

Ukraine

Report of the Ukraine Coalition of Organizations of People with Disabilities (UCOPD)

This report is prepared by the coalition of public organizations of people with disabilities: All-Ukrainian public organization «National Assembly of People with Disabilities of Ukraine» uniting 100 public organizations of people with disabilities from different regions of Ukraine; All-Ukrainian organization «Active Rehabilitation Group» representing the interests of people with spinal cord traumas; All-Ukrainian organization «USER» representing the interests of psychiatric care users; All-Ukrainian Youth Organization of People with Eyesight Impairments «Generation of Successful Action»; Vinnytsia public organization «Association of Protection and Support to People with Disabilities «Open Hearts» which represents the interests of children with disabilities and their families; Donetsk Public Human Rights Organization «Femida»; Kharkiv organization of blind lawyers; Kherson public organization «Initiative to protect civil rights of people with disabilities»; Chernihiv regional organization of people with disabilities «Leader» representing the interests of people with disabilities using wheelchairs; Center of women with disabilities «Bereginya» (Crimea).

Ukraine, 2012

I. Methodology

1. The report contains information about the rights of people with disabilities in Ukraine.
2. Data presented in the report is based on monitoring of the human rights of people with disabilities conducted by non-governmental organizations, as well as official information provided by the Ministries, and longstanding practical experience of public organizations representing people with disabilities.¹

II. Legal and Institutional Mechanisms for the Protection and Promotion of Human Rights

3. Ukrainian legislation in the area of protection of rights of people with disabilities is grounded on the major international documents ratified by Ukraine, including UN Convention on the Rights of People with Disabilities (CRPD) (ratified on 16 December 2009). While the State has achieved significant progress in harmonizing national legislation with CRPD principles, legislative acts still have a proclamatory nature and target merely a welfare approach, as opposed to a human rights based approach that also addresses all parts of life and full inclusion in society.

4. The rights and freedoms of the citizens set out in the governing law of Ukraine – the Constitution – are not observed in relation to people with disabilities, in particular: the right to education, to healthcare, to job placement, to recreation, to implementation of civil and political rights.

5. The powers to make and ensure implementation of the government policy in the area of social protection of people with disabilities are entrusted to the Ministry of Social Policy of Ukraine. Coordination of the events of governmental agencies regarding CRPD implementation lies within the newly established central executive body with special status – the State Service on issues of people with disabilities and veterans of Ukraine, created by the Order # 397 of the President of Ukraine on 6 April 2011.

6. National policy in the area of people with disabilities of Ukraine is still grounded on the «medical model of disability», which excludes this group from the society life, gives rise to new stereotypes and cultivates «mental barriers in the society ».

III. Main Challenges in the Implementation of the Rights of People with Disabilities.

7. According to the official data, there are 2,631,111 persons with disabilities in Ukraine², although there are reasons to believe that the official data do not reflect the real situation. Insufficient statistical data result from lack of ongoing monitoring and an imperfect data

¹ 1.1. Rights of People with Disabilities in Ukraine. Report on results of public monitoring, National Assembly of People with Disabilities, Kyiv, 2009.

1.2. Monitoring of accessibility of the public facilities. National Assembly of People with Disabilities, Kyiv, 2007, 2009

1.3. Protection of rights of people with disabilities through administrative justice means, Kharkiv Organization of Blind Lawyers, Kharkiv, 2008-2008

1.4. Monitoring of observance of rights of children with disabilities at the internats. National Assembly of People with Disabilities, Kyiv, 2010

1.5. Monitoring of observance of rights of people with disabilities and users of psychiatric help at the psychiatric hospitals, «USER», Vinnytsia, 2010

² State Statistic Service of Ukraine, 2010

collection system by the government, as well as from unwillingness of people concerned to get a «disability» status because of a bureaucratic system of obtaining confirmation of disability and the work of medical commissions. Medical diagnoses of relevant health conditions, such as oncological diseases, HIV, TB and others, do not give rise to a disability status. Besides, even when a disability is confirmed, the subjective attitude of workers of medical and social expert commissions (MSEC) matters a lot. One and the same person can have different conclusions on his/her health status in different commissions and the system of appealing MSEC decisions does not work effectively. Thus, the official data does not accurately depict the number of persons with disabilities in Ukraine.

8. Children with Disabilities.

The state policy related to children with disabilities has a proclamatory nature.

A) After CRPD ratification there were legislative acts adopted which provide for implementation of inclusive education, but children with disability are still isolated. Their involvement in inclusive education has a local character, and this only confirms the fact that children with disabilities do not have equal access to education. The existing system of education does not take into account individual needs, nor does it ensure reasonable accommodation and architectural accessibility. According to data of the Ministry of Education and Science, Youth and Sports, only 11% out of all educational institutions (kindergartens, colleges, institutes, universities) are architecturally accessible for people with disabilities. Only 23,1% comply with the requirements of the state building norms. There are not enough educational materials for children with hearing and eyesight impairments, no educational programs for children with intellectual disabilities, especially those in more need of support, and training of teachers for work in an inclusive environment is still in an initial phase and has a local character.

B) Community-based services for children with disabilities do not comply with international quality standards, and this results in placement of these children into “internats”. This reinforces the institutionalization policy and there is a lack of building up these services together with a comprehensive deinstitutionalization plan. The policy on financial support of the family bringing up a disabled child needs to be reviewed and the system lacks an integrated approach to service provision.

C) Young people with disabilities meet barriers in all the spheres of life: education, job placement, individual mobility, independent life style, healthcare, recreation, access to information.

9. The Rights to Access to Information, and Accessibility

Based on information from nongovernmental organizations, blind people cannot get information in an accessible format. Internet pages of the state government bodies, central executive power bodies, and local self governance bodies, which are only partially accessible for this population, may serve as a perfect example of lack of accessibility of information. According to the data of Ukrainian Society of Blind People, periodic publications for blind people in Braille in 2011 were first published in October 2011 (all the issues starting from January till October 2011); during 2011 the readers did not receive a single book in electronic media, which was linked to the lack of funding; also the mechanism of replication of such literature is not in place. According to the data of State TV and Radio Committee, governmental TV and radio companies in 2010 ensured adaptation of the programs to be perceived by the people with hearing impairments – 5460 hours per year, which only equals to 30 minutes per day. At the same time, based on the data provided by the Ministry of Culture of Ukraine, according to the Law of Ukraine «On Cinematography », foreign films before their translation in Ukraine should be dubbed, sounded or subtitled in the official language of the State. Yet the same standard is not even applied to films or entertainment coming from Ukraine. Use of «simplified reading» method for people with intellectual disabilities is very limited and is initiated only by non-governmental organizations.

10. The Rights of Women with Disabilities

Women with disabilities are denied the full exercise of their rights if compared with men and other women. This includes the right to quality medical services, delivery of children and family life, access to education, job placement, participation in political, public and cultural life. This specifically relates to women residing in countryside. For example, according to monitoring data provided by nongovernmental organizations (“Bereginya” (Crimea), National Assembly of People with Disabilities and others) and collected during 2011, women with disabilities meet significant challenges in the area of healthcare. 65 % of women with disability visit clinics less than once per year; 11% self-treat themselves; 13,3% of women with disabilities noticed inappropriate behavior and remarks by the doctors; 18,9% of doctors noticed that examination of such women causes difficulties, 76% of women mentioned the absence of elevator and the placement of the gynecologist office higher than the first floor; 100% women with disabilities are not satisfied with the accessibility of medical services in their district, city. These data confirm that there are no conditions ensured in the healthcare institutions which would contribute to provision of high-quality services for people with disabilities.

11. Right to Access to Justice

Legislation regulating participation of people with disabilities in trials has provisions which make complete realization of the procedural rights of persons having health problems difficult and sometimes impossible. In addition to physical (architectural) barriers, people with disabilities face problems of access to information during judicial trials, entry of the representative to the judicial trial, ensuring forensic enquiry.

12. The Right to Personal Mobility

The current practice of inadequate provision of individual technical rehabilitation and transportation equipment of people with disabilities (in particular, wheelchairs) violates the right of the individual mobility. In 2011, only 30% of needs to procure technical rehabilitation and transportation equipment were funded. Thus, 70% of requests for such equipment were denied. In addition, the timeframes of the provisions that were made, of technical rehabilitation and transportation equipment, were also extended. This situation takes place regularly, and 2011 was not the first year when not enough funds were provided for procurement of individual technical rehabilitation and transportation equipment of people with disabilities. This, instead of getting the wheelchair once per four years a person with disability might need to wait for it during 5 – 8 years.

13. The Right to Equal Recognition Before the Law

The law in Ukraine currently allows for a system of guardianship and custody in the Family and Civil Code, instead of guaranteeing the right to legal capacity and providing for supported decision-making. That law does not specify the activities of the guardian and its whole structure undermines the rights of persons with disabilities who are subjected to the law. Persons with disabilities subjected to this law also cannot put a claim to relevant law enforcement bodies in order to ensure protection of their rights, since this is prohibited by the Law of Ukraine «On Citizens’ Appeals».

14. The Right to Participation in the Political and Civil life.

The fact of disfranchising of people recognized by the court as legally incapable is in contravention of the CRPD. Article 70 of Ukraine’s Constitution restricts the right to vote of persons with disabilities “declared by a court to be incompetent”. The national and local election laws do the same. Guarantees declared by the state for people with disabilities related to the implementation of political rights, including voter assistance provisions in its electoral law, are not observed at relevant level. Polling places are architecturally inaccessible, the procedures of

secret voting for people with visual impairments are violated, people with hearing impairments do not have access to pre-election information.

15. The right to Housing and Access to Social Infrastructure

A) Realization of the right of people with disabilities to housing and access to social infrastructure has discriminatory features. State system of ensuring architectural accessibility does not work effectively. For example, according to the monitoring held by public organizations, the majority of newly built objects are architecturally inaccessible, and this violates the state building norms and existing legislation.

B) Irrespective of the fact that there exists a state program on ensuring the right of people with disabilities to use public transport in Ukraine, its implementation faces serious challenges. For instance, in big cities like Kyiv (the capital of Ukraine) there are about 350 low floor buses and trolleybuses in use, and the majority of these have a mechanic ramp built in. However, the drivers often violate the internal instructions and park improperly, which levels down the presence of the low floors and does not contribute to effective use. Furthermore, there is no visual and audio information system established in the vehicle for people with eyesight and hearing impairments.

16. The right to work and employment

In state employment centers and employment services in the regions of Ukraine, the placement of vacancies is of a discriminatory character: vacancies are classified as “for people” and “for people with disabilities”. There is a lack of unemployment statistics of persons with disabilities in Ukraine. The right of people with disabilities for job placement and employment is violated because of the ineffective use of funds to promote inclusion of persons with disabilities in all employment. Currently, some separate work places are created for persons with disabilities. The majority of persons with disabilities who are employed currently work at work places having ordinary conditions of work (e.g. no reasonable accommodations are provided for them). There are very few cases when people with disabilities in greater need of support are provided with a job in a working environment adapted for this purpose. A 4% quota for people with disabilities in public and private companies and institutions is currently not observed.

IV. Recommendations

1. To ensure legislative reforms in order to align the domestic legal framework with the UN Convention on the Rights of People with Disabilities. The process of reforms should be continuous, cross-cutting, and be conducted in consultations with the organizations of people with disabilities.

2. To review existing programs and national and local action plans with a view to ensuring conformity with international norms and standards related to human rights and disability, bearing in mind the «social model of disability» supported and promoted by the UN Convention on the Rights of People with Disabilities.

3. To introduce training courses on disability awareness, human rights of people with disabilities and inclusive policy making in the system of training and re-training of the staff providing services for people with disabilities as well as of civil servants – policy makers whose decisions impact on the lives of people with disabilities.

4. To make changes to the Civil Procedure Code of Ukraine, the Administrative Procedure Code, the Criminal Procedure Code, the Code of Administrative Violations to take into account peculiarities related to participation of people with disabilities in judicial trials. To contribute to

the establishment of equal rights in respect of access of people with disabilities to judicial protection.

5. To improve standards and methods of collection of official statistical data about people with disabilities and their needs, and to ensure that these methods are consistent with their aims.

6. To establish an integrated approach to service provision. To ensure sharing of responsibilities among the state executive power bodies within their competence to ensure the rights of people with disabilities in all the spheres of life. It is important that people with disabilities be actively involved in ensuring that high quality services are provided, which promote the autonomy and independence of persons with disabilities, as well as in quality control processes.

7. To ensure transparency and publicity at the level of each Ministry of the control and monitoring of observance of rights of people with disabilities in accessible formats, with application of technologies with a view to different types of disabilities.

8. The system of education should bear full responsibility for ensuring the right to education. Children and young people with disability should get their education at community-based educational institutions, on a par with their peers. It is necessary to ensure effective planning and budgeting in the area of education of people with disabilities; to ensure implementation of inclusive education; to include in the programs of training and re-training of instructors training courses on the issues of «disability», inclusive education, new learning techniques adapted to the individual needs of every child; to ensure architectural accessibility of the educational institutions; to ensure accessibility of education at schools for children and young people with disabilities residing in rural areas; to develop and implement a system of policy monitoring and evaluation in the area of education of people with disabilities.

9. To ensure development and provision of community-based services for children with disabilities according to international standards. To develop and ensure implementation of the governmental programs (social, psychological, financial, educational etc.) aimed at supporting families bringing up children with disabilities.

10. To apply remedies to ensure equal rights of women with disabilities to healthcare. To ensure accessibility of pre-natal clinics (gynecology-related services) as well as of family planning services. To review the system of training and re-training of healthcare specialists in order to familiarize them to the issues of procreation for women with disabilities.

11. To accept the “Universal Design” principles as an underlying strategy to ensure full-fledged civic rights and independence of life of people with disabilities, as recommended by the UN Convention on the Rights of People with Disabilities and the Council of Europe Action Plan to promote the rights and full participation of people with disabilities in society: improving the quality of life of people with disabilities in Europe 2006-2015 (Recommendation CM/Rec (2006) 5; Recommendation CM/Rec(2009)8 of the Committee of Ministers to member states on achieving full participation through Universal Design)

12. To establish a system of effective state level control on observance of the governmental standards in the area of architectural, transport, informational accessibility for people with disabilities.

13. With a view to achieving international standards, guaranteeing the rights of persons with disabilities, including the right to live in the community, to review the system of service

provision for people with disabilities in need of greater support and residence in specialized governmental institutions or in their families.

14. To ensure protection from discrimination at all stages of the job search for people with disabilities, including existing procedures of selection and employment. To ensure an effective system of control of observance of the obligation to have a 4% quota at the workplaces for people with disabilities in public and private companies and institutions alike. To modify the policy of the State Employment Center as well as employment services in all the regions of Ukraine, specifically as it relates to the discriminatory system of issuing vacancies to ensure non-discrimination.

15. To establish an effective system of targeted provision of individual technical rehabilitation and transportation equipment for people with disabilities. To ensure allocation of State Budget funds to cover 100% needs in individual technical rehabilitation and transportation equipment.

16. To ensure support for people requiring assistance while exercising their legal and judicial capacity in different aspects of life, including persons who are currently in care in governmental institutions,

17. To institute a comprehensive deinstitutionalization plan, and to review the Family Code as it relates to legal capacity, concurrently with all other relevant legislation, in the process of legal harmonization with the CRPD.

18. To ensure equal rights and opportunities for people with disabilities to enable their participation in political and public life, in particular, at the election processes. To modify laws currently permitting the denial of persons with disabilities' right to vote, including article 70 of the Constitution, election laws and those on legal capacity. To ensure provision of information on political life (including elections programs) for citizens with disabilities in different formats (including sign language, Braille etc.). To ensure during voting the accessibility of ballots, relevant equipment and reasonable accommodation. To ensure architectural accessibility of the polling places. (Articles 2, 9, 29, 21 of the UN Convention on the Rights of People with Disabilities, Recommendation CM/Rec (2011) 14 of the Committee of Ministers to member states on the participation of persons with disabilities in political and public life).

Contacts:

Larysa Bayda, National Assembly of People with Disabilities of Ukraine

Address: Ukraine, Kyiv, Reytarska Str., 8/5 a, office 110

Tel/Fax +38 044 -279-61-82, E-mail office@naiu.org.ua