Disastrous Exposure of Persons with Disabilities to Russian Aggression Against Ukraine

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ABSTRACT
In 2022 the UN CRPD Committee was informed about the disproportionate exposure of persons with disabilities to the risks engendered by military Russian aggression in Ukraine – risks such as poverty, violence, abandonment, injuries and death. This commentary provides an overview of the main issues identified.

KEYWORDS
Human rights; disability; Ukraine; war; conflict

On 14 April 2022 the Committee on the Rights of Persons with Disabilities of the United Nations (thereinafter the CRPD Committee) issued a statement expressing its grave concern regarding the fate of people with disabilities in Ukraine under continued military attacks, committed by the Russian Federation against Ukraine. These attacks are putting the lives of an estimated 2.7 million people with disabilities at risk.

The CRPD Committee further called upon the Russian Federation to end the hostilities immediately and to observe and respect the principles of international human rights and humanitarian law. It also called upon the States Parties involved to take measures to ensure that all people with disabilities, including refugees and internally displaced persons with disabilities, are accounted for, protected and provided with immediate access to humanitarian aid, taking into account their individual support requirements.

Deplorably, hostilities caused by military Russian aggression have been continuing in Ukraine. The United Nation Human Rights Office (UN HCR) has declared a Level 3 (the highest) emergency in the country. Having received reports with alarming information about the fate of persons with disabilities in Ukraine, the CRPD Committee – with reference to Article 36.1 of the Convention on the Rights of Persons with Disabilities (UN CRPD) which states that ‘the Committee may request
further information from States Parties relevant to the implementation of the present Convention’, Article 11 on ‘situations of risk and humanitarian emergencies’, interconnection to many other articles of the Convention and in the light of Geneva Convention (IV) on the protection of civilian persons at times of war – has initiated private hearings in person and online with a number of Ukrainian grassroots organisations of persons with disabilities, and with international disability-rights organisations. These hearings took place on 16 August 2022 in Palais des Nations in Geneva. The States Parties of the Convention that are involved in the war, including those hosting the war refugees from Ukraine, were also invited to public hearings on 18 August 2022. The Russian Federation has objected to these meetings and did not participate. Official representatives of Ukraine, Lithuania, Latvia, Turkey, Moldova and the European Union attended and many more written reports were received.

International and national organisations of persons with disabilities have expressed their deepest concerns about the reports on violation of international human rights law, including the CRPD, by all parties involved in the war in Ukraine. They provided evidence of attacks against persons with disabilities, as well as a lack of specific protection measures for persons with disabilities. Persons with disabilities have not received required humanitarian assistance and accommodations for evacuations. There are concerns that measures taken to investigate possible instances of crimes against humanity and human rights violations in Ukraine do not include persons with disabilities. Calls have been made that, in the near future, accountability mechanisms such as the Human Rights Council’s Independent International Commission of Inquiry on Ukraine should have a specific mandate on the Rights of Persons with Disabilities.

The dozens of reports provided to the CRPD Committee on the situation of persons with disabilities in Ukraine as a result of Russian aggression were shocking and alarming. Though data about persons with disabilities in Ukraine are rather poor, grassroots organisations report that at least 400,000 people with disabilities, or around 15% of the disabled community, fled Ukraine to finding refuge abroad, and 33,000 have been internally displaced. The absence of disaggregated data about Ukrainian persons with disabilities by age, sex, and type of impairment is a problem. There is no reliable data regarding how many people with disabilities have been injured, wounded or killed, despite the continuing shelling and missile attacks, causing destruction, civilian injuries and deaths. Among the reasons for the lack of data is that persons with disabilities are all too often left behind or forgotten about within humanitarian aid actions. This was emphasised in the reports that the CRPD Committee received.

Based on the accounts of grassroots and international disability-rights organisations, people with disabilities, children with disabilities included, are disproportionately exposed to the various risks engendered by military actions, risks such as poverty, violence, abandonment, injuries and death. As reported by one grass-roots organisation, children with intellectual, psychosocial disabilities and autistic children are so frightened by shelling and bombing, as well as not being able to access crowded trains or shelters, that they refuse or are not able to go to shelters. They thus remain exposed to shelling and bombing. As reported by a representative of a national organisation of persons with disabilities:
From the first days of the war we have seen major problems with access, with bombing, transport, evacuation, including for people with severe disabilities and the distribution of information in the proper ways. In the first months we evacuated more than 400 people with severe disabilities, including people on stretchers.

People with disabilities experience a serious lack of access to information about the risks and evacuation procedures, as well as about accessible shelters for protection against shelling and bombing. Evacuation plans were not inclusive of persons with disabilities. As reported to the Committee, disability-inclusive evacuation mechanisms are lacking, including an absence of Sign Language on the television, information that is easy to understand for persons with intellectual disabilities, and other disaster alarm systems for persons with disabilities. Due to the lack of physical and informational accessibility in living environments, people with disabilities are unable to flee from the zones of military actions, to look for and find a safe place, food, water, sanitation, medicines and to access essential health services. Due to the lack of accessible information, as well as the lack of evacuation transportation, assistive devices and assistants, people with disabilities are obliged to stay and to shelter themselves at home even when under fire/attack. Those who fled during the evacuation during shelling and bombing often had to leave their assistive devices behind, including wheelchairs. They are not receiving replacements for these devices. For persons with disabilities living in rural areas, including children with disabilities and their families, many of the pre-existing community-based services have stopped.

Due to unavailable and inaccessible humanitarian assistance, many persons with disabilities are now isolated or cut off from their families and communities. As reported in the media, the most tragic outcome of Russian barrage of rockets into the city of Kharkiv was the destruction of a dormitory for deaf people and killing of seventeen civilians. This demonstrates how exposed persons with disabilities in Ukraine are, due to the lack of accessible anticipatory evacuation.

As it was reported to the CRPD Committee, the proposals made by organisations of persons with disabilities for disaster response and evacuation management were not taken into account by Ukrainian Government and local authorities. In fact, organisations of persons with disabilities are consulted very rarely. They are provided with very little support for disaster risk reduction in the context of military actions. As reported to the Committee, Russian military aggression and the lack of response by the Ukrainian government has seriously affected the capacity and organisational abilities of organisations with regards to their staff and the assistance they can provide. Further, many of the international humanitarian aid programs fail to support organisations of persons with disabilities in their emergency response – the exceptions being the support from some disability-related international organisations, particularly Inclusion Europe, which was substantial and particularly important for persons with intellectual disabilities impacted by war in Ukraine.

On the borders with neighbouring countries of Ukraine, accommodations for person with disabilities are lacking. People with hearing, visual, intellectual and other disabilities have need for a diversity of accommodations, including receiving
all necessary information in formats that are suitable to their requirements. Persons with disabilities struggle to maintain contact with family members. They lack access to hygiene and sanitation. By fleeing from bombing and shelling, many of them have lost family and community-based support, as well as professional help. Having lost their support networks in the community, refugees and asylum seekers with disabilities find themselves unable to use humanitarian aid in situations of internal displacement as well as when seeking safety outside the country. It has been reported that there is lack of awareness of the necessity of reasonable accommodations for persons with disabilities amongst custom officers at border crossing stations.

Women, children and older people with disabilities are exposed to the greater risks at times of war, including separation from their families. Women and girls with disabilities are exposed to the risks of sexual abuse against them, including sexual exploitation. As reported, serious impacts can be forecasted for the wellbeing of 90,000 children in Ukraine who live in residential institutions, including in boarding schools, orphanages and baby homes. These include children with disabilities, already deprived of parental care, who have now become even more isolated as they have been abandoned by fleeing staff and have lost their ties with communities and families following the Russian invasion. Furthermore, during hearings an urgent need was highlighted for high-quality, inclusive and swiftly-implemented education for children with disabilities, both inside Ukraine and amongst the displaced populations outside of Ukraine. The woeful lack of recovery measures for women, children and older people with disabilities was observed during the hearings.

As reported to the CRPD Committee, persons with disabilities are experiencing a catastrophic situation in the occupied territories due to the cruelty of the Russian military forces, including infiltration camps and green corridors. Russian military forces use residential care institutions as places to stay. Though very little information is available from the occupied territories, it was reported that two persons with disabilities died in one residential institution, ten residents were forcibly deported into Russian Federation territory and the fate of three others is unknown. Five persons with disabilities, together with other people, were arrested by Russian soldiers, used as human shields, and subjected to cruel, inhuman and degrading treatment, at a school being used as military base in Yahidne village in Chernihiv district. As reported, fifteen persons with disabilities died in one residential institution because they were not allowed to evacuate. The Committee also heard from the occupied territories that the Russian military is not permitting humanitarian assistance for persons with disabilities – there is no access to medical assistance, medicine, or technical aid, and violence on the part of the Russian military is encountered. There were also reports about people with disabilities being forcibly deported to very distant areas in the Russian Federation.

Besides affecting persons with disabilities, the military aggression has injured many people for whom psychosocial issues or physical disabilities have now become part of their lives. Humanitarian aid organisations report multiple traumatic injuries that results in urgent need for medical and rehabilitation services, while many
rehabilitation and health facilities have been seriously damaged by Russian forces. People with amputations, burns, who have experienced traumatic psychosocial events, or are survivors of gender-based aggressions have little to no access to rehabilitation services and relevant professional support.

The war has revealed the appalling condition of people with disabilities in residential care institutions, the so-called psychoneurological *internats*, in Ukraine. Since Soviet times the number of persons with disabilities living in these institutions is large. In 2015, the CRPD Committee (CRPD/C/UKR/CO/1) expressed its concerns about large-scale institutionalisation of persons with disabilities, including children, and urged the State Party to work towards deinstitutionalisation, alongside the development of support services that would allow people to live independently in communities. As country rapporteur for Ukraine, I have been following that process and observing some, albeit rather modest, developments in this regard. As reported to the Committee, in 2022, 43,300 people with disabilities continued to live in 282 residential institutions across Ukraine.

The Russian military aggression has of course set back the fragile process of deinstitutionalisation in Ukraine. Residential care institutions became shelters for internally displaced persons with disabilities, including children with disabilities. The awful living conditions within institutions have become much worse. Further, residential care institutions are located in remote areas of society, outside regular communities. The influx of refugees with disabilities to existing institutions, including those displaced from similar institutions in the occupied territories, has made the living conditions in these places intolerable. The overcrowding, lack of food, medication, support, hygiene products, technical devices, and qualified personnel to meet basic human needs has further victimised people with disabilities in residential care institutions. A large proportion of the staff have fled for safety reasons. The remaining personnel are overburdened and at the limit of what they can sustain. This significantly increases the risk of abandonment, exploitation and abuse against persons with disabilities in institutions and the likelihood that they will be forgotten in international humanitarian aid to Ukraine. As reported to the Committee, the lack of access to health services in a residential care institution in Borodianka resulted in the tragic death of twelve residents with intellectual and psychosocial disabilities.

Ukraine is a State Party of the UN CRPD from its ratification in 2010. It is obliged to ensure the independent living opportunities in the community for all persons with disabilities on an equal basis with others, regardless of the level of support that they require. It is also obligated to protect and fulfil the right of persons with disabilities to be included in the community on an equal basis with others and to receive all necessary and required support for this purpose. However, this obligation under the UN CRPD is becoming too hard to meet under conditions of military attacks in its territory. Notwithstanding this, international human rights law, including the UN CRPD, does not envisage that there can be/should be a lower standard or set of obligations during emergency situations, whatever the nature and origin of the crisis, or for the postponement of these obligations. On the contrary, the
implementation of the rights of persons with disabilities in emergency situations should be among the priorities of any State Party, because of the disproportionally adverse effects such crises have upon persons with disabilities and potential for life-threatening conditions.

Inclusive support for persons with disabilities must be prioritised in Ukraine by its Government and by organisations of international humanitarian aid during future recovery and reconstruction processes and plans. Safety, protection and support measures for persons with disabilities, particularly for women, children, older persons with disabilities and those still placed in residential care institutions, should be recognised within international humanitarian aid programmes. Diversity and intersectionality of persons with disabilities should be recognised with the aim of identifying different support needs. All measures must be aimed at achieving social inclusion and participation of all persons with disabilities during emergency situations.

Of particular concern is the risk of increased institutionalisation. In the areas under attack by the Russian Federation people have lost their dwellings and earnings. They have been displaced. As reported, there is a risk that new residential institutions for persons with disabilities will be constructed to accommodate people and thus discriminatory segregation patterns will be reaffirmed. ‘I’m very much afraid that my daughter may end up in an institution’ was the comment of one representative of organisations of persons with disabilities in Ukraine, made to the Committee during our hearings.

We also need to be attentive to issues of equality, social inclusion and participation of persons with disabilities in refugee and asylum-seeking situations. The lack of data and statistics on persons with disabilities in refugee and asylum-seeking situations, disaggregated by type of impairment, sex, age and required support, is an obstacle to better policy and practice. Insufficient data lessens the effectiveness of humanitarian aid in refugee hosting countries as well as within Ukraine itself. Reinstitutionalisation of persons with disabilities, children in particular, as a response to refugee crises, was also reported to the Committee by civil society organisations. This perpetuates discriminatory patterns for persons with disabilities and promotes further exclusion of persons with disabilities during emergency situations.

Urgent action must be taken with regard to the situation of persons with disabilities in residential care institutions. As the tragedy in Borodianka demonstrated, institutions were not safe places for persons with disabilities before the war; and now are even more dangerous. Deinstitutionalisation, despite and especially because of the humanitarian emergency in the context of Russian invasion, must be promoted.

Support measures for independent living in the community on equal bases with others must be recognised among the priorities of Ukraine, the State Party of the UN CRPD. Access to a range of in-home and community-based services, including access to facilities and services for the general population, including health and education services, necessary to support living and inclusion in the community should be prioritised in the national and international humanitarian aid programmes. For children with disabilities who are still in residential care institutions,
the right to family must be ensured, so family environments, including foster families must be prioritised and provided. Moreover, it is of high probability that the traumatic events of the war will be causing devastating and long-lasting physical and psychosocial impairments, thus, development of rehabilitation services and training of rehabilitation professionals will need to be an important part of the national recovery and reconstruction plans of Ukraine.

In June 2022, the European Council granted Ukraine the status of a candidate for accession to the European Union. This provides an unprecedented opportunity to prioritise the deinstitutionalisation of all persons with disabilities, children included, and the development of a range of in-home and community-based services in Ukraine. This will need to be a key part of the development and humanitarian aid programs of the European Union, especially given that European Union is also a State Party of the UN CRPD and is obligated to ensure independent living for all persons with disabilities, including and especially for those who are in residential care institutions, across its member states. According to the jurisprudence and practice of the UN CRPD, investments into renovating old residential care institutions and building new institutions, including group homes, would be considered as perpetuating institutionalisation of persons with disabilities. As it was emphasised at the hearings at the CRPD Committee, all measures, including international humanitarian aid programmes, aimed at recovery and reconstruction of Ukraine, must not continue patterns of discrimination, including and particularly, the institutionalisation of persons with disabilities. Instead, they must promote independent living of persons with disabilities and community-based services, including support for families with children with disabilities. It is crucial to ensure that all measures and resources taken for humanitarian aid and rebuilding the country, are inclusive for persons with disabilities. International and national grass-roots organisations of persons with disabilities must be fully involved in the designing, implementation and monitoring of the deinstitutionalisation plans, including allocation of budgets for the purpose of deinstitutionalisation and promotion of independent living of persons with disabilities, community-based services, including family environments for children with disabilities in Ukraine.

All participants of the hearings called for an immediate cessation of the Russian aggression in Ukraine. Russian aggression against Ukraine has caused disastrous impacts for all persons with disabilities. Military actions have worsened living conditions for persons with disabilities and led to many deaths. A lack of accessible disaster response systems has exacerbated the problem. Unpreparedness and the lack of accessible disaster management systems in Ukraine, including evacuation facilities, such as bomb shelters and transportation, as well as accessible information and communication, has caused the exposure of persons with disabilities to perilous risks of armed conflicts. International humanitarian aid organisations, guided by organisations of persons with disabilities, should prioritise accessible evacuation aid to persons with disabilities, taking into account their diversity and intersectional aspects, including by type of impairment, age and gender, as well the inclusive emergency and disaster-response initiatives within their policies, programmes and measures, taken in Ukraine.