



UDC 37.014.1

DOI: 10.31548/law2022.03.003

## Implementation of the Right of Access to Higher Education: Barrier-Free and Inclusive Education Policy in International Documents and Acts of National Legislation

Iryna I. Deinega<sup>1\*</sup>, Maryna A. Deineha<sup>2</sup>

<sup>1</sup>National Aviation University  
03058, 1 Husar Lubomyr Ave., Kyiv, Ukraine

<sup>2</sup>National University of Life and Environmental Sciences of Ukraine  
03041, 15 Heroiv Oborony Str., Kyiv, Ukraine

### Article's History:

Received: 3.05.2022  
Revised: 05.07.2022  
Accepted: 11.08.2022

### Abstract

The study deals with one of the most pressing problems of the educational policy of Ukraine – the introduction of Inclusive education – an education system that assimilates the needs of a diverse range of applicants and is aimed at meeting their needs. This subject is extremely relevant, since it is poorly researched within the framework of Ukrainian legal science, and the provisions of the legislation on certain issues require more active practical implementation. In this regard, the educational system of the state should be reformed primarily based on an approved national barrier-free strategy. In the context of the outlined area of educational policy development, the purpose of this study is to analyse the national regulatory framework in the field of barrier-free and inclusive education for compliance with international and European standards, reconsider the already implemented policy and practice of ensuring the educational process for people with special educational needs. The methodological basis of the study was the dialectical method of scientific knowledge, general scientific (formal-logical, analysis, and synthesis), and special-legal (formal-legal) methods. The study analyses international, European, and Ukrainian legislation regulating the introduction of a barrier-free educational environment and inclusive education. According to the results of the study, it is established that barrier-free and inclusivity are values that should become the foundation of modern educational policy. It is discovered that Ukraine is already taking certain organisational and legal steps defined by ratified international and European acts to create a barrier-free educational environment and increase the level of inclusivity in Ukrainian society, but this is not enough. It is proved that the priority task remains to adapt the legislation and practice of Ukraine to the requirements of international and European standards. The study attempts to provide a theoretical justification for the implementation of the barrier-free policy and the concept of inclusive education in the field of higher education in Ukraine. The study offers areas for implementing a national strategy and practice that can prepare the basis for the successful implementation of inclusive education in Ukraine

**Keywords:** inclusion, education, educational policy, barrier-free environment, persons with disabilities, applicants with special educational needs

### Suggested Citation:

Deinega, I.I., & Deineha, M.A. (2022). Implementation of the right of access to higher education: Barrier-free and inclusive education policy in international documents and acts of national legislation. *Law. Human. Environment*, 13(3), 26-36.



Copyright © The Author(s). This is an open access article distributed under the terms of the Creative Commons Attribution License 4.0 (<https://creativecommons.org/licenses/by/4.0/>)

\*Corresponding author

## Introduction

The large-scale war launched by the Russian Federation against Ukraine is a terrible tragedy for the Ukrainian people and a huge challenge for the education sector. Russian armed aggression in 2022 will lead to substantial changes in the higher education system of Ukraine. Its consequences, first of all, will be a reduction in public spending on higher education and budget places in higher education institutions, a substantial increase in “educational migration”, which will lead to a substantial reduction in demand for national higher education with corresponding consequences for the teaching staff, administrations, and network of higher education institutions, and new challenges in ensuring the implementation of the rights of children and youth with disabilities, special educational needs, and internally displaced persons. The war leaves a heavy mark, but it is the educational sector that should neutralise and minimise its negative impact on children and students as much as possible. They should be the focus of attention of the state, society in general, and individual communities. Primarily, school teachers and teachers of higher education institutions will face the task of finding various professional approaches to such applicants.

According to the official data of the Prosecutor General’s Office of Ukraine, as of June 30, 2022, 631 children were physically injured as a result of the war in the country [1], and the number of psychologically traumatised children is difficult to even imagine. These are children who have experienced war trauma with irreversible consequences: lost limbs, hearing, vision; children who have experienced psychological trauma with subsequent post-traumatic stress disorders: irritability, attacks of aggression, emotional detachment, apathy, chronic fatigue, etc.; displaced children, many of whom have lost everything they had before the outbreak of hostilities, even relatives. This is exclusive to the category of children. Teachers and institutions of higher education will also deal with adult applicants for education, such as military personnel of the Armed Forces of Ukraine, participants in territorial offence, volunteers who know about the horrors of war first-hand, parents who witnessed children being killed in front of them, and older people who, on the one hand, look for an opportunity to apply the experience for society in modern conditions, and on the other hand, also require a special approach. It is mainly with such categories of applicants that higher education institutions will work in the coming years. Inclusive education, barrier-free spaces, quality services, joint efforts of the state and society should neutralise the negative consequences of war for all these categories of applicants as much as possible and create an educational system in which they will feel protected. The first priority in this process today is to create appropriate conditions for these applicants to have unhindered access to higher education.

The barrier-free policy of the state is aimed at solving these problems, the key task of which is to create

a barrier-free environment in Ukraine, where all citizens will have a full opportunity to exercise their rights and gain access to full involvement in public life. Therewith, the organisation of a barrier-free environment in Ukraine is usually considered within the framework of the policy on persons with disabilities. However, as the experience of foreign countries shows, this approach is methodologically narrowed and atypical for European and international practice. Leading countries consider broader areas of barrier-free policy to be more productive; target groups are not only people with functional disabilities, but also the elderly, mothers with children under 6 years of age, children left without parental care, and young people [2, p. 4]. This provides great opportunities for the inclusion of different groups of the population in social processes.

Now in Ukraine, there are a number of challenges related to the existence of problems for different groups of the population to realise opportunities for full and barrier-free access to higher education. The issues of creating a life without obstacles in the public space and access to infrastructure facilities remain urgent to solve. It is the representatives of such social groups as children and adults with disabilities, the elderly, internally displaced persons as a result of military operations, etc., that are the target audience for which the national policy in the field of education has been implemented in terms of creating a barrier-free educational environment.

One of the promising measures in the field of providing various social groups with full and barrier-free access to higher education is the creation of an inclusive educational environment. It is the presence of an inclusive educational environment in a higher education institution that is the foundation for harmonious professional growth of higher education applicants with different educational needs and their further successful self-realisation in society.

Research on the problems of creating a barrier-free environment and introducing inclusive education is devoted to the investigation of a substantial number of leading researchers-representatives of various branches of science. Thus, John P. Portelli and Patricia Koneeny [3] in their works identify a philosophical approach to understanding the concept of inclusive education. Researchers conduct a critical analysis of all available interpretations of the concept of “inclusive education” and emphasise that not all definitions and justifications for this term have the same benefit. J.P. Portelli and P. Conini argue that “the concept of inclusion needs to be carefully revised, engaging in a critically meaningful dialogue about the democratic benefits of inclusive practice in education” [3, p. 135].

M. Murphy, S. Thompson, D. Doyle, and D. Ferri [4] focuses their research on the mechanism introduced in Ireland for implementing the right to access inclusive education. Researchers use a socio-legal approach to the

study of the outlined phenomenon, relying on sufficient interviews with key stakeholders in education in combination with a legal analysis of relevant primary and secondary sources, analyse current practices related to the education of persons with disabilities. The experience of Ireland in this area is seen as an interesting example for the state due to the history of marginalisation of children with disabilities in this country and their relatively recent involvement in the concept of inclusive education. Budh Singh and Abhishek Kumar Prajapati [5] investigate the challenges of inclusive education in India. According to the researchers, inclusive education should be implemented in an educational institution where applicants with different educational needs are placed in a single educational environment and have equal opportunities for proper education. India's experience in implementing barrier-free and inclusive education policies is also interesting for Ukraine, as this country has a fairly long history of inclusion and has repeatedly taken various initiatives at the international level to ensure fair and inclusive educational opportunities for all people, regardless of their diverse needs. In addition, India has developed an effective legal mechanism for inclusive education policy, which provides a legal basis for its high-quality implementation.

Gaultier de Beco [6; 7] made a practical presentation of the concept of inclusive education within the meaning of the Convention on the Rights of Persons with Disabilities of 2006, considering the discussion on the social model of disability. The researcher denies a narrow approach to the interpretation of the concept of inclusivity, which is now a priority, and draws attention to the expansion of the content of this term. According to Gaultier de Beco, "the system of inclusive education should be designed to provide equal social status to all, eliminating any discrimination" [6, p. 24]. The researcher focuses on the importance of an inclusive educational environment in ending marginalisation. D. Mitchell [8] in his papers emphasises that the scope of inclusive education should go far beyond the education of people with disabilities, covering all applicants, regardless of their characteristics. According to the researcher, "inclusive education is an idea whose time has come for the whole world" [8, p. 26].

*The purpose of the study* is the analysis of the provisions of international documents and acts of national legislation in the field of determining the legal basis for the establishment of barrier-free education, investigation of scientific approaches to the interpretation of the concept of inclusive education, determination of its content, purpose, and system, and outlining the main areas for improving the policy of barrier-free and inclusive education in Ukraine.

### **Materials and Methods**

The study was conducted using a set of scientific methods and techniques, which allowed for conducting a comprehensive analysis of the research problems – phil-

osophical-ideological, general, and special scientific methods. The use of the dialectics method contributed to the examination of trends in establishing a barrier-free educational environment and implementing the concept of inclusive education and their impact on political, economic, social, and environmental factors of the development of society. The formal-logical method contributed to the characterisation of the content of system-forming concepts and constructions of the subject of the study, such as "barrier-free", "inclusion", "inclusive education", "inclusive educational environment", etc. The method of analysis is used to analyse papers of researchers on the subject of the study and in the characterisation of international, European, and national legislation regulating the policy of barrier-free and inclusive education. Using the synthesis method, the place of legislation regulating relations in the field of forming an inclusive educational environment in the legislation of Ukraine is established. The formal legal method helped to identify the content of the provisions of regulatory regulations and develop proposals for their improvement.

The analysis of international documents regulating the right to education and the rights of persons with special educational needs was the initial stage of the study. The next stage of the study was the examination of national legislation regarding the establishment of barrier-free education and the introduction of the concept of inclusive education. Special attention was paid to the characteristics of the national strategy for creating a barrier-free space in Ukraine. The study required a deeper understanding of the issues of analysing scientific approaches to the interpretation of the concept of inclusive education, determining its content, purpose, and system. The final stage of the study is devoted to identifying the main areas for improving the barrier-free and inclusive education policy in Ukraine.

In the process of achieving this goal of the study, international and European documents regulating the implementation of the right to education and the rights of persons with special educational needs, in particular, the Universal Declaration of Human Rights [9]; the Convention against Discrimination in Education [10]; the Convention on the Rights of the Child [11]; the Convention on the Rights of Persons with Disabilities [12]; the Council Directive (EU) establishing a general framework for equal treatment in employment and professional activities [13]; the Regulation (EU) of the European Parliament and the Council on the European System of Integrated Social Protection Statistics (ESSPROS) [14]; Council of Europe Disability Strategy for 2017-2023 [15], etc., and regulatory regulations of national legislation in this area: the Laws of Ukraine "On Education" [16], "On Higher Education" [17], the Orders of the Cabinet of Ministers of Ukraine No. 366 "On the Approval of the National Strategy for the Creation of a Barrier-Free Space in Ukraine for the Period up to 2030" [18], "On the Approval of the Action Plan for 2021 and 2022 for the Implementation of the National Strategy for the Creation of a

Barrier-Free Space in Ukraine” [19], etc., used statistical data of information and analytical documents in terms of calculating the index of social mobility for the inclusivity of institutions and determining the number of representatives of low-mobility groups.

### **Results and Discussion**

Education is an instrument of comprehensive personal development, so the right to education is enshrined in many international human rights instruments. The Universal Declaration of Human Rights states that “everyone has the right to education” (Art. 26) [9]. The right to education guaranteed by the Universal Declaration of Human Rights is protected by the International Covenant on Economic, Social, and Cultural Rights [20] and the Convention on the Rights of the Child [11]. States that have acceded to these international instruments should ensure accessibility and promote the development of primary, secondary, and higher education. In addition, the right to freedom of choice of education at various levels is also enshrined in the International Covenant on Civil and Political Rights [21].

However, neither the Universal Declaration of Human Rights nor the International Covenants explicitly addressed the right of persons with disabilities to education. Even adopted in 1960, The Convention Against Discrimination in Education [10], which prohibits discrimination in education on certain grounds, does not cover all barriers that may be present in the realisation of the right to education. In particular, the Convention does not regulate the issue of ensuring the right of persons with disabilities to education.

Only the “Standard Rules for Ensuring Equal Opportunities for the Disabilities”, adopted by the UN General Assembly in 1993 [22], absorbed all the guiding legislative principles in the humanitarian field and is now the main international document that establishes the basic principles of interaction between society and people with disabilities. “Education for people with disabilities should be an integral part of national education planning, preparation of educational programmes and organisation of educational institutions,” declares Rule 6 “Education” [22].

A substantial turning point in declaring the right of persons with disabilities to education was the organisation in 1994 of the UNESCO World Conference on Education for Persons with Special Needs in Salamanca, Spain. The Salamanca statement and framework for action on special needs education urged states to “adopt the principle of inclusive education as a law or policy” [23].

In 2006, the Convention on the Rights of Persons with Disabilities [12] and its Optional Protocol [24] were adopted, which provided for a number of rights that combine the civil, political, economic, social, and cultural rights of persons with disabilities. The countries that have ratified this Convention have undertaken the obligation to ensure and guarantee, within their jurisdiction, the realisation of all rights and fundamental freedoms

for persons with disabilities without discrimination based on disability. Ukraine ratified this Convention on December 16, 2009. In accordance with Art. 24 of the Convention “for the purpose of exercising the right to education ... State Parties shall ensure an inclusive education system at all levels and life long learning.” Anyone “cannot be excluded from the general education system because of a disability,” and persons with disabilities “can receive ... education on an equal basis with others” [12]. Although the right to education was already rooted in international human rights and enshrined in several international and regional instruments, Art. 24 of the Convention on the Rights of Persons with Disabilities is the first legally binding document that provided for compulsory inclusive education.

In the process of developing international legal support for barrier-free policy and inclusive education, it is worth mentioning the UN Summit on sustainable development, which was held during the session of the UN General Assembly in September 2015. As a result of the Summit, new development guidelines were adopted, which were implemented in the final document “transforming the world: the agenda for sustainable development until 2030”, which approved 17 Sustainable Development Goals and 169 tasks [25]. The implementation of the barrier-free and inclusive education policy is correlated with Goal 11 “Ensuring inclusivity, safety, resilience, and environmental sustainability of cities and settlements” and EU policy documents in this area, in particular: the Council Directive (EU) on establishing a general framework for equal treatment in employment and professional activities [13]; the Regulation (EU) of the European Parliament and of the Council on the European System of Integrated Social Protection Statistics (ESSPROS) [14]; Council of Europe Disability Strategy 2017-2023 [15] etc.

Ukraine, as a country that preaches UN values, supported the concept of sustainable development. The adaptation of the Sustainable Development Goals in the field of inclusive education was implemented to enforce the strategic areas of national development of Ukraine for the period up to 2030, based on the principle of “Leave no one aside”. The state has ratified the main international documents on the introduction of inclusive education, in accordance with generally accepted socio-economic and educational standards.

A substantial step in the development of inclusive education in Ukraine was the adoption of the Law of Ukraine “On Amendments to the Law of Ukraine ‘On Education’ Concerning the Specifics of Access of Persons with Special Educational Needs to Educational Services” in 2017 (no longer valid) [26]. In the same year, a new Law of Ukraine “On Education” was adopted [16], which considers inclusive education as “a system of services in education defined by the state, based on the principles of non-discrimination, perception of diversity of people, maximum involvement in the field of education of all participants in the educational process”, and the

inclusive educational environment is defined as “a system of prerequisites, techniques, and methods of their implementation for joint training, education and development of participants in the educational process, considering their special needs and opportunities” [16]. Art. 1, 19, and 20 of the Law define the principles of State Educational Policy and educational activities using the principles of inclusion [16].

The Law of Ukraine “On Amendments to Certain Laws of Ukraine Concerning the Improvement of Educational Activities in the Field of Higher Education” in 2019 [27] also introduced corresponding amendments to the Law of Ukraine “On Higher Education” [17], which clearly states that institutions of higher education should not just create conditions for the implementation of the right to education by persons with special educational needs, but provide them with conditions for obtaining high-quality higher education.

A number of bylaws were adopted to fulfil the declared obligations, such as the Decrees of the President of Ukraine “On Improving the Effectiveness of Measures in the Field of Rights of Persons with Disabilities” [28], “On Ensuring the Creation of a Barrier-Free Space in Ukraine” [29], Resolutions of the Cabinet of Ministers of Ukraine “On Approval of the Regulation on the Inclusive Resource Center” [30], “Some Issues of Creating Resource Centers Supporting Inclusive Education and Inclusive Resource Centers” [31], “On approval of the Procedure for Organizing Inclusive Education in Higher Education Institutions” [32], etc.

In 2021, the Cabinet of Ministers of Ukraine approved the National Strategy for the Creation of a Barrier-Free Space in Ukraine for the Period up to 2030 [18]. In compliance with the provisions of the National Strategy, the Order of the Cabinet of Ministers of Ukraine approved the action plan for 2021 and 2022 for the Implementation of the National Strategy for the Creation of a Barrier-Free Space in Ukraine for the period up to 2030 [19].

The National Strategy defines barrier-free as “a generally accepted approach to the implementation and implementation of national policy for the establishment of unhindered opportunities of society in all fields of life”, including in the field of education [18].

The strategy is represented by two main levels: barrier-free framework conditions and barrier-free standards. The barrier-free framework conditions provide for a person’s access to physical (accessibility of objects in the physical environment), informational (availability of various information in any form and technology, including using Braille, sign language, etc.), and digital infrastructure (access to high-speed internet), involvement in public life, the possibility of implementation in the social environment. Barrier-free standards are based on the presence of barrier-free principles in various fields of life, including in the field of education. In the field of barrier-free education, a number of problems are identified, such as: inadequate professional

training of educators and teachers, inappropriate level of competence of employees of specialised services in working with persons with special needs, insufficient availability of experienced specialists in this field; outdated methods and approaches to work that do not coincide with modern realities; lack of consideration of the specifics of the work on the organisation of the educational process; low availability of higher education institutions with special educational and informational materials; inadequate material and technical support with the necessary auxiliary means of communication in the implementation of high-quality and affordable services; unsatisfactory infrastructure of many educational institutions and service structures, etc.

“The ability of adults, young people, and children to implement all types and forms of education; the ability of all participants in the educational process to meet special educational needs; introduction of an inclusive educational environment” [18] have become strategic goals in the field of forming an educational barrier-free environment.

However, despite the fact that international documents and acts of national legislation firmly established the human right to inclusive education, the very concept of inclusion has been and remains a “controversial issue” with uncertainty in meaning. Now the question is repeatedly raised about what is the content and purpose of inclusive education and, accordingly, what the system of inclusive education should look like.

Despite the fact that inclusion is recommended as the best international practice in the field of education and is considered “an essential component of any truly democratic educational environment” [3, p. 134], there is currently no clear definition of inclusive education. UNESCO calls inclusive education “a dynamic approach of positively responding to the diversity of learners and considering individual differences not as a problem, but as an opportunity to enrich learning” [4, p. 4], later “the process of strengthening the capacity of the education system to reach all learners” [4, p. 4].

In 2007, The UN Committee on the Rights of the Child, in its commentary on the issue of education of persons with disabilities, noted that “the purpose of ensuring the implementation of the right of persons with disabilities to education should be the introduction of an inclusive education system” [33]. The creation of an inclusive educational environment should be preceded by a process of systemic reform that involves changes and modifications in the content, teaching methods, approaches, structures, and strategies in education to overcome existing barriers. Therewith, the concept of inclusive education should apply not only to persons with disabilities, but “also to learners from different cultural and linguistic backgrounds or, in general, to any learner who needs additional support to succeed in the education system” [6, p. 12]. In other words, the educational environment should be designed in such a way as to contribute to improving the abilities and capabilities of each applicant.

The committee on the Rights of Persons with Disabilities states that inclusive education needs “a holistic and systematic approach that requires all resources to be invested in the development of inclusive education and in the implementation of necessary changes in institutional culture, policy, and practice” [34]. In addition, the committee draws attention to the fact that the system of inclusive education should also be implemented by ensuring that “all research and teaching staff and other personnel receive the necessary training to acquire the appropriate competencies to create an inclusive educational environment” [34].

Thus, as a conclusion from the general comments of the UN Committee on the Rights of the Child and the Committee on the Rights of Persons with Disabilities, achieving success in implementing inclusive practices in the field of education requires fundamental changes in the educational culture, structure, practices, and educational programmes.

The question of where exactly persons with disabilities should exercise the right to education remains “controversial”: in ordinary educational institutions or special ones. Art. 24 of the Convention on the Rights of Persons with Disabilities does not explicitly prohibit special education or the opening of special institutions. Gaultier de Beco states that the Convention “offers governments some latitude in the practical implementation of inclusive education” [7, p. 402].

However, in its Concluding Observations [35] on state reports, the Committee on the Rights of Persons with Disabilities expressed concern about the ever-increasing number of persons with disabilities in isolated educational institutions or in separate groups in ordinary institutions, which contributes to their stigmatisation and alienation. The committee found that segregation and exclusion of applicants with disabilities from the general education system due to their specific features is a serious violation of the right to inclusive education under the Convention.

In this regard, the Committee defined the right to education as “the right of all people to study in an education system that considers the needs of all people, including those with disabilities, and in which all applicants are perceived by all educational institutions, regardless of their physical, intellectual, social, linguistic, or other abilities. This involves not only providing quality education but also changing discriminatory attitudes and creating inclusive systems in which the differences and dignity of all people are equally respected and valued” [36].

This aspect was drawn back in 1994 in the Salamanca statement, which stated that “ordinary educational institutions with an inclusive orientation are the most effective means of combating discriminatory attitudes, the centre for building an inclusive educational environment and achieving education for all” [23].

Interesting is the theory of N. Fraser, according to whom the core of the concept of inclusive learning is

the principle of “involvement parity”, which entails the construction of such “social arrangements that allow all ... members of society to interact with others to the fullest extent and without any barriers” [37, p. 30]. The concept of inclusion, according to N. Fraser, based on the fact that no one should be assigned a lower social status based on belonging to a certain group of people. This concept should be based on the principle that society can be fair only if it is guided by rules based on the value of all individuals and human diversity [38, p. 113].

Thus, considering the above, inclusive education is a high-quality education without barriers, which emphasises equality in access and involvement to the education of any person, responds positively to the individual educational needs and competencies of all applicants, and assigns responsibility for the adaptation of persons with disabilities to the education system, and not to an individual [39]. Together with other sectors of the economy, education should actively work to ensure that every person, regardless of gender, language, abilities, religion, nationality, or other characteristics, receives the necessary support, and develops in accordance with their potential [5, p. 128].

Inclusive education is a process, and a practice of removing barriers, when opportunities open up for all applicants, regardless of individual characteristics, to learn and actively take part in the educational process. Applicants who study together, learn to live together [39], and therefore inclusion is an important element of human dignity. The scope of inclusive education should go far beyond persons with disabilities and should be expanded to cover all applicants with special educational needs, regardless of their origin [8, p. 17]. Inclusive education: a) improves learning for all applicants – both with and without disabilities, b) promotes understanding, reduces prejudice, and strengthens social integration, and c) ensures that people with disabilities are willing to work and make economic and social contributions to their communities [40]. Therefore, inclusive education involves changing the educational culture with increased attention to the various needs of applicants and individualisation [41, p. 164]. Inclusion is not an experiment that needs to be tested, but a value that needs to be followed [5, p. 128].

This requires a strong and inclusive education policy, changing stakeholder attitudes, a flexible and diversified curriculum, qualified professionals, and sufficient financial assistance. System planning and effective implementation of the declared plan are necessary.

In compliance with the provisions of the laws of Ukraine “On Education”, “On Higher Education”, the Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Procedure for Organizing Inclusive Education in Higher Education Institutions”, the National Strategy for the Creation of a Barrier-Free Space in Ukraine up to 2030 in terms of the establishment of barrier-free education in higher education institutions, all necessary conditions should be created for the exercise

by persons with special educational needs of the right to access higher education. Each higher education institution should give the highest priority to improving its educational systems to enable all future applicants to exercise their right to higher education, regardless of their individual characteristics and differences.

Higher education institutions should become as architecturally accessible as possible, using universal design in improving their educational premises, and equipping suitable places for the work of students with visual, hearing, and musculoskeletal disorders, etc. Requirements for accessibility of educational institutions are formed by State Building Regulations V.2.2-40:2018 "Inclusiveness of Buildings and Structures. Substantive Provisions." [42], State Building Regulations V.2.2.-3:2018 "Buildings and Structures. Educational Institutions" [43], and State Standard of Ukraine B ISO 21542:2013 [44]. These norms apply to the design, construction, and reconstruction, in particular, of higher educational institutions that meet the needs of low-mobility groups of society [42]. The main common features of low-mobility groups of the population are difficulties in movement, the importance of social support, a high risk of discrimination, etc.

It is considered relevant to create an Inclusive Resource Centre based on higher education institutions, the purpose of which would be to support higher education applicants with special educational needs and develop an appropriate mentoring institute. The Inclusive Resource Centre should fully provide social support for such applicants, starting from the stage of admission to higher education institutions and ending with assistance in employment, provide psychological, and often medical-rehabilitation support. In 2017, a resolution of the Cabinet of Ministers of Ukraine approved the regulation on the Inclusive Resource Centre [30], which regulates the procedure for creating and stopping the centre's activities, their main aspects, and its legal status.

Special attention should be paid to improving the skills of participants in the educational process, in particular, research and teaching staff of higher educational institutions. Since the establishment of educational barrier-free regulation manages optimisation in the provision of educational information, the use of modern educational learning technologies, appropriate techniques and methods of communication in the educational process is necessary. The corresponding specialists (psychologists, consultants, social workers, occupational therapists, physiotherapists, speech therapists, speech therapists, etc.) should be involved in helping research and teaching staff. High-quality inclusive education largely depends on the quality of teacher training.

Despite the developed electronic educational environment in higher education institutions of Ukraine, it is necessary to continue developing distance learning in the future, considering the educational characteristics of all participants in the educational process. Therewith, the introduction of exclusively distance learning for

applicants with special educational needs, despite the evident positive aspects, does not solve the problem of their socialisation. On the contrary, this form of training can substantially increase the isolation of such individuals, ignore the development of their motivation and, as a result, is not always productive. Therefore, a mixed form of studying is relevant, which involves distance, individual, and group work with such applicants.

The problem of educational, methodological, and informational support for the training of applicants with special educational needs is urgent to solve. Institutions of higher education need, in particular, to introduce the preparation of video materials of lectures and practical training sessions, which is particularly popular in leading foreign institutions of higher education and is recognised as an effective educational tool. However, it is worth focusing even more attention on creating an appropriate database of specialised literature necessary for people with visual, hearing, and mental disabilities, and an appropriate database of information materials.

Adaptation of the educational programme is another key factor for achieving the goal of inclusive education. According to UNESCO recommendations, an important factor in the implementation of inclusive education is the adoption of more dynamic and diverse teaching strategies and flexible educational programmes that can meet different needs in the provision of educational services [45]. As far as possible, the educational programme should be a single educational programme, that is, accessible to all applicants, in particular, to those with special educational needs [8, p. 25]. The educational programme should not only meet the diverse needs for obtaining educational services but also be aimed at social integration and consider different teaching styles and methods.

Creating a barrier-free environment in education involves including not only people with functional disabilities but also the elderly to the target audience. According to statistical information from the Institute of Demography and Social Research of the National Academy of Sciences of Ukraine, by 2050 the percentage of people over 60 years of age in the country will increase by one and a half times and will amount to 31% of the population. According to UN studies, in the next fifteen years, the percentage of older people on a global scale will increase by 56% [46].

Therefore, the development of adult education, in particular, the creation of third-age universities, also occupies a special place in the implementation of the policy of barrier-free education. The development of appropriate educational programmes aimed at meeting the educational needs of the elderly based on higher educational institutions and popularising such programmes among the relevant category of applicants are considered relevant. This will provide an opportunity for third-age applicants not only to gain relevant knowledge but also to take an active equal part in public life and feel a certain demand in civil society.

It is appropriate and very relevant today to develop educational programmes and create conditions that will provide professional training and retraining for internally displaced persons and contribute to their adaptation to new living conditions and accelerate the process of their socialisation in the new environment. According to the International Organisation for Migration, as of mid-May, over 8 million internally displaced persons were officially registered [47]. Ensuring the implementation of the rights of registered internally displaced persons to education is regulated primarily by the Law of Ukraine “On Ensuring the Rights and Freedoms of Internally Displaced Persons” [48].

An effective policy of the state to overcome obstacles to the full involvement of citizens in the social environment, their social integration not only protects fundamental rights and improves the comfort of life and well-being, but also reduces general stress and accelerates the economic development of the state in general. Conversely, a low level of inclusivity negatively affects the objective indicators of the state and the development of civil society in the country. In 2020, when calculating the Social Mobility Index for the inclusion of institutions, Ukraine ranked only 79<sup>th</sup> out of 82 countries, 64<sup>th</sup> in terms of accessibility to the technological environment, and 55<sup>th</sup> in terms of lifelong education [49]. These are extremely low indicators, which undoubtedly require improvement. The Social Mobility Index reflects the degree of provision of social economic and environmental needs of citizens in the state according to the corresponding indicators. These indicators of the Social Mobility Index in Ukraine demonstrate what the state and, in particular, the government should strive for, so that people, first of all, those with special needs, feel comfortable in their country.

### Conclusions

Inclusive education is a new perspective or approach that provides an opportunity to realise the right to education without any barriers, without any discrimination. This is an educational philosophy and practice of human society, which is changing and developing and aims to raise the concept of social justice to a new, higher level.

### References

- [1] Official website of the Office of the Prosecutor General. (n.d.). Retrieved from <https://www.gp.gov.ua>.
- [2] Zubchenko, S.O., Kaplan, Yu.B., & Tyshchenko, Yu.A. (2020). *Creating a barrier-free environment and social inclusion: World experience for Ukraine*. Kyiv: National Institute for Strategic Studies.
- [3] Portelli, J.P., & Koneeny, P. (2018). Inclusive education: Beyond popular discourses. *International Journal of Emotional Education*, 10(1), 133-144.
- [4] Murphy, M., Thompson, S., Doyle, D., & Ferri, D. (2022). Inclusive education and the law in Ireland. *International Journal of Law in Context*. doi: 10.1017/S1744552322000180.
- [5] Singh, B., & Prajapati, A.K. (2021). Inclusive education in India: What, why and how? *International Journal of Research in Economics and Social Sciences*, 11(03), 111-132.
- [6] De Beco, G. (2022). The right to “inclusive” education. *Modern Law Review*. doi: 10.1111/1468-2230.12742.
- [7] De Beco, G. (2018). The right to inclusive education: Why is there so much opposition to its implementation? *International Journal of Law in Context*, 14(3), 396-415. doi: 10.1017/S1744552317000532.

The 1989 UN Convention on the Rights of the Child and the 1994 Salamanca Declaration urged the governments of all countries to give the highest priority to inclusive education as part of their national education policies. The state is already taking certain steps to create a barrier-free educational environment and increase the level of inclusivity in Ukrainian society. However, the negative impact on the successful implementation of the national policy of inclusive development in Ukraine is now caused by military operations on the territory of the state. Therewith, bringing national legislation and practice in line with the requirements of international law remains a top priority.

It is necessary to create a positive image of an inclusive society and inclusive education and prepare the society itself for a tolerant attitude towards people with special needs to implement the ideas of barrier-free and inclusive education in Ukrainian society. Higher education institutions should be ready to consider the various needs of participants in the educational process, prepare appropriate material and human resources, increase the professional level of specialists who will take part in inclusive educational activities, and create a universal educational environment to implement an effective inclusive educational policy. The prospects for the development of inclusive education in the country will certainly require coordinated and urgent actions on the part of the Ministry of Education and Science of Ukraine, the Ministry of Health of Ukraine, the Ministry of Social Policy of Ukraine, and the Ministry of Youth and Sports of Ukraine. Inclusive education also requires the development and improvement of an appropriate regulatory framework that establishes the legal basis for implementing a barrier-free policy in the educational environment. All these measures will be a substantial practical contribution to the implementation of the principles of inclusive education in Ukraine and the implementation of the right to access higher education for persons with special educational needs.

Implementing a barrier-free and inclusive education policy is a long and lengthy process in which all members of society should take part.

- [8] Mitchell, D.R. (2015). Inclusive education is a multi-faceted concept. *Center for Educational Policy Studies Journal*, 5(1), 9-28. doi: 10.26529/cepsj.151.
- [9] Universal Declaration of Human Rights. (1948, December). Retrieved from <https://www.coe.int/en/web/compass/the-universal-declaration-of-human-rights-full-version->.
- [10] Convention against Discrimination in Education. (1960, December,). Retrieved from [http://portal.unesco.org/en/ev.php-URL\\_ID=12949&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=12949&URL_DO=DO_TOPIC&URL_SECTION=201.html).
- [11] Convention on the Rights of the Child. (1989, November). Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.
- [12] Convention on the Rights of Persons with Disabilities. (2006, December). Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-persons-disabilities>.
- [13] Council Directive 2000/78/EU Establishing a General Framework for Equal Treatment in Employment and Professional Activities. (2000, November). Retrieved from <http://data.europa.eu/eli/dir/2000/78/oj>.
- [14] Regulation (EC) of the European Parliament and the Council No. 458/2007 on the European System of Integrated Social Protection Statistics (ESSPROS). (2007, April). Retrieved from <http://data.europa.eu/eli/reg/2007/458/oj>.
- [15] Council of Europe Disability Strategy 2017-2023 "Human rights: A reality for all". (2017, March). Retrieved from <https://rm.coe.int/16806fe7d4>.
- [16] Law of Ukraine No. 2145-VIII "On Education". (2017, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/2145-19#Text>.
- [17] Law of Ukraine No. 1556-VII "On Higher Education". (2014, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/1556-18#Text>.
- [18] Order of the Cabinet of Ministers of Ukraine No. 366 "On the Approval of the National Strategy for the Creation of a Barrier-Free Space in Ukraine for the Period up to 2030". (2021, April). Retrieved from <https://zakon.rada.gov.ua/laws/show/366-2021-%D1%80#Text>.
- [19] Order of the Cabinet of Ministers of Ukraine No. 883 "On the Approval of the Action Plan for 2021 and 2022 for the Implementation of the National Strategy for the Creation of a Barrier-Free Space in Ukraine". (2021, August). Retrieved from <https://zakon.rada.gov.ua/laws/show/883-2021-%D1%80#Text>.
- [20] International Covenant on Economic, Social and Cultural Rights. (1966, December). Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.
- [21] International Covenant on Civil and Political Rights. (1966, December). Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.
- [22] Resolution of the UN General Assembly No. 48/96 "Standard Rules for Ensuring Equal Opportunities for the Disabilities". (1993, December). Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/standard-rules-equalization-opportunities-persons-disabilities>.
- [23] Ministry of Education and Science of Spain. (1994). *The Salamanca statement and framework for action on special needs education*. Salamanca: UNESCO. Retrieved from <https://unesdoc.unesco.org/ark:/48223/pf0000098427>.
- [24] Optional Protocol to the Convention on the Rights of Persons with Disabilities. (2006, December). Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-persons-disabilities>.
- [25] Ministry of Education and Science of Ukraine. (n.d.). *Goals of sustainable development*. Retrieved from <https://mon.gov.ua/ua/nauka/innovacijna-diyalnist-ta-transfer-tehnologij/analitichni-materiali/cili-stalogo-rozvitku>.
- [26] Law of Ukraine No. 2053-VIII "On Amendments to the Law of Ukraine 'On Education' Concerning the Specifics of Access of Persons with Special Educational Needs to Educational Services". (2017, May). Retrieved from <https://zakon.rada.gov.ua/laws/show/2053-19#Text>.
- [27] Law of Ukraine No. 392-IX "On Amendments to Certain Laws of Ukraine Concerning the Improvement of Educational Activities in the Field of Higher Education". (2019, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/392-20#Text>.
- [28] Decree of the President of Ukraine No. 875/2019 "On Improving the Effectiveness of Measures in the Field of Rights of Persons with Disabilities". (2019, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/875/2019#Text>.
- [29] Decree of the President of Ukraine No. 533/2020 "On Ensuring the Creation of a Barrier-Free Space in Ukraine". (2020, December). Retrieved from <https://zakon.rada.gov.ua/laws/show/533/2020#Text>.
- [30] Resolution of the Cabinet of Ministers of Ukraine No. 545 "On Approval of the Regulation on the Inclusive Resource Center". (2017, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/545-2017-%D0%BF#Text>.
- [31] Resolution of the Cabinet of Ministers of Ukraine No. 617 "Some Issues of Creating Resource Centers Supporting Inclusive Education and Inclusive Resource Centers". (2018, August). Retrieved from <https://zakon.rada.gov.ua/laws/show/617-2018-%D0%BF#Text>.

- [32] Resolution of the Cabinet of Ministers of Ukraine No. 635 “On Approval of the Procedure for Organizing Inclusive Education in Higher Education Institutions”. (2019, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/635-2019-%D0%BF#Text>.
- [33] General Comment of the UN Committee on the Rights of the Child (CRC) No. 9 “The Rights of Children with Disabilities”. (2007, February). Retrieved from <https://www.refworld.org/docid/461b93f72.html>.
- [34] General Comment of the UN Committee on the Rights of Persons with Disabilities (CRPD) No. 4 “Right to Inclusive Education (Art. 24)”. (2016, November). Retrieved from <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-4-article-24-right-inclusive>.
- [35] Concluding Observations on the Initial Report of France of the UN Committee on the Rights of Persons with Disabilities. (2021, October). Retrieved from [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fFRA%2fCO%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fFRA%2fCO%2f1&Lang=en).
- [36] UN Committee on the Rights of Persons with Disabilities Recommendations “Inquiry Concerning Spain Carried Out by the Committee under Article 6 of the Optional Protocol to the Convention”. (2018, March). Retrieved from <https://digitallibrary.un.org/record/1483922>.
- [37] Fraser, N. (1998). *Social justice in the age of identity politics: redistribution, recognition and participation: The Tanner lectures on human values*. Salt Lake City: University of Utah Press.
- [38] Fraser, N. (2000). Rethinking Recognition. *New Left Review*, 3, 107-120.
- [39] Save the Children. (2017). *Inclusive education: Children who learn together, learn to live together*. Retrieved from [https://resourcecentre.savethechildren.net/node/12351/pdf/project\\_brief\\_inclusive\\_education\\_final.pdf](https://resourcecentre.savethechildren.net/node/12351/pdf/project_brief_inclusive_education_final.pdf).
- [40] UNICEF. (2017). *Inclusive education including children with disabilities in quality learning: What needs to be done?* Retrieved from [https://www.unicef.org/eca/sites/unicef.org/eca/files/IE\\_summary\\_accessible\\_220917\\_brief.pdf](https://www.unicef.org/eca/sites/unicef.org/eca/files/IE_summary_accessible_220917_brief.pdf).
- [41] Onyebuchi, G.C. (2018). Social justice advocacy and inclusive education: Capacity building tools. *Journal of Emerging Trends in Educational Research and Policy Studies*, 9(4), 161-166.
- [42] State Building Regulations V.2.2-40:2018 “Inclusiveness of Buildings and Structures. Substantive Provisions”. Retrieved from [https://dbn.co.ua/load/normativy/dbn/dbn\\_v\\_2\\_2\\_40/1-1-0-1832](https://dbn.co.ua/load/normativy/dbn/dbn_v_2_2_40/1-1-0-1832).
- [43] State Building Regulations V.2.2.-3:2018 “Buildings and Structures. Educational Institutions”. Retrieved from [https://dbn.co.ua/load/normativy/dbn/v\\_2\\_2\\_3/1-1-0-1804](https://dbn.co.ua/load/normativy/dbn/v_2_2_3/1-1-0-1804).
- [44] State Standard of Ukraine B ISO 21542:2013 “Buildings and Structures. Accessibility and Ease of Use of the Built Living Environment”. Retrieved from [http://online.budstandart.com/ua/catalog/doc-page?id\\_doc=56128](http://online.budstandart.com/ua/catalog/doc-page?id_doc=56128).
- [45] UNESCO. (2008). *Inclusive education: The way of the future: Conclusions and recommendations of the 48<sup>th</sup> session of the International Conference on Education*. Retrieved from <https://unesdoc.unesco.org/ark:/48223/pf0000180629>.
- [46] Soroka, N. (2020). Adult education: Cui prodest? *Lex Inform. Legal News of Ukraine*. Retrieved from <https://lexinform.com.ua>.
- [47] The number of internally displaced persons (IDPs) in Ukraine has exceeded 8 million people (2022). *The official website of the Ministry of Reintegration of the Temporarily Occupied Territories of Ukraine*. Retrieved from <https://www.minre.gov.ua/news/kilkist-vnutrishno-peremishchenyh-osib-vpo-v-ukrayini-perevyshchyla-8-mln-lyudey-zvidky-y-kudy>.
- [48] Law of Ukraine No. 1706-VII “On Ensuring the Rights and Freedoms of Internally Displaced Persons”. (2014, October). Retrieved from <https://zakon.rada.gov.ua/laws/show/1706-18#Text>.
- [49] World Economic Forum. (2020). Benchmarking social mobility: The global social mobility index. In *The global social mobility report 2020. Equality, opportunity and a new economic imperative* (pp. 14-18). Geneva. Retrieved from [http://www3.weforum.org/docs/Global\\_Social\\_Mobility\\_Report.pdf](http://www3.weforum.org/docs/Global_Social_Mobility_Report.pdf).

## Реалізація права на доступ до вищої освіти: політика безбар'єрності та інклюзивної освіти в міжнародних документах й актах національного законодавства

Ірина Іванівна Дейнега<sup>1</sup>, Марина Андріївна Дейнега<sup>2</sup>

<sup>1</sup>Національний авіаційний університет  
03058, просп. Любомира Гузара, 1, м. Київ, Україна

<sup>2</sup>Національний університет біоресурсів і природокористування України  
03041, вул. Героїв Оборони, 15, м. Київ, Україна

---

### Анотація

У статті порушено одну з найнагальніших проблем освітньої політики України – запровадження інклюзивної освіти – системи освіти, яка асимілює потреби різноманітного кола здобувачів і спрямована на задоволення їхніх потреб. Заявлена тема наукового дослідження має вкрай актуальний характер, оскільки є малодослідженою в рамках національної правової науки, а положення законодавства з визначеної проблематики потребують активнішого практичного впровадження. У зв'язку з цим освітня система нашої держави має бути реформована насамперед на засадах схваленої національної стратегії безбар'єрності. У контексті окресленого напряму розвитку освітньої політики метою представленої статті є аналіз національної нормативно-правової бази у сфері безбар'єрності та інклюзивної освіти на відповідність міжнародним та європейським стандартам, переосмислення вже реалізованої політики та практики забезпечення освітнього процесу для осіб з особливими освітніми потребами. Методологічну основу дослідження склали діалектичний метод наукового пізнання, загальнонаукові (формально-логічний, аналізу та синтезу) та спеціально-юридичний (формально-юридичний) методи. У статті проаналізовано міжнародне, європейське і національне законодавство, що регламентує питання запровадження безбар'єрного освітнього середовища та інклюзивної освіти. За результатами дослідження встановлено, що безбар'єрність та інклюзивність – це цінності, які мають стати фундаментом сучасної освітньої політики. З'ясовано, що Україна вже робить певні організаційно-правові кроки, визначені ратифікованими міжнародними та європейськими актами, задля створення безбар'єрного освітнього середовища й підвищення рівня інклюзивності українського суспільства, однак цього недостатньо. Обґрунтовано, що першочерговим завданням залишається адаптація законодавства та практики України до вимог міжнародних та європейських стандартів. У статті зроблено спробу надати теоретичне обґрунтування впровадження політики безбар'єрності і концепції інклюзивної освіти у сфері вищої освіти в Україні. Стаття пропонує напрями реалізації загальнонаціональної стратегії і практики, які можуть підготувати основу для успішного впровадження інклюзивної освіти в Україні.

**Ключові слова:** інклюзія, освіта, освітня політика, безбар'єрне середовище, особи з інвалідністю, здобувачі з особливими освітніми потребами

---