



# The State Policy towards Social Enterprises of Disabled People's Organisations in Ukraine

## Law, Monitoring and Assessment

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# 1. Introduction

Given the situation that we have due to the occupation of the Crimean Autonomous Republic and the military escalation in the East, today many problems in Ukraine related almost to all fields have become aggravated ever since independence. This requires the authorities to find solutions, taking into account the best international practices.

Unfortunately, a lot of decisions and actions of the authorities do not justify the expectations of society. This inability and the absence of sufficient funding—among other reasons partly caused by the necessity to return foreign loans—has a negative impact on the Ukrainian population, especially on vulnerable groups.

Unlike the authorities, some representatives of society have proved that they are able to make quick decisions and take responsibility by way of volunteering and charity, assuming certain functions of the state (e.g. financing of army).

According to a research on the Ukrainian volunteer movement, carried out by GfK Ukraine on order of the United Nations in 2014, there are 23% of Ukrainians who have ever been engaged in volunteering, including 9% who began volunteering in 2014. Besides, the research indicates that in 2014 Ukrainians donated over 8.7 billion UAH.<sup>1</sup> In late October 2014, Ukraine had almost 10,000 charities and foundations, whereas in early February 2015 their number increased to about 15,000. Strengthened charitable spirit of Ukrainians is also confirmed by CharitiesAidFoundation data: Ukraine moved up the Giving Index Ranking from 151 in the year 2010 to 103 in the year 2014.<sup>2</sup> This is despite the fact that, according to the Credit Suisse rating, Ukraine has topped the list of the poorest countries in Europe with average adult's welfare of \$ 1,437.<sup>3</sup>

That is why at this stage we can say that Ukraine is in dire need of social entrepreneurship and is ready to introduce necessary preconditions for it. However, social entrepreneurship should in no way be confused with charity because of its social orientation.

1 [http://www.gfk.com/fileadmin/user\\_upload/dyna\\_content\\_import/2015-09-01\\_press\\_releases/data/ua/Documents/Presentations/report\\_vyshlisky.pdf](http://www.gfk.com/fileadmin/user_upload/dyna_content_import/2015-09-01_press_releases/data/ua/Documents/Presentations/report_vyshlisky.pdf)  
2 [http://www.cafussia.ru/page/mirovoi\\_reiting\\_blagotvoritelnosti\\_1](http://www.cafussia.ru/page/mirovoi_reiting_blagotvoritelnosti_1)  
3 <http://www.euointegration.com.ua/news/2015/10/20/7039733/>

Social entrepreneurship is also actualized by the fact that its introduction would not only shift solution of some problems forward onto businessmen, but also would allow socially vulnerable people to feel their importance and become productive members of society.

All over the world such social enterprises provide up to 9% of GDP and over 25 million new jobs (the largest multinational company creates 3.5 million jobs) and save 30–35% of the cost of social services. The EU plans to create 10 million jobs by 2020 due to social enterprises.<sup>4</sup> According to the European Commission's recommendations of October 16, 2014 the EU is orientated on the development of social entrepreneurship, social economy and social capital through companies, established by public associations, and their addressing national problems without state funds, which is the basis of a new type of partnership between public associations and states.<sup>5</sup>

In many countries social entrepreneurship is not an exception. Different countries have different concepts of social entrepreneurship, fixed by the national legislation. According to them social enterprises can include:

- nonprofit organizations, including those involved in nonprofit business activities;
- enterprises established by nonprofit organizations and directing all or part of the profits for implementation of founder's statutory objectives;
- cooperatives;
- companies with high social responsibility;
- public utility companies that address needs of community;
- entities involved in innovative entrepreneurial activities which are aimed at advancement of a community and rectification of social injustice.

There is no legal definition of the concepts "social entrepreneurship" and "social enterprise" in Ukraine. That is, there are no officially social enterprises and social entrepreneurship in Ukraine. However, given the national law, enterprises and nonprofit organizations, which according to

4 [http://ec.europa.eu/internal\\_market/social\\_business/docs/conference/workshop\\_en.pdf](http://ec.europa.eu/internal_market/social_business/docs/conference/workshop_en.pdf)  
5 <http://www.eesc.europa.eu/?i=portal.en.social-entrepreneurship-make-it-happen-finalreport>

international definitions are classified as social enterprises, can be established and already do exist in Ukraine. Some of them have long been operating, whereas others (they are a minority) have begun operating in the last decade. There are over 70,000 nonprofit organizations in Ukraine and only a few of them have decided to engage in non-profit business.

Nevertheless, in 2015 the “Social Leadership Center” initiated the Ukrainian competition “Best Social Projects of Ukraine-2015”. One of its nominations was “Best Social Enterprise”.<sup>6</sup> Award ceremony was held within the Forum “Best Social Projects of Ukraine” in Kyiv on November 11, 2015. First place was given to a social business project “Laska Charity Shop” by sole proprietorship “Laska Charity Shop”, based on the British model of Planet Aid UK and aimed to solve excessive consumption problem and help people in need. The second place was taken by LLC “Line 24” with the project “Social Program”, providing emergency care for lonely elderly people and people with disabilities. Third place was given to Odessa Charitable Organization “Helpline” for their volunteer project “Helpline for All” (free line of anonymous emergency psychological assistance) that has been of extreme actuality given the stressful events of the last six months.

There are many organizations in Ukraine involved in supporting social entrepreneurship: Ukrainian Foundation for Entrepreneurship Supporting, International Foundation “Renaissance”, Sokal Agency for Regional Development; Charitable Foundation “Blagovist”, Charitable Enterprise “Pearl of Bucovina” and others.

In 2010 the British Council in Ukraine, East Europe Foundation, PricewaterhouseCoopers in Ukraine, Erste Bank and the International Foundation “Renaissance” with the assistance of Erste Stiftung and Ukrainian Foundation for Entrepreneurship Supporting even started to implement the project “Promotion of Social Entrepreneurship in Ukraine” in leading regions of Ukraine, namely in Lviv and Donetsk regions.<sup>7</sup>

<sup>6</sup> <http://www.forum.o2.ua/ua/news/31>

<sup>7</sup> <http://www.socialbusiness.in.ua/>

## List of Abbreviations

<b>ATO</b>	Antiterroristic operation
<b>COPD</b>	Civic organization of people with disabilities
<b>SOIU</b>	Union of organizations of people with disabilities of Ukraine
<b>UAB</b>	Ukrainian Association of the Blind
<b>UAD</b>	Ukrainian Association of the Deaf
<b>UAH</b>	Ukrainian Hryvna (national valuta of Ukraine)
<b>VGO USI</b>	All-Ukrainian civic organization “Ukrainian union of people with disabilities”
<b>VOI SOIU</b>	All-Ukrainian Organization of people with disabilities “Union of organizations of people with disabilities of Ukraine”

## 2. Nonprofit organizations and social enterprises in Ukraine

There has been an attempt to legalize social enterprises in Ukraine. Oleksandr Feldman, a member of Ukrainian parliament, has already three times put forward an appropriate legislative proposal (bills № 10610 of 14.06.2012; №2508 of 11.03.2013 and №2710 of 23.04.2015). This document was not perfect, so in previous years it was supported neither by the Parliament of Ukraine, nor by some experts.

However, as mentioned above, applicable law has already enabled establishment and operation of legal entities, which by international criteria can be classified as social enterprises.

### Nonprofit organizations

Thus, according to the Law of Ukraine № 652–VIII of July 17, 2015 “On Amendments to the Tax Code of Ukraine Concerning Taxation of Nonprofit Organizations” (hereinafter referred to as the Law № 652)<sup>8</sup> the list of nonprofit enterprises, institutions and organizations that are not subject to corporate income tax has been expanded and their taxation procedure has changed since August 13, 2015.

According to amendments provided by the Law № 652, an enterprise, institution and organization (hereinafter referred to as nonprofit organization) is considered nonprofit, if it meets all of the following requirements:

- It should be established and registered in the manner specified by the law regulating activities of the relevant nonprofit organization.
- Its constituent documents should prohibit distribution of revenues (profits) or their part among founders (participants), members, employees (except their wages and single social contribution), members of administration board and other related people.
- Its constituent documents should provide for transferring assets to one or more relevant nonprofit organizations or crediting them to the budget in the event of termination of a legal entity (as a result of liquidation, merger, division, amalgamation or reorganization).
- It should be included to the Register of nonprofit institutions and organizations (hereinafter referred to as the Register) (paragraphs 133.4 and 133.4.1 Art. 133 of the

Tax Code of Ukraine) by regulatory authority.<sup>9</sup>

- Income (profit) of a nonprofit organization is used exclusively for maintaining such a non-profit organization, achievement of goals (targets, objectives) and implementation of activities specified in its constituent documents (paragraphs 133.4.2 and 133.4 Art. 133 of the Tax Code of Ukraine).

In the Ukrainian legislation one can find the following types of nonprofit organizations:

**1. Budgetary institutions** are public authorities and local governments, as well as organizations established by them in the prescribed manner and fully funded from the state or local budget, accordingly. Budgetary institutions are nonprofit (Budget Code of Ukraine №2542–III of 21.06.2001).

**2. Civic associations** are voluntary associations of individuals and / or legal entities under private law established for exercise and protection of rights and freedoms, and serving public, including economic, social, cultural, environmental and other interests. According to the type of entity public associations are established as civic organizations or civic unions. A civic association with legal status is entitled to conduct legal entrepreneurial activity directly, if it is provided for by its charter, or through legal entities (companies, enterprises) established according to the law, if such activities are consistent with its goals (objectives) and contribute to their achievement. Details of civic association’s entrepreneurial activity are included in the Register of public associations. Civic associations with legal status and legal entities (companies, enterprises) established by them are required to keep accounts, prepare financial and statistical statements, be registered with authority of revenues and duties and pay obligatory payments to the budget in accordance with the law. Civic associations and legal entities (companies, enterprises) established by them are provided with privileges, including tax exemptions, on the basis of and according to procedures prescribed by law (Law of Ukraine №4572–VI of 22.03.2012 “On Public Associations”).<sup>10</sup>

<sup>8</sup> <http://zakon0.rada.gov.ua/laws/show/652-19>

<sup>9</sup> <http://zakon0.rada.gov.ua/laws/show/2755-17>

<sup>10</sup> <http://zakon3.rada.gov.ua/laws/show/4572-17>

**3. Political parties** are legally registered voluntary associations of people supporting a certain national program of social development, which aim at facilitating the formation and expression of political will of people and participate in elections and other political events (Law of Ukraine №2365–III of 05.04.2001 “On Political Parties in Ukraine”).

**4. Creative unions** are voluntary associations of professional artists in the field of culture and art that have a fixed membership and operate under the charter. Creative unions have the right to establish enterprises (Law of Ukraine №554/97–VR of 07.10.1997 “On Professional Artists and Creative Unions”).

**5. Religious organizations** are religious communities, departments and centers, monasteries, religious brotherhoods, missionary societies (missions) and religious educational institutions, as well as associations consisting of the aforementioned religious organizations. Religious associations are represented by their centers (offices). Religious organizations are entitled in the manner specified by applicable law to perform its statutory activities, such as establishing publishing, printing, production, restoration and construction, agricultural and other enterprises and charitable institutions (orphanages, boarding schools, hospitals, etc.) which have rights of legal entities (Law of Ukraine №987–XII of 23.04.1991 “On Freedom of Conscience and Religious Organizations”).

**6. Charitable organizations** are legal entities under private law, constituent documents of which define charitable activities in one or more areas, determined by the Law “On Charity and Charitable Organizations”, as the main purpose of their activities. Charitable organization can be established as a charitable company, institution or foundation given its peculiarities defined by this Law and other laws of Ukraine. Charitable company is a charitable organization established by at least two founders and operating under the charter. Charitable institution is a charitable organization, the constituent act of which defines the assets transferred by one or more founders for the purposes of charitable activities financed from assets and / or income on those assets. Constituent act of charitable institution may be contained in the testament. A founder or founders of a charitable institution are not involved in its management. A charitable institution



operates under constituent act. Charitable foundation is a charitable organization that operates under charter, has members and managed by members who are not required to transfer any assets to this organization for charitable purposes. Foundation can be established by one or more founders. Assets of charitable foundation can be formed by members and /or other benefactors (the Law of Ukraine №5073–VI of 05.07.2012 “On Charity and Charitable Organizations”).

**7. Pension funds** are specialized financial intermediaries that on a contractual basis accumulate funds of individuals and entities in trust funds from which pensions are paid to people on reaching retirement age.

**8. Unions, associations and other alliances of legal entities** are associations established to represent founders (members, participants) and supported only by contributions of the founders (members, participants). They do not conduct any business activities, except for receiving passive income. Such organizations are not allowed to conduct business activities.

**9. Building cooperatives** are legal entities established by individuals and / or entities who have voluntarily united by combining their property shares to engage in the construction or reconstruction of residential building (s) and its (their) further operation (Order of the State Housing Committee of Ukraine №76 of 17.05.2005 “On Approving Rules for Maintenance of Houses and Adjacent Territories”).

**10. Dacha (construction) cooperatives (associations)** are voluntary associations of people united for constructing dachas for their own funds and using them for their own needs.

**11. Horticultural cooperatives (associations)** are legal voluntary associations of owners of horticultural plots (Order of the State Statistics Committee №346 of 20.08.2010 “On Approving Instruments for Quarterly Listing of Houses and Villages for Pilot Census in 2010”).

**12. Garage (construction) cooperatives (associations)** are voluntary associations of people united for constructing garages for their own funds and using them for their own needs.

**13. Condominiums** are legal entities established by owners of apartments and /or non-residential premises in condominiums to facilitate the use of their own property and the management, maintenance and use of common property; Condominium associations are legal entities established to represent common interests of condominiums (Law of Ukraine №2866–III of 29.11.2001 “On Condominiums”).

**14. Trade unions** are voluntary nonprofit public organizations that unite people with common interests in professional (educational) activity; Trade union associations are nonprofit public organizations that unites trade union organizations and their alliances; Trade union organizations are organizational branches of trade unions, operating within the powers provided for by charter and the Law of Ukraine “On Trade Unions, Their Rights and Guarantees” (Law of Ukraine №1045–XIV of 15.09.1999 “On Trade Unions, Their Rights and Guarantees”).

**15. Employers’ organizations** are nonprofit public organizations uniting employers; Associations of employers’ organizations are nonprofit public organizations uniting employers’ organizations and their alliances (Law of Ukraine №5026–VI of 22.06.2012 “On Employers’ Organization, Their Associations, Rights and Guarantees”).

**16. Agricultural service cooperatives** are agricultural cooperatives formed by uniting individuals and /or entities producing agricultural products aimed at reducing costs and /or increasing revenues of cooperative’s members resulting from agricultural activities, as well as at protection of their economic interest (Law of Ukraine №469/97–VR of 17.07.1997 “On Agricultural Cooperation”).

**17. Associations of agricultural service cooperatives** are nonprofit organizations conducting their activities on the same basis as agricultural service cooperatives (Law of Ukraine № 469/97–VR of 17.07.1997 “On Agricultural Cooperation”).

**18. Other legal entities** conducting activities that meet the requirements of paragraph 133.4 Art. 133 of the Tax Code of Ukraine.

Procedure for maintenance of the Register of Nonprofit Institutions and Organizations, inclusion of nonprofit enterprises, institutions and organizations in the Register and exclusion them from the Register is established by the Cabinet of Ministers of Ukraine (paragraphs 133.4.5 and 133.4 of Art. 133 of the Tax Code of Ukraine). To date, the Regulation on the Register of Nonprofit Institutions and Organizations has been already approved by Order of the Ministry of Finance of Ukraine № 37 of 24.01.2013.<sup>11</sup> Inclusion of legal entities in the Register is free of charge.

According to local judicial authorities, 61,090 central units of civic organizations (of which 701 are national), 718 civic unions, 4,143 trade unions, 1,130 associations of trade unions and 9,799 charitable organizations, including 89.9% of charitable foundations, 4.8% of charitable institutions and 5.3% of charitable associations were registered in Ukraine as of the end of 2014. Besides, 251,956 structural subdivisions of political parties<sup>12</sup> were registered.

In 2014 the largest share (17.6%) in the structure of central units of public organizations was occupied by health and sports organizations.

Professionally-oriented and youth organizations made 10.3% and 7.8%, respectively; educational and cultural organizations constituted 6.3% and associations of disabled people and veterans were 5.8%.

21,417 regulatory authorities of civic organizations reported to national statistical offices on the results of their activities in 2014.

The total number of members of civic organizations which submitted reports was 27 million, including 4.6 million (17% of total number) of members registered with the regulatory authorities (Annex 2).

<sup>11</sup> <http://zakon0.rada.gov.ua/laws/show/z0267-13>

<sup>12</sup> <http://www.ukrstat.gov.ua/> Report in Publications section: Activities of public associations in Ukraine in 2014

In accordance with Articles 85–86 of the Civil Code of Ukraine<sup>13</sup>, non-entrepreneurial partnerships (cooperatives other than production; civic associations, etc) and institutions are companies which are not intended to make a profit and subsequently distribute it among participants. Such non-entrepreneurial partnerships may, except their main activities, be involved in entrepreneurial activity, unless otherwise provided by law, and if the activity meets the purpose, for which they were established, and contributes to its achievement. If entrepreneurial activity is prohibited to non-entrepreneurial organizations, they should carry out nonprofit activities in accordance with Section 5 of the Economic Code of Ukraine.<sup>14</sup>

According to paragraphs 1–3 Article 3 of the Economic Code of Ukraine entrepreneurial activity shall mean activity of business entities in the area of social production aimed at manufacturing and sale of goods, performing works or rendering services on commercial basis at certain price. Entrepreneurial activity carried out to achieve economic and social results and make a profit shall refer to entrepreneurship and its business entities to entrepreneurs. Entrepreneurial activity may also be carried out without the purpose of profit (non-entrepreneurial activity). Activity of non-entrepreneurial entities, which aims at creating and maintaining necessary material and technical conditions for their operation and can be carried out with or without the involvement of entrepreneurial entities, is economic support of non-entrepreneurial entities.

### Number of civic associations registered and established by way of notification according to the Law of Ukraine “On Public Associations” (as of Januar 1, 2015)<sup>15</sup>

Annex 1

	Number of central authorities of civic associations at the end of the year, total	Including			Number of central authorities of civic associations which in the reporting year		Number of separate structural units of civic associations at the end of the year, total
		Those with status of legal entity		Those without status of legal entity	Were registered and established	Ceased activities	
		Total	Those with national status				
<b>Civic organizations, total</b>	<b>61,090</b>	<b>51,767</b>	<b>701</b>	<b>9,323</b>	<b>4,234</b>	<b>247</b>	<b>20,396</b>
Including							
Civil movements	182	142	–	40	26	–	793
National and friendly ties	1,727	1,548	16	179	71	3	415
Youth	4,765	4,056	42	709	144	19	1,884
including students'	257	238	1	19	12	–	49
children's	1,344	1,105	21	239	48	6	175
women's	1,136	866	14	270	34	7	709
Associations of disabled people and veterans	3,557	3,071	22	486	120	15	2,589
including veterans and disabled soldiers	769	653	10	116	14	–	783
Professionally-oriented	6,311	5,484	80	827	433	24	2,392
Protection of environment (ecologic)	1,869	1,545	29	324	151	11	459
Protection of monuments, history and culture	488	425	7	63	29	2	115
Health and sports	10,728	9,476	103	1,252	618	34	2,217
Protection of population from consequences of Chernobyl disaster	477	412	21	65	7	–	317
Technical research companies, creative associations	741	651	18	90	38	3	174
Educational, cultural and pedagogical	3,861	3,202	45	659	378	20	934
Other civic organizations	23,904	19,784	283	4,120	2,137	103	7,223
<b>Civic unions</b>	<b>718</b>	<b>657</b>	<b>9</b>	<b>61</b>	<b>170</b>	<b>–</b>	<b>51</b>

13 <http://zakon3.rada.gov.ua/laws/show/435-15/page2>

14 <http://zakon3.rada.gov.ua/laws/show/436-15>

15 <http://www.ukrstat.gov.ua/> Report in Publications section: Activities of public associations in Ukraine in 2014



## Annex 2

### Financial Situation of civic organizations in Ukraine

	Total	Including	
		Regulatory authorities	Separate structural units
Number of civic organizations	72,525	21,417	51,108
Number of members registered with civic organizations, persons	27,008,586	4,585,368	22,423,218
Number of companies, enterprises (legal entities), established by civic organizations for implementing their purposes (objectives) and activities	10,052	1,572	8,480
of which mass media	100	87	13
Number of implemented social projects	5,024	3,711	1,313
Number of publications (including electronic)	142,275	124,577	17,698
Number of public contracts performed	213	191	22
Funds received, thousand UAH including	4,101,284.0	2,964,153.7	1,137,130.3
from Ukrainian state budget	180,879.0	63,488.4	117,390.6
from local budgets	97,482.0	60,313.5	37,168.5
membership fees	454,639.9	308,032.4	146,607.5
charitable contributions including	1,875,253.8	1,743,179.4	132,074.4
from companies and enterprises of Ukraine	774,760.0	664,933.1	109,826.9
from residents of Ukraine	199,888.2	179,522.3	20,365.9
from nonresidents	900,605.6	898,724.0	1,881.6
from entrepreneur activities of companies, enterprises (legal entities), established by civic organizations for implementing their purposes (objectives) and activities	510,897.3	87,347.3	423,550.0
from other sources	982,132.0	701,792.7	280,339.3
including loans from banks and other financial institutions	546.2	537.8	8.4
Funds used, thousand UAH including	3,461,404.6	2,383,406.5	1,077,998.1
taxes and charges	275,445.2	143,187.8	132,257.4
payments for work	803,562.0	351,544.3	452,017.7
social assistance	93,633.3	54,206.1	39,427.2
charity	924,969.4	747,070.3	177,899.1
payment for goods	160,172.0	120,117.8	40,054.2
payment for services	621,057.6	528,644.9	92,412.7
Events	187,212.3	169,401.1	17,811.2
Another use of funds	395,352.8	269,234.2	126,118.6
including interest paid on loans	389.0	268.4	120.6

Number of entities, registered in the single state register, according to the forms of business ownership<sup>16</sup>

At the beginning of the year:	2009	2010	2011	2012	2013	2014	2015
Total	1,228,888	1,258,513	1,294,641	1,323,807	1,341,781	1,372,177	1,331,230
Including farming	50,126	49,764	49,514	49,014	49,095	49,169	47,356
private company	278,574	283,697	285,821	283,911	280,073	278,227	259,772
state company	6,975	6,811	6,661	6,512	6,075	5,933	5,559
state unitary company	44	44	43	45	38	33	32
public utility company	16,336	15,994	15,726	15,615	15,207	14,974	13,778
subsidiary company	20,973	20,408	19,908	19,182	18,594	18,173	16,981
foreign company	2,307	2,272	2,247	2,200	2,176	2,096	1,988
company of a civic association (religious organization, trade union)	4,560	4,568	4,551	4,501	4,498	4,470	4,056
consumer cooperative	1,234	1,291	1,349	1,349	1,360	1,325	1,299
joint-stock company	31,100	30,169	28,748	26,568	25,531	24,813	23,110
limited liability company	404,525	418,145	443,223	467,822	488,781	515,371	519,607
additional liability company	761	782	945	1,420	1,539	1,583	1,589
general partnership	1,939	2,084	2,120	2,100	2,074	2,062	1,941
limited partnership	642	631	638	651	638	629	595
cooperative including	34,324	35,063	34,772	34,164	33,664	33,806	29,681
production	2,539	2,461	2,469	2,492	2,459	2,647	2,646
service	21,814	22,620	21,797	21,050	20,619	20,620	17,899
consumer	531	591	660	732	771	809	726
agricultural production	1,418	1,401	1,355	1,307	1,224	1,192	1,064
agricultural service	503	759	838	920	947	1,035	928
organization (institution, establishment) including	104,024	108,552	110,074	11,1508	11,504	114,018	109,545
state	16,035	15,786	15,926	16,449	16,479	14,941	13,744
local public utility	61,450	65,308	66,242	66,629	66,378	67,023	64,975
private	887	907	950	975	1,000	1,027	1,005
organization (institution, establishment) of a civic association (religious organization, trade union, consumer cooperative, etc.)	1,247	1,393	1,466	1,578	1,579	1,608	1,618
association	3,057	3,125	3,180	3,222	3,194	3,234	3,108
corporation	862	866	872	862	852	836	777
consortium	89	92	92	94	93	94	90
concern	396	390	387	373	359	350	327
other associations of legal entities	1,717	1,634	1,598	1,532	1,412	1,365	1,275
branch (other separate structural unit)	55,322	52,973	51,636	50,044	49,014	49,717	47,507
representation agency	4,317	4,330	4,411	4,675	4,744	4,843	4,647
commodity exchange agency	503	559	588	600	598	601	593
credit union	1,097	1,127	1,155	1,141	1,154	1,171	1,105
consumer cooperative	5,328	5,252	5,214	5,089	5,044	5,162	5,026
community of consumer cooperatives	428	404	393	370	363	378	363
private pension fund	81	83	80	77	75	74	72
political party	16,719	17,375	18,942	19,121	19,222	19,166	18,237
civic organization	59,321	63,899	67,696	71,767	74,500	77,286	75,828
religious organization	21,425	22,343	23,271	24,126	24,720	25,475	24,957
trade union, association of trade unions	22,678	24,649	26,340	27,834	28,852	29,724	28,890
creative associations (another professional organization)	235	240	261	270	278	298	277
charitable organization	11,660	12,267	12,860	13,475	14,055	14,999	15,934
condominium association	8,549	10,329	11,956	13,872	15,018	16,213	15,992
community association	1,008	1,152	1,210	1,306	1,426	1,503	1,372

\* For some items in the table data are indicated including separate structural units. Other causes of data discrepancies with previous tables could not be figured out.

<sup>16</sup> <http://www.ukrstat.gov.ua/> — Report in the section Publications — Activities of the public associations in Ukraine in 2014



## Enterprises of citizens association

The enterprise of a citizens association, when a civic organization is the founder and owner of a commercial enterprise, is the organizational and legal form that best meets the international criteria for social enterprise in Ukraine.

According to the Article 112 of the Economic Code of Ukraine<sup>17</sup> the enterprise of citizens association, religious organization is a unitary enterprise based on the property of the citizens association (public organization, political party) or property of a religious organization for carrying out economic activities in order to fulfill their statutory goals.

Higher statutory management bodies of the citizens associations implement their property rights in the manner prescribed by law and statutory documents.

The founder of the enterprise of citizens association is an appropriate citizens association having legal entity status as well as association (union) of civic organizations in case the articles of association provide the right of establishment of enterprises. Political parties and legal entities, created by them, are prohibited to found enterprises, except for mass media, enterprises carrying out sale of social and political literature and other promotion and campaign materials, products with own symbols, organization of exhibitions, lectures, festivals and other public and political events.

Religious organizations have the right to establish publishing, printing, production, restoration and construction, agricultural and other enterprises necessary for providing the activities of these organizations.

The enterprise of a citizens association or a religious organization acts on the basis of the articles of incorporation and is a legal entity carrying out its activities on right of operational management or economic supervision pursuant to the requirements of this Code.

Restrictions on the establishment and activity of certain types of enterprises of citizens association, religious organization are regulated by legislation.

Civic organizations, in order to achieve their goals and areas of activities, have founded 10,052 companies and enterprises, 1,572 (15.6%) of which have been founded by the governing bodies, 8,480 (84.4%) — by the separate units; including 100 mass media, 87 of which were established by the governing bodies and 13 by the separate units.<sup>18</sup> Moreover, civic organizations implemented 5 thousand social projects and issued 142.3 thousand publications in 2014.

Civic organizations received 4.1 bln UAH for their activities from various sources in 2014. Proceeds from the charity amounted to 1.9 bln UAH (45.7%) of total amount of funds for financing of civic organizations activities; from economic activities, enterprises, established by the public organizations for fulfillment of their goals and areas of activity — 510.9 mln UAH (12.5%) and from membership fees — 454.6 mln UAH (11.1%).

The available funds were used by the civic organizations to 84.4% in 2014; the balance amounted to 639.9 mln UAH. The largest share in the structure of the use of funds by the civic organizations was held by: expenses for the charities — 26.7%, or 925 mln UAH, salary — 23.2%, or 803.6 mln UAH., and payment for services — 17.9%, or 621.1 mln UAH.

17 <http://zakon0.rada.gov.ua/laws/show/436-15/page4?text=%EE%E1%27%BA%E4%ED%E0%ED%ED#w14>

18 <http://www.ukrstat.gov.ua/> Report in the section Publications — Activities of the public associations in Ukraine in 2014

# 3. Social enterprises founded by organizations of persons with disabilities (COPDs)

## 3.1. Features and functions of social enterprises of COPDs

The enterprises founded by civic organizations of persons with disabilities (hereinafter — social enterprises of COPDs) formally meet all the key requirements of social enterprise. These enterprises differ from other enterprises by some criteria of their activities:

- non-governmental association of citizens are the founders of the enterprise, i.e. legal entities;
- enterprises may have authorized capital, i.e. funds or other property transferred to them by the founder for further use in their activities;
- the number of persons with disabilities must be at least 51% of all employees at the enterprise;
- social enterprises of COPDs have tax advantages defined by law (see below).

Social enterprises of COPDs play an important role in the implementation of state policy in the field of occupation and employment of people with disabilities. The state entrusted these enterprises with the implementation of two main functions:

- social — creation of jobs for people with disabilities; carrying out vocational rehabilitation (implementation of individual rehabilitation program), involving persons with disabilities in team work, cultural and educational associations and clubs; forming their active position in society; strengthening their consciousness as equal and contributing members of society;
- economic — production and sale of goods and services; payment of salaries; payment to the state budget of taxes and mandatory fees, etc.

Due to the fact, that social enterprises of COPDs employ persons with disabilities, they have to deal with unequal working conditions in comparison to other business entities. Therefore, in order to create conditions for ensuring equal opportunities for labor activities of workers with disabilities and necessary economic conditions for social enterprises of COPDs in accordance with the Articles 14–1, 14–2, 14–3 of the Law Ukraine “On the Basics of Social Security of the Disabled in Ukraine”

dated 21 March 1991 №875–XII (as amended) they are given governmental assistance in the form of benefits in taxation, social security, social insurance, etc.

## 3.2. Historical perspective

During the time of establishment of the Soviet power in the result of the implemented reforms in the late 1920s and early 1930s the state tried to shift the organizational and economic security of the disabled to the cooperative associations. So, on January 1, 1935 in the USSR, there were already 2,340 artels which had 5,722 industrial and 1,874 public catering enterprises. In 1935 the disabled produced products for 526 mln rubles.

Two national organizations of the persons with visual and hearing impairments, the Ukrainian Association of the Blind and Ukrainian Association of the Deaf, were created under the decision of the government of the Ukrainian SSR in 1933. Their main tasks were determined to be profession training of persons with disabilities, employment and ensuring a job, career development of persons with disabilities, organizational support of the above mentioned tasks. Nowadays these organizations are still the most powerful in Ukraine, with the appropriate material and technical basis (data listed below), human and organizational potential.

During the following decades the politics towards people with disabilities was based exclusively on the medical model and total isolation from society during the period of Soviet era. Artels of the disabled were massively liquidated, and property was compulsorily passed into the local industry.





Since the declaration of independence of Ukraine, one of the first civic associations of persons with disabilities, the Union of Organisations of Disabled Persons in Ukraine, initiated, and the Presidium of the Verkhovna Rada of the Ukrainian SSR adopted the Resolution on 06 December 1990 №517–XII “On Prompt Measures on Protection of Rights and Interests of Disabled Persons During the Transition to Market Economy”. The resolution obliged regional, Kyiv and Sevastopol Council of People’s Deputies to meet the requests of regional, city and district organizations of the disabled persons on transfer to them of enterprises (work shops) of the local industry, established on the basis of artels of the disabled and those where the majority of employees are the disabled.

Unfortunately, at that time only Lviv Regional Association of the Disabled managed to take

the advantage of this norm, which enabled it to create the appropriate material and technical basis for the employment of the disabled people.<sup>19</sup> No more significant decisions like these, contributing to the creation of material and technical basis of the enterprises of civic organizations of the disabled in Ukraine at the state level for the period of independence, were taken.

Practically all social enterprises founded by civic organizations of persons with disabilities, except for Ukrainian Association of the Blind (UAB) and Ukrainian Association of the Deaf (UAD), operate in rented premises and equipment of the lessors of different forms of ownership which, of course, complicates the work because of the significant costs for payment of rent.

### 3.3. Types of government support of social enterprises founded by COPDs

Government support	Normative and legal documents regulating the issue
Tax benefits	Tax Code of Ukraine
Benefits on payment of single fee for obligatory state social insurance	The Law of Ukraine “On the Collection and Accounting of a Single Fee for Obligatory State Social Insurance” dated 08 July 2010 № 2464–VI.
Financial assistance (non-refundable and refundable) due to administrative and economic sanctions coming to the Fund of Social Security of the Disabled	Article 20 of the Law Ukraine “On the Basics of Social Security of the Disabled in Ukraine”

<sup>19</sup> [http://www8.city-adm.lviv.ua/pool/info/doclmr\\_1.nsf/189a9b47835a82e6422566e8002d2131/48b84521532d4dd742256711004f438f](http://www8.city-adm.lviv.ua/pool/info/doclmr_1.nsf/189a9b47835a82e6422566e8002d2131/48b84521532d4dd742256711004f438f)

### 3.3.1. Tax benefits

<b>Income tax</b> (Subparagraph 142.1 of the Article 142 of the Section III of the Tax Code of Ukraine <sup>21</sup> )	Income, earned from the sale of goods (works, services), excluding excisable, is exempted from taxation. Income is taxable on a regular basis: <ul style="list-style-type: none"> <li>• from the sale of excisable goods;</li> <li>• from transactions not related to the sale of goods (works, services);</li> <li>• from transactions on the sale of excisable goods received within intermediary contracts (commission, consignment, trust management, etc. ).</li> </ul>
<b>Value Added Tax</b> (Subparagraph 197.6 of the Article 197 of the Section V of the Tax Code of Ukraine <sup>22</sup> , Paragraph 8 of the Subsection 2 of the Transitional Provisions of the Tax Code of Ukraine <sup>23</sup> )	Transactions on the sale of the own-produced goods and services (excluding excisable) are exempted from taxation. Until 1 January 2020 the following transactions are subject to VAT at a zero rate. The following are subject to VAT on a regular basis: <ul style="list-style-type: none"> <li>• transactions on the sale of excisable goods;</li> <li>• services rendered in the course of lotteries and entertainment services;</li> <li>• services related to the sale of goods received by the intermediary contracts (commission, proxy, consignment, trust management, etc.).</li> </ul>
<b>Tax on real estate property other than land plot</b> (Subparagraph 266.2.2. of the Article 266 of the Section XIII of the Tax Code of Ukraine <sup>24</sup> )	Residential and non-residential real estate objects owned by civic organizations of the disabled and their enterprises are not subject to taxation.
<b>Land tax</b> (Subparagraph. 282.1.2. of the Article 282.1 of the Section V of the Tax Code of Ukraine <sup>25</sup> )	Exemption from land tax.

A social enterprise founded by a COPD must obtain a required permit to get tax benefits. It is issued by the procedure prescribed by the Procedure for granting permission for right of use tax benefits for enterprises and organizations of civic organizations of the disabled persons, approved by the Resolution of the Cabinet of Ministers of Ukraine dated 08 August 2007 №1010 (as amended by the Resolution of the Cabinet of Ministers of Ukraine dated 17 July 2013 №518).<sup>25</sup>

According to paragraph 2 of the Procedure №1010, the enterprise must meet the following criteria in order to get permission:

1. the number of the disabled people, who are primary employed at the enterprises or organizations, amounts to at least 50 percent of the average number of staff employees of the recorded staff within the previous reporting (tax) period;
2. payroll fund of the disabled persons, who are primary employed at the enterprises or organizations, amounts to at least 25 percent of total salaries expense, which belong to the costs in accordance with the rules of income tax taxation;

3. amount of the expenses of the enterprise, organization for redesign (processing, other types of transformation) of raw material, component parts, constitutive parts, other purchased goods (services), used for the production of goods (services delivery) directly by the enterprises, organizations, amounts to at least 8 percent of the price for supply of manufactured goods (services delivery);

The mentioned criteria apply for issuing a permit in accordance with Paragraph 197.6 of Article 197 of Subparagraph one of Paragraph 8 of Subsection 2 of Section XX of “Transitional Provisions” of the Tax Code of Ukraine;

4. amount of the average monthly salary in equivalent of full-time job of the disabled persons who are primary employed at the enterprises or organizations, shall not be less than legally established amount of minimal salary;
5. fulfillment by the enterprises or organizations of decisions of the Ministry of Social Policy of regional, Kyiv and Sevastopol City State Administrations, Ministry of Social Policy of the Autonomous Republic of Crimea (except for enterprises, organizations that applied for the first time).

Tax Code of Ukraine stipulates the provision of enterprises of public organizations of the disabled persons with tax benefits

<sup>20</sup> <http://sfs.gov.ua/nk/spisok3/>

<sup>21</sup> <http://sfs.gov.ua/nk/rozdil-v--podatok-na-dodanu-vartist/>

<sup>22</sup> <http://sfs.gov.ua/nk/rozdil-xx--perehidni-polojen/>

<sup>23</sup> <http://sfs.gov.ua/nk/rozdil-xii--mistsevi-podatki-i/>

<sup>24</sup> <http://sfs.gov.ua/nk/rozdil-xii--mistsevi-podatki-i/>

<sup>25</sup> <http://zakon5.rada.gov.ua/laws/show/1010-2007-%D0%BF>

Branches and separate subdivisions of the enterprises registered as separate taxpayers, claiming preferential taxation regime, must meet the criteria set out in subparagraphs 1–5 of this paragraph.

The stated list of documents for obtaining a permit is complete

A social enterprise or organization shall submit to the regional, Kyiv and Sevastopol City State Administrations, Ministry of Social Policy of the Autonomous Republic of Crimea in order to obtain a permit:

- application of the founding civic organization of disabled people on granting the enterprise or organization a permit according to the form approved by the Ministry of Social Policy;
- copies of the constituent documents of the enterprise or organization and the founder, unless the founder is an all-Ukrainian civic organization of disabled persons or an civic organization of disabled persons, which has confirmed its all-Ukrainian status, submitting copies of their constituent documents independently;
- copy of the provisions on the branch, separate subdivision of enterprises;
- certificate of number of the disabled employed at the enterprise, organization, issued by the territorial department of the Fund of Social Security of the Disabled, for the previous year and for the previous reporting (tax) period;
- copy of the state act for the right of permanent land use or copy of certificate on the normative monetary value of a land plot in case of applying for obtaining a permit to use benefits on land tax;

- business plan of the activities of the enterprise (branch, separated subdivision);
- calculation of the amount of costs of the enterprise or organization associated with redesign (processing, other types of transformation) of raw material, component parts, constitutive parts, other purchased goods, for specification of goods which are directly produced by the enterprises or organization;
- certificate on the amount of average monthly salary in equivalent of full-time job of the employees and disabled persons, who are primary employed at the enterprise or organization, for the previous reporting (tax) period;
- copies of the tax and financial reports (tax declaration on income tax of the enterprise, report on the amounts of tax benefits, balance sheet of the enterprise or organization and report on financial results for the previous reporting (tax) period).

Regional, Kyiv and Sevastopol City State Administrations, body of executive power of the Autonomous Republic of Crimea on social policy render decisions on granting permits for right to use tax benefits concerning enterprises and organizations of civic organizations of disabled persons which received for the previous tax year gross income in the amount less than 8,400 minimum salaries, Ministry of Social Policy – other enterprises.

*For information: minimum salary legally established in 2016 is:*

- from January to April – 1,378 UAH,
- from May to November – 1,450 UAH,
- from December 1,550 UAH.



### 3.3.2. Benefits on payment the single fee for obligatory state social insurance

The single fee for obligatory state social insurance (hereinafter — single fee) is a consolidated insurance fee, the collection of which is carried out to the system of obligatory state social insurance and on the mandatory and regular basis in order to ensure protection in cases, provided by legislation, of the insured persons rights to receive insurance benefits (services)

according to the applicable types of the obligatory state social insurance.

In accordance with the Law of Ukraine “On the Collection and Accounting of Single Fee for Obligatory State Social Insurance” dated 08 July 2010 №2464–VI, in general, economic entities pay a single fee of 22% from the wage of their worker.<sup>26</sup> Social enterprises of COPDs have to pay the following single fee rates:

Single fee payers	Base of charges <sup>26*</sup>	Rates	Reason
Enterprises, institutions and organizations employing persons with disabilities	The amount of the accrued salary for the disabled employees by the types of payments which include basic and additional salary and other incentive and compensation payments including in kind according to the Law on Salaries, and the payment amounts for the first five days of temporary disability, which are carried out at the expense of the employer, and assistance on temporary disability for the disabled employees	8.41	Paragraphs 13–14 of the Article 8 of the Law №2464
Enterprises and organizations of COPDs, within which the number of the disabled is not less than 50% of the total number of workers, and on condition that the salary payment fund for such disabled is at least 25% of the amount of labor costs		5.5	
Enterprises and organizations of all-Ukrainian civic organizations of the disabled persons, including UAB and UAD, within which the number of the disabled is not less than 50% of the total number of workers, and on condition that the salary payment fund for such disabled is not less than 25% of the amount of labor costs		5.3	

\* without enterprises which are on the annexed territory

### 3.4. Analysis of the main social and economic indicators of activities of social enterprises founded by COPDs for the period 2012–2014

According to the data of the Ministry of Social Policy and local executive authorities 317 enterprises received the right to use tax benefits in 2014 (data as of 01 January 2015).<sup>27</sup> According to the data of the Commission on the issues of activities of enterprises and organizations founded by civic organizations of disabled persons in Ukraine 393 enterprises used this right in 2012 (data as of 01 January 2013), that is for 76 enterprises more than in 2014.

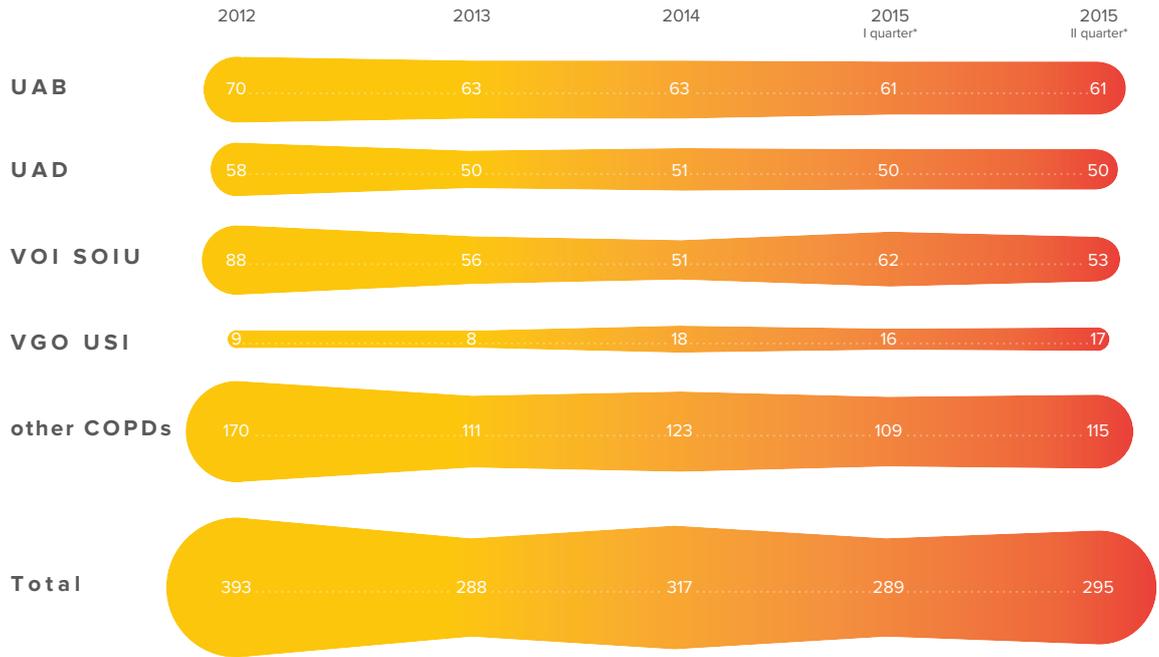
The decrease in the number enterprises of civic organizations of the disabled is connected to the expiration of the terms of previously issued permits for the right to use tax benefits, suspension of activities of some enterprises, refusal from preferential taxation system, lack of public order, current assets, and the fact that some enterprises are geographically located on the occupied territories of Luhansk and Donetsk Regions and in the Republic of Crimea and the city of Sevastopol.

Thus, in 2012, 14 social enterprises of COPDs in Autonomous Republic of Crimea had permits for the right to use tax benefits, including 4 social enterprises of UAB, 1 — UAD, 1 — National Sports Committee of the Disabled. The main technical and economic indicators were: residual value of the fixed

<sup>26</sup> <http://www.profiwins.com.ua/uk/directories1/bazaews.html>

<sup>27</sup> [http://www.mlsp.gov.ua/labour/control/uk/publish/article?art\\_id=175910&cat\\_id=111128](http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=175910&cat_id=111128)

## Number of social enterprises of COPDs



\* without enterprises which are on the annexed territory

assets 255 mln UAH, annual production volume—247 mln UAH, income—250 mln UAH, number of employees 1,470 people, including 971 disabled persons.

There are 12 social enterprises of COPDs in the city of Sevastopol (including 3 founded by the Union of Organizations of the Disabled in Ukraine, 2—by Ukrainian Association of the Employable Disabled, one each by the All-Ukrainian Organization of the Disabled Veterans and the Armed Forces of Ukraine as well as the Coalition for Protection of Rights of the Disabled and Persons with Intellectual Disabilities). The main technical and economic indicators were: residual value of the fixed assets 4 mln UAH, the annual production volume—6 mln UAH, income—129 mln UAH (main income from commercial and retail activities), number of employees 224 people, including 137 disabled persons.

In the Donetsk Region 14 out of 25 social enterprises of COPDs are situated in the area of the ATO. Among them Donetsk Training and Production Enterprise “Elektroapparat” UAB, Donetsk Production Enterprise “Electromagnet” of UAD, Small Collective Training and Trading Enterprise “Friend” city of Gorlivka of the Union of Organisations of the Disabled in Ukraine and others. Approximately 500 people with disabilities were employed in enterprises that are in the occupied territory of Donetsk Region.

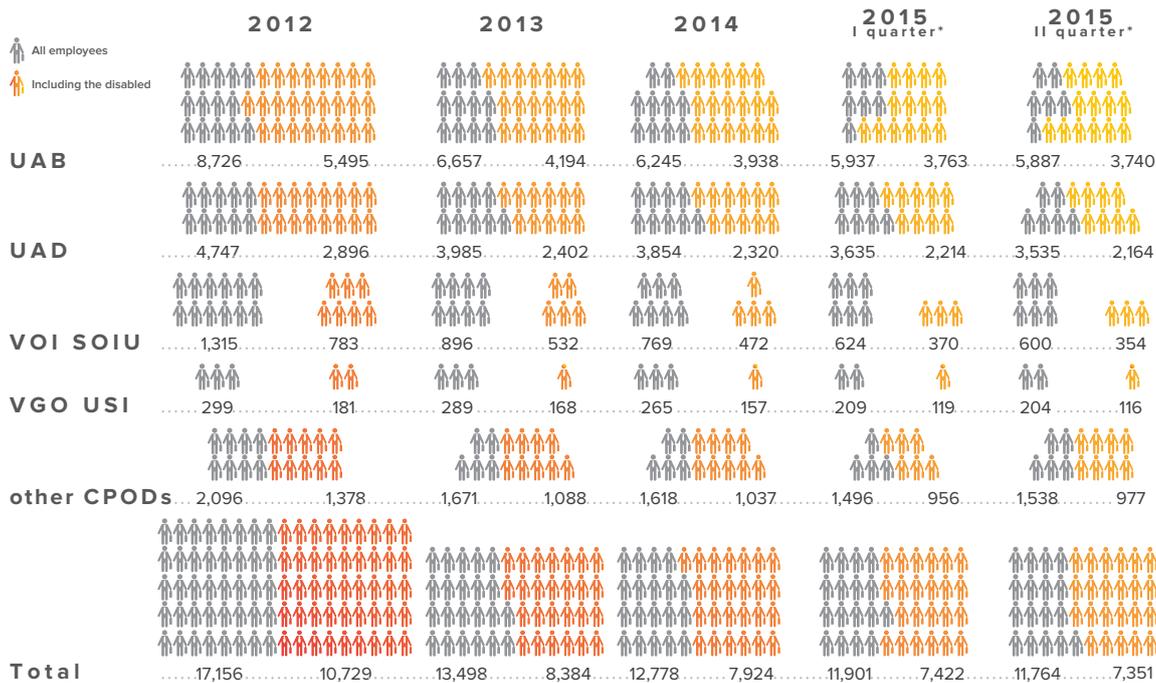
In Luhansk region 8 out of 9 social enterprises of COPDs are in the occupied territory. Among them are Luhansk Production Enterprise “Vostok” of UAD, Luhansk Training and Production Enterprise of UAB and others. Total of about 200 people with disabilities were employed in these enterprises.

The main fields of activity of social enterprises founded by COPDs are the production of consumer goods and foodstuffs, production of plastic and construction materials, polygraphic and electrotechnical products, sewing of clothes, personal and legal services, wholesale trade and retail.

### Number of employees with disabilities at social enterprises of COPDs

In 2012 the average number of employees at the enterprises and organizations of COPDs amounted to 17,156 workers, including 10,729 with disabilities. In 2014 this indicator was 12,778 and 7,924 people respectively. In other words in 2 years the average number of employees decreased by 4,378 people, including 2,805 with disabilities. Among them are about 2,500/1,600 persons with disabilities, which are those people who worked at the enterprises of Luhansk, Donetsk Regions, Crimea and in the city of Sevastopol. At the same time it should be noted that the share of the average number of persons with disabilities in the total number of employees remained practically unchanged:

## Number of employees at social enterprises of COPDs, persons<sup>28</sup>



\* without enterprises which are on the annexed territory

62.5% in 2012 and 62.01% in 2014.

This reduction is mainly observed at the enterprises of the Ukrainian Association of the Blind and Ukrainian Association of the Deaf. Thus the total number of persons decreased by 4,051 employees for 2 years at them, including 2,487 employees with disabilities. In particular, this happened because of the fact that there were a lot of workers with a pension age of over 60 years at the enterprises of the UAB and UAD.

It should be noted that according to the manufacturing industries persons with disabilities work:

- in sewing, knitting and textile and haberdashery over 65%;
- metalworking and electrical engineering — 58,2%;
- woodworking — 58,7%;
- other industries — 71%.

The *main difficulties* of social enterprises of COPDs which lead to the reduction of economic activity indicators and, as a result, to the reduction in the number of employees with disabilities are:

- improper management, outdated equipment, significant difficulties in business process re-engineering;
- large overhead costs (especially at the enterprises of the UAB and UAD);

- uncompetitive products, lack of marketing services;
- lower productivity of workers with disabilities, need for additional capital investments depending on specific features of diseases of the disabled employees and their concrete numbers at the enterprise;
- need for maintenance of non-production sectors (clubs, libraries, dormitories, medical posts, etc.);
- lack of benefits while participating in tenders for state orders, etc.

At the same time one have to consider that employment at specialized social enterprises does not promote integration of persons with disabilities into social life because they are in closed social system while working at these specialized enterprises. The low level of technical equipment of specialized enterprises restricts potential growth of professional skills of the workers with disabilities, and professional training at these enterprises does not consider needs of the labor market, complicating, and in some cases making it the transition of persons with disabilities from specialized enterprises to the open labor market impossible.

These are the main reasons for the reluctance of employers to hire workers with disabilities from specialized enterprises who have moved to the open labor market.

<sup>28</sup> [http://www.mlsp.gov.ua/labour/control/uk/publish/article?art\\_id=181644&cat\\_id=111128](http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=181644&cat_id=111128) (data 2013–2014)

In most countries of the world the labor of persons with disabilities, who have serious disorders, for whom it is physically impossible or too difficult to create the necessary labor conditions at a normal enterprise, is used at specialized enterprises. The majority of people with disabilities, employed at specialized enterprises (workshops) in these countries, have intellectual or mental disorders.

Specialized enterprises, social enterprises of COPDs in particular, should and can become transit (transitional) enterprises for workers

with disabilities. Upon receiving professional skills and obtaining social adaptation in the labor collective at social enterprise of COPDs people with disabilities can move to the open labor market. The civic organizations of disabled persons as founders of these social enterprises should take the significant part in this process. It is the civic organizations of disabled persons who should actively work both with the disabled persons, working as employees at the social enterprises, and with prospective employers at „normal“ enterprises. Unfortunately, thus far it is not observed in Ukraine.

## Amount of salary

The following table shows the data of the average monthly salary in equivalent of full-time job. It should be noted that the vast majority of employees with disabilities work at social enterprises of COPDs part-time. The actual salary of workers with disabilities was the minimum salary at more than 30% of the enterprises.

Legally established minimum salary was:

- 2012— 1,073–1,174 UAH;
- 2013— 1,147–1,218 UAH;
- 2014— 1,218 UAH;
- 2015— 1,218–1,378 UAH.

## Amount of the average monthly salary in equivalent of full-time job, UAH\*<sup>29</sup>

POD name	2012		2013		2014		I quarter 2015		II quarter 2015	
	Employ-ees	disabled	Employ-ees	disabled	Employ-ees	disabled	Employ-ees	disabled	Employ-ees	disabled
UAB	1,917	1,519	2,193.7	1,635.9	2,533.7	1,710.8	2,663.3	1,772.7	2,788.0	1,793.1
UAD	1,797	1,586	1,849.5	1,625.4	2,354.6	1,781.7	2,581.1	1,995.6	2,712.2	2,075.6
VOI SOIU	2,870	1,813	2,236.4	1,952.1	2,995.4	2,361.6	2,877.4	2,628.1	3,363.4	2,760.1
VGO USI	2,276	1,660	2,554.9	1,991.1	2,144.1	2,404.5	2,650.3	2,337.3	3,056.7	2,270.5
other COPDs	1,856	1,830	2,102.5	2,186.3	2,450.7	2,675.6	2,812.2	2,812.0	2,665.3	2,763.2
<b>Total</b>	<b>1,970</b>	<b>1,623</b>	<b>2,299.8</b>	<b>1,730.9</b>	<b>2,519.7</b>	<b>1,936.0</b>	<b>2,708.1</b>	<b>2,056.6</b>	<b>2,832.8</b>	<b>2,101.4</b>

\* without enterprises which are on the annexed territory

*Additional explanation: One of the conditions of obtaining tax benefits is the average monthly salary in equivalent of full-time job of workers with disabilities. It must not be lower than the minimum salary set by the legislation of Ukraine.*

The enterprises that have the highest level of salary of the disabled workers in equivalent of full-time job during 2012–2014 were situated in the following regions:

- in Cherkasy region — 3,776.6 UAH;
- Kirovograd region — 3,455.5 UAH;
- Dnipropetrovsk region — 2,702.4 UAH;
- Rivne region — 2,392.3 UAH;
- Sumy region — 2,346.7 UAH.

## Financial and economic indicators of the activity of social enterprises founded by COPDs

Financial and economic condition of social enterprises founded by COPDs depends on:

- favorable economic conditions in general market;
- effectiveness of state support for such enterprises;
- proper management;
- competitive products;
- availability of a state order.

<sup>29</sup> [http://www.mlsp.gov.ua/labour/control/uk/publish/article?art\\_id=181644&cat\\_id=111128](http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=181644&cat_id=111128)

Analysis of dynamics of the results of activities of enterprises according to their main indicators shows the following:

- The total income taken into account when determining the object of taxation in 2012 amounted to 2,004 mln UAH (at the rate of 1 USD—8 UAH) in 2013—1,538 mln UAH, in 2014—1,842 mln. UAH (at the rate 1 USD—14 UAH).
- Enterprises, which work in the construction, electrotechnical, printing industries and are located in large industrial regional centers have the largest income. For example, the enterprises of Dnipropetrovsk Region received a total income of 231 mln UAH for 2014, city Kyiv—230 mln UAH, Kharkiv Region—591 mln UAH.
- The income of enterprises, which work in the sphere of provision of personal or public services and are located in small towns, is considerably smaller. For example, enterprises of Volyn Region received an annual total income of 6.2 mln UAH, Chernihiv Region—8 mln UAH, Zakarpattia Region—4.1 mln UAH. Subsequently both the level of employment and the level of salary at these enterprises are low.
- Sewing industry enterprises have a stable income, working in the system of the Ukrainian Association of the Deaf in the cities Ivano-Frankivsk, Zhytomyr, Lubny of Poltava Region, Sumy, Kyiv, Bila Tserkva of Kyiv Region and others.
- Regarding the production volumes, this figure is only available in reporting for 2012 (it was stipulated by the tax reporting) and it was 1,329 mln UAH.
- It should be noted that during 2012-2014 there is a consistent trend to enterprises' profit diminution. If in 2012 the gross profit amounted to 206 mln UAH, in 2013—187 mln UAH, in 2014—only 107 mln UAH. And this is despite the fact that enterprises are exempted from the income tax.

The analysis shows that with a sharp increase in the currency exchange the enterprises have a big problem with circulating assets for immediate production needs.

## State order

The financial and economic condition of social enterprises of COPDs is influenced by the availability of state (regional) order for manufacturing of products by them.

In 2012, the total amount of concluded contracts for the supply of goods, works and services of social enterprises, founded by COPDs, for public funds amounted to 64.9 mln UAH. However, the real income, generated by state orders, only amounted to 59.9 mln UAH. In total, 81 social enterprises founded by civic organizations of disabled persons successfully participated in public tenders.

The largest amounts of the contracts concluded by administrators of public funds with social enterprises founded by COPDs could be found in the following regions:

- AR Crimea—18.6 mln UAH;
- Zhytomyr Region—11.0 mln UAH;
- city of Kyiv—6.0 mln UAH;
- Dnipropetrovsk Region—6.8 mln UAH;
- Lviv Region—4.9 mln UAH.

In 2014 the total amount of concluded contracts for the supply of goods, works, services of social enterprises founded by COPDs for the public funds was 99.2 mln UAH.

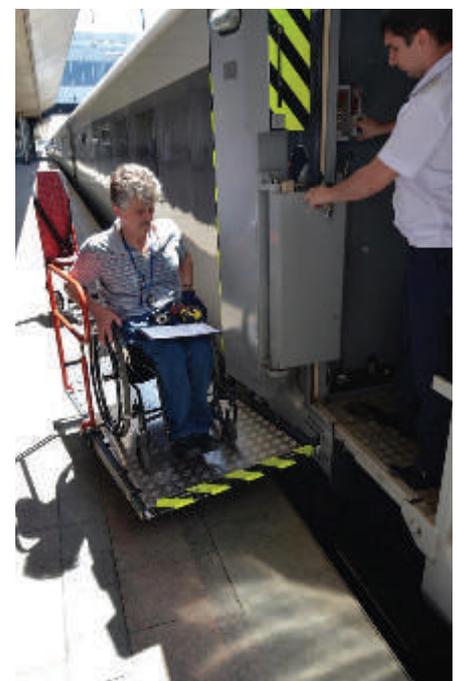
The largest share of contracts was concluded with social enterprises founded by COPDs for public funds in the following regions:

- Lviv Region—40.9 mln UAH;
- Odessa Region—17.0 mln UAH;
- city of Kyiv—11.1 mln UAH;
- Dnipropetrovsk Region—8.6 mln UAH;
- Kharkiv Region—3.2 mln UAH.

The least of all concluded contracts for public funds was to be found in:

- Kherson Region  
3.8 thousand UAH;
- Chernivtsi Region  
54.1 thousand UAH;
- Zakarpattia Region  
35.2 thousand UAH;
- Zaporizhzhia Region  
63.1 thousand UAH.

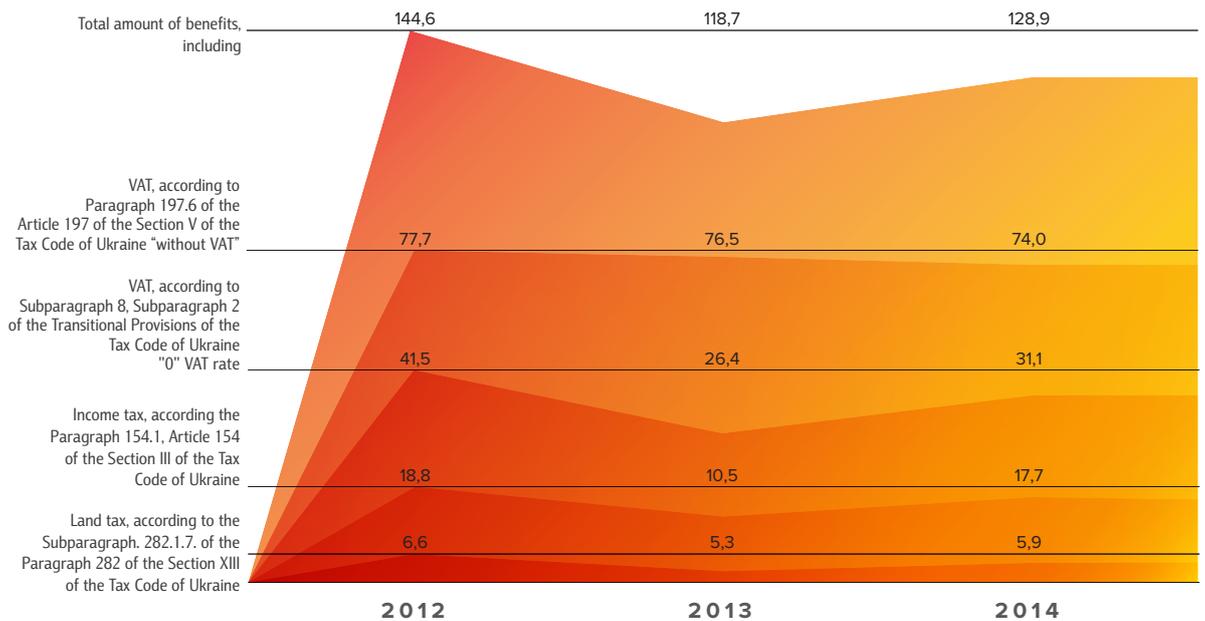
*Such agreements were not signed at all in Luhansk, Sumy and Ternopil Regions.*



Today the social enterprises founded by COPDs do not have any preferences while participating in tenders for obtaining state orders for delivery of goods, works and services. There is a great competition and corruption in this area. There is a legislative requirement concerning the necessity to have an allowance of the procurement contract. After order fulfillment enterprises wait for payment for their products

from the government agencies and organizations for months, that actually makes the order not profitable. Therefore, social enterprises of COPDs have no interest in getting public order and only 5 to 7% of their total income is generated by public orders. The main types of products that are purchased for public funds at the social enterprises of COPDs is sewing and paper products, furniture, construction services.

### Amount of the received tax benefits (mln UAH)<sup>30</sup>



\* without enterprises in the Autonomous Republic of Crimea, in the city of Sevastopol, part of Donetsk and Luhansk regions

*In the context of the founders of social enterprise we have the following distribution of benefits (thousand, UAH):*

	2013	2014*
Amount of the provided benefits to the enterprises of the civic organizations of the disabled persons, including	118,677.6	128,957.6
UAB	31,273.2	41,305.9
UAD	18,056.2	20,541.8
SOIU	15,384.1	17,434.5
USI	2,425.4	2,851.8
Other	51,538.7	46,823.6

The legislation of Ukraine does not stipulate reporting enterprises of the COPDs regarding the use of the funds received due to the tax benefits.

Amount of the received social and economic guarantees (benefits) on payment of the single social fee according to Paragraph 14 of the Article 8 of the Law of Ukraine "On the Collection and Accounting of a Single Fee for Obligatory State Social Insurance" amounted to 69.3 mln UAH in 2014.

Redundant savings, which social enterprises of COPDs receive due to preferential regime of taxation, are primarily aimed to the maintenance of their activity, modernization of production, development of new types of products, creating new jobs for people with disabilities, support for social infrastructure, social programs for people with disabilities, etc.

<sup>30</sup> [http://www.mlsp.gov.ua/labour/control/uk/publish/article?art\\_id=175910&cat\\_id=111128](http://www.mlsp.gov.ua/labour/control/uk/publish/article?art_id=175910&cat_id=111128) (data 2013–2014)

### 3.5. Financial assistance, targeted loans and subsidies by the Fund of Social Security of the Disabled

According to the Law of Ukraine “On the Basis of Social Security of the Disabled in Ukraine” social enterprises founded by COPDs can receive financial assistance, targeted loans and subsidies from the Fund of Social Security of Disabled. This Fund gets its resources from the administrative and economic sanctions and penalties paid by „normal” enterprises for the failure to comply with the existing quotas of employment of disabled people.

The procedure of the use of the resources, received by the Fund of Social Security of the Disabled from sanctions and penalties, is approved by the Resolution of the Cabinet of Ministers of Ukraine dated 31 January 2007 № 70. Social Enterprises of COPDs may apply to the departments of the Fund of Social Security of the Disabled in order to obtain support in the form of:

1. target loan (on a returnable basis with a term for return up to three years) to create work positions designated for employment of the disabled;
2. financial assistance on the returnable and irrevocable basis for:
  - taking measures concerning physical and sports rehabilitation of persons with disabilities, creating conditions for physical training and sports (on the proposal of the National Sports Committee of the Disabled);
  - technical equipment of existing jobs for employment of persons with disabilities;
  - creation at the workplace of the disabled of proper of sanitary and hygienic, industrial and technical conditions in accordance with individual rehabilitation program of persons with disabilities;
  - technical re-equipment of production in order to create additional jobs for employment of persons with disabilities;
3. for production of special literature and audio records (including for professional training of persons with disabilities) with the aim of completing libraries;
4. for creating of special jobs for employment of persons with disabilities;
5. subsidies for the creation of special jobs for employment of the disabled registered at the State Employment Service as unemployed.

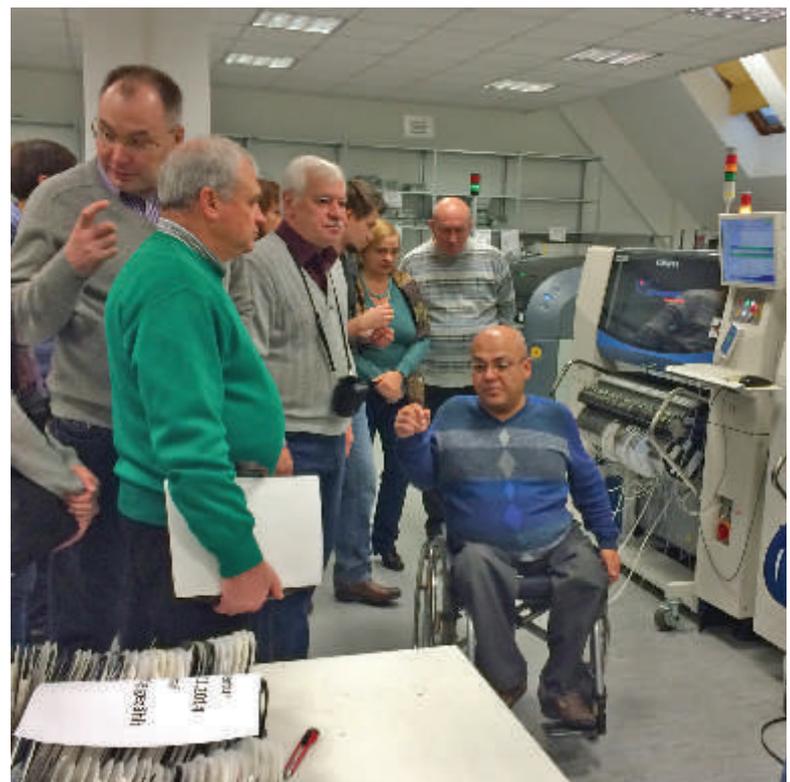
The Instruction on providing financial assistance on returnable and irrevocable basis and

target loan at the expense of the amounts of administrative and economic sanctions and penalties that come to the state budget for failure to comply with quotas of work positions for employment of the disabled persons is approved by the Ministry of Labour and Social Policy of Ukraine dated 06 September 2010 № 270.<sup>31</sup>

The procedure of granting subsidies to the employer at the expense of the Fund of Social Security of the Disabled for creation of special jobs for the disabled registered at the State Employment Service is approved by the Cabinet of Ministers of Ukraine dated December 27, 2006 № 1836 (as amended by the Resolution of the Cabinet of Ministers of Ukraine dated November 23, 2011 № 1234).<sup>32</sup>

**Table of the provided financial assistance to social enterprises of the COPDs at the expense of the Fund of Social Security of the Disabled (thousand, UAH)**

Indicators name	2012	2013	2014
Financial assistance at the expense of the Fund of Social Security of the Disabled, thousand UAH including:	34,689.6	27,700.4	11,266.8
UAB	13,702.0	1,501.5	6,881.9
UAD	9,598.9	4,329.5	596.8
SOIU	3,953.2	1,283.3	85.0



<sup>31</sup> <http://zakon5.rada.gov.ua/laws/show/z0954-10>

<sup>32</sup> <http://zakon5.rada.gov.ua/laws/show/1836-2006-%D0%BF>

## Financing of measures for promotion of employment (Law of Ukraine “On Employment of Population”<sup>33</sup>)

*Compensation of actual expenses at the rate of 50 percent of the amount of the accrued single contribution for a corresponding person per month for which this contribution was paid (Part 3 Article 24–1 of the Law of Ukraine “On Employment of Population”<sup>34</sup>).*

The employer which, for the duration of 12 calendar months, ensured creation of new jobs, employed people, and during this period performed monthly payments of their salaries in the amount no less than three minimum salaries per each person, shall be, during the next 12 calendar months and on condition of preserving the level of the salary in the amount no less than three minimum salaries per each person, compensated monthly the actual expenses at the rate of 50 percent of the amount of the accrued single contribution for a corresponding person at the expense of the State Budget of Ukraine as provided for in the budget of the Pension Fund of Ukraine, or the month for which the contribution was paid, and in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

The procedure of compensation of a part of actual expenses, related to payment of the single contribution for obligatory national insurance, to employers has been approved by the resolution of the Cabinet of Ministers of Ukraine dated 13 March 2013 № 153.<sup>35</sup>

*Financing of measures for promotion of employment for registered unemployed persons from among internally displaced persons by reference of territorial bodies of the central executive authority which implements the state policy in the field of employment of population and labor migration (Article 24–1 of the Law of Ukraine “On Employment of Population”<sup>36</sup>).*

The measures for promotion of employment of internally displaced persons who are being employed by reference of territorial bodies of the central executive authority which implements the state policy in the field of employment of population and labor migration, as specified in Part One of the present Article, shall include:

1. compensation of actual transportation ex-

33 <http://zakon3.rada.gov.ua/laws/show/5067-17?nreg=5067-17&find=1&text=%B3%ED%E2%E0%EB%B3%E4&x=0&y=0#w116>

34 <http://zakon3.rada.gov.ua/laws/show/5067-17?nreg=5067-17&find=1&text=%B3%ED%E2%E0%EB%B3%E4&x=0&y=0#w116>

35 <http://zakon3.rada.gov.ua/laws/show/153-2013-%D0%BF%7#n7>

36 <http://zakon3.rada.gov.ua/laws/show/5067-17?nreg=5067-17&find=1&text=%B3%ED%E2%E0%EB%B3%E4&x=0&y=0#w116>

penses for moving to a different administrative-territorial unit, as well as of expenses for undergoing a preliminary medical and drug addiction examinations following a reference from territorial bodies of the central executive authority which implements the state policy in the field of employment of population and labor migration, to a registered unemployed person from among internally displaced persons, if these are required for employment;

2. compensation of employer’s labor costs (no more than the average salary level that has formed in a corresponding region for the previous month) for employment of registered unemployed persons from among internally displaced persons on conditions of fixed term employment agreement for no longer than six calendar months, on condition that the guarantee of employment for such person is preserved for the period twice as long as the period of receiving the compensation.

The duration of compensation for expenses of the employer that employs internally displaced persons from among the categories of citizens, specified in Part One, Article 14 of this Law, longer than six months but less than twelve calendar months shall be determined by a resolution of regional coordination committees for promotion of employment, with agreement of territorial bodies of the central executive authority which implements the state policy in the field of employment of population and labor migration;

3. compensation of expenses for the employer that employs registered unemployed persons from among internally displaced persons for the term of at least twelve calendar months, for retraining and professional development of such persons. The amount of such compensation shall be established within the cost of training and professional development, but it cannot exceed the tenfold amount of the minimum subsistence income for employable population as established by the law as of the date when the employer performs such payment.

Financing of measures for promotion of employment as specified in this article shall be made within the available cost of the Obligatory Social Insurance Fund of Ukraine for Unemployment and the Social Insurance Fund of Ukraine for the Disabled (in case of employment of a disabled person, registered in accordance with the established procedure as an unemployed person and having been assigned a certain amount of unemployment aid) after

If staff size and salary fund decrease, the employer shall lose the right to such compensation.

employment of registered unemployed persons from among internally displaced persons by reference of territorial bodies of the central executive authority which implements the state policy in the field of employment of population and labor migration.

If an employee, for whom the employer was paid a compensation in accordance with Part Two of the present Article, is dismissed on the employer's initiative or by agreement of the parties before the established term of preserving employment guarantee expires, the amount of financing that has already been paid shall be repaid in full to the budget of the Obligatory Social Insurance Fund of Ukraine for Unemployment or the Social Insurance Fund of Ukraine for the Disabled depending on the source that the payments have come from. Requirements of Part Three, Article 26 of this Law shall apply to employers that lay claim to receive compensations as envisaged in this Article.

The procedure for implementation of measures for promotion of employment, refund of the costs allocated for financing these activities in case of violation of guarantees for employment of internally displaced persons are approved by the Resolution of the Cabinet of Ministers of Ukraine dated 8 September 2015 № 696.<sup>37</sup>

*Compensation to the employer of the actual expenses in the amount of the single contribution for the obligatory national insurance for a corresponding person for the month when the contribution was paid (Article 26, Law of Ukraine "On Employment of Population"<sup>38</sup>).*

The employer that employs to a new job the persons who have additional guarantees in promotion of employment and who have been assigned the unemployed status and does so by reference of territorial bodies of the central executive authority which implements the state policy in the field of employment of population and labor migration and for the term of at least two years, shall receive monthly compensation of the actual expenses at the rate of the single contribution for obligatory national social insurance for a corresponding person and for the month, for which the contribution was paid.

Compensation shall be paid within one year since the day of employment of the person at the expense of the financing allocated in the budget of the Obligatory Social Insurance Fund of Ukraine for Unemployment and the Social Insurance Fund of Ukraine for the Disabled (in case of employment of a disabled person, registered in accordance with the established procedure as an unemployed person but has not been assigned unemployment aid in accordance with the law), in accordance with the Procedure for compensation of obligatory national social insurance costs to employers as approved by the Resolution of the Cabinet of Ministers of Ukraine dated 15 April 2013 № 347<sup>39</sup>.

In case of dismissal of an employee for whom compensation was paid in accordance with Part One of this Article, on the employer's initiative or by agreement of the parties before expiration of the two years' term since the day of employment, the amount of funds that has been paid to the employer shall be refunded to the budget of the Obligatory Social Insurance Fund of Ukraine for Unemployment and the Social Insurance Fund of Ukraine for the Disabled depending on the source of the compensation, or another unemployed person shall be employed to his job within the said two years' period by reference of territorial bodies of the central executive authority which implements the state policy in the field of employment of population and labor migration.

In case of dismissal of an employee for whom compensation was paid in accordance with Part One of this Article by agreement of the parties, another unemployed person shall be employed to his job within the two years' period by reference of territorial bodies of the central executive authority which implements the state policy in the field of employment of population and labor migration.

The said compensation shall not be paid when the employer:

1. has a debt in payment of the single contribution for obligatory national social insurance and/or insurance contributions for obligatory national pension insurance;
2. has been recognized as bankrupt in accordance with the established procedure or has become an object of a bankruptcy proceeding.

37 <http://zakon3.rada.gov.ua/laws/show/696-2015-%D0%BF/paran8#n8>  
38 <http://zakon3.rada.gov.ua/laws/show/5067-17?nreg=5067-17&find=1&text=%B3%ED%E2%E0%EB%B3%E4&x=0&y=0#w116>

39 <http://zakon3.rada.gov.ua/laws/show/347-2013-%D0%BF/paran15#n15>



### **3.6. Activities of civic organizations of persons with disabilities to defend and represent interests of their social enterprises**

In November 2015, all-Ukrainian civic organizations such as the National Assembly of People with Disabilities of Ukraine, the Association of Enterprises and the Employed Disabled of Ukraine and the Ukrainian Society of the Blind, with the support of the Ministry of Foreign Affairs of the Federal Republic of Germany, the Aktion Mensch Fund (Germany) and other state and civic organizations held the All-Ukrainian Forum for enterprises of civic organizations of people with disabilities.

The Forum representatives included members of over 300 enterprises of civic organizations of the disabled from various regions of Ukraine, which employ over 50% of people with disabilities.

Speakers of the Forum drew attention of representatives of government legislative and executive authorities to the considerable deterioration of financial and social performance of social enterprises founded by COPDs over the previous two years. They emphasized lack of state orders for goods and services produced by social enterprises of COPDs; the need for development and implementation of new advanced approaches to encourage employment of persons with disabilities both in the open labor market and in social enterprises of COPDs; the absence of a program for financial support in opening an enterprise or starting a business; the need to retain government support in the form of tax benefits and financial aid. Participants of the Forum expressed their wish to study and implement international experience in the field of employment and job placement for the disabled people.

## 4. Conclusions and proposals

Social enterprises of COPDs perform an important function in Ukraine by giving persons with disabilities the opportunity to realize their right to work. They provide employment and social-psychological rehabilitation to thousands of disabled persons in Ukraine. These enterprises have the highest ratio of working disabled persons to the total number of staff (62%). For comparison, in Germany this figure is between 25% and 50%, the actual average number of working disabled persons being 40% of the total staff number. Therefore, Ukraine needs to increase compensation measures to ensure competitiveness of socially oriented enterprises in the market.

From the above mentioned materials a conclusion can be made that presently the only form of government support for social enterprises of COPDs are tax benefits. The use of tax benefits allows reducing the price of goods produced which improves their competitiveness. Additional funds obtained due to using the tax benefits are directed by social enterprises of COPDs mostly to production and social needs. Such benefits are an important form of government support but it is insufficient. In fact, Ukraine hardly has any newly launched social enterprises founded by COPDs.

The experience of Germany shows that governmental support is of special effectiveness in the period of founding a social enterprise and setting up production (that is, during the first year of operation). The German system is based on the principle of 3 Cs, i.e. professional business consulting (consulting services), start-up capital for creation of new jobs, and additional payment to the salary of a disabled employee as a compensation for low competitiveness. It was the adoption of such governmental support system in 2000 that resulted in fast growth of the number of social enterprises in Germany and, accordingly, in the number of jobs for employment of the disabled.

It can be supposed that changing forms of support in Ukraine, with preservation of the total amount to financial assistance, could promote a more successful development of social enterprises of COPDs.

The positive news is that Ukraine has created the Fund for Social Protection of the Disabled, which receives administrative and economic sanctions from the employers for the failure to create jobs for employment of the disabled within the limits of the legally established norms. Unfortunately, there are only a small percentage of employers (mostly medium and small businesses) that pay sanctions to the Fund for their inability to employ the disabled. Increasing the responsibility of employers in this aspect is an important precondition to improve investment support of social enterprises.

Another important issue is the change of approach towards developing social businesses and the social enterprises of COPDs themselves (e.g., in ensuring more professional marketing strategies, efficient management etc). They should take a more active stance in cooperation with employers in the open labor market and supply appropriate and professional staff of disabled persons. Administrators of social enterprises of COPDs may be involved as experts to assist in development of the legal framework in the field of employment and job placement of disabled people.

The issue of implementation of a system of protected employment for mentally or intellectually challenged in Ukraine still remains unsolved. The situation can be changed through financing a social service of support at workplace in the open labor market, an social enterprises of COPD or work therapy opportunities in specially created workshops regardless of their pattern of ownership for people with such disorders.

Due to absence of much data on activities of social enterprises of civic organizations of the disabled in any systematized form, it is difficult to show the entire field of positive effects and the benefits for the state as well as German research works do. However, the present study might be one of the first steps and generate more interest to pursue a deeper analysis. This, in its turn, will promote improved activities of social enterprises of civic organizations of persons with disabilities and increase the level of employment among the disabled.

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## List of Abbreviations

- ATO* – Antiterroristic operation
- COPD* – Civic organization of people with disabilities
- SOIU* – Union of organizations of people with disabilities of Ukraine
- UAB* – Ukrainian Association of the Blind
- UAD* – Ukrainian Association of the Deaf
- UAH* – Ukrainian Hryvna (national valuta of Ukraine)
- VGO USI* – All-Ukrainian civic organization “Ukrainian union of people with disabilities”
- VOI SOIU* – All-Ukrainian Organization of people with disabilities “Union of organizations of people with disabilities of Ukraine”

# The State Policy towards Social Enterprises of Disabled People's Organisations in Ukraine Law, Monitoring and Assessment

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