

# EMERGENCY LEGAL AID TO COUNTER COVID-19

**ANALYTICAL REPORT**

based on the results of the project



LEGAL  
DEVELOPMENT  
NETWORK

KYIV 2020

This report presents the results of the analysis of legal aid provided by specialized civil society organizations - members of the Legal Development Network - during the quarantine restrictions established by the Government of Ukraine in response to the spread of acute respiratory syndrome COVID-19 (from March 15, 2020 to July 15, 2020). The document also contains conclusions on the prevalence of legal issues in this period, recommendations and suggestions for central executive bodies and local authorities on possible ways to address these issues, in particular to improve existing information exchange mechanisms between governmental and non-governmental legal aid providers.

**Research group and co-authors:**

Yevgen Poltenko, Olena Sinchuk, Nina Gaievska, Olena Orlova, Vitalii Dorokh, Maksym Ilchysheh, Inna Malysheko, Petro Burlachenko, Halyna Yerema, Oleksandr Dovbysh, Anastasia Ploshchynska, Serhii Keba, Lesia Korbetska, Vitalii Babyka, Natalia Kulikova.

The activity was carried out by the Legal Development Network within the framework of the project “Emergency Legal Aid to Counteract COVID-19” during May-July 2020. The aim of the project is to reduce the level of social tension and conflicts caused by the spread of the COVID-19 pandemic in Ukraine, by providing timely and convenient legal assistance to all those who need it.

The initiative is supported by the UNDP project “Civil Society for the Development of Democracy and Human Rights in Ukraine”, which is implemented with the financial support of the Ministry of Foreign Affairs of Denmark.

The views, comments, conclusions or recommendations contained in this document are those of the authors and do not necessarily reflect the views of the United Nations Development Program and the Government of Denmark.



**MINISTRY OF  
FOREIGN AFFAIRS  
OF DENMARK**  
*Danida*



# Content

<b>Context</b>	4
<b>Analysis of legal aid beneficiaries</b>	8
<b>Analysis of typical legal issues</b>	12
Types of legal services provided to beneficiaries	12
Categories of legal issues of beneficiaries	13
Social protection issues	14
Family issues	15
Labor issues	19
Hereditary issues	25
Real estate issues	27
<b>Issues identified by the experts and recommendations for their solution</b>	29
<b>Key conclusions</b>	34
<b>About the Legal Development Network</b>	36

# Context

The spread of the COVID-19 coronavirus pandemic, the global scale of which is growing dramatically every day, and the quarantine restrictions that the Ukrainian government was forced to impose in response to this threat in March 2020 have created and continue to create numerous negative consequences for individuals as well as communities and society as a whole. Millions of Ukrainians face the threat or loss of work, livelihood, housing, health and life. These threats have already taken on alarming proportions:

- Rising levels of conflict and violence due to declining confidence in the ability of state authorities to counter the spread of the pandemic, drastical reducing public services and assistance (as an example, the developments in Novi Sanzhary: <https://bit.ly/2UqjFwD>).
- Increase in cases of abuse of power, level of corruption, violations or inadequate (in relation to those legitimately established by the emergency) restrictions on human rights and freedoms under the pretext of the need for quarantine measures (<https://bit.ly/2UrC24a>).
- An increase in the number of cases of domestic violence. In conditions of quarantine and self-isolation, victims often find themselves alone with abusers. At the same time, access to legal and other assistance was critically limited (suspension of shelters functioning, inability to isolate the victim from the perpetrator, distraction of police and medical staff to counter the spread of the pandemic: <https://bit.ly/33Xupps>).

Timely legal assistance to those people who have found themselves in difficult life circumstances as a result of a pandemic or have been directly exposed to a situation in which they have suffered violations of their rights can significantly reduce the negative impact of these and other threats posed by the COVID-19 coronavirus pandemic.

The governmental system of free legal aid (FLA) during quarantine was forced to switch to remote operating and provide legal assistance using mailboxes, information and communication technologies. Citizens' requests for legal assistance and information were also processed through a hotline, e-mail, instant messaging (Chatbots) on Facebook, Instagram, as well as Telegram and Viber, using a Telegram channel and the legal encyclopedia WikiLegalAid (<https://wiki.legalaid.gov.ua/>).

At the same time, the public request for legal assistance and current legislation clarifications in the context of the fight against the COVID-19 pandemic was dozens times higher than the available capacity and human resources to meet it in full. According to expert estimates (information of the Ukrainian Chamber of Commerce and Industry press service from 27.03.2020: <https://bit.ly/39tNfoZ>) the number of unemployed people in Ukraine has increased to 2 million.

In addition, those citizens who lacked the skills to use electronic devices (personal computers and smartphones), or did not have these devices, those who lacked of access to the Internet (sometimes people simply did not have the funds to pay for such access, or lived in remote areas where this access is not available) found

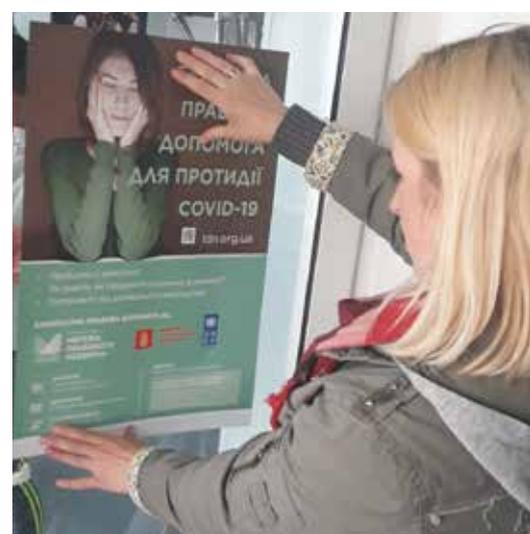
themselves “overboard” in obtaining legal assistance. Such “digital stigma” has hit the hardest the people who fell into higher risk groups during the pandemic - people with low incomes, people with disabilities, the elderly and those living in remote areas.

That is why, in this difficult time for Ukrainian society, synergy and cooperation in the use of available opportunities, justice services, human resources by both the governmental free legal aid system and independent justice services providers (specialized civil society organizations) has become an important component of protecting violated human rights.

The Legal Development Network (LDN), which currently unites 23 specialized civil society organizations - non-governmental providers of free legal aid from 15 regions of Ukraine, has adapted its work as quickly as possible to provide adequate responses to current challenges. The priorities of this work were:

- Ensuring and protecting fundamental human rights to health, safety, housing, work, education, information in the conditions of quarantine imposed by the Government.
- Supporting social cohesion - people’s voices about their needs, problems or cases of violation of their rights should be heard and taken into account by decision-makers.
- Preventing human rights violations disguised under the pretext of quarantine restrictions.

During quarantine restrictions some LDN member organizations continued to provide legal assistance in their offices (mostly 1-2 days per a week) in compliance with all Government-imposed security measures. However, all organizations remained available around the clock for legal assistance, advice or the rules of law clarification, using a wide range of means of communication and communication channels. This information is presented in more detail in the online map, which was specially created and launched for general public informing (<https://bit.ly/3alw5Lv>).



At its website (<https://ldn.org.ua/covid-19/>) the LDN has launched a special category of topical legal (and not only) issues related to the clarification of “quarantine” legislation and counteraction to the COVID-19 pandemic. The published consultations and clarifications of the legislation were prepared using information only from official sources (websites of state bodies), checked and systematized, and therefore became convenient for familiarization and practical use, as they were compiled in one place. In addition, this information is constantly updated, as changes in legislation are made almost daily, new regulations on an emergency situation are adopted to take appropriate measures for preventing the spread of coronavirus.

Since the quarantine announcement, the LDN’s lawyers have been constantly supporting the work of the online chat of legal consultations, which is available on weekdays from 10:00 to 16:00 to all visitors of the Network’s website [www.ldn.org.ua](http://www.ldn.org.ua). Requests received during non-business hours are processed the next day and the responses are sent via e-mail. This is not a chatbot, but an opportunity for a person through technology to communicate with another person, a professional lawyer. The average monthly number of appeals processed in this way is 243.

In addition, the Network has launched an automated legal document design service on its website (<https://bit.ly/2PfSxwM>).

The vast majority of appeals received and processed by the LDN’s member organizations are recorded and accumulated in the Network’s own case management system, and, therefore, these data are suitable for a thorough analysis of people’s current demand for legal aid and the development of optimal solutions to meet it. Analysis of typical legal issues faced by people during the COVID-19 pandemic allows creating recommended algorithms for their solution (legal advice written in plain language: <https://ldn.org.ua/consultations/>).

These algorithms for solving current legal issues (labor, housing and property law issues, provision of social services and benefits, small business activities, etc.) are disseminated through own and partner (civil society organizations and local authorities) resources. The information campaign on the possibilities of obtaining legal assistance from partner organizations during quarantine, which included the distribution of information sheets in places of possible contact with beneficiaries (health-care facilities, pharmacies, grocery stores, porches, municipal and governmental institutions, etc.), reached more than 150 thousand persons during May-July 2020.

Improving the existing mechanisms of information exchange between governmental and non-governmental providers of free legal aid (FLA system and specialized civil society organizations) in order to collect, summarize and spread the information on current legal issues of people during quarantine, systematize, avoid the duplications, disseminate the best practices of civil rights protection is of particular importance in the current situation.

One of the areas of cooperation between the governmental system of free legal aid in Ukraine (Coordination Center for Legal Aid Provision) and the Legal Development Network, defined in the Memorandum on Interaction of Legal Aid Providers in Ukraine, concluded on June 15, 2018, is the organization and conducting joint monitoring of the state of ensuring civil rights and freedoms, studying and summarizing cases that

may indicate violations of such rights. Also, within the framework of cooperation, it is planned to develop and implement joint projects aimed at raising the level of legal awareness and promoting the dissemination of positive experience in the field of their legal protection. As part of the project, the signatories of the Memorandum dated 15.06.2018 initiated the development of a joint action plan for its implementation, which will determine in detail the processes of information exchange and monitoring of appeals in the context of counteracting the spread of the COVID-19 pandemic.

According to the concept of SDG 16+ (<https://www.sdg16.plus/>), the achievement of this Sustainable Development Goal directly or indirectly affects the achievement of other 7 goals, including goals aimed at overcoming poverty, gender and other inequalities, improve the quality of education, ensure economic growth, sustainable community development and partnerships. The COVID-19 coronavirus pandemic is an unprecedented global emergency. This is not only a crisis of public health, but also a crisis of human rights. Actors of justice systems now face serious threats in developing and implementing new measures to prevent the spread of infection. After all, quarantine measures, inevitably increasing the risk of human rights violations, can undermine trust at a time when effective response to a pandemic is impossible without public support. Justice actors, including non-governmental legal aid providers as the LDN's member organizations are now at the frontline of the struggle against the pandemic, along with physicians and other emergency services. Our society will be able to more effectively and more justly resist the pandemic by finding the appropriate and adequate legal answers to the current challenges facing people in the pandemic (<https://www.justice.sdg16.plus/justice-in-a-pandemic>).



# Analysis of Legal Aid Beneficiaries

Two thousand five hundred fifty-one persons were provided free legal aid, including people in low-income households, children, orphans, children deprived of parental care, children in difficult domestic circumstances, internally displaced persons, refugees, victims of human trafficking, war veterans, and persons to whom the Ukrainian Law on the status of war veterans and guarantees of their social protection applies, physically and mentally disabled persons, victims of domestic violence or gender-based violence, and representatives of the LGBT community. This assistance enabled most of these persons to resolve their legal issues, meet their legal aid needs, and protect or restore their violated rights.

Offline and online legal aid was provided by specialized civil society organizations (independent providers of free legal aid) and reached those in need, including those with no access to electronic legal services.

More specifically, legal aid was provided to 2,551 persons, of whom 1,472 (or 58 percent) were women, and 1,079 (or 42 percent) were men (*Figure 1*)

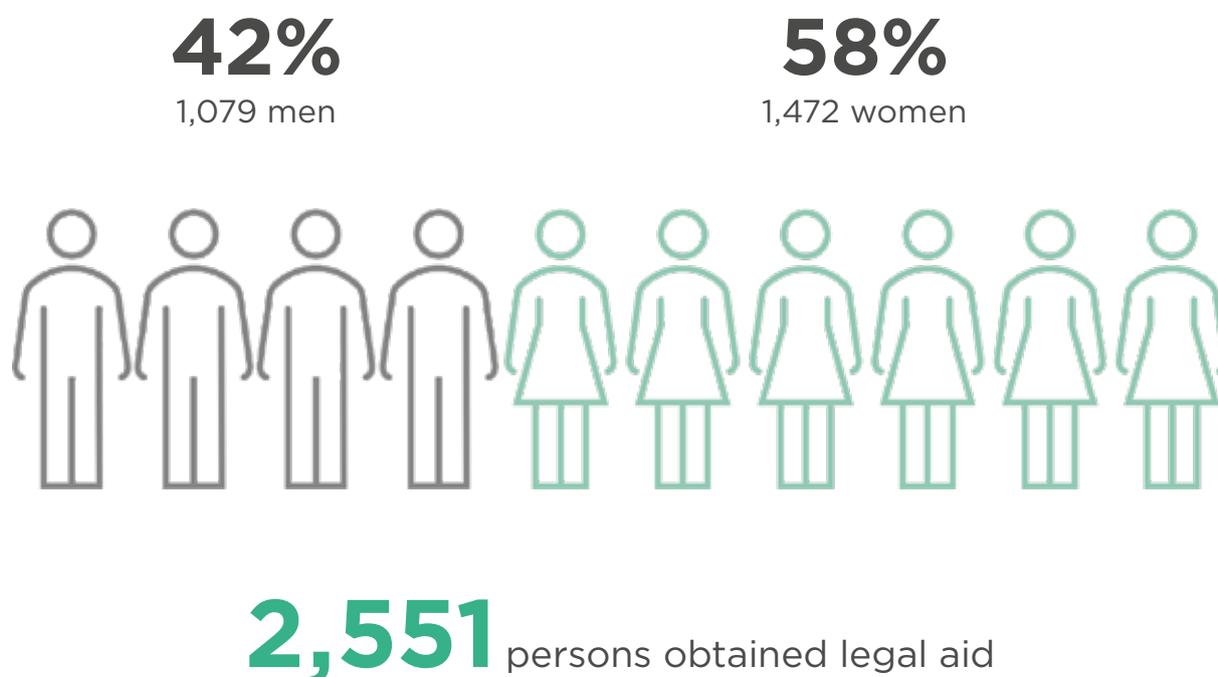


Figure 1. The number and the breakdown of legal aid beneficiaries by gender

## Age of beneficiaries

An age-based analysis of the persons who asked member organizations of the Legal Development Network for legal aid showed that the vast majority of people who needed legal advice were aged 46 to 59 years. Compared to other age groups, the share of these people of the entire group was 46.1 percent (*Chart 1*).

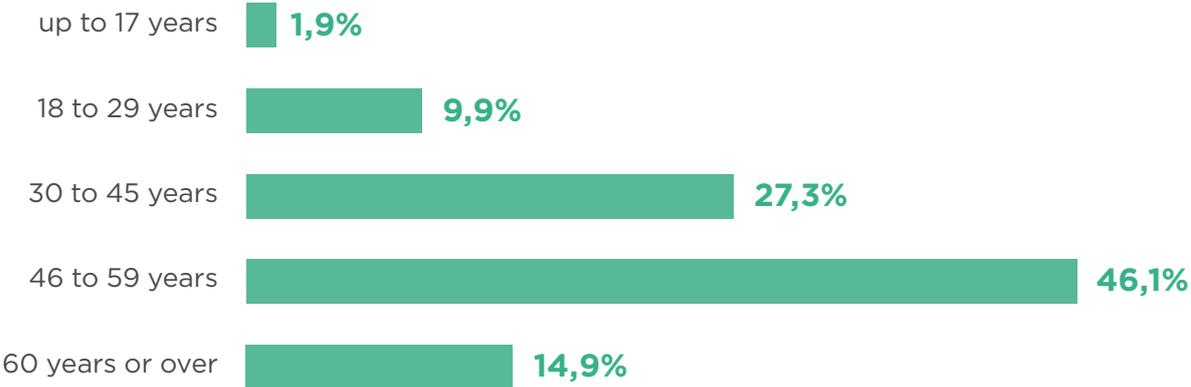


Chart 1. Breakdown of beneficiaries by age

## Beneficiaries' educational background

LDN member organizations were mostly contacted by persons with a tertiary or secondary vocational education - the percentages of these persons were 45.4 percent and 36.3 percent, respectively, compared to other categories of people (*Chart 2*).

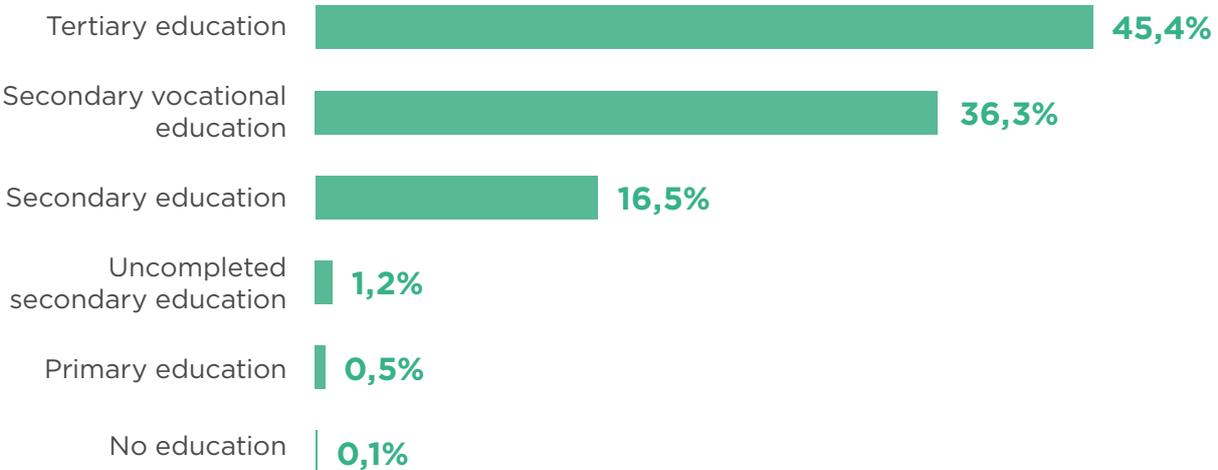
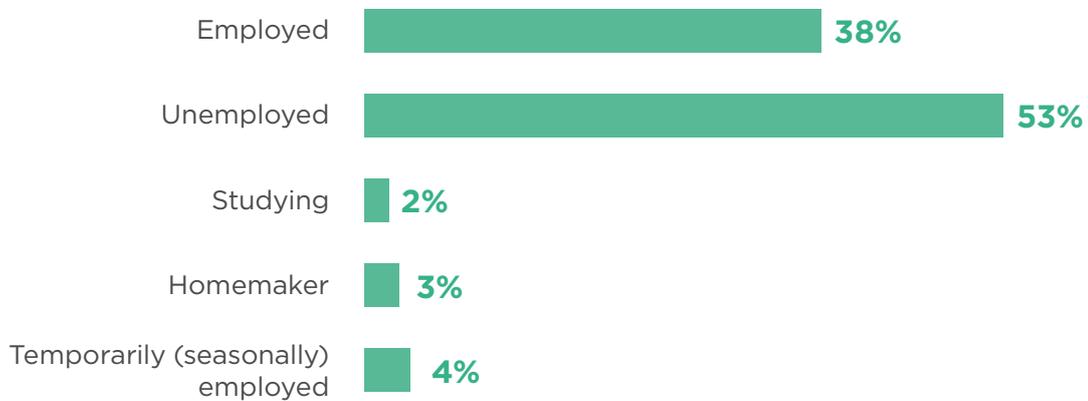


Chart 2. Beneficiaries' education

## Beneficiaries' employment status

Most beneficiaries were either unemployed or were not working when they contacted the LDN member organizations. The percentage of these persons was 53 percent compared to other categories (*Chart 3*).



*Chart 3. Beneficiaries' employment status*

## Beneficiaries' income

Most legal aid recipients (77 percent) said that their income was insufficient to meet their basic needs (*Chart 4*).



*Chart 4. Do beneficiaries have enough income to meet their basic needs*

## Beneficiaries' place of residence

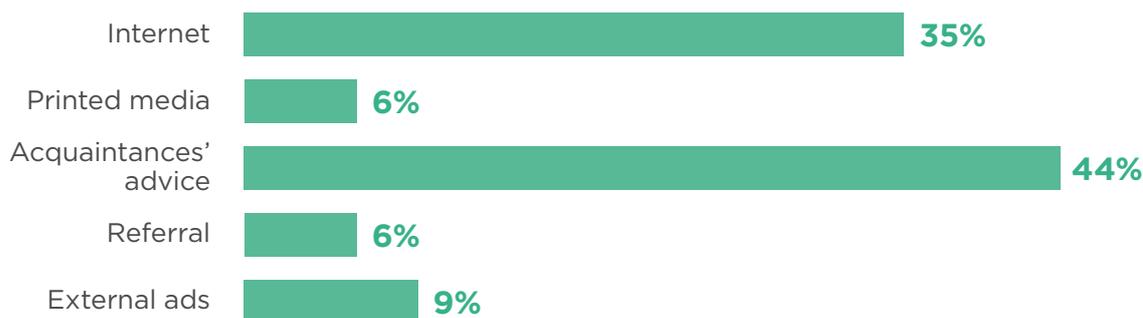
Most beneficiaries (78 percent) live in cities or towns (*Chart 5*).



*Chart 5. Type of populated area where beneficiaries live*

## Sources of information about how to get legal aid

Beneficiaries learned from various sources about the services of LDN member organizations. However, the largest percentage of beneficiaries (44 percent) contacted these organizations on their relatives or acquaintances' advice. This means that the provided services' level and quality encourage people to recommend the LDN's member organizations to their relatives and friends. A large portion of our clients (35 percent) learned about the project through the Internet (*Chart 6*).



*Chart 6. From what sources did beneficiaries learn about the services of LDN member organizations*

## Portrait of a typical beneficiary

**According to the results of the analysis, the portrait of a typical client who sought legal aid is as follows:**

A woman aged 46 to 59, who has a university degree, and who, when she sought legal aid, was not working, as a result of which her income is insufficient to meet her basic needs (i.e., she is a low-income person). She lives in a city/town, and she learned about the possibility of getting legal advice from her acquaintances (*Figure 2*).



*Figure 2. Portrait of a typical beneficiary*

# Analysis of Typical Legal Issues

## Types of Legal Services Provided to Beneficiaries

Practically all of the legal aid provided to beneficiaries was primary legal aid. This type of aid covers the following legal services:

- providing legal information;
- providing advice and clarifications concerning legal issues;
- drawing up statements of claims, complaints, and other legal documents (except for procedural documents);
- providing consultations and explanations and drawing up draft land use agreements (such as leases, subleases, land easements, emphyteusis, and superficies) for rural area residents who own land;
- helping people gain access to secondary legal aid and mediation.

Secondary legal aid was provided in about 6 percent of cases. This aid includes helping people gain access to secondary legal aid, mediation, and a legal defense; representing people in courts, other government and local authorities, and other bodies; and drawing up procedural documents (*Chart 7*).

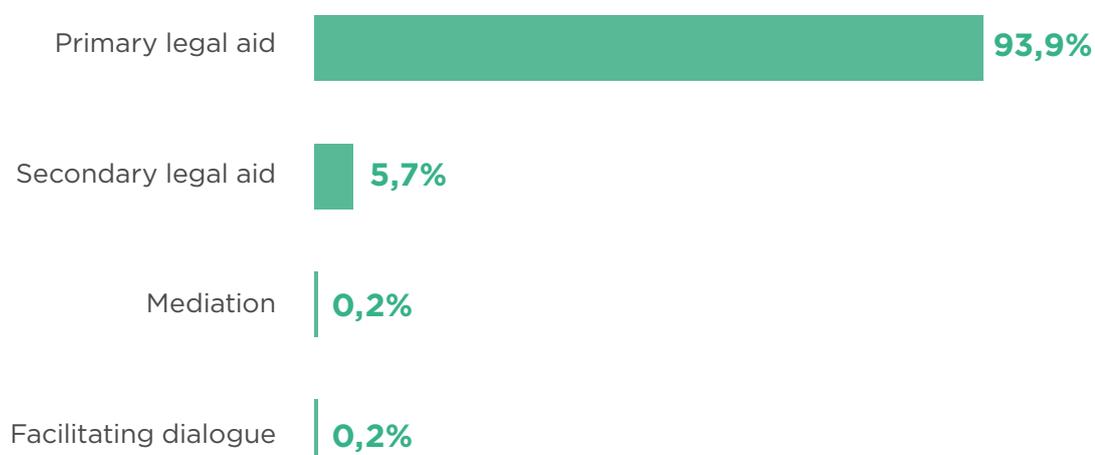
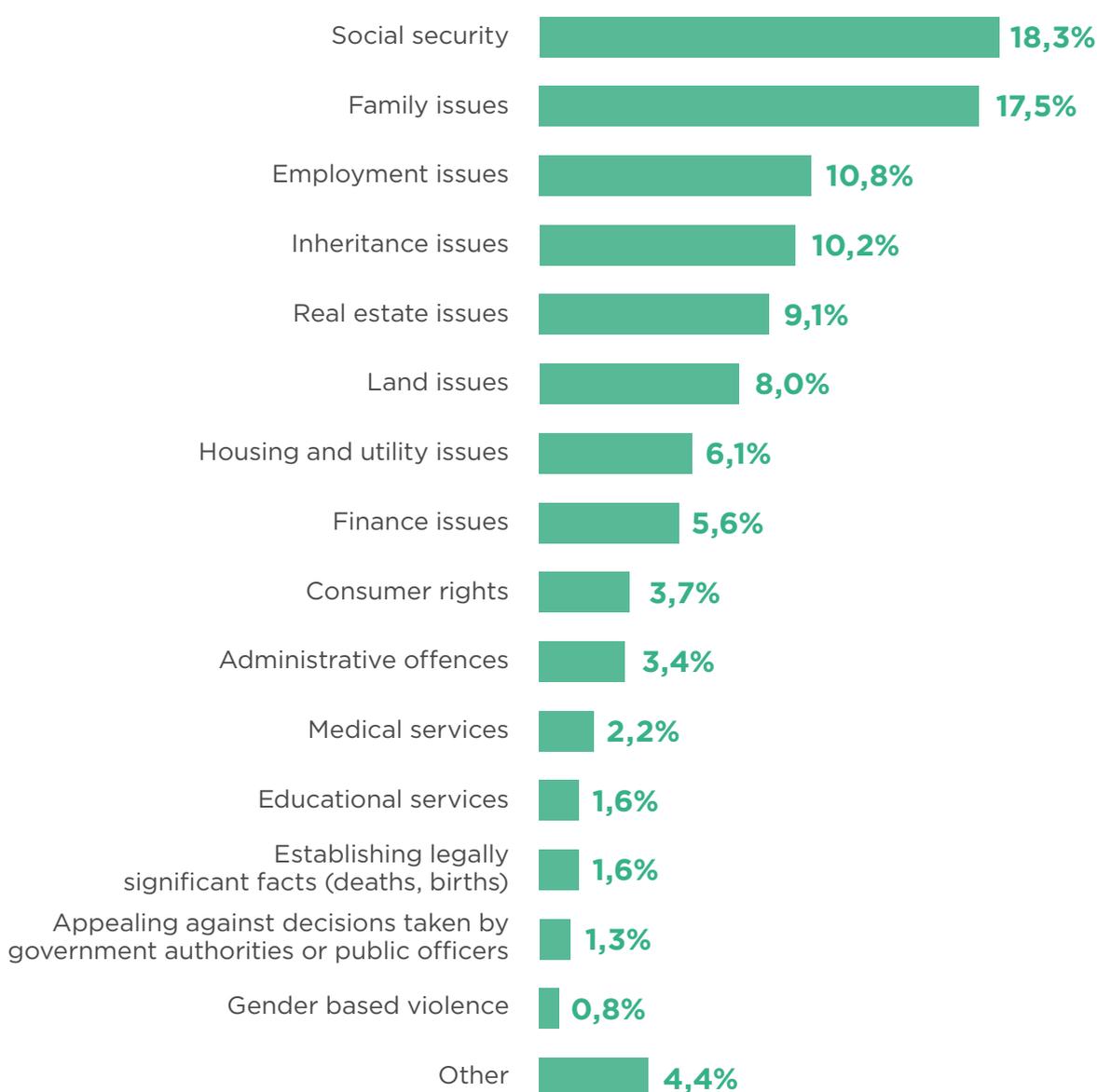


Chart 7. Types of Legal Services Provided to Beneficiaries

## Types of Beneficiaries' Legal Issues

An analysis of the types of legal issues about which beneficiaries contacted LDN offices while strict quarantine was in place allows one to conclude that most people were concerned about their **social security** (over 18 percent of all those contacted the offices). Second place in this provisional rating goes to obtaining advice in resolving **family issues** (17.5 percent), third place to resolving **employment issues** (10.8 percent), fourth place to dealing with **inheritance issues** (10.2 percent), and fifth place to addressing **real estate issues** (9.1 percent) (*Chart 8*).



*Chart 8. Types of Beneficiaries' Legal Issues*

## Social Security

**Social security** issues (18.3 percent, raised by 15 percent of people in 2019), over which legal aid beneficiaries were the most often concerned, related to determining the amounts of and receiving various kinds of payments and state guarantees under conditions of quarantine, applying for social benefits, subsidies, new-born child support, disability benefits, survivor benefits, pregnancy, and childbirth benefits, and so on.



### EXAMPLES AND RESOLUTION ALGORITHMS

#### How can one apply for online payments for a child that was born during quarantine?

Valentyna Tkach, a lawyer from [Vyzhnytsia Office of the Legal Development Network](#), gave legal advice at the request of Ivan, a resident of Storozhynets District. During quarantine, his wife gave birth to their first child. Now his wife and son are at home and are doing well. Ivan and his wife were faced with applying for online new-born child support payments and determining what the number of such fees should be. That is why the lawyer prepared an explanation relevant to all families that had children during the quarantine.

“The parents of a new-born child are entitled to new-born child benefits of UAH 41,280.

UAH 10,320 is paid as a one-off payment, while the rest is paid in equal amounts over the next 36 months (UAH 860 each month until the child turns three).

Since 2014, it has been irrelevant whether the child is the woman’s first, second, third, and so on – the amount of new-born child support is the same for the first and subsequent children. This support is paid to one of the child’s parents or guardians responsible for raising and supporting the child.

To get new-born child benefits, one has to, within 12 months of the birth of a child, contact the social protection authorities (located where the applicant is registered/lives), and provide the following documents:

- a request for new-born child benefits (holders of a qualified electronic signature can apply online on the official website of the Social Policy Ministry at the following link) (applicants submitting physical requests can find the official application form here);
- a copy of the child’s birth certificate;
- a copy of one’s passport;
- when new-born child benefits are applied for by a guardian, documents that prove their guardianship.

Mothers whose residence place is registered in Ukraine and who gave birth to a child during their temporary stay abroad must contact the competent authorities of their host country and obtain documents confirming their baby’s birth.

Women who gave birth in pre-trial or administrative detention centers and institutions must apply to such an institution’s governing body, which, in turn, within ten days, forwards their application and a copy of the child’s birth certificate to the relevant social protection authority.

Payments will be terminated in the following cases:

- if a child dies;
- if the money is misused (for example, if the recipient of such payments used child support money for their personal purposes: buys a car or goes to restaurants, while the child is deprived of decent food and the necessary clothes and conditions for development;
- if a child's parents are stripped of their parental rights, or if a child's guardian is deprived of their guardianship rights;
- if the recipient of benefits dies or is sent to prison;
- if a child is transferred to the care of the state.

Applications for new-born child benefits can be submitted online.

To apply, one must:

1. Fill out an online application form on the Government Portal at [kmu.gov.ua](http://kmu.gov.ua) in the Services Section. Sign the application with one's electronic signature and submit it for consideration
2. Applications are then automatically forwarded via the Social Policy Ministry's payment system to the account of a social security officer who works in an office located where the applicant is registered.
3. The officer verifies the submitted documents and awards benefits to eligible applicants.
4. Benefits can either be sent to an applicant's bank account or withdrawn from an Ukrposhta (post) office.

## Family Affairs

Those who sought legal advice on how to resolve **family disputes** (17.5 percent of total legal advice requests, 17 percent in 2019) mainly wanted to know how to file for a divorce, how civil registry offices operated, how alimony was calculated and paid, and how courts heard divorce cases under quarantine.



### EXAMPLES AND RESOLUTION ALGORITHMS

#### Quarantine “helps” divorce go through without emotional stress

A resident of Dnipropetrovsk Oblast who wanted a divorce was, most of all, afraid of the stress she associated with divorce proceedings. A lawyer from the [Legal Development Network's Nikopol office](#) helped the woman avoid unnecessary emotional stress from attending court hearings and the coronavirus pandemic's health risks.

Liubov, a Nikopol resident, contacted the office operating under the umbrella of Open Doors, an NGO, in late 2019. She wanted legal advice on how to end her marriage. Although it was a typical situation, she said that divorce proceedings scared her. More precisely, she was afraid that she would experience intense emotions, even emotional distress, during the court hearing. That is why she could not summon up enough courage to go to court, even though she had long wanted to divorce her husband, with whom she had not lived together for a long time.

After talking to Liubov, a lawyer from the office, Iryna Los correctly understood this situation. It also became clear to the lawyer that Liubov neither wanted to nor could salvage her marriage. The lawyer then prepared and filed a petition for divorce on behalf of her client.

But after the court hearing was scheduled, quarantine was imposed in Ukraine due to the outbreak of the COVID-19 disease in the country.

Therefore, to make the court hearing as safe as possible for her client, the lawyer filed an additional petition to hear the divorce case in her client's absence.

“Ukraine's National Security and Defence Council noted that according to the World Health Organization, COVID-19 was a pandemic, and the epidemiological situation in Ukraine had also become extremely threatening. We took all of these circumstances into account, and, to prevent the worsening of the epidemiological situation in Ukraine and to protect our client, we filed a petition for the divorce case to be heard in the absence of our client,” said Los.

Nikopol City District Court heard the case on April 9, 2020. The petition for divorce that Liubov had filed unilaterally was granted in full.

## The procedure for postponing the court hearing of a divorce case (+ a sample petition)

The quarantine imposed in Ukraine due to the spread of COVID-19 has made it significantly more challenging to hold court hearings and ensure the parties' representatives at court hearings. Viacheslav Liakh, a lawyer from the [Bilozerka office of the Legal Development Network operating under the umbrella of Bilozerka Regional Development Centre, an NGO](#), advised what course of action one should choose the current circumstances, and how one should file the relevant petition to a court.

[Ministerial Decree No. 338-p, dated March 25, 2020, on switching the integrated civil protection system to an emergency regime](#), imposed an emergency regime across Ukraine.

Procedural law envisages the possibility of postponing court hearings (Article 240 of Ukraine's Civil Procedure Rules).

Since a person's presence at a court hearing could lead to the spread of the coronavirus disease (COVID-19), in cases when people's presence at a court hearing is not mandatory, they should submit the following petition for their case to be heard in their absence.

SAMPLE PETITION

To Bilozerka District Court in Kherson Oblast  
75000, Kherson Oblast  
the urban-type settlement of Bilozerka  
97 Dmytro Yavornytsky Street

Plaintiff:  
Name and address:  
Taxpayer ID: means of communication  
To the judge: \_\_\_\_\_  
hearing case No. \_\_\_\_\_

Petition

for a case to be heard in the absence of the plaintiff

Bilozerka District Court in Kherson Oblast is hearing a case opened on the petition by \_\_\_\_\_ to \_\_\_\_\_ regarding \_\_\_\_\_

The case hearing has been scheduled for 10 am on April 22, 2020.

[Ministerial Decree No. 338-p, dated March 25, 2020, on switching the integrated civil protection system to an emergency situation regime](#) imposed an emergency regime across the whole of Ukraine.

Article 3 of the [Ukrainian Constitution](#) declares a person and their life and health the highest social values in Ukraine.

Given the above, and because of the introduction of quarantine to prevent the spread of the coronavirus disease, COVID-19, I cannot attend the court hearing in person.

According to [Presidential Decree No. 87/2020, dated March 13 2020, on a decision made by Ukraine’s National Security and Defence Council, dated March 13, 2020, on urgent measures required to safeguard national security amidst an outbreak of the acute respiratory disease COVID-19 caused by the coronavirus SARS-CoV-2](#), Ministerial Resolution No. 211, dated March 11, 2020, on preventing the spread of COVID-19 in Ukraine, and Article 240 of Ukrainian Civil Procedure Rules, I request that

civil case No. \_\_\_\_\_ opened on the petition filed by \_\_\_\_\_ to \_\_\_\_\_ regarding \_\_\_\_\_ be heard in my absence on the basis of the available case materials.

Date \_\_\_\_\_

Signature \_\_\_\_\_

## Taking a child abroad by one of the child's parents during the quarantine

Natalia, a resident of Cherkasy, intends to move to a place of permanent residence abroad together with her under-age daughter. Natalia contacted the Cherkasy office of the Legal Development Network to find out what border crossing rules were in place during the quarantine. The following legal advice was given by Iryna Varfolomeeva-Horobets, a lawyer at the Cherkasy office that operates under the umbrella of The Centre of Law, an NGO:

[“The rules for Ukrainian citizens crossing the state border of Ukraine](#), approved by Ministerial Resolution No. 57, dated January 27, 1995, set forth that Ukrainian citizens are allowed to cross the state border at border posts and border control points, provided that have an international passport and a child's traveling document.

One of the parents of a Ukrainian citizen under 16 or other persons who have been given written and notarized permission by one of the child's parents are allowed to take the child abroad:

1. With the notarized consent of the other parent, indicating the country of destination and how long the child will stay in that country if the other parent is absent at the border post;
2. Without the notarized consent of the other parent:
  - if the parent who is missing at the border post is a foreigner or a stateless person, which is confirmed by the respective record about that parent in the child's birth certificate;
  - if the international passport of a Ukrainian citizen who is under 16 contains a record that that person permanently lives outside Ukraine or a record (stamp) that that person has been permanently registered with the consular department of a Ukrainian embassy abroad, or if the fact that such a person has been permanently registered with the consular department of a Ukrainian embassy is confirmed by a registration certificate produced by the departmental information system of the Ministry of Foreign Affairs.

If the other parent can produce the following documents or notarized copies of these documents:

- the death certificate of the other parent;
- a court ruling that the other parent has been stripped of their parental rights;
- a court ruling that the other parent has gone missing;
- a court ruling that the other parent is incapacitated;
- a court ruling granting permission to the parent of a child who is under 16 to take the child abroad without the consent of the other parent and without the other parent accompanying the child;
- the birth certificate of a child issued by a civil registry office indicating that the information about the child's father was given on the grounds provided by Part 1, Article 135 of the Ukrainian Family Code (when the child is being taken abroad by a single mother);
- a document issued by a body of the state bailiff service or by a private bailiff indicating that the other parent is in arrears with their alimony payments and that the arrears total over the four-months worth of alimony payments;
- the birth certificate of a child issued by a competent authority of another country containing no information about the child's father, which has been legalized or apostilled, or which has not been additionally legalized in cases foreseen under Ukraine's international treaties.

When crossing the border of another country, one should take note of the conditions for entering that country and any quarantine restrictions in place.”

## Employment issues

Most economic entities have also been significantly affected by the imposed quarantine restrictions. That is why people who contacted Legal Development Network offices (10.8 percent) had many questions about how to protect their violated **employment rights** (in 2019, the percentage of people who contacted the offices about employment issues did not exceed 6 percent). Among other things, people who sought legal aid wanted advice about using the law to resolve problems with payment for their labor during the quarantine. They also wanted to know how vacations were granted (or refused), and what they should do when employers forced them to take unpaid leave, dismissed them without a valid reason, and so on.



### EXAMPLES AND RESOLUTION ALGORITHMS

#### The right to safe remote work under quarantine

Ukraine continues to be in quarantine. Despite quarantine restrictions having been relaxed, the problems that led to the introduction of such restrictions have caused many companies, organizations, and institutions to shift their workers to remote work regardless of their ownership type. Ruslan Maliy, a lawyer from the [Khmelnyskyi office of the Legal Development Network](#), explained how remote work arrangements function and how to protect their employment rights.

Remote work (working from home) is a work arrangement whereby a worker performs work at their place of residence, or in any other area of their choice, but outside the employer's office, most often using information and telecommunication technologies.

Before quarantine was imposed, only one document in Ukraine regulated remote working (usually from a worker's home). This was [Regulation on the Terms and Conditions for Remote Working](#) No. 257/17-99, dated September 29, 1981, approved by a resolution of the Soviet State Labour Committee.

However, this regulation is far removed from modern life: while requiring remote workers to have the necessary working conditions and professional skills, it in no way governs work performed with the use of technical equipment, such as computers and holding conferences using video, tele- and audio communications, and so on.

To resolve this issue, parliament adopted Ukrainian Law No. 530-IX, dated March 17, 2020 (amended on April 18, 2020), [amending some Ukrainian laws and regulations that aim to prevent the spread of the coronavirus disease \(COVID-19\)](#).

Among other things, [Article 21](#) of the Ukrainian Labour Code was amended. The phrases "as outlined in this agreement" and "subject to internal labor policies" were removed from the text. This means that workers are no longer required to comply with internal labor policies or perform the work explicitly specified in the relevant labor agreement.

[Part 1, Article 24 of the Labour Code, was supplemented with paragraph 6-1](#) (this article sets forth that labor agreements are mostly drawn up in writing). The new paragraph requires employers to enter into written labor agreements with workers who work remotely.

However, the amendment says nothing about what employers and employees should do if they have already entered a labor agreement. How can such employees be switched to working from home? Do they have to terminate their existing labor agreements and enter into new ones?

We believe that Articles 24, 30, 32, and 60 of the Labour Code should be applied in such cases. More specifically, workers can be switched to working remotely if:

1. they have the required technical means to work in a place other than that of their employing company, organization, or institution;
2. the employer has issued an order that a worker is switched to working remotely.

If the above conditions are met, an employer can switch their worker to working remotely using technical means, without obtaining consent from that worker, under [Article 30](#) of the Labour Code. This article stipulates that workers must perform their work themselves and are not allowed to delegate it to any other persons, except as when required by the applicable law. If the aforementioned essential working conditions cannot be maintained, and if a worker does not agree to the new conditions, the labor agreement is terminated, as outlined in [paragraph 6 of Article 36](#) of the Labour Code.

[Article 60](#) of the Labour Code provides for flexible working hours. Subject to agreement between an employee and their employer, flexible working hours may be set for the employee for a definite period, or indefinitely, either at the time of hiring or after that.

Employees who work remotely (from home) can determine their working hours at their own discretion and are not required to comply with internal labor policies unless otherwise specified in the relevant labor agreement. The total hours worked cannot exceed the standard working hours specified in Articles 50 and 51 of the Labour Code.

Working remotely (from home) does not limit the labor rights of workers in any way. Unless an employee and their employer agreed otherwise in writing, employees who work remotely (from home) are entitled to their full salaries, which must be paid at times foreseen in the relevant labor agreement.

In this light, one can conclude that the labor law envisages the possibility of working remotely and that the rights of remote workers should not be violated in any way.

One should bear in mind that workers can be switched to working remotely only when there are valid reasons for this, and when it is practical for them to do so.

A worker and their employer are not required to enter into a new labor agreement when a valid labor agreement already exists. It is sufficient for the employer to issue an order that instructs the worker to perform their duties from a place other than the employer's premises.

## Algorithm: What to do if your employer wants to lay you off during quarantine

A lot of companies in Ukraine are going through hard times as a result of quarantine. Because of this, the issue of protecting one's labor rights is essential. Experts from the community of Shyrokye (Zaporizhzhia Oblast) recommend an effective algorithm to be used in cases of dismissal from work.

### Dismissal from work: what you need to know:

subparagraph 1, paragraph 1, Article 40 of the [Ukrainian Labour Code](#) sets forth that workforce reductions can be the grounds for an employer to lay off workers at their discretion.

Workers should understand that before making people redundant on staff reductions, employers have to perform specific procedures. First of all, an employer issues a respective redundancy notice, which must be brought to an employee's attention at least two months before the planned redundancy (Article 49-2 of the Ukrainian Labour Code). At the same time, the employer must inform the employee that there are no vacancies in the organization (provided there are no vacancies). Two months after announcing the employee, the employer dismisses the employee by issuing a notice to that effect and making a respective entry in the employee's employment record.

An employer must make a redundancy payment to their employee when the employee is made redundant (equivalent to no less than their monthly pay, as outlined in Article 44 of the Ukrainian Labour Code). Employees who have unused vacation time should also get their salary and compensation for unused vacation time when they are made redundant. The employer is then required to return the employee to their employment records. The relevant redundancy notice (the respective entry in the employment records must be made correctly, as outlined in Article 47 of the Ukrainian Labour Code).

Employers are not allowed to lay off certain employees' categories at their own discretion (except in cases where the organization is liquidated completely). According to Article 184 of the Labour Code, these categories include pregnant women, women who have children under three (or under six years old when a child requires special care), and single mothers (who have a child under 14 or a child with disabilities).

An exception is only made in the case of the complete liquidation of an organization. In this case, the employer must(!) find a job for employees' above categories.

Dismissals of trade union members on the grounds of workforce reductions are subject to the relevant trade union (Article 43 of the Ukrainian Labour Code), except as otherwise expressly provided for in the [Ukrainian Labour Code](#)

## Which organization should workers who have been made redundant contact?

After being dismissed, an employee can register with the [State Employment Centre](#) and obtain an unemployed person's status. The community's residents can register with the State Employment Centre online during quarantine, using the following e-mail: 20510074@mail.gov.ua.

### ***When should you expect your unemployment benefits?***

During quarantine, unemployment benefits are calculated from the day a person registers with the State Employment Centre. Unemployment benefits for workers who took voluntary redundancy from their previous workplace (Article 38 of the Ukrainian Labour Code) are calculated starting from the 91st day after registration.

Before quarantine was imposed, unemployment benefits for workers who were dismissed were calculated starting from the 8th day of registration, provided there was no suitable job and were paid for 360 days (for 270 days for people who became unemployed for other reasons).

After quarantine was introduced in Ukraine, the state changed the rules – now unemployment benefits are calculated from the first day after registration.

### ***What are the consequences of taking voluntary redundancy or reaching a redundancy agreement?***

For workers who took voluntary redundancy or reached a redundancy agreement with their employer, unemployment benefits can be reduced by up to 90 calendar days. Workers who reached a redundancy agreement can start drawing benefits right after registration, while those who took voluntary redundancy will only become eligible for benefits on the 91st day after registration. In this case, workers are also not entitled to redundancy payments.

### ***What is the amount of unemployment benefit?***

The amount of unemployment benefit depends on the wage you received over the last 12 months and the length of your pensionable service:

- up to two years – 50 percent of your salary;
- from two to six years – 55 percent of your salary;
- from six to ten years – 60 percent of your wage;
- over ten years – 70 percent of your salary.

The unemployment benefit is also capped at four times the equivalent of the subsistence level for non-disabled persons (UAH 8,408 in 2020).

Those persons employed for less than six months over the last 12 months will only qualify for a minimum payment of UAH 650.

## **How can one register with an employment center and start drawing unemployment benefits? (+application samples and examples)**

Registering with an employment center and applying for unemployment benefits has become a pressing issue for workers who want to protect their labor rights during the quarantine.

Therefore, lawyers from the Legal Development Network prepared a document with a possible course of action for workers who have lost their jobs and want to apply for unemployment benefits. The document contains specific legal advice and samples of applications a person can fill out and send to the regional employment center located where that person lives. This information is especially important, given that there have been many dismissals due to the quarantine introduced to prevent the spread of COVID-19.

#### EXAMPLE OF LEGAL ADVICE:

“The applicable Law sets forth that all Ukrainians who have lost their jobs are entitled to state compensation in the form of unemployment benefits. Who is eligible for unemployment benefit in 2020?”

Only those Ukrainian citizens who have been officially granted the status of being unemployed people qualify for unemployment benefits. Redundancy payments are made provided that the conditions foreseen in the law on mandatory state social insurance are met.

**Attention!** Dismissals without a valid reason are a criminal offense, as outlined in Article 172 of the [Ukrainian Criminal Code](#) (a major breach of labor laws).

The termination of an employment agreement by the employer in connection with the quarantine carries a penalty – a fine from UAH 34,000 to UAH 51,000 or correctional labor for a term of up to two years.

Because of the above, workers do not have to take voluntary redundancy because of the quarantine imposed to prevent the coronavirus spread.

The [Ukrainian Employment Law](#) stipulates that the status of being an unemployed person is granted to:

- working-age persons who have not started drawing a pension (including old-age pensions on reduced pensionable service terms and long-service pensions) and who have no income due to being out of work, and who are ready and able to start working;
- persons under 16 who had a job and were dismissed, due to the employing company being liquidated or changing the line of its business, or due to staff reductions;
- working-age persons with disabilities who are drawing a disability pension or social benefits. In order to obtain the official status of an unemployed person, a person must register with an employment centre. The uniform information and analytical system of the State Employment Centre allows a person to register regardless of where they have registered their place of residence, or where they actually live.

When registering an unemployed person, the employment centre creates an individual record file that contains the personal details of that person (full name, year of birth, place of residence, passport number and series, as well as information about that person’s last job or occupation).

**Attention! During quarantine, you can register with an employment centre online.**

A person must e-mail photos or scanned copies of the required documents to an employment center to apply for unemployment benefits.

#### **List of documents required for registration:**

1. Passport and taxpayer’s ID, and copies of them.
2. Employment records and independent contractor contracts, and copies of them.
3. Diploma or any other educational certificate, and copies of them.
4. Other documents (such as a military registration card, if required); persons with disabilities are required to provide a copy of the excerpt from their certificate of examination by a disability evaluation board and a copy of their rehabilitation program, if any; internally displaced persons are required to provide a certificate confirming that they have been registered as an internally displaced person, together with a copy of this certificate, and so on.

### ***Attending appointments at an employment center and waiting for a suitable vacancy***

After obtaining an unemployed person's status, that person only has to attend appointments at an employment center (at least once every 30 calendar days) and wait until the employment office staff find a suitable vacancy.

Suppose no suitable job can be found in an unemployed person's field within six months of their registration as being unemployed. In that case, that person will be offered retraining, taking into account their health, abilities, and labor market requirements.

If a person rejects a job two times, they will be deregistered by their employment center and stripped of an unemployed person's status.

Suppose a person fails to attend an appointment at an employment centre for no valid reason. In that case, the employment center will reduce that person's unemployment benefit and/or deregister them.

According to Ministerial Resolution No. 792 [on the procedure for registering and re-registering unemployed persons and keeping records of jobseekers](#), valid reasons for failing to attend an appointment at an employment center are:

- quarantine;
- being on sick leave;
- the death of a family member or other relative;
- taking care of a sick child who is under 14
- being summoned to judicial and law enforcement authorities or recruitment offices
- other circumstances that effectively prevent an unemployed person from attending an appointment at an employment center.

### ***Calculating and paying unemployment benefits***

Unemployment benefits are calculated starting from the 8th day of registration.

Workers who took voluntary redundancy from their previous workplace for no valid reason can start drawing unemployment benefits on the 91st day after registration.

Important! During quarantine, unemployment benefits are calculated from the first day after online registration with an employment center.

Unemployment benefits cannot be paid for more than 360 calendar days over two years.

For soon-to-retire persons (two years before they become eligible for a pension), the payment period of unemployment benefits cannot exceed 720 calendar days.

### ***The amount of unemployment benefit in 2020***

The minimum amount of unemployment benefit in 2020 is UAH 610. Unemployed persons whose length of pensionable service is less than six months over the last calendar year qualify for the minimum unemployment benefit.

For unemployed persons employed for more than six months over the last 12 months before registration, unemployment benefits are calculated as a percentage of their average income (wage) adjusted by their length of pensionable service.

Please be aware that unemployment benefits cannot exceed four times the subsistence level for non-disabled persons."

Document samples are available here (in Ukrainian):

[https://ldn.org.ua/wp-content/uploads/2020/07/zaiava\\_dopomoha\\_po\\_bezrobittiu\\_pryklad.pdf](https://ldn.org.ua/wp-content/uploads/2020/07/zaiava_dopomoha_po_bezrobittiu_pryklad.pdf)

## Inheritance issues

Quarantine restrictions have also caused people to ask questions about the registration and exercise of their **right to inheritance** during quarantine (10.2 percent compared to 12.1 percent in 2019). People mainly wanted to know what they should do if the statutory term for claiming inheritance has expired, how they should contact notaries, how property is divided among close relatives, how to resolve disputes with their neighbors over where to put a fence, and so on.



### EXAMPLES AND RESOLUTION ALGORITHMS

#### Features of acquisition of ownership of real estate through inheritance

Olga\*, a former resident of Kherson Oblast, contacted lawyers from the [Skadovsk office of the Legal Development Network](#). Olga now permanently lives in Germany. She returned to her homeland to claim a land plot under a residential house in Skadovsk as her inheritance.

She said that the house, which she now owns with her brother, belonged to their parents. This inheritance came due to their parents' death, and a court ruled that the house be divided between the children in equal parts. However, they failed to divide the land – in 2013, the arrangements determining the use of the land were made to prevent the brother and sister from each claiming ownership of part of the land. For technical reasons, the division did not fully meet the interests of both parties.

The siblings had now decided to resolve the land issue finally. That is why Olga wanted to know how to fix the problem best: without conflict and both parties' mutual benefit.

Sergiy Keba, a lawyer from the office that operates under the umbrella of [Skadovsk Region Is My Homeland](#), an NGO, studied the details of the case and suggested that they ask a court to change the arrangements for the use of the land, which were set in a voluntary settlement agreement in 2013.

“Acting with a power of attorney, we prepared the required documents, such as a new expert opinion that proposed a different arrangement for the use of the land, together with the respective land easements,” Keba said.

A court considered the petition and ruled\*\* that new arrangements for using the land under the house be established. The new arrangements meet both parties' interests, while also enabling the former co-owners to register the land as their property.

\*The woman's name has been changed for reasons of privacy.

\*\*Link to the court ruling: <http://reyestr.court.gov.ua/Review/88398796>

#### Determining shares in real estate: how to resolve a dispute in a court and out-of-court

When jointly inheriting real estate that has not been split into shares, the owners need to determine what those shares are. In most cases, this causes disputes between the parties. Such disputes can be resolved both in court and out-of-court. Viacheslav Lyakh, a lawyer from the Bilozerka office of the Legal Development Network, explains what a person needs to know when choosing between these two options.

After quarantine restrictions were relaxed, lawyers from Bilozerka Regional Development Centre, an NGO, and the Bilozerka Office for Legal Aid renewed their joint on-site consultations in neighboring villages.

More specifically, during a consulting event held on the premises of Stanislav Village Council in June, these lawyers provided free legal aid to five persons. The people who sought legal advice mostly wanted to know how they could determine their share of a property, what tax they had to pay on real estate, what penalties are envisaged for violating land management rules, how a person taking care of someone who is 80 years old or above should claim social benefits, and so on.

We believe that the legal advice given to a local resident about how to determine shares in real estate deserves special attention.

When jointly inheriting real estate that has not been split into shares, the owners need to determine what those shares are. In most cases, this causes disputes between the parties.

### **Alternative conflict resolution**

1. Co-owners should go to a notary to agree about the arrangements for using a house, buildings, and structures notarized.
2. The co-owners then take this agreement to the Technical Inventory Bureau, which then prepares a conclusion as to whether or not it is technically possible to divide the real estate in question and determines how the jointly owned real estate is shared out. Shares are selected based on registered requests submitted by all of the co-owners of the real estate.
3. After obtaining this conclusion, those who want to change the layout of their property or have any other construction work done must contact the State Architectural and Construction Inspectorate and file a notice about the start of construction work.
4. After obtaining a conclusion from the Technical Inventory Bureau and filing a notice with the State Architectural and Construction Inspectorate, the co-owners should go to a notary and enter into an agreement determining their property shares.

The co-owners will be required to produce confirmation of land ownership. There should also be no technical difficulties with dividing a house or a house together with a plot of land and outbuildings, if any. An agreement determining a person's property share terminates joint property ownership by the person who receives a share under that agreement. This agreement serves as a new title deed to the house, or the house together with land and outbuildings, if any.

However, not all people are willing to resolve such issues out-of-court. To have a house (or a house together with land and outbuildings, if any) divided in a court of law, a person must submit a petition to a court requesting that the court determine their share of jointly owned property. That said, petitions should contain solid grounds for the technical possibility of deciding a share.

Such grounds are provided by the conclusions of a forensic construction and technical inspection, which either confirms or alters the Technical Inventory Bureau's conclusions. Such a conclusion can be ordered privately.

Petitions to a court must be supported by a document confirming that a notice about the start of construction work has been filed. Such confirmation serves as proof of the plaintiff's intention to obtain their share of a property. Simultaneously, the issue related to the ownership of the plot of land also needs to be resolved.

## Real estate issues

During quarantine, the Legal Development Network member organizations were contacted by people who wanted legal advice about how to protect their **rights to real estate** (9.1 percent compared to 13 percent in 2019). Most of the questions asked concerned how spouses can divide their jointly acquired property, how a person can register their plot of land or country house, how a person can register their ownership right to real estate, and so on.



### EXAMPLES AND RESOLUTION ALGORITHMS

#### The specifics of acquiring ownership rights to real estate via inheritance

What is the time limit for claiming an inheritance, the types of inheritance, what does dying intestate, or leaving a valid will mean, how does the law determine who is in line for inheritance, and what is unclaimed inheritance? The specifics of inheriting real estate, including by territorial communities, are explained in legal advice given by Pavlo Holovaty, a lawyer from the [Tatarbunary office of the Legal Development Network, which operates under the umbrella of the Committee of Ukrainian Voters, a national NGO](#).

A person who wants to claim an inheritance needs to know that there is a six-month term during which inheritance can be claimed. This means that an heir must go to a notary who operates in the area where the deceased person lived and claim their inheritance within six months of the deceased person's death. If this term expires, the potential heir will have to go to court to prove that they did not claim their inheritance in due time for a valid reason. Heirs who did not claim their inheritance within six months are deemed to have waived their right to the inheritance.

A person can inherit in two ways:

- under the rules of intestacy;
- under a will.

This means that testators can designate any persons they want as their heirs. They can also specify who inherits what from their estate after their death.

Legal entities can also inherit under a will. If there is a valid will, persons who would have inherited under the intestacy (if they have not been named beneficiaries in that will) cannot inherit. A deceased person's non-adult children and adult disabled children, disabled or non-working age widow (widower), and disabled or non-working age parents will inherit regardless of whether they have been named beneficiaries in a will. In this case, they will inherit half the share they would have inherited under the intestacy (mandatory share).

When a person dies intestate, their property will be inherited according to an order of priority.

### **Civil law envisages five orders of inheritance priority.**

A deceased person's children, including those conceived when the deceased person was still alive and born after their death, a surviving spouse, and parents are first in line to inherit.

Both on their mother's and father's sides, a deceased person's blood siblings and grandparents are second in line to inherit.

A deceased person's uncles and aunts are third in line to inherit.

People co-habiting with a deceased person for no less than five years when the inheritance came due are fourth in line to inherit.

A deceased person's other relatives, up to and including six times removed relatives, are fifth in line to inherit. Closer relatives inherit before more distant relatives can inherit. A deceased person's dependents who were not the deceased person's family members are also fifth in line to inherit.

One should also remember that Part 3, Article 1268 of the [Ukrainian Civil Code](#) sets forth that an heir who had been permanently living with a deceased person when the inheritance case was opened is deemed to have accepted the inheritance if the heir did not waive their right to the inheritance during the term specified in Article 1270 of the Civil Code. However, such heirs will have to prove that they lived together with the deceased person when the inheritance came due. Heirs, whose place of residence was registered in a location other than the deceased person's place of residence, will have to prove in a court of law that they were co-habiting with the deceased person.

### ***What is unclaimed inheritance?***

If there are no heirs, either under a will or under the rules of intestacy, or if the heirs have been deprived of their right to inherit, or if the heirs have waived their right to inheritance or are deemed to have waived their right, the local authority located in the area where the inheritance came due or located where the inheritance is situated if the inheritance includes real estate, must file a petition with a court that the inheritance is declared unclaimed.

Inheritance that has been declared unclaimed by a court is escheated – it is transferred to the ownership of the territorial community in which the inheritance came due or to the territorial community in which it is located (if the inheritance is real estate). The territorial community that escheated unclaimed property must satisfy any lawful claims the deceased person's creditors may have.

Suppose several territorial communities escheated unclaimed property. In that case, the claims of the deceased person's creditors are satisfied by the territorial communities in proportion to the property they escheated.

Local authorities must see to it that communities assume ownership of unclaimed property, including real estate. This rule also encourages potential beneficiaries to make sure that they claim an inheritance before the time limit for claiming that inheritance expires, and it is declared unclaimed.

# Problems identified by project experts and recommended ways to resolve these problems

*Experts identified problems during the project's implementation and addressed during an expert discussion on July 8, 2020. 17 legal experts from ten regions of Ukraine took part in the discussion:*

## **Wearing face masks and maintaining social distancing**

With relaxed quarantine restrictions, people have gradually stopped wearing masks. People also often maintain no social distancing when queuing and waiting to be admitted into an institution and on the streets. This problem arises from people's lack of understanding of this issue, due to not being sufficiently informed.

### ***Recommendation:***

*Draw local authorities and local authorities' attention to this problem, step up enforcement of the requirement to wear face masks, and conduct mass information campaigns in the regions.*

## **The quality of administrative offense notices**

The number of administrative offense notices increases with the introduction of stricter quarantine restrictions. However, most of these notices contain mistakes made by the police officers who issued them and are returned for correction.

### ***Recommendation:***

*To thoroughly study existing statistics about the quantity and quality of existing notices to identify the causes of mistakes.*

## **Inadequate communications in society**

The project's experts have highlighted the lack of proper communications between central and local governments concerning the coordination of their joint actions when conducting mass events and/or information campaigns. There is no generalized information about where one can obtain legal aid, including information about the contact details of all legal service providers (public and private).

### ***Recommendation:***

*To create and disseminate a map that contains the contact details of legal aid providers at all levels (from national to local). This would provide the public with information about where, when, and how they can obtain legal aid. To update the free legal aid mobile application that has been recently launched by adding up-to-date information about all key legal aid providers.*

*To conduct an information campaign to inform the general public that spreading information about COVID-19 is false and has not been confirmed by the Ukrainian Health Ministry could be an administrative or even a criminal offense.*

## Contradictions in the legal and regulatory fields

Government regulations that imposed quarantine restrictions are unsystematic and often contain contradictory and conflicting statements. When this report was being prepared, three ministerial decrees regulated quarantine issues and set different starting and ending dates of the quarantine. This runs contrary to the rules for drafting regulations (Ministerial Decree No. 870, dated September 6, 2005, approving the rules for drafting ministerial regulations). The rules require that the number of regulations on the same issue is minimized (*Table 1*).

Ministerial decree	Starting date of quarantine	Ending date of quarantine
No. 211, dated 11 March 2020, paragraph 1	12 March 2020	3 April 2020
<i>amendments to paragraph 1 of Ministerial Decree No. 211, dated March 11, 2020</i>		
No. 239, dated March 25, 2020	March 12, 2020	April 24, 2020
No. 291, dated April 22, 2020	March 12, 2020	May 11, 2020
No. 343, dated May 4, 2020	March 12, 2020	May 22, 2020
No. 392, dated 20 May 2020, paragraph 1	22 May 2020	22 June 2020
<i>amendments to paragraph 1 of Ministerial Decree No. 392, dated May 20, 2020</i>		
No. 500, dated June 17, 2020	May 22, 2020	July 31, 2020
No. 641, dated July 22, 2020, paragraph 1	August 1, 2020	August 31, 2020

*Table 1. Ministerial regulations that impose quarantine restrictions (as of July 31, 2020)*

### **Recommendation:**

To draw the Cabinet's attention to the contradictory and conflicting statements in their documents that regulate the prevention of, and counteraction against, the spread of COVID-19.

## Problems with the operation of administrative services centers (ASCs)

People have had great difficulties in obtaining administrative services. Administrative services centers have long waiting lists. For instance, in one case, a person who wanted to deregister as a private entrepreneur was told they would have to wait for a decision for more than 80 days.

### **Recommendation:**

*To draw local authorities' attention to this problem so these authorities can take measures to automate application processes using the public Diya service (an online platform for obtaining government services) as much as possible.*

## Issues related to legal awareness

There is also a need to raise people's legal awareness. Despite there being many information sources, there is a lack of reliable information and understanding of this information by the public.

### **Recommendation:**

*The Ukrainian Health Ministry, together with the Ukrainian Justice Ministry and non-governmental providers of legal services, should include information about legal issues in their information campaign about the spread of COVID-19.*

## Problems with the operation of the Diy Vdoma application for monitoring self-isolation

This application needs to be improved because it causes inconvenience to people who have to self-isolate at home. For instance, messages can come at any time and sometimes without a sound alert. This makes it challenging to use the application, as a result of which people who did not break self-isolation rules could wrongly be issued with notices to that effect. The option of deactivating the application after taking a polymerase chain reaction (PCR) test also does not work.

People who have to self-isolate in places of observation and who, due to difficult financial circumstances, are unable to pay for their stay there, are not provided with any financial aid.

### **Recommendation:**

*To draw the attention of the developers of the Diya application to this problem.*

## Problems with ensuring medical privacy

There is a problem with ensuring medical privacy and confidentiality when an ambulance comes to a patient's house. In villages, information about COVID-19 suspect cases is spread very quickly by word of mouth. An effective way to prevent the spread of the disease would have been to track down everyone an infected person may have come into contact with and ask them to self-isolate. However, local authorities rejected this because this violates people's medical privacy. However,

medical privacy is violated when emergency physicians wearing special protective gear come to a patient's house.

**Recommendation:**

*To conduct information campaigns in the regions, involving local authorities, healthcare institutions, and the public, discuss the above issue..*

## Consumer rights

The issue of compensating people for canceled tourist trips and flights remains unresolved.

**Recommendation:**

*To determine a joint course of action for airline companies and travel agents by improving travel services agreements (supplementing them with the respective provision)*

**The following problems were identified during a working meeting held on July 9, 2020, by the signatories to the Memorandum of Cooperation Among Legal Aid Providers in Ukraine (this Memorandum was signed on June 15, 2018, by the Coordination Centre for Legal Aid; the Legal Development Network – a union of NGOs; the Association of Legal Clinics of Ukraine; the Ukrainian Helsinki Human Rights Union – a Ukrainian association of civil organizations; the Ukrainian Foundation of Legal Aid – a national charity foundation; the Legal Hundred – an NGO and a national human rights organization; and the Right to Protection – a charity foundation (the “memorandum”)):**

### Improving information exchange between government and non-government providers of free legal aid

Collecting, generalizing, and disseminating information about the problems people are facing during quarantine, systematizing these problems, preventing the duplication of reports, and popularizing best practices for protecting the interests of people whose rights have been violated requires improved information exchange between government providers of free legal aid and specialized civil society organizations.

**Recommendation:**

*To improve the rules governing cooperation between local centres that provide free secondary legal aid and partner organizations, these rules relate to referring people who need free legal aid. These rules were approved by Coordination Centre Order No. 61 on specific issues related to cooperation between local centers that provide free secondary legal aid and partner organizations concerning referring people who need free legal aid. The rules require improvement where they relate to information exchange about people's referrals; they should provide regular information exchange between a local center that provides free secondary legal aid and the respective partner organization.*

## Developing the standards for providing free primary legal aid

One of the areas for cooperation under the Memorandum envisages preparing joint proposals to develop standards for providing free primary legal aid. Nevertheless, all legal service providers have stopped discussing the issue of determining uniform approaches to providing free primary legal aid.

### **Recommendation:**

*To put forward joint proposals to develop standards for providing free primary legal aid by creating a task force involving representatives of all interested signatories of the Memorandum of Cooperation Among Legal Aid Providers in Ukraine, which was signed on June 15, 2018, and including this task in the joint action plan (and setting the timeframe for fulfilling the task).*

*The signatories to the Memorandum should renew/bring up to date their efforts to develop/finish developing a draft policy for creating and piloting the model of an independent legal aid provider, as envisaged at a working meeting of all stakeholders that took place in the Ukrainian Ministry of Justice in January 2020..*

## Jointly monitoring whether or not constitutional rights and freedoms are upheld

Under the Memorandum, a separate area of cooperation among the signatories to the Memorandum is to prepare for and then jointly monitor whether or not constitutional human rights and freedoms are upheld, including the right to free legal aid, as well as to identify and to summarize any cases in which such rights may have been violated. That said, there is still no mechanism for implementing the above provisions of the Memorandum or information exchange among the parties about sharing positive experiences related to clients' legal protection.

### **Recommendation:**

*To create a task force involving representatives of the signatories to the Memorandum to put in place a mechanism for jointly monitoring whether or not constitutional human rights and freedoms are upheld, including the right to free legal aid, as well as identifying and summarizing any cases in which such rights may have been violated.*

*Signatories to the Memorandum should renew/bring up to date their efforts to develop and approve their joint action plans, and inform the Supervisory Board of the Coordination Centre for Legal Aid Provision about initiatives designed and the timeframes for their implementation.*

*To renew efforts to bring up to date and post, on the official websites of the Coordination Centre for Legal Aid Provision and of the signatories to the Memorandum, the interactive map of all legal service providers that was posted on the previous version of the official website of the Coordination Centre for Legal Aid Provision.*

*Supplement the mobile application for those seeking free legal aid with up-to-date information about the addresses and other contact details of the signatories to the Memorandum.*

# Key conclusions

## Accessibility of up-to-date information about COVID-19

The COVID-19 pandemic has gradually started to influence Ukrainians' way of life, bringing specific changes to their routines. People had to spend a lot of their time at home, working over the Internet, and minimizing direct contact with their friends and acquaintances. For the most part, they had to obtain the required information about the actual state of affairs and the government's quarantine measures to prevent the spread of the pandemic from social networks, the available digital media, or via TV or radio. In this light, and with the rapid spread of the pandemic throughout the world, the issue of obtaining correct and verified information about the actual state of affairs from official, reliable, and trusted sources has become especially important. Getting such information would enable people to decide what they should do first and what measures they need to take during the crisis, the consequences of which have often adversely affected people from a legal point of view through the violation of human rights, and through conflicts and the lower ability of the judicial system to respond to these challenges.

## Limited access to online legal aid tools

Not all people who needed legal advice during the project's implementation could get it by using online tools. The main reason for this was that a portion of the population has a low digital literacy level. This barrier also often goes hand in hand with financial constraints that prevent people from purchasing devices that can access the Internet and paying for this access. This issue is especially relevant for people who live in remote areas and villages and older people. That is why, even with quarantine restrictions in place, legal aid cannot be provided only online. With possible new outbreaks of the pandemic and the introduction of stricter quarantine restrictions in response, legal aid providers should look into the possibility of providing legal aid by phone.

## The most common legal problems during the pandemic

Ukrainians have faced the legal problems most often since a quarantine was imposed have been dismissals, reduced social benefits, difficulties in obtaining unemployment benefits and getting paid while being on involuntary leave, and problems with creditors' payments towards their loans and claiming an inheritance. Legal advice was sought more often by the owners of small businesses deprived of the opportunity to work, and consequently to earn an income to pay wages to their staff, make rent payments, and service their loans during the pandemic. Many private entrepreneurs sought legal advice about whether or not they were eligible for government support, and if so, how they could claim it. For instance, they wanted to know how they could obtain government support if they had no staff on their

payroll. In this light, project experts prepared and put in the public domain over 40 pieces of legal advice about the issues that interested people the most. They also developed and made freely available samples of the most common legal documents that people most often made inquiries about. This online service enables people to create a document with their own data and use it to resolve their legal issues.

## Improving information exchange between government and non-government providers of legal services

Collecting, generalizing, and disseminating information about the problems people are facing during quarantine, systematizing these problems, preventing the duplication of reports, popularizing best practices for protecting the interests of people whose rights have been violated, and improving the quality of legal aid requires improving information exchange between government providers of free legal aid and specialized civil society organizations. This also requires setting criteria for jointly monitoring whether or not people's constitutional rights and freedoms are upheld and developing uniform standards for providing primary legal aid.

# About the Legal Development Network

The **Legal Development Network** is one of the most significant unions of non-governmental organizations providing access to justice in Ukraine. It is a union of civil society organizations that develop territorial communities by providing free legal aid. The union, founded in 2009 as the Network of Centres of Legal Information and Consultation, currently includes 23 organizations operating in 15 regions of Ukraine. These organizations serve as the basis for the Network's offices, provide the population with basic legal information, and actively cooperate with local authorities to resolve people's individual problems and protect public interests. They also implement alternative ways of resolving conflicts while also developing communities and leadership. Every month, thousands of people seek legal aid through the Network's offices and online services. The Network's lawyers have to deal with a wide range of legal issues, including land, labor, social, and family cases. A lot of attention is paid to resolving the problems of internally displaced persons, veterans, and the vulnerable sections of the population.

## Mission

To empower people legally, protect human rights and freedoms, and develop communities.

## Vision

To develop Ukraine as a democratic, free, competitive, and safe country that upholds human rights and enables every person to realize their potential by providing equal access to opportunities and resources and a state governed by the rule of law respect for human dignity.

## Strategic activities

**Legal empowerment** envisages creating a critical mass of people who know their rights and who can be motivated to protect and promote them.

**Providing professional legal support for communities** by helping them develop the capability of resolving their problems legally.

The **Network's** institutional capacity helps civil society organizations work smoothly together to promote community interests.



**LEGAL  
DEVELOPMENT  
NETWORK**

-  Borysa Hmyri vul., 17, office 4  
Kyiv, Ukraine
-  [office@ldn.org.ua](mailto:office@ldn.org.ua)
-  [ldn.org.ua](http://ldn.org.ua)
-  +380 44 227 97 73