

1. The social protection of people with disabilities is provided under the Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine” No. 875-XII of 21 March 1991 and Decree of the President of Ukraine “On Measures Aimed at Ensuring Observance of the Rights of Persons with Disabilities” No. 553/2016 of 13 December 2016. The laws exist, but their effective application is still to be desired.

2. Pursuant to Art. 30 of the Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine” “Residential premises occupied by persons with disabilities or families the members of which they are, entrances, stairwells of houses in which persons with disabilities reside, shall be equipped with special facilities and accommodation in accordance with the individual rehabilitation program, and also with telephone communication. These residential premises shall be equipped by local self-government bodies, enterprises, institutions and organisations that supervise the housing stock. (...) In case a dwelling of a person with disability does not comply with the requirements determined by the findings of medical and social assessment, cannot be adapted to the needs of the person with disability, the dwelling may be replaced”. The state has not adopted the procedure for implementing Article 30 of the Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine”.

3. Under Article 26 of the Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine” “Enterprises, institutions and organisations shall be obliged to create conditions for the unhindered access of persons with disabilities (including persons with disabilities using means of transportation and guide dogs) to the physical surrounding facilities. Vehicle owners and manufacturers, information producer and customers (print media, television and radio broadcasting organisations, etc.), telecommunications operators and providers shall ensure the provision and production of products to meet the needs of persons with disabilities (par. 1). Physical surrounding facilities and public transport shall display signs used in international practice to indicate their accessibility for persons with disabilities (par. 2). On the physical surrounding facilities, the information published shall be duplicated in relief alphanumeric or embossed manner (Braille format) (par. 3). Numbering of floors, offices on the physical surrounding facilities shall be made in relief alphanumeric manner (par. 4).”

4. Pursuant to Article 27 of the abovementioned law “Planning and construction of settlements, formation of residential districts, designing, construction and reconstruction of physical surrounding facilities shall not be allowed without adaptations for use by persons with disabilities. This activity shall be conducted in accordance with the opinion of public organisations of persons with disabilities (par. 1). In case the existing facilities cannot be completely adapted for the needs of persons with disabilities, their reasonable accommodation shall be made taking into account the universal design in agreement with the public organisations of persons with disabilities (par. 2). These activities shall be financed by the owners (asset holders) of the facilities or lessees under the lease agreement (par. 3).”

5. Decree of the President of Ukraine No. 501/2015 “On Approval of the National Human Rights Strategy of Ukraine”⁹⁷, obliges to take measures in order to remove any restrictions of the amount of pension and other social payments to the persons with disabilities,

97. National Human Rights Strategy of Ukraine approved by the Decree of President No. 501/2015 as of 25.08.2015.

and to review their amount in order to provide for the decent standard of living (p. 72). The date to introduce the changes was the fourth quarter of 2016. The amendments to law were introduced. The Resolution of the Cabinet of Ministers of Ukraine dated 18 November 2015, No. 954 "On Amendments to the Resolution of the Cabinet of Ministers of Ukraine No. 265 of 26 March 2008" regulates the issue of pensions and state social assistance for persons with disabilities. On 03.10.2017 the Law of Ukraine No. 2148-VIII "On Amendments to Certain Legislative Acts of Ukraine Regarding the Increase of Pensions" was adopted, which modernised pensions according to the wage index. The Cabinet of Ministers Regulation (20th February 2019) No. 124 contemplates the automatic indexing of pension payment from March 2019.

6. The amount of **the pension** and the duration of payments for persons with disabilities depend on the degree of disability (group I, II, III) and the reasons for disability – if the reason is occupational disease or work injury or general illness (including non-work related injury and childhood disability). The registration, designation and payment of a pension to Ukrainians whose disability is caused by occupational disease or work injury is performed in accordance with the Law on Compulsory State Social Insurance against Industrial Accidents and Occupational Diseases that Caused Disability. For people with disabilities of the general disease of the first, second and third group, the pension payments are set up according to the provisions of Law No. 1058-IV.

7. **Disability pensions** in case of labour injury or occupational disease are assigned regardless of work experience. At the same time, for persons with disabilities of the first, second and third group of general diseases, a prerequisite for the payment of disability pension payments is the availability of differentiated social insurance periods, e.g. in case of persons with I group (aged from 32 up to 34 years old) at least 4 years of insurance period is required.

8. Persons, whose disability group is established after reaching retirement age, can only apply for a disability pension if they have 15 years of insurance. If a person does not fulfil this condition one may be entitled only to social assistance.

9. The amount of pension payments for persons with disabilities of groups I, II and III is determined in percentage according to the norms of Art. 33 of the Law "On Compulsory State Pension Insurance". The pension is paid in the following amount:

- persons with group I disabilities - 100% of the retirement pension,
- persons with group II disabilities - 90% of the retirement pension,
- persons with group III disabilities - 50% of the retirement pension.

10. The minimum disability pension is set at the subsistence level for people with disabilities (regardless of the disability group). Minimum disability pensions in 2020 are: 1.638 UAH from January 1, 1.712 UAH from July 1 and 1.769 UAH from December 1.

11. Pursuant to Art. 12 of the Law of Ukraine "On Rehabilitation of Persons with Disabilities in Ukraine", the system of rehabilitation of persons (children) with disabilities shall safeguard timely, comprehensive and continuous medical, psychological, educational, physical, occupational and social rehabilitation and rehabilitation relating to employment, sport and physical training, aimed at enabling persons (children) with disabilities to reach the best possible physical, intellectual, mental and social level of their everyday activity.

12. **Rehabilitation services** are often inaccessible for people with disabilities, especially residing in rural areas. Institutions providing such services are uneven across the country. In some regions of Ukraine there are several different institutions of different subordination, in other regions there is no any.

13. On December 29, 2018, new state **building standards** (DBN) for mandatory barrier-free space in Ukraine for groups with reduced mobility were published, namely DBN B.2.2-40: 2018 "Buildings and Structures. Inclusivity of buildings and structures. Substantive provisions". The regulations officially came into force on April 1, 2019.

14. According to the new standards, all buildings and structures in Ukraine, as well as the necessary infrastructure, have to be designed with accessibility elements in mind. The obligation to arrange barrier-free elements has been strengthened, and all the necessary technical specifications and specific examples of such implementation have been provided. In particular, regarding design:

- ramps, special lifts and other means of accessibility for people with musculoskeletal impairments;
- tactile and visual accessibility features: tactile floor tiles, spread sheets and Braille, audio indicators for the visually impaired;
- other visual information, duplication of important audio information by texts, organisation of translation, use of audio amplification systems for people with hearing impairments and other important changes.

15. Pursuant to the provisions of the new Building Code, the owner of the building is responsible to provide its accessibility. The monitoring procedure has not been effectively established.

16. There is a system of **license given to banks and pharmacies**. The license is given only to those institutions which are accessible for people with disabilities. In practice there is often a conflict between the bank or the pharmacy owner on one side and the tenant of the building on the other in which the bank or the pharmacy is located. In some cases, adjusting the building to the needs of people with disabilities is very costly or even not possible.

17. As to pharmacies - according to paragraph 165 of the Licensing Conditions for conducting business activities in the production of medicines, wholesale and retail trade of medicines, import of medicines, approved by CMU Resolution No. 929 of November 30, 2016, "licensee, which conducts retail activities of medicines, creates the necessary conditions for accessibility of persons with disabilities and other groups of population with reduced mobility to premises in accordance with state building norms and standards". The basis for the conclusion about the accessibility of persons with disabilities and other small-mobile population groups to the premises of drugstores in accordance with state building standards may be the documentary confirmation of a specialist in technical examination of buildings and structures (expert) who has an appropriate qualification certificate.

18. As to banks – Par. 149 of the Order of the National Bank of Ukraine of 22.12.2018 No 149 "On approval of the Regulation on licensing of banks" requires all banks to make premises where they serve customers accessible to low-mobility groups⁹⁸. With the entry into force of this Licensing Regulation, all banks must make the premises where they serve customers accessible to low-mobility groups of the population:

98. <https://zakon.rada.gov.ua/laws/show/v0149500-18>.

- ▶ **during 2019** - at least 50% of all premises in Kyiv and cities with a population of more than 300 thousand people and at least 30% of all premises located in other settlements;
- ▶ **throughout 2020** - all premises in Kyiv and cities with a population of more than 300 thousand people;
- ▶ **throughout 2021** - all premises located in all settlements.

19. In practise **not all public utility buildings are accessible** for people with disabilities e.g. court buildings. A recent survey of court visitors' satisfaction with certain aspects of the court's "public reporting card" methodology within the court's evaluation system has also shown that one of the biggest problems is lack of court for people with disabilities and low-mobility groups. The study covered Poltava, Kharkiv and Chernivtsi regions⁹⁹.

20. The situation in the regions is differentiated, in bigger cities, including capital the reconstruction of buildings and infrastructure to adjust them to the needs of people with disabilities and the purchase of new means transport are at least partially underway. In smaller towns and in the rural area the situation is much worse.

21. Public transport, including school buses, remains a problem. Especially the transport of children with differentiated disabilities from rural areas to educational institutions seems to be a challenge. Where public transport is partly accessible for people with disabilities, there is often no proper information on its routes and timetables. In Lviv the most pending issue concerning people with disabilities that was raised was the problem of inaccessibility of the city infrastructure. The buildings in the city are mostly old, there is a problem with public transport, pavements etc. Local authorities, with the support of NGOs, conducted a needs assessment mission during which the priority list was established and buildings were qualified as intended for rebuilding – installing ramps, lifts, escalators. Thanks to this program part of the sidewalks and pavements have been lowered. Apart from that, there is an on-going process of sound equipment being installed at the crossings and stations. The process is slow due to insufficient financial resources.

22. Lviv has 300 means of public transport adjusted to the needs of people with disabilities, more new buses and trams with ramps are planned to be bought. In case of any reconstruction of the infrastructure (e.g. of pavements) there is always accessibility taken into consideration (e.g. special protuberant signs on the edges of pavements are used to help visually impaired people).

23. **Urban Accessibility Committee**¹⁰⁰ was established by the Lviv City Council to support local authorities in all the activities connected with conditions of life of people with disabilities. The Committee is an advisory body that promotes the implementation of the state policy on the accessibility of housing and community facilities, as well as information and services necessary for persons with disabilities for the purpose of guaranteeing equal rights and opportunities for all citizens. The Committee consists of members of NGOs representing groups of people with different impairments. It is a platform of discussion and cooperation among representatives of different NGOs and the City Council. The Committee is very active, it decides on its activities, visits different locations and checks their accessibility from the point of view of people with disabilities, monitoring of performed activities is also conducted.

99. <https://ldn.org.ua/event/ohlyad-rezultativ-analitychnoho-doslidzhennya-prozorosti-ta-dostupnosti-sudiv-poltavskoji-harkivskoji-ta-chernivetskoji-oblastej-cherez-otsinku-vidviduvachamy-sudu/>.

100. <https://city-adm.lviv.ua/lmr/komitety/komitet-z-dostupnosti-miskoho-seredovyshcha-u-mlvovi>.

■ 24. On 8th November 2018 **the Lviv City Council** adopted Resolution No. 4155 “On adopting the Programme for accessibility of residential premises for persons with disabilities using wheelchairs and persons with disabilities of Group 1 visual impairments”. The purpose of the Programme is to facilitate mobility of persons with disabilities and ease their access to residential facilities by creating for these persons the environment of accessibility to their residences, developing their living space and the infrastructure around their homes. The Programme is intended to gradually create conditions for the persons’ with disabilities free access to the residential facilities where they live, involvement of the persons with disabilities in socially active life.

■ 25. To help the owners of the buildings fulfill their obligation under the Building Rules (the owner of the building is responsible to provide its accessibility), **The Lviv City Council** helps in the process of building and provides help with documents.

■ 26. **The Lviv City Council** has launched a programme of swapping homes. People who want to exchange their homes are listed and the City Council helps them to find a house or flat which suits their needs better. Representatives of the City Council offer help in negotiations, with legal services, give advice what process to follow, search for available people who want to change housing. Unfortunately, the programme is not effective in practice. During the time of 2 years only 5 persons took part in the programme and wanted to change housing, living space.

■ 27. **Institutions of the Lviv City Council** provide services of early intervention – from birth to adulthood, there are several locations in the city for people not being demanded to travel. Still the demand for services exceeds their possibilities.

■ 28. Early intervention centres provide children with disabilities with needed equipment. The demand for equipment exceeds the supply. The quality of free or cheap wheelchairs is relatively low, the high quality wheelchairs are very expensive. Apart from delivering the equipment, the centres provide families with needed help, including psychological one. According to information provided by the Lviv City Council in 2017 around 60 % of families who gave birth to a child with disability would have got divorced, in 2020 the percentage is much lower, opposite thanks to early intervention centers, families reunite.

■ 29. Rehabilitation centres for people with disability provide opportunity to retrain. Person with disability can choose from 32 professions and get practical skills. Trainees are provided with apprenticeship, after completing the apprenticeship they can apply for regular job. During 2019 over 200 people with disabilities were served with trainings. According to the law, rehabilitation centres shall monitor their employment for a year from the date of completion of vocational training, however, this law is not followed in practise.

■ 30. Rehabilitation centres, social services are understaffed with employees; qualified professionals who graduate from universities in the field of social services and rehabilitation, after completing 6 months of compulsory internships, often change jobs because of very low, non-competitive (lowered to minimal) wages and switch to other, higher-paid jobs.

■ 31. **In Kyiv** the problem of contracts with doctors was raised. There are no special provisions considering people with disabilities, no obligation for doctors to sign contracts with people with disabilities. As a result, doctors prefer people without disabilities as

patients if they have a choice. Part of people with disabilities have problem finding a doctor.

■ 32. Another problem mentioned by the representatives of Kyiv City State Administration was the problem in introducing deinstitutionalisation. There are a few institutions that are to be closed by 2026 but issues with their subsequent reintegration have not been resolved.

■ 33. **In Kyiv** some pavements are accessible for people with disabilities, while bordering roads are not and the opposite. There is no cooperation in this field of the city municipalities, who are responsible for the pavements and the state authorities who are responsible for the roads. They are not modernised at the same time. There are places in which the pavement is lowered and adjusted to the needs of people with disabilities but the road is not and the opposite. There is no communication to proceed modernisation in parallel.

■ 34. According to the representatives of Kyiv City State Administration all the public buses in Kyiv are lower than standard buses. Bus shelters and the whole system of metro is mostly inaccessible for people with disabilities. NGOs insist on change in this situation. Currently there is an on-going process of adjusting city infrastructure to the needs of people with visual impairments: traffic lights and zebra crossings have sound alarm installed. There is special equipment installed on the bus shelters. Still metro is visually impaired unfriendly, the exits are often directly on the street, there are no barriers installed.

■ 35. **In Kyiv** there was a needs assessment mission conducted in the form of polling, another one is currently being planned. The aim of the survey was to establish the most pending issues that should be dealt with from the perspective of people with disabilities.

■ 36. **In Kharkiv** there was a problem raised with execution of free public transport that should be available for people with disabilities as a privilege given by the state law. Local authorities in Kharkiv, who handle the financial responsibility, made free public transport conditional on registration in the City Register for persons with disabilities. Those who are not registered cannot benefit from free public transport although it is due under national regulations.

■ 37. **In Kharkiv** there are only 2 early intervention centres which, in the opinion of NGOs, cover only 10 % of those who need them. Centres deliver services for children from birth to 4 years old, the last year is the year of preparation for the nursery. Apart from that, centres provide expertise and training to the staff of the nursery.

■ 38. **Kharkiv NGOs** paid attention to ineffectiveness of the early intervention system in case of children needing multifaceted interventions. In such cases different problems should be dealt with from different perspectives and so under the responsibility of different Ministries. Ministries do not cooperate and do not have any system of complex support.

■ 39. Another problem that was raised by **Kharkiv NGOs** was social exclusion of people with hearing impairments, especially deaf people and lack of use of procedures, including even lack of use of sign language in public places. NGOs gave an example of a deaf person who could not get the ID card as there was no procedure of acquiring IDs prepared for deaf people not using sign language.

40. Another issue stressed by **Kharkiv NGOs** was availability of court proceedings in practice. People with disability of category I and II are exempt from court fees, others (including category III) cover the costs on regular basis. This does not preclude that they are obliged to pay the fees, as they might be exempt from paying as low-income people. In addition, persons with disabilities have the benefit of access to the free legal aid, which should improve their access to justice. However, still people with disabilities find the assistance that is provided not sufficient. The conditions created by legal acts do not fully operate in practice, people are convinced there is no support or assistance for them.

41. **In Kharkiv** there are only 2 qualified translators of sign language which is not enough to meet the high demand for their services. Those two translators are needed everywhere – in medical care, in court, in local municipality offices. The City Council wishing to make sign language popular encourages to train sign language. Sign language teachers are offered a set of benefits e.g. 50% reduction for public transport.

42. **Kharkiv NGOs** paid attention to inmates with disabilities whose situation is much worse than prisoners without disabilities. There is no effective monitoring procedure of their situation. There was an example given of a woman with hearing impairment who spent in prison 1,5 year without the possibility to communicate or an example of a man whose private crutches were taken away as a punishment.

43. **Kharkiv NGOs** stressed also lack of involvement of people with disabilities into initiatives that directed at them and lack of communication with people with disabilities leading to uselessness of some services or goods prepared especially for them. There was an example given of a comic book produced for blind people without the involvement of the representatives of any NGO advocating for the rights of people with visual impairments. The comic book was published but blind people for whom it was produced did not know about it and so could not make use of it.

44. **In Kharkiv** a special taxi service “INVA” for people with disabilities was established. It also serves as a school bus. This social transport service is provided to residents of the city of Kharkiv - people with disabilities of groups I and II, as well as children with disabilities over the age of 5 years with damage to the musculoskeletal system. Transportation is carried out on specialised minibuses equipped with lifts. The service works on the principle of a regular taxi: from the entrance of the client’s house to the destination. Delivery is carried out around the city to various social, medical, administrative institutions (clinics, district administrations, territorial centres, stations and others). The service is provided for free - 6 trips per month and is financed from the city budget.

45. **In Kharkiv** there is only one communal rehabilitation centre, there are no territorial centres. The conditions in the centre are good, but as the population of the city is over 1.000.0000 the demand exceeds its capacity. Because of the vast area of the city some people have around 1,5 hours to get to the centre.

Conclusions

1. Ukraine still needs efforts to adjust its legal system and practice to the standards of the Council of Europe, especially demanded under the European Social Charter. Although over the last few years a lot of work has been done, especially in terms of legal frameworks, there are still areas in which the situation in Ukraine does not comply with the European standards and obligations undertaken under the European Social Charter are not fulfilled. The reforms which have been introduced through the last few years have been going at a fast pace, and it is necessary to monitor their effects.

2. Within the field of social rights, one of the areas most needing further efforts is the area of the rights of persons with disabilities, in which Ukrainian regulations do not fully meet European requirements and the exercise in practice of these rights is even farther from European standards.

3. The level of awareness of the rights of people with disabilities provided under the European Social Charter and awareness about the Charter itself are very low, not only among the members of society, but also among representatives of professions involved in social matters. Even the judges and lawyers do not seem to be familiar with the Charter and do not turn to its provisions in court judgments and statements of cases. The case law of the European Committee of Social Rights is not known either.

4. The situation in Ukraine has not changed since the last Conclusions of the ECSR (on Art. 15 ESC) and still seems to be not in conformity with Art. 15 § 1 of the Charter on the grounds that the right of persons with disabilities to mainstream education has not been effectively guaranteed. Although significant increase in the percentage of children attending general schools can be noticed, still **only a minority appears to be attending mainstream schools.**

5. The situation in Ukraine has not changed since the last Conclusions of the ECSR (on Art. 15 ESC) and still seems to be not in conformity with Art. 15 § 2 of the Charter on the grounds that the reasonable accommodation obligation is not effectively respected and that mainstreaming in employment is not effectively guaranteed in respect of persons with disabilities.

6. The situation in Ukraine has improved since the last Conclusions of the ECSR (on Art. 15 ESC) but still seems to be not in conformity with Art. 15 § 3 of the Charter. Although **anti-discrimination legislation now covers the fields of housing, transport and communications it cannot be stated that in the enumerated areas the law has been effectively applied due to gaps in some laws, inconsistency of laws among themselves and lack of an effective system of sanctions.**

Recommendations

GENERAL

1. Activities that should be taken to adjust the situation in Ukraine in the area of protection of rights of people with disabilities to the standards of the Council of Europe, especially demanded under Art. 15 of the European Social Charter, should go into two directions: changes in law and changes in practice to bring the reality into line with the legal standards.

2. Five cross-cutting issues should be taken into consideration by all the state authorities and institutions in all spheres of functioning – in the legislative process, policies, activities and all other areas of life to improve the lives of persons with disabilities. These cross-cutting issues are: **participation, co-operation and co-ordination; universal design and reasonable accommodation; gender equality perspective; multiple discrimination; education and training.**

3. **In the area of changes in the legal system** the work on adjusting the standards of protection to the European ones should be continued and those shortcomings which still exist should be eliminated – wherever possible – in the process of amending existing regulations. New laws should be introduced in those areas where existing acts do not cover the issues that need regulation.

4. To achieve the goal of equality, independent living, full inclusion in the society and equal enjoyment of human rights for persons with disabilities in practice, establishing proper laws is the first and essential but not the only step to be taken. Providing sufficient and clear regulations on implementation of the laws should be provided concurrently. Furthermore, the rights to be effective in practice should be followed by sanctions in case of violation. Provisions in that area should be clear. Moreover, there should be monitoring mechanisms established to provide control in the process of implementation of the regulations. Again provisions in this area must be clear.

5. **In the area of practice** there is even more that can and should be done to adjust the standards of protection of rights of people with disabilities in Ukraine to the European ones. The most important objective should be **ensuring compliance of practice with the law**, which can be done by **raising awareness and knowledge about the protection of rights, assuring the enforcement of court judgments and decisions, promoting dialogue and monitoring the area of social protection** regularly.

6. To achieve the goal of equality, independent living, full inclusion in the society and equal enjoyment of human rights for persons with disabilities in practise **cooperation among different authorities – especially between the Legislative (Verkhovna Rada), the Executive (the Government) and the President and among different Ministries and among Ministries and regional authorities** is essential to provide proper standards of law and effective implementation of the law in practice. Proper cooperation will strengthen the ability to raise the level of inclusion of people with disabilities in the society and prevent situations in which efforts of one institution are wasted by parallel inaction of another.

7. Cooperation among different Ministries and among Ministries and regional authorities should be especially strong in those areas where their competence meet or overlap. Bad examples – such as the one with pavements and roads being in responsibility of different authorities which do not cooperate should be eliminated.

8. **Raising awareness and knowledge** about the rights of people with disabilities should be done **at all levels and among different groups of people**. In order to achieve this goal it is advisable to organise awareness rising and communication campaigns (in media and other means). **Trainings for representatives of professions** involved in social protection matters and cooperating with people with disabilities and candidates for these professions (lawyers and judges, teachers, social workers, employees of public institutions, etc.) should be one of the priorities.

9. **The Council of Europe’s awareness raising instruments can be used** e.g. The Council of Europe study on Awareness Raising for Persons with Disabilities¹⁰¹.

10. It is advisable to implement **the Council Of Europe Disability Strategy 2017-2023**¹⁰² up to the highest possible level.

SPECIFIC RECOMMENDATIONS UNDER ARTICLE 15 ESC

1. It is advisable **to increase and effectively use the involvement of civil society representatives in the process of law-making**. The minimum standard – from the point of view of the rights of people with disabilities - should be involvement in the form of consulting draft laws in the area of social rights – following the rule “Nothing for us without us”. In case of acts concerning labour relations, social partners should also be involved in the process. Article 7 para 3 of the law “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine” should be more effectively used in practice.

2. **Legal definitions of the terms “disability” and “person with disability”** and their understanding in practise should be adjusted to the standards of the Council of Europe based on the standards endorsed by the WHO in its International Classification of Functioning (ICF, 2001). For the time being, definitions of disability and persons with disability are focusing, in the Ukrainian legal system, on a medical approach and on impairments of an individual . It is advisable to consider changing those definitions into definitions offered by the ICF focusing on the barriers that people with disabilities face. Disability is a complex phenomena that is both a problem at the level of a person's body and a complex and primarily social phenomena and must be seen as an interaction between features of the person and features of the overall context in which the person lives.

101. Available at: <https://rm.coe.int/final-study-awareness-raising/168072b421>.

102. Council of Europe, Human Rights: A Reality For All, Council of Europe Disability Strategy 2017-2023, available at: <https://rm.coe.int/16806fe7d4>.

3. It is advisable to consider **reviewing the Law of Ukraine “On the Prevention and Combating Discrimination in Ukraine”**, especially its Art. 15 and 16 establishing sanctions for violation of anti-discrimination provisions. It shall be made clear that violations of the Law bear liability first of all under civil and administrative proceedings. Some ideas incorporated in draft of law No. 0931 might be of use during future legislative work.

4. In the process of legislative work on the Law of Ukraine “On the Prevention and Combating Discrimination in Ukraine” the conclusions incorporated in the Declaration of Principles on Equality¹⁰³ might be used. The Declaration is a document of international best practice on equality. It was drafted and adopted in 2008 by 128 prominent human rights and equality advocates and experts, and has been described as “the current international understanding of principles on equality”¹⁰⁴. It has also been endorsed by the Parliamentary Assembly of the Council of Europe¹⁰⁵ and has informed the development of anti-discrimination legislation in countries as diverse as Albania, Australia, the Czech Republic and Kenya¹⁰⁶.

5. The provisions establishing civil responsibility for violation of prohibition of discrimination included in the Law of Ukraine “On the Prevention and Combating Discrimination in Ukraine” shall be revised. Sanctions for breach of the right to equality must be effective, proportionate and dissuasive. Provisions shall provide for remedies which are effective, proportionate and dissuasive. In addition to compensation, such sanctions and remedies should include, as a minimum, the elimination of discriminatory practices; public apologies, public memorials, guarantees of non-repetition; and the implementation of structural, institutional, organisational, or policy change.

6. It is advisable to consider adding provisions establishing such liability in other laws e.g. the law “On Education”, the law “On Social Services” etc.

7. It is advisable to **consider amendments of Article 161 of the Criminal Code** aimed at changing the corpus delicti under this Article. And pay more attention to establishing sanctions for discrimination through the mechanisms of the Civil Code and the Code of Administrative Offenses.

8. **Administrative sanctions** for violations of the provisions of the Law of Ukraine “On the Principles of Preventing and Combating Discrimination in Ukraine” shall be established, taking into account the obligations assumed under Art. 16 of the Law of Ukraine “On the Principles of Preventing and Combating Discrimination in Ukraine”.

9. Relevant areas of the **Ukrainian legislation should be reviewed in the light of the Law of Ukraine “On the Prevention and Combating Discrimination in Ukraine”** to identify conflicts between applicable laws and anti-discrimination legislation and in order to identify the provisions that lead to indirect discrimination.

10. **Reviewing the Code of Civil Procedure**, in the light of the Council of Europe standards, is needed, especially Art. 81 of the Civil Procedural Code should be changed in such a way to establish shared/reversed burden of proof where a claimant is obliged to

103. Declaration of Principles on Equality, The Equal Rights Trust, London, 2008.

104. Naz Foundation v Government of NCT of Delhi and Others WP(C) No. 7455/2001, Para 93.

105. Parliamentary Assembly of the Council of Europe, Resolution and Recommendation: The Declaration of Principles on Equality and activities of the Council of Europe, REC 1986 (2011), 25 November 2011, available at: http://assembly.coe.int/ASP/Doc/ATListingDetails_E.asp?ATID=11380.

106. See more in: The Equal Rights Trust, Law of Ukraine “On Principles of Prevention and Combating Discrimination in Ukraine”. Legal Analysis, October 2013, p. 35 - 38; available at: [https://www.equalrightstrust.org/ertdocumentbank/ERT%20Legal%20Analysis%20of%20Anti-Discrimination%20Legislation%20in%20Ukraine%20\(English\).pdf](https://www.equalrightstrust.org/ertdocumentbank/ERT%20Legal%20Analysis%20of%20Anti-Discrimination%20Legislation%20in%20Ukraine%20(English).pdf).

establish the facts from which **it may be presumed** that discrimination may have occurred, then the burden of proof falls on the defendant to prove otherwise.

■ 11. It is advisable to improve the provisions of the legislation relating to the examination of draft regulatory legal acts for the absence of discriminatory provisions and the analysis of existing legislation to identify cases of indirect discrimination in the legislative provisions, including the development of criteria and explanations for such an examination of draft regulatory legal acts.

■ 12. It is advisable to **work on the reputation of the judiciary** – which for the time being is seen as inefficient, unfriendly and unreliable. People with disabilities in court proceedings should be provided with the support and assistance needed taken into consideration their disability. What is very important, they should be provided with proper knowledge on their rights and the way they can be executed. It is advisable to prepare some kind of a manual in this area that will be distributed to all interested (including judges, court employees, lawyers, NGOs and people with disabilities) in the format accessible to all people with different disabilities (including sign language, easy-read format, Braille). There is huge effort needed to be taken to reduce the time of proceedings.

■ 13. **Information and communication** provided in all areas of life must be accessible for all people with different disabilities, especially huge work should be done to make them accessible for people with hearing and visual impairments. The step that should be taken to adjust the situation in this area to the European standards is the recognition of the sign language as the official one.

■ 14. Since ignorance and stereotyping are one of the major causes of the marginalisation of persons with disabilities in Ukraine **awareness raising is key to ensuring the inclusion of persons with disabilities in society and communities**. Therefore strong and well-targeted awareness-raising actions in the society at large are needed to eliminate historically grown stereotypes about persons with disabilities, especially **children, women and people with mental disabilities** and to highlight the importance of inclusive environment and its positive effects both on persons with disability and on society.

■ 15. **Trainings for representatives of professions** involved in social protection matters and cooperating with people with disabilities and candidates for these professions (lawyers and judges, teachers, social workers, employees of public institutions, police officers etc.) should be one of the priorities. In the process of training, special attention should be paid to proper use of existing programs and measures (e.g. HELP Courses¹⁰⁷ **“Rights of Persons with Disabilities”**, **“Anti-discrimination”**, **“Business and Human Rights”**, **“Family Law and Human Rights”** and **“Labour Rights as Human Rights”**) and acquisition of new ones. New measures should include providing the representatives of professions involved in social protection matters with different kinds of courses **promoting the standards of the European Social Charter and the case law of the European Committee of Social Rights** and with different kinds of publications that show the practice and experiences of other countries (both positive and negative) in the area of rights of people with disabilities. Training courses for police should include topics on the rules of treatment or an algorithm for working with detainees with disabilities.

107. <http://help.elearning.ext.coe.int/course/index.php?categoryid=356>.

16. It is advisable to add into the curriculum for law students – if not more, as a non-obligatory subject – **social rights from a Council of Europe perspective, especially the European Social Charter, including training on Art. 15 ESC.**

17. Independent living, full inclusion in the society and equal enjoyment of human rights for persons with disabilities can be achieved only with active participation of the main beneficiaries – people with disabilities themselves. As **the level of the awareness is relatively low among part of people with disabilities**, the awareness raising campaign is needed also for them. The campaign should help people with disabilities understand their possibilities, show the ways they can use them and make them realise the support they can be provided with. As aimed at people with differentiated disabilities – the campaign should be multi-layered, prepared and distributed with active involvement of NGOs advocating for people with different disabilities. The campaign must be accessible for people with all disabilities, e.g. there must be sign language version, version for people with hearing impairments etc. It should be widely announced – not only in the biggest cities but especially among people living in smaller towns and in the rural areas. Such activities should result in understanding and strong motivation of people with disabilities to become fully involved in all the areas of life.

18. It is advisable to consider **reviewing the system of medical tests** that people must obligatory undergo to confirm their status of a person with disability. The system should be adjusted to different kinds of disabilities and should assure maximum respect for the dignity of each person undergoing it. The frequency of undergoing the tests should be adjusted to individual situation of a person, in case of severe permanent disabilities it is advisable to introduce the possibility to get the status of a person with disability for an indefinite time. The possibility to acquire the duplicate of a document confirming the status of disability, in case of losing it, should also be considered. The process should be as fast as possible.

19. **Detailed, reliable data** on the number of people with disabilities should be gathered and made available for the use of authorities, institutions and the society. The statistics should involve all people with disabilities and include separate data on the number of different categories of disability including physical, sensory and mental disability and division according to residence place (town/village), family status, age, sex etc.

20. The problem of undocumented people should be dealt with. A **simple and reasonably expedited procedure should be in place allowing people to obtain personal identification documents so as to prevent** the loss of rights, e.g. childbirth benefit. The duration of the relevant cases at the courts should be reported and monitored.

21. The issue of uneven development of the regions should be confronted and solutions should be suggested. It is advisable to provide capacity enhancement activities (including trainings) **to local authorities to develop their knowledge and understanding of social rights guaranteed under the European Social Charter – including under Article 15 ESC.**

22. Equal conditions for access to state financial support shall be ensured for all organisations of people with disabilities.

SPECIFIC RECOMMENDATIONS UNDER ARTICLE 15 § 1 ESC

1. Legal definition of the term “child with disability” and its understanding in practice should be adjusted to the standards of the Council of Europe based on the standards endorsed by the WHO in its International Classification of Functioning (ICF, 2001). It is advisable to consider the change of the definition focusing, for the time being, on impairments of an individual rather than on the barriers that he/she faces.

2. It is advisable to consider amending the official translation into Ukrainian language of the UN Convention on the Rights of the Child and replacing the notion of “inferior/defective child” with the proper one of “mentally or physically disabled child”. Consequently, the reference materials should also be adjusted.

3. The role of **early intervention centres** should be clearly recognised and their scope of competence and duties should be clearly regulated. It is advisable to strengthen the support provided to parents of children with disabilities by the centres. As soon as disability is assessed the parents should get a road map providing them with information on who can help, where they should go, what benefits they are eligible to. The parents should know what doctor they can visit, what school the child can go. Internet sources can be used to distribute needed information.

4. Changes in the education system must be continued. **The number of children with disabilities attending inclusive classes in general schools should be increased.** At the same time the number of children in special schools should be reduced with the effect of increasing the level of service provided in special schools.

5. It is advisable to continue the process of introduction of the program of inclusive education. The inclusiveness cannot finish at the point of sole attending the classes, there should be support directed at the special needs of children with disabilities and special programmes should be introduced to make the education process effective.

6. The potential of special schools for children with different (e.g. hearing) impairments that are being closed should not be wasted. Highly qualified teachers employed by such schools might be used as trainers for general school teachers.

7. Parents of children with disabilities should be provided with comprehensive information on services and support that the child will be provided in general school to reduce their fear against new and not-known.

8. There should be special measures (**positive action**) introduced to enable adolescents with disability attend university. Making the buildings accessible for students with disabilities should be the first but not the only step to be taken. Next step should be offering differentiated support depending on the needs and the funds available. Introducing the system of quota and the system of special financial support is worth considering. Surveys may be conducted to establish special measures used by another countries (codes of good practices).

9. Awareness-raising action in the society at large is needed to eliminate historically grown stereotypes about persons with disabilities, and especially children, and to highlight

the importance of inclusive education and its positive effects both on children with special educational needs and on society.

■ 10. Further **training of teachers is needed** to reduce the fears connected with teaching children with special educational needs and provide teachers with well-established theoretical and practical knowledge enabling them to work effectively with children with disabilities.

■ 11. **The right to education must be effectively guaranteed for all children from the temporarily occupied and uncontrolled territories of Ukraine. Special attention should be paid to children with disabilities.** Home-schooling where exams can be taken without attending classes at school, home lessons and patronage, where the teachers go to the place where the pupil lives should be effectively guaranteed for all these children. To assure the effectiveness of home-schooling in practice, a reporting system should be introduced to monitor the situation and the real effects of this form of education.

■ 12. The **code of good practice on key aspects of disability at schools** should be prepared (both in paper and online) and should be distributed among the teachers, social workers and representatives of the local authorities. The code should be intended to help teachers and pupils/students understand their rights and obligations, promote certainty and reduce disputes to ensure that people with disabilities can enjoy and exercise their rights at all levels of education.

■ 13. It is advisable to create **supporting strategies for children who are leaving institutional care facilities**. They should be well informed about their rights and opportunities.

■ 14. **Strategies to provide proper vocational training to persons with disabilities and create work places** for them should be developed. Dialogue between social partners should be encouraged in order to reach the highest possible number of workplaces for persons with disabilities.

■ 15. The problem of persons with **mental disorders must be confronted**. There should be proper vocational training provided for persons with mental disability wherever possible to reduce the number of people totally depended on social assistance. There should be campaign prepared for employers to make them realise the real potential of persons with mental disabilities. Vocational training programmes should respond the demands of the labour market.

SPECIFIC RECOMMENDATIONS UNDER ARTICLE 15 § 2 ESC

■ 1. **Reviewing the Labour Code** in the light of the Council of Europe standards is needed. In order to guarantee compliance with the principle of equal treatment (Art. E ESC) and the right to independence, social integration and participation in the life of the community (Art. 15 ESC) in relation to persons with disabilities, **reasonable accommodation shall be provided**. This means that employers shall be obliged to take appropriate measures, where needed in a particular case, to enable a person with a disability to have access to, participate in, or advance in employment, or to undergo training, unless such measures would impose a disproportionate burden on the employer. This burden shall not be disproportionate when it is sufficiently remedied by measures existing within the framework of the disability policy of the country.

2. In order to assure the mainstreaming in employment introducing **flexible forms of employment** might be considered – e.g. telework and housework. Introduction of temporary work agencies can also be considered.

3. **The change in functioning of the system of quotas** for employees with disabilities should be considered. The system of fines paid in case of violation of the required percentage of employees with disabilities should be reviewed in such a way to ascertain the use of money paid in case of violation of the system of quotas for advocating for employees with disabilities. Creating a special Fund can be considered as an institution that will be involved in the area of rights of people with disabilities – Polish regulation can be used as an example (Vocational Rehabilitation and Employment of Persons with Disabilities Act, 27.08.1997 with amendments).

4. The topic of **harassment** – to which people with disabilities may be especially exposed to - should be raised in legislative work, especially with regard to counteracting psychological and/or economic pressure, harassment, creating intolerable conditions in order to bring the employee to dismissal or the occurrence of other adverse consequences for the employee.

5. The **code of good practice on key aspects of disability in the workplace** should be prepared (both in paper and online) and distributed among the employers, social workers and representatives of the local authorities. The code should be intended to help employers and employees understand their rights and obligations, promote certainty and reduce disputes to ensure that people with disabilities can enjoy and exercise their rights at work. The content of the code should include at least: legal framework; definition of persons with disabilities.

6. It is advisable to establish some kind of cooperation between Comprehensive Rehabilitation Centres and Special State Service of Employment to provide people with disabilities with needed effective job-search support.

7. **Awareness-raising action among the employers** at large is needed to eliminate historically grown stereotypes about persons with disabilities, especially on the labour market, and to highlight the importance of inclusive employment and its positive effects both on person with disabilities and on society. More positive actions are needed in this area, employers should be well informed about the potential of persons with disabilities and encouraged to use it. A kind of national programme might be of use in this area, employers who participate in the programme should be given some benefits.

8. The example of employers who have already decided to introduce the policy of employment for people with disabilities (e.g. Auchan and The New Post) should be promoted. There should be some kind of data collection on the results of this policy. The possibility of advancing people with disabilities to higher or managerial posts should be suggested.

9. The possibilities of people with disabilities that can be used on the labour market should be advocated especially in smaller towns and in the rural areas, where the unemployment of people with disabilities is the highest.

10. It is advisable to create strategies directed at increasing the **minimum level of pensions above the subsistence minimum**.

SPECIFIC RECOMMENDATIONS UNDER ARTICLE 15 § 3 ESC

1. The **shortcomings of regulation of the new system of social services** should be addressed. Regulations implementing the law establishing the system should be clear and detailed. City Councils should be provided with all the necessary information and support in implementing the law. Clear rules on establishing and functioning of the register for the service providers and the service receivers should be set up, including clear, understandable eligibility criteria. Well-functioning register will enable proper control and distribution of services.

2. The system of medical tests that people must obligatory undergo to confirm their status of a person with disability should be modified in such a way to respect the dignity of persons with disabilities up to the highest level possible. Modifications should go into such a direction to differentiate situation of people with different disabilities. The obligation to go through medical tests should be limited at least in case of people with severe permanent disabilities e.g. without a leg or legs, with hearing and visual impairments etc.

3. It is highly advisable to adjust the system of information and communication to the needs of people with disabilities, with special attention being paid to people with hearing and visual impairments. Sign language should be promoted, its learning should be available at schools, universities, pre-school and other state institutions e.g. providing education for adolescents. There should be possibility to use sign language in public institutions and other public utility places. Training for the translators of sign language is needed.

4. **Codes of good practice on key aspects of disability** should be prepared (both in paper and online) and distributed among the interested parties. The possible form of the codes can be e.g. handbooks containing good practice and guidelines for inclusion, e.g. The Inclusion Handbook for Public-sector Workers and NGOs, The Communication Handbook, The Universal Design Handbook on Planning and Creating an Inclusive Living Environment For Everyone¹⁰⁸.

5. The process of adjusting the infrastructure to the needs of people with disability should be continued in bigger cities and extended to smaller towns and rural areas. Conducting needs assessment missions or using the data that NGOs already have might be considered to answer the most urgent needs in this area.

6. All public utility buildings such as **court buildings, city councils, hospitals and outpatient clinics should be made accessible** for all people with disabilities. Special attention should be paid to the situation of medical centres and clinics, the problem of lack of gynecological chairs adjusted to the needs of women with disabilities should be solved.

7. **Public transport**, including school buses should be made accessible for all people with disabilities. Especially the transport of children with disabilities from rural areas to educational institutions should be tackled and solved.

8. The instrument of Art. 30 of the Law on **“On the Fundamentals of Social Security of Persons with Disabilities in Ukraine”** should be considered in terms of effective use – relocating people with disabilities should be considered, at least those who agree and in terms of no chance of adjusting their location to their needs.

108. Such handbooks were assessed positively by the European Committee of Social Rights in Conclusions for Estonia from 2016 under Article 15 § 3 ESC.

■ 9. It is advisable to make **the system of license** given, for the time being, to banks and pharmacies, to other institutions of public utility e.g. posts, shops, factories, cinemas, theatres, clubs etc. Employers who will have to adjust the buildings anyway might be more eager to employ people with disabilities. Apart from that, the mechanisms for revoking licenses in case of violation of license conditions of accessibility should be improved.

■ 10. There should be **more rehabilitation centres**, their number should be adjusted to the demand. They should be located all over the country and be accessible not only for people with disabilities living in the cities but also the people residing in the rural areas. In big cities there should be a few, smaller rehabilitation centres instead of one bigger to make them more accessible for all people with disabilities.

■ 11. The **problem of contracting doctors** by people with disabilities should be noticed and solved. It is advisable to introduce positive measures in that area, e.g. a system of priority being given to patients with disabilities or additional financial incentives for the doctors.

■ 12. The situation of **inmates with disabilities** should be carefully monitored, violations of their rights should be eliminated, it is unacceptable to deprive them of their basic human rights even as a punishment.

■ 13. The **process of deinstitutionalisation** that is in progress should be carefully planned and monitored. Children and adolescents with disabilities living in these institutions should be reintegrated into the community, that is, returned to biological families or to conditions close as much as possible to family conditions, which will allow them to actively participate in the life of the society.

Roadmap



STRATEGIC OBJECTIVE 1

Ensuring the right to education by introducing inclusive education at all levels

Operational objective 1.1.

Development of inclusive education (preschool, school and higher)

Responsible government bodies:

- The Verkhovna Rada of Ukraine;
- Ministry of Education and Science of Ukraine;
- Ministry of Social Policy of Ukraine;
- Ministry of Health of Ukraine;
- Ministry of Foreign Affairs of Ukraine;
- Local self-government bodies and executive bodies of local government (hereinafter – LSGB/EBLG).

TASK:

- To implement measures to introduce early identification and assessment of the needs of children with disabilities / special educational needs for admission to institutions of pre-school, general secondary, non-formal and vocational (vocational) education.

(Ministry of Education and Science of Ukraine, Local Self-Government Bodies and Executive Bodies of Local Government)

- To put into practice the steps aimed at further development of the inclusive education in institutions of preschool, general secondary, extra-curricular, vocational (technical), vocational before higher education, and higher education contributing to an increase in the number of children with disabilities studying in ordinary groups (classes) or in general inclusive groups (classes), while reducing the number of students in special (boarding) educational institutions in order to achieve the goals of the National Strategy for the Reform of Institutional Care and Children Upbringing for 2017-2026.

(Ministry of Education and Science of Ukraine, Local Self-Government Bodies and Executive Bodies of Local Government)

- To ensure the implementation of the provisions of the new Law of Ukraine “On Secondary Education”, on access to education and ensuring their right to education for persons with special educational needs, including creating conditions for receiving education for children with complex disabilities, children with intellectual disabilities.

(Ministry of Education and Science of Ukraine, Local Self-Government Bodies and Executive Bodies of Local Government)

- To promote the development of vocational (professional) education for people with disabilities using the capabilities of vocational education institutions. To create conditions

for the vocational reintegration of children with disabilities while receiving general secondary education, including children with intellectual and mental disorders.

(Ministry of Education and Science of Ukraine, Ministry of Social Policy of Ukraine, Local Self-Government Bodies and Executive Bodies of Local Government)

- To create conditions for people with disabilities to participate in Adult Education programmes.

(Ministry of Education and Science of Ukraine, Local Self-Government Bodies and Executive Bodies of Local Government)

- To revise the system of vocational rehabilitation of persons with disabilities focusing on the introduction of vouchers for retraining and advanced training of persons with disabilities.

- Ensuring the organisational conditions for persons with special educational needs to receive professional (vocational) special pre-higher education and higher education.

(Ministry of Education and Science of Ukraine, Local Self-Government Bodies and Executive Bodies of Local Government)

- To ensure the right to education for children (including children with disabilities) from the temporarily occupied and uncontrolled territory of Ukraine.

(Ministry of Education and Science of Ukraine)

- To create supporting strategies for children who leave special (boarding) educational institutions, and approve the procedure for supporting the transition of such children from special (boarding) educational institutions to institutions of general secondary, extracurricular and vocational (professional) education. To exclude the “mechanical” transfer of children to the so-called ordinary educational institutions without creating the necessary conditions for them, including the sufficient number of trained educators and teachers, the creation of resource rooms, ensuring the proper material and technical base and architectural accessibility. All parties should be well-informed about their rights and opportunities. The directions included in these strategies are related to psychological support, as well as mentoring and tutoring programs.

(Ministry of Social Policy of Ukraine, Ministry of Education and Science of Ukraine, Local Self-Government Bodies and Executive Bodies of Local Government)

- To improve the procedure and conditions for the provision of subsidies from the state budget to local budgets for the state support to persons with special educational needs, approved by the Cabinet of Ministers of Ukraine Resolution of February 14, 2017, No. 88.

(Ministry of Education and Science of Ukraine)

- To create conditions for the development of inclusive education in institutions of extracurricular education in accordance with the Law of Ukraine “On Extracurricular Education” and the Order of the Cabinet of Ministers of Ukraine of August 21, 2019, No. 779, including providing access to clubs and resolving the issue of their payment.

(Ministry of Education and Science of Ukraine, Local Self-Government Bodies and Executive Bodies of Local Government)

- To promote the use in practice of the concept of a “child with a disability” in the meaning of the UN standards, the Council of Europe and the International Classification of Functioning, Disability and Health (ICF) developed by the World Health Organisation.

(Ministry of Education and Science of Ukraine, Ministry of Social Policy of Ukraine, Ministry of Health of Ukraine)

- To make corrections to the translation of the Convention on the Rights of the Child by taking away the concept of “inferior/defective child” from the text, and also in this regard, the Ministry of Social Policy of Ukraine, the Ministry of Education and Science of Ukraine, the Ministry of Health of Ukraine should bring in line with the text of the Convention their methodological documents that refer to it.

(Ministry of Social Policy of Ukraine, Ministry of Foreign Affairs of Ukraine, The Verkhovna Rada of Ukraine)

- To conduct awareness-raising activities aimed at overcoming established stereotypes regarding people with disabilities, especially children, and to promote the importance of inclusive education and its positive results.

(Ministry of Education and Science of Ukraine)

- To develop a forecasting mechanism to create conditions for the implementation of the right to education during the transition between different levels of education.

(Ministry of Education and Science of Ukraine)

- To bring the definitions and terms and conditions of inclusive education (including Article 20 of the Law of Ukraine “On Education” and Article 26 of the Law of Ukraine “On Secondary Education”) in accordance with the standards of the UN Convention on the Rights of Persons with Disabilities and the standards of the Council of Europe, in particular by withdrawing special classes and groups from forms of inclusive education.

(The Verkhovna Rada of Ukraine, Ministry of Education and Science of Ukraine)

- To coordinate the formation of a network of inclusive resource centres with the administrative structure, providing for the services of the centre for every community, and not taking into account the quantitative data of people with special educational needs. To ensure the creation of inclusive resource centres and resource rooms depending on the requirements established by law, including training of their employees, ensuring the appropriate material and technical base and architectural accessibility.

(Ministry of Education and Science of Ukraine, Local Self-Government Bodies and Executive Bodies of Local Government)

- To ensure the possibility (with the improvement of the relevant regulatory framework) of external independent testing in accessible formats for taking/passing the SFC/EIT by persons with disabilities.

(Ministry of Education and Science of Ukraine)

- To establish units for the support and access to educational materials of students with disabilities in higher education institutions.

(Ministry of Education and Science of Ukraine)

Operational objective 1.2.

Creation of conditions, including the provision of reasonable accommodation for children with disabilities in educational institutions, the IRC and resource rooms

Responsible government bodies:

- Ministry of Education and Science of Ukraine;
- Local Self-Government Bodies and Executive Bodies of Local Government.

TASK:

- To ensure inclusiveness not only as an opportunity to study in inclusive groups (classes), but reasonable accommodation for children with disabilities shall be provided both at the architecture of the educational institution and the educational process, and special programmes should be introduced to make the educational process efficient.
- To approve the procedure for providing therapeutic appliances (including tablets with programmes for alternative communication and albums for alternative communication using card exchange) for training persons with special educational needs in accordance with Article 20 of the Law of Ukraine "On Secondary Education".
- Creation of conditions (with the improvement of the relevant regulatory framework) for persons with special educational needs at SFC/EIT (translation into sign language, text, font, extra time, the right to breaks, etc.).
- Parents of children with disabilities should be provided with comprehensive information about the services and support that a child can obtain at a secondary school, as well as comprehensive information about the algorithms and procedures for receiving such support.
- Introduction of social and pedagogical patronage into practice that would ensure the interaction of educational institutions, the family and society in teaching children with special educational needs (a team of specialists, including social educators, a teacher's assistant, and a child's assistant).
- To ensure a social order for social services, especially for support during inclusive education.
- To provide for subsidies from the state to local budgets for procuring the school buses (cars) adapted for transporting children using wheelchairs, as well as children with visual and hearing impairments.
- To provide for subsidies from the state to local budgets for equipping schools with elevators with the development of appropriate design estimate documentation.
- To provide for local funds for equipping educational institutions and the surrounding territory with other means of unhindered access in accordance with state building standards.

Operational objective 1.3.

Proper training, retraining and advanced training of specialists working in the field of inclusive education, IRCs and resource rooms

Responsible government bodies:

- Ministry of Education and Science of Ukraine;
- National Academy of Educational Sciences of Ukraine.

TASK:

- To use the potential and experience of special educational institutions in the development of inclusive education programmes, as well as in training of teacher.
- Further training is needed for teachers, IRC and resource room staff, which would also help reduce the fears associated with teaching children with special educational needs, and provide teachers, the IRC staff and resource rooms with well-formed theoretical and practical knowledge that will allow them to effectively work with children with disabilities.
- To prepare a Code of Good Practice on the main aspects of disability in educational institutions, which should be prepared and distributed among teachers, the staff of the IRC and resource rooms, social workers and representatives of local authorities. The Code should be designed to help educators and pupils/students understand their rights and responsibilities, promote certainty and reduce disputes so that people with disabilities can enjoy and exercise their rights at all levels of education.
- The Ministry of Education and Science of Ukraine, National Academy of Educational Sciences of Ukraine, higher education institutions providing training for pedagogical specialists shall develop and implement long-term curricula for training, retraining and advanced training of inclusive education assistants, including those on distance learning.

STRATEGIC OBJECTIVE 2

Ensuring the right to work for persons with disabilities

Operational objective 2.1.

Improving the incentive system of employers to employ people with disabilities

Responsible government bodies:

- The Verkhovna Rada of Ukraine;
- Ministry of Social Policy of Ukraine;
- Ministry of Health of Ukraine;
- Ministry of Economic Development, Trade and Agriculture of Ukraine;
- National Agency of Ukraine for Civil Service;
- State Labour Service of Ukraine;
- State Employment Service;
- Social Security Fund for the Disabled.

TASK:

- To reform the system of mandatory job standards to ensure the employment of persons with disabilities. To consider the possibility of replacing the system of administrative and economic sanctions with the payment by employers of a targeted contribution or other obligatory payment, thereby making it mandatory, as well as automating the process of controlling functions for fulfilling the norm of workplaces.
(The Verkhovna Rada of Ukraine, Ministry of Economic Development, Trade and Agriculture, Ministry of Social Policy of Ukraine, State Labour Service of Ukraine)
- The funds received from the employment system for people with disabilities should be used exclusively for purposes that directly or indirectly relate to the employment of persons with disabilities, providing reasonable accommodation and internships for people with disabilities, providing escort services at the workplace, and remuneration of specialists (employees) working in the field of supported employment as service providers for persons with disabilities, reimbursement to the employer of a part or for a certain period of wages of a person with a disability, etc.).
(The Verkhovna Rada of Ukraine, Ministry of Social Policy of Ukraine)
- To determine the State Labour Service as the main social customer of the social services for social support in employment and in the workplace through employment centres thereby identifying the agencies for labour as the major responsible units for promoting the employment of persons with disabilities.
- To develop mechanisms of state support for expanding the opportunities of persons with disabilities, including for the organisation of their own business (self-employed persons, SEP) and persons with disabilities who carry out independent professional activities, which included measures to equalise the opportunities of entrepreneurs and self-employed persons with disabilities with entrepreneurs and employees without disability.

- To consider revising the Labour Code norm in relation to the probationary period for people with disabilities, as this norm is often not encouraging.

(The Verkhovna Rada of Ukraine)

- In the public sector, the normative amount is ensured during competitions. For this purpose, the institution arranges an appropriate competition and interacts with the employment service to find appropriate specialists with disabilities who, in terms of knowledge and experience, meet established requirements. To establish cooperation between the National Agency of Ukraine for Civil Service and employment centres (agencies for labour) to take positive steps for fulfilling the norms in the civil service.

(Ministry of Social Policy of Ukraine, National Agency of Ukraine for Civil Service)

- To make necessary amendments to the law to create the ability to hire a person with a disability, providing for his/her work at home or remote work.

(The Verkhovna Rada of Ukraine, Ministry of Economic Development, Trade and Agriculture of Ukraine, Ministry of Social Policy of Ukraine)

- To develop a Code of Good Practice on key aspects of disability in the workplace and disseminate it to employers, social workers and local authorities. The Code should be designed to help employers and workers understand their rights and responsibilities, increase certainty and reduce disputes so that people with disabilities can enjoy and exercise their rights at work. The Code should contain at least: a legislative framework; definition of persons with disabilities.

(Ministry of Economic Development, Trade and Agriculture, Ministry of Social Policy of Ukraine)

- To carry out awareness-raising activities among employers both with the aim of changing negative established stereotypes regarding people with disabilities, especially in the labour market and with the aim of highlighting the importance of ensuring the principle of inclusiveness in employment and the positive consequences for both people with disabilities and society as a whole.

Operational objective 2.2.

Providing reasonable accommodation, as well as other forms of employment support for persons with disabilities

Responsible government bodies:

- The Verkhovna Rada of Ukraine;
- Ministry of Economic Development, Trade and Agriculture;
- Ministry of Social Policy of Ukraine;
- Ministry of Education and Science of Ukraine;
- National Agency of Ukraine for Civil Service.

TASK:

- To implement the EU Directive 2000/78 on equality of work with regard to ensuring reasonable accommodation for persons with disabilities.

(The Verkhovna Rada of Ukraine, Ministry of Economic Development, Trade and Agriculture, Ministry of Social Policy of Ukraine)

- To ensure compliance of labour legislation with Council of Europe standards on providing, where necessary, reasonable accommodation for people with disabilities.
(The Verkhovna Rada of Ukraine, Ministry of Social Policy of Ukraine, Ministry of Economic Development, Trade and Agriculture)

- To develop and approve methods for providing persons with disabilities wishing to take part in the competition for public service posts with reasonable accommodation as required by paragraph 20 of the Procedure for Holding a Competition for Public Service Posts approved by the Cabinet of Ministers of Ukraine resolution of March 25, 2016, No. 246.

(National Agency of Ukraine for Civil Service)

- Inclusion of compensation for reasonable accommodation in employment programmes. This can be started by amending the legislation to determine reasonable accommodation in the workplace, abandoning the terms “special and ordinary workplace». Such compensation can be provided both for the creation of new jobs, and for the re-equipment or preservation of existing ones. Both employers of the open labour market and protected employment enterprises can receive this compensation. In addition, this compensation should be extended to self-employed persons with disabilities or persons with disabilities who are individual entrepreneurs, since such compensation goes beyond the scope of assistance in starting their own business.

(The Verkhovna Rada of Ukraine, Ministry of Social Policy of Ukraine, Ministry of Economic Development, Trade and Agriculture)

- Inclusion of wage compensation in the employment programme. Consider as an incentive measure to the private sector the provision of compensation for wages within 1 year within the average salary at the enterprise and organisation, during the second – the minimum wage. To provide such a subsidy to finance wages during the probationary period.

- Employment programmes should provide for the escort of persons with disabilities at work. The compensation of necessary expenses related to training, support during the year after taking a vacant position. In addition, consider the possibility that such compensation could be provided to the employer to conduct an analysis of the need for adjustments or other reasonable accommodation.

(The Verkhovna Rada of Ukraine, Ministry of Social Policy of Ukraine, Ministry of Economic Development, Trade and Agriculture)

- To develop vocational rehabilitation services /vocational training.
(Ministry of Education and Science of Ukraine, Ministry of Social Policy of Ukraine)

Operational objective 2.3.
Development of “supported” and protected employment

Responsible government bodies:

- The Verkhovna Rada of Ukraine;
- Ministry of Economic Development, Trade and Agriculture of Ukraine;
- Ministry of Social Policy of Ukraine;
- Local self-government authorities and their executive bodies;
- State Employment Service of Ukraine and local agencies for labour.

TASK:

- To implement Article 20 of the 2014/24/EU Directive on “reserved contracts” that stipulates that the Member States may reserve the right to participate in public procurement procedures for special enterprises that employ people with disabilities and business entities whose main purpose is social and professional integration of persons with disabilities and low-income people, or they can ensure the implementation of such contracts in the context of protected employment programmes, provided that at least 30% of the employees of these enterprises, business entities or programmes are people with disabilities or workers from low-income groups population).
(The Verkhovna Rada of Ukraine, Ministry of Social Policy of Ukraine, Ministry of Economic Development, Trade and Agriculture)
- To create favorable conditions for support and functioning enterprises providing employment for people with disabilities, regardless of who they are established (SEP can be among them).
(The Verkhovna Rada of Ukraine, Ministry of Social Policy of Ukraine, Ministry of Economic Development, Trade and Agriculture)
- To offer alternatives for employers to meet the standard to reduce or exempt from the payment of the target contribution or other mandatory payment (if it is introduced). Moreover, such alternatives should be aimed at persons of disability category I and people of disability category II due to mental disorders.
(The Verkhovna Rada of Ukraine, Ministry of Social Policy of Ukraine, Ministry of Economic Development, Trade and Agriculture)
- To develop a programme of supported employment for persons with disabilities, including public utility companies.
(Local self-government bodies in cooperation with local agencies for labour)
- To develop incentives to encourage and support employment and employment in the labor market of persons with intellectual and psychosocial disabilities.
(The Verkhovna Rada of Ukraine, Ministry of Social Policy of Ukraine, Ministry of Economic Development, Trade and Agriculture)

STRATEGIC OBJECTIVE 3

Arrangement and implementation of conditions to ensure accessibility of buildings, transport, infrastructure and information for persons with disabilities and other people with reduced mobility

Operational objective 3.1.

Ensuring the conditions of physical accessibility of buildings and premises

Responsible government bodies:

- The Verkhovna Rada of Ukraine;
- Ministry of Communities and Territories Development;
- Ministry of Culture and Information Policy;
- State Judicial Administration;
- Office of the Prosecutor General;
- State Regulatory Service of Ukraine;
- Local self-government authorities and their executive bodies;
- National Public Broadcasting Company of Ukraine.

TASK:

- To strengthen the responsibility of owners and/or holders of the books of constructed or reconstructed buildings, architects, and contractors to comply with state building standards on mandatory creating a barrier-free space in Ukraine for persons with reduced mobility, namely DBN V.2.2-40:2018 "Houses and constructions. The inclusion of buildings and structures. Basic Provisions", in particular by increasing penalties.
(The Verkhovna Rada of Ukraine, Ministry of Communities and Territories Development)
- To take steps to ensure accessibility of already existing key facilities of the administrative and social infrastructure, namely cultural, health care institutions, educational institutions, housing and public facilities, the buildings of the prosecutor's office, police and courts, trade, transport and communications facilities, including in small towns and rural areas according to DBN V.2.2-40:2018, including with the participation of organisations representing the interests of people with reduced mobility to develop a schedule for renewal of buildings including observation of residential, administrative, social buildings and set the renewal time on its basis.
(Local executive power bodies, local self-government bodies, State Judicial Administration, Office of the Prosecutor General)
- To ensure proper consulting with organisations of people with disabilities, other persons with reduced mobility for the construction and renewal of facilities.
(Local executive power bodies, local self-government bodies)
- To carry out systematic monitoring of the availability and compliance with the standards of accessibility elements arranged in existing buildings and premises of cultural, health-care, educational institutions, housing and public facilities, buildings of prosecution

authorities, police and courts, trade, transport and communications facilities, for accessibility of persons with disability and other persons with reduced mobility with the participation of non-government organisations of people with disabilities.

(Ministry of Communities and Territories Development, Local executive power bodies, local self-government bodies)

- To create conditions for the implementation (including the approval of the necessary Procedure) of Article 30 of the Law of Ukraine “On the Fundamentals of Social Security of Persons with Disabilities in Ukraine”, which stipulates that “in the case of non-compliance of a person with disabilities housing with the requirements determined by a medical and social examination and the impossibility of adapting it to the needs of a person with disabilities, a replacement of a dwelling can be made.” And also to clearly define the concept of social housing and develop preferential credit programmes for the housing exchange.

(Ministry of Communities and Territories Development)

- To make the necessary amendments to licensing rules to ensure that these services are accessible for people with disabilities and other persons with reduced mobility where public or private sector activities are governed by these rules.

(State Regulatory Service of Ukraine)

- To arrange media coverage of steps to create an unhindered environment for people with disabilities and other persons with reduced mobility.

(Ministry of Culture and Information Policy, National Public Broadcasting Company of Ukraine)

Operational objective 3.2. Providing conditions of transport accessibility

Responsible government bodies:

- Ministry of Infrastructure of Ukraine;
- Ministry of Communities and Territories Development;
- Local self-government bodies and executive bodies of local authorities.

TASK:

- To undertake further work on bringing the premises of railway stations, bus stations, post offices, public transport stops in accordance with state building standards and state standards.
- To take steps to ensure compliance with the standards of the existing transport infrastructure, road network and landscaping elements, special and auxiliary equipment, in particular, visual and informational, as well as pedestrian crossings with lowered curbs, special sound traffic lights and guiding guards.
- To exercise control over the pick-up and drop-off of passengers exclusively at public transport stops in order to ensure access for persons with reduced mobility.
- To ensure the application of the principles of universal design in the production of

vehicles by domestic enterprises, which provides for the possibility of using such means for transporting persons with disabilities, special and auxiliary means for transporting and moving such persons, the manufacture of pictograms, information boards, electronic displays, etc..

- To contribute to the renewal of the fleet of vehicles adapted for the transportation of persons with disabilities and other persons with reduced mobility, the use of special and auxiliary means for the transport and movement of such persons. It is important in this context to adhere to Article 28 of the Law of Ukraine "On the Fundamentals of Social Security of Persons with Disabilities in Ukraine" that provides that public transport vehicles manufactured in Ukraine or imported to Ukraine must be adapted for people with disabilities. To consider the possibility of introducing into the licensing conditions of economic activities on passenger transportation updates by the carrier that will make the vehicle fleet accessible to people with disabilities.
- To ensure placement of pictograms, information boards, electronic displays, etc. in vehicles.
- To introduce continuous monitoring of the provision of requirements for the unhindered living environment for people with disabilities and other persons with reduced mobility to the engineering and transport infrastructure with the participation of non-government organisations of people with disabilities.
- To ensure unimpeded access for people with reduced mobility during major road repairs in the settlements of the oblast, ensuring lower curbs on sidewalks and pathways in recreation areas (parks, public gardens).
- To provide regulatory documents in the field of the competition for the carriage of passengers in accordance with the provisions of Article 26 of the Law of Ukraine "On the Fundamentals of Social Security of Persons with Disabilities in Ukraine", providing for a ban on the use of inaccessible vehicles purchased/imported to Ukraine by the carrier after January 1, 2013.

Operational objective 3.3. Ensuring information accessibility conditions

Responsible government bodies:

- The Verkhovna Rada of Ukraine;
- Ministry of Education and Science of Ukraine;
- Ministry of Culture and Information Policy;
- Ministry of Social Policy of Ukraine;
- Local self-government authorities and their executive bodies.

TASK:

- To ensure the availability of information contained on the official websites of ministries and other central bodies for users with sensory impairments in accordance with the Cabinet of Ministers of Ukraine Resolution No. 1302.

- Public information and communication system should be accessible to all people, including people with disabilities. Sign language should be popularised and its study in schools, universities, pre-schools and other public institutions should be encouraged. It should be possible to use sign language in public institutions and other public places. Training is needed for sign language translators. It is important to support legislative initiatives aimed at defining the principles and procedures for using the Ukrainian Sign Language.
- To take action to raise the awareness of people with disabilities about the accessibility of the facilities and information about the accessibility of entire cities and regions of Ukraine, including the obligation for cities with public transport to make public maps of accessible transport routes, accessible stations and other accessible common places.
- To ensure placing information (information signs) on the presence/absence of conditions for the accessibility of infrastructure for people with disabilities. It would be important to duplicate the visual information by audio information or information reflected in Braille script, etc. in public places.

STRATEGIC OBJECTIVE 4

The provision of social services at the place of residence and the introduction of a rehabilitation system for persons with health problems on IFC conditions

Operational objective 4.1.

The transition to a functional model for determining disability

Responsible government bodies:

- The Verkhovna Rada of Ukraine;
- Ministry of Social Policy of Ukraine;
- Ministry of Health of Ukraine.

TASK:

- Bringing the current edition of the IFC translation to WHO standards, harmonising the new text with the World Health Organisation.
- Development and implementation of amendments to the Action Plan for the IFC implementation on the conditions and scope of the classification application in Ukraine.
- Drafting bills that would ensure a non-discriminatory approach to people with different disability groups / degree of health loss, as well as with various types of disabilities. The introduction of legislation on the de facto equality of persons with varying degrees of health loss and various types of disabilities while ensuring their rights.

Operational objective 4.2.

Improving the efficiency of rehabilitation and habilitation (inclusion) measures

Responsible government bodies:

- The Verkhovna Rada of Ukraine;
- Ministry of Social Policy of Ukraine;
- Ministry of Health of Ukraine.

TASK:

- Creation and development of a system for providing early intervention services in Ukraine.
- Development of major legislative changes with the aim of introducing a rehabilitation system that provides rehabilitation services to people with health problems, regardless of whether they establish the formal status of a person with a disability. To separate obtaining the status of a person with disabilities and rehabilitation services.
(Ministry of Health of Ukraine, Ministry of Social Policy of Ukraine)

- To develop legislative changes of regulatory legal acts to receive long-term rehabilitation services as close as possible to the place of residence. To determine the status of multidisciplinary teams with ensuring their financing when updating the legislation on the rehabilitation of persons with health problems.

(Ministry of Health of Ukraine, Ministry of Social Policy of Ukraine)

- To distinguish between receiving convalescent facilities and therapeutic appliances. To ensure an effective compensation mechanism for self-acquired, imported therapeutic appliances.
 - To contribute to the establishment of an effective system for providing people with disabilities with rehabilitation equipment, including the definition of quality requirements for this equipment, responsibility for its inadequate quality.
 - To develop and implement training services on the use of therapeutic appliances.
- (Ministry of Health of Ukraine, Ministry of Social Policy of Ukraine)**
- To develop and implement counselling services on the adaptation of housing, workplaces, other personal spaces for persons who have health problems, as a result of which they need therapeutic appliances or elements of accessibility or reasonable accommodation.

Operational objective 4.3.

Creation of a system of services for persons with disabilities at the place of residence and the effective implementation of deinstitutionalisation

Responsible government bodies:

- The Verkhovna Rada of Ukraine;
- Ministry of Social Policy of Ukraine;
- Ministry of Education and Science of Ukraine.

TASK:

- Persons with disabilities and families of persons with disabilities receive appropriate support to live in the community.
- Review of indicators of the National Strategy for the Reform of Institutional Care, Education and Upbringing till 2026, in particular regarding the period from which the indicators for reducing the number of children in institutional care institutions, the decrease in the number of special needs schools and institutional care institutions are applied.
- To introduce appropriate strategy indicators only after the transition stage.
- To develop long-term solutions for the de-institutionalisation of services and independent living of adults with disabilities in the community.
- To urgently develop normative legal acts for commissioning the Law of Ukraine "On Social Services". To identify services to be provided free of charge.
- To define the deinstitutionalisation of adults with disabilities as one of the priorities. To develop an appropriate strategy and action plan.

STRATEGIC OBJECTIVE 5

Improving the efficiency of protection
of people with disabilities in cases of discrimination

Operational objective 5.1.

Legislation to prevent and combat discrimination complies
with international standards and allows responding effectively
in cases of discrimination against people with disabilities

Responsible government bodies:

- The Verkhovna Rada of Ukraine;
- Ministry of Justice of Ukraine;
- Ukrainian Parliament Commissioner for Human Rights;
- Ministry of Finance of Ukraine.

TASK:

- To supplement the Law of Ukraine “On the Principles of Prevention and Counteracting Discrimination in Ukraine” with new definitions, namely “multiple discrimination”, “victimisation”, “association discrimination”, “reasonable accommodation” and “denial of reasonable accommodation”. And also add “denial of reasonable accommodation” to the types of discrimination.
- To introduce into the legislative acts of Ukraine, in particular, the Law of Ukraine “On the Principles of Prevention and Combating Discrimination in Ukraine”, provisions aimed at ensuring an appropriate system for monitoring compliance with legislation in the field of preventing and combating discrimination. When working on amendments to the legislation in this area, it is recommended to take into account the conclusions of the Declaration on the Principles of Equality.
- To establish a proportional and effective mechanism of responsibility for violation of the law On prevention and combating discrimination, in particular by revising Article 161 of the Criminal Code of Ukraine and establishing mechanisms for the imposition of administrative sanctions. Also, to improve the provisions establishing remedies in civil law and, in addition to compensation for material and moral damage, these remedies should include the termination of discriminatory practices that led to a violation; public apologies, guarantees of non-recurrence of these violations and the implementation of the necessary structural, institutional and organisational changes.
- To simplify the procedural mechanism for courts to consider cases of discrimination, in particular, to consider the possibility of amendments to Article 81 of the Civil Procedure Code of Ukraine that would determine the possibility of transferring the “burden of proof” not only when the plaintiff provides evidence confirming that discrimination has occurred, but also in the case when a person claims evidence that suggests that discrimination has occurred.

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- To improve the provisions of the legislation relating to the examination of draft regulatory legal acts for the absence of discriminatory provisions and the analysis of existing legislation to identify cases of indirect discrimination in the legislative provisions, including the development of criteria and explanations for such an examination of draft regulatory legal acts;
- To ensure the allocation of sufficient means, including financial ones, to increase the institutional capacity of the National Human Rights Institution, as well as advisory human rights institutions working for people with disabilities;
- Equal conditions for access to state financial support shall be ensured for all organisations of people with disabilities.

Operational objective 5.2.

Raise awareness of people with disabilities to protect their rights in case of discrimination and increase awareness level and understanding of law enforcement and judicial authorities and other representatives of legal professions on mechanisms for protecting the rights of people with disabilities

Responsible government bodies:

- Ministry of Education and Science of Ukraine;
- Ministry of Social Policy of Ukraine;
- Ukrainian Parliament Commissioner for Human Rights;
- National School of Judges of Ukraine;
- Prosecutors' Training Centre of Ukraine;
- Coordination Centre for Legal Aid Provision;
- National Academy of Internal Affairs.

TASK:

- To carry out training for legal professionals to protect people with disabilities in cases of discrimination using courses on anti-discriminatory legislation regarding the use of the ECHR case law that have already been developed. If necessary, to develop a separate training course on the protection of the rights of people with disabilities in cases related to their discrimination.

- To prepare information materials and publications on the use of the standards of the European Social Charter for the protection of the rights of people with disabilities to raise awareness about this tool for protecting human rights.

(Ministry of Social Policy of Ukraine)

- To provide people with disabilities with the necessary support and assistance in the process, and it is very important that they are provided with the proper knowledge of their rights and the way they are realised. It is advisable to prepare information materials on the participation of the person with a disability in a lawsuit and distribute them to all interested parties (including judges, court employees, lawyers, NGOs and people with disabilities) in a format accessible to all people with various nosologies (including sign language, simplified format, Braille format).
- To carry out training for judges and representatives of law enforcement system and the state system of free legal assistance on the use of antidiscrimination legislation to protect the rights of people with disabilities. Training courses for police should include topics on the rules of treatment or an algorithm for working with detainees with disabilities.

(National School of Judges of Ukraine, Prosecutors' Training Centre of Ukraine, Coordination Centre for Legal Aid Provision, National Academy of Internal Affairs)

The European Social Charter, adopted in 1961 and revised in 1996, is the counterpart of the European Convention on Human Rights in the field of economic and social rights. It guarantees a broad range of human rights related to employment, housing, health, education, social protection and welfare.

No other legal instrument at pan-European level provides such an extensive and complete protection of social rights as that provided by the Charter.

The Charter is therefore seen as the Social Constitution of Europe and represents an essential component of the continent's human rights architecture.

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The Council of Europe is the continent's leading human rights organisation. It comprises 47 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

