**INPUT FROM UKRAINIAN AUTHORITIES**

**to the questionnaire on *good practices to ensure effective access to justice for persons with disabilities* of the Special Reporter on the rights of persons with disabilities**

**I. On existing good practices in legislation, policies to ensure effective access to justice**

*(response to question No. 1)*

1. Article 24 of the Constitution of Ukraine stipulates that citizens shall have equal constitutional rights and freedoms and are equal before the law. There shall be no privileges or restrictions on race, colour, political, religious and other beliefs, gender, ethnic and social background, property status, place of residence, linguistic or other characteristics.

2. According to part 3 of Article 7 of the Law of Ukraine “On Judiciary and Status of Judges”, accessibility of justice for every person is ensured according to the Constitution and in the manner established by laws of Ukraine. This applies, in particular, to the unimpeded access to the premises of courts of persons with disabilities, the elderly persons and other people with limited mobility.

3. In 2015, the Council of Judges of Ukraine adopted Decision No. 31 aimed at, in particular, ensuring accessibility for people with limited mobility, including persons with disabilities of all types, to court premises and creating appropriate conditions for them. This task is a part of a comprehensive policy of implementation of inclusive justice in accordance with European standards, and related mainly to the architectural and transport accessibility of judicial institutions.

4. Public authorities have adopted a number of legal acts aimed at ensuring or facilitating the inclusivity of justice and access for persons with disabilities, including:

• Decrees of the President of Ukraine of 03.12.2015 No. 678/2015 “On Enhancing Activity to Ensure the Rights of Persons with Disabilities”, and of 13.12.2016 No. 553/2016 “On Measures to Ensure Respect for the Rights of Persons with Disabilities”;

• Resolutions of the Cabinet of Ministers of Ukraine of September 14, 2016 No. 628 “On Establishment of the Council on Persons with Disabilities”, of February 16, 2011 No. 121 “On Approval of the Regulation on the Centralized Database on Disability Issues”, of August 01, 2012 No. 706 “On Approval of the State Target Program "National Action Plan for the Implementation of the Convention on the Rights of Persons with Disabilities" to 2020", of March 14, 2018 No. 183 “On Approval of the Procedure on Use of Funds Budgeted for Financial Support of Public Associations of Persons with Disabilities”, etc.

5. The Parliament of Ukraine adopted the Law of December 19, 2017 No. 2249 “On Amendments to Certain Legislative Acts of Ukraine", which replaces of wording "disabled person" in the legislation of Ukraine with words "person with disability" (this Law amended 37 laws, in which the words "disabled”, “disabled child” and “war disabled” have been replaced with the words “person with disability”, “child with a disability" and "a person with a disability due to war"). The law brought the national legislation in line with the UN Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto.

6. In 2017, the Working group on ensuring accessibility for persons with disabilities and other people with limited mobility to the court and judicial procedure, composed of representatives of relevant authorities, the judiciary, the National Assembly of People with Disabilities and non-governmental organizations, was set up under the auspices of the High Council of Justice.

7. According to “The Strategy for Reforming of the Judiciary, the System of Justice, and Ancillary Legal Institutions for 2015-2020”, one of the key tasks of judicial reform is to enable to fully guarantee the right to a fair trial and equal opportunities in the courts. To fulfil this task the Ministry of Justice of Ukraine has analysed the legal acts in the area of access to justice and has launched monitoring of the inclusivity of the judiciary. The anticipated outcome of the process will be the adoption of the Comprehensive Concept of Guaranteeing the Inclusivity of the Judiciary, that seeks to consolidate at the legislative level the principle of inclusive judicial procedure for the practical implementation of the principles of the rule of law and to ensure every right to a fair trial and an independent and impartial administration of justice.

8. The Government reviewed the criteria for accessibility of websites of courts for persons with serious visual impairment, which were taken into account by representatives of the State Enterprise "Information Judicial Systems" when developing a new layout of the web portal "Judiciary of Ukraine". The web portal has controls that enable users with visual and hearing impairments to change the font size and laid out by the elements of HTML programming language: headings, lists, tables, frames. Such service is accessible to these groups of people if the specialized software installed on a user's personal computer, which provides easy navigation on the pages of the specified web portal. In addition, the web portal "Judiciary of Ukraine" was updated with functionality of visual correspondence of information and its language navigation, accessible captcha (sound analogue) and with ability to control fonts.

9. One of the mechanisms for effective access to justice for persons with disabilities is the Electronic Court, which has been put into test operation in all local and appellate courts, as well as the Administrative Court of Cassation within the Supreme Court, in accordance with the Order of the State Judicial Administration of December 22, 2018 No. 628. The innovative essence of the E-Court is that the litigant can use the E-court service to pay the court fees and other payments online, to form and submit the electronic order to another person, to file the procedural documents (claims, petitions, etc.) in electronic format and additionally receive:

* web links to the texts of all the procedural documents in the case in which the participant is involved: court decisions, subpoenas, summons, etc.;
* information on received and registered incoming case documents, together with documents in electronic format;
* information about received documents on the case from other participants together with documents in electronic format;
* electronic documents that have led to a change in the status of the case, automated distribution protocols, etc.

10. The National School of Judges of Ukraine holds regular sessions for the judiciary to ensure effective access to justice for persons with disabilities. In 2018-2019, 23 seminars and trainings were held, attended by 377 judges, and 50 sessions for the court officials took place, in which a total of 1836 persons participated.

11. The USAID Fair Justice Program was implemented as part of the project: “Monitoring of Equal Access to Justice for Individuals with Disabilities”.

**II. On existing good practices to facilitate the direct or indirect participation of persons with disabilities in judicial and other legal proceedings. Legal aid provision**

*(response to question No. 2)*

***Representation and protection of rights and interests in court***

12. Persons with disabilities may personally avail themselves of their civil procedural rights and perform their duties in court in matters arising out of relationships in which they are personally involved, unless otherwise provided by law. Pursuant to Article 47 of the Code of Civil Procedure of Ukraine, a court may involve the legal representative of a minor or a person with limited civil dispositive capacity in such cases. In the absence of legal representative or third party of person found to be incapacitated or having limited civil dispositive capacity, the court, on the submission of the guardianship authority, appoints guardians and involves them in the case as legal representatives (Article 63 of the of Civil Procedure Code of Ukraine). Similar provisions on representation in court are provided by Articles 57, 44 of the Commercial Procedure Code of Ukraine and Article 56 of the Code of Administrative Procedure of Ukraine. In accordance with the provisions of Article 44 of the Criminal Procedure Code of Ukraine, if a suspect, accused is a juvenile or a person recognized as incapacitated or with limited civil capacity in accordance with the procedure established by law, his or her legal representative shall be also involved with the proceedings.

***Regarding sign language translation***

13. Rules of procedural law contain provisions on the possibility of involving an interpreter who possesses the technique of sign language translation in litigation. The participation of an interpreter with a sign language translation technique is compulsory when considering a case involving a hearing impaired person (Article 72 of the of the Commercial Procedure Code of Ukraine, Article 75 of the Civil Procedure Code of Ukraine, Article 71 of the Code of Administrative Procedure of Ukraine, Article 56 of the Criminal Procedure Code of Ukraine). In addition, in accordance with Article 68 of the Code of Criminal Procedure of Ukraine, the investigating judge or court shall, if necessary, in the criminal proceeding employ the appropriate translator (sign language translator) for the translation of explanations, testimonies or documents of the party to the criminal proceedings.

***Architectural accessibility of court premises***

14. The requirements of state building rules В.2.2-26:2010 «Buildings and structures. Courts» are being applied to the design, construction of new and reconstruction of existing court buildings, as well as the premises of courts built into other purpose buildings. These requirements determined that the design, construction, and reconstruction of court buildings should respect their accessibility to persons with limited mobility (people with disabilities, people with temporary health problems, pregnant women, the elderly, people with wheelchairs), and it should be ensured that:

* accessibility of targeted visitation and service points both on the land plot and in the court house;
* safety of traffic routes (including evacuation routes) and service points;
* timely receipt of complete and high-quality information for persons with limited mobility, which allows to navigate in the building, use equipment (including for self-service), get the necessary services;
* convenience and comfort environment and service in the courthouse.

15. The new requirements of state building rules B.2.2-40:2018 “Inclusivity of Buildings and Structures” entered into force on April 1, 2019. These rules are based on European standards and modern approaches to the comfort and safety of living space for people with disabilities.

16. At present, accessibility standards for persons with disabilities, in particular with respect to the convenience of being in court and participating in court hearings, are only ensured in part of the courts. Specific additional measures are being taken to improve the conditions of access to justice for persons with disabilities, in particular arrangement of informational and engineering equipment in courtrooms for the hearing impaired, navigation equipment for the visually impaired, etc. At present the entrances to the 369 courts (55%) are equipped with ramps (in 2017 - 293 courts or 43%), including 12 ramps upgraded (cover replaced, handrails installed), and lifting platforms were installed on the entrances in 3 courts.

17. For visually impaired persons, the courts duplicate information in relief (Braille system). Nowadays, in the premises of 135 (20%) courts, the names of the main premises and traffic indicators are duplicated by Braille (in 2017 - 115 courts or 17%). Also, in the premises of courts for persons with visual impairments differences in levels (floors, thresholds, steps) are marked with contrasting (yellow) paint or textured material, dangerous areas (glass doors and glass partitions) are marked with a contrasting yellow ribbon. The number of courts in the premises of which a universal bathroom cabin installed is increasing: in 2017 - 60 courts (9%), in 2018 - 92 courts (13.5%).

***Regarding the promotion of indirect participation in the litigation of persons with disabilities as witnesses, jurors, judges, lawyers***

18. Pursuant to Article 69 of the Civil Procedure Code of Ukraine, any person who is aware of any relevant circumstances to the case may be a witness. In the absence of objections by the parties to the case, the witness may participate in the court hearing in the videoconference mode. The court may allow a witness to attend a videoconference hearing, regardless of the objections of the parties to the case, if the witness is unable to appear in court due to illness, the elderly, disability or other valid reasons. Similar provisions on the participation of persons with disabilities in the litigation as witnesses are provided for in Article 66 of the Commercial Procedure Code of Ukraine and Article 65 of the Code of Administrative Procedure of Ukraine. Currently, videoconference systems are in place in courts, technical capacities of which enable the videoconferencing.

19. According to Article 65 of the Law of Ukraine “On Judiciary and Status of Judges”, a juror may be a citizen of Ukraine who has reached the age of thirty and is a permanent resident in the territory under the jurisdiction of the respective court, unless other is stipulated by law. Persons, who, in particular, are recognized by court to be partially legally capable or incapable, have chronic mental or other diseases that prevent them from performance of duties as juror may not be included in the list of jurors.

20. Pursuant to article 61 of the Law of Ukraine “On Judiciary and Status of Judges” a citizen of Ukraine who is at least twenty five years old, has a higher education in law and practical experience in law for at least three years, residing in Ukraine for at least ten years, is competent, honest and speaks the state language, may be nominated to the position of a judge. The citizens, who, in particular, are recognized by court partially legally capable or incapable, have chronic mental or other diseases that prevent them from performing the functions of the administration of justice may not be nominated for a position of a judge.

21. According to norms of Article 6 of the Law of Ukraine “On the Bar and Practice of Law”, any individual who has obtained complete higher legal education, has a command of the official language and at least two-year experience in the field of law, has passed the qualification exam, has successfully completed traineeship (except in the cases established by this Law), has taken the oath of attorney of Ukraine, and has obtained the certificate of right to practice law is eligible to be an attorney. No person may be an attorney if, inter alia, he/she was found by court partially or fully incapable.

22. The Decision by the Council of Attorneys of Ukraine of 10 June 2016 No. 135 “Ensuring implementation of the right to legal profession by attorneys with physical constraints (by persons with disabilities)” approved clarification which stipulates that a person with disabilities, including a professional attorney, has a right to additional guarantees of his/her activity owing to personal physical constraints. In a course of practicing of the law as well as in political and social lives attorneys with physical constraints enjoy specific rights of persons with disabilities determined by international and national legislation, including the right to accessible information on means facilitating mobility, items and enabling technologies and other forms of assistance, enabling services and facilities; to unhindered access to services of special assistants and facilitators, particularly, guides, readers and professional sign language interpreters, technical assistants, etc (Articles 4, 9, 20, 26, 29 of the Convention on the Rights of Persons with Disabilities).

***Access to free legal aid for persons with disabilities***

23. In accordance with Article 5 of the Law of Ukraine “On Free Legal Aid”, accessibility of the free legal aid to all categories of people, who are entitled to obtain it, is one of the core principles on which Ukrainian state policy in a sphere of free legal aid is built on. Since July 1, 2015 the Ukrainian free legal aid system have been ensuring provision of the free secondary legal aid consisting of such legal services as 1) legal protection; 2) representation of interests in courts, other state authorities, local self-governance bodies, before third parties; 3) drafting legal documents. Persons with disabilities obtaining pension or aid substituting pension in the amount not exceeding two (2) subsistence minimums for disabled are entitled to abovementioned legal services.

24. From July 1, 2015 to July 15, 2019 persons with disabilities submitted 39021 written applications on the free secondary legal aid provision. From January 1, 2019 to July 15, 2019 people of that category submitted 5187 applications.

25. In order to strengthen legal opportunities of territorial communities and ensure access of vulnerable people, including persons with disabilities and with physical constraints, to free secondary legal aid, lawyers of the free legal aid system represent interests of individuals who are entitled to such legal aid in courts, other state authorities, local self-governance bodies and before third parties on the basis of a power of attorney, issued by a client who applied for free legal aid. Since September 1, 2016 over 400 legal aid bureaus are operating within territorial communities. Their main focus is providing vulnerable groups of the society with legal awareness-raising campaigns, including on preventing human rights violations of persons with disabilities.

26. With the intention to increase access to free legal aid services for socially vulnerable categories of population, particularly for persons with disabilities, elderly people, lonely people, persons with physical constraints, free legal aid system units systematically establish and develop network of remote free legal aid points and perform field consultations (field reception of citizens); this activity has been undertaking since October 2015.

27. Furthermore, free legal aid units jointly with NGOs dealing with human rights of persons with disabilities systematically arrange legal awareness-raising workshops, trainings, round tables, lectures, seminars and other activities on legal safeguards for persons with disabilities.

28. The Free Legal Aid Coordination Center, in conjunction with the Ukrainian-Canadian project “Quality and Accessible Legal Aid in Ukraine” and the Joint editors of periodicals of the Ukrainian Society of the Blind “Zaklyk”, developed and printed with Braille language 30,000 copies of information booklets on the rights of persons with disabilities to free legal aid, the procedure for receiving such aid, which were distributed among the territorial units of the Ukrainian Non-Governmental Organization of the Ukrainian Blind Society and the centers for provision of free legal aid.

***Payment of court fees by persons with disabilities***

29. Article 5 of the Law of Ukraine “On Court Fees” introduced court fees relief for persons with disabilities (persons with disabilities due to World War II, families of soldiers (partisans) who died or went missing and persons with the same status obtained pursuant to established procedures, persons with 1 and 2 disability groups, legal representatives of children with disabilities and incapacitated persons with disabilities are released from paying court fees (paragraphs 8, 9 of Article 5 (1) of the Law of Ukraine “On Court Fees” (as amended by the Law No. 2443 of 22 May 2018)), and defined relief for deferral and installment of payment court fees or reducing their amount.

30. On December 04, 2018 the Parliament of Ukraine adopted the Law No. 2633 amending the Law of Ukraine “On Court Fees” by stipulating that court fees` costs shall be directed also on ensuring architectural accessibility of court premises, accessibility of information placed within the court for persons with disabilities and other people with low mobility.

31. **With regard to question No. 3 of the questionnaire**, the Supreme Court did not perform compilation of case law of the cases on ensuring effective access to justice for persons with disabilities. Supreme Court`s case law within such cases is not enough for the moment to release a review on the subject.

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