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14.02.2023 № 112/2023

*To UN Committee on the Rights of Persons with Disabilities*

**Russian Aggression in Ukraine and**

**Challenges for Persons with Disabilities:**

**Comments for** **Article 11 of the Convention**

Our Association of Reintegration of Crimea (ARC)[[1]](#footnote-1), is non-governmental expert and human rights organisation, with activities devoted to Crimea’s issues.

ARC’s expert researches are related with human rights of Crimean residents and ethnic groups, including social and economic rights. Since 2020 we sent more than 100 submissions and proposals to UN human rights’ strictures, major part of them were published in the UN web-sources, including the issues of older persons and persons with disabilities[[2]](#footnote-2)

Themajor challenges Ukrainain persons with disabilities face in endeavoring the system of services and supports for people with disabilities are connected with Russian aggression.

Since 24th of February 2022 Russia committed broad and open military aggression against Ukraine. Due last twelve monthes Russia occupied some territories of Donetzk, Kherson, Luhansk, Zaporizhzhya regions. Strong fights are going near cities with total population more than million persons near the frontline.

In last year Russia-controlled troops and mercenaries committed in Ukraine, during this operation, gross violation of international humanitarian law and international human rights’ law already, including broad crimes against persons with disabilities[[3]](#footnote-3).

Russia commenced an unprovoked invasion throughout Ukrainian territory, which is already causing catastrophic harms to Ukraine and its people, including gross violation the international humanitarian law and destruction the fundamental human rights[[4]](#footnote-4)[[5]](#footnote-5)[[6]](#footnote-6)[[7]](#footnote-7)[[8]](#footnote-8)[[9]](#footnote-9). Human Rights Watch has documented several cases of Russian military forces committing laws-of-war violations against civilians in occupied areas, including persons with disabilities[[10]](#footnote-10).

All war crimes, committed by Russian invaders during ongoing hostilities, are connected with absolutely clear Russia’s war targets in maximal destruction the civil infrastructure, including objects, essencial for persons with disabilities[[11]](#footnote-11).

As major of Kharkiv stated in 31st of March, 2022 Russian troops destroyed more than 1290 apartment buildings in this one-million city, most of them were multi-floor ones[[12]](#footnote-12). Up to this date 90% of apartment building in Mariupol, city with 400 thousands inhabitants, are destroyed[[13]](#footnote-13) Among 3300 multi-storey residential buildings in Mykolaiv 400 were destroyed partially and 60 - totally[[14]](#footnote-14); those data are proved by UNOSAT maps[[15]](#footnote-15).

So thousands of Ukrainians, including persons with disabilities lost their houses and save access to medical and social services due to Russian aggression and related hostilities.

*In March, 2022 Russian soldiers shot near Severodonetsk town of Luhansk Region a well-known volunteer with a disability (without arms and legs), businessman Alexander Kononov, who was once released from Russia-controlled places of non-freedom. According to his friends and journalists who spoke to Oleksandr on social media, the man was shot dead in his house in Luhansk region in a wheelchair[[16]](#footnote-16).*

*In March, 2022 Russian invaders shot to three rehabilitation centers for disabled persons, including one for children with disabilities[[17]](#footnote-17). In April, 2022 the Russian military forces’ tank came near the home for the elderly in Kreminna town of Luhansk Region and shot this nursing home, where 56 people were killed[[18]](#footnote-18).*

The World Health Organization said that since February 24 to May 6, 306 attacks had taken place on health facilities in Ukraine in contravention of international humanitarian law and human rights law[[19]](#footnote-19).

In April 2022, the UN Committee on the Rights of Persons with Disabilities warned that 2.7 million persons with disabilities in Ukraine were at risk of being abandoned in their homes or in residential care, with no access to life-sustaining medications, oxygen supplies, food, water, sanitation, support for daily living and other basic facilities. June 2022 estimates show that more than 143 000 persons have been displaced since the outbreak of the war, European Parliament stated.

In its resolution of 7 April 2022, European Parliament called for the promotion of mechanisms to relocate refugees from Ukraine among the European Union Member States, including fast coordinated transportation of refugees, in particular unaccompanied children and children with disabilities. European Parliament underlined the importance of offering specialised protection and care to persons with disabilities coming from Ukraine in a resolution of 19 May 2022, and a resolution of September 2022 it called on Member States to address the plight of vulnerable groups, including ... people with disabilities in EU public statements about forcible transfers, and to support activists and NGOs on the ground who are trying to take care of them and facilitate their safe return[[20]](#footnote-20).

**Russian attacks against Ukriainian non-combatants, including medic and social personnel and againt Ukrainian civil infrastructure have features of state terrorism and made strong negative influence on realisation the rigths of persons with disabilities.**

Persons with disabilities faced difficulties regarding evacuation, and many had been taken forcibly to the Russian Federation. The Government of Ukraine had established a programme supporting the evacuation of persons with disabilities living in institutions, but only 10 per cent of such persons had successfully evacuated abroad. Over 50 institutions were in occupied territories, which the Government of Ukraine could not reach to support. About 3,300 residents had so far been evacuated. As of June 2022, more than 3,000 persons with disabilities had been classified a internally displaced persons[[21]](#footnote-21).

Due to such gross violation the human rights Ukraine filed an application with the International Court of Justice (ICJ) on 25 February 2022[[22]](#footnote-22) and to the European Court of Human Rights[[23]](#footnote-23). Russian government refused to execute the demand of the ECtHR and the order of ICJ to immediately suspend the military operations that it commenced on 24 February 2022.[[24]](#footnote-24)

On March 16 2022, Russia was excluded from the Council of Europe and refused officially to execute the demands of European Convention on Human Rights[[25]](#footnote-25), which guarantee the right to receive and disseminate the information.

UN Human Rights Council (HRC) adopted its resolution 49/1 on 4 March 2022 where it expressed grave concern at the documented harm to the enjoyment of many human rights, resulting from the aggression against Ukraine by Russia[[26]](#footnote-26).

On 8 March 2022 UN human rights experts called on Russia to immediately end its invasion of Ukraine to avoid further bloodshed; experts recalled that intentional attacks against civilian objects amount to war crimes[[27]](#footnote-27).

In other UN experts’ statements the negative impact of Russia’s aggression on persons with disabilities and older persons was condemned[[28]](#footnote-28), and relevant risks for women’s right to life were pointed[[29]](#footnote-29).

In such statements UN experts pointed their concern by the appalling humanitarian situation of older people and people with disabilities. They are often among the last to flee conflict zones and face many challenges during displacement, living in poorly equipped temporary shelters and struggling with chronic health conditions without access to proper health care and rehabilitation centres. UN experts especially concerned about those persons with disabilities, including children, living in institutions for persons with disabilities who face barriers to access humanitarian assistance and evacuation on an equal basis with others[[30]](#footnote-30).

UN Special Rapporteur on the right to adequate housing, Dr. Balakrishnan Rajagopal, expressed on 9th of March the grave concerns about the serious violations of the right to adequate housing in Ukraine after Russian forces invaded the country, that also has direct influence to the rights of the persons with disabilities.

UN official stated that indiscriminate use of weapons such as cluster munitions, multiple launch rocket systems, tactical missile systems and artillery systems have been reported in multiple areas of Ukraine including in and around the cities of Chernihiv, Kyiv, Kherson, Mariupol, Okhtyrka, Zhytomyr and several others. Many homes, civilian infrastructure including fuel depots, water and power stations are under attack or threat of attack. UN Rapporteur pointed regarding Russia’s invasion that “directly or indirectly, the aggression will have a massive toll on the access to and habitability of housing in Ukraine”[[31]](#footnote-31).

The European Disability Forum called in open letter for all parties to ensure the protection and safety of persons with disabilities in Ukraine[[32]](#footnote-32).

UN General Assembly in its resolution ES-11/1 on 2 March 2022 recognized that the military operations of Russia inside the sovereign territory of Ukraine are on a scale that the international community has not seen in Europe in decades and that urgent action is needed to save this generation from the scourge of war.

In article 9 of this resolution UN General Assembly demanded that all parties to allow safe and unfettered passage to destinations outside of Ukraine and to facilitate the rapid, safe and unhindered access to humanitarian assistance for those in need in Ukraine, to protect civilians, including persons in vulnerable situations, including persons with disabilities and to respect human rights[[33]](#footnote-33).

UN General Assembly in its resolution ES-11/2 on 24 March 2022, articles 5 and 8, demanded again full respect for and protection of objects indispensable to the survival of the civilian population and civilian infrastructure that is critical to the delivery of essential services in armed conflict; stressed that the sieges of cities in Ukraine further aggravate the humanitarian situation for the civilian population and hamper evacuation efforts, and therefore demands to put an end to these sieges[[34]](#footnote-34).

On 7 April 2022 the UN General Assembly adopted a resolution ES-11/3[[35]](#footnote-35) calling for Russia to be suspended from the Human Rights Council[[36]](#footnote-36).

There are no peacekeeping missions in Ukraine; as such initiatives were blocked by the Russian government. Activities of UN Monitoring Mission in Ukraine are extremely low now and OSCE Special Monitoring Mission in Ukraine de-facto stopped its activities since 7th of March;[[37]](#footnote-37) later Russia blocked the prolongation such Mission’s activities.

The UN Human Rights Council adopted on 12th of May a resolution on the deteriorating human rights situation in Ukraine stemming from the Russian aggression, in which the Council reiterated its demand for an immediate cessation of military hostilities against Ukraine and requested the Independent International Commission of Inquiry to conduct an inquiry, consistent with its mandate and international standards, and in coordination with other national and international mechanisms.

UN Human Rights Council pointed that Russia should immediately cease its aggression, withdraw all its forces from the whole territory of Ukraine, and provide international human rights and humanitarian institutions with unhindered, immediate and safe access to persons transferred from conflict-affected areas of Ukraine[[38]](#footnote-38).

At the same time Article 11 of the United Nations Convention on the Rights of Persons with Disabilities ratified by both Russia and Ukraine, and the United Nations Security Council Resolution 2475, which creates clear non-derogable obligations to ensure equal protection and safety for all persons with disabilities as well as timely and unimpeded access to humanitarian assistance.

Article 11 points that 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[[39]](#footnote-39).

United Nations Security Council Resolution 2475 Urges all parties to armed conflict to take measures, in accordance with applicable international law obligations to protect civilians, including those with disabilities, and to prevent violence and abuses against civilians in situations of armed conflict, including those involving killing and maiming, abduction and torture; as well as rape and other forms of sexual violence in conflict and post-conflict situations.

Resolution 2475 Emphasizes the need for States to end impunity for criminal acts against civilians, including those with disabilities, and to ensure that such persons have access to justice and effective remedies and, as appropriate, reparation; it calls upon all parties to armed conflict to allow and facilitate safe, timely and unimpeded humanitarian access to all people in need of assistance;

Resolution 2475 also underlines the benefit of providing sustainable, timely, appropriate, inclusive and accessible assistance to civilians with disabilities affected by armed conflict, including reintegration, rehabilitation and psychosocial support, to ensure that their specific needs are effectively addressed, in particular those of women and children with disabilities.

Also Resolution 2475 urges Member States to enable the meaningful participation and representation of persons with disabilities, including their representative organizations, in humanitarian action, conflict prevention, resolution, reconciliation, reconstruction and peacebuilding, and to consult with those with expertise working on disability mainstreaming;

Also Resolution 2475 requests the Secretary-General to include, where pertinent, information and related recommendations on issues of relevance to persons with disabilities, in the context of armed conflict, in thematic and geographic reports and regular briefings to the Council, as well as to include, where pertinent, data disaggregated by disability within existing mandates and within existing resources.

Resolution 2475 also recognizes the importance of interactions between civil society and the UN Security Council and, in this regard, expresses its intention to invite persons with disabilities, including their representative organizations, to brief the Council in relevant thematic and geographic areas and consider including interactive meetings with local persons with disabilities, and their representative organizations, in the field during Council missions[[40]](#footnote-40).

Also, the politicization and obviousness of these Russian aggressor’s crimes against persons with disabilities. accompanied by statements and demands from both the leaders of the occupying “authorities” in the Crimea, and the Russian leadership as a whole, has all the signs of state terrorism, which was adopted by the Parliamentary Assembly of the Council of Europe on 13th of October 2022 that declared the current Russian regime as a terrorist one[[41]](#footnote-41).

Before, on 10th May, 2022, Lithuanian Seimas unanimously adopted a resolution declaring Russia to be a terrorist state that is carrying out genocide against the Ukrainian people[[42]](#footnote-42).

Also on 11th August 11, the Latvian Saeima declared Russia a state sponsor of terrorism, citing attacks on civilians. Declaration pointed that Russia has been providing support and financing for terrorist regimes and organizations for many years, directly and indirectly[[43]](#footnote-43).

Later Riigikogu, Estonia’s parliament declared on 18th of October 2022 Russia a terrorist regime over its unprovoked invasion of Ukraine and moves it has made since, including the illegal annexation of parts of Ukraine and thinly veiled threats by President Putin concerning the possible use of nuclear weapons[[44]](#footnote-44).

On 26th of October 2022 Poland’s upper house of parliament, the Senate, has unanimously adopted a resolution recognising Russia as a terrorist regime for its aggression against Ukraine and the Ukrainian people[[45]](#footnote-45). Lated the similar statements were made by parliaments of Czech Republic and of Slovakia[[46]](#footnote-46).

On January, 26 Parliamentary Assembly of Council of Europe (PACE) adopted the resolution “Legal and human rights aspects of the Russian Federation’s aggression against Ukraine” 2482 (2023)[[47]](#footnote-47) that will have fundamental significance. PACE recalled in resolution that the ongoing aggression is a continuation of the aggression started on 20 February 2014, which included the invasion, occupation and attempted annexation of Crimea by Russia.

On January 6 the Statement, calling for the creation of a special tribunal for the punishment of the crime of aggression against Ukraine, was published by the former British prime minister Gordon Brown and later was broadcasted by key media[[48]](#footnote-48).

Statement was prepared with participating of Philippe Sands, a law professor who was the first to raise the idea of a special tribunal. Others who signed the statement include the human rights barristers Cherie Blair and Helena Kennedy, and such figures including the Labour leader Keir Starmer, the former NATO Secretary General George Robertson, the former foreign secretary David Owen, and former Tory leader Iain Duncan Smith.

Statement points that it has been 10 months since Russia, backed by Belarus, launched one of the largest ground invasions in Europe since the Second World War. And, statement adds, the acts of aggression can be traced back not only to the February invasion but to the decision of Russia’s military and political leadership to attack and occupy Crimea, the City of Sevastopol, and the Donbas from 2014 onwards.

Since Russia has not ratified Roma statute and would exercise its illegal “veto” in the UN Security Council against a referral, the International Criminal Court cannot, as things presently stand, investigate exactly crimes of aggression against Ukraine, investigating Russia’s war crimes and genocide issues, adds Statement.

So, the authors point, the Special Tribunal should be constituted to investigate the acts of aggression by Russia, aided by Belarus, in Ukraine. As well as investigating and indicting President Putin, the tribunal could also hold to account the members of Russia, and possibly Belarus’, national security council, as well as the Russian political and military leaders of this manifestly illegal war, adds the Statement.

Statement reminds the support of this concept by international lawyers, European Commission’s President Ursula von der Leyen, the French foreign ministry and the Dutch Foreign Minister Wopke Hoekstra and called for the UK government to support a Special Tribunal for the Crime of Aggression being committed in Ukraine.

ARC’s experts discussed with mentioned professor Philippe Sands those issues in Lviv forum on October, 2022 and all relevant our Association researches of 2020-2022 were granted for Dr. Sands in framework of next co-operation, regarding the vital importance of this issue[[49]](#footnote-49).

Later, on January 8, the special statement was published by UK Ministry of Justice that announced meeting at Lancaster House. On this meeting Justice Ministers from around the world will convene in London in March to support the International Criminal Court (ICC) investigating Russia’s war crimes in Ukraine.

The group will hear from Prosecutor of the ICC, Karim Khan KC, on the Court’s work and the role of the international community in supporting its investigations. The meeting, UK Ministry stresses, comes as *Russia steps up its campaign of* ***terror*** *against Ukraine*, striking at crucial energy infrastructure and plunging people into the dark and freezing cold of winter. In de-occupied areas of Ukraine, prosecutors continue to gather evidence of Russian invaders’ atrocities and sexual violence, adds the UK Ministry.

Also new statement points that almost a year on from the illegal invasion, the international community must give its strongest backing to the ICC so war criminals to be held to account for the atrocities we’re witnessing. Ministers will also discuss how to help victims and witnesses provide testimonies without causing them further distress, the UK officials stress, reminding that it follows action taken by the UK to galvanise allies to refer aggressor’s atrocities in Ukraine to the ICC.

As Association’s experts commented regarding this issue, including role of such procedures for punishment the international crimes, committed in Russia-occupied Crimea, including terrorism, it is obvious that the discussion about special tribunals will at least give rise to healthy competition of the international bureaucracy, this is important in terms of the terms of approval of relevant decisions by ICC and *other bodies such as European Court on Human Rights[[50]](#footnote-50).*

It must be mentioned that European Court on Human Rights (ECtHR) published on 25th of January decision regarding Russian occupation of districts of Eastern Ukraine since 2014 in pending case №№ 8019/16, 43804/14 та 28525/20. In this decision the “Crimean trace” was reflects exactly regarding the above-pointed Russia’s terroristic activities, including points 589-591 of this act[[51]](#footnote-51)[[52]](#footnote-52). ECtHR noted on the similarities in time, space and method of Russia-controlled terrorists between the events in Crimea in late February and early March 2014 – which the Court has found already within the jurisdiction of Russia in case №№ 20958/14 and 38334/18, by decision published in December, 2020.

Those arguments regarding Russia-controlled terroristic activities, among many others, were used by ECtHR to prove the fact of occupation by Russia the non-controlled by Ukrainian government areas on East of Ukraine since May, 2014. ECtHR stressed in its pointed decision on essential significance of proofs and evidences, given to court by the civil society structures.

All Ukraine’s attempts for the peace-building, including peace talks and negotiations with Russian government were unsuccessful and Russia rejects all peace propositions and it refuses to execute the demands of ICJ and ECtHR orders to stop the aggression and hostilities that are directly pointed against rigth to adequate housing.

**So, the above-pointed issues of negative impact of Russian aggression against Ukraine allow us to suggest such proposals for the general comment on persons with disabilities in situations of risk and humanitarian emergencies.**

1. Role of International Criminal Court and special tribunals in cases of war crimes against persons with disabilities and of ECtHR in cases of gross violations of rights of persons with disabilities in conflict zones and zones of foreign effective control must be reflected in the comment.

2. Issues of illegal activities of mercenaries, paramilitary structures, militaristic and racist propaganda against persons with disabilities in conflict zones and zones of foreign effective control must be reflected in the comment.

3. Aspects of state terrorism and financing of terrorist groups and activities that are against persons with disabilities in conflict zones and zones of foreign effective control must be reflected in the comment.

4. Issues of racial discrimination and genocidal policy against persons with disabilities, especially belonging to minorities and indigenous peoples, in conflict zones and zones of foreign effective control must be reflected in the comment.

Our Association believes that next urgent, immediate steps of the UN Committee on protection the right for persons with disabilities in Ukraine, in condition of ongoing interstate conflict and hostilities, must be done, including all observation procedures.

We hope that above-pointed special statements of the UN bodies regarding situation in Ukraine must be supported by next UN Committee UN HRC’s and UN High Commissioner for Human Rights’ official positions. Our Association believes that urgent, immediate steps of the UN OHCHR bodies must be done; monitoring procedure, mentioned in UN HRC resolution 49/1, must be enforced immediately.

14th of February, 2023 Representative of the ARC

Dr. Borys Babin

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