**QUESTIONNAIRE ON GOOD PRACTICES TO ENSURE EFFECTIVE ACCESS TO JUSTICE FOR PERSONS WITH DISABILITIES**

1. **Please provide information on any existing good practices in legislation, policies and/or institutional measures taken in your country to ensure effective access to justice for persons with disabilities on an equal basis with others, as required by article 13 of the Convention of the Rights of Persons with Disabilities.**

The Law of the Republic of Azerbaijan “On the Rights of Persons with Disabilities” dated May 31, 2018 provides ensuring all rights and freedoms enshrined by the relevant UN Convention, as well as issues of ensuring effective access to justice for the persons with disabilities (hereafter PWDs) on an equal basis with others. Thus, PWDs have the right to defend their legal interests in an administrative and judicial grounds in accordance with Article 6.4 of this Law.

Arrested persons and convicts have the right to appeal with requests, applications and complaints regarding to the lawfulness of his/her detention or violation of his/her rights and legal interests in accordance with the Article 15.1.15 of the Law of the Republic of Azerbaijan “On the rights and freedoms of individuals kept in detention facilities” and the Article 14 of the Code about Exeution of Punishments, accordingly. Of course, these rights are applied equally to PWDs who are arrested or convicted.

1. **Please provide information on any existing good practices in place in your country, including strategies and guidelines, to facilitate the direct or indirect participation of persons with disabilities in judicial and other legal proceedings (e.g., as concerned parties, witnesses, jurors, judges, lawyers, experts.) including in the areas of:**

* **Recognition of the right to legal standing;**
* **Accessibility and access to information;**
* **Procedural, gender- and age-appropriate accommodations; and**
* **Provision of legal aid**

Under the Article 34 of the Law of the Republic of Azerbaijan “On the Rights of Persons with Disabilities, those persons, who are party to a case in legal and/or administrative proceedings and being in need of specialized facilitators are provided with services of specialized facilitators (readers and specialists in surdo translation).

Regarding the PWDs in the Criminal-Procedural Code of the Republic of Azerbaijan the following provisions have been identified:

* if the suspect or the accused is dumb, blind, deaf, has other serious speech, hearing, or visual disabilities, or because of serious chronic illness, mental incapacity or other defects cannot exercise the right to defend himself independently (Article 92.3.2);
* not treat the detainee in a way that fails to respect his personality or dignity, and pay special attention to women and persons who are under age, elderly, ill or disabled (Article 153.2.10);
* an interview with a dumb, deaf or blind witness shall be held with the participation of a person who understands his signs or who can communicate with him in sign language. This person’s participation in the interview shall be noted in the record (Article 229.1). Where a witness suffers from a mental or other serious illness, the interview shall be held with the permission and the participation of a doctor (Article 229.2). When a dumb, deaf or blind witness or a witness who suffers from a serious illness is questioned, his representative and legal representative shall be entitled to participate (Article 229.3).

This should be noted that only a defence counsel, who is entitled to practice lawyering in the territory of the Republic of Azerbaijan can participate as a counsel in criminal proceedings. A defense counsel shall not be identified as the same persons as the suspect or accused person and with the nature of the criminal vcase with his/her participation.

A suspect or accused person may have several defense counsels. The absence of any of those counsels of the suspect or accused person, in the procedural actions required his/her participation does not constitute illegality for their actions.

In the frame of the joint projects implemented by the Government of Azerbaijan and the World Bank in 2010-2018 years as well as in accordance with the UN Convention on the Rights of Persons with Disabilities to ensure the accessibility of persons with disabilities to justice as well as to court buildings constructed at the expenses of state budget, all conditions for their independent movement have been created, including construction of tactile surface on the floors and fixing Braille information boards by the doors for the visually impaired; and installing lifting facilities for persons with disabilities in a number of multi-floored buildings.

The Ombudsman is fulfilling an independent mechanism functions to promote, protect and monitor the implementation of the UN Convention on the Rights of Persons with Disabilities as stated in the Article 33.2 of this Convention.

Simultaneously, the Ombudsman also acts as an institution fulfilling the functions of the National Preventive Mechanism (NPM), reflected in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Furthermore, Ombudsman has appointed a specialized advisor on the rights of PWDs among the employees to analyze on a regular basis the relevant national legislation and international legal-acts, as well as the situation in the country, incoming applications and complaints, to prepare proposals and recommendations for improving the work in this direction, and references on the annual reports based on summaries of the implemented measures.

Within the framework of her activity as an independent monitoring and NPM, the Ombudsman and the staff of the institution organize regular visits to appropriate institutions, explain their rights to detainees, including PWDs and provide information on complaint mechanisms, take necessary measures for elimination of negative situations such as discrimination, inhuman or degrading treatment against them.

Ombudsman's activity is not limited to denouncing the cases of torture and mistreatment, in addition she put forward recommendations to the relevant bodies to strengthen the preventive role and measures to be taken in the future; these issues and preventive approaches are kept in the center of attention during cooperation with government agencies, civil society organizations (CSOs), the Public Committee and Councils represented those organizations, as well as other bodies.

1. **Please provide information on any existing good practices in jurisprudence in your country related to the effective access to justice for persons with disabilities.**

In 2016, a lawyer Sabina Yashar gizi Aliyeva defended her thesis on “Implementation of international legal norms in the field of protection of the rights of persons with disabilities in the legislation of the Republic of Azerbaijan” and received PhD in Law **(**[**http://www.aak.gov.az/avtoref\_to\_mudaf/pdf\_to\_mudaf/huq/huq\_n\_asy\_02\_12\_16.pdf**](http://www.aak.gov.az/avtoref_to_mudaf/pdf_to_mudaf/huq/huq_n_asy_02_12_16.pdf)**).**

In 2018 it has been established a Department on the rights of persons with physical disabilities in the Azerbaijan National Academy of Sciences. The compatible scientific-research works related to the protection of the rights of PWDs as well as the expertise of the legislation is carried out and various measures are undertaken **(**[**http://www.science.az/news/open/7260**](http://www.science.az/news/open/7260)**)**

1. **Please provide information on any existing good practices in your country to promote access to effective remedies and reparations in cases where the rights of persons with disabilities have been breached.**

Promotion of access to effective legal remedies and compensations is one of the most important issues in cases of violation of the rights of PWDs.

In connection with the implementation of the UN Convention “On the Rights of Persons with Disabilities”, the lectures on relevant topics were included to the academic programs of compulsory and advanced training courses organized at the Academy of Justice to train the candidates for judges and other specialists in the judicial system.

Thus, within 2017-2018 years, the lectures, trainings on the relevant topics have been also delivered during preliminary, compulsory and advanced training courses the for the successful candidates in the admission to judicial activites, for candidates serving as a middle-ranking officer in the Penitentiary, staff of the Center of Forensic Examination, and for alumnis of the Faculty of Military Medicine of the Azerbaijan Medical University recently appointed for the medical service as well as participants of the Law Clinic.

As well as topics on “Peculiarities of execution of the imprisonment sentence for convicts (minors, women, persons with disabilities, foreigners and elderly) requiring special treatment”, “Peculiarities of protection of the rights of individuals belonging to special groups”, “Prohibition of discrimination in the European Convention on Human Rights and national legislation”, “Prohibition of discrimination according to the European Convention on Human Rights (Article 14)” are included to the curriculum of those trainings courses. . In addition, trainings for judges on relevant topics are expected in 2019.

Over the past period, a number of educational publications have been prepared by the Ombudsman to promote the rights of PWDs as an integral part of human rights. Thus, these publications include the books titled “Legal status of convicts”, booklets, such as “Rights and freedoms of prisoners”, “What you should not forget when arresting”, “Legal status of special prosecutor and civil plaintiff”, “Legal status of the victim”, “Legal status of the suspected person”, “Legal status of the accused person”, “What you should know when is detained”, “Ensuring the rights and freedoms of juvenile convicts”, “If your rights are violated, please apply to the Commissioner for Human Rights (Ombudsman)!” and etc.

1. **Please provide information on any innovative initiatives that have been taken in your country to promote and ensure effective access to justice for persons with disabilities.**

The main goals are to increase flexibility in the judicial system, to provide more transparent judicial activity, to expand the range of services based on modern and innovative approaches by advanced using the information-communication technologies in Azerbaijan.

It is noteworthy that, “Electronic Court” was established in accordance with the Presidential Decree dated February 13, 2014, to apply modern technologies in court activities, to improve the appealing system to courts, to prevent bureaucracy and abuses in the administration of justice, to ensure transparency and promptness, to raise effectiveness of control over execution of court decisions, to provide electronic clerical work and e- document circulation.

In accordance with the Presidential Order “On Deepening Reforms in the Judicial-Legal System”, dated April 3, 2019, efforts are being made to improve the application of the “Electronic Court” and “Electronic Execution” systems.

Preparing, sending, receiving of applications, complaints and other documents electronically (hereinafter – Document), electronic registration and circulation of documents by the court and participants to the court proceedings is put into practice according to the “Rules of Using the “Electronic Court” Information System” approved by the Decision of the Board of the Ministry of Justice No.17-N, dated July 15, 2019.

The Information System consists of the “Electronic Management System of Court Cases” and the “Electronic Document Circulation System” and its activity is provided within 24/7.

Judges and process participants (persons involved in the case, witnesses, experts, specialists, translators, representatives and advocates) can access the Information System through the “Electronic Management System of Court Cases” and the “Unified Judicial Portal” (https://e-mehkeme.gov.az and https://courts.gov.az), respectively.

It should be noted that, “Electronic court” information system is also very useful in terms of ensuring effective access to justice for PWDs.

By the way, on April 30, 2019, the Ministry of Justice held public presentation on the topic of “Application and development perspectives of the electron court in Azerbaijan” for civil society in Baku to promote all of these innovations.

The Article 1.9 of the Constitutional Law on the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan states that the Commissioner may examine complaints on violations of human rights relating to red tape, loss of or delayed delivery of documents in courts as well as delays in the execution of court judgments.

The PWDs may lodge a complain to the Ombudsman in different ways without any discrimination. Thus, every person is entitled to send his/her application through ordinary mail and email, apply online through the official website, at the reception desk in the office and regional centers, via 24/7 hotlines for torture issues as well as through 916 hotline for child abuse, as well as present their complaints in person during monitoring and visits to temporary detention facilities, investigation isolators, prisons and to places that they could not leave on their will.

PWDs are provided with monthly social benefits (including children with disabilities) in the absence of the right to a pension for disability or to pension in general. Along with a disability labor pension or monthly social benefits, war disabled persons and those who are equal to it, as well as those with Group I disability having only the monthly benefits, are granted monthly salaries of the President of Azerbaijan. At the same time, the people of special categories (including war disabled persons and those equal to them) purchase apartments and cars at the expense of state funds.

Monthly social benefits to children of war disabled persons and those became disabled with Group I and II degrees due to the liquidation of the Chernobyl accident are paid monthly allowances, whereas those became disabled as a result of radiation are paid lump-sums for their treatment.

Today state and non-governmental rehabilitation facilities in the country provide appropriate services to PWDs.

Following the Ombudsman's appeals to the relevant authorities, it has been undertaken measures for objective assessment of disability and physical impairment; PWDs have been medically examined and treated free of charge as a result of referrals to the appropriate medical institutions and rehabilitation centers; PWDs have been provided with necessary medicines, sanatorium-resort referrals, prosthetic orthopedics equipment, rehabilitation facilities, wheelchairs, technical and other rehabilitation facilities; whereas war disabled persons have been provided with housing, automobiles; as well as persons of this category were also provided medical-social, pedagogical and psychological services.

All innovative changes are already welcomed in our society and we hope that the application of these changes will have positive results in the future.