Summary information on the categories of persons entitled to free secondary legal aid according to the Law of Ukraine "On free legal aid" and the list of documents to be submitted by such persons in order to confirm eligibility to persons entitled to relevant right

The right for free legal aid, as defined in Article 3 of the Law of Ukraine "On Free Legal Aid" (hereinafter – the Law), is the guaranteed by the Constitution of Ukraine possibility of a citizen of Ukraine, a foreigner, a stateless person, including a refugee or a person in need of additional or temporary protection, to receive the free primary legal aid in full as well as the possibility of certain categories of persons to receive the free secondary legal aid in cases, foreseen by this Law.

The list of categories of persons who have a right for the free secondary legal aid, which provides the types of legal services, such as: protection; representation of interests before the courts, other State authorities, local self-government authorities, other persons; preparing of procedural documentation is defined by Article 14 of the Law.

According to part 2 of Article 14 of the Law, foreigners and stateless persons, who are under the jurisdiction of Ukraine, have the same right for the free secondary legal aid as the citizens of Ukraine, except cases, foreseen by the Constitution of Ukraine, laws of Ukraine or international treaties, the consent to be bound by which is given by the Verkhovna Rada of Ukraine.

Persons, who are under the jurisdiction of a foreign State with which Ukraine has concluded a relevant international treaty, the consent to be bound by which is given by the Verkhovna Rada of Ukraine, have a right for the free secondary legal aid on the grounds and in the manner, prescribed by the relevant international treaty of Ukraine (part 3 of Article 14 of the Law).

Also, the Law defines the procedure of applying for the free secondary legal aid.

Thus, in accordance with Article 18 of the Law, persons shall submit an application for the provision of one of the types of legal services in the written form to the free legal aid centre at the place of actual residence of such persons, regardless of the registration of the place of residence or place of stay of a person.

The application for the provision of one of the types of legal services within the free secondary legal aid shall contain full name of a person (surname, name and patronymic name, if available), who applies for the free secondary legal aid, and his/her address of residence; postal address; contact details; the subject matter of the issue for which the person applies for the free secondary legal aid; indication of the category of persons entitled to the free secondary legal aid, which the persons who applies for the free secondary legal aid belongs to.

A written application shall be signed by such a person or his/her representative and submitted to the free legal aid centre **in person or by mail**.

The application for free secondary legal aid shall be accompanied by documents (copies of documents certified in accordance with the established procedure), identifying the person in need of the free secondary legal aid and confirming his or her affiliation with the subjects of the relevant law.

The submission of an electronic application and relevant copies of documents by means of electronic communication (available in Ukraine since September 1, 2023) is carried out in the following order:

An electronic application for the free secondary legal aid shall be submitted by persons or their representatives to the free legal aid centre for the provision of free legal aid (hereinafter – The Centre) by sending it to the official e-mail address of this Centre.

In an electronic application, a person shall indicate his/her surname, name, patronymic (if available), place of residence (stay), e-mail address to which a response may be sent or information about other means of communication, the subject matter of the issue and the category of persons entitled to the free secondary legal aid, which the persons who applies for the free secondary legal aid belongs to in accordance with the list provided in Article 14 of the Law.

An electronic application shall be signed by a person or his/her representative using an electronic signature based on a qualified certificate.

In case of impossibility to use an electronic signature based on a qualified certificate, when submitting an electronic application by persons belonging to one of the categories of persons, who have a right to the free legal aid, as defined in clause 16 of part one of Article 14 of the Law, these persons shall send a scanned copy (photocopy) of the application with the person's written (wet) signature.

Together with an electronic application for the free secondary legal aid, a person shall send copies of duly certified documents that identify him/her and confirm his/her belonging to one of the categories of persons defined in part one of Article 14 of the Law. These documents shall also be signed by an electronic signature based on a qualified certificate.

In case of impossibility to use an electronic signature based on a qualified certificate, when submitting an electronic application by persons belonging to one of the categories of persons, who have a right to the free legal aid, as defined in clause 16 of part one of Article 14 of the Law, these persons shall send scanned copies of the relevant supporting documents, which shall be dated and inscribed "according to the original".

In case of submission of an electronic application without the use of an electronic signature based on a qualified certificate, a person belonging to one of the categories of persons, who have a right to the free legal aid, as defined in clause 16 of part one of Article 14 of the Law is subject to the procedure of establishing (identifying) a person by holding a meeting via videoconferencing. During the meeting, the person in respect of whom such a procedure is being carried out shall present identity documents, as well as documents confirming his/her belonging to the subjects of the right to free secondary legal aid.

During videoconferencing, an employee of the Centre shall record or photograph a person. The photo recording is carried out in such a way that the photo images allow unambiguously recognizing the person and details of the identification document (in particular, the photo, identification data contained on the page of the identification document).

The results of the identification procedure shall be recorded in the comprehensive information and analytical system for the provision of free legal aid. The video recording and photographs based on the results of photo fixation are stored and attached to the application for secondary legal aid.

Note Bene! All documents, including application for the free secondary legal aid shall be supported by their translation into the Ukrainian language, affirmed by the wet seal and/or signature of a translator, and stitched the to the document (every document separately, and for documents sent by email – every document and its affirmed translation into the Ukrainian language in one PDF-file).

According to part 2 of Article 18 of the Law, an application for the free secondary legal aid that is not performed in accordance with the requirements set forth in this Article shall be returned to the applicant with appropriate explanations within three business days from the date of its receipt for eliminating the deficiencies. After the

deficiencies are eliminated, the application for the free secondary legal aid may be submitted again. In this case, it is prohibited to refuse to accept an application for the free secondary legal aid on the grounds that were not previously mentioned.

Persons who are under the jurisdiction of a foreign State with which Ukraine has concluded a relevant international treaty, the consent to be bound by which is given by the Verkhovna Rada of Ukraine, shall submit an application for the secondary legal aid to the Ministry of Justice of Ukraine.

The Ministry of Justice of Ukraine sends these applications to the relevant centre for the provision of free legal aid for the appointment of a defence counsel (representative), unless otherwise is provided by an international treaty, the consent to be bound by which is given by the Verkhovna Rada of Ukraine.

Pursuant to Article 19 of the Law, if a person applies for one of the types of the free secondary legal aid, the centre is obliged to make a decision on the provision (or refusal to provide) the free secondary legal aid **within ten days from the date of receipt of such an application and documents confirming that such a person belongs to the relevant category**.

In case of receipt of a letter from the Ministry of Justice of Ukraine regarding the provision of the free secondary legal aid to the persons referred to in part 3 of Article 14 of the Law, the centre for the provision of the free legal aid shall provide the free secondary legal aid to such persons.

Along with the application for the free secondary legal aid, a person or legal representative of the person shall submit the identity document (if available) and documents confirming the belonging of this person or a person, on whose behalf the legal representative applies, to one of the categories of persons mentioned in Article 14 of the Law.

<u>In particular, in case of application of:</u>

1) **Adult persons under the jurisdiction of Ukraine, if their average monthly income, if their average monthly income calculated in accordance with the methodology, approved by the Ministry of Justice of Ukraine, does not exceed two amounts of the subsistence minimum calculated and approved in accordance with the law for persons belonging to the main social and demographic groups of the population –** the following documents shall be submitted:

- a certificate of income for the last 6 months;
- a certificate of the amount of the pension for the last 6 months;
- a certificate of the submitted declaration of property and income (on payment of personal income tax and on the absence of tax liabilities on such tax) issued by the relevant taxpayer service centre of the State Fiscal Service (in case of applying to the centre of individual entrepreneurs, self-employed persons);
- information from the State Register of Individual Taxpayers of the State Fiscal Service, in particular, on the amounts of income paid and taxes withheld;
- information from the Register of Insured Persons of the State Register of Compulsory State Social Insurance, in particular, on the income received and/or the type and amount of the pension granted;
- certificate of receipt of social assistance issued by the structural unit for social protection of the population of district, district in Kyiv and Sevastopol State administrations, executive authorities of city, district in cities councils (if available).

2) **Persons with disabilities who receive a pension or the State social assistance in accordance with the Laws of Ukraine "On State Social Assistance to Persons with Disabilities from Childhood and Children with Disabilities" and "On State Social Assistance to Persons Not entitled to a Pension and Persons with Disabilities" in an amount not exceeding two subsistence minimums for an employable person** – shall submit:

- a copy of a pension certificate or a certificate confirming the appointment of social assistance, or a certificate from the medical and social expert commission (MSEC) on the establishment of disability;
- a copy of a reference to the amount of pension or a reference to the amount of social assistance granted instead of pension for the last month, preceding the date of application.

3) children/the legal representatives of children – shall submit the following documents:

- a copy of the birth certificate of a child;
- a copy of a document confirming the powerful of a person acting as the legal representative except when the legal representatives are parents (adoptive parents).

4) **Persons, whom the Law of Ukraine "On Refugees and Persons in Need of Additional or Temporary Protection" applied to** (from the moment when a person submits an application for recognition as a refugee or a person in need of additional or temporary protection in Ukraine, until the final decision under the application is made):

- a reference about submission of application for protection in Ukraine (if available);
- a copy of the decision to satisfy/reject/leave without consideration a complaint against the decision of the Migration Service authority to refuse to accept an application for recognition as a refugee or a person in need of additional protection, or to refuse to issue documents for resolving the issue of recognition as a refugee or a person in need of additional protection (if any).

5) **Foreigners and stateless persons detained for the purpose of identification and enforcement of forced expulsion** (from the moment of detention) – shall submit the following documents:

- a copy of the passport document of a foreigner, in particular with a mark on the entry ban to Ukraine (if available);
- a decision on forced return or forced expulsion from Ukraine (if available);
- a court decision confirming the detention for the purpose of identification and ensuring forced return or forced expulsion from Ukraine (if available).

6) **Persons who have applied with application for recognition as a stateless person** (from the date of submission of an application for recognition as a stateless person until the final decision under the application is made, as well as during the appeal of a refusal to recognize as a stateless person, obtaining an immigration permit, or obtaining a temporary or permanent residence permit) – shall submit the following documents:

On issues of recognition as a stateless person:

- a copy of an identity document certified by the client/client's representative (if available);
- a reference about submission of an application for statelessness recognition;

- a decision to refuse to recognize as a stateless person issued by the State Migration Service of Ukraine (if available);

On issues of obtaining a temporary residence permit:

- a copy of an identity document certified by the client/client's representative (if available);
- a decision on recognition as a stateless person issued by the State Migration Service of Ukraine;

On issues of obtaining an immigration permit:

- a copy of the temporary residence permit, certified by the client/client's representative;
- a decision on recognition as a stateless person issued by the State Migration Service of Ukraine;

On issues of permanent residence permit:

- a copy of an identity document certified by the client/client's representative;
- a decision on recognition as a stateless person issued by the State Migration Service of Ukraine.

7) **Persons who do not have documents confirming their identity and citizenship of Ukraine** (regarding the issues of establishment within the court proceedings of facts of legal significance related to the performing and issuance of such documents) – shall submit the following documents:

- a copy of the letter to the State Migration Service, which confirms that the person has applied for a document confirming his/her identity and the citizenship of Ukraine;
- a decision of the territorial unit of the State Migration Service to refuse to issue a passport of a citizen of Ukraine;
- a copy of the court decision on opening the court proceedings in a civil case on establishment of a fact of legal significance related to the execution and issuance of confirming person's identity and the citizenship of Ukraine.

8) **Internally replaced persons** – shall submit the following documents:

- a certificate of registration as an internally displaced person (Procedure of drawing up and issuing of the certificate of registration of an internally replaced person is regulated by the Resolution of the Cabinet of Ministers of Ukraine of October 01, 2014, № 509);

9) **Citizens of Ukraine, who filed an application for registration of them as internally replaced persons** (on issues related to appealing against a decision on refusal to obtain a reference of registration as an internally replaced person, until the receipt of the said reference or on issues related to the establishment of facts of legal significance in relation to such persons) – shall submit the following documents:

- a decision on refusal to issue the reference on registration as an internally replaced person.

10) **Citizens of Ukraine who reside in the temporarily occupied territory or on the territory of the territorial communities, located in the area of military (warfare)**

actions or are under temporary occupation, encirclement (blockade) (on issues related to the protection of violated, unrecognized or disputed rights, freedoms or interests of individuals (including compensation for damage caused as a result of restrictions on exercising rights of the ownership of real estate or its destruction, damage) in connection with the armed aggression of the Russian Federation and temporary occupation of the territory of Ukraine) – shall submit the following documents:

- information about the registered place of residence in the temporarily occupied territory or in the territory of the territorial communities, located in the area of military (warfare) actions or are under temporary occupation, encirclement (blockade), which are entered in the passport or identity document (if available);
- certificate of entry of information into the Unified State Demographic Register (if available);
- any other document issued by an authority in the territory that is under the control of the Government of Ukraine, which confirms the registration of a person's place of residence in the temporary occupied territory or in the territory of the territorial communities located in the area of military (warfare) actions or are under the temporary occupation, encirclement (blockade).

11) **War veterans and family members of deceased (dead) war veterans, family members of deceased (dead) defenders of Ukraine, persons who have special achievements before the Motherland**:

- a copy of a certificate of the established form (certificate of a battlefield participant, certificate of a person with a disability as a result of war, certificate of a family member of the deceased war veteran or defender, certificate of a family member of a deceased Defender or Defender of Ukraine).

12) **Persons who are under the jurisdiction of Ukraine and applied for obtaining the status of persons, whom the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection" applies to** (for issues related to the obtaining of such status) – shall submit the following documents:

- a copy of the application (report) for recognition as a battlefield participant or war veteran in accordance with the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection", which was submitted to the relevant commission;
- a copy of the application of the commander (chief) of a military unit (body, subdivision) or other head of an enterprise, institution or organization for recognition of a serviceman as a battlefield participant, a war veteran in accordance with the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection";
- a copy of the document confirming the refusal to grant the status or deprivation of the status of a person, whom the Law of Ukraine "On the Status of War Veterans, Guarantees of Their Social Protection" applies to (if available).

13) **Persons who have special labour achievements before the Motherland and persons who are among the victims of Nazi persecution** – shall submit the following documents:

- a copy of the certificate of the established form.

14) **Persons rehabilitated in accordance with the legislation of Ukraine on issues related to rehabilitation** (on issues related to rehabilitation) – shall submit the following documents:

- a copy of the certificate of eligibility for rehabilitated persons' benefits.

15) **Persons who have suffered from human trafficking** (on issues related to the protection of their rights as defined by the Law of Ukraine "On Counteraction to Human Trafficking") – shall submit the following documents:

- a certificate of status as a victim of human trafficking.

16) **Persons who have suffered from domestic violence or gender-based violence** (on issues related to the protection of their rights as defined by the Laws of Ukraine "On Preventing and Counteraction to Domestic Violence" and "On Ensuring Equal Rights and Opportunities for Women and Men") – shall submit the following documents:

- copies of the documents provided in paragraph 52 of the Procedure for Interaction of Entities Implementing Measures to Prevent and Combat Domestic Violence and Gender-Based Violence, approved by the Resolution of the Cabinet of Ministers of Ukraine No. 658 of August 22, 2018.

17) **Victims of criminal offenses against sexual freedom and sexual inviolability, torture or ill-treatment during military actions or armed conflict** (in criminal proceedings initiated upon the fact of committing such criminal offenses) – shall submit the following documents:

- an extract from the Unified Register of Pre-trial Investigations with information on the commencement of a criminal offense against sexual freedom and sexual inviolability, torture or ill-treatment during hostilities or armed conflict;
- a duly certified copy of the investigator's or prosecutor's decision to initiate a pre-trial investigation, which must contain all the information specified in part five of Article 214 of the Criminal Procedural Code of Ukraine (in accordance with Article 615 of the said Code).

18) **Whistleblowers – in connection with their reporting of information about a corruption or corruption-related offense** (on issues related to the protection of their rights in connection with such a report) – shall submit the following documents:

- a copy of the response of the authority (institution, agency, organization or legal entity) to the whistleblower's report (application, complaint, etc.)
- a copy of the letter from the authority (institution) on the results of the preliminary inspection of the whistleblower's report on possible facts of corruption or corruption-related offenses, other violations of the Law of Ukraine "On Prevention of Corruption";
- notification to the National Agency for Prevention of Corruption of the commencement of a pre-trial investigation involving the whistleblower;
- notification to the National Agency for Prevention of Corruption of the participation of the whistleblower in the case of an administrative offense related to the corruption;
- an extract from the Unified Register of Pre-trial Investigations, which contains information about the applicant (whistleblower) in a corruption-related case;
- other document issued by the authorized authorities confirming that the person is a whistleblower in connection with the reporting of information about possible

facts of corruption or corruption-related offenses, other violations of the Law of Ukraine "On Prevention of Corruption".

19) **Persons who reported about the assets referred to in paragraphs 1, 1-[1] of part 1 of Article 4 of the Law of Ukraine "On Sanctions"** (on issues related to the protection of their rights in connection with such notification) – shall submit the following documents:

- responses of the authority (institution, organization or legal entity) to the notification (application, complaint, etc.) of the person who reported about the assets specified in paragraphs 1, 1-1 of part one of Article 4 of the Law of Ukraine "On Sanctions"
- other documents, in particular court decisions, confirming that the person has reported about the assets referred to in paragraphs 1, 1-1 of part one of Article 4 of the Law of Ukraine "On Sanctions".

20) **Person in respect of whom, in accordance with the Law of Ukraine "On Social and Legal Protection of Persons, in Respect of Whom the Fact of Deprivation of Personal Liberty as a Result of Armed Aggression Against Ukraine has been established, and Members of Their Families", the fact of deprivation of personal liberty as a result of armed aggression against Ukraine has been established** (for the time of deprivation of personal liberty and after release in connection with the protection of rights and legitimate interests, violated due to deprivation of personal liberty as a result of armed aggression against Ukraine) – shall submit the following documents:

- a decision of the Commission on establishing the fact of deprivation of personal liberty as a result of armed aggression against Ukraine to establish the fact of deprivation of personal liberty as a result of armed aggression against Ukraine;
- in the case of an application of a family member of such a person – a decision of the Commission on establishing the fact of deprivation of personal liberty as a result of armed aggression against Ukraine to recognize a family member of the person in respect of whom the fact of deprivation of personal liberty as a result of armed aggression against Ukraine has been established;
- an extract from the Unified Register of Persons in Respect of Whom the Fact of Deprivation of Personal Liberty as a Result of Armed Aggression against Ukraine has been established.

Granting the free secondary legal aid to persons, mentioned in paras 3 – 8* of part 1 of Article 14 of this Law, is provided by free secondary legal aid centres on the basis of a notice of detention of a person received from a law enforcement authority, a decision of an investigator, prosecutor or a ruling of an investigating judge or court.

** For reference: the subjects of the right to the free secondary legal aid, according to paragraphs 3-8* of part 1 of Article 14 of the Law, are*

- *Persons to whom the administrative detention has been applied;*
- *Persons the administrative arrest has been applied;*
- *Persons who are considered to be detained in accordance with the provisions of the criminal procedure legislation;*
- *Persons in respect of whom a preventive measure in the form of detention has been imposed;*

- *persons in criminal proceedings in respect of whom, in accordance with the provisions of the Criminal Procedure Code of Ukraine, a defence counsel is engaged by the investigator, prosecutor, investigating judge or court to provide defence by appointment/conduct a separate procedural action*

In the case of an application of persons sentenced to imprisonment, detention in a disciplinary battalion of a military serviceman or restriction of liberty, a cover letter from the penitentiary institution shall be attached.

ATTENTION! Please, note that the mentioned list of documents is not exhaustive, therefore a person who wishes to receive the free secondary legal aid has a right to submit any other document confirming his/her belonging to one of the categories of persons, who have a right for the free secondary legal aid.