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## Barriers of people with disabilities in exercising constitutional right to higher education

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### ABSTRACT

Given that the disability of population, unfortunately, has negative dynamics to increase its number, it is increasingly attracting equal and free access to education for all categories of population, especially people with special needs. That is why the need to identify the problems faced by people with disabilities in exercising their constitutional right to higher education is becoming urgent. The methodological basis for writing this article is a system of general and special methods of scientific knowledge. The authors focus on the existing barriers to higher education for people with disabilities. It is stated that the legislation of Ukraine, which regulates the research issue, contains legal gaps and conflicts that complicate the opportunities for people with disabilities to obtain higher education. It is noted that higher education institutions need to pay more attention to the material and technical equipment of the educational process, which will increase the number of people with disabilities to obtain higher education. Also, the problem of psychological adaptation and socialization of people with disabilities in higher education is particularly acute. Of particular relevance is the need to identify the problems faced by people with disabilities in exercising their constitutional right to higher education that is becoming urgent.

**KEYWORDS:** Access to education; disabled people; educational policy; educational legislation; rights of the disabled; right to education.

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## Barreras de las personas con discapacidad en el ejercicio del derecho constitucional a la educación universitaria

### RESUMEN

Dado que la discapacidad de la población, lamentablemente, va aumentando en su número, está atrayendo cada vez más el acceso igualitario y gratuito a la educación para todas las categorías de población, especialmente las personas con necesidades especiales. Es por ello que se hace urgente la necesidad de identificar los problemas que enfrentan las personas con discapacidad en el ejercicio de su derecho constitucional a la educación universitaria. La base metodológica para la redacción de este artículo es un sistema de métodos generales y especiales de conocimiento científico. Los autores se centran en las barreras existentes para la educación universitaria para personas con discapacidad. Se afirma que la legislación de Ucrania, que regula el tema de la investigación, contiene lagunas y conflictos legales que complican las oportunidades de las personas con discapacidad para obtener una educación superior. Se observa que las instituciones de educación superior deben prestar más atención al equipamiento material y técnico del proceso educativo, lo que aumentará el número de personas con discapacidad para acceder a la educación universitaria. Además, es particularmente grave el problema de la adaptación psicológica y la socialización de las personas con discapacidad en la educación universitaria. Es de especial relevancia la necesidad de identificar los problemas a los que se enfrentan las personas con discapacidad en el ejercicio de su derecho constitucional a la educación universitaria.

**PALABRAS CLAVE:** Acceso a la educación; personas discapacitadas; política educativa; legislación educativa; derechos de los discapacitados; derecho a la educación.

### Introduction

Along with the general directions of educational policy in Ukraine, which correspond to the European integration course, there are problems and contradictions in their implementation. These problems are both public and partial. However, it should be noted that the analysis of the works of scientists who studied the issues of educational policy outside Ukraine leads to the idea that each state faces problems with the implementation of educational ideology and strategy. These issues are universal and vary by region, state, and specific locality (Bakalinska et al., 2020).

One of the constitutional rights of a man and a citizen is the right for education. At the same time, it is not allowed to restrict this right on the grounds of disability. It should be

noted that citizens with disabilities are among all segments of population of any society. These are people with health problems such as lesions of musculoskeletal system and central and peripheral nervous system; mental illness and mental retardation; lesions of organs of hearing and vision; lesions of internal organs; cancer. The number of people with special needs is constantly growing, although the causes and consequences of disability may be different: due to different socio-economic circumstances, and different degrees of state welfare of their citizens. Today we can talk about global nature of the problem of disability - worldwide, some opportunities are limited by about one from ten people (650 million people), of which almost 470 million people are of working age (Kravchenko, 2010). In Ukraine as of January 01, 2020, there are 2.7 million people with disabilities, including 222.3 thousand people with disability group I, 900.8 thousand people with disability group II, 1416.0 thousand people with disability group III and 163.9 thousand children with disabilities (Kravchenko, 2010).

It should be noted that today in Ukraine in the system of higher education institutions persons with: Group I disability do not receive higher education at all (such persons are incapable of learning); II group of disability (ability to study only in special educational institutions or under special programs at home) in 2020, about 60 such persons were recorded; Group III disability is the largest group of students who are able to study in general educational institutions in compliance with a special regime of the educational process and (or) with the use of aids, with the help of other persons (except teaching staff) - as of the end of 2020 There were about 300 of them in the whole of Ukraine in 2020, they are present in almost all higher educational institutions of Ukraine.

Thus, the purpose of the article is to identify the problems faced by people with disabilities in exercising their constitutional right to higher education is becoming urgent.

## 1. Literature Review

Some aspects of the problem of access of persons with disabilities to higher education were partially studied by Kravchenko M.V. «Actual problems of social protection of the disabled in Ukraine» (2010); issues of socialization of students with disabilities were the subject of research by Madhuri T. Sathe, Amol C. Adamuthe «Comparative Study of Supervised Algorithms for Prediction of Students» (2021); Arifur Rahaman, Sabrina Tasnim, Md Sohag Hossain Majumdar, Emam Hossen, Md Rafiqul Islam «A Comprehensive Study on

Excessive Mobile Phone Use and Preventive Measures» (2020) and Zoran Kotevski, Ivana Tasevska Evaluating the Potentials of Educational Systems to Advance Implementing Multimedia (2017); problems of social adaptation of people with disabilities in higher education were the subject of research V.S. Tserklevych «Implementation of the right to higher education for young people with disabilities in foreign practice» (2009) and I.L. Bulyk «Administrative and legal support of the right to education of the disabled» (2012).

## 2. Methods

The methodological basis for writing this article is a system of general and special methods of scientific knowledge. Using the structural-functional method, the procedure for admission of persons with special needs to higher education institutions was studied; the comparative legal method made it possible to determine the need for the use of modern mobile IT technologies in the inclusion of people with disabilities in the learning process in higher education; the method of analysis was used in the process of determining the content and features of obtaining higher education for persons with disabilities; using the statistical method and analysis, analytical data on the number of people with disabilities included in the educational process are presented.

## 3. Results and Discussion

### 3.1. Legislative provision of the right of persons with disabilities for higher education

At the international level the countries-members of the Convention on the Rights of Persons with Disabilities have agreed that the countries-members recognize the right of persons with disabilities for education. For the purposes of realization of this right, without discrimination and on the basis of equal opportunities, the countries-members shall ensure inclusive education at all levels and lifelong learning, seeking to: (a) full development of human potential, as well as a sense of dignity and self-respect, and strengthening of respect for human rights, fundamental freedoms and human diversity; (b) develop the personality, talents and creativity of persons with disabilities, as well as their mental and physical abilities to the fullest extent; c) enable persons with disabilities to take an active part in the life of a free society (UN, 2006).

In exercising this right, the countries-members shall ensure that: (a) Persons with disabilities were not excluded from the general educational system due to their disability, and children with disabilities were not excluded from the system of free and compulsory primary or secondary education; (b) Persons with disabilities have equal access to inclusive, quality and free primary and secondary education at their places of residence; (c) reasonable accommodation must be provided to take account of individual needs; (d) Persons with disabilities receive the necessary support within the general educational system to facilitate their effective learning; e) in conditions that best contribute to the acquisition of knowledge and social development, in accordance with the purpose of full coverage, effective measures must be taken to organize individualized support (UN, 2006).

The countries-members shall provide persons with disabilities with the opportunity to acquire life and social skills in order to facilitate their full and equal participation in education and as members of the local community. The countries-members shall take appropriate measures in this regard, in particular: (a) promote the acquisition of Braille alphabet, alternative fonts, amplification and alternative methods, communication methods and formats, as well as orientation and mobility skills, and promote peer support and mentoring; b) promote the acquisition of sign language and the promotion of the linguistic identity of the deaf; (c) Ensure that the education of persons, in particular children who are blind, deaf or deafblind, is carried out in the most appropriate languages, methods and means of communication for the person with disability and in an environment conducive to acquisition of knowledge and social development. To facilitate the realization of this right, the countries-members shall take appropriate measures to involve teachers, including teachers with disabilities, who speak sign language and / or Braille alphabet, and to train professionals and staff working at all levels of the education system. Such training covers disability education and the use of appropriate amplification and alternative methods, ways and formats of communication, teaching methods and materials to provide support to persons with disabilities. The countries-members shall ensure that persons with disabilities have access to general higher education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, the countries-members shall ensure reasonable accommodation for persons with disabilities (UN, 2006).

National legislation stipulates that a person with special educational needs is a person with disability who needs additional support to ensure higher education.

The Law of Ukraine "On Higher Education" stipulates that special units may function in the structure of higher educational institutions, which take care of persons with disabilities in the process of providing them with educational needs. However, with the growing number of people with disabilities among the young population, the problem of obtaining higher education and, accordingly, the state guaranteeing of the right of people with disabilities for education is becoming more and more important. Therefore, we believe the availability of these units should not be a right or alternative choice, but a duty of higher educational institution, and this obligation should be fixed to one of the criteria for licensing higher educational institution or accreditation of relevant educational programs.

It should also be noted that Section V "Quality Assurance in Higher Education" does not provide the necessary conditions for implementation of quality of higher education specifically for people with special educational needs and disabilities, including training of qualified professionals to work at inclusive educational institutions.

Art. 49 of the Law of Ukraine "On Higher Education" stipulates that a person has the right to obtain higher education in various forms or a combination of them. The main forms of higher education are: institutional (full-time (day, evening), correspondence, distance, network); dual.

Given the special needs of people with disabilities, we consider it possible to introduce a third form of education for people with disabilities - inclusive education.

Art. 22 of the Law of Ukraine "On Fundamentals of Social Protection of Persons with Disabilities in Ukraine" establishes the guarantees for persons with disabilities to exercise the right for education by delegating to higher educational institutions the obligation to create necessary conditions for appropriate education.

Admission to higher educational institutions for persons with disabilities is carried out on a competitive basis in accordance with the Conditions of Admission to Higher and Professional Higher Educational Institutions approved by the Ministry of Education and Science of Ukraine. Special conditions for obtaining higher education by state order and at the expense of targeted preferential state orders are provided: - persons with disabilities who are unable to attend school (upon recommendation of health and social protection authorities); - persons who have diseases listed in the List of diseases and pathological

conditions that may be an obstacle to the external independent assessment; -persons with disabilities of the I, II groups and children with disabilities under the age of 18, who are not contraindicated to study in the chosen major (VRU, 1991, Art. 22).

The Law of Ukraine “On Rehabilitation of Persons with Disabilities in Ukraine” clearly defines the obligation of the state to provide free vocational education and related services, in accordance with the individual rehabilitation program for persons with disabilities. Persons with disabilities, children with disabilities, with severe disabilities, who need special conditions for vocational education, may, if they wish, study at special educational institutions or t general educational institutions, where appropriate conditions are created in accordance with state social standards, and in case of need - according to training programs adapted for training of persons in need of correction of physical and / or mental development. In case of impossibility to carry out vocational education of persons with disabilities, children with disabilities at general and special educational institutions, their education is organized (with their consent or with the consent of their legal representatives) at home according to individual curricula, if this form is allowed by vocational training (VRU, 2005).

The procedure for admission of persons with special needs to higher educational institutions is defined more particularly in the order of the Ministry of Education and Science of Ukraine "On approval of the Conditions of admission to higher educational institutions in 2021, October 15, 2020, No. 1274. In particular, persons with disabilities due to war in accordance with Article 7 of the Law of Ukraine "On status of war veterans, guarantees of their social protection" (including on the basis of the educational and qualification level of a junior specialist); persons who, by the Law of Ukraine “On Status and Social Protection of Citizens Affected by Chernobyl Accident”, have been granted the right to be admitted to state higher educational institutions without examinations based on the results of an interview; Persons with disabilities who are unable to attend an educational institution (upon recommendation of health and social protection bodies) - pass the entrance exams in the form of an interview and in case of a positive conclusion about the interview are recommended for enrolment in higher educational institution on the basis of complete general secondary education (MESU, 2020).

In addition, persons with disabilities of the groups I, II and children with disabilities under the age of 18, who are not contraindicated to study in the chosen major; persons with

disabilities from among the participants in the liquidation of the consequences of Chornobyl accident and victims of Chornobyl disaster, in respect of which a causal link of disability with Chornobyl disaster, Chornobyl catastrophe radiation sickness (category 1), (compulsory) resettlement from the moment of the accident until the adoption of the resolution on resettlement (category 2); children of persons recognized as victims of the Revolution of Dignity, participants of hostilities, persons with disabilities as a result of the war in accordance with the Law of Ukraine "On status of war veterans, guarantees of their social protection"; miners who have at least three years of underground work experience, as well as within three years after completing general secondary education, persons whose parents are miners and have at least 15 years of underground work experience or who have died as a result of an accident at work or become persons with disability of the I or II group, - can be transferred to vacant places by state or regional order in the manner provided by these Conditions if they are enrolled on training on other sources of financing by open or fixed competitive offer and did not receive the recommendation for places of state or regional order (MESU, 2020).

### 3.2. Practical component

Creation of new information technologies led to the emergence of innovative forms of employment. Simultaneously, the modern state of economy is in contradiction with legal regulation of work, since the effective labour legislation of Ukraine practically does not reflect new forms of population employment (Vyshnovetska et al., 2018). It should be noted that KROK University is implementing the innovative project "Distance Education for People with Disabilities", which aims to expand opportunities for higher education for people with special educational needs. The project is designed to provide opportunities for remote access to people with reduced mobility and special educational needs. KROK University provides distance learning for students to receive a bachelor's and master's degree. First of all, this project is aimed at removing geographical, economic and psychological barriers for higher education, expanding its accessibility. KROK University provides the following opportunities for students with disabilities of distance learning: support of persons with disabilities during the study period, which provides a prompt response of the support service to the emergence of any student-related issues; flexible payment system, assistance in drawing up the necessary documents for submission to the local / regional

branch of the Fund for Social Protection of the Disabled of Ukraine in order to reimburse the cost of training for persons with disability (KROK, 2020).

The educational process takes place: by means of modern information and communication technologies; according to an individual schedule; at a convenient time for students; in a convenient place (there is no need to visit the University for lectures and practical classes).

Another example is the introduction of Academy of Labour, Social Affairs and Tourism (Kyiv) under the project "Believe in yourself", an opportunity for people with disabilities to receive higher education in "Social Work" at the expense of the Fund of Social Protection of Disabled Persons in the following areas: social psychological counselling (bachelor's, master's degree); social prevention and rehabilitation (bachelor's degree); social project management (bachelor's degree); social project management (master's degree); mediation and conflict management (master's degree). In 2020, this opportunity was offered for the fifth time! Over the years of the project, more than 100 people with disabilities from different parts of Ukraine have become students and study for free, and some have already successfully completed their studies and received the coveted state diplomas. Full-time and part-time education is available (Huliyeva, 2020).

Such employees are able to work as: specialists at state and local government on social issues; specialists of state social services, social and psychological services of secondary and higher educational institutions; inspectors of employment and employment centres, specialists of personnel agencies; specialists of centres of social prevention, social rehabilitation, social services; specialists in mediation and conciliation services, mediation centres and legal campaigns; project managers and heads of public organizations working in the field of social protection; experts and consultants on social policy issues of political parties and trade unions; personnel managers, psychologists and consultants on social issues at enterprises, trainers, inspectors of personnel departments of public and private enterprises; trainers of consulting companies, employees of research institutes, research centres, teachers of higher educational institutions (Huliyeva, 2020).

### 3.3. International practice of using mobile forms of education for people with disabilities

The European researchers pay attention to the need to introduce IT-technologies in teaching and implementing distance learning for people with special abilities. They argue that higher education applicants with special needs should apply algorithms so called "machine learning", which subspecies are controlled, uncontrolled and auxiliary training (Madhuri & Amol, 2021; Kotevski & Tasevska, 2017).

Thus, we agree that in order to optimize the process of obtaining higher education for people with special needs, it is no doubt that video communication, multimedia technologies, etc. must be introduced to promote further development of globalization processes, which will help to improve the learning process.

However, despite the promising possibilities of using IT-technologies, mobile communications, yet there are thoughts about harm from use of these modern technologies due to their impact on proper functioning of biological systems of the human body and their lead to some serious diseases such as: heart disease, headache, impaired concentration and memory, as well as fatigue, brain cancer, brain tumour, Alzheimer's disease, Parkinson's disease, hormonal disorders, sleep disorders, cognitive impairment, behaviour, attention and long-term consequences (damage of DNA, male infertility) (Rahaman et al., 2020, 33).

Additionally, training of persons with disabilities in international practices is identified with so-called "mobile learning". Mobile learning is one of the major revolutions taking place around us that requires a change in the philosophy of learning. This is seen as the third wave of learning, where both traditional learning and e-learning are seen as the first and the second respectively. In order to explore the possibilities of the learning environment, we must reject and get some basic ideas, such as attention, rhythm, learning style for these new dimensions of learning (Mohaimen et. al., 2021, 34).

#### 3.4. Steps to improve the process of higher education for persons with disabilities

Viktoriia Tserklevych (2009, 67) notes that the best way to solve the problem of the need for integrated / inclusive education is: choice of form of education (full-time, part-time, distance); presence of socio-psychological and socio-pedagogical support in the learning process; selection of teaching methods and technologies; availability of rehabilitation services; individualized approach and measures for integration into a group of classmates; availability of barrier-free architecture and technical support of the learning process; assistance in subsequent employment in the chosen major. These components in

general, the level of their implementation at a particular educational institution are an indicator of access to education for students with disabilities.

Iryna Bulyk (2012, 83) emphasizes that in modern conditions it is necessary to create conditions that would allow to acquire a profession for people with disabilities. First of all, it is necessary to develop: analysis of medical indications and contraindications to study at vocational schools; to provide priority funding for research and scientific and methodological developments aimed at stopping depopulation processes in Ukraine and preventing disability; search for new approaches and technologies in solving the problem of comprehensive social rehabilitation of people with special needs, their education and professional training; to coordinate activities on employment of disabled people with local executive bodies, to ensure differentiated reservation of jobs for disabled graduates of educational institutions; to ensure the release of special scientific, methodological, informational literature on legal, socio-economic issues, vocational guidance, reorientation, psychological support, audiovisual teaching aids, textbooks for vocational rehabilitation of the disabled; to ensure the purchase of PCs, professional materials, legal documents, literature on psychological issues for offices for vocational guidance and psychological support for the disabled at vocational schools; to ensure the elimination of natural, communication and architectural obstacles that impede free movement of persons with disabilities in the premises where training is carried out in accordance with the Law of Ukraine "On basis of social protection of persons with disabilities in Ukraine"; to develop a list of integrated professions for training of disabled people at vocational schools in majors that are in demand in the labour market.

There are contradictions in the content of Art. 45 and Art. 70. For example, the Art. 45 "External independent evaluation" states that "the state provides entrants with special educational needs with equal access to external independent evaluation at the place of residence (stay) of such persons. Buildings, structures and premises, where external independent evaluation is carried out must meet the requirements of accessibility in accordance with state construction norms and standards." As you can see, the article does not specify the accessibility of buildings and premises for people with special needs and disabilities. In paragraph 2 of Art. 70 "Material and technical base and legal regime of property of higher educational institutions" it is stated that "buildings, structures and premises of higher educational institutions must meet the requirements of accessibility in

accordance with state building codes and standards. If the relevant facilities cannot be fully adapted to the needs of persons with special educational needs, their reasonable adaptation shall be carried out taking into account the universal design. The design, construction and reconstruction of buildings, structures and premises of higher educational institutions are carried out taking into account the needs of persons with special educational needs". This discrepancy between the articles of the Law indicates the imperfection and inconsistency of the provisions of this Law and the need to refine it for equal access of persons with disabilities to qualitative higher education both at the stage of admission to higher educational institution and at the stage of receiving higher education (Malysheva, 2015, 32).

An important obstacle to obtaining special educational services for people with disabilities is the difficulty in obtaining a medical opinion and, accordingly, presenting it as a factual basis, which provides a person with guarantees of preferential education at higher educational institution (Pyvovar et. al., 2019; Kuzmenko et. al., 2018).

## Conclusion

Based on the study, in our opinion, solving the problem of barriers in people with disabilities in higher education in higher education is possible by implementing the following steps:

1. Enshrining at the legislative level the provisions that oblige higher education institutions to organize the educational process so that the education of persons with special educational needs is carried out according to special educational programs using special educational literature and teaching aids;
2. Creation of special educational and rehabilitation subdivisions in the structure of higher educational institutions;
3. Organization of advanced training courses among the scientific and pedagogical staff to acquire special skills of presenting educational material to students from among persons with disabilities;
4. Introduction of a variable approach and special equipment of classrooms with free access to them for people with special needs;
5. Introduction of an effective state concept of inclusive education at the national level;
6. Development and adoption of long-term development programs to meet the special educational needs of persons with disabilities;

7. An effective information policy to promote inclusion in order to create the necessary conditions for changing negative stereotypes and attitudes towards people with disabilities in Ukrainian society based on the achievement of social solidarity and social justice.

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