

The impact of the war in Ukraine on the rights of persons with disabilities

Monitoring report

Kyiv — 2023



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The report assesses how the full-scale war since February 2022 has impacted the rights of persons with disabilities in Ukraine according to the standards outlined in the UN Convention on the Rights of Persons with Disabilities. The summary is based on open sources, including official sources, and the reports of international and Ukrainian NGOs. Recommendations for improving the situation are included. The report will be useful for generalizing the scope of the issues and advocating for the rights of persons with disabilities in Ukraine.

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Introduction

According to the World Health Organization (WHO) and the World Bank, an average of 15% of the world population have a disability¹. As of January 1, 2021, there were 2,703,000 people with disabilities in Ukraine. Among them, 222,300 people had the first group of disability, 900,800 the second group and 1,416,000 people had the third group of disability². According to the State Statistics Service of Ukraine, 163,900 people with disabilities were minors³.

Since February 24, 2022, the unprecedented humanitarian crisis across the country has been triggered by Russia`s full-scale attack on Ukraine. Thus, according to the UN Refugee Agency (UNHCR), there are nearly 5.1 million internally displaced people in Ukraine (as of May 2023) and more than 6.2 million refugees from Ukraine have been recorded globally (as of July 2023)⁴. According to the International Organization for Migration (IOM), as of September 2022, some 23% of them were persons with disabilities (23% is counted out of 38% of those 6,200,000 people who disclosed their disability status)⁵.

Prior to the full-scale invasion, discrimination, exclusion, isolation, and violence were the significant issues violating the rights of persons with disabilities. With the onset of the invasion, inaccessible temporary shelters, lack of access to food, inaccessible information, poor logistics, and evacuation issues of minors with disabilities subjoined this list. Ukrainian asylum seekers with disabilities are also at risk of being segregated in residential institutions.

¹ World Report on Disability, Geneva, WHO, 2011

<https://www.who.int/teams/noncommunicable-diseases/sensory-functions-disability-and-rehabilitation/world-report-on-disability>

² Radio Liberty. State statistics on people with disabilities in Ukraine

<https://www.radiosvoboda.org/a/news-ukraine-invalidnist-statystyka/31324501.html>

³ *ibid.*

⁴ Ukraine Refugee Crisis: Aid, Statistics and News | USA for UNHCR,

<https://www.unrefugees.org/emergencies/ukraine/#:~:text=Emergencies&text=There%20are%20nearly%205.1%20million>

⁵ Ukraine Internal Displacement Report GENERAL POPULATION SURVEY, ROUND 9, September 26, 2022

https://displacement.iom.int/sites/g/files/tmzbd1461/files/reports/IOM_Gen%20Pop%20Report_R9_IDP_FINAL.pdf.

During armed conflicts, there is an increase in the number of persons with disabilities among direct combatants and the civilian population suffering from shelling, bombing, and injuries caused by hostilities. In addition to physical injury, there is an increased incidence of psychological distress, anxiety, depression, and post-traumatic stress.

Thus, since the beginning of the full-scale invasion, there's been a deep humanitarian crisis for Ukrainians with disabilities. However, in accordance with humanitarian law standards (Article 11 of the UN Convention on the Rights of Persons with Disabilities⁶), they should have equal access to protection and support in wartime⁷, situations of risk, and humanitarian emergencies. However, both Ukraine and the international community were unprepared for this, and the crucial lessons from the previous years and the eruption of war in 2014 have not been assimilated and put into practice through tangible strategies and actions.

The situation is complicated due to the common expectations of rapid recovery and reforms and the Ukrainian authorities' attempts to implement them. This leads to a risk of excluding the rights and interests of people with disabilities from the agenda and refusing to implement inclusive long-term strategies. However, it also provides great opportunities for real change due to the engagement of society and the authorities in the process of accession to the European Union, and the attention of the international community on this process. To plan such actions, a systematic assessment and an understanding of the overall situation are required. However, there is a lack of a holistic analysis in the field of persons with disabilities' rights in Ukraine, including the lack of state data on the number of such people. The research is mostly performed by the NGOs, where it covers specific areas as a response to challenges or to introduce projects based on needs assessment.

This report aims to fill this gap and presents a comprehensive analysis of the situation of people with disabilities in Ukraine. It is intended to serve as a basis for further advocacy for the observance of the rights of persons with disabilities in Ukraine and the development of strategies to improve the situation.

⁶ Convention on the Rights of Persons with Disabilities
https://zakon.rada.gov.ua/laws/show/995_g71#Text

⁷ Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War
https://zakon.rada.gov.ua/laws/show/995_154#Text

Summary

This document is a brief overview of the situation with the rights of people with disabilities in Ukraine one year after the beginning of the full-scale invasion of Ukraine by the Russian Federation. The research and surveys of the EDF⁸ partners - the National Assembly of People with Disabilities⁹, the League of the Strong¹⁰, and the Kharkiv Institute of Social Research¹¹, as well as other international and national level organizations and information from the state structures of Ukraine - were used in this study. The document was prepared as part of the EDF project "OPD led disability inclusive response and recovery", supported by CBM International.

People with disabilities are particularly at risk in times of war. They may have difficulty accessing resources and services such as shelter, food, and health care. There is also a higher risk of discrimination and stigmatization, threats to life and physical and mental health, as well as ill-treatment. In this regard, it is essential to ensure the protection and respect of the rights of people with disabilities to guarantee respect for their human dignity, even under martial law.

As of January 1, 2021, there were 2.7 million people with disabilities in Ukraine, including 222,300 people with the I group of disability, 900,800 with the II group, and 1.4 million with the III group¹². According to the State Statistics Service, there were 163,900 children among persons with disabilities¹³.

Beginning on February 24, 2022, Russia's full-scale invasion of Ukraine triggered an unprecedented humanitarian crisis across the country. Thus according to the UN Refugee Agency (UNHCR), there are nearly 5.1 million internally displaced people in Ukraine (as of May 2023) and more than 6.2

⁸ <https://www.edf-feph.org/>

⁹ <https://naiu.org.ua/>

¹⁰ <https://ls.org.ua/>

¹¹ <https://khisr.kharkov.ua/en/home/>

¹² Radio Svoboda. The State Statistics Service informed about number of people with disabilities in Ukraine <https://www.radiosvoboda.org/a/news-ukraina-invalidnist-statystyka/31324501.html>

¹³ Ibid.

million refugees from Ukraine have been recorded globally (as of July 2023)¹⁴, and according to the International Organization for Migration (IOM), as of September 2022, some approximately 23% of whom are persons with disabilities (23% is calculated from 38% of the 6.2 million who agreed to mention disability)¹⁵.

Also, as a result of the Russian full-scale invasion of Ukraine, the number of people with disabilities is increasing rapidly – both among the combatants and civilians who suffer from shelling, bombing, and other injuries caused by military actions. From the short-term perspective, the number of people with disabilities who will need inpatient care will also increase.

Adherence to **accessibility standards** is the key point to survive in wartime, both regarding resources and services and in obtaining information about risks and threats, as well as ways to overcome them. Today, an **accessibility strategy is not presented in Ukraine**. Instead, there is a National Strategy for Barrier-Free Space, and the term "accessibility" appears only in the communication plan for implementing the strategy above. **Replacing the term "accessibility" with "barrier-free"** risks blurring concepts and drifting away from actual standards that will realize the rights of people with disabilities.

The problem of the availability of shelters and modular housing is one of the most severe¹⁶. The minimum requirements for their accessibility, inclusiveness, and barrier-freeness, and accordingly – non-discrimination for persons with disabilities – are not being considered. Mostly, shelters are the simplest settings (basements of multi-story buildings, private houses and industrial venues, basement floors) and do not fully meet the needs of protection of

¹⁴ Ukraine Refugee Crisis: Aid, Statistics and News | USA for UNHCR, <https://www.unrefugees.org/emergencies/ukraine/#:~:text=Emergencies&text=There%20are%20nearly%205.1%20million>

¹⁵ Ukraine Internal Displacement Report GENERAL POPULATION SURVEY, ROUND 9, September 26, 2022 https://displacement.iom.int/sites/g/files/tmzbd11461/files/reports/IOM_Gen%20Pop%20Report_R9_IDP_FINAL.pdf

¹⁶ As of October 24, 2022, about 16 temporary modular towns have already been built on the territory of Ukraine. Another 8 are under construction, and approximately 30 more are planned to be built. The total estimated capacity of the already built temporary housing is approximately 12,500 people. That is, the total number of people who will have the opportunity to live in modular houses can be more than 30,000 people according to the most modest calculations.

civilians, especially people with disabilities, from the dangers of a full-scale war. **Besides, there is a common problem of inaccessibility of modular housing for persons with disabilities** belonging to low-mobility groups. It is caused by the **regulation gap** – the lack of legally defined requirements for the arrangement of modular housing (temporary structures) following the minimum principles of inclusiveness of such structures and the lack of control by the state for such buildings.

The most common barriers to **access to information** for people with disabilities are the following: inaccessible official websites, lack of use of Braille, sign language, and subtitles, and lack of socially important information in easy language. These problems became especially evident during the full-scale invasion, when, for example, people with hearing impairments could not hear the air alarm.

On February 24, 2022, martial law was introduced in Ukraine. Since then, the situation in the country has belonged to the category of **risk situations and emergency humanitarian situations** and requires the evacuation of civilians. At the start of the full-scale Russian invasion, the legislation of Ukraine did not contain clear and comprehensive regulations on evacuation and rescue, particularly regarding the evacuation of people with disabilities. Moreover, despite having been alerted to numerous examples and problems in Ukraine since 2014 and numerous appeals to develop an evacuation system, the government has done nothing to prepare for war or relocate **psychiatric residential care facilities and geriatric boarding houses for elderly people and persons with disabilities**. As a result, dozens of institutions housing these people have ended up in occupied territories.

According to operational information provided by the National Social Service, as of November 4, 2022, 23 residential care facilities were temporarily relocated (evacuated). Among them are: 19 psychiatric residential care facilities hosting 3,528 people, including those three evacuated abroad (331 people); 7 boarding houses for the elderly and people with disabilities, 867 people; and nine inpatient care departments, 260 people. As of November 9, 2022, there were 23 boarding facilities left in the non-controlled territory of Ukraine, including 12 psychiatric residential care facilities: 11 boarding houses for older adults and persons with disabilities and 23 inpatient care departments. There is no information on the number of people living in the residential care facilities that remained in the non-controlled territory of Ukraine as of November 1, 2022.

As of the beginning of October 2022, according to information provided by the Ministry of Social Policy of Ukraine, more than 5,000 clients of the social protection system facilities were evacuated within the regions, to other regions, and abroad. Among the **problems which the evacuated institutions have faced**, are the following: the lack of clear evacuation plans and instructions, the lack of appropriate resources, the lack of legislative regulation on the evacuation of clients abroad, the lack of physical space in the institutions that hosted the evacuees, decreasing of the care quality and service provision as a result of the fact that the staff was not displaced together with the clients.

As of February 8, **3,126 educational institutions were damaged** due to bombing and shelling. 337 of them were completely destroyed¹⁷. About **1,500 objects of cultural heritage and cultural infrastructure were damaged**^{18[5]} as a result of the Russian invasion. As of January 25, **171 objects of medical infrastructure were destroyed** and **1,035 were damaged** as a result of Russian attacks^{19[6]}. According to information provided by the National Social Service, as of November 1, 2022, 16 psychiatric residential care facilities, 3 boarding houses and nursing homes for people with disabilities and older adults, and 6 residential care facilities were destroyed or damaged.

As a result of indiscriminate shelling and deliberate damage to humanitarian objects by the aggressor, the **humanitarian needs of the population of Ukraine** have increased dramatically. In some cities, the humanitarian crisis has reached a catastrophic scale. The supply of essential goods and services has been suspended in a large part of the country. The **need for targeted humanitarian aid for people with disabilities** has been recorded. It is also associated with increased prices for medical drugs and essential goods. At the same time, people with disabilities do not only need individual humanitarian services or support but the incorporation of their basic needs in general plans and consideration of the principles of inclusiveness at the stages of planning and distribution of humanitarian aid.

¹⁷ <https://www.gp.gov.ua/ua/posts/yuvenalni-prokurori-450-ditei-zaginuulo-vnaslidok-zbroinoyi-agresiyi-rf-v-ukrayini-17886>

¹⁸ <https://www.ukrinform.ua/rubric-culture/3667256-cerez-vijnu-v-ukraini-poskodzeni-ci-zrujnovani-blizko-15-tisaci-obektiv-kulturnoi-spadsini.html>

¹⁹ <https://moz.gov.ua/article/news/za-11-misjaciv-vijni-rosijani-zrujnuvali-171-ob%ca%bcekt-medzakladiv-ta-sche-1035--poshkodili>

The processes of the administration of justice in Ukraine and ensuring the right to judicial protection for people with disabilities have also been affected by the war and its consequences. 84 out of 777 courts are located in the occupied territories. As of May 18, 2022, 107 courts of appeal and local courts (16% of the total number of courts) did not administer justice. 67 (9%) of the court premises were damaged or destroyed, including destroyed or damaged elements of architectural accessibility for people with disabilities²⁰.

The change of jurisdiction caused additional challenges for persons with disabilities when applying to the court, given the need to travel to another region and therefore exposing themselves and the accompanying person to additional danger. Interruption of court sessions during power outages and air raids significantly increases the time to consider lawsuits; besides, it creates obstacles while accessing justice for people with disabilities. One of the possibilities for access to justice for people with disabilities is the "Electronic Court" system. However, not all Ukraine courts have joined this system, and the technical accessibility of the system for people with disabilities is insufficient.

Monitoring of court cases concerning the rights of people with disabilities was conducted for the period from February 24 to December 31, 2022, using the Unified State Register of Court Decisions.

To date, 7 court decisions have been made in legal cases as a result of the Russian invasion, of which: 3 decisions concern the establishment of guardianship over persons with disabilities²¹²²²³, 1 - compensation (payment of compensation for moral damage) in connection with the loss of a family member due to shelling of the Russian Federation²⁴; 1 - dismissal from military service in connection with the presence of a wife from among persons with

²⁰ <https://yur-gazeta.com/golovna/pravosuddya-v-umovah-viyni-zvit-dsa-stanom-na-18-travnja-2022-roku.html>

²¹ The decision of the Sosnivsky district court of Cherkasy in the case #712/7170/22
<https://reyestr.court.gov.ua/Review/107345040>

²² The decision of the Kirovsky district court of Kirovohrad in the case #404/4394/22
<https://reyestr.court.gov.ua/Review/106436425>

²³ The decision of the Mizhhirsky district court of Zakarpattia region in the case #302/1396/22
<https://reyestr.court.gov.ua/Review/107978498>

²⁴ The decision of the Dnipro appeal court in the case #423/847/20
<https://reyestr.court.gov.ua/Review/107220209>

disabilities of the III group²⁵, 1 - payment of a disability pension and 1 - reinstatement at work²⁶. There is a case among them where the motives of the court in determining the guardian of a child with disabilities are not fully understood. In this case, the uncle of a child with disabilities was assigned as a guardian, despite the fact that the child with disabilities has a mother and an under-aged brother and sister. Therefore, in this case, there are concerns about the solid consideration of the interests of the child with disabilities and the absence of violations regarding assigning guardianship to her.^{27]}

Except for this particular case, significant violations of the rights of persons with disabilities were not noticed. On the contrary, there are general comments indicating the high quality and clear justification of decisions, as well as the reasonable duration of the court proceedings. However, reported issues used to be systemic long before the invasion, and may get worse in the current conditions. In particular, it is concerned with compliance with the right to a trial within a reasonable time.

Simultaneously with the introduction of martial law, the Presidential Decree "On General Mobilization of the Population" entered into force²⁸. In addition, restrictions to leave the country were introduced for men between the ages of 18-60, which partially limited **freedom of movement** for the citizens of Ukraine. Unclear legislation, which regulated the procedure of leaving the country for citizens, led to numerous violations. Starting in April 2022, numerous amendments were introduced to the rules of crossing the state border for civilians, including for persons with disabilities and accompanied persons. The list of documents was constantly changed and refined. Such changes were accompanied by poor communication from the authorities side at the national and local levels. Information regarding the comprehensive list of necessary accompanying documents was insufficient as well. Individual appeals to the hotlines of public organizations indicated that there were admitted different law enforcement practices by the border guards in place.

²⁵ The decision of the Kharkiv district administrative court in the case #520/7798/22
<https://reyestr.court.gov.ua/Review/107568215>

²⁶ The decision of the Kyiv district administrative court in the case #320/3488/22
<https://reyestr.court.gov.ua/Review/105396671>

²⁷ The decision of the Mizhhirsky district court of Zakarpattia region in the case #302/1396/22
<https://reyestr.court.gov.ua/Review/107978498>

²⁸ Presidential Decree #69/2022 "On General Mobilization of the Population" dated February 24, 2022 <https://www.president.gov.ua/documents/692022-41413>

In accordance with the requirements of Art. 23 of the Law of Ukraine "On mobilization training and mobilization", a deferment can be received by persons who are guardians of people with disabilities, spouses of people with disabilities, and people who care for people with disabilities. This also allows people to travel outside Ukraine to accompany a person with a disability for treatment. This social guarantee has given rise to a number of abuses when men of military age enter into fictitious marriages with women with disabilities or establish guardianship over people with disabilities, while not having the goal of really caring for and helping people with disabilities.

The issue of crossing the border by people who must be accompanied and need external support has become particularly burning. The legislation assigns one accompanying employee for 50 persons with disabilities or others who need constant care, are enrolled in institutional care facilities, and receive 24-hour care services and palliative care services. This number is undoubtedly insufficient. The lack of opportunities to provide the necessary assistance to all children with disabilities, especially during the trip, when they experience additional stress, can lead to life- and health-threatening situations.

There is suspicion that there is an artificial increase in the statistics of criminal proceedings against persons who accompany people with disabilities when crossing the state border of Ukraine. According to the "Opendatabot" service²⁹, since June 2022, Ukrainian courts have considered 372 cases related to the forgery of documents for travel abroad. At the same time, individual breaks of the law cannot be the reason for the unjustified restriction of freedom of movement and other human rights violations.

Due to the war, the **field of education** in Ukraine was significantly affected and continues to be influenced negatively. For the third year in a row, first due to the coronavirus pandemic and later due to the active phase of the war, Ukrainian children, including those with disabilities, do not have access to comprehensive education. In this regard, the education of children with disabilities has deteriorated. Distance learning does not cover the needs of all children with learning support needs. During the nine months of the war, a significant loss of those children's knowledge and skills was observed without an adequately organized educational process.

On April 26, 2022, the Cabinet of Ministers of Ukraine, by its Resolution No. 483, approved amendments to the organization of inclusive education.

²⁹ Opendatabot <https://opendatabot.ua/en>

Adopting the relevant amendments was caused by the fact that many children with learning support need temporary relocation to other regions. To improve the situation, the government made the necessary changes to the requirements for the inclusive education process. In particular, the maximum number of children with learning support needs in an inclusive class or group was canceled. Moreover, refusing to organize inclusive education and create an inclusive group was prohibited. At the same time, newly created facilities for internally displaced persons have a limited list of accessible and inclusive services. Host communities have limited technical and methodological resources and opportunities to ensure quality education for children with learning support needs.

According to estimates from the UN Office for the Coordination of Humanitarian Affairs, about 14.5 million people in Ukraine need **medical assistance**³⁰. According to the results of the WHO's assessment of health care needs³¹— since the beginning of the war, approximately every fifth resident of Ukraine has not been able to receive medical care. This indicator is even higher in zones of active hostilities and the territories temporarily out of the control of Ukraine. One in three residents does not have access to medical care. The main barriers to accessing medical services are the cost of treatment, lack of time, and limited availability of transportation.

In mid-February 2023, the WHO confirmed 769 attacks on medical facilities in Ukraine in 2022³². It is more than 70% of all attacks on healthcare infrastructure registered in the world this year. The massive destruction is even worse due to the impact of the war on the production and procurement of medical supplies, the challenges caused by displacement, including of doctors and nurses, and, most recently, the electric power crisis.

As a result of the military invasion, some buildings of the boarding facilities were damaged. The material and technical base of the psychoneurological care facilities was also damaged, the equipment was damaged and stolen, and computers and household appliances were stolen. As of November 1, 2022,

³⁰ OCHA. Ukraine Humanitarian Response. Key Achievement in 2022
<https://reports.unocha.org/en/country/ukraine/card/7zDXryKIJX/>

³¹ "Accessing Health Care in Ukraine after 8 Months of War: The Health System Remains Resilient, but Key Health Services and Medicine Are Increasingly Unaffordable"

³² WHO. Surveillance System for attacks on Health Care (SSA)
<https://extranet.who.int/ssa/Index.aspx>

16 psychiatric residential care facilities, three boarding houses for persons with disabilities and elderly people, and six inpatient departments were destroyed or damaged.

Residential facilities located along the front line and near the state border with the Russian Federation are systematically attacked. Particularly vulnerable are boarding facilities in the Sumy and Kharkiv regions, namely the Vovchansk and the Atyn psychoneurological facilities.

Neither the beginning of the full-scale invasion nor the occupation and de-occupation of regions of Ukraine changed the management approaches in facilities providing inpatient care services to the elderly and people with disabilities. The dominance of the institutional approach looks ruinous, which will undoubtedly negatively impact the rehabilitation and support of people with disabilities. The situation takes on an illogical character: local authorities, instead of reformatting services for persons with disabilities, sometimes are engaged in the reconstruction of damaged institutions along the front line. This not only contradicts the general strategy of deinstitutionalization and the formation of services at the community level but also endangers the lives of clients of such institutions during the resumption of hostilities or shelling.

Methodology

This study **aims** to assess the situation with the observance of the rights of persons with disabilities in Ukraine in the context of the ongoing war, which escalated on February 24, 2022, due to the full-scale invasion of Ukraine by the Russian Federation.

Due to the ongoing hostilities and the aggressor's strategies of destruction, the situation remains dynamic: new challenges arise, the geography and scope of old ones change, and there's both internal and foreign migration of the population. All this impacts directly the people with disabilities and their rights. Besides, there are gaps in legislation and its implementation. Therefore, it is difficult to address the stable picture of developments. Because of this, there's a flexible **timeframe** to summarize the information: for some issues, the authors depict the situation as of February 2023, while for others the monitoring was going on until the end of May 2023. Further research and monitoring are required for some issues and solutions, in particular those related to new reforms.

Geographically, the study covered the territory of Ukraine, including some data on the occupied territories. However, the authors did not aim to detail the situation in the territories occupied in 2014, for example, the situation in Crimea was addressed in another report of the League of the Strong³³ and wasn't included in the current one. Also, the report does not address the challenges faced by Ukrainians with disabilities who were forced to leave the country.

The general **approach** was to compare the situation with the standards of the UN Convention on the Rights of Persons with Disabilities³⁴, the key document describing the state obligations in this field. The report is organized in accordance with the Convention's articles:

³³ Monitoring of the rights of people with disabilities in the occupied Crimea
<https://ls.org.ua/monitoryng-prav-lyudej-z-invalidnistyu-v-okupovanomu-krymu/>

³⁴ *ibid.*

- Rights of women with disabilities
- Rights of children with disabilities
- Accessibility
- Situations of risk and humanitarian emergencies
- Equality before the law and access to justice
- Freedom of movement and citizenship
- Right to education
- Labor and employment
- Adequate standard of living and social protection

Each section consists of the analysis of legislative changes (if available) and facts, conclusions, and expert recommendations. The length of sections may vary, partly due to the different urgency of the challenges and the relevant information available, while some issues are still being investigated. However, in some cases, this identifies a lack of public attention to the situation and its insufficient study, which is noted in the relevant recommendations. It was often challenging to separate the information into sections due to correlations, namely, between accessibility and risk situations. Particular attention is paid to the situation under Article 11 of the Convention on Humanitarian Emergencies and Disasters, as it is the war that has caused the current humanitarian crisis and human rights violations.

The terminology and definitions used in the report are also based on the definitions of the Convention and the practice of Ukrainian legislation.

This report is a desk study based on the analysis of existing reports, monitoring, and publications on certain aspects of the war-related situation of Ukrainians with disabilities. The analysis of legal standards, elements of content analysis of media and social networks, storytelling, and expert consultations on recommendations were used in the study. The photographs in the report were collected by the activists of the League of the Strong and partner organizations in the framework of the project “ Ukraine war: OPD led disability inclusive response and recovery ” with the consent of the stakeholders to use the visual materials for the project’s needs.

For the analysis, relevant studies conducted by the partners of the project “Crisis in Ukraine: Inclusive Response and Recovery Led by NGOs of People with Disabilities”, namely, The League of the Strong, the National Assembly of People with Disabilities of Ukraine, the Kharkiv Institute for Social Research, the Fight for Rights NGO, the European Disability Forum, as well as international organizations such as UNHCR, IOM, UNICEF, and others, were selected. The available data from Ukrainian government agencies, social networks and media, and other open sources of information were also analyzed. The situation was compared with current legislative changes and international standards. The recommendations to Ukraine and other countries party to the Convention provided by the UN Committee on the Rights of Persons with Disabilities following the 27th session in August 2022³⁵ to overcome the humanitarian crisis and the impact of the war on the rights of Ukrainians with disabilities were the key documents for the research. The list of sources is provided in the annexes.

The incrimination of individual officials and state and local authorities was not the task of the authors due to systemic issues and the urgency of the challenges. On the contrary, it is expected that the report will serve as a tool for understanding the situation and will contribute to the implementation of effective and urgent measures to resolve it.

³⁵ 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

<https://www.ohchr.org/sites/default/files/documents/hrbodies/crpd/statements/2022-09-09/Situation-of-persons-with-disabilitie-in-Ukraine-in-CRPD-27th-session-Report.docx>

Description of the situation

Women with disabilities (Article 6)

Article 6 – Women with disabilities

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.
2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

Legislation

In general, the rights and interests of women and girls with disabilities are not often addressed in Ukrainian legislation. However, the set of legislation on ensuring equal rights and opportunities for women is quite extensive and complete in Ukraine, it is being improved constantly. At the same time, experts of the UN Committee on the Elimination of All Forms of Discrimination against Women³⁶ note the lack of action strategies and effective resolution of the challenges related to women's rights in the context of war and post-war peace and security building. In particular, this applies to the gendered aspects of displacement, asylum-seeking, and refuge, as well as adequate compensation for victims of war-related sexual and gender-based violence.

The ratification of the Istanbul Convention³⁷ in June 2022, which comprehensively covers a range of measures to prevent and combat violence, protect its victims, prosecute and punish perpetrators, and criminalize the main

³⁶ Concluding observations on the ninth periodic report of Ukraine, CEDAW, November 1, 2022 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FUKR%2FCO%2F9&Lang=en

³⁷ Council of Europe Convention on preventing and combating violence against women and domestic violence https://zakon.rada.gov.ua/laws/show/994_001-11#Text

types of violence against women, provides a powerful and independent mechanism to monitor implementation at the national level and recognizes violence against women as a human rights violation and discrimination, is a significant measure. Obviously, the Convention also applies to women with disabilities and should become an additional tool for their protection.

Overview and facts

The risk for women and children with disabilities, especially those living in closed facilities, those with psychosocial and intellectual disabilities, hearing and visual impairments, and those whose disabilities are not visible, is greater, including the risk of violence and abuse.

As of February 2022, the country still lacked an evacuation plan that would take into account the needs of women and girls with disabilities, despite the experience of the outbreak of war in the east of Ukraine in 2014. Humanitarian organizations and civil society (including organizations of people with disabilities) took the lead in evacuating women and girls with disabilities, including those with severe disabilities, and in establishing accessible transit centers for people with disabilities. Women with disabilities played an important role by joining civil society organizations and movements and creating volunteer groups³⁸.

Besides, the lack of appropriate living conditions created additional stress for displaced women with disabilities. Inaccessibility of adapted premises, lack of access to sanitary facilities, and limited medical and psychological assistance worsened their physical and mental health and laid the groundwork for the risk of exploitation and violence, including gender-based, and human trafficking. The lack of support and attention to their needs during the evacuation exacerbated chronic diseases and led to health deterioration.

Women with disabilities with children were affected significantly. Restricted mobility makes it difficult to access humanitarian assistance, and the lack of relevant information in accessible formats affects their ability to make informed decisions and ensure their and their children's safety, depriving them of the opportunity to find support, share experiences, and receive the necessary

³⁸ "Women with disabilities in time of war", Fight for rights, 2022 <https://ffr.org.ua/wp-content/uploads/2022/07/ZHinky-z-invalidnistyu-pid-chas-vijny-vid-Fight-For-Right.pdf>

assistance. Women and girls with disabilities are facing a genuine risk to their health and life due to the cruelty and violence of the Russian invasion, as well as the lack of access to medical care, drugs, and technical equipment³⁹.

There's also an issue of injured women with subsequent disabilities. However, 13.5 million women and children were evacuated from the war zone, and a significant number of those who remained were injured due to attacks and shelling. The story of 31-year old women, from the Zaporizhzhya region, told to The New York Times⁴⁰, is a dramatic example of many women's experiences.

Quote:

"Suddenly, there was an explosion," she said. "We started running." She shielded her son with her body. Fragments hit her rib and liver and severed much of her spinal column. She can no longer walk and was evacuated by train to a hospital in Lviv, where she is undergoing intensive rehabilitation.

"War Brings Ukraine's Women New Roles and New Dangers", The New York Times

Since the beginning of the full-scale invasion, a new form of violence toward women with disabilities has emerged in Ukraine. Men are pressuring women with disabilities to marry since the man will be able to leave Ukraine as an "accompanying person" of the "wife". This was reported by activists of the League of the Strong, similar announcements can be found on social media.

Quote:

Looking for a girl with the I or II group of disability for a serious relationship. Send me a message.

From the Telegram chat

³⁹ There is no official information on the number of women and girls with disabilities who have been subjected to violence by the Russian military. There is also no information on women in institutional care facilities located in the temporarily occupied territories.

⁴⁰ War Brings Ukraine's Women New Roles and New Dangers <https://www.nytimes.com/2022/08/27/world/europe/ukraine-war-women.html#:~:text=Women%20are%20increasingly%20joining%20the,of%20wide%2Dscale%20logistics%20efforts>

Despite the recommendation of the UN Committee on the Elimination of All Forms of Discrimination against Women for Ukraine to address this issue⁴¹, the case is still up.

Conclusions

- 1** A systematic and comprehensive approach that takes into account the unique needs and experiences is required to integrate the gender perspective of disability. The lack of attention to the specific martial law and emergency response-related needs and issues of women with disabilities is the negative factor, which results in their exclusion due to lack of adequate services, support, and reasonable accommodation.
- 2** The lack of an information base and disaggregated statistics on the situation and needs of women with disabilities in wartime limits the ability to develop and implement effective regulations, programs, and procedures. This area is poorly researched.
- 3** The issue of inaccessibility of adapted information for women with disabilities is unresolved, which exacerbates the challenges associated with evacuation procedures, security measures, and available medical or psychological services. This issue adversely affects their ability to assess risks, develop their own survival strategies, make wise decisions, and use available resources to ensure safety for themselves and their children. Inaccessibility of information makes women more vulnerable to danger, increases stress and anxiety, and deprives them of the ability to influence the situation. Women with war-related injuries and disabilities are even less protected, often they do not know how to find information and assistance.
- 4** The vulnerability of women with disabilities includes the risk of gender-based violence, exploitation, and abuse, including physical, emotional, or sexual violence. Martial law exacerbates this risk, as it is accompanied by heightened tensions, socio-economic instability, and changes in living

⁴¹ Concluding observations on the ninth periodic report of Ukraine, CEDAW, November 1, 2022 https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FUKR%2FCO%2F9&Lang=en

conditions. In addition, abuse and exploitation can be manifested as human trafficking, forced marriage, illegal labor, and other forms of exploitation. The lack of appropriate reporting and support tools complicates the process of seeking assistance and protection.

Recommendations

- 1** The measures to ensure the human rights of women and girls with disabilities should be included in government and local martial law protection plans. The participation of women with disabilities and/or organizations representing them in the development of such plans and programs should be ensured.
- 2** The system of disaggregated data collection by age, gender and disability (including women and girls) and needs assessment should be introduced and maintained.
- 3** The accessibility of adapted information should be ensured for women with disabilities. They should be informed about evacuation procedures, security measures, and available medical and psychological services.
- 4** Special mechanisms should be developed to support women with disabilities during military conflict. They should be provided with access to safe shelters, medical care, psychological support, and legal assistance. Special attention should be paid to areas of increased vulnerability (namely, evacuation routes, transit centers, border crossing points, and places of compact residence).
- 5** Women and girls who are injured and/or have acquired a disability due to the war should be provided with support and rehabilitation services. The protection of the rights of women veterans with disabilities should be promoted.
- 6** The work with public opinion on the image of women with disabilities and their inclusion in public life is crucial.
- 7** The system of monitoring and reporting on cases of violence and abuse against women and girls with disabilities during martial law should be introduced. Prompt response to such cases should be ensured, the

victims should be provided with adequate support and protection, as well as compensation for damages.

- 8 Adopt legal safeguards to protect women with disabilities from forced marriages under harassment.
- 9 Provide the necessary support and services to parents of children with disabilities, including mothers of children with disabilities, to ensure their custody and care in a family environment.

Children with disabilities (Article 7)

Article 7 – Children with disabilities

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.
3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

Legislation

Evacuation

The Coordination Headquarters for the Protection of Children's Rights under Martial Law was established by Resolution #302⁴² of the Cabinet of Ministers of Ukraine dated March 17, 2022. It was one of the first and decisive state measures to address the challenges in the field of children's rights related to the beginning of a full-scale invasion. The purpose of the Coordination Headquarters is to facilitate the coordination of activities of central and local executive authorities, other state bodies, and local self-government bodies on child rights protection in martial law.

During the first month, the main areas of work include:

- I. Ensuring the relocation (evacuation) of children living or enrolled for a round-the-clock stay in facilities of various types, forms of ownership, and subordination, and children placed in family-based care, to a safe area.

⁴² Resolution #302 of the Cabinet of Ministers of Ukraine "On the Establishment of the Coordination Headquarters for the Protection of Children's Rights under Martial Law" dated March 17, 2022 <https://zakon.rada.gov.ua/laws/show/302-2022-%D0%BF#Text>

II. Ensuring the placement and satisfaction of the needs of children displaced (evacuated) to safe areas, including the consular registration in the state of relocation.

III. Identification of issues related to the protection of children's rights arising under martial law and measures to address them⁴³.

The development of algorithms for the relocation, accommodation, proper care, and upbringing of children and persons residing or enrolled in facilities of various types, forms of ownership, and subordination for a round-the-clock stay in the area of active hostilities or close to it⁴⁴, was one of the first steps. It refers to the evacuation of children groups, including children with disabilities, from different facilities, regulates the list of those responsible for the decision to evacuate, logistics and arrangement in a new place, the number of accompanying persons (not more than 1 person for 4 children with disabilities), and the cases of evacuation abroad. Despite the fact that document was adopted at the end of March, when the evacuation was in chaos due to the outbreak of full-scale hostilities, it helped to strengthen the situation and bring it into a legal framework. However, the disadvantages of the Resolution include the lack of regulation of the rotation of accompanying persons and uncertainty of the status of the staff remaining in the institution. Also, it enshrines group evacuation only, creating obstacles to the placement of children in family-based care, which is especially necessary for children with disabilities. Obviously, the measures were focused on the rapid end of the war while the long-term challenges were not considered.

Forced evacuation

Given that families with children, who are unwilling to evacuate voluntarily, continue to reside in certain areas, the Cabinet of Ministers of Ukraine adopted Resolution No. 209 on March 7, 2023, "On Amendments to the Resolutions of the Cabinet of Ministers of Ukraine of October 30, 2013 #841 and of July 29,

⁴³ "Coordination Headquarters for the Protection of Children's Rights under Martial Law. 30 days of operation" <https://ombudsman.gov.ua/storage/app/media/uploaded-files/finalkoordinatsiiniishtabzpitanzakhistupravditinivumovakh.pdf>

⁴⁴ Resolution #385 of the Cabinet of Ministers of Ukraine "Some Issues of Temporary Displacement (Evacuation) of Children and Persons Residing or Enrolled in Institutions of Different Types, Forms of Ownership and Subordination for Twenty-Four-Hour Stay, Under Martial Law" dated March 27, 2022 <https://zakon.rada.gov.ua/laws/show/385-2022-%D0%BF#Text>

2022 #854”⁴⁵. In particular, these amendments modify the procedure for conducting evacuations in the event of emergencies or threats.

Now, to safeguard children in zones of military operations and armed conflicts, regional military administrations can decide to enforce mandatory evacuation of children along with their parents, their substitutes, or other legal representatives from specific populated areas where hostilities are ongoing. This decision is made in agreement with the military command authorities in the respective territory and the Coordination Staff responsible for mandatory evacuation during martial law.

The resolution doesn't specify a list of particular territories. Each decision regarding a specific case or territory will be made by regional military administrations, in agreement with the military command authorities in the respective territory and the Coordination Staff. As for the mechanism of forced evacuation of children, it's carried out under the supervision of one of the parents, a substitute, or another legal representative. It's crucial to highlight that parents, substitutes, or other legal representatives cannot refuse the mandatory evacuation of children from specific populated areas where hostilities are ongoing.

Confirmation of disability

In the context of war, the process of establishing disability for children necessitates a specific protocol. Medical-social expertise for children is conducted upon the corresponding application of parents, guardians, or their legal representatives to healthcare institutions in Ukraine.

According to Resolution #225 “On Some Issues of the Procedure for Conducting Medical and Social Expertise during the Period of Martial Law in Ukraine” with amendments dated 8 March 2022, if it's impossible for a child with a disability, who has turned 18, to arrive for a MSEC examination, the commission can make a decision to establish a disability in absentia based on the MAC referral.

⁴⁵ Resolution #209 of the Cabinet of Ministers of Ukraine “On Amendments to the Resolutions of the Cabinet of Ministers of Ukraine of October 30, 2013 # 841 and July 29, 2022 #854” dated March 7, 2023 <https://zakon.rada.gov.ua/laws/show/209-2023-%D0%BF#Text>

The conduct of the medical-social examination by the referral of the Medical Advisory Commission is carried out regardless of the place of registration, residence, or stay of the person applying for disability determination.

During the period of martial law, the term for a re-examination is considered extended for the entire duration of the martial law and for 6 months after its termination/cancellation. All payments and benefits are preserved until the end of the re-examination term.

Children and adults with disabilities have the opportunity to receive, according to the individual rehabilitation program, without undergoing a re-examination by the MAC or MSEC:

- Social payments,
- Rehabilitation services and assistive devices (crutches, walkers, wheelchairs),
- Incontinence supplies, for example, diapers, catheters, etc.,
- Educational services,
- Corresponding benefits.

The government has provided the opportunity to undergo a medical examination for conducting a repeated medical-social examination within 6 months after the termination/cancellation of martial law, ensuring continuous social protection and implementation of rehabilitation measures for children with disabilities.

Children affected by hostilities

The impact of war on children is apparent. Legally, the protection of the rights of children affected by hostilities in Ukraine is regulated by the Law of Ukraine “On Protection of Childhood”, which provides that “a child affected by hostilities and armed conflicts is a child who was wounded, contused, mutilated, subjected to physical, sexual, psychological violence, abducted or illegally taken outside Ukraine, involved in military formations or illegally detained, including in captivity, as a result of hostilities or armed conflict”⁴⁶. However, there is currently no legal provision for further payments, benefits,

⁴⁶Law of Ukraine “On Protection of Childhood” dated April 26, 2001
<https://zakon.rada.gov.ua/laws/show/2402-14#top>

etc. to such children. The proposed social support duplicates the assistance for internally displaced children. Children with disabilities are not singled out as a separate category. The Law of Ukraine “On Social Protection of Children of War”⁴⁷ refers to the consequences of the Second World War and does not correspond to modern realities.

Overview and facts

At the beginning of the war, more than 167,000 children with disabilities lived in Ukraine⁴⁸. Unfortunately, the war affected almost every one of them. Air alarms, the nervous state of parents, and the overload of the rehabilitation system led to the fact that children, even in relatively safe areas of the country or even abroad, experience stress and restrictions in the realization of their rights. Self-care and communication skills are lost. Signs of anxiety states, eating disorders, depression, and psychosomatic diseases may be observed, especially if the child has felt danger for some time and was in unacceptable conditions for him (was in a shelter, heard explosions, and sounds of fighter jets, experienced a difficult move, was separated from loved ones, etc.)⁴⁹.

Quote:

“It's a difficult situation, we've lost everything. He hardly speaks. We went to rehabilitation for three years and invested in the child, but now everything is in vain... Moving to another country was especially difficult. 30 hours by train, then 10 hours of crossing the border on foot, then two



⁴⁷ The Law of Ukraine “On Social Protection of Children of War”
<https://zakon.rada.gov.ua/laws/show/2195-15#Text>

⁴⁸ “Children and war in Ukraine. May 24-June 24, 2022”, Voices of Children charitable foundation, Kharkiv Institute for Social Research NGO <https://khisr.kharkov.ua/wp-content/uploads/2022/06/Sytuatyvnyy-zvit-24.05-24.06.pdf>

⁴⁹ The impact of armed conflict on children's well-being has been documented in the research “Children and war in Ukraine. May 24-June 24, 2022”, Voices of Children charitable foundation, Kharkiv Institute for Social Research NGO <https://khisr.kharkov.ua/wp-content/uploads/2022/06/Sytuatyvnyy-zvit-24.05-24.06.pdf>

flights. The child was sick for a week. He had stomach problems, his lips were blue, he didn't understand what was happening”.

From an interview with parents⁵⁰

Some 1,000 children have been injured, according to the Children of War portal⁵¹, which has been updating data on children affected by the war on a daily basis since February 24, 2022. It is not reported whether these injuries resulted in disability, but there are numerous cases of children with acquired physical disabilities. Data on disability due to extreme psychological stress is not monitored.

Quote:

“I couldn't get up. It was very painful - I looked at my legs and burst into tears”.

The story of 11-year-old Yana from Kramatorsk, who lost both her legs in the explosion at the railway station⁵²

When the hostilities started, most families with children with disabilities evacuated on their own. According to observers⁵³, the parents were not contacted by either rehabilitation institutions or the social protection department. The interviewed families, including those with many children, also complained about the lack of support from the children’s services. In order to evacuate, some parents with children with physical disabilities had to find special transportation on their own. This took time and affected their safety of movement. Often, children **lost their rehabilitation equipment** in the process of transportation, since it was not possible to pick it up. These include mobility aids (wheelchairs, walkers, and canes), hygiene aids (chairs, bath and shower seats, and stairs), as well as orientation and communication aids (hearing aids, voice recorders, and watches). Often, evacuation trains and buses did not even

⁵⁰ ibid.

⁵¹ “Children of war” portal <https://childrenofwar.gov.ua/>

⁵² BBC News Ukraine ““I looked at Yana, her sneakers were missing”. Mother and daughter lost their legs due to the explosion in Kramatorsk” <https://www.bbc.com/ukrainian/features-61424725>

⁵³ “Children and war in Ukraine. May 24-June 24, 2022”, Voices of Children charitable foundation, Kharkiv Institute for Social Research NGO <https://khisr.kharkov.ua/wp-content/uploads/2022/06/Sytuatyvnyy-zvit-24.05-24.06.pdf>

have the most basic necessities, such as wheelchairs for transportation. It is extremely difficult to obtain the same means again.

Quote:

“It is difficult to evacuate a person with physical disabilities. For example, a child is in a grave condition and cannot walk. She and her grandmother stayed in the basement for two weeks since her grandmother could not get her out on her own. The child became green during these two weeks until they found someone to help. We couldn't take a stroller because the train was overloaded. But this is a special stroller, it is impossible to move without it. The child was given another one, but it was not very suitable. Now they are in Austria. Volunteers are helping them to arrange housing, but not just any house will be appropriate. They need something affordable, on the ground floor”.

From an interview with an NGO representative⁵⁴

After displacement, many families' main issue is the **inability to resume rehabilitation at the same level as before the war**. Rehabilitation facilities are open, but it is difficult to get in due to the high demand. Some of the institutions have accommodated internally displaced persons with disabilities. Private rehabilitation centers are not enough, too. Besides, for displaced families who have lost their homes and jobs the cost of regular classes is often unaffordable.

The lack of documents, such as medical history, individual rehabilitation cards, appointments with specialists, etc., is an obstacle to the rehabilitation and treatment of the child. Unfortunately, not all of these documents are available in electronic databases. It is difficult to get them again: there is no specialist who will prescribe the necessary drugs, there is no possibility to bring the child, there is a lack of necessary certificates, etc. At the same time, it should be noted that regardless of the availability of documents or the child's place of stay, parents continue to receive social assistance for children with disabilities. There are no problems with this today. According to Daria Gerasymchuk,

⁵⁴ *ibid.*

adviser to the President of Ukraine on children's rights, the state makes such payments in the amount of UAH 1.2 billion every month⁵⁵.

Due to the lack of housing, many internally displaced persons moved to small towns and villages, where no rehabilitation centers or specialists are available. The undeveloped transportation in some areas makes it impossible to organize regular classes with children.

Quote:

“Before the war, we went to a city rehabilitation center several times a week. I also took my son to a private center. Every year we went to Kyiv or Chernihiv for a few weeks of rehabilitation at public expense. But since the beginning of the war, we have not been doing it. We looked for a center here, but we need to pay 6000 hryvnias for 10 sessions. This is very expensive for us because before the war we paid 100 to 200 hryvnias per visit in Rubizhne. So I try to do it myself”.

From an interview with parents⁵⁶

Families live either in facilities adapted for this purpose (schools, kindergartens, etc.), or with relatives or friends, or they rent housing, the area of which often does not correspond to the number of people. Classes aimed at developing a child's physical, conversational, and other skills should take place in an atmosphere that does not distract or annoy the child. A child with a disability needs a separate space. She can be nervous because of strangers, too many people, and noise around, which causes difficulties in living together with others.

This is especially true for children with autism spectrum disorders. They are much more dependent on the family, on repetitive things, and have a hard time tolerating any novelty - it must be introduced into the daily schedule gradually. This applies even to changes in nutrition because such children are used to

⁵⁵ Official Facebook page of the Presidential Adviser on children's rights in Ukraine https://m.facebook.com/story.php?story_fbid=pfbid02muWuUYqYNjWm52zkJ8D7gKMnKDvVX6fqU1uNjLH8wWj6FGhHYytWN5bYiXLggoal&id=100072443376686

⁵⁶ “Children and war in Ukraine. May 24-June 24, 2022”, Voices of Children charitable foundation, Kharkiv Institute for Social Research NGO <https://khisr.kharkov.ua/wp-content/uploads/2022/06/Sytuatyvnyy-zvit-24.05-24.06.pdf>

eating only a certain list of products that are not easy to find in a new place of residence.

A separate difficulty is the absence of a father who, before the war, helped with the care of the child and its maintenance. The mother is forced to take care of a child with a disability by herself in conditions where she has to collect documents for temporary protection and financial assistance and look for housing.

The worst situation is for children who are under occupation and in territories where active hostilities are taking place. Rehabilitation there is almost non-existent, only some centers and specialists who were not evacuated from there organize rehabilitation classes, but this usually happens unofficially and with risk for all participants. In addition, in the occupied territories, there is a problem with receiving social benefits for children, because it is extremely difficult to withdraw cash or pay by card there. The situation is more favorable in settlements that are shelled regularly, but with less intensity (Kharkiv, Mykolaiv, Zaporizhzhia). There, rehabilitation institutions work according to schedule, although they also experience a shortage of specialists and must take additional safety measures when working with children.

Due to these issues, families with children with disabilities are not always ready to evacuate. Representatives of the government claim that they use forced evacuation for children as a last resort when parents refuse to voluntarily evacuate from active conflict zones, thereby putting their children at significant risk. As stated by Irina Vereshchuk, the Deputy Prime Minister for the Reintegration of Temporarily Occupied Territories of Ukraine,

“forced evacuation of children is an additional measure within the framework of mandatory evacuation, which is currently only operational in the Donetsk region.”

Before the war, the level of institutionalization of children was higher in Ukraine than in the European Union member states:

- Before the war, an estimated 45,000 children lived in state institutions.
- Over 90% have living parents with whom they have a relationship.
- 72% have disabilities.

- Many were living in residential special schools and could, in theory, be safely reunited with family.
- An estimated 10,000 do not have a family to whom they can safely return and require additional protection – and potential evacuation.
- Local authorities and civil society have been arranging evacuations of children from institutions to other countries. Approximately 3,000 have already left.
- In the first few weeks of the war, at least 6,000 children from facilities were evacuated to safe regions of Ukraine and abroad.
- Accurate data is difficult to ascertain⁵⁷.

As of early June 2022, it is known that the state managed to evacuate between 175 and 270 facilities⁵⁸. These include special boarding schools, children's homes, and socio-psychological rehabilitation centers. Some institutions have not been evacuated from the areas regularly subjected to shelling. Such facilities are maintained, in particular, by volunteers and non-governmental organizations that provide them with food and hygiene supplies. The problem lies in the lack of appropriate transportation and places to evacuate children with disabilities. Not all facilities have suitable conditions for accommodating and the necessary number of specialists to meet the needs of children arriving from Ukraine. A similar situation exists in the western and central regions of our country. Some children have been relocated to facilities that are not similar to the ones they were in before the war and do not fully correspond to their diagnoses and conditions.⁵⁹

Due to the initial chaos of the war, the government's oversight of this process was limited. The National Social Service further stated that

“unfortunately, we were not prepared before the full-scale invasion and this procedure did not start from the first day of the full-scale invasion

⁵⁷ “Bridging the Gaps - four studies on Ukrainian children with disabilities. An extended summary”. European Disability Forum, 15 February 2023 https://www.edf-feph.org/publications/bridging-the-gaps-four-studies-on-ukrainian-children-with-disabilities/?fbclid=IwAR01TaKtfWoVMDGJE2nRoxr4aOPMBI06v10GoU_sn5XUC-WspCF5DSXI9EI

⁵⁸ *ibid.*

⁵⁹ Chernousov A., Shcherban S., Prashko O., The rights of persons with disabilities institutionalized in wartime: research findings. Kyiv, 2023. – 103 p.

and the first day of evacuation of children. That is why some children from institutions and from family-type care were evacuated without regard to this regulation. But since March it is fully and legally in effect.”⁶⁰

This means that the vast majority of children were evacuated outside these regulations, as most evacuations took place during the first few weeks of the war⁶¹.

During the evacuation of children with high support requirements from institutions, some of them were left behind due to the perceived complexity of meeting their needs or the belief that they didn't require evacuation. Civil society organizations, along with medical charities and the Ukrainian Railways, collaborated to ensure the evacuation of all children, including those with high support requirements. However, these efforts were exceptional, and there were instances where children with high support requirements were not evacuated.

New challenges include institution amalgamation, insufficient caregivers, and overcrowding in Western Ukraine were noted. Observatory raises concerns about neglect, abuse, and the exclusion of children with disabilities, especially those with high support needs, from deinstitutionalization efforts. Children in institutions in occupied territories faced additional threats, such as unauthorized transfers to psychiatric facilities with inadequate care.

⁶⁰ “Bridging the Gaps - four studies on Ukrainian children with disabilities. An extended summary”. European Disability Forum, 15 February 2023 https://www.edf-feph.org/publications/bridging-the-gaps-four-studies-on-ukrainian-children-with-disabilities/?fbclid=IwAR01TaKtfWoVMDGJE2nRoxr4aOPMBI06v10GoU_sn5XUC-WspCF5DSXI9EI

⁶¹ *ibid.*

Quote:

“In some instances [they] have been tied down or left in beds in near total inactivity, and held in dark, poorly ventilated rooms with limited hygiene services”.

UN CRC, Concluding observations on the combined fifth and sixth periodic reports of Ukraine⁶²

Separately, it should be emphasized that as of today, Ukraine does not have information on the number of children with disabilities who have moved, in particular abroad. Accordingly, there is no information about the needs and services that children receive, whether their rights are respected, etc.

There's also an issue of the forced deportation of children to the territory of the Russian Federation. Some 20,000 children are known to have been deported, with more than 300 returned. Among them are also those with disabilities. For example, before leaving the right bank of the Kherson region, the Russian military took 80 children from the Oleshky orphanage to Crimea and Krasnodar Krai. It is known that there were 82 children in the facility, 40 of whom were palliative care patients⁶³. On March 17, 2023, an arrest warrant was issued for Vladimir Putin and the Russian Presidential Children's Ombudsman Maria Lvova-Belova by the International Criminal Court in the Hague. According to the Court, Putin and Lvova-Belova are personally responsible for the forced deportation of children from the occupied Ukrainian territories to Russia. The Parliamentary Assembly of the Council of Europe called the deportation of Ukrainian children a possible genocide in its resolution⁶⁴.

⁶²

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2FC%2FUkr%2FCO%2F5-6&Lang=en

⁶³ Radio Liberty. “It may be considered a crime against humanity”: OSCE report on Russia's deportation of Ukrainian children

<https://www.radiosvoboda.org/a/zvit-obsye-pro-deportatsiyi-ukrayinskykh-ditey-rosiyeyu/32396448.html>

⁶⁴ Radio Liberty. Deportation and forced transfer of Ukrainian children to Russia: what exactly did PACE adopt in its resolution on signs of genocide? <https://www.radiosvoboda.org/a/parye-ukhvalyla-rezolyutsiyu-pro-oznaky-henotsydu-shcho-dali/32384079.html>

Conclusions

- 1** The onset of a full-scale invasion has led to significant challenges for families with children with disabilities, particularly in terms of evacuation and maintaining access to necessary support and rehabilitation services. The lack of coordinated support from rehabilitation institutions and social protection departments during the evacuation process has exacerbated these challenges.
- 2** The evacuation process has been difficult for families with children with disabilities. They often had to independently arrange for specialized transport that not only delayed their evacuation but also posed additional safety risks. The loss of rehabilitation equipment during the evacuation process has further complicated the situation for children with disabilities. The inability to bring along essential items such as wheelchairs, walkers, and hygiene aids has significantly impacted their mobility and quality of life.
- 3** Post-displacement, many families have struggled to restore rehabilitation services to pre-war levels due to the high demand and limited capacity of rehabilitation institutions. The displacement of families to small towns and villages, where there are no rehabilitation centers or specialists, has further limited access to necessary services.
- 4** The high level of institutionalization of children in Ukraine prior to the war has posed additional challenges during the conflict. The evacuation of children from institutions was not always well-coordinated, and some children, particularly those with high support needs, were left behind. The Ukrainian government regulation regarding the continued institutionalization of children evacuated from Ukrainian residential institutions does not allow for children to be placed in family settings that are in the best interest of the child.
- 5** The protection of the rights of children with disabilities who require urgent assistance remains a pressing issue. This includes children who have been orphaned, those whose caregivers have been killed, children who have been victims of war crimes, children who have been lost during bombings or evacuations, children who have disappeared, and children who have been forcibly taken to the aggressor country.

Recommendations

- 1** Policies and laws related to the institutionalization of children should be immediately reviewed and revised. This could involve developing alternative care arrangements that prioritize family-based care, as well as the development of community-based services and support for families with children. There's also an urgent task to update the Deinstitutionalization Strategy to prevent the return of evacuated and deported children to residential institutions.
- 2** The Ukrainian government, with support from the international community, should prioritize rapid individual assessments of children in institutions evacuated inside Ukraine, who are at the greatest risk of harm due to unplanned evacuation and institutionalization. Improved data collection is required regarding children evacuating within Ukraine and abroad, which is disaggregated by gender and disability.
- 3** Exclude (as far as humanely possible) the restoration of damaged institutions and prohibit financing the construction of new residential institutions.
- 4** The increase in the number of children with disabilities as a result of the war should be taken into account, the service, rehabilitation, and medical capabilities of the state should be planned in advance.
- 5** The preventive efforts, such as mine safety measures and assistance from child psychologists, as well as measures to effectively include children with disabilities in public life, including via the effective provision of inclusive education, should be intensified due to the increase in the number of children with disabilities as a result of the war.
- 6** Amend the Law of Ukraine "On Social Protection of Children of War" to consider the need to protect the rights of children affected by the war since 2014, including the full-scale invasion in 2022.

Accessibility (Article 9)⁶⁵

Article 9 – Accessibility

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

- a) Buildings, roads, transportation, and other indoor and outdoor facilities, including schools, housing, medical facilities, and workplaces;
- b) Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures:

- a) To develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;
- b) To ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;
- c) To provide training for stakeholders on accessibility issues facing persons with disabilities;
- d) To provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;

⁶⁵ This section focuses on certain aspects of accessibility, primarily related to wartime challenges.

- e) To provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;
- f) To promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;
- g) To promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;
- h) To promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

Legislation

National Strategy for a Barrier-Free Environment in Ukraine until 2030

The national strategy for a Barrier-Free Environment in Ukraine until 2030⁶⁶ was developed according to the Decree of the President of Ukraine “On Ensuring the Creation of a Barrier-Free Environment in Ukraine” (December 3, 2020)⁶⁷, and as a part of Olena Zelenska’s (the First Lady) initiative. According to the document, “barrier-free” is

“a general approach to the development and implementation of public policy to ensure unimpeded access of all population groups to various spheres of life” and “accessibility” is “ensuring equal access of all population groups to the physical environment, transport, information

⁶⁶ Resolution #366 of the Cabinet of Ministers of Ukraine “On approval of the National Strategy for a Barrier-Free Environment in Ukraine until 2030” dated April 14, 2021, <https://www.kmu.gov.ua/npas/pro-shvalennya-nacionalnoyi-strategiyi-iz-stvorenniya-bezbaryernogo-prostoru-v-ukrayini-na-period-do-t140421>

⁶⁷ Decree #533/2020 of the President of Ukraine “On ensuring the creation of a barrier-free environment in Ukraine” dated December 3, 2020, <https://zakon.rada.gov.ua/laws/show/533/2020#Text>

and communication, information and communication technologies and systems, as well as to other facilities and services, both in urban and rural areas”.

The latter term does not fully correspond to the definition of the UN Convention on the Rights of Persons with Disabilities (Article 9). Moreover, there’s no clear difference between the terms. For example, the “Barrier-Free Handbook”⁶⁸, which is part of the Strategy's implementation, defines both options as “removal of barriers”. Thus, there is a conflict of laws when it comes to terms.

The purpose of this Strategy is to create an unhindered environment for all groups of the population, to ensure equal opportunities for everyone to exercise their rights and receive equal services by integrating physical, information, digital, social, civil, economic, and educational barrierlessness into all areas of public policy. In each of the areas, the Strategy offers a set of solutions aimed at different social groups, including people with disabilities⁶⁹. The Strategy defines physical barrier-free accessibility as the accessibility of public space, buildings, transportation, and infrastructure. To achieve this, it is proposed to design and build facilities taking into consideration the needs of people with disabilities as well as train builders and architects, revise legislation, and improve monitoring and control over compliance with accessibility standards.

On August 4, 2021, the Cabinet of Ministers of Ukraine approved the 2021-2022 Action Plan for the implementation of the National Strategy by its Order #883-r⁷⁰. A report on the Action Plan implementation is scheduled for February 2023, upon the implementation’s completion. Despite the martial law, Denys Shmyhal, the Prime Minister of Ukraine, instructed the central executive authorities to draft the 2023-2024 Action Plan by his Resolution #26929/1/1-22 on October 5, 2022. In April 2023,

⁶⁸ Barrier-free handbook <https://bf.in.ua/>

⁶⁹ This section analyzes physical accessibility only. Other components of accessibility are analyzed in the respective thematic sections.

⁷⁰ Resolution #883-r of the Cabinet of Ministers of Ukraine “On Action Plan for 2021-2022 to Implement the National Strategy for a Barrier-Free Environment in Ukraine until 2030” dated August 4, 2021 <https://zakon.rada.gov.ua/laws/show/883-2021-%D1%80#Text>

the new Action Plan was approved⁷¹. Civil society organizations have mainly criticized the list of measures, particularly due to the absence of an impact assessment on the quality of life and rights of people with disabilities, as well as the use of complex language⁷².

Shelters and the state construction regulations

There's no term "bomb shelter" in Ukrainian legislation. Instead, "protective structures" and "dual-purpose structures" are used. Dual-purpose structures (namely, parking lots, shopping centers, etc.) and simple shelters (basements and semi-basements) are the most common types of shelters in Ukraine.

According to the State Emergency Service, 74% of protective structures in 2021 were ready, fully or partially, for their intended use. In 2022, it was planned to build 1,158,000 protective and dual-purpose structures additionally⁷³.

On September 1, 2022, the updated state construction regulations for a barrier-free environment in Ukraine, approved in 2021 by the Ministry of Communities and Territories Development of Ukraine, came into force. These include the "Inclusiveness of Buildings and Structures. Main Provisions" state construction regulations, as well as regulations on the construction and reconstruction of educational and preschool facilities, and landscaping. In particular, the state construction regulations "Inclusiveness of Buildings and Structures. Basic Provisions" provides for some innovations to ensure more comfortable and convenient movement, to improve fire safety and evacuation requirements for people with limited mobility.

According to Section 1 "Scope of Application" of the regulations, these norms are applicable to the design and construction of new buildings, as well as to reconstruction, restoration, overhaul, and technical re-equipment of existing residential and public buildings and structures, as well as to their reasonable

⁷¹ Order #372-p of the Cabinet of Ministers of Ukraine "On Approval of the Action Plan for 2023-2024 for the Implementation of the National Strategy for a Barrier-Free Environment in Ukraine until 2030" dated April 25, 2023 <https://zakon.rada.gov.ua/laws/show/372-2023-%D1%80#Text>

⁷² Advocating for accessibility. National Assembly of People with Disabilities of Ukraine <https://naiu.org.ua/70483-2/>

⁷³ Tymoshenko M., Konyk S. "Protecting from war: how to improve the shelters in Ukraine". Ekonomichna Pravda, June 15, 2022 www.epravda.com.ua/columns/2022/06/15/688187/

adaptation to the needs of people with limited mobility. The document stipulates that these norms are mandatory for all legal entities and individuals in Ukraine, except for the construction of individual residential buildings.

On May 26, 2021, the Cabinet of Ministers' Resolution #537 "On Approval of the Procedure for Monitoring and Assessment of the Barrier-Free Environment and Services for Persons with Disabilities" dated May 26, 2021, was approved by the Government⁷⁴.

Only in July 2022, a draft law to amend the state construction regulations (SCR) with the requirement for mandatory **installation of accessible shelters** in new buildings was submitted to the Verkhovna Rada of Ukraine. These changes are not applicable to the existing residential buildings, therefore it will not address people's need for safety.

The issue of architectural accessibility of shelters for people with disabilities was highlighted in the reports of civil society organizations and the Ukrainian Parliament Commissioner for Human Rights in 2014-2015⁷⁵, according to the results of the monitoring of the temporarily occupied territories in the Luhansk and Donetsk regions. The requirements for the maintenance and operation of civilian protective structures in the case of a threat or emergency, including armed conflict zones, were approved by the Order of the Ministry of Internal Affairs #579⁷⁶ dated July 09, 2018. According to this Order:

- entrances to the protective structures must provide free access to their premises, including for persons with disabilities and other people with limited mobility, and have sufficient (standard) discharge rate;

⁷⁴ Resolution #537 of the Cabinet of Ministers of Ukraine "On approval of the Procedure for Monitoring and Evaluation of the Degree of Barrier-Free Physical Environment and Services for Persons with Disabilities" dated May 26, 2021, <https://zakon.rada.gov.ua/laws/show/537-2021-%D0%BF#Text>

⁷⁵ Information from the observers of the National Preventive Mechanism against Torture and the special report "Monitoring of places of detention in Ukraine 2014", <https://ua.krymr.com/a/27095524.html> and <https://notorture.org.ua/2017/11/27/spetsialna-dopovid-monitoring-mists-nesvobodi-v-ukrayini-za-2014-rik/>

⁷⁶ Order #579 of the Ministry of Internal Affairs of Ukraine "On Approval of Requirements for the Use and Accounting of the Fund of Civil Defense Facilities" dated July 9, 2018 <https://zakon.rada.gov.ua/laws/show/z0879-18#Text>

- if there're a lack of ramps at the entrances of protective structures, the entrances should be additionally equipped with wooden or metal ladders.

There are no reports from the authorities on whether the shelters are arranged and inspected in accordance with the set standards.

Modular housing⁷⁷

Due to the displacement of people from the war zone, there is a need to build modular housing for them. It is also required to ensure barrier-free housing for persons with disabilities.

According to the legislation of Ukraine, modular houses are “**temporary facilities**” for the livelihood of the population⁷⁸. Such buildings are low-rise (up to two floors) and are quickly assembled from lightweight structures.

However, the existing legal regulation on temporary facilities (modular housing) provides that modular housing is other than the construction project. Thus, there is no obligation for developers to build modular houses in compliance with the requirements of inclusivity, since the SCR B.2.2-40 “On inclusiveness of Buildings and Structures” does not apply to modular housing and there’s no state control and supervision of modular housing⁷⁹.

Information accessibility

The National Strategy for a Barrier-Free Environment in Ukraine until 2030⁸⁰ also envisages information accessibility, including the receipt of information in the most convenient way among its expected results. Information accessibility is the focus of Pillar 2 of the Strategy, which lists among its goals the

⁷⁷ Based on the materials of the League of the Strong public union.

⁷⁸ Clause 9-2 of the final provisions of the Law of Ukraine #3038-VI “On Regulation of Urban Development” dated February 17, 2011 <https://zakon.rada.gov.ua/laws/show/3038-17#Text>

⁷⁹ Resolution #1340 of the Cabinet of Ministers of Ukraine “Some issues of functioning of architectural and construction control and supervision bodies” dated December 23, 2020 <https://zakon.rada.gov.ua/laws/show/1340-2020-%D0%BF#Text>

⁸⁰ Resolution #366 of the Cabinet of Ministers of Ukraine “On approval of the National Strategy for a Barrier-Free Environment in Ukraine until 2030” dated April 14, 2021 <https://www.kmu.gov.ua/npas/pro-shvalennya-nacionalnoyi-strategiyi-iz-stvorennya-bezbaryernogo-prostoru-v-ukrayini-na-period-do-t140421>

accessibility of information from public authorities; accessibility of information during the judicial and electoral process; accessibility of broadcasting information which is necessary for participation in cultural life, leisure, recreation, and sports; and accessibility of information and communication while receiving public services. The Action Plan for 2023-2024⁸¹ includes both monitoring of the availability of accessible information and measures to ensure it, namely, transition to simplified language, creation of relevant content, and legal improvements. In particular, the existing legislative norms should be improved and their practical application should be promoted.

Article 18 of the Law of Ukraine “On Public Media of Ukraine” stipulates that the National Public Broadcasting Company of Ukraine shall take measures to ensure accessibility of its programs for persons with visual or hearing impairments by adapting programs through the audio description, subtitling, or sign language interpretation⁸².

At least 5% of daily TV broadcasting between 7am and 10pm, except for the audiovisual commercial information, should be provided for such adapted programs.

According to paragraph 18 of the Resolution #733 of the Cabinet of Ministers of Ukraine “On Approval of the Regulation on the Organization of Warning of the Threat or Emergency and the Organization of Communication in the Field of Civil Protection”⁸³ dated September 27, 2017,

“the delivery of signals and messages about the threat or emergency to the population, as well as informing is carried out, in particular, via the National Public Broadcasting Company of Ukraine, state and public broadcasting companies, municipal, public and other broadcasting organizations regardless of ownership, their TV and radio broadcasting networks **(with additional information in sign language and/or**

⁸¹ Order #372-p of the Cabinet of Ministers of Ukraine “On Approval of the Action Plan for 2023-2024 for the Implementation of the National Strategy for a Barrier-Free Environment in Ukraine until 2030” dated April 25, 2023 <https://zakon.rada.gov.ua/laws/show/372-2023-%D1%80#Text>

⁸² The Law of Ukraine “On Public Media of Ukraine” <https://zakon.rada.gov.ua/laws/show/1227-18#Text>

⁸³ Resolution #733 of the Cabinet of Ministers of Ukraine “On Approval of the Regulation on the Organization of Warning of the Threat or Emergency and the Organization of Communication in the Field of Civil Protection” dated September 27, 2017 <https://zakon.rada.gov.ua/laws/show/733-2017-%D0%BF#Text>

subtitling in case of voice data, and audio commentary in case of video data)".

Clause 19 of this Resolution also establishes the form of reporting information about the threat or occurrence of an emergency:

"The warning signal «Attention all!» is followed by TV and radio broadcasting of relevant messages about the threat or occurrence of an emergency and protective actions, **with additional information in sign language and/or subtitling in case of voice data, and audio commentary in case of video data**".

The provisions were amended after the start of the full-scale invasion.

Overview and facts

Accessibility has always been a great issue in Ukraine. However, with the beginning of the full-scale invasion, it has become a matter of survival for people with disabilities. Long lines at overcrowded checkpoints and traffic jams, which could be easily targeted, increased risks for people with severe disabilities. The lack of accessible transportation options made it difficult to leave the combat zone, and the poor accessibility of the railroad hampered their travel to border crossing points. In addition, the refugee centers were not always accessible to those using wheelchairs.

Quote:

"I have never highlighted my disability, but now it has become crucial for my survival.

In the whole country, people with disabilities are held hostage by their disability - we have no access to shelters, and we cannot get food, water, or the medicines we need. Without help, we have no chance."

Uliana Pcholkina, Active Rehabilitation Group⁸⁴

That made evacuation impossible or more difficult, led to the placement of

⁸⁴ "Evacuation of people with disabilities: what you should know" Evacuation.City, March 18, 2022 <https://evacuation.city/articles/199516/evakuaciya-lyudej-z-invalidnistyu-vse-scho-potribno-znati>

people with disabilities in boarding facilities and hospitals, and thus to institutionalization, and became a factor of death or injury. At the same time, accessible spaces became shelters for people with disabilities. For example, in the first days of March 2022, a temporary accommodation center for people with disabilities and their families who were evacuating abroad was set up at the rehabilitation center of the Dzherelo NGO in Lviv.

Protection facilities and shelters

Public shelters, such as subway stations or basements, were mostly inaccessible to people with disabilities (including those using wheelchairs). In addition, such facilities were often unable to meet the needs of children and adults with complex health conditions or people with psychosocial and intellectual disabilities. According to testimonies of people with disabilities, the lack of architecturally accessible shelters, and sometimes of any shelters at all, is one of the main reasons for the evacuation⁸⁵.

Prior to the full-scale invasion, the Kyiv City State Administration published information on available shelters in Kyiv. These are mainly basements of residential buildings and schools (thus, not accessible), and those marked with a ramp sign are underground passages that have never been architecturally accessible⁸⁶. According to the Kyiv Metro, only 14 out of 52 stations are architecturally accessible, however, the users of wheelchair doesn't confirm this information - there are even fewer stations accessible for them⁸⁷.

In the "Survey to determine the state of readiness of persons with disabilities and the elderly for winter" conducted among the beneficiaries of the thematic working group on elderly and disability issues, the National Assembly of People with Disabilities of Ukraine, and HelpAge in September 2022⁸⁸ 95% of respondents indicated that shelters are available in the place where they live. At the same time, only 46% indicated that these shelters were architecturally accessible, 32% indicated that the shelters were not architecturally accessible, and 21% refused to answer.

⁸⁵ "24.02: Evacuation of people with disabilities. Analytical report" - Fight for Right, Kyiv, 2022

⁸⁶ Interactive map of shelters in Kyiv <https://bit.ly/3FUu1ws>

⁸⁷ Official website of the Kyiv Metro <http://www.metro.kyiv.ua/node/3921>

⁸⁸ The survey was conducted in the format of face-to-face meetings and via the phone using a Google form. A total of 2,978 respondents were interviewed. The results are presented in the form of Microsoft Power BI visualization <https://bit.ly/3FqU1PL>

During the air raids, 27% of respondents always go to the shelter, and 35% do it occasionally. 38% do not proceed to the shelter. Among the reasons for it, the respondents referred to their

blindness or deafness, and claimed: “I cannot move without assistance”, “I am using a wheelchair and cannot control it by myself, so I cannot go to the shelter quickly and it is difficult for me to get dressed”, “it is difficult for me to go up and down the stairs”, “I cannot leave a person after a stroke/I am bedbound after a stroke”, “the shelter does not meet the standards or is not equipped properly, It's just a basement”, “it takes a long time to go down to the shelter”.

Many respondents noted that the shelter is far from their place of residence. Some people believe that it is pointless to go to the shelter.

Quote:

“There were many people in the bomb shelter, with strollers and children. It was so stuffy there. The shelter had a cement floor, and people brought in dirt from outside, so it was very difficult to breathe. When someone walked by, cement dust would rise and clog the nose and throat. I ... felt uncomfortable, both emotionally and physically. I said to my friends, “Let's go home - let things happen as they will”.

We thought about hiding in the basement. There was our neighbor without a leg, on a prosthesis, near the entrance. She said the elevator is out of service, let's try to get into the basement together. My wife went to check the basement, and there were such stairs, pipes, and communications, that we would have to get down on our knees and crawl.

So we went to the apartment. We live on the first floor, the windows do not face the street, but the garages, so let the chance decide. I realized that I would not go to the shelter, ‘cause it would bring more issues than safety”.

Oleh Lepetyuk, Kharkiv⁸⁹

⁸⁹ “We will live to see the victory and go to the Crimea - The story of the war by Oleh Lepetyuk”, National Assembly of People with Disabilities of Ukraine, June 8, 2022
<https://naiu.org.ua/dozhyvemo-do-peremogy-i-poyidemo-do-krymu-istoriya-vijny-olega-lepetyuka/>

Taking into account the physical accessibility issues of the full-scale invasion's first months, the Government of Ukraine has amended the relevant regulations. In accordance with paragraph 9 of the Procedure for Monitoring and Assessment of the Barrier-Free Environment and Services for Persons with Disabilities⁹⁰, the Ministry of Communities and Territories Development of Ukraine, together with NGOs, has identified the types of facilities to be monitored in 2022. The previous list of administrative and social service facilities, employment centers, and financial institutions, was updated with buildings for the accommodation of evacuees (namely, dormitories, modular campuses, etc.). The updated State construction regulations for a barrier-free environment also provide for some innovations to ensure more comfortable and convenient movement, to improve fire safety and evacuation for people with limited mobility.

Assessment of modular housing' inclusivity⁹¹

Modular settlements have begun to be constructed for those forced to flee the war. As of January 31, 2023, about 25 towns have already been built on the territory of Ukraine, 12 are under construction, and approximately 30 more are planned. In total, the already constructed temporary housing is for approximately 8,500 people, and the planned construction is for more than 30,000 people.

The accessibility analysis of modular housing is based on the guidelines "Inclusive post-disaster reconstruction: Building back safe and accessible for all"⁹². 20 modular housing settlements were assessed. According to the analysis of the **inclusivity requirements of modular housing, 10 out of 16 key indicators are not fulfilled**. At the same time, 4 out of 4 requirements for toilets are not fulfilled, which makes it impossible to live independently in such

⁹⁰ Resolution #537 of the Cabinet of Ministers of Ukraine "On approval of the Procedure for Monitoring and Evaluation of the Degree of Barrier-Free Physical Environment and Services for Persons with Disabilities" dated May 26, 2021 <https://zakon.rada.gov.ua/laws/show/537-2021-%D0%BF#Text>

⁹¹ "Monitoring the accessibility of modular settlements for people with disabilities", League of the Strong <https://ls.org.ua/monitoryng-dostupnosti-modulnyh-mistechok-dlya-lyudej-z-invalidnistyu/>

⁹² Inclusive post-disaster reconstruction: Building back safe and accessible for all. 16 minimum requirements for building accessible shelters, CBM <https://www.edf-efph.org/content/uploads/2022/04/16-minimum-requirements-for-building-accessible-shelters-booklet-Ukrainian.pdf>

modular towns for people with disabilities, including those who use wheelchairs, require stoma care, or have visual impairments. Among the issues:

- the entrance is physically inaccessible, and there is no possibility to install a ramp;
- the lack of handrails for support and safety;
- lack of color contrast of entrances, so they are difficult to identify;
- the lack of space inside the residential unit, it does not allow the wheelchair user to turn around freely or make a full turn;
- the lack of measures to improve the safety, such as fixing furniture or avoiding sharp edges, including in sanitary facilities;
- work surfaces are inaccessible, there are no places to sit or rest nearby;
- the lack of space outside or inside the toilet, it does not allow a person using a wheelchair to make a full turn or get help from an attendant;
- toilets are inaccessible for many people, for example, they are not equipped with a seat at a height of 45-50 cm and handrails to facilitate movement.

Information accessibility

The digital channels analysis revealed that the communication needs of persons with disabilities are not largely taken into account while informing about crisis situations. For example, there's often a lack of text or audio description in the case of visual information, including infographics, as well as a lack of sign language interpretation of video information, including statements of the country's top officials. Besides, the language of notifications about safety rules and social assistance is sophisticated and contains long sentences, which is difficult to understand, especially due to increased stress and anxiety. Information is provided in the long text without paragraphs, leads, bulleted lists, etc⁹³.

The lack of information accessibility could be disappointing during the war. People with visual and hearing impairments, as well as mental disabilities, are

⁹³ "Assessment of the Accessibility of Information and Alerting in Crisis Situations and Humanitarian Response", Office of the Ukrainian Parliament Commissioner for Human Rights, UNPRPD, <https://www.undp.org/sites/g/files/zskgke326/files/2023-03/AssessmentAccessibility.pdf>

the most vulnerable due to the inability to learn about the danger in time. For example, maps of shelters published before the invasion are often inaccessible for people with visual impairments.

Quote:

“I talked to a woman with a hearing impairment. She is from Kyiv and stayed in Kyiv. In the first few days, she was calm because she did not hear the sirens. On the one hand, I was happy for her that she didn’t hear anything and was calm because of it. I remember myself in Kyiv - I was anything but calm, it was a terrifying experience. But on the other hand, I think it’s really scary, you can be in danger, but you won’t even realize it”.

From an interview with Viktoriya Kharchenko, case manager of the “Fight for Rights” NGO⁹⁴

There’s a case of a deaf woman who miraculously survived a Russian missile on a residential building in Dnipro city in January 2023. Due to hearing impairment, she could not hear the “minute of silence” from the rescuers nor call for help. At least 25 people were killed there.

Quote:

“This is my sister Katya! They found her this morning only, she’s alive, thank God. She and her family lived in that damn house on Peremoha Street!
She could not call for help because she’s deaf since her childhood!”

From an interview with the woman’s sister⁹⁵

There’s a lack of access of people with hearing impairments to official information, as broadcasts of officials’ meetings, including the President of Ukraine, and their addresses rarely have sign language interpretations or subtitles. Instead, even the all-Ukrainian united broadcast of the TV channels provided official sign language interpretation after two weeks of the war only.

⁹⁴ “Fight for Rights” NGO, “Viktoriya Kharchenko: This war left us no choice”
<https://ffr.org.ua/viktoriya-harchenko-tsya-vijna-ne-lyshyla-nam-vyboru/>

⁹⁵ Ukrayinska Pravda, “She lived with her husband and 1-year-old son: what is known about the woman who spent 20 hours under the rubble in Dnipro”
<https://life.pravda.com.ua/society/2023/01/16/252368/>

Since the beginning of the full-scale invasion, none of the President's video speeches have been dubbed into sign language. Subtitles were provided for a number of speeches, dedicated to special events. There was a lack of Ukrainian subtitles in regular video messages, while the accompanying text described the message partially. This makes the content inaccessible to people with hearing impairments. All important presidential statements were translated by volunteers. People with hearing impairments could read text messages only.

However, starting February 25, 2022, all regular video addresses of the President were also provided with English subtitles⁹⁶, indicating the potential availability of resources for it. The small number of sign language interpreters, some 300 for the whole country, is one of the challenges⁹⁷.

Quote:

“Iva Stishun, an artist from Kharkiv who has hearing impairments, recalls that she reacted very painfully on the eve of the full-scale invasion to the lack of any algorithms and advice for people with hearing impairments: how to hear the siren, how to react, in general? So the woman made an agreement with her neighbor: as soon as he heard the siren, he would immediately write to her [in a messenger]”.

From the interview with Iva Stishun⁹⁸

In September 2022, an official petition⁹⁹ was launched to provide access to official information for people with hearing impairments via simultaneous interpretation into Ukrainian sign language and Ukrainian subtitles of

⁹⁶ “Assessment of the Accessibility of Information and Alerting in Crisis Situations and Humanitarian Response”, Office of the Ukrainian Parliament Commissioner for Human Rights, UNPRPD, <https://www.undp.org/sites/g/files/zskgke326/files/2023-03/AssessmentAccessibility.pdf>

⁹⁷ National Assembly of Persons with Disabilities of Ukraine, “Let's be more attentive to each other, we all need it”: an interview with Ukrainian sign language interpreter Tetiana Zhurkova <https://nau.org.ua/davajte-budemo-uvazhnishe-odyn-do-odnogo-nam-vsime-tse-potribno-interv-yu-z-perekladachem-ukrayinskoyi-zhestovoyi-movy-tetyanoyu-zhurkovoyu/>

⁹⁸ Vyrtosu, Iryna. “I wanted to have a choice”. What people with disabilities have to go through to evacuate from the war”. *Zaborona*, November 9, 2022 <https://zaborona.com/ya-hotila-maty-vybir-chomu-i-yak-evakujovuyutsya-lyudy-z-invalidnistyu/>

⁹⁹ Official web-site of the President of Ukraine, petition #22/162514-ep “Turn on the sound for deaf people!” <https://petition.president.gov.ua/petition/162514>

high-ranking official events and official addresses, including those of the President of Ukraine. Unfortunately, the petition wasn't considered due to a lack of the required number of signatures.

From the first days of the full-scale invasion, civil society organizations undertook the major part of communication with people with disabilities. For example, even before February 24th and the escalation of hostilities in Ukraine, the Fight For Right NGO team set up a hotline to provide counseling and psychological support. Since the first day of the attack on Kyiv, the organization's team has been in touch with those in need of assistance. Similarly, the National Assembly of Persons with Disabilities and the Luhansk regional NGO "Association of Women, Youth, Families with Disabilities of Eastern Donbas - East" assisted the hotline of the Office of the Government Commissioner for Disability¹⁰⁰.

Quote:

Antonina Andrienko could feel the vibrations in her dilapidated house on the outskirts of Kharkiv, but she didn't hear the explosions when Russia invaded in late February. She only realized something was going on when her neighbors ran away in panic. "At first, I thought it was an earthquake," said Ms. Andrienko, 74, who is deaf and lives with her 48-year-old daughter, Tanya, who is also deaf and has autism. In an interview with a sign language interpreter, Ms. Andrienko described her fear and disorientation as Russian forces shelled the city.

"We were afraid to sleep. We were sitting in the corner, hiding," she said.

As for other people with disabilities, the war has been particularly dangerous and difficult to navigate for the estimated 40,000 deaf and hard-of-hearing Ukrainians. While several thousand deaf Ukrainians were evacuated to safer areas or neighboring countries, Ms. Andrienko was among the many others who stayed behind.



¹⁰⁰ Tetiana Barantsova: We need to support each other, as Ukrainians are now supported all over the world, National Assembly of People with Disabilities of Ukraine, July 14, 2022 <http://naiu.org.ua/tetyana-barantsova-neobhidno-pidtrymuvaty-odyn-odnogo-yak-zaraz-pidtrymuyut-ukrayintsiv-v-usomu-sviti>

After the invasion, Ms. Andrienko said, her neighbors wrote her a note proposing to evacuate. “We stayed because we didn't know where to go,” Ms. Andrienko said. “We had no information”.

From the interview with Antonina Andrienko¹⁰¹

It should be noted that the President’s addresses are now being provided with sign language interpretation¹⁰², expert planning has begun to introduce accessibility of TV and radio broadcasting with the assistance of the Office of the Ombudsman, and a strategy for simplified language is being developed¹⁰³.

When it comes to state initiatives, the Barrier-Free Handbook¹⁰⁴, part of the “No Barriers” initiative, was adapted to the wartime requirements after the beginning of the full-scale invasion. The focus has been shifted to security issues and answers to urgent questions of those fleeing the war. In particular, the information on where to get vital drugs and insulin during the war, how to provide first aid in a case of an epileptic seizure, how to assist a person with visual impairment on the street or in a shelter, how parents can prepare for a trip their child with autism, how to prevent a sensory overload of a person with autism was added into the text.

At the same time, there’s a lack of plug-ins to ensure the accessibility of information for those with visual impairments in the online version of this handbook. At the time of preparation of this report, it is planned to release the printed version with elements of Braille.

The team of Ukrainian NGOs of persons with disabilities created a website <https://dopomoha-info.org.ua> as an attempt to adapt the information to the

¹⁰¹ Danylov, Yehor. “For a deaf family in Ukraine, the bombs came without warning”. Daycom - Top News, News of Ukraine, World News, Photos and Videos, September 30, 2022 <http://daycom.com.ua/dlia-hlukhoi-rodyny-v-ukraini-bomby-pryl/>

¹⁰² Official YouTube channel of the Office of the President of Ukraine <https://www.youtube.com/@PresidentGovUa>

¹⁰³ According to experts of the League of the Strong NGO.

¹⁰⁴ <https://bf.in.ua/u-voienyj-chas/> The project is being implemented by the Bezbariernist NGO in cooperation with the Ministry of Communities and Territories Development of Ukraine within the framework of the project “Integrated Urban Development in Ukraine II”, implemented by the German government company Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, funded by the Governments of Germany and Switzerland. The album was developed by the Big City Lab urban bureau.

needs of persons with disabilities and the elderly. This website was created within the framework of the UN Recovery and Peacebuilding Programme, with financial support from the European Union, and the UNDP assistance.

It contains useful information for those in Ukraine or abroad due to the full-scale war. There's also a feedback option to contact representatives of NGOs for advice¹⁰⁵.

Conclusions

- 1** Currently, there's a lack of accessibility strategy in Ukraine. Instead, there is the aforementioned national strategy for a barrier-free environment. The term "accessibility" does not meet the definition in the Convention, there is no clear legal distinction between "accessibility" and "barrier-free". At the same time, the concept of "accessibility" is described in international documents on the rights of people with disabilities; it has clear standards and objectives for states.
- 2** Replacing the term "accessibility" with "barrier-free" brings the risk of blurring concepts and standards of the rights of people with disabilities. However, in general, it can precipitate significant positive social changes, including overcoming certain aspects of the persistent discrimination of people with disabilities.
- 3** An obvious task is to introduce accessibility principles into Ukraine's reconstruction plans and the post-war remedial actions. At the moment, it is crucial to introduce accessibility principles into Ukraine's reconstruction plans. The issue of non-compliance with the State Construction Regulations and the construction of new inaccessible buildings and premises must finally be addressed. The desire to rebuild everything as quickly as possible without any guarantees of quality and accessibility is also a challenge. At the same time, this is a chance for a better reconstruction with adherence to accessibility standards.
- 4** The majority of shelters are the simplest ones (semi-basements and basements of multistory buildings, private houses, and industrial

¹⁰⁵ <https://www.ispf.gov.ua/news/informaciya-pid-chas-vijni-dlya-lyudej-z-invalidnistyu-220912>

buildings). Such shelters do not fully meet the need to protect civilians, especially people with disabilities. Besides, most of them are not accessible.

- 5 There is a general issue of inaccessibility of modular housing for persons with disabilities with limited mobility due to a regulation gap - the lack of legal requirements for modular housing (temporary structures) in accordance with the minimum principles of inclusivity and the lack of state control over such structures.
- 6 The current situation with modular housing in Ukraine shows that the minimum requirements for accessibility, inclusivity, and barrier-free access, and thus non-discrimination for persons with disabilities, are not fulfilled.
- 7 Ukrainian civil protection legislation requires that the crisis information should be provided to persons with disabilities in an accessible form. There are brief instructions on how to implement the accessibility of information for persons with visual and hearing impairments. They are limited to mentioning sign language interpretation for audio data and audio commentary for visual data. Less legal attention is paid to the accessibility of information for persons with physical, mental, and intellectual disabilities. There is a lack of accountability for failure to comply with the rights and interests of people with disabilities and to monitor the situation.

Recommendations

- 1 The National Strategy for Accessibility and its action plans should be fully implemented, funded, and monitored with the involvement of civil organizations of people with disabilities, national and international experts. The accessibility strategy should be a key part of the barrier-free strategy.
- 2 The reconstruction of Ukraine should be based on accessibility principles, including the needs and interests of people with disabilities. It is necessary to identify and use relevant architectural, infrastructural, and information accessibility as key components of the reconstruction

process in Ukraine, and make this one of the conditions for financial support of rebuilding programs¹⁰⁶.

- 3** The issue of accessibility should be highlighted at the state and local levels; representatives of government, business, and civil society should be involved in this process.
- 4** The state construction regulations should be actively implemented via professional education (namely, research of best international practices, training in standards, and dissemination of national practices)¹⁰⁷, strengthening responsibility for their non-compliance and practices of its application, monitoring, and public involvement.
- 5** Architectural accessibility standards should be fulfilled at the planning and creation stage of modular housing¹⁰⁸, shelters, hideouts, and other forms of collective living and staying. These types of constructions should be included in the legal norms on the need to comply with the state construction regulations. The organizations of people with disabilities and experts should be involved at all work stages. Information about these places should be disseminated in an accessible format.
- 6** All information should be provided in accessible formats. Action plans at various levels should be developed and approved to inform and alert the population in crisis situations and in the context of humanitarian response. A system of appropriate information, including hotlines and public notification, as well as standards of its provision, should be established and adapted to the needs of persons with visual, hearing, motor, intellectual, and mental disabilities¹⁰⁹.

¹⁰⁶ Riga Declaration, European Disability Forum <https://www.edf-feph.org/publications/riga-declaration/>

¹⁰⁷ For example, the "Album of Barrier-Free Solutions" <https://bcl.com.ua/albomrozdil1/>

¹⁰⁸ For more information, see "Monitoring the accessibility of modular settlements for people with disabilities", League of the Strong <https://ls.org.ua/monitoryng-dostupnosti-modulnyh-mistechok-dlya-lyudej-z-invalidnistyu/>

¹⁰⁹ For more information, see "Assessment of the Accessibility of Information and Alerting in Crisis Situations and Humanitarian Response", Office of the Ukrainian Parliament Commissioner for Human Rights, UNPRPD, <https://www.undp.org/sites/g/files/zskgke326/files/2023-03/AssessmentAccessibility.pdf>

Situations of risk and humanitarian emergencies (Article 11)

Article 11 – Situations of risk and humanitarian emergencies

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.

Legislation

On February 24, 2022, martial law was introduced in Ukraine¹¹⁰. At the beginning of Russia's full-scale invasion, there was a lack of clear and comprehensive regulations addressing the evacuation and rescue of people with disabilities in Ukrainian legislation.

As of February 24, 2022, there were regulations governing the evacuation of civilians and shelter-related standards, the evacuation of children and adults from the custodial settings, and regulations of general mobilization and travel restrictions for civilians. All of these provisions also affect people with disabilities, their safety, ability, and security of movement, including during the hostilities.

Evacuation of people with disabilities¹¹¹

The evacuation of civilians is regulated by the Law of Ukraine #389-VIII "On the Legal Regime of Martial Law"¹¹² dated May 12, 2015. According to it, the military

¹¹⁰ Verkhovna Rada of Ukraine, the Law of Ukraine #2102-IX "On Approval of the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine" dated February 24, 2022 <https://zakon.rada.gov.ua/laws/show/2102-20#Text>

¹¹¹ Based on "24.02: Evacuation of people with disabilities. Analytical report" - Fight for Right, Kyiv, 2022

¹¹² Verkhovna Rada of Ukraine, the Law of Ukraine #389-VIII "On the Legal Regime of Martial Law" dated May 12, 2015 <https://zakon.rada.gov.ua/laws/show/389-19#Text> Since the beginning of the full-scale invasion, this law has been amended 10 times.

command, military administrations, and local authorities should jointly decide on and carry out the evacuation of civilians. There are no criteria for the start of the organized evacuation of civilians and no mention of the organized evacuation of people with disabilities.

The Order #164¹¹³ of the Ministry of Defense of Ukraine dated March 23, 2017, implements the provisions of the 1949 Convention relative to the Protection of Civilian Persons in Time of War. However, it does not contain particular regulations on the organized evacuation of persons with disabilities permanently residing in custodial settings (except for children living in orphanages).

According to the Resolution #711¹¹⁴ of the Cabinet of Ministers of Ukraine dated August 12, 2020, the evacuation of persons with disabilities should be managed in accordance with a separate plan. The document also establishes that the population is subject to mandatory evacuation in case of a threat of armed conflict (from areas of possible hostilities to safe areas), however, this provision does not define the procedure for evacuation during martial law.

There's a list of actions for local authorities regarding the mass evacuation of civilians, including persons with disabilities, in the Order of the Ministry of Internal Affairs #579¹¹⁵ dated July 10, 2017. Section V "Peculiarities of Planning Measures for the Evacuation of Persons with Disabilities and Other Persons with Limited Mobility" contains a list of issues related to the evacuation of civilians with disabilities. In particular, the Evacuation Commission should assess the scope and nature of planned evacuation measures, determine the priorities and specifics of the evacuation of persons with disabilities, in particular, with visual, hearing, and musculoskeletal impairments, intellectual disabilities and mental disorders, and of other groups with limited mobility and

¹¹³ Ministry of Defense of Ukraine, "On Approval of the Instruction on the Procedure for the Implementation of International Humanitarian Law in the Armed Forces of Ukraine" #164 dated March 23, 2017 https://www.mil.gov.ua/content/mou_orders/164_nm_2017.pdf

¹¹⁴ Cabinet of Ministers of Ukraine, "On Amendments to the Procedure for Evacuation in the Event of a Threat or Occurrence of Emergency" #711 dated August 12, 2020 <https://zakon.rada.gov.ua/laws/show/711-2020-%D0%BF#Text>

¹¹⁵ The Order #579 of the Ministry of Internal Affairs of Ukraine "On Approval of the Methodology for Planning Evacuation Measures" dated July 10, 2017 <https://zakon.rada.gov.ua/laws/show/z0938-17#Text>

persons accompanying them, including those in healthcare, education, and social protection institutions.

When planning evacuation measures, the order stipulates the need to determine the number of persons with disabilities and persons accompanying them, boarding (disembarkation) points for persons with disabilities, vehicles to be used and their provision with special equipment, and, if necessary, the involvement of special medical transport for the transportation of persons with disabilities. Movement routes, places of rest and their duration, location, and equipment of medical, heating, food, and water points along the entire route should take into account the specific needs of persons with disabilities to the maximum extent possible.

The plan for the reception and accommodation of the evacuated population should include a separate section on the reception and accommodation of persons with disabilities.

Humanitarian assistance

According to the Law of Ukraine #1192-XIV “On Humanitarian Aid”¹¹⁶ dated October 22, 1999, humanitarian aid is targeted and free-of-charge assistance in cash or in kind, in the form of non-refundable financial assistance or donations, or services by foreign and national donors to recipients on humanitarian grounds.

According to Resolution #202¹¹⁷ of the Cabinet of Ministers of Ukraine dated March 05, 2022 “On Issues of Receiving, Using, Accounting and Reporting of Charitable Assistance”, the legal requirements for receiving, using, accounting, and reporting of charitable assistance from legal entities and individuals (residents and non-residents) - are not applicable during martial law.

¹¹⁶ The Verkhovna Rada of Ukraine, the Law of Ukraine #1192-XIV “On Humanitarian Aid” dated October 22, 1999 <https://zakon.rada.gov.ua/laws/show/1192-14/ed20140418#Text>

¹¹⁷ Resolution #202 of the Cabinet of Ministers of Ukraine “On Issues of Receiving, Using, Accounting and Reporting of Charitable Assistance” dated March 05, 2022 <https://zakon.rada.gov.ua/laws/show/202-2022-%D0%BF#Text>

Besides, Resolution #224¹¹⁸ “On the List of Categories of Goods Recognized as Humanitarian Aid without the Procedure for Recognizing Such Goods as Humanitarian Aid in Each Case, for the Period of Martial Law, and Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine on Humanitarian Aid” with the Annex 1, which provides a list of goods recognized as humanitarian aid, was adopted by the Cabinet of Ministers of Ukraine on March 7, 2022.

“Points of Invincibility”

To counteract the consequences of Russian missile strikes, the network of “Points of invincibility”¹¹⁹ has been established across the country on the initiative of the President of Ukraine. Despite the power outage, the centers provide heating, water, lighting, mobile communications, internet access, power for mobile devices, places to rest, first aid kits, and support for parents and children. The centers are located in the premises of the State Emergency Service, regional and district state administrations, city, town, and village councils, and educational institutions. There are also mobile units.

According to the official website <https://nezlamnist.gov.ua/>, the staffing and operation of the “Points of invincibility” are carried out according to the resources of executive and local self-government bodies. At the same time, at the time of reporting, there were no legal provisions to define the requirements and conditions for the establishment and operation of the “Points of invincibility”. According to the experts of the USAID’s DOBRE program¹²⁰, the activity can be planned in accordance with Article 91(1) of the Budget Code of Ukraine¹²¹ within the framework of local programs, in particular:

- measures in the field of protection of people and territories from man-made and natural emergencies within the legal mandate (clause 16);

¹¹⁸ Resolution #224 the Cabinet of Ministers of Ukraine “On the List of Categories of Goods Recognized as Humanitarian Aid without the Procedure for Recognizing Such Goods as Humanitarian Aid in Each Case, for the Period of Martial Law, and Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine on Humanitarian Aid” dated March 7, 2022 <https://bit.ly/3Hloaf6>

¹¹⁹ <https://nezlamnist.gov.ua/>

¹²⁰ <https://decentralization.gov.ua/news/15876>

¹²¹ The Budget Code of Ukraine <https://zakon.rada.gov.ua/laws/show/2456-17#Text>

- measures on local mobilization preparation (clause 17).

Local programs can provide for the creation and replenishment of a material reserve for the arrangement of these Points.

Overview and facts

Evacuation of persons with disability

The authorities did not announce an organized mass evacuation of Ukrainian cities until late spring and early summer of 2022. From February 24 until at least the summer of 2022, in the regions of hostilities and the temporarily occupied regions, the civilians were forced to make decisions about evacuation, look for means, and evacuate on their own or request assistance from civil society organizations. There was a lack of pre-planned and coordinated actions by the local authorities and temporary military administrations¹²².

Quote:

“We received a lot of requests - where and how to evacuate, who will come, who will help, who will buy the ticket, who will assist me to board the train, who will meet me, what is it like in the room, will I be able to use the bathroom, what will it be like abroad, where will I live, who will I communicate with, will be medical care available, how will I communicate with the doctor. People also have a lot of sensitive issues, for example, many of them were in basements and asked who would get them out. So we worked directly with the Ministry of Emergency Situations, and we’re really grateful to them! There were also questions about children, how to help them on the way, where to find housing, where to register, and where to get food. There are so many issues...”

Tetyana Barantsova, Commissioner for the Rights of Persons with Disabilities,
Ukraine¹²³

¹²² “24.02: Evacuation of people with disabilities. Analytical report” - Fight for Right, Kyiv, 2022
<https://bit.ly/3hfvKmo>

¹²³ Tetiana Barantsova: We need to support each other, as Ukrainians are now supported all over the world, National Assembly of People with Disabilities of Ukraine, July 14, 2022,
<https://naiu.org.ua/tetyana-barantsova-neobhidno-pidtrymuvaty-odyn-odnogo-yak-zaraz-pidtrymuyut-ukrayintsiv-v-usomu-sviti>

According to the survey conducted by the All-Ukrainian Public Association “National Assembly of People with Disabilities of Ukraine”¹²⁴, the major part of displacement cases happened in the first half of March and April. Friends/relatives/acquaintances (53 people or 25%), volunteers (32 people or 15.1%), authorities (11 people or 5.2%), and public associations of persons with disabilities (8 people or 3.8%) were among those who provided assistance with the evacuation. Eighty-eight respondents (41.5%) evacuated on their own.

Most of the respondents were evacuated by car (112 people or 52.8%), via railroad (53 people or 25%), or by bus (34 people or 16%).

Quote:

“It was a huge problem to get on a train because of the crowds, and being in the subway was also problematic for people with disabilities. Those who could not leave at all, including families of blind people and those bedridden, remained in Kharkiv”.

Oleh Lepetyuk, Kharkiv¹²⁵

People mostly moved to Poltava (31 people or 14.6%), Lviv and Chernivtsi (19 people or 9% each), Ivano-Frankivsk (25 people or 11.8%), and Vinnytsia (18 people or 8.5%) regions. The relocation was carried out within all regions of Ukraine.

Obviously, it is not possible for people from residential facilities to evacuate on their own. In particular, we are talking about 157 psychoneurological boarding facilities and 89 boarding facilities for the elderly and people with disabilities, 313 inpatient departments for permanent or temporary residence of territorial centers of social services, and 36 orphanages¹²⁶ in the social protection system

¹²⁴ Analytical Report on the results of the survey of women and men with disabilities and legal representatives of legally incapable persons and children with disabilities on the issuance of certificates and assistance as internally displaced persons, All-Ukrainian public association “National Assembly of People with Disabilities of Ukraine”, <https://naiu.org.ua/wp-content/uploads/2022/07/NAIU-AnaliticalReportUA.pdf>

¹²⁵ “We will live to see the victory and go to the Crimea - The story of the war by Oleh Lepetyuk”, National Assembly of People with Disabilities of Ukraine, June 8, 2022 <https://naiu.org.ua/dozhyvemo-do-peremogy-i-poyidemo-do-krymu-istoriya-vijny-olega-lepetyuka/>

¹²⁶ “The Rights of Persons with Disabilities in Institutionalized Settings during the War: Research Results”, Kharkiv Institute for Social Research, 2023 https://khisr.kharkov.ua/wp-content/uploads/2023/06/Zvit_Prava-liudey-z-invalidnisttiu_06.06.pdf

of the Ministry of Social Policy of Ukraine with more than 43 thousand people¹²⁷.

As of May 2022, the central government, local administrations, and the temporary military administrations didn't initiate sufficient measures for mass evacuations of institutions of permanent residence for adults with disabilities¹²⁸.

Since 2014, despite numerous issues and calls to develop and practice an evacuation system¹²⁹, the state has done nothing to prepare for the war or relocate psychoneurological and geriatric institutions for the elderly and people with disabilities¹³⁰.

According to operational information provided by the National Social Service, as of November 4, 2022, 23 residential care facilities were temporarily relocated (evacuated). Among them are: 19 psychiatric residential care facilities hosting 3,528 people, including those three evacuated abroad (331 people); 7 boarding houses for the elderly and people with disabilities, 867 people; and nine inpatient care departments, 260 people.

¹²⁷ These figures reflect only the number of clients of municipal institutions, excluding private boarding facilities of various profiles.

¹²⁸ Preliminary review: Places of detention in Ukraine during the war https://ffr.org.ua/wp-content/uploads/2022/06/Main_Free_5.pdf

¹²⁹ Kharkiv sociologists advocate for a state program to evacuate vulnerable categories of citizens and prisoners from the ATO zone - Kharkiv Institute for Social Research <http://khisr.kharkov.ua/khar-kovskye-sotsyolohy-ratuiut-za-hosprohrammu-po-v-vozu-yz-zon-ato-uiazvym-kh-katehoryy-hrazhdan-y-zakliuchenn-kh/>

¹³⁰ List of detention places in the conflict zone in Luhansk region - Kharkiv Institute for Social Research <http://khisr.kharkov.ua/perelik-mists-nesvobody-v-zoni-konfliktu-u-luhans-kiy-oblasti/>

List of institutions in the separatist-controlled territory of Donetsk region, where vulnerable categories of the population are located - Kharkiv Institute for Social Research <http://khisr.kharkov.ua/perelik-ustanov-na-terytorii-shcho-kontroliuiet-sia-separatystamy-v-donets-kyy-oblasti-v-iyakhy-znakhodiatsia-vrazlyvi-katehorii-naselennia/>

Quote:

“After the last Russian artillery shelling, the facility had to move to Bilopillia, to the territory of another municipal facility. “We have moved 60 residents. There will be no layoffs, all the staff is working as usual”.

Oleg Tereshchenko, director of the Atyn boarding facility¹³¹

As of November 9, 2022, there were 23 boarding facilities left in the non-controlled territory of Ukraine, including 12 psychiatric residential care facilities: 11 boarding houses for older adults and persons with disabilities and 23 inpatient care departments. There is no information on the number of people living in the residential care facilities that remained in the non-controlled territory of Ukraine as of November 1, 2022¹³².

As of the beginning of October 2022, according to information provided by the Ministry of Social Policy of Ukraine, more than 5,000 clients of the social protection system facilities were evacuated within the regions, to other regions, and abroad. Among the problems, which the evacuated institutions have faced, are the following: the lack of clear evacuation plans and instructions, the lack of appropriate resources, the lack of legislative regulation on the evacuation of clients abroad, the lack of physical space in the institutions that hosted the evacuees, decreasing of the care quality and service provision as a result of the fact that the staff was not displaced together with the clients¹³³.

Humanitarian aid

The need for assistance is growing rapidly, especially in areas of hostilities. In March 2022, the UN estimated that 18 million people in Ukraine would be

¹³¹ “Not a single building remained intact. Patients of the Atynsk Psychoneurological Boarding Facility in Sumy Region Were Evacuated”, Suspilne Novyny <https://suspilne.media/257095-zodna-budivla-ne-vcilila-pacientiv-atinskogo-psihonevrologichnogo-internatu-na-sumsini-evakuuvali/>

¹³² "The Rights of Persons with Disabilities in Institutionalized Facilities during the War: Results of the Study", Kharkiv Institute for Social Research, 2023 https://khisr.kharkov.ua/wp-content/uploads/2023/06/Zvit_Prava-liudey-z-invalidnisttiu_06.06.pdf

¹³³ *ibid.*

affected by military aggression in 2022¹³⁴. More than 12.8 million people¹³⁵, which is a quarter of Ukraine's population, are in need of assistance and protection, including up to 6.7 million people who would be internally displaced, according to the UN forecasts.

People with disabilities who are unable to leave dangerous places or remain in the affected areas and the elderly are among the most vulnerable groups in the context of military conflict. Attacks on healthcare facilities in Ukraine bring deaths and injuries to the most vulnerable patients, including women and children, as well as medical personnel, destroy healthcare infrastructure, and force many people to refuse medical care despite their urgent needs. Attacks on healthcare facilities and workers make a direct impact on access to essential healthcare services, especially for vulnerable groups¹³⁶.

Quote:

“The humanitarian situation is the most blatant and critical in Kherson. It was very difficult for people with disabilities to move around and receive aid. For example, I use a prosthesis, and I had to stand in a long line to buy something. Can you imagine what it's like for people who use wheelchairs? Or those with some kind of psychosocial health disorder? It is extremely difficult. There were no supplies of humanitarian aid, there was never a humanitarian or green corridor for this aid. It was very tough, especially for those people who were left without medicines. Specialized pharmacies no longer had the medicines for people with disabilities and permanent illnesses, who required medical assistance”.

Viktor Boolka, Kherson¹³⁷

¹³⁴ Pyshchulina, Olha. General overview of the humanitarian situation in Ukraine. Analytical note. Razumkov Center, July 2022 - p.8

https://razumkov.org.ua/images/2022/07/05/2022_ANALIT_ZAPIS.pdf

¹³⁵ *ibid.*

¹³⁶ Pyshchulina, Olha. General overview of the humanitarian situation in Ukraine. Analytical note. Razumkov Center, July 2022 – p. 3

https://razumkov.org.ua/images/2022/07/05/2022_ANALIT_ZAPIS.pdf

¹³⁷ We thought we would be heard. Kherson is Ukraine. Viktor Boolka's war story. National Assembly of People with Disabilities of Ukraine, July 27, 2022 <http://naiu.org.ua/my-dumaly-shho-nas-pochuyut-herson-tse-ukrayina-istoriya-vijny-viktora-bulky/>

At the same time, people with disabilities should be included in general plans, as well as consideration of the principles of inclusivity and implementation of the “Nothing about us without us” rule while planning and distributing humanitarian aid. On March 21, 2022, the Social Protection Fund for Persons with Disabilities, on behalf of the Ministry of Social Policy of Ukraine, instructed its territorial offices to consider the needs of persons with disabilities, including among regional IDPs and refugees, for targeted humanitarian assistance. Consolidated information should be transmitted daily to the Humanitarian Assistance Office of the Social Protection Fund for Persons with Disabilities. The central office of the Social Protection Fund for Persons with Disabilities should summarize the requests and coordinate the regional distribution of humanitarian aid. An application can be submitted online, via the eDopomoga website, or via the regional office of the Social Protection Fund for Persons with Disabilities.

The need for targeted humanitarian aid is also increased due to rising prices for medicines and essential goods.

Quote:

“Medicines are also a major issue. For example, we were looking for insulin, which is essentially free. We have so many children in need of insulin, with diabetes, and it is impossible to buy glucometers and insulin, since the prices are outrageous. Recently, we purchased a year’s supply of medicines for an orphanage for children with cerebral palsy in the Chernivtsi region - thank God, we had this option due to private donations for medicines. Namely, the neuroleptics are needed because the children have seizures. How happy they were! Such issues we face every day”.

Yevheniia Pavlova, Kyiv¹³⁸

International and Ukrainian NGOs, as well as newly created volunteer groups, have been actively involved in providing humanitarian assistance. For example, the League of the Strong public union provided assistance to more than 20,000

¹³⁸ We already understand whether it's an airplane, helicopter or missile - Yevheniia Pavlova's war story. National Assembly of People with Disabilities of Ukraine, July 21, 2022
<http://naiu.org.ua/my-vzhe-rozumiyemo-letyt-tse-litak-vertolit-chy-raketa-istoriya-vijny-yevgeniyi-pavlovoyi/>

people from June 2022 to May 2023, including nearly 3,500 people who received humanitarian aid¹³⁹.

At the same time, humanitarian assistance is a new field of experience for most organizations and volunteer groups, which resulted in numerous issues, mostly affecting people with disabilities. According to NGO reports, equipment for people with disabilities, such as stoma care, was often unrequested for months at humanitarian aid warehouses since volunteers did not know what it was. There's a low level of awareness of the rights of people with disabilities and a lack of a human rights-based approach to disability among those involved in the humanitarian sphere. Often, humanitarian aid is reported with photos, and in the case of people with disabilities, the publication of photos with hygiene products on social media may be disrespectful to human dignity and privacy.

There's also an issue of accessibility of information about humanitarian aid. It's difficult to navigate since it is provided by numerous governmental and non-governmental institutions. Civil society organizations have tried to close this gap, for example, there's a section on humanitarian aid on the portal "War-related Information for people with disabilities and older people", and the National Assembly of People with Disabilities of Ukraine has summarized all available assistance in a guide¹⁴⁰.

"Points of invincibility"

Damage to infrastructure caused by shelling has led to new needs for the civilian population, including people with disabilities. Due to a series of strikes on energy infrastructure, power cuts were introduced in all regions of Ukraine. As a result, a significant number of people with disabilities, who use rechargeable medical devices, face a real threat of death. For example, numerous cases of children who need to use inhalers being brought to places where generators are working were reported by volunteers and journalists¹⁴¹.

¹³⁹ Annual Report of the League of the Strong NGO, 2022 <https://ls.org.ua/zvitnist/>

¹⁴⁰ Handbooks "State Assistance to War Victims" and "Assistance to Internally Displaced Persons from International and Non-Governmental Organizations", National Assembly of People with Disabilities of Ukraine <https://naiu.org.ua/dovidnyky-dopomoga-postrazhdalym-vnaslidok-vijny-vid-derzhavy/>

¹⁴¹ https://24tv.ua/rodina-irpenya-zaryadzhayut-ingalyator-dlya-ditini-punkti-nezlamnosti_n2206783, <https://life.pravda.com.ua/society/2022/11/25/251491/>

With the beginning of the cold season, the “Points of invincibility” were set up. They have all the basic resources, a generator, a supply of water, medicines, and basic food, to accommodate up to 400 people. However, not all the attempts to use them were successful: it was not even possible to find out their location due to the lack of mobile communication and web access. Moreover, regional and district administrations are the basic option for the location of such points; however, the premises of a district school or social facilities, which are often physically inaccessible, are among the typical locations¹⁴².

In the capital, social services were informing lonely pensioners and caregivers of people with disabilities about the nearest “Points of invincibility” via phone calls. People with disabilities were offered transportation to a shelter¹⁴³. It should be noted that many of these points are inaccessible.

Quote:

“Commode chairs for people with disabilities should be installed to protect their privacy. This can be implemented quickly, and there is no need to allocate millions of hryvnias and spend time on design. Where there are no ramps, I think it is worthwhile to either equip a button to call the person in charge or to place this person's phone number. Thus, the person in a wheelchair will be assisted to enter the “Point of Invincibility” if there are no ramps”.

Ruslan Imerelli, representative of the Commissioner for the Rights of Persons with Disabilities in Vinnytsia Regional State Administration¹⁴⁴

Conclusions

- 1 The issue of evacuation of people with disabilities is still relevant due to the risks of the front line expansion, new shelling, and bombing, as well as man-made disasters caused by the war. Accordingly, evacuation should be regulated and standardized at the state and local levels. It is not possible to rely on civil society and volunteer resources. The issue

¹⁴² <https://bit.ly/3uIPGXP>

¹⁴³ <https://mind.ua/publications/20250122-ne-mishki-tyagati-shcho-oznachayut-prezidentski-pretenziyi-do-punktiv-nezlamnosti-u-stolici>

¹⁴⁴ *ibid.*

of returning people from the western regions and from abroad is another challenge.

- 2 The startling situation with the evacuation of residential facilities has confirmed the inability of the residential system to protect people and underscored the need to introduce a system of community-based living for people with disabilities.
- 3 Among the issues faced by the evacuated institutions:
 - the lack of clear evacuation plans or instructions;
 - the decision to evacuate was made directly by the heads of the institutions;
 - there were no resources to carry out the evacuation. Often, even buses were provided by volunteers and philanthropists;
 - there is no legal framework for the evacuation abroad. Because of this and the unwillingness of staff to accompany clients, a significant number of clients remained in worse conditions in Ukraine;
 - the institutions that accepted the evacuees were not designed for such many clients, thus, they were overcrowded, which worsened the condition of both the evacuees and the clients of these facilities;
 - the staff was not evacuated, which deteriorated the level of care and services.
- 4 The demand for humanitarian aid requires coordination and accessibility at the state level. People with disabilities are often excluded and their needs are not taken into account. At the same time, while some people receive several types of assistance, others are left without it.
- 5 There's an issue of the low awareness of the needs of people with disabilities, the standards of a human rights-based approach to disability, and respect for human dignity among humanitarian aid providers.
- 6 Although the establishment of “points of invincibility” is an urgent initiative aimed at addressing critical issues, it still requires the development of the necessary legal framework to legalize its activity and

define indicators of its functioning, including those related to services for people with disabilities. This is required by the principle of the rule of law and the requirement to act accordingly even under martial law.

Recommendations¹⁴⁵

- 1** Ensure meaningful participation of representative organizations of persons with disabilities (OPDs/DPOs) in all decision-making processes at all steps of the humanitarian program cycle, including reconstruction and resilience building, moreover, not only by considering the expertise provided by these organizations but also by supporting them with the necessary resources and building the capacity of these organizations. Also engage with the diversity of wider civil society, including non-governmental organizations (NGOs), in this work.
- 2** Ensure that all persons with disabilities are accounted for, protected, and provided with immediate access to humanitarian aid, including all basic needs and any specific requirements
- 3** 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.
- 4** Pay particular attention to include those most at risk (including children, women, persons with psychosocial and intellectual disabilities, deafblind persons, persons with high support needs, and those confined to institutional settings), as well as those who do not fall under the scope of the EU Temporary Protection Directive
- 5** Provide all information in accessible formats

¹⁴⁵ Based on: Riga Declaration, European Disability Forum <https://www.edf-feph.org/publications/riga-declaration/> and 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 <https://www.ohchr.org/sites/default/files/documents/hrbodies/crpd/statements/2022-09-09/Situation-of-persons-with-disabilitie-in-Ukraine-in-CRPD-27th-session-Report.docx>

- 6** Dedicate sufficient funding to accessibility and reasonable accommodation during the earliest planning stages of all activities
- 7** Develop and adopt a regulatory framework for the establishment and operation of “invisibility points” with due regard for inclusiveness and the needs of persons with disabilities
- 8** Disaggregate population data by disability using the Washington Group questions
- 9** Provide full and effective access for all to evacuation activities and to humanitarian corridors
- 10** Effectively implement already-existing frameworks and guidelines, in particular the Inter-Agency Standing Committee (IASC) Guidelines on Inclusion of Persons with Disabilities in Humanitarian Action[i]
- 11** Build disability-inclusive resilience in line with the Sendai Framework[ii] and the UNDRR Roadmap for Europe and Central Asia 2021-2030[iii]
- 12** Identify and use relevant architectural, infrastructural, and information accessibility as key components of the reconstruction process in Ukraine, and make this one of the conditions for financial support of rebuilding programs
- 13** 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
- 14** 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

- 15** 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 organizations – to contribute to the process of deinstitutionalization of children and adults with disabilities in Ukraine

- 16** In host countries, prevent the institutionalization of persons with disabilities who have fled Ukraine, ensure that long-term integration procedures are fully accessible to persons with disabilities, including housing, employment, health, education, and social protection, and prevent the current overload of national mechanisms from negatively impacting ongoing CRPD implementation

Equal recognition before the law and access to justice (Articles 12 and 13)

Article 12 – Equal recognition before the law

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.
2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.
3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.
4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.
5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

Article 13 – Access to justice

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.

2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

Legislation

Ukrainian legislation guarantees equality before the law and access to justice even during martial law. Thus, Article 10 of the Law of Ukraine “On the Legal Regime of Martial Law”¹⁴⁶ states that the powers of the courts cannot be suspended, and Article 26(2) of this law provides that the reduction or acceleration of any form of legal proceedings is prohibited.

However, despite these provisions, the judicial system in Ukraine has been affected by the consequences of the war, which has made adjustments to the judicial process. Due to the full-scale invasion of Ukraine, active hostilities, and temporary occupation of certain territories, a number of courts in certain regions of Ukraine suspended their operations. As a result, the territorial jurisdiction of court cases considered in these courts was changed by the relevant orders of the Chair of the Supreme Court “On Changing the Territorial Jurisdiction of Court Cases under Martial Law”, given the inability of courts to administer justice under martial law. If a court is unable to administer justice for objective reasons during martial law or a state of emergency, due to a natural disaster, military operations, measures to combat terrorism, or other extraordinary circumstances, the territorial jurisdiction of court cases may be changed by transferring them to the nearest court or to another designated court¹⁴⁷.

Since 2021, the Verkhovna Rada of Ukraine has improved a number of regulations on remote participation in court hearings. The State Judicial Administration developed a procedure for video conferencing during court

¹⁴⁶ Verkhovna Rada of Ukraine, the Law of Ukraine #389-VIII “On the Legal Regime of Martial Law” dated May 12, 2015 <https://zakon.rada.gov.ua/laws/show/389-19#Text>

¹⁴⁷ “Verkhovna Rada allowed to change territorial jurisdiction during martial law”. JURLIGA, March 4, 2022 http://jurliga.ligazakon.net/ru/news/209773_vr-dozvolila-zmnyuvati-teritorialnu-pdsudnst-pd-chas-vonnogo-stanu

hearings. The EasyCon system or other means available to the court and litigants can be used¹⁴⁸.

Overview and facts

Work of the courts

Additional issues for persons with disabilities emerged due to the change of court jurisdiction. They had to travel to another region, exposing themselves and their caregivers to additional danger.

The resumption of courts' hearings in the de-occupied territories initiated additional problems. As of May 2022, about fifty court buildings were damaged. Elements of architectural accessibility were destroyed or damaged, and some of the courtrooms were destroyed¹⁴⁹. According to the Chair of the Supreme Court, some courts had been looted in the occupied territories¹⁵⁰.

Besides, before the full-scale aggression of the Russian Federation, the judicial system lacked judges and court staff, which led to lengthy case reviews and worsened access to justice. After February 24, 2022, the situation worsened; according to the State Judicial Administration, 7 judges and court staff were

¹⁴⁸ Order #362 of the State Judicial Administration of Ukraine "On Bringing the Regulatory Legal Acts of the State Judicial Administration of Ukraine in Compliance with the Current Legislation" dated October 26, 2021 <https://zakon.rada.gov.ua/rada/show/v0362750-21#n11>;

Decision, Regulation #1845/0/15-21 of the High Council of Justice "On Approval of the Regulation on the Procedure for the Functioning of Certain Subsystems of the Unified Judicial Information and Telecommunication System" dated August 17, 2021 <https://zakon.rada.gov.ua/rada/show/v1845910-21#n22>

Verkhovna Rada of Ukraine, Law #1402-VIII "On the Judicial System and Status of Judges Law of Ukraine" dated June 2, 2016 as amended <https://zakon.rada.gov.ua/laws/show/1402-19#Text>

Verkhovna Rada of Ukraine. Criminal Procedure Code of Ukraine. Law, Code #4651-VI dated April 13, 2012 as amended <https://zakon.rada.gov.ua/laws/show/4651-17#Text>

¹⁴⁹ <https://dsa.court.gov.ua/dsa/pres-centr/news/1271621/>

¹⁵⁰ "The Chief Justice of the Supreme Court reported on the meeting with the representative of the Council of Europe". Ukrainian portal of law and legal information, 28 Apr. 2022 <http://ukrainepravo.com/news/ukraine/golova-verkhovnogo-sudu-povidomyv-proviv-zustrich-z-prestavnykom-rady-yevropy/>

killed and 9 were injured. There are 54 judges and 353 court staff members serving in the Armed Forces of Ukraine¹⁵¹.

The mechanism of remote court hearings, without the presence of a party to the case in the courtroom, helped to normalize access to justice for people with disabilities. However, martial law and hostilities have made it more difficult to participate in proceedings, even if it is possible to use video conference.

There is no safe place in Ukraine, the sirens sound almost every day in this or that part of the country, which requires a person (namely, a judge, party to a case, or court employee) to proceed to a shelter. Inobservance of these instructions can lead to dire consequences, like in the Mykolaiv region, when the employees of the Economic Court of Mykolaiv region were killed by a missile attack on the Mykolaiv Regional State Administration¹⁵².

During air raids, court hearings must be interrupted. The number of forced breaks per day may vary, as well as their duration. The Electronic Court system¹⁵³ is one of the opportunities for access to justice for people with disabilities.

This system enables users to create and send procedural or other documents to the court, other bodies, and institutions of the justice system, as well as to receive information on the status and results of consideration of the documents.

However, it should be noted that the Electronic Court system is used by just some courts in Ukraine, which slows down the use of the capabilities and resources of this subsystem.

At the same time, there is still a high demand for legal assistance and litigation of people with disabilities.

¹⁵¹ <https://rsu.gov.ua/ua/news/golova-radi-suddiv-ukraini-pro-robotu-sudiv-pid-cas-vijni-konkurs-do-vkks-spravi-sodo-voennih-zlociniv-ta-suddiv-na-fronti>

¹⁵² <https://supreme.court.gov.ua/supreme/pres-centr/news/1265677/>

¹⁵³ Decision, Regulation #1845/0/15-21 of the High Council of Justice "On Approval of the Regulation on the Procedure for the Functioning of Certain Subsystems of the Unified Judicial Information and Telecommunication System" dated August 17, 2021
<https://zakon.rada.gov.ua/rada/show/v1845910-21#Text>

Quote:

“In May 2022, legal assistance from the Kharkiv Association of Blind Lawyers was resumed, and some 600 legal consultations were provided. The main requests were related to the following issues:

- registration of IDP status; obtaining material support and financial assistance;
- registration or prolongation of disability;
- procedure for abroad travel for persons with disabilities and caregivers;
- timely receipt of social benefits, pensions, and scholarships;
- registration of housing subsidies;
- the procedure for the acquisition of rehabilitation equipment and compensation for its purchase;

grounds for deferment and discharge from military service.

There were requests from people with disabilities of various nosologies: visual, hearing, and musculoskeletal impairments, mental health issues, and parents of children with disabilities.

Legal advice was provided both via the phone and in written replies, to those who stayed in Ukraine and those who went abroad”.

From the report of the Kharkiv Association of Blind Lawyers¹⁵⁴

Overview of court cases

Since the beginning of the large-scale invasion of the Russian Federation, there have been legal cases of declaring a person as legally incapable and establishing guardianship, or replacing a guardian unable to perform these functions due to the war. To date, 7 court decisions have been made in legal cases as a result of the Russian invasion, of which: 3 decisions concern the establishment of guardianship over persons with disabilities, 1 - compensation (payment of compensation for moral damage) in connection with the loss of a family member due to shelling of the Russian Federation; 1 - dismissal from military service in connection with the presence of a wife from among persons

¹⁵⁴ From the organization's report on the ongoing joint project with the League of the Strong NGO

with disabilities of the III group, 1 - payment of a disability pension and 1 - reinstatement at work.

Thus, the municipal institution “Cherkasy Geriatric Boarding Facility of the Cherkasy Regional Council” filed a petition with the Sosnivsky District Court of Cherkasy to appoint a guardian in case #712/7170/22.

Quote:

“In this case, a person with a mental disability was recognized as legally incapable in 1995 by the Lysychansk City Court, Luhansk region. Prior to the large-scale invasion, she was a resident of the Nyzhne Regional Psychoneurological Boarding Facility in the Luhansk region. On March 31, 2022, she arrived for permanent residence and full state support with the provision of inpatient social services at the Cherkasy Geriatric Boarding Facility of the Cherkasy Regional Council”.

From the Unified State Register of Court Decisions

After the review of the case file, the court granted the boarding facility’s application and appointed it as a guardian¹⁵⁵. It is possible for such decisions to be typical in the cases of internal displacement of individuals with disabilities, rather than relocation/evacuation with the relevant institutions.

In case #404/4394/22, the Kirovsky District Court of Kirovohrad considered the issue of establishing guardianship over a person with a group I disability due to mental health issues.

Quote:

“In 2019, the same court declared the person with a disability as legally incapable and appointed her sister as guardian at the request of the guardianship and trusteeship authority. However, at the time of the case, the sister left Ukraine to protect her young son due to the Russian invasion of February 24, 2022. Since the sister’s departure, her husband provided the supervision and care of the person with a disability, and he applied to the court for



¹⁵⁵ The decision of the Sosnivsky district court of Cherkasy in the case #712/7170/22
<https://reyestr.court.gov.ua/Review/107345040>

recognition of the person as legally incapable and the establishment (change) of a guardian. The guardianship and trusteeship authority did not object to the appointment of the husband as guardian”.

From to the Unified State Register of Court Decisions

After the review of the case file, the court granted the man’s application and appointed him as a guardian¹⁵⁶ .

A similar case #302/1396/22 was also considered by the Mizhhirsky District Court of Zakarpattia region, but the applicant filed a statement with the court to establish a fact of legal significance.

Quote:

“The uncle filed a petition with the court, asking to establish a fact of legal significance, “namely, that he provides constant care for his niece, who is recognized as a person with a II group disability and, according to the conclusion of the Medical Advisory Commission #834 dated September 7, 2022, needs constant outside care”. He claimed that his niece has been a person with a II group disability since childhood. He also stated that “now he is the only person who cares for his niece, namely, he helps her with self-care, provides her with everything, namely, food, medicine, hygiene products, etc.”. Separately, the statement emphasizes that for the applicant (the girl’s uncle) **“this fact is of legal significance, as emerging the applicant’s rights and obligations to receive social benefits and payments, the rights and obligations defined by the Law of Ukraine “On mobilization training and mobilization”, and the Law of Ukraine “On military duty and military service”**.

In addition, the mother of a child with a disability is a party to the case, and the legal fact of support is being established. The mother was not present during the court consideration of the application but submitted a written statement to the court in which she claimed that “she supports the stated requirements, and does



¹⁵⁶ The decision of the Kirovsky district court of Kirovohrad in the case #404/4394/22 <https://reyestr.court.gov.ua/Review/106436425>

not object to their satisfaction. She requests that the hearing be held in her absence. She confirms that she has no other individuals who could provide her with constant care, as she lives alone with her young son. Her husband PERSON_6 died on March 31, 2022, in the city of Orikhiv, Pologiv district, Zaporizhzhya region, as a result of Russia's armed invasion of Ukraine. Her mother is registered and actually resides in the village of Zaperedillia, Khust district, and has two minor children. Her father died in the Czech Republic. On these grounds, PERSON_2 wants her uncle to take care of her [her daughter]".

From the Unified State Register of Court Decisions

Following the consideration of the application, the court concluded that "**the case materials conclusively established** that the child with a disability, born in 1999, has **no other first-degree relatives who can provide her with constant third-party care**. Therefore, the applicant currently provides third-party care for his niece".

The court's decision shows that the court did not summon the mother to the court hearing to clarify her position and circumstances relevant to the uncle's application to ensure the best interests of the child, which is one of the four basic principles of the UN Convention on the Rights of the Child dated November 20, 1989. This aspect is important in this case, as it establishes a legal fact that entails legal consequences for the uncle in connection with the imposition of martial law in Ukraine and mobilization activities. Therefore, the court should have paid special attention to whether a child with a disability is used as a ground for avoiding mobilization and conscription. Instead, these circumstances were not reflected in the court's decision¹⁵⁷.

In case #520/7798/22, a serviceman appealed to the Kharkiv District Administrative Court against a military unit that did not satisfy his request for discharge from military service due to his wife's III group disability.

¹⁵⁷ The decision of the Mizhhirsky district court of Zakarpattia region in the case #302/1396/22 <https://reyestr.court.gov.ua/Review/107978498>

Quote:

“On February 26, 2022, the plaintiff was called up for military service according to the Decree of the President of Ukraine #69/2022 “On General Mobilization”. The plaintiff filed a report on discharge from military service due to his wife’s III group disability. However, the report was denied due to lack of grounds. The court analyzed the circumstances of the case and the legal norms governing this area of social relations, in particular, referring to Article 23 of the Law of Ukraine “On mobilization training and mobilization”, according to which persons are liable for military service during mobilization who have a spouse with disability and/or one of the parents or **spouse’s parents with disability of I or II group** are not subject to a call-up for military service during mobilization”.

From the Unified State Register of Court Decisions

The court concluded that the plaintiff’s reference to the fact that he had a wife with a III group disability was groundless, as there was no such ground for dismissal from military service, therefore the claim was not satisfied¹⁵⁸.

The case #620/5472/22 was considered by the Chernihiv District Administrative Court, in this case, the plaintiff was granted a disability pension by the pension authority of the Autonomous Republic of Crimea in 1987.

Quote:

“On March 29, 2022, the plaintiff was registered as an internally displaced person. On May 10, 2022, he applied to the Main Department of the Pension Fund of Ukraine in the Dnipro region for a disability pension, then he received a cover letter dated May 18, 2022, and a decision of the Main Department of the Pension Fund of Ukraine in the Dnipro region #254150019619 dated May 16, 2022, which denied him on the grounds that he had already been granted a pension. In analyzing the case circumstances and the legal provisions, the court refers to several provisions of the Constitution of Ukraine,



¹⁵⁸ The decision of the Kharkiv district administrative court in the case #520/7798/22
<https://reyestr.court.gov.ua/Review/107568215>

a number of international human rights treaties, in particular the European Convention on Fundamental Rights and Freedoms, the case law of the European Court of Human Rights, the European Social Charter (revised) and the general provisions of the relevant law regulating pensions, the Law of Ukraine “On Compulsory State Pension Insurance”.

In addition, the court notes that pensions meet the characteristics of property, and therefore do not depend on the place of residence of the pensioner. Its unlawful deprivation is a violation of the guarantees provided for in part 4 of Article 41 of the Constitution of Ukraine, according to which No one shall be unlawfully deprived of the right to property; the right for private property shall be inviolable.

The court also refers to part 3 of Article 25 of the Constitution of Ukraine, according to which “Ukraine shall guarantee care and protection to its citizens **staying abroad**”.

From the Unified State Register of Court Decisions

The court concluded that “the imperative of the prohibition to restrict or deprive citizens of Ukraine of the possibility of exercising their constitutional right to social security in connection with the actual place of residence of a person” and supported this conclusion with the legal position of the European Court of Human Rights set out in paragraph 52 of the judgment in case #10441/06 “Pichkur v. Ukraine” dated February 7, 2014.

However, the court decided that the plaintiff was an internally displaced person, not a refugee. That is, the plaintiff left the temporarily occupied territory and remained in Ukraine. Also, the circumstances of the case “Pichkur v. Ukraine” concerned the enforcement of property rights in the form of a pension from Ukraine of the applicant, who left for permanent residence in another country.

Therefore, the references to Article 25 of the Constitution of Ukraine and the ECHR judgment in the case of “Pichkur v. Ukraine” are irrelevant and do not correspond to the case circumstances.

The court also analyzed the case for state discrimination against the plaintiff. The Court applied the Law of Ukraine “On Prevention and Combating Discrimination in Ukraine”, the Law of Ukraine “On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied

Territory of Ukraine, the Autonomous Republic of Crimea and the City of Sevastopol”, Article 14 of the European Convention on Human Rights and Article 1 of Protocol # 1 to the European Convention. The Court concluded that

“the refusal to resume payment of the plaintiff's pension was illegal, from the point of view of the provisions of Article 1 of Protocol #1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, there was an interference with the plaintiff’s property right, and such interference was not lawful”¹⁵⁹.

In general, this decision ensures the right of a person to receive a pension, but not all the rules applied by the court are relevant in this case.

Over the past year, a precedent decision has been made to protect the rights of people with disabilities residing in facilities. Thus, in September 2022, the European Court of Human Rights ruled in the case of Kaganovskyy v. Ukraine (Application #2809/18)¹⁶⁰ concerning the restoration of the applicant’s legal capacity. For a long time, the applicant had been residing in a psychoneurological boarding facility. The guardian and the administration of the facility obstructed his access to legal aid and to the court. In addition, the Applicant was placed in the so-called “isolation ward” (intensive supervision unit) to prevent him from attending the court hearing.

The European Court of Human Rights found a number of violations in this case by Ukraine, namely:

- Art. 3 (material aspect), degrading treatment. The short-term isolation of a person with mental disorders in the intensive care unit of a psychoneurological facility, in a common room with 2.5 square meters of personal space, as well as other aggravating aspects, led to significant emotional stress and deterioration of mental health. The applicant’s illness made him more vulnerable than an ordinary person deprived of his liberty.
- Clause 1 of Art. 5, unlawful deprivation of liberty by placement in an intensive care unit.

¹⁵⁹ The decision of the Kharkiv district administrative court in the case #620/5472/22 <https://reyestr.court.gov.ua/Review/107319054>

¹⁶⁰ Judgment of the European Court of Human Rights in the case of KAGANOVSKYY v. UKRAINE (Application no. 2809/18) <https://hudoc.echr.coe.int/eng?i=001-219200>

- Clause 4 of Art. 5, absence of a procedure provided for by law for the applicant to apply to the court to verify the legality of the isolation.
- Clause 5 of Article 5, the lack of the right to compensation.

Similar issues have already been considered by the European Court, for example, in the case of *Horbatiuk v. Ukraine* (#1848/16). It is required to launch a reform of institutional care for adults with disabilities with a transition to community-based services to actually implement these decisions and address this issue systematically.

Conclusions

- 1** The change in the territorial jurisdiction of cases has made it more difficult for people with disabilities to access justice, while the previously introduced remote participation via videoconference has become an additional tool to ensure access to justice for people with disabilities. However, the high dependence on the technical means of communication and the Internet is an issue.
- 2** Judicial practice on the protection of the rights and interests of people with disabilities continues to evolve in times of war. Some cases can be considered models. At the same time, the analyzed cases show insufficient reference by the courts to the UN Convention on the Rights of Persons with Disabilities and a lack of understanding of its provisions. In particular, there are concerns about the solid consideration of the interests of the child with disabilities and the absence of violations regarding assigning guardianship.
- 3** Cases regarding the establishment of guardianship for a person with a disability are particularly sensitive in wartime due to the possibility of abuse to obtain permission to travel abroad or to be discharged from the army. At the same time, the judicial mechanism should become a tool to protect people with disabilities, in particular women, from violence and objectification when their disability is used to obtain benefits. A reasonable balance between protection from abuse and ensuring the interests of the person through the establishment of an effective guardian is important.

- 4 Significant violations of the rights of persons with disabilities were not noticed. On the contrary, there are general comments indicating the high quality and clear justification of decisions, as well as the reasonable duration of the court proceedings. However, reported issues used to be systemic long before the invasion, and may get worse in the current conditions. In particular, it is concerned with compliance with the right to a trial within a reasonable time.
- 5 There is still a high demand for legal assistance and litigation of people with disabilities.
- 6 The ruling of the European Court of Human Rights in the case of *Kaganovskyy v. Ukraine* defines numerous aspects of institutionalization as a human rights violation and opens up opportunities for advocating for reforms and transition to independent living and the introduction of community-based services.

Recommendations

- 1 Tools for remote court participation and communication with the court should be developed, taking into account accessibility standards and the assessment of the convenience of their use by people with disabilities. In addition, such tools should be popularized, in particular, via public organizations of people with disabilities.
- 2 Judges need to be trained to understand the UN Convention on the Rights of Persons with Disabilities standards, while typical challenges and their legal solutions need to be discussed in the legal community.
- 3 The differences between the approaches of the UN Convention on the Rights of Persons with Disabilities and the decisions of the European Court of Human Rights should be studied in depth by the professional community to ensure the rights and interests of persons with disabilities.
- 4 International standards and decisions of courts and quasi-judicial bodies should be the impetus for reforms in the field of institutional care for people with disabilities, the transition to independent living, and the introduction of community-based services.

Liberty of movement and nationality (Article 18)

Article 18 – Liberty of movement and nationality

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:

- a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;
- b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate the exercise of the right to liberty of movement;
- c) Are free to leave any country, including their own;
- d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.

2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality, and, as far as possible, the right to know and be cared for by their parents.

Legislation

General mobilization and border crossing restrictions

On February 24, 2022, the Presidential Decree “On General Mobilization of the Population”¹⁶¹ (later amended) came into force simultaneously with the introduction of martial law¹⁶². The foreign travel ban was introduced for men

¹⁶¹ Decree #64/2022 of the President of Ukraine “On the introduction of martial law” dated February 24, 2022 <https://zakon.rada.gov.ua/laws/show/64/2022#n2>

¹⁶² Presidential Decree #64/2022 “On General Mobilization of the Population” dated February 24, 2022 <https://zakon.rada.gov.ua/laws/show/64/2022#n2>

aged 18 to 60.

On March 12, 2022, Resolution #264¹⁶³ amending the Rules for Crossing the State Border by Citizens of Ukraine was issued by the Cabinet of Ministers of Ukraine. It was specified that people with the first and second groups of disability, regardless of their age and gender, could freely cross the border. The Resolution also approved a list of other groups of citizens not subject to a ban (parents of three or more children under 18, parents of children with disabilities, guardians of children with disabilities, husbands accompanying their spouses, or other first-degree relatives with disabilities).

On March 15, 2022, the law “On Amendments to Certain Laws of Ukraine on Exemption from Military Service for Persons with Disabilities and Persons Caring for Persons with Disabilities and Sick Children” was adopted¹⁶⁴, which provided the list of those allowed to travel abroad. However, the men with the third group of disability and those who care for first-degree relatives with the third group of disability were not mentioned in the list.

On November 2, 2022, Resolution #1212 “On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine”¹⁶⁵ of the Cabinet of Ministers of Ukraine dated October 28, 2022, came into force, which abolished the right of people with disabilities, who have a certificate to the medical and social inspection report (form 157-1/o of primary accounting documentation) to cross the border in the state of emergency or martial law. According to the Ministry of Health, the possibility of travel with this document has been canceled due to high corruption risks.

At the time of this analysis, people with disabilities have the right to cross the state border with one of the following documents:

- a certificate confirming their status;

¹⁶³ Resolution #164 of the Cabinet of Ministers of Ukraine “On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine” dated March 12, 2022

<https://zakon.rada.gov.ua/laws/show/264-2022-%D0%BF#Text>

¹⁶⁴ Verkhovna Rada of Ukraine. On Amendments to Certain Laws of Ukraine on Exemption from Military Service of Persons with Disabilities and Persons Caring for Persons with Disabilities and Sick Children. Law of Ukraine #2122-IX dated March 15, 2022

<https://zakon.rada.gov.ua/laws/show/2122-20#Text>

¹⁶⁵ Resolution #1212 of the Cabinet of Ministers of Ukraine “On Amendments to the Rules for Crossing the State Border by Citizens of Ukraine” dated October 28, 2022 <https://bit.ly/3hEolrt>

- a pension certificate;
- a certificate confirming the appointment of social assistance;
- a certificate for receiving benefits by a person with a disability who is not entitled to a pension or social assistance.

The following categories of persons are allowed to cross the state border:

- a person with a first or second group of disability, accompanied by one or both parents, who care about this person, or by spouse, or by adult son/daughter, or by their spouse (with the documents confirming family ties and disability);
- a person with a first or second group of disability or person in need of constant care, accompanied by a permanent caregiver;
- a person with a disability who has been declared legally incapable by a court accompanied by his/her guardian or by one of the adult family members, if no guardian has been appointed;
- people with disabilities or other people in need of constant care, living in institutions or receiving inpatient or palliative care.

At the same time, the latter category can be accompanied by care facility employees who are not on military or special registration, or employees who are on military or special registration, one employee per 50 people with disabilities and those in need of care.

In international travel, children with disabilities may be accompanied by:

- mother or father, guardian, custodian, one or both foster or adoptive parents, if there's a certificate confirming the appointment of social assistance;
- grandparents, adult brother, sister, stepmother, or stepfather with relevant supporting documents and documents confirming family ties, if included in the list of those exempted from military service and mobilization.

The Government has also determined that people with group I disabilities and children with disabilities have a priority right to pass the state border crossing points. Those who accompany them (up to two people) may follow in priority order.

Previously, the legislation stipulated that people and children with disabilities or those in need of constant care, together with an accompanying person, could leave Ukraine only once due to martial law. This provision violated the rights of persons with disabilities and was abolished. From now on, individuals who accompany persons with disabilities, children, or other individuals currently residing abroad, are allowed to travel independently and repeatedly outside of Ukraine with a certificate of consular registration of these individuals, or with a rotation order of the employees of the care facility. In addition, according to the relevant amendments:

- for accompanying persons, the time limit to apply to a foreign diplomatic mission of Ukraine in the host country to register persons with disabilities and children with disabilities with the consular authorities has been extended to 7 working days;
- the right to travel abroad was granted to those accompanying persons with the first and second group of disability and other persons in need of constant care, regardless of the official registration of compensation for the care of the respective persons;
- the right to unlimited travel outside of Ukraine was granted to adults with disabilities or other adults who require constant care accompanied by the same accompanying person. Children with disabilities are allowed to travel with their mother and/or father, or other legal representatives;
- the right to cross the border with a child's birth certificate or documents confirming the relevant powers of the person accompanying the child with a disability was confirmed for women and men, guardians, trustees, adopted parents, foster parents of a child with a disability under the age of 18;
- the right to cross the border was confirmed for men and women who have a dependent adult child with a disability of either Group I or II. This right is granted upon presentation of the child's birth certificate and documents confirming the disability;
- the right to cross the border was confirmed for legal guardians of people with disabilities declared legally incapacitated, who accompany these people. This right is granted upon the presentation of a decision appointing the guardian for the person. If no guardian has been appointed, the right is granted to one of the adult family members of the first or second degree of kinship with the necessary documents;

- the right to cross the border was confirmed to individuals who require constant care, accompanied by a first-degree family member with:
 - the documents confirming family ties;
 - the conclusion of the medical and social expert commission (MSEC) confirming the need for constant care;
 - or accompanied by a person who provides constant care with the necessary documents.

Overview and facts

The ambiguous wording of the legislation regulating the procedure for citizens to travel abroad led to numerous violations. The existing provisions of the law had a negative impact on the rights of people with disabilities to personal security and free movement. Since April 2022, there have been numerous changes in rules for crossing the border by people with disabilities and persons accompanying them, and the list of relevant documents has been constantly updated and clarified.

Quote:

“The Kharkiv Association of Blind Lawyers was approached by the parents of a child with a disability. The family fled from the rocket attacks in Mykolaiv and decided to move via Chernivtsi to another country with their children.

At the border crossing point, the check of the documents of the father and the daughter with a disability lasted for more than three hours. Eventually, the border guards called the police and informed the unit about the possible fact of crossing the state border with forged documents. In violation of procedural law, the police investigator seized the child’s disability documents and the certificate of disability.

Specialists of the Kharkiv Association of Blind Lawyers provided legal advice to the family.

From the analysis of the submitted documents, it became obvious that the investigator had exceeded the official powers, did not comply with the requirements of the criminal procedural law during the investigation, and violated the procedure for seizing



documents and drawing up protocols for investigative actions. The criminal proceedings were closed due to the absence of a crime”.

From the report of the Kharkiv Association of Blind Lawyers¹⁶⁶

Despite the fact that the rules for crossing the state border contain a list of documents that men with disabilities of groups I and II must provide, according to civil society organizations, in many cases the additional documents not provided for by law were requested by the State Border Guard Service, including **demands to undergo another examination by a military medical commission**, etc.

To a certain extent, these practices were explained by the large number of improprieties committed by men trying to cross the border. According to the National Police of Ukraine¹⁶⁷, most criminal cases related to illegal border crossing involve the forgery of documents from the military medical commission on unfitness for military service.

Quote:

“There are a lot of tricks because anyone can get into a wheelchair. And only the military registration and enlistment office can provide confirmation that this person is not really liable for military service. That’s the reason for cases when the guys were asked for these stamps. <...> As for the rights of people with disabilities, this point is absolutely regulated, because each of them has the right to free movement.

The only thing is that a man has to visit the military registration and enlistment office and get this stamp. After all, there’s still the wartime”

Tetiana Barantsova, the Government Commissioner for the Rights of Persons with Disabilities¹⁶⁸

¹⁶⁶ From the organization’s report on the ongoing joint project with the League of the Strong NGO

¹⁶⁷ Humeniuk, Oleksandr. “How can a Ukrainian man go abroad? An analysis of the main schemes”. Zaborona, October 17, 2022 <http://zaborona.com/poyihaty-ne-mozhna-zalyshytysya-yak-ukrayynski-choloviky-yizdyat-za-kordon/>

¹⁶⁸ Tetiana Barantsova: We need to support each other, as Ukrainians are now supported all over the world, National Assembly of People with Disabilities of Ukraine, July 14, 2022

According to *Opendatabot*, Ukrainian courts have considered 372 cases of forgery of documents for traveling abroad since June. Only one person was sentenced to 12 months of suspended imprisonment under Article 358 of the Criminal Code. In other cases, the offenders paid fines ranging from UAH 850 to UAH 17,000¹⁶⁹. Similar cases regarding the risks of abuse of women with disabilities and the appointment of a guardian through the courts are discussed above.

At the same time, unreasonable restrictions on the freedom of movement of civilians can't be justified by attempts to violate the law. There have been attempts to mobilize those who care for people with disabilities. For example, a man in the Lviv region was mobilized despite the fact he cares for his wife, who uses a wheelchair and is completely dependent on outside care¹⁷⁰.

Human rights organizations representing the interests of people with disabilities have received requests about repeated foreign travel to accompany a person with a disability.

Quote:

“On July 07, 2022, the mother of a child with a disability due to a severe brain disease applied to the Kharkiv Association of Blind Lawyers via the hotline. According to the MSEC’s conclusion, the child needs constant care.

According to the mother, the child can't eat or move independently due to a serious illness at the age of 16 and is completely dependent on outside help. At the beginning of the war, the mother was forced to go abroad along with the father and the child with a disability. Due to the deterioration of the mother's health and the need to undergo treatment, the family decided to return to Ukraine. After the treatment, the parents intended to travel to another country with their child, but they



<http://naiu.org.ua/tetyana-barantsova-neobhidno-pidtrymuvaty-odyn-odnogo-yak-zaraz-pidtrymuyut-ukrayintsiv-v-usomu-sviti>

¹⁶⁹ “ePath” from Ukraine from USD 700. Schemes are used by men of military age to leave the country — Forbes.ua”. Forbes.ua, September 29, 2022 <http://forbes.ua/inside/eshlyakh-z-ukraini-vid-700-yaki-skhemu-vikoristovuyut-choloviki-prizovnogo-viku-shchob-viikhati-z-kraini-29092022-8249>

¹⁷⁰ Based on Facebook publication <https://bit.ly/3VNnyse>

were denied permission due to a rule that prohibits the repeated travels abroad of persons accompanying a person with a disability. In Ukraine, the teenager with a disability suffers from constant stress due to air raid alarms and the sound of explosions, and his health is steadily deteriorating”.

From the report of the Kharkiv Association of Blind Lawyers¹⁷¹

As it was mentioned in the section on the legal analysis of this article, restrictions on the number of border crossings were lifted in the fall of 2022. At the same time, citizens of Ukraine who are subject to mobilization are obliged to return from abroad no later than the persons they accompanied.

Conclusions

- 1 The communication of both the national and local authorities regarding legal changes on border crossing was inadequate, there was a lack of information on the exhaustive list of required supporting documents, and different enforcement practices were applied by local border guard officers, according to the requests to NGO hotlines. Only in May 2022, the State Border Guard Service of Ukraine published its own list of documents required for men aged 18-60 to cross the state border. This gap between regulatory requirements and law enforcement practice in times of uncertainty and insecurity exposes families of people with disabilities to additional costs and stress.
- 2 Between February and November 2022, numerous changes were introduced to facilitate border crossing for people who need escort and support due to the activity of civil society organizations of people with disabilities.

¹⁷¹ From the organization’s report on the ongoing joint project with the League of the Strong NGO

- 3 There is reason to mention a tendency to artificially increase the statistics of criminal proceedings against persons accompanying persons with disabilities in travel abroad. At the same time, the existence of abuses and violations of the law cannot justify the unreasonable restrictions on freedom of movement.

Recommendations

- 1 The procedure for crossing the border upon return, especially when the departure was made in violation of the current legislation, needs to be regulated. The main aim should be to provide opportunities for both people with disabilities and their accompanying persons to return.
- 2 The practice of applying the current legislation by executive authorities and courts should be based on respect for human rights and an individual approach to the interests of persons with disabilities.

Right to education (Article 24)

Article 24 – Education

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and lifelong learning directed to:

- a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms, and human diversity;
- b) The development by persons with disabilities of their personality, talents, and creativity, as well as their mental and physical abilities, to their fullest potential;
- c) Enabling persons with disabilities to participate effectively in a free society.

2. In realizing this right, States Parties shall ensure that:

- a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;
- b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
- c) Reasonable accommodation of the individual's requirements is provided;
- d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;
- e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;

b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;

c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means, and formats of communication, educational techniques, and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education, and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

Legislation

On April 26, 2022, the amendments regarding the organization of inclusive education were approved by Resolution #483 of the Cabinet of Ministers of

Ukraine¹⁷² due to the temporary relocation of many children with special educational needs.

The main changes:

- the restriction regarding the maximum number of children with special educational needs in inclusive classes or groups was abolished for the period of martial law;
- a mixed form of education in inclusive classes of general secondary schools is allowed;
- copies of identity papers and a conclusion on a comprehensive psychological and pedagogical assessment (if available) may be submitted to the educational institution;
- meetings of psychological and pedagogical support teams can be held online, offline or remotely;
- temporary inclusive interclass groups may be created in the educational institution.

In addition, the Mykola Yarmachenko Institute of Special Pedagogy and Psychology of the National Academy of Pedagogical Sciences of Ukraine has developed recommendations for the educational process of children with visual and hearing impairments or intellectual disability¹⁷³.

For children with disabilities who need guardianship and third-party care, education in general and special general education institutions according to the relevant curricula, including at-home education, is provided according to the Ministry of Education and Science of Ukraine, with the consent of the children's parents, carers, or guardians.

Admission to higher education is carried out on a competitive basis within the established quotas. Certain categories of persons with disabilities may be admitted to higher education institutions on special conditions (Article 22 of

¹⁷² Resolution #483 of the Cabinet of Ministers of Ukraine "On Amendments to the Procedures Approved by the Resolutions of the Cabinet of Ministers of Ukraine #530 of April 10, 2019, and #957 of September 15, 2021" dated April 26, 2022 https://zakon.rada.gov.ua/laws/show/483-2022-%D0%BF#Text_2

¹⁷³ Ministry of Education and Science of Ukraine "Tips for organizing inclusive education during the war" <https://mon.gov.ua/ua/news/rozrobleno-poradi-dlya-organizaciyi-inklyuzivnogo-navchannya-pid-chas-vijni>

the Law of Ukraine “On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine”¹⁷⁴).

Overview and facts

Due to the war, the education sector in Ukraine has suffered to a great extent. Ukrainian children have not had access to full education for three years, first due to the COVID pandemic and then due to the hot phase of the war.

Quote:

“So, the Ukrainian school was renewed in 2021 and entered the next school year with modern interactive panels, renovated and equipped classrooms, and a new inclusive playground. But on February 24, a different future has begun for blind children. An air bomb hit the building in almost the same place as in 1942, which forced the school to move outside of Ukraine. In March, the damaged school building sheltered a graduate, Serhiy Pozdnyakov, who had temporarily moved there with the permission of the principal from the heavy shellings of Saltivka district. What Serhiy saw in his alma mater was painful. The heating network, torn by shrapnel, flooded the classrooms, the explosion smashed all the windows, and the roof, repaired in 2021, was left without a topping. Furniture, walls, and ceilings were damaged on most premises. There was construction debris and remnants of equipment everywhere. Serhiy decided that shelling and explosions would not stop him from cleaning up his school.”

Kharkiv Specialized Gymnasium named after V. Korolenko, based on the materials of the National Assembly of People with Disabilities¹⁷⁵

Given the displacement trends, the education systems in western and central Ukraine are likely to be overwhelmed by the influx of displaced students in the next school year.

¹⁷⁴ Verkhovna Rada of Ukraine, Law of Ukraine #875-XII “On the Fundamentals of Social Protection of Persons with Disabilities in Ukraine” dated March 21, 1991
<https://zakon.rada.gov.ua/laws/show/875-12#n206>

¹⁷⁵ “Communication that helps to survive”, National Assembly of People with Disabilities of Ukraine <https://naiu.org.ua/zv-yazok-shho-dopomagaye-vyzhyty/>

According to the Institute for Educational Analytics, 4.23 million students were enrolled in Ukrainian schools and 1.1 million children attended kindergartens¹⁷⁶ before the war. Since February 24, 2022, 5.7 million school-age children (ages 3-18) have been affected in Ukraine. According to UNICEF estimates, 3.3 million children need educational support¹⁷⁷.

According to the Ministry of Education and Science, since February 24, 2022, communities informed about the arrival of a total of 164,000 internally displaced students. Of these, more than 43,000 children are preschoolers (including 709 children with special educational needs), 120,000 students of general secondary education (including 1617 students with special educational needs), and 1039 students of vocational (vocational-technical) education institutions (including 11 students with special educational needs)¹⁷⁸.

Due to the threatening situation in some regions, at the beginning of the war, the Ministry of Education and Science recommended either temporarily suspending the educational process or organizing distance or blended learning. As of May 23, 2022, there's no educational process in preschool educational institutions of 6 regions, - in 10,000 out of 14,974 preschool educational institutions¹⁷⁹.

As of May 23, 2022, in 15 regions of Ukraine, all schools continue the educational process in a remote form. Only 5 out of 25 regions have individual schools initiated partially mixed or full-time education. In 5 regions, education is organized in a distance or mixed form, partial vacations have been announced, or the educational process has been suspended¹⁸⁰. Communities

¹⁷⁶ Institute of Educational Analytics. Basic data on education. Retrieved on July 24, 2022 <https://iea.gov.ua/naukovo-analitichna-diyalnist/analitika/osnovni-czyfry-osvity/>

¹⁷⁷ Educational Ombudsman of Ukraine. How children who were forced to leave Ukraine can continue their education. April 4, 2022 <https://eo.gov.ua/yak-dity-shcho-vymusheno-pokynuly-ukrainu-mozhut-prodovzhyty-navchannia/2022/04/04/ 2>

¹⁷⁸ Education Needs Assessment of Ukraine (May 6 - June 24, 2022). Final Report. Ministry of Education of Ukraine <https://bit.ly/3Vco81P>

¹⁷⁹ "Ministry of Education and Science of Ukraine - Government simplifies conditions for organizing inclusive education" April 29, 2022 <http://mon.gov.ua/ua/news/uryad-sprostiv-umovi-organizaciyi-inklyuzivnogo-navchannya>

¹⁸⁰ "Ukraine War Response: Children with Disabilities" www.unicef.org/emergencies/ukraine-war-response-children-disabilities

that reported the suspension of the educational process cited the security situation in the region as the main reason for this¹⁸¹.

Thus, the situation with the education of children with disabilities has deteriorated. Distance learning does not meet the needs of all children with special educational needs, and the 9 months of war resulted in a significant loss of knowledge and skills that children had acquired since the beginning of the school year.

After the displacement, parents were not able to pay enough attention to their children's education due to their busy schedules. In addition, the national multidisciplinary test was not adapted for special educational needs this year. Participants whose special educational needs cannot be met at the national multidisciplinary test will receive official confirmation and apply to higher education institutions without the results, which may further put them at a disadvantage.

To improve the situation, the government has made the necessary changes to inclusive education, including abolishing the limit of children with special educational needs in an inclusive class or group and prohibiting institutions from refusing to organize inclusive education and create an inclusive group¹⁸². At the same time, the newly created facilities for internally displaced persons have a limited list of accessible and inclusive services¹⁸³, as well as host communities have limited technical and methodological resources and capacity to provide quality education for children with special educational needs¹⁸⁴.

The risk of school dropout is increasing due to the risk of psychological trauma and stress caused by hostilities in eastern and southern Ukraine and the air

¹⁸¹ Education Needs Assessment of Ukraine (May 6 - June 24, 2022). Final Report. Ministry of Education of Ukraine <https://bit.ly/3Vco81P>

¹⁸² According to the Minister of Education of Ukraine, the educational process continues in more than 4 thousand preschool education institutions: Ministry of Education and Science of Ukraine, May 23, 2022. Serhiy Shkarlet about the beginning of the eleventh week of classes under martial law [Interview]. Retrieved on July 24, 2022 <https://mon.gov.ua/ua/news/sergij-shkarlet-rozpoviv-pro-pochatok-odinadcyatogo-tizhnya-navchannya-v-umovah-voyennogo-stanu>

¹⁸³ *ibid.*

¹⁸⁴ Education Needs Assessment of Ukraine (May 6 - June 24, 2022). Final Report. Ministry of Education of Ukraine <https://mon.gov.ua/storage/app/media/news/2022/07/07/Pids.zvit.Otsin.potreb.Ukr.u.sferi.osvi-ty-UK-6.05-24.06.22.pdf>.

strikes throughout the country. Psychological support for children in educational institutions is extremely limited or unavailable due to the lack or insufficient staff, unpreparedness of school psychologists to assist children with stress, lack of developed mechanisms to respond to the war, and many children who may have mental health issues due to war, forced displacement, loss or separation from relatives, etc. The state is taking steps to remedy the situation by introducing a training course for educators “First Psychological Assistance to Participants in the Educational Process During and After Military Operations”. However, this does not address the deprivation of professional psychological assistance.

The Ministry of Education and Science, the Ministry of Health, the Ministry of Social Policy, the United Nations Children's Fund (UNICEF), and the Dzherelo Rehabilitation Center (Lviv) launched a project of emergency response to the needs of children with developmental disorders or disabilities, in particular, internally displaced children and children whose health has deteriorated as a result of the war.

Within the framework of the project, families will receive professional support for the child, information about services and resources in the community, consultations with specialists, and equipment according to the child's needs, as determined by specialists. If necessary, mobile teams of specialists will visit remote areas.

The project is implemented in 7 regions of Ukraine hosting many displaced families, namely Volyn, Zakarpattia, Ivano-Frankivsk, Lviv, Rivne, Ternopil, and Chernivtsi regions¹⁸⁵.

According to expert evaluations¹⁸⁶ the Education Ombudsman Service's response to these challenges is the most proper. The Service strives to collect information, provide clarifications and comments on regulatory documents, and offer possible solutions; however, these are point actions to “close off the loopholes”. When it comes to the elimination of the right to education

¹⁸⁵ More about the project: <https://www.unicef.org/ukraine/support-for-families-children-disabilities>

¹⁸⁶ “Online or offline education: how should schools work during the war? Explanations of lawyers - Ukrainian Helsinki Human Rights Union”, July 22, 2022 <http://helsinki.org.ua/articles/dystantsiynе-chy-ochne-navchannia-iak-pratsiuvaty-shkolam-pid-chas-viyny-roz-iasnennia-iurystiv/>

violations, monitoring is crucial to reveal the general issues and those directly related to a full-scale invasion.

Conclusions

- 1** There's a crisis of the education system in Ukraine in general, and inclusive education in particular. Distance learning is not adapted to the needs of children with disabilities, and proposed legal amendments often exclude them from receiving education. There are high risks of institutionalization of children with disabilities.
- 2** Existing methodological recommendations have not yet been put into practice at the school level.
- 3** Schools are overloaded in the west of the country, while in the east they do not work or work online. For special schools, the situation is the same. At the same time, the educational services needed by children with disabilities are often not available in all communities.
- 4** The number of children with disabilities and war-affected children with special educational needs is growing rapidly.
- 5** There is no strategy for the education system to respond to the challenges of war and to preserve and develop inclusive education.

Recommendations

- 1** The state and civil society organizations should join forces to ensure the effective response of the education system to the challenges of war, strategize its work, and strengthen inclusive education.
- 2** It is crucial to maintain the dialogue and share information about available opportunities, as well as involve the specialists from organizations of people with disabilities in all processes.
- 3** It is necessary to study international cases, engage international experts and expand the implementation of best practices that are currently being

implemented as civil society projects. The project of the Dzherelo NGO is an example.

- 4 There is an urgent need to develop community-based services for children with disabilities, including educational and psychological support services.
- 5 The state should guarantee access to exams with the necessary reasonable accommodations and further higher education for children with disabilities. Legal norms and the practice of their application should be reviewed to achieve this aim.
- 6 The tools for ensuring the right to education should include continuous state and civil monitoring and a system for responding to challenges, including a clear algorithm for filing complaints about violations of the right to education or lack of accessibility.

Work and employment (Article 27)

Article 27 – Work and employment

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labor market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
- b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favorable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;
- c) Ensure that persons with disabilities are able to exercise their labor and trade union rights on an equal basis with others;
- d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
- e) Promote employment opportunities and career advancement for persons with disabilities in the labor market, as well as assistance in finding, obtaining, maintaining and returning to employment;
- f) Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
- g) Employ persons with disabilities in the public sector;

h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;

i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;

j) Promote the acquisition by persons with disabilities of work experience in the open labor market;

k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labor.

Legislation

The employment system is inefficient for people with disabilities in Ukraine. That is the reason for numerous recent regulations which strive to improve the employment system.

To achieve economic inclusion, a set of measures is proposed by the National Strategy¹⁸⁷ to ensure accessibility of entrepreneurial activity, breaking down barriers in the labor market, during employment, and in the workplace. For example, it is proposed to optimize preferential taxation and lending for people with disabilities and to incentivize entrepreneurs who employ more people with disabilities than required by law.

In April 2022, the Parliament adopted Law #2220 “On Amendments to Certain Laws of Ukraine on the Functioning of Employment and Compulsory State Social Insurance for Unemployment during Martial Law”¹⁸⁸. This law simplifies the obtaining of unemployment status and financial assistance. Internally

¹⁸⁷ Resolution #366 of the Cabinet of Ministers of Ukraine “On approval of the National Strategy for a Barrier-Free Environment in Ukraine until 2030” dated April 14, 2021

<https://www.kmu.gov.ua/npas/pro-shvalennya-nacionalnoyi-strategiyi-iz-stvorenniya-bezbaryernogo-prostoru-v-ukrayini-na-period-do-t140421>.

¹⁸⁸ <https://zakon.rada.gov.ua/laws/show/2220-20#Text>

displaced persons can unilaterally resign and register remotely. To do this, they need to write a letter of resignation addressed to the employer at any employment center.

In temporarily occupied territories, people can receive payments without visiting an employment center. They need to confirm their intention to be unemployed by any means of communication on a monthly basis. The law also allows obtaining unemployment status for those who have lost their documents. Information for official registration will be taken from the registers.

The government encourages businesses to hire IDPs. The company receives UAH 6,500 in compensation for hiring each IDP, it is possible to apply for the funds via the Diya tool.

At a meeting on October 18, the Verkhovna Rada supported as a whole the draft law #7433¹⁸⁹ on the protection of the rights of individuals during martial law and simplification of the registration of jobs for people with disabilities.

The law provides for:

- exchange of information on the creation of jobs for persons with disabilities, their employment and placement, etc. between the State Register and the Fund for Social Protection of Persons with Disabilities, and the use of such data to calculate the quota for the employment of persons with disabilities;
- if a person with a disability misses the deadline for re-examination of a medical and social examination during the period of martial law, the possibility to continue receiving disability pension for the period of martial law and one month after its termination or cancellation;
- during the period of martial law in Ukraine and within one month after its termination, children aged 18-23 studying full-time in educational institutions will be granted a survivor's pension, and the previously granted pension will be extended based on data on full-time study in 2022;

¹⁸⁹ Verkhovna Rada of Ukraine. Law #2682-IX "On Amendments to Certain Laws of Ukraine on the Protection of Social, Labor and Other Rights of Individuals, Including During Martial Law, and Simplification of Accounting for Jobs for Persons with Disabilities" dated October 18, 2022 https://zakon.rada.gov.ua/laws/show/2682-20#Text_2

- for the period of martial law and within 180 calendar days after its termination or cancellation, for internally displaced persons who do not have documents and/or for whom there is no information on the periods of insurance record and employment, pensions shall be granted on the basis of information available in the relevant electronic state registers.

According to representatives of the business community¹⁹⁰, the Law establishes too short a period between receiving information on the implementation of the standard for the employment of persons with disabilities and the deadline for paying a fine for non-compliance. Thus, the calculation of the number of jobs for the employment of persons with disabilities is proposed to be sent to companies by April 1, and the time for paying a fine for non-compliance with the standard is April 15. This effectively eliminates the employer's right to challenge the results, including correcting the submitted reports for previous periods, or to prove that all possible measures were taken to prevent such an offense.

Besides, new grounds for inspections by the State Labor Service are established. According to draft law #7433, the detection of signs of violations of the legislation on the employment of persons with disabilities in the data from the State Register may result in inspections by regulatory authorities. This may create an additional burden on business due to the increase of unscheduled state supervision and control measures in the field of labor relations, which have recently been resumed despite martial law. Given that entrepreneurs were exempted from the obligation to submit reports during martial law and in the first months after, it may be tough for businesses to defend their interests before inspectors due to the lack of necessary reporting.

In November 2022, MPs drafted the Law #5344-d "On Amendments to Certain Laws of Ukraine on Ensuring the Rights of Persons with Disabilities to Work" dated November 18, 2022, to resolve certain issues of the current legislation and bring it closer to the minimum EU standards¹⁹¹.

¹⁹⁰ "Businesses ask not to change approaches to the employment of people with disabilities during the war", news.dtkr.ua, July 19, 2022 <http://news.dtkr.ua/labor/labor-relations/77477-biznes-prosit-ne-zminyuvati-pidxodi-do-pracevlastuvannya-osib-z-invalidnistyu-pid-cas-viini>.

¹⁹¹ Draft Law on Amendments to Certain Laws of Ukraine on Ensuring the Rights of Persons with Disabilities to Work <https://itd.rada.gov.ua/billInfo/Bills/Card/40853>

The draft law proposes to amend a number of regulations to ensure the rights of persons with disabilities to work, in particular, to increase the guarantees of employment for people with disabilities via:

- introducing compensation for the work of assistants for people with disabilities during employment from the State Trust Fund for Social Protection of Persons with Disabilities;
- creating additional guarantees of compensation for vocational training of employees with disabilities, as well as for workplace arrangement, from the State Trust Fund for Social Protection of Persons with Disabilities;
- introducing state and local programs to facilitate the employment of people with disabilities;
- changing the conditions for ensuring the quota of jobs for people with disabilities, in particular, the obligation of state and municipal institutions and bodies to provide employment, and improved procedures for collecting funds for violation of the quota conditions;
- changing the conditions for employers to pay funds to the State Trust Fund for Social Protection of Persons with Disabilities, which will contribute to its filling;
- introducing the possibility of reducing the amount of the monthly contribution to support the employment of persons with disabilities at the expense of the cost of purchasing products or services produced or provided by protected employment enterprises or business entities that have the status of an enterprise/entrepreneur for the labor integration of persons with disabilities.

On May 30, 2023, the Verkhovna Rada of Ukraine adopted the Draft Law “On Amendments to Certain Laws of Ukraine on Ensuring the Rights of Persons with Disabilities to Work” as a basis. This draft law is generally in line with the European vector of Ukraine's development, however, significant improvements in terms of compliance with the provisions of the European Union acquis and the standards set by the UN Convention on the Rights of Persons with Disabilities are required.

Overview and facts

According to the International Labor Organization of the United Nations, almost 5 million Ukrainians have lost their jobs since the beginning of the war. Of these, 1.2 million are refugees who have fled to neighboring countries, and 3.6 million are unemployed people living in Ukraine¹⁹².

Despite state measures, employment is an urgent problem for many Ukrainians, including people with disabilities. This is especially true for those who were forced to leave their homes and move to other regions due to the hostilities.

The state of affairs regarding the employment of people with disabilities in Ukraine is chilling. According to the Ministry of Social Policy, only about 17% of people with disabilities were employed in 2021. Thus, the unemployment rate exceeds 70% among people with disabilities, at least one million Ukrainians with disabilities face barriers to employment and to ensuring an adequate standard of living and economic independence. In contrast, in the EU countries, the employment rate of people with disabilities reaches almost 50%, which should be the goal of employment reform¹⁹³.

Quote:

“The existing program, which provides compensation for hiring a person with a disability in the amount of 50% of labor costs, but not more than UAH 6,700, is hardly used by employers. The reason is that it is designed for those officially registered with employment centers. And there are very few such people: in that year, their share was only 5.7%.”

Tetiana Berezhna, Deputy Minister of Economy of Ukraine¹⁹⁴

¹⁹² International Labour Organisation, “Nearly 5 million jobs have been lost in Ukraine since the start of the Russian aggression, says ILO” https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_844625/lang--en/index.htm

¹⁹³ Statement of the organizations of the "League of the Strong" public union on reforming the sphere of employment for people with disabilities <https://ls.org.ua/zayavy/zayava-pro-reformuvannya-sfery-praczevlashtuvannya-dlya-lyudej-z-invalidnistyu/>

¹⁹⁴ Ukrinform, “Employment of persons with disabilities: new state compensation programs for employers” <https://www.ukrinform.ua/rubric-society/3703186-pracevlastuvanna-osib-z-invalidnistu-v-uradi-gotuut-novi-programi-kompensacii-robotodavcam.html>

Social stereotypes and lack of communication experience, as well as employers' lack of interest, are the main reasons for unwillingness to work with people with disabilities. Formal employment is very common when it is not the person who "works" but the documents. At the same time, there are numerous examples of successful employment of people with disabilities.

The government is trying to address the challenges with the new Draft Law #5344-d "On Amendments to Certain Laws of Ukraine on Ensuring the Rights of Persons with Disabilities to Work".

This draft law has been widely discussed by the public. In particular, the "League of the Strong" coalition of human rights NGOs supports such a reform of the legislation, but offers a number of recommendations to improve it¹⁹⁵:

- 1 to clarify the definition of discrimination, in particular, to exclude the provision on its purpose, to ensure that those responsible for discrimination are held accountable;
- 2 to introduce a system of work coaches for people with intellectual or psychosocial disabilities (to integrate the needs of people with disabilities from school age, namely, assessment of needs and capabilities, work/professional potential, training/retraining, introduction to the profession and, if necessary, support in the workplace, assistance/consultation on workplace arrangement, consultation of the staff on the peculiarities of organizing work involving a person with a disability, support for the employee, etc.);
- 3 to abolish the provisions on the permit system for the employment of persons with disabilities in terms of possible areas of employment, i.e., the area of employment of a person with a disability cannot be determined or limited by the decision of the MSEC or an individual rehabilitation program for a person with a disability;
- 4 to provide for the possibility for persons with disabilities to submit to the employer an extract from an individual rehabilitation program in order to use the guarantees for obtaining reasonable accommodation, while preserving the right not to disclose the content of other parts of such a program and to maintain medical confidentiality;

¹⁹⁵ Statement of the organizations of the "League of the Strong" public union on reforming the sphere of employment for people with disabilities <https://ls.org.ua/zayavy/zayava-pro-reformuvannya-sfery-praczevlashtuvannya-dlya-lyudej-z-invalidnistyu/>

- 5 to legally enshrine incentives for all the employers to hire a person with a disability in the free labor market, including tax benefits, partly compensation of the salary of people with disabilities, and business development grants;
- 6 to introduce a variety of employment types for people with disabilities via:
 - workshops for the social and professional integration of adults with disabilities, where people with disabilities will not be employees under the Labor Code, but will be subject to separate provisions to protect their inclusion and will be provided with assistance in performing work. Such workshops are intended to employ people with severe, including complex, disabilities, who cannot be employed elsewhere.
 - protected enterprises that must maintain the requirement to integrate people with disabilities. Such enterprises must employ at least 50% of people with disabilities, but no more than 70%. Such enterprises may be founded by different legal entities and individuals to introduce both competition and diversity in the choice of professions. Such enterprises employ both people without disabilities and people with disabilities who (1) cannot find a job in the free labor market; (2) are temporarily employed to gain experience or improve their skills.
- 7 to systematically amend other legislative acts regulating the employment of persons with disabilities to prevent gaps in the employment mechanism, and to provide the obligation of the authorities to regulate other bylaws in the transitional provisions so that the provisions of the draft law are fully implemented.

Instead, the all-Ukrainian public association “National Assembly of People with Disabilities of Ukraine” opposes the draft law and believes that it contradicts the UN Convention on the Rights of Persons with Disabilities since¹⁹⁶:

¹⁹⁶ Appeal of the All-Ukrainian Public Association “National Assembly of People with Disabilities of Ukraine” on the Draft Law on Amendments to Certain Laws of Ukraine on Ensuring the Rights of Persons with Disabilities to Employment <https://nau.org.ua/zvernennya-naiu-do-narodnyh-deputativ-ukrayiny-zakonoprojekt-5344-d-katastrofichno-rujnuye-vsyu-systemu-prav-lyudej-z-invalidnistyu-ta-neprypustymo-porushuye-bazovi-normy-konventsiyi-oon-pro-prava-osi/>

- the provisions that defined the state actions in relation to people with disabilities to identify and remove obstacles and barriers that impede their rights and needs, including barrier-free access to public and civilian facilities, improvement of transport infrastructure, road services, transport and communications, as well as education, labor, culture, physical culture and sports, etc. are excluded;
- the provision that obliged the authorities to involve representatives of public associations of persons with disabilities in the decision-making concerning the rights and interests of persons with disabilities is excluded;
- the provision stipulating that public associations of persons with disabilities have the right to enjoy benefits and preferences provided for by law is excluded;
- the provision that granted the right to representatives of all-Ukrainian public associations of persons with disabilities and their unions to be involved upon request in the boards and advisory bodies of central executive authorities is excluded;
- the provision that granted the representatives of local public associations of persons with disabilities and their unions the right to be involved upon request in the boards and advisory bodies of local executive authorities and local self-government bodies in accordance with their status and territory of activity is excluded;
- the provision that stipulated that central and local executive authorities and local self-government bodies should provide assistance and promote public associations of persons with disabilities in their activities is excluded;
- the provisions that determined the procedure for providing enterprises of public associations of persons with disabilities with state support, including in the form of tax benefits, are excluded.

Conclusions

- 1** Employment reform, together with the reform of the percentage of disability according to the International Classification of Functioning, Disability and Health (ICF), as well as the system of rehabilitation and social services, should become the crucial elements of social policy. The state and employers must be ready to create equal conditions for the recovery, integration, and economic independence of all Ukrainians with disabilities.
- 2** Employment is a key component of economic independence, it is especially important in times of war and after it due to the growing number of people with disabilities, including veterans.
- 3** New reforms and initiatives of the authorities with the participation of civil society and broad inclusion of organizations of persons with disabilities should be implemented.

Recommendations

- 1** To request technical assistance from the European Union for a comprehensive assessment of Ukraine's labor legislation and ensure effective employment of people with disabilities.
- 2** To invite the UN Committee on the Rights of Persons with Disabilities to assess draft law #5344-d for compliance with the standards of the Convention on the Rights of Persons with Disabilities.
- 3** To initiate a broad public dialogue to amend draft law #5344-d to ensure effective employment of persons with disabilities and to prevent the reduction of the rights and opportunities of persons with disabilities and organizations representing their interests, in particular, in terms of decision-making.

Adequate standard of living and social protection (Article 28)

Article 28 – Adequate standard of living and social protection

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

- a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
- b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programs and poverty reduction programs;
- c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counseling, financial assistance and respite care;
- d) To ensure access by persons with disabilities to public housing programs;
- e) To ensure equal access by persons with disabilities to retirement benefits and programs.

Legislation

According to Article 4 of the Law of Ukraine “On the Fundamentals of Social Protection of Persons with Disabilities”¹⁹⁷, the policy of the state in relation to persons with disabilities is manifested in the creation of legal, economic, political, social, psychological, and other conditions to ensure their rights and opportunities to participate in public life on an equal basis with other citizens. In particular, it includes:

- identification and removal of obstacles and barriers that prevent the enforcement of rights and satisfaction of needs;
- health care;
- social protection;
- implementation of an individual rehabilitation program for persons with disabilities;
- provision of adapted housing.

Overview and facts

After February 24, 2022, the state continued to fund social benefits for people with disabilities. Financial and livelihood support is especially necessary for IDPs with disabilities, given the loss of income due to displacement.

People residing in the unoccupied areas of the country obtain their payments quite according to the schedule. However, there are certain issues with the payments to those residing in the occupied territories. As of June 2022, about 300,000 pensioners could not receive social benefits¹⁹⁸ according to Maryna Lazebna, the Minister of Social Policy at the time. The minister assured that the persons would be able to receive the payments as soon as they reach the

¹⁹⁷ Law of Ukraine #875-XII “On the Fundamentals of Social Protection of Persons with Disabilities” as amended on November 6, 2022 <https://zakon.rada.gov.ua/laws/show/875-12#Text>

¹⁹⁸ Analytical portal Slovo i Dilo, “About 300 thousand Ukrainians cannot receive pensions because of the war and the occupiers” <https://www.slovoidilo.ua/2022/06/14/novyna/suspilstvo/300-tysyach-ukrayincziv-ne-mozhut-otrymaty-pensiyi-cherez-vijnu-ta-okupantiv>, <https://suspilne.media/257068-cerez-okupaciju-vijskovimi-rf-hersonskim-pensioneram-stalo-skladnise-otrimati-viplati/>

government-controlled territory.

Two payment mechanisms were developed by the Ministry. If the post office does not work, a person is provided with an Oshchadbank account for the pension. And if the bank doesn't work, the pension should be delivered via the post office. To coordinate the provision of international organizations' assistance to socially vulnerable groups, the eDopomoha online platform was developed to apply for various types of assistance¹⁹⁹.

Also, the state guaranteed an increased payment to persons with disabilities with IDP status, UAH 3,000 instead of UAH 2,000²⁰⁰. However, due to insufficient coordination of the relevant registers, this payment can only be received by applying in person to the social protection department. Submitting an online application does not allow a person to receive it.

It should be noted that the government makes social payments in full and on time despite martial law and the tough economic situation.

An analysis of the situation with access to data about financial and other support from international and national institutions for IDPs with disabilities was conducted by the All-Ukrainian Public Association "National Assembly of People with Disabilities of Ukraine" in cooperation with Global Disability Inclusion and The European Disability Forum²⁰¹. At the time of the research, the largest number of respondents received financial living assistance for IDPs (132 people or 62.3%), one-time financial assistance for persons whose work or business activity was temporarily suspended (22 people or 10.4%), and the Ukrainian Red Cross Society vouchers (13 people or 6.1%). 28 people or 13.3% have not received any assistance yet. The rest of the respondents received assistance from national and international public institutions, including the National Assembly of People with Disabilities of Ukraine, humanitarian aid, medicines, etc. Thus, $\frac{3}{4}$ of IDPs with disabilities received state aid.

¹⁹⁹ eDopomoha state platform <https://edopomoga.gov.ua/>

²⁰⁰ Resolution #332 of the Cabinet of Ministers of Ukraine "Some issues of payment of accommodation allowance to internally displaced persons" dated March 20, 2022 <https://zakon.rada.gov.ua/laws/show/332-2022-%D0%BF#Text>

²⁰¹ "Analytical Report on the Results of the Survey of Women and Men with Disabilities and Legal Representatives of legally incapable Persons and Children with Disabilities on the Issuance of Certificates and Assistance as Internally Displaced Persons", National Assembly of Persons with Disabilities of Ukraine <https://naiu.org.ua/wp-content/uploads/2022/07/NAIU-AnaliticalReportUA.pdf>

The majority of respondents believe that the appropriate financial aid for IDPs with disabilities should range from UAH 3,000 to 15,000, provided by both the government and national entities.

In addition to the state and national actors, international and national NGOs also provide financial and other support to IDPs with disabilities. In particular, the respondents addressed the following institutions: the UNHCR (64 people or 30.2%), Caritas Ukraine (31 people or 14.6%), the Ukrainian Red Cross Society (30 people or 14.2%), the UN World Food Program (25 people or 11.8%), the UNICEF “Spilno” program (21 people or 9.9%), the Norwegian Refugee Council (16 people or 7.5%), and the International Committee of the Red Cross Mission in Ukraine (12 people or 5.7%). At the same time, more than a third of the respondents did not apply to these actors (81 persons or 38.2%). Only a third of respondents have applied to more than one assistance provider.

The payments varied from UAH 2,000 to UAH 66,000. The typical payment amount was UAH 2,200 (86 people or 40.6%). At the same time, 12 people (5.7%) received UAH 2,500, 5 people (2.4%) - UAH 3,000, 4 people (1.9%) - UAH 4,500, etc. The respondents received these payments on a one-time basis, or systematically for two to three months.

The information about financial and other assistance from international and national NGOs for 96 persons (45.3%) was provided by acquaintances, 42 persons (19.8%) by mass media, 41 persons (19.3%) by social networks, and 33 persons (15.6%) by social protection agencies. The survey demonstrated a very low level of information provided by state institutions.

168 people (79.2%) reported no issues with receiving pensions/social benefits **at the new place of residence**. At the same time, 44 respondents (20.8%) noted that the delay in payments, in particular, due to the need to re-register at the new place of residence, etc. was the main issue. The main method of receiving pensions/assistance after displacement was via bank card, as stated by 202 people (95.3%), mail for 8 people (3.8%), and cash for 2 people (0.9%).

Conclusions

- 1 There's no universal mechanism for providing financial assistance that would meet all needs. Adequate support or reasonable accommodation for access to cash assistance for persons with disabilities should be flexible, planned, and budgeted. A robust referral mechanism should be introduced to address particular health, nutrition, and hygiene needs, as well as access to assistive devices and home care. Additional conditional means of allocating funds should be considered to take into account disability-related needs and additional costs incurred.
- 2 Support measures should include providing shuttle services to access delivery points (e.g., ATMs, bank branches, etc.), providing physical access or individual assistance, personal support for registration and setting up an account for electronic transfers, and direct receipt of cash support at home. These measures should be identified and budgeted.

Recommendations

- 1 Formats of financial support should take into account the needs of people with disabilities, be flexible, and include transfer services, individualized assistance with technical applications, etc.
- 2 Where feasible, humanitarian livelihood support should be delivered in the format of cash and vouchers, and this modality should be equally accessible to persons with disabilities as to all others
- 3 A reliable referral mechanism should be developed to address specific needs in the areas of health care, nutrition, and hygiene, access to assistive devices, and home care.
- 4 Information about the availability of support must be fully accessible to people with disabilities.
- 5 Organizations that provide various forms of support, including cash support, should be trained on the basics of the rights of people with disabilities and take into account the Key Principles and Recommendations for Inclusive Cash and Voucher Assistance in

Ukraine²⁰² and recommendations from the Disability Inclusive Cash Feasibility Assessment Report²⁰³.

²⁰² Key Principles and Recommendations for Inclusive Cash and Voucher Assistance in Ukraine, European Disability Forum <https://www.edf-feph.org/publications/key-principles-and-recommendations-for-inclusive-cash-and-voucher-assistance-in-ukraine/>

²⁰³ Disability Inclusive Cash Feasibility Assessment Report, National Assembly of Persons with Disabilities in Ukraine <https://www.edf-feph.org/publications/disability-inclusive-cash-feasibility-assessment-report/>

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