

# Defining Disability Under Ukrainian Law

## *Key terms and background information.*

- Disability - a measure of loss of health due to illness, injury (its consequences) or congenital defects, which, when interacting with the external environment, can lead to a limitation of a person's vital activities, as a result of which the state is obliged to create conditions for the realization of rights on an equal basis with other citizens and ensure social protection.
- The causes of disability can be: childhood disability, general disease, occupational disease, accident at work, injuries, contusions, mutilation, etc.
- Persons with a disability are persons with a persistent disorder of the body's functions that can limit their life activities (a child with a disability is a person under the age of 18).
- Disability group – the level of impairment of body functions and possible limitation of a person's vital activities (established through an expert examination by a medical and social expert commission).

## *Disability groups.*

- Group I – a person's state of health is difficult, they are not able to take care of themselves and need constant care. This group is divided into subgroups A and B (depending on the degree of health loss and the amount of need for external care, assistance or supervision).
- Group II - a person has persistent, severe functional disorders in the body, but is able to take care of themselves without the constant supervision and help of other people.
- Group III - a person has stable, moderately severe functional disorders in the body, such persons often can work, but require additional social protection and assistance.

## *Rights of persons with disabilities.*

- The right to cash payments, the right to free medicine and travel, the right to help from social workers, the right to special equipment (hearing aids, wheelchairs, etc.), the right to rehabilitation, etc.
- Labor rights:
  - ✓ for such persons, special workplaces should be created in the prescribed number, proper working conditions, additional labor safety measures;
  - ✓ persons with disabilities as a result of the war have a preferential right to remain at work when the number of staff is reduced;
  - ✓ if a person with a disability has not reached retirement age and does not work, but wants to work, they have the right to register with the employment service as unemployed;
  - ✓ no trial period is required upon hiring;
  - ✓ the right to work on a part-time/weekly basis and preferential working conditions;
  - ✓ the right to be transferred to an easier job;
  - ✓ disability is a valid reason for terminating the employment contract;
  - ✓ the consent of such a person is required to engage in overtime and nighttime work;
  - ✓ the right to go on an annual paid vacation of full duration even before the 6-month term of continuous work at the enterprise;
  - ✓ persons with disabilities of groups I and II are granted an annual basic leave of 30 calendar days, and also have the right to leave without salary for up to 60 calendar days annually; persons with disabilities of the group III - 26 calendar days of annual leave and up to 30 calendar days of annual leave without salary.

## *Permanent care for a person with a disability.*

- Permanent care is a form of assistance and support for persons with disabilities or health conditions in their daily needs.

- Such care is established, in particular, for some persons with disabilities (who have a disability since childhood, a disability of group I, people with disabilities who are incapable of self-care, etc.).
- Can be provided by legal entities, natural persons and natural persons-entrepreneurs included in the relevant register of social service providers.
- The person providing care receives monetary compensation.
- To register care, you must contact the guardianship authority with a list of documents:
  - ✓ statement of desire to provide care and the written consent of the care recipient (if they are capable of providing such consent);
  - ✓ the passport of the person who will provide care and a certificate of their place of residence, the passport of the person who will be cared for;
  - ✓ a medical certificate of the person who will provide care (to confirm a sufficient level of health to provide care) and a certificate from the medical commission on the need for care of the person;
  - ✓ documents regarding the right of ownership of property or the right to use it.

#### *Guardianship and custodianship of a person with a disability.*

- A person with a disability can be recognized in a court of law as incompetent (if, as a result of a mental disorder, they are unable to realize the meaning of their actions and (or) control them) or of limited legal capacity (they have a mental disorder that significantly affects their ability to realize the meaning of their actions and (or) manage them). As a result of this, guardianship (a guardian is appointed) or custodianship (a custodian is appointed) is respectively established over such a person.
- Only a natural person with full civil legal capacity can be a guardian or custodian. The guardian or custodian is usually appointed from among the family members of the relevant person.
- The actions of the guardian or custodian can be challenged by an interested person (including relatives) to the guardianship body or to the court. The decisions of the guardianship body can be appealed to its supervisory body or to a court.