Session report

 Chapter on the situation of persons with disabilities in Ukraine and in countries where they have fled after 24 February 2022, as a result of the aggression against Ukraine by the Russian Federation-to be included in 27th Session Report

1. Since 24 February 2022, the Committee received information indicating alleged serious violations of the human rights of persons with disabilities in the context of the aggression against Ukraine, by the Russian Federation[[1]](#footnote-1).

2. According to Article 36 paragraph 1 of the Convention on the Rights of Persons with Disabilities, the Committee on the Rights of Persons with Disabilities may request from the States parties, at any time, further information relevant to the implementation of the Convention.

3. The Committee requested written inputs from concerned countries, including those that according to the United Nations High Commissioner for Refugees have received large numbers of Ukrainian asylum seekers. The Committee requested information from the following States parties: Belarus, Bulgaria, Czech Republic, Estonia, the European Union, Finland, Germany, Hungary, Italy, Latvia, Lithuania, Poland, Republic of Moldova, Romania, Russian Federation, Slovakia, Sweden, Türkiye and Ukraine. The following parties provided written submissions: Belarus, Bulgaria, Finland, Hungary, Italy, Latvia, Lithuania, Republic of Moldova and Ukraine.

4. The Committee held two closed meetings with Ukrainian Organizations of Persons with Disabilities, Civil Society Organizations and United Nations entities, on 15 and 16 August 2022. On 17 August 2022, the Committee held a public dialogue with the States parties that expressed interest to provide the most recent update on the situation of persons with disabilities affected by the armed conflict. These parties are: the European Union, Latvia, Lithuania, Republic of Moldova, Türkiye and Ukraine.

5. According to Article 11 of the Convention on the Rights of Persons with Disabilities: “States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.”

6. Persons with disabilities are “protected persons” under the Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, which has been ratified by all concerned States parties. The Fourth Geneva Convention sets out obligations for concerned States parties to ensure the protection and safety of persons with disabilities, based on the principle of non-adverse distinction, which prohibits discrimination in the treatment of civilians and persons *hors de combat*, on any grounds other than medical. Under Article 27, all parties to the conflict must treat protected persons humanely and shield them against all acts of violence or threats. Protected persons are entitled, in all circumstances and at all times, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. Under Articles 31-34, parties to the conflict must also refrain from subjecting protected persons to coercion, torture, collective punishment, and they may not take them hostage.

**Positive measures**

7. The Committee welcomes several measures taken by concerned States parties to protect the rights of persons with disabilities in the context of the armed conflict:

 (a) Ukraine reported having taken measures to include persons with disabilities, in particular children with disabilities residing in institutions, in evacuation plans; and measures to systematically register internally displaced persons with disabilities and ensure an adequate standard of living for them, including by safeguarding their access to social protection schemes, for the duration of the conflict;

 (b) The Directorate-General for European Civil Protection and Humanitarian Aid Operations, of the European Union, briefed the Committee on the measures taken to mainstream disability in humanitarian relief strategies and EU-funded programmes in Ukraine and in EU Member States; to facilitate the medical evacuation of critically ill or wounded Ukrainian citizens to EU Member States through the Civil Protection Mechanism, and to facilitate access to assistive devices and equipment to persons with disabilities;

 (c) The Directorate-General for Migration and Home Affairs, of the European Union, shared information on the measures taken to mainstream disability in the Common European Asylum System, particularly in the Temporary Protection Directive, the Asylum Procedure Directive, the Reception Conditions Directive and the Qualification Directive;

 (d) Other concerned States parties reported on the measures taken to ensure the protection and safety of Ukrainian persons with disabilities who have sought international protection on their territories, including measures to ensure housing and an adequate standard of living on an equal basis with the citizens of the host country[[2]](#footnote-2); measures to ensure accessible and culturally adequate health and rehabilitation services, including psychological services[[3]](#footnote-3); measures to ensure provision or maintenance and repair of assistive devices and equipment[[4]](#footnote-4); measures to ensure that persons with disabilities live independently and participate fully in all aspects of life in the host country, including education and employment[[5]](#footnote-5); measures to mitigate the risk of exploitation of displaced persons with disabilities, particularly of unaccompanied children with disabilities[[6]](#footnote-6).

**Non-cooperation with the Committee**

8. The Russian Federation did not provide information on the situation of persons with disabilities in the territories of Ukraine under its control, and contested the competence of the Committee to address this situation.

**Committee’s jurisprudence on article 11 of the Convention**

9. In keeping with the jurisprudence of the Committee, States parties are required, *inter alia*, to:

 (a) Adopt or reform national emergency response strategies, including evacuation plans, to make them inclusive of, and accessible to, all persons with disabilities in their design and implementation[[7]](#footnote-7);

 (b) Ensure that all emergency-related information is made available in formats accessible to persons with different types of impairments, including to deaf persons through sign language[[8]](#footnote-8) and to persons with psychosocial and/or intellectual disabilities through Easy Read and/or Plain Language;

 (c) Ensure that the principle of non-discrimination is respected “in all situations of risk and humanitarian emergency, particularly regarding equal access to basic necessities, such as water, sanitation, healthcare, food and shelter”[[9]](#footnote-9);

 (d) Ensure participation of organizations of persons with disabilities in emergency response strategies, with due consideration to their input and recommendations, including in setting priorities for evacuation and aid distribution[[10]](#footnote-10);

 (e) Mainstream disability in the migration and refugee policies and in all humanitarian aid channels and provide disability-awareness training for all civil defence staff, rescue and emergency personnel, and for all potential actors involved in humanitarian emergencies[[11]](#footnote-11);

 (f) Ensure and prioritize the safety of all children with disabilities in conflict-affected areas, in particular of those still living in residential care institutions[[12]](#footnote-12);

 (g) Systematically register internally displaced persons with disabilities[[13]](#footnote-13) and monitor their situation, with the purpose of ensuring an adequate standard of living[[14]](#footnote-14).

**Concerns and recommendations**

10. Following consultation with States parties and other stakeholders, including Organizations of Persons with Disabilities, Civil Society Organizations and United Nations entities, the Committee is listing concerns and issuing preliminary recommendations that relate to persons with disabilities:

 (a) living in the territory and under the jurisdiction of Ukraine;

 (b) living in the territory of Ukraine occupied by the Russian Federation;

 (c) forcibly transferred to the Russian Federation;

 (d) in countries where they have fled to seek international protection.

These recommendations are addressed to *all concerned parties*, namely, Ukraine; the Russian Federation, with regard to persons with disabilities living in Ukrainian territories under its occupation; and the above-mentioned States parties where persons with disabilities have fled seeking international protection. Some recommendations refer only to Ukraine or to the Russian Federation regarding persons with disabilities living in Ukrainian territories under its occupation.

11. The Committee is deeply concerned about the disproportionate risk of death or injury to which persons with disabilities are exposed, as a result of indiscriminate attacks against civilian population, due to non-inclusive and inaccessible emergency preparedness and response protocols.

**12. The Committee urges concerned States parties to reform emergency response plans and protocols, in consultation with organizations of persons with disabilities, to make them inclusive of, and accessible to, persons with disabilities in their design and implementation.**

13. The Committee notes with concern the lack of involvement and meaningful participation of persons with disabilities in emergency preparedness and response, including in setting priorities for evacuation strategies and aid distribution.

**14. The Committee recommends that all concerned States parties and humanitarian actors ensure active participation of and coordination and meaningful consultation with persons with disabilities and their representative organizations, including organizations of women and children with disabilities.**

15. The Committee is concerned about the lack of accessibility of information and alert mechanisms in evacuation procedures, particularly for:

 (a) persons with psychosocial and/or intellectual disabilities residing in institutions;

 (b) persons with hearing and visual impairments;

 (c) persons with limited mobility, including those who can only travel laying down;

 (d) men with disabilities and male caregivers for close relatives with disabilities who wish to leave Ukraine and seek international protection in another country.

**16. The Committee urges all concerned States parties to ensure that all emergency-related information is made available in formats accessible to all persons with disabilities regardless of type of impairment, in accordance with the Committee’s general comment No. 2 (2014).**

17. The Committee regrets that Ukraine has not sufficiently implemented the Committee’s previous recommendations[[15]](#footnote-15), and is deeply concerned about:

 (a) The widespread institutionalization of persons with disabilities, in particular those living with intellectual and/or psychosocial disabilities, in residential care institutions in Ukraine;

 (b) The State regulations that prevent children with disabilities being provided with alternative care within the community in a family setting when being evacuated from residential care institutions located in areas of armed hostilities, resulting in the re-institutionalization of children with disabilities in institutional settings in Ukraine and in refugee hosting countries;

 (c) The evacuation of the institutions located in conflict areas, which is not efficiently prioritized by both parties to the conflict.

**18. The Committee calls upon Ukraine, and the Russian Federation regarding Ukrainian territories under its occupation to:**

 **(a) Expedite deinstitutionalization of all persons with disabilities who remain in residential care institutions for persons with disabilities in the territory of Ukraine, and ensure independent monitoring of this process, with the close involvement of organizations of persons with disabilities;**

 **(b) With the aim to ensure the enjoyment by children with disabilities of their rights to family life, repeal State regulations that prevent children with disabilities from being provided with community-based support when evacuated from residential care institutions; provide them with alternative care within the community in a family setting; introduce support measures for women caregivers of children and family members with disabilities to decrease their unpaid care work and provide opportunities for their professional and personal self-realization; and invest in a wide range of services, including in-home services, personal assistance, early intervention and rehabilitation in Ukraine and in refugee hosting countries;**

 **(c) Ensure all persons with disabilities living in residential care institutions for persons with disabilities are accounted for, and prioritize their evacuation from institutions located in places of armed hostilities;**

 **(d) Open State dialogue with other governments for an integrated assistance for people with disabilities who can be relocated outside Ukraine. This dialogue should also address the risks of human trafficking and methods to combat it;**

 **(e) Recalling its obligations under international humanitarian law, refrain from taking up military positions in residential areas or near civilian objects, and from involving persons with disabilities in military operations.**

19. The Committee notes with concern that Ukraine has not prioritized the evacuation of persons with disabilities from areas of armed hostilities to safe areas in the country or abroad.

**20. The Committee recommends that the State party reform evacuation protocols, to ensure adequate support for persons with disabilities is available and accessible to all persons with disabilities, on an equal basis with others. Evacuation protocols should include prioritization of persons with disabilities during emergency evacuations; and safeguards regarding assistive devices and equipment, to ensure that persons with disabilities are able to take their assistive devices with them during evacuation or, if not possible, to have them replaced.**

21. The Committee notes with concern the persistent lack of community-based services and social housing for persons with disabilities living in Ukraine, particularly for persons with intellectual and/or psychosocial disabilities, and autistic persons, which has been exacerbated as a result of the aggression against Ukraine by the Russian Federation. This negatively impacts their right to live independently and be included in the community.

**22. The Committee urges concerned State parties to ensure that all persons with disabilities have access to protection and gender-responsive community-based support services, including in-home, residential, and other support services.**

23. The Committee is concerned about the lack of accessible community services, including programme assistance, adequate shelter, communication and means of transportation, which disproportionally affects internally displaced persons with disabilities, and further exposes them to poverty, social exclusion and institutionalization.

**24. Recalling the Guiding Principles on Internal Displacement[[16]](#footnote-16), the Committee calls on the concerned States parties to ensure that internally displaced persons with disabilities are provided with accessible community services, including accessible shelter.**

25. The Committee is gravely concerned about:

 (a) Reports of persons with disabilities living in residential care institutions for persons with disabilities in territories under the control of the Russian Federation being denied evacuation and access to basic services, which, according to initial reports, resulted in the death of at least 12 persons with disabilities[[17]](#footnote-17);

 (b) Reports of persons with disabilities being kept in inhumane conditions, by the Russian Federation, during armed hostilities[[18]](#footnote-18);

 (c) Reports of persons with disabilities being held *incommunicado* or forcibly transferred to the Russian Federation or to Ukrainian territories under the control of the Russian Federation.

**26. Reminding the State party of its obligations under international humanitarian law, the Committee urges the Russian Federation to:**

 **(a) Ensure that all persons with disabilities living in territories under its occupation have access to safe voluntary evacuation to the area of their choice; are protected from violence, abuse and ill-treatment; and have full access to basic services including water and sanitation, social support, education, healthcare, transport and information;**

 **(b) Provide representatives and staff of international human rights and humanitarian institutions, including United Nations specialized agencies, with timely, unrestricted and safe access to persons with disabilities who are held in the territory of the Russian Federation or areas occupied by the Russian Federation, and share with relevant stakeholders a comprehensive list of such transferred persons and their whereabouts.**

27. The Committee is concerned that the armed conflict has further exposed women and children with disabilities to neglect, domestic violence, conflict-related sexual violence, trafficking, and sexual exploitation, while also weakening law enforcement and fracturing support and safety mechanisms[[19]](#footnote-19). Furthermore, the Committee notes with concern that, although women and children with disabilities now have increased protection needs, they face additional challenges in accessing humanitarian support[[20]](#footnote-20).

**28. The Committee urges all concerned States parties to:**

 **(a) Develop comprehensive strategies to identify and mitigate risks of exploitation, violence and abuse against persons with disabilities, in particular against forcibly displaced women and children with disabilities;**

 **(b) Ensure adequate protection for women and children with disabilities and facilitate timely access to mainstream and specialized services, including age- and gender-appropriate medical, legal, psychological, social and educational services.**

29. The Committee notes with concern that, while the number of people affected by conflict-related trauma and injuries is increasing as a result of the armed hostilities, the health system in Ukraine is severely disrupted following continued attacks on hospitals and other medical facilities[[21]](#footnote-21), and there is limited or no access to health and rehabilitation services, including mental health and psychological support.

**30. Recalling the UN General Assembly resolution on basic principles for the protection of civilian populations in armed conflicts[[22]](#footnote-22), and States party’s obligations under international humanitarian law, the Committee urges the Russian Federation to immediately cease attacks against civilians and civilian infrastructure including hospitals, clinics, rehabilitation centres, maternities, ambulances and healthcare workers. Furthermore, the Committee recommends that all concerned States parties ensure that health and rehabilitation services are available in an accessible and culturally adequate fashion to forcibly displaced persons with disabilities; and that access to health and rehabilitation services is granted to them on an equal basis with the general population.**

31. The Committee notes with concern that, even though disaggregated data on persons with disabilities are essential in the design of inclusive policies on humanitarian response, neither States parties, nor humanitarian actors are systematically identifying and reporting against disability-specific indicators. The lack of data is particularly acute in territories of Ukraine that are under the occupation of the Russian Federation.

**32. The Committee recommends that all concerned States parties:**

 **(a) Ensure that all persons with disabilities are accounted for; collect and share sex-, age- and disability-disaggregated data; and prioritize transparency and the sharing of non-identifiable data collected with the relevant stakeholders;**

 **(b) Ensure that different sectors integrate sex-, age- and disability-disaggregated data in their interventions, as well as seek the input of all population groups affected by the conflict, including women and children with disabilities;**

 **(c) Require the use of gender and disability markers for the allocation
of funds for humanitarian interventions.**

33. The Committee is concerned about insufficient harmonization of international humanitarian aid programmes, including of the European Union, with the purpose and provisions of the Convention, and lack of involvement of Ukrainian organizations of persons with disabilities in the consultation, development and implementation of international cooperation programmes, including aimed at humanitarian aid. The Committee is further concerned about reports of residential care institutions that are struggling to cover costs of living and medical care for residents and are relying on donor support to ensure access to basic needs, including heating in the upcoming winter months.

**34. The Committee encourages all concerned States parties to ensure that international cooperation is inclusive of and accessible to all persons with disabilities and is, in all cases, respectful of the standards set out in the Convention. It also reminds all concerned parties of the obligation, when using international cooperation funds, including of the European Union, to ensure the participation of persons with disabilities and their representative organizations in decision-making processes. Finally, the Committee urges all concerned parties to ensure that international funds are not invested in rebuilding, expanding or renovating residential care institutions for persons with disabilities, and are instead directed towards the development of independent living provisions that are aimed at renovating and creating accessible community-support services and facilities, in-home services, personalised supports, including affordable housing in the community on equal bases with others.**

35. The Committee notes with concern the lack of accessible built environments in Ukraine, including emergency shelters, public services and public transportation, and in particular in rural areas and small towns, situation which has exacerbated after 24 February 2022.

**36. The Committee recommends that Ukraine ensure accessibility through universal design in all post-war reconstruction and rebuilding plans and strategies, particularly during planning and reconstruction of infrastructure and public facilities.**

37. The Committee remains seized of the matter.

38. The Committee reiterates its calls upon the Russian Federation, made in its statement of 14 April 2022[[23]](#footnote-23), to immediately end the hostilities and observe and respect the principles of international human rights and humanitarian law.

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1. General Assembly Resolution ES-11/1, of 2 March 2022 (A/RES/ES-11/1), Human Rights Council Resolution 49/1, of 4 March 2022 (A/HRC/RES/49/1). [↑](#footnote-ref-1)
2. Belarus, European Union, Finland, Latvia, Lithuania, Republic of Moldova, Türkiye. [↑](#footnote-ref-2)
3. Belarus, Bulgaria, European Union, Finland, Hungary, Latvia, Lithuania, Republic of Moldova, Türkiye. [↑](#footnote-ref-3)
4. European Union, Latvia, Lithuania, Republic of Moldova. [↑](#footnote-ref-4)
5. Bulgaria, European Union, Hungary, Latvia. [↑](#footnote-ref-5)
6. Latvia, Lithuania, Republic of Moldova. [↑](#footnote-ref-6)
7. A/72/55, para. 32. [↑](#footnote-ref-7)
8. A/76/55, para. 21. [↑](#footnote-ref-8)
9. A/74/55, para. 74. [↑](#footnote-ref-9)
10. A/70/55, para. 31. [↑](#footnote-ref-10)
11. A/76/55, para. 21. [↑](#footnote-ref-11)
12. CRPD/C/UKR/CO/1, para.14. [↑](#footnote-ref-12)
13. Ibid., para. 25. [↑](#footnote-ref-13)
14. CRPD/C/KEN/CO/1, para.22 (c). [↑](#footnote-ref-14)
15. CRPD/C/UKR/CO/1, paras.14, 37. [↑](#footnote-ref-15)
16. E/CN.4/1998/53/Add.2 [↑](#footnote-ref-16)
17. OHCHR, The situation of human rights in Ukraine in the context of the armed attack by the Russian Federation, 24 February to 15 May 2022, para. 69. [↑](#footnote-ref-17)
18. Ibid., para. 37. [↑](#footnote-ref-18)
19. UN Women Report “Rapid Gender Analysis of Ukraine” of 4 May 2022. [↑](#footnote-ref-19)
20. Ibid. [↑](#footnote-ref-20)
21. WHO, Emergency in Ukraine: external situation report #19, 11 August 2022 [↑](#footnote-ref-21)
22. UN General Assembly, Res. 2675 (XXV) [↑](#footnote-ref-22)
23. www.ohchr.org/en/statements/2022/04/ukraine-27-million-people-disabilities-risk-un-committee-warns [↑](#footnote-ref-23)