

6. Конвенція про захист прав і основоположних свобод людини від 04 листопада 1950 р. URL: http://zakon3.rada.gov.ua/laws/show/995_004

7. Бангалорські принципи поведінки суддів, схвалені резолюцією Економічної та Соціальної Ради ООН від 27 липня 2006 року № 2006/23. URL: http://zakon4.rada.gov.ua/laws/show/995_j67

8. Про судоустрій та статус суддів: Закон України від 02 червня 2016 р. URL: <http://zakon3.rada.gov.ua/laws/show/1402-19>

9. Кодекс суддівської етики : затверджено XI черговим з'їздом суддів України 22 лютого 2013 р. URL: [court.gov.ua/userfiles/Kodex%20sud%20etiki\(1\).pdf](http://court.gov.ua/userfiles/Kodex%20sud%20etiki(1).pdf)

10. Про затвердження Коментаря до Кодексу суддівської етики : рішення Ради суддів України від 4 лютого 2016 р. URL: http://zib.com.ua/ua/121844-opublikovano_komentar_do_kodeksu_suddivskoi_etiki

11. Про запобігання корупції: Закон України від 14 жовтня 2014 р. URL: <http://zakon3.rada.gov.ua/laws/show>

12. Про засади державної антикорупційної політики в Україні (Антикорупційна стратегія) на 2014-2017 роки: Закон України від 14 жовтня 2014 р. URL: <http://zakon3.rada.gov.ua/laws/show>

13. Глуценко С. Що розуміти під професійною етикою та добросовістю в контексті кваліфікаційного оцінювання суддів? *Закон і Бізнес*. URL: http://zib.com.ua/ua/125930-scho_rozumiti_pid_profesinyouy_etikoyu_ta_dobrochesnistyu_v_.html

УДК 347.91

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ACCESS TO JUSTICE FOR PERSONS WITH DISABILITIES IN THE LEGISLATION OF UKRAINE

Access of a person to justice is guaranteed by Article 55 of the Constitution of Ukraine, which states that the rights and freedoms of

a person and a citizen are protected by a court. Everyone is guaranteed the right to appeal against decisions, actions or inactivity of the governmental bodies, bodies of local government, public officials and officials in a court. Article 124 of the Constitution provides that court jurisdiction extends to any legal dispute. [1]

The norms of the Constitution are the provision with the direct effect, that is, every citizen of Ukraine is guaranteed a right to apply to the court and obtain an honest and objective decision for his problem or dispute.

Unfortunately, this is only a nominal right, because in practice not every citizen of our state can actualize his constitutional right. These are people with disabilities. For them, the problems of life in our state evolve into survival and an attempt to at least partially get closer to being a full member of society. What has to be said about the implementation of a guaranteed constitutional right to justice.

A significant problem of our society is the desire not to notice such people, not to think about their problems and not to know about them. Our citizens need total re-education in their attitude towards people with disabilities. It is important to explain to the pupils in junior grades that people with disabilities have the same rights as other citizens. The state should be the first one to remedy this situation.

The first step towards overcoming this problem is the proper regulatory support for the status of a person with disabilities.

In 2009, the Verkhovna Rada of Ukraine ratified the United Nations Convention on the Rights of Persons with Disabilities, the purpose of which is to promote, protect and ensure the full and equal enjoyment by all persons with disabilities of all human rights and fundamental freedoms, as well as to encourage respect for the inherent dignity of persons with disabilities. In accordance to the Convention, participating state undertake to ensure and promote the full realization of all human rights and fundamental freedoms by all persons with disabilities without any discrimination on grounds of disability.

The issue of access to justice is defined by a separate article of the Convention, which requires the participating state to provide effective access to justice to persons with disabilities, including by

providing procedural and appropriate age-related adjustments that facilitate their effective role of direct and indirect participants, including witnesses at all stages of the legal process, in particular at the stage of the investigation and other stages of the preliminary proceedings [2]. For qualitative implementation of this provision, individuals working in the field of justice, police and penitentiary system must undergo appropriate training.

A person with a disability cannot always apply to the court in connection with physiological or psychological peculiarities.

When it comes to people who are incapacitated or whose capacity is limited, that is, they have intellectual or mental illness, then procedural law provides the opportunity to realize the right to justice through their parents, representatives, guardians or trustees.

For example, the Code of civil procedure gives the court the right to bring legal representative into a court case in which the capacity of one of the participants is a limited. Persons whose civil capacity is limited can personally realize civil rights and perform their duties in court in cases arising from the relations in which they personally participate. The rights, freedoms and interests of incapacitated individuals shall be defended in court by their guardians or other persons specified by law. The rights, freedoms and interests of persons whose civil capacity is limited can be defended in court in accordance with the persons specified by law. The court may involve a minor or a person whose civil capacity is restricted in such cases. In case of absence of a legal representative of a party or a third person, which is recognized as incapacitated or restricted in civil capacity, the court shall appoint a guardian or trustee, upon the submission of the trustee and guardianship authority, and involve them in legal proceedings as legal representatives [3].

These provisions are also guaranteed by the Law of Ukraine "On Prosecutor's Office" where it is established that the prosecutor exercises representation in the court of the interests of a citizen (a citizen of Ukraine, a foreigner or a stateless person) in cases where such person is not able to independently protect his violated or disputed rights or exercise procedural powers due to failure to reach adulthood, incapacity or limited capacity, and lawful representatives or bodies by which the law grants the right to protect the rights,

freedoms and interests of such person, do not perform either about improperly protecting it [4].

In addition, persons with disabilities belong to the category of citizens entitled to free legal aid, that is, to inform the person about his rights and freedoms, the procedure for their implementation, restoration in case of their violation and the procedure for appealing against decisions, actions or inaction of state bodies, local government bodies, officials and officers [5].

In general, based on the principle of equality of all before the law, the legislation regulating the activity of the judicial branch of power and procedural law does not give a clear indication of the special legal status of a person with disabilities, so here we can refer only to the norms regulating the legal status of all participants in these relations.

The Law of Ukraine "On the Judiciary and the Status of Judges", defining the principles of the administration of justice in Ukraine, establish that the court creates such conditions in which each participant in the trial guarantees equality in the exercise of the procedural rights granted and in the performance of procedural obligations determined by the procedural law. Justice in Ukraine is carried out on the basis of the equality of all participants in the trial before the law and the court, regardless of race, color, political, religious and other beliefs, sex, ethnic and social origin, property status, residence, linguistic and other characteristics [6].

However, one should pay attention to the provisions of procedural legislation on participation in the trial of persons with hearing impairment (deaf and hard of hearing), namely, for such persons in the court sessions, the obligatory participation of an interpreter is established, namely:

- the Code of Administrative Legal Proceedings of Ukraine guarantees the obligatory participation of a qualified translator who has the technique of communicating with deaf, dumb or deaf-mute [7];

- the Criminal Procedural Code of Ukraine establishes that, in case of necessity during the criminal proceedings for the translation of explanations, testimonies or documents, parties to criminal proceedings, an investigating judge or court shall involve an

appropriate interpreter (interpreter) whose competence should be verified [8];

- The Civil Procedural Code also guarantees the participation of an interpreter in a civil process and establishes that the participation of an interpreter who has the technique of communicating with deaf, dumb or deaf-mute is mandatory in case hearing, one of whose participants is a person with hearing impairment. The qualification of such a translator is confirmed by the relevant document issued in accordance with the procedure established by law [3].

Regulatory regulation of the legal status of a person with disabilities in the administration of justice at an appropriate level. The legislation gives enough attention to the ways of implementing a person with restrictions on his right to apply to the court and to participate in court sessions. The legislation focuses on the possibility of involving the person with disabilities in the process. But if a person who is forced to use for moving auxiliary devices or is not capable of independent movement is completely conscious, knowledgeable and willing to participate independently in a court session, then how to get there? With this question, people who are limited in movement are concerned with every day. In practice, a person with a disability physically cannot independently, without the help of others, get to the courtroom or to the center of provision of legal aid, because the buildings are not equipped with special means for the movement of persons with physical disabilities.

Although, in the Law of Ukraine "On the Basis of Social Protection of Persons with Disabilities in Ukraine", Section 5 establishes requirements for creating conditions for unimpeded access of persons with disabilities to social infrastructure, which states that the planning and development of settlements, the formation of microdistricts, designing, construction and reconstruction of objects of physical environment without adaptation for use by persons with disabilities are not allowed. The mentioned activity is carried out taking into account the opinion of public organizations of persons with disabilities. Enterprises, institutions and organizations are obliged to create conditions for unimpeded access of persons with disabilities (including persons with disabilities

using means of transport and guide dogs) to objects of physical environment. Owners and manufacturers of vehicles, manufacturers and customers of information (print media, broadcasting organizations, etc.), operators and telecommunication providers should ensure the provision of services and product development, taking into account the needs of persons with disabilities [9].

Consequently, the legal and regulatory framework for the implementation of the rights and freedoms of persons with disabilities in our state are at the appropriate level, however, are only declarative, since they are not provided with material resources and mechanisms of administrative implementation. Not with standing the current legislative norms, the society only in recent years became aware of the need to create accessible conditions for people with disabilities so that these people can be directly involved in the trial and have the opportunity to defend their rights and interests independently. It is considered that such persons should independently decide on their participation in the court process and seek the means to protect their rights through relatives, legal representatives, lawyers, but this position is not correct and places in equalities on the situation of persons with disabilities and essentially deprives them of their the rights of using all the mechanisms permitted by law to protect their rights. A special point to be taken into consideration is the need for proper legal regulation of the procedure for the use of sign language interpreter, the issue of familiarization with the materials of court cases and court rulings of blind and visually impaired persons, identification of the signature of the blind man, etc. Therefore, the existing system of legal and social protection of persons with disabilities requires significant changes and additions and modernization.

Literature:

1. Конституція України від 28.06.1996 р. (редакція від 30.09.2016 р.) [Текст]. – [Електронний ресурс]. – Режим доступу : zakon.rada.gov.ua/laws/show/254к/96-вр.
2. Конвенція про права осіб з інвалідністю ратифіковано Законом № 1767-VI від 16.12.2009 – [Електронний ресурс]. – Режим доступу : http://zakon2.rada.gov.ua/laws/show/995_g71.

3. Цивільний процесуальний кодекс України : Закон України від 18.03.2004 № 1618-IV – [Електронний ресурс]. – Режим доступу : <http://zakon3.rada.gov.ua/laws/show/1618-15/page3>.

4. Про прокуратуру : Закон України від 14.10.2014 № 1697-VII – [Електронний ресурс]. – Режим доступу : <http://zakon5.rada.gov.ua/laws/show/1697-18/page2>.

5. Про безоплатну правову допомогу : Закон України від 02.06.2011 № 3460-VI – [Електронний ресурс]. – Режим доступу : <http://zakon3.rada.gov.ua/laws/show/3460-17>.

6. Про судоустрій та статус суддів : Закон України від 02.06.2016 № 1402-VIII – [Електронний ресурс]. – Режим доступу : <http://zakon5.rada.gov.ua/laws/show/1402-19>.

7. Кодекс адміністративного судочинства України : Закон України від 06.07.2005 № 2747-IV – [Електронний ресурс]. – Режим доступу : <http://zakon2.rada.gov.ua/laws/show/2747-15>.

8. Кримінальний процесуальний кодекс України : Закон України від 13.04.2012 № 4651-VI – [Електронний ресурс]. – Режим доступу : <http://zakon2.rada.gov.ua/laws/show/4651-17/page3>.

9. Про основи соціальної захищеності осіб з інвалідністю в Україні : Закон України від 21.03.1991 № 875-XII – [Електронний ресурс]. – Режим доступу : <http://zakon2.rada.gov.ua/laws/show/875-12/page2>.

УДК 351.74

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ПІДГОТОВКА УПРАВЛІНСЬКИХ КАДРІВ ПОЛІЦІЇ НА ПРИКЛАДІ ЗАХІДНОЄВРОПЕЙСЬКОГО ДОСВІДУ

В статті охарактеризовано систему професійної підготовки керівного складу поліції в країнах ЄС; окреслено перспективні напрями та умови використання європейського досвіду підготовки управлінських кадрів поліції в діяльності Національної поліції України.