

Corporate Respect for Human Rights of People with Disabilities in the Recovery Plan for Ukraine

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Armed conflicts exacerbate the existing barriers faced by persons with disabilities and expose them to greater harm. International humanitarian law (IHL), the Convention on the Rights of Persons with Disabilities (CRPD), alongside other human rights as well as international criminal law instruments have set out, to varying degrees of specific focus, to protect and include persons with disabilities in such situations.

Specific barriers and heightened risks that persons with disabilities face in such situations include the following: evacuation procedures and shelters are often not accessible; the quickly changing environment and information about it can be confusing; essential equipment (including assistive devices such as crutches, audio-visual aids and wheelchairs) is often lost and damaged; support networks (including family) are disrupted; essential basic services such as food, sanitation and healthcare are also often inaccessible. As a result,

persons with disabilities are more exposed to danger, including physical and psychological trauma, and are at greater risk of death.

Companies operating in Ukraine face huge challenges since the Russian invasion on 24 February 2022. They make decisions in situations of a lack of financial and human resources, changes in the internal and external markets, and destroyed critical infrastructure, including a lack of access to electricity for companies themselves and for employees and their families. Many companies need to organize a working process in situations when their employees are relocated within Ukraine (as internally displaced persons) or abroad (in many cases, as persons with temporary protection).

Most companies in Ukraine were not prepared for a large-scale Russian invasion. Despite signals of the potential invasion, few assumed that events would escalate so rapidly. Since October 2022, Russia has repeatedly attacked Ukraine's energy system, regularly leaving millions of civilians without electricity, communication access (e.g. to mobile phones or internet), or heating for days. It significantly impacts people's lives and businesses operating in the country.^[1]

There is a lack of application of international standards for accessibility throughout Ukraine. As a result, access to buildings, transport and public institutions and services is insufficient. People with disabilities and public and private employers are not fully aware of the rights of people with disabilities in relation to opportunities for employment in the open labour market.

Even among those companies that organized the evacuation of employees or took measures to ensure their safety, it is difficult to find examples of actions that demonstrate that the company addressed their employees' specific requirements in relation to disability and the increased risk that they face. In some cases, this made it impossible to evacuate the entire family. In other cases, companies did not take into account the fact that employees with family responsibilities cannot work full-time immediately after relocation due to the time and effort necessary to settle in a new place, especially when there are young children in a family.

The war in Ukraine creates a high-risk context for serious human rights abuses which requires heightened, conflict-sensitive human rights due diligence (HRDD) by business.^[2] Companies' ongoing HRDD must incorporate conflict analysis, including identifying root causes and triggers of the conflict; mapping the main actors in the conflict; and assessing impacts of companies' operations, products and services on the conflict, as well as impacts on workers operating in a conflict area.^[3] Heightened human rights due diligence (hHRDD) is an important tool to prevent recurrence of gross human rights abuses in post-conflict settings, which may involve the recurrence of violent conflict, concerns over human rights violations or widespread political and social instability.

HRDD should incorporate a vulnerability lens to address the differentiated impacts of conflict on certain groups (including persons with disabilities) and ensure meaningful, safe stakeholder engagement undertaken in a sensitive way to avoid exacerbating conflict dynamics. Companies should also develop and update a contingency plan including a context-dependent and industry-specific responsible exit strategy.^[4]

We call companies operating in Ukraine to apply an inclusion lens:

On regular basis, conduct meaningful consultations with people with disabilities in the workforce who can be impacted by the company's operations, with support from their representative organisations.

Pay particular attention to people who may be at risk of multiple discrimination (considering gender, displacement, cultural background, age, disability, and other factors) in their workforces, customers, and local communities, introducing measures to ensure inclusion and safety across vulnerable groups

Educate employees on how to interact with diverse groups in a rights-based manner and to prevent discrimination

Cooperate with State to build capacity to apply vulnerability lenses; for example, buildings, transport were already inaccessible to people with disabilities in peacetime, despite the existence of legal requirements to ensure such accessibility. In many cases, this made it impossible to evacuate people with disabilities when war started. In addition, the lack of gender and work-life balance sensitivity made business decisions during wartime more burdensome for women and people with family responsibilities.

Be equipped with the knowledge and practical skills of applying a test on discrimination, where different treatment can be justified if it is a "proportionate means of achieving a legitimate aim," such as the health and safety of individuals.

Provide reasonable accommodation for persons with disabilities, particularly in designing safety and business continuity plans during the conflict.

Provide all information in accessible formats.

We call international companies whose supply chains operate in Ukraine and investors:

Hold dialogues with local partners involving all relevant stakeholders, including representative organisations of persons with disabilities, to help business enterprises and investors to understand the actual status and causes of adverse impacts and facilitate ways to build a trustworthy relationship with stakeholders. Considering this, it is crucial to hold dialogues throughout all efforts to respect human rights, including human rights due diligence.

Not to delegate all efforts to respect human rights to their business partners in a direct contractual relationship, but to engage in activities to respect human rights

together, applying special attention to barriers that people with disabilities face in implementing their human rights in times of the war.

Ensure that access to remedy is guaranteed in all supply chains and its fully accessible for people with disabilities. Provide all information in accessible formats

We call all governmental agencies:

Ensure meaningful participation of representative organisations of persons with disabilities in all decision-making processes at all steps of the recovery program cycle, including reconstruction and resilience building, moreover, not only by considering the expertise provided by these organisations, but also by supporting them with the necessary resources and building the capacity of these organisations. Engage with the diversity of wider civil society, including non-governmental organisations (NGOs), in the dialogue between the state and business sector about recovery agenda in Ukraine.

Provide all information in accessible formats

Avoid funding the building or refurbishment of institutions during reconstruction, and use best practice examples of community living – including engagement with a wide range of organisations – to contribute to the process of deinstitutionalisation of children and adults with disabilities in Ukraine.

Support companies which demonstrate corporate responsibility to respect human rights (based on UN Guiding Principles on Business and Human Rights, OECD responsible business conduct standards and other relevant frameworks).

^[1] Ukraine: Russian Attacks on Energy Grid Threaten Civilians, 6 December 2022, <https://www.hrw.org/news/2022/12/06/ukraine-russian-attacks-energy-grid-threaten-civilians>.

^[2] Principle 7 of the UNGP provides that ‘the risk of gross human rights abuses is heightened in conflict-affected areas.’ For companies, this means they bear a responsibility not just to assess their impact on human rights, but also to identify their impact within a conflict to be sure that their actions do not contribute to the conflict, do not participate in it and do not profit from it. ‘This bleak picture means that, more than ever, the most egregious human rights abuses take place in conflict-affected areas and other situations of widespread violence and, conversely, that human rights abuses spark or intensify conflict.’ [Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises – Business, human rights and conflict-affected regions: Towards heightened action \(A/75/212\)](#) – in Ukrainian.

^[3] [Business, human rights and conflict-affected regions: towards heightened action](#), UN Doc A/75/212, no. 46-49, p. 10f (2021).

^[4] United Nations Development Programme (2022). Heightened Human Rights Due Diligence for business in conflict-affected contexts; A Guide. New York.