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SCIENTIFIC PUBLICATIONS

**«RIGHTS OF PERSONS WITH DISABILITY
IN THE ARMED CONFLICT IN THE EAST OF UKRAINE».
ANALYTICAL REPORT OF THE UKRAINIAN HELSINKI
HUMAN RIGHTS UNION**



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The proposed publication provides the overview of the situation of persons with disability who live in the ATO area or are internally displaced. Based on outlining the international human right and humanitarian law standards to the extent of protecting persons with disabilities during the state of emergency or martial law, armed conflicts, terroristic acts, emergencies and/or the threat of their occurrence, the national legislation is analyzed for compliance to the international standards. The report contains comments from children and adults with disability about the problems of evacuation from the warfare area, integration in to safe territorial communities, observance of the rights of IDPs with disability. The study findings are summarized in the recommendations which, once implemented, will demonstrate the fulfillment of Ukraine's international commitments.

II 67 «Rights of persons with disability in the armed conflict in the East of Ukraine». Analytical report of the Ukrainian Helsinki Human Rights Union / Larysa Baida, Pavlo Zhdan, Bohdan Moisa, Yevheniia Pavlova, Myroslava Statkevych / overall edition by Arkadiy Bushchenko. / Ukrainian Helsinki Human Rights Union. — Kyiv,, 2016. — ... p.

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Arkadiy Bushchenko

UHHRU Executive Director

FOREWORD

Apparently, we are getting used to the reports about the shelling of residential quarters, hoping only that their inhabitants would escape alive and unscathed. We listen regrettably to the talks of people bolting to cellars and other shelters at the first sounds of artillery attack. But what should the bedridden people do, or those using wheelchairs and living on upper floors of multi-storey buildings? Where a blind person should run to hide from bombs? How a hearing-impaired person can get to know about the reason of panic? These are just a few components of the perception of war by persons with disability. Ukraine, undoubtedly, is not the one and only country which failed to prepare and efficiently implement the activities aimed to protect vulnerable populations in the military emergency. Actually, almost chaotic relocation of the persons living in residential care facilities can hardly be considered a well-organized evacuation. Meanwhile, in almost a year and a half the government failed to put forward an efficient agenda on ensuring the rights of internally displaced persons with disability, thus impelling many families to return to the uncontrolled territories.

We continue highlighting the impact of the military conflict on the observance of human rights. We present the study of the situation of persons with disabilities who were directly affected by the challenges of war. The proposed analytical report is aimed to suggest the actions to be taken by the government to mitigate the consequences of these challenges.

We hope that the provided analysis of the problems and developed recommendations will assist the governmental

authorities in the development of strategic documents and programs in the field of protecting persons with disabilities during military emergencies.

Ukrainian Helsinki Human Rights Union (UHHRU) expresses its sincere gratitude for comprehensive contribution to this publication to the All-Ukrainian Civic Association «National Assembly of Persons with Disabilities of Ukraine», All-Ukrainian Foundation «Protection of the Rights of Children», the Office of the Commissioner of the President of Ukraine for the Rights of Persons with Disabilities. We express our respect and appreciation to the specialists of the Ministry of Education and Kharkiv Oblast State Administration for facilitating the organization of monitoring visits to the special schools for children with disability.

We are grateful to the experts who participated in the study drafting: Larysa Baida – head of the department of the AUCO «National Assembly of Persons with Disabilities of Ukraine», Pavlo Zhdan – head of the support department of the Commissioner of the President of Ukraine for the Rights of Persons with Disabilities, Yevheniia Pavlova – director of the All-Ukrainian Foundation «Protection of the Rights of Children».

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LIST OF ABBREVIATIONS

ATO	Anti-terrorist operation
SSSU	State Statistical Service of Ukraine
SMSU	State Migration Service of Ukraine
SESU	State Emergency Service of Ukraine
MSPU	Ministry of Social Policy of Ukraine
MOH	Ministry of Health of Ukraine
MES	Ministry of Education and Science of Ukraine
NAPDU	All-Ukrainian Civic Association «National Assembly of Persons with Disabilities of Ukraine»
UNDP	United Nations Development Program in Ukraine

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At first everyone, including persons with disability, finding themselves in the military conflict area in the East of Ukraine hoped that it all would be over soon. But then fear crept in – we were not sure whether we survive tomorrow, we tried to figure out whom to contact to be evacuated, where to get medicines and food. Having managed to relocate, we faced new challenges – accommodation, finding a job, sending children to school... Now my only dream is to look ahead with confidence, but I am not confident about my future... The problems still exist and are rooted in the helter-skelter approach of the government...

(Dmytro – an IDP from Donetsk, person with group I disability)

RESEARCH METHODS

This research is aimed to summarize the information on observance of the rights of persons with disabilities in the armed conflict in the East of Ukraine and to draft recommendations to improve the situation.

This analysis is based on the provisions of the UN Convention on the Rights of the Persons with Disabilities¹, international treaties ratified and signed by Ukraine in the area of human rights and disabilities during humanitarian emergencies and hostilities, as well as minimal standards for protection of the civilians in emergencies and armed conflicts.

While drafting the report, we used official data from ministries and departments, in particular, statistical data on the number of persons with disabilities affected by the military conflict. Moreover, we analyzed the recommendations of international organizations on the protection of the rights of persons with disabilities during humanitarian situations, natural calamities, and military conflicts.

The report includes the analysis of the surveys and focus groups outcomes with internally displaced persons with disabilities and their family members living in different oblasts of Ukraine. In the meantime, during the survey all the respondents asked us to omit their names due to different reasons: some of them have relatives on uncontrolled territories and are afraid of exposing them to the risk of persecution; some respondents periodically visit the territory of separate districts of Donetsk and Luhansk oblasts; someone wants to prevent the information from leaking into the Internet and social networks. Thus, the report authors, respecting the survey participants and their preferences, reserve the right to keep the identity of respondents confidential.

The analysis identifies the existing barriers in ensuring the rights of persons/children with disabilities who had been staying in the warfare area for some time, and now are living in the uncontrolled territory, and develops recommendations from the civil society side to improve the situation.

This analytical report consists of three structural sections. The first one provides the overview of international legal framework on human rights and international humanitarian law,

¹ Ratified by the Parliament of Ukraine on December 16, 2009. The text will use the official Ukrainian title «Конвенція про права інвалідів», as ratified by the Ukrainian Parliament

as well as validated international standards. The second section is based on the analysis of the national legislation for compliance to the international practice. The third aims to highlight the actual situation on the observance of the rights of persons with disabilities based on the results of surveys and focus group studies, materials of the NGOs supporting the interests of persons with disabilities and publications in the mass media. The fourth section contains the report on monitoring visit to special schools hosting the children with disabilities whose families relocated from the war-struck and uncontrolled territories.

The research does not pretend to be exhaustive and complete. The situation is constantly changing and requires ongoing review and control. We hope that this information will be useful for any interested institutions and parties working on protection of the internally displaced persons, including persons with disabilities.

SECTION 1. INTERNATIONAL STANDARDS OF ENSURING THE RIGHTS OF PERSONS WITH DISABILITIES DURING THE MILITARY EMERGENCIES

International human rights documents guarantee that every person, including persons with disabilities, shall be entitled to the protection of their rights during military conflicts and emergencies. In the peaceful times human rights are the key principles for protection of all people in all contexts, but altered circumstances during the warfare require special protection for certain civilians.

The worldwide practice shows that emergencies and military conflicts have the heaviest impact on persons with disabilities. The data obtained from Japan confirm that in the event of natural calamity persons with disabilities have four times higher probability to die. In many cases persons with disabilities more frequently are abused, lacking care and denied help in the risky situations during armed conflicts and humanitarian emergencies.² In Israel persons with intellectual disabilities were killed because they did not understand what was happening and were unable to obey the orders of the servicemen. (B'Tselem report, 2005). There are numerous reports about using persons with disabilities, for example, with the Down syndrome, as suicide terrorists³.

The interests of people with disabilities are quite often neglected within the emergency evacuation strategies. The United Nations survey among more than 5,000 people with disabilities from 126 countries showed that only about 20% of them managed to be immediately and unhamperedly evacuated in case of a sudden calamity, while others noted certain hindrances in their evacuation.⁴

Based on the UNHCR assessments, there are about 59.5 million of forcibly displaced persons in the world. Considering that according to the WHO estimates there are about 15% of persons with disabilities among the world population, it is possible to assume that forcible displacement affects about 7.65 million of persons with disabilities.

² UN General Assembly, A/HRC/31/30, 30.11. Thematic study on the rights of persons with disabilities under article 11 of the Convention on the Rights of Persons with Disabilities, on situations of risk and humanitarian emergencies

³ <http://www.cbsnews.com/news/twin-bombings-kill-scores-in-baghdad/>

⁴ United Nations Office for Disaster Risk Reduction, "UN global survey explains why so many people living with disabilities die in disasters", press release, 10 October 2013.

Cruel treatment of prisoners of war (POW) or civilians, unlawful military actions increase the frequency of mutilations, functional disorders and, consequently, lifetime disabilities. This situation is also affecting Ukraine after the outbreak of the annexation of the Crimea and hostilities in the Eastern Ukraine.

«The conflict has the heaviest impact on the poor and the vulnerable populations. Almost 10,000 people died in the Eastern Ukraine, and more than 4 million in Donbas experienced immediate adverse effect. The danger suspended service provision, infrastructure and urban development in the eastern regions. As the result of the conflict more than 2.7 million of people were displaced both within the country (1.6 million) and outside of it (1.1 million).⁵ This exceeds 5% of the population of Ukraine. About 60% of the IDPs are retired; among them 60% are women, 13% children and 4% — persons with disabilities. More than half of the IDPs remained in Donetsk and Luhansk oblasts near the conflict area, while many IDPs relocated to other oblasts of the country. Despite certain steps taken by the government to ensure the rights of internally displaced persons, general economic situation and the progressively prolonged nature of the conflict mean the increasing vulnerability of the IDPs...

The servicemen returning from the frontlines suffer of post-traumatic stress disorders and have other health issues...»⁶.

In its Resolution 1894 (2009) the UN Security Council emphasized that military conflicts especially affect persons with disabilities. In the Resolutions of 2015 the concern was expressed about the situation of the persons with disabilities, including in connection with incidents when they are abandoned by family members, face violence or are denied access to the basic services. The necessity to take into account the needs of persons with disabilities, including children, while providing humanitarian aid is emphasized.⁷ Parties of the military conflict are primarily responsible for taking all measures to ensure the protection of civilians and meeting their basic needs, including special needs of persons with disabilities.⁸

Based on the information of the United Nations High Commissioner for Refugees (hereinafter – UNHCR) the Donbas conflict affected 5.2 million of Ukrainian citizens. Based on the UNICEF calculations, 1.7 million of them (or 34% of the entire number) are children. Based on the data of the Office of the Ukrainian Parliament Commissioner for Human Rights 320,000 persons with disabilities (among them about 20,000 children with disabilities) who lived on the territory of Donetsk and Luhansk oblasts found themselves directly in the military conflict area. The children with disability are at most risk: they are most likely to fail to see, hear or feel the threat or be unable to promptly and timely react to it. The special attention must be paid to the children living in the residential care facilities or temporarily separated from parents and thus deprived of family support, care and love. In the conditions of armed conflict and forcible displacement persons with disabilities risk to find themselves in even more closed, detached community, which is not always safe and friendly.

Mechanisms for the protection of persons with disabilities are enshrined in the international norms and standards incorporated in the international legal framework and in the national law.

The international legal framework for protection against consequences and risks of the armed conflict is universal and encompasses three interrelated and complementary components of the

⁵ Ministry of Social Policy of Ukraine.

⁶ Ukraine: Conflict Response and Recovery Pilot and Capacity Building Project. World Bank, March 2016.

⁷ UN Security Council. Resolutions 2217 (2015) та 2225 (2015)

⁸ «Protection of the civilians in the armed conflict», February 12, 2014.

international law: international human rights law, humanitarian law and international refugee law.

International human rights law envisages the individual rights and is applied both in peaceful times and military conflict or war. Fundamental rights, such as the right to life or the right not to be subjected to torture must not be limited or arbitrarily suspended under any circumstances. The state responsibility to protect, respect and observe the human rights is enshrined in agreements and conventions.

The following documents envisage and recognize the special protection of people/children:

- The Universal Declaration of Human Rights⁹ of 1948, stating that the enjoyment of fundamental human rights does not depend on the age, race, skin colour, gender, language, religion, political and other beliefs, national or social origin, property, social or other status. All people are born free and equal in their dignity and rights;

- International Covenant on Civil and Political Rights¹⁰ «Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life» (Art. 6 item 1). In its General Comment No. 6 to Art. 6 of the ICCPR the UN Human Rights Committee emphasized the need to take proper preventive measures to restrict the use of force to only absolutely necessary limits; as well as the need for investigation in cases of suspicious deaths to make sure that deprivation of life was not intentional.

- Declaration on the Protection of Women and Children in Emergency and Armed Conflict¹¹. «All forms of repression and cruel and inhuman treatment of women and children, including imprisonment, torture, shooting, mass arrests, collective punishment, destruction of dwellings and forcible eviction, committed by belligerents in the course of military operations or in occupied territories shall be considered criminal»;

- European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment¹² and additional protocols thereto;

- Convention for the Protection of Human Rights and Fundamental Freedoms¹³ «No one shall be subjected to torture or to inhuman or degrading treatment or punishment.» (Art. 3);

- Regional conventions on children's rights, in particular, the European Convention on the Exercise of Children's Rights¹⁴ of 1996;

- Convention No. 182 on the Worst Forms of Child Labour¹⁵, which also qualifies forced or obligatory recruitment of children for use in armed conflicts as a worst form of child labour;

⁹ The Universal Declaration of Human Rights, adopted and proclaimed by the Resolution 217 A (III) of the UN General Assembly dated December 10, 1948; [Electronic resource]. – <http://www.un.org/en/universal-declaration-human-rights/index.html>

¹⁰ International Covenant on Civil and Political Rights, UN; Covenant, international document dated 16.12.1966 – <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

¹¹ <http://www.ohchr.org/Documents/ProfessionalInterest/protectionwomen.pdf> [Электронный ресурс]. – <http://www.ohchr.org/Documents/ProfessionalInterest/protectionwomen.pdf>

¹² European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Council of Europe; Convention, international document dated 26.11.1987 [electronic resource]. – <http://www.cpt.coe.int/en/documents/ecpt.htm>

¹³ Convention for the Protection of Human Rights and Fundamental Freedoms, Council of Europe; Convention, international document dated 04.11.1950, [electronic resource]. – <http://www.echr.coe.int/pages/home.aspx?p=basictexts>

¹⁴ European Convention on the Exercise of Children's Rights [electronic resource]. – <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/160>

¹⁵ ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor No.182 dated 17.06.1999 p. [electronic resource]. – <http://www.ilo.org/public/english/standards/relm/ilc/ilc87/com-chic.htm>

● Standard Rules on the Equalization of Opportunities for Persons with Disabilities¹⁶, «States should ensure that persons with disabilities, particularly infants and children, are provided with the same level of medical care within the same system as other members of society (item 2). All persons with disabilities, including persons with severe and/or multiple disabilities, who require rehabilitation should have access to it (item 3)»;

● World Declaration on the Survival, Protection and Development of Children¹⁷. Among 10 paragraphs of the program aimed at protecting the children and improving their lives, the 8-th paragraph sets forth decisive intentions to protect children from war, the guarantees for meeting the key needs of children and their families during the war and in the areas struck by violence;

● The Rome Statute of the International Criminal Court¹⁸, , recognizing the use of children in both international and local armed conflicts to be a war crime and envisaging the punishment for the failure to observe these provisions.

The rights of children, including children with disabilities, in the armed conflict are set forth in the UN Convention on the Rights of the Child¹⁹ and Optional Protocol²⁰ thereto of 2000.

In particular, in the context of the armed conflict the Convention emphasizes that: «...States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child; ... n accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict» (Article 38), and «...States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child» (Article 39).

The Optional Protocol on the involvement of children in the armed conflict declares the prohibition to engage persons under 18 to armed forces or units.

The Committee on the Rights of the Child in its General Comment No. 9 notes that the states parties shall ensure the access to proper medical and social services, including the services of social and psychological rehabilitation and social reintegration of children with disabilities. It also recommended that in a post-conflict situation considerable resources are allocated for construction and restoration of proper school facilities and inclusive education system is created, including for children with disabilities.²¹

The Committee on the Elimination of Discrimination against Women, in its statement on the situation of women in Gaza Strip in July 2014 expressed the concern in connection with

¹⁶ Resolution 48/96 of the UN General Assembly dated December 20, 1993 «Standard Rules on the Equalization of Opportunities for Persons with Disabilities, UN; Resolution, international document dated 20.12.1993, [electronic resource]. – <http://www.un.org/esa/socdev/enable/dissre00.htm>

¹⁷ World Declaration on the Survival, Protection and Development of Children: Agreed to at the World Summit for Children on 30 September 1990 [electronic resource]. – http://www.un.org/ru/documents/decl_conv/declarations/decl_child90.shtml

¹⁸ The Rome Statute of the International Criminal Court [electronic resource]. – <http://legal.un.org/icc/statute/romefra.htm>

¹⁹ Convention on the Rights of the Child [electronic resource]. – <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

²⁰ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in the armed conflict [electronic resource]. – <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRD.aspx>

²¹ CRC/C/AFG/CO/1, paragraph 61 a)

the fact that a considerable number of women and girls, including those with disabilities, are forcibly displaced with limited or lack of access to social services, as well as in connection with the situation of women with disabilities left in camps or recovery effort areas who are subjected to gender and sexual violence. The Committee requests the states parties to pay attention to the needs of internally displaced women, including women with disabilities.

The protection of rights of people with disabilities is declared in the UN Convention on the Rights of Persons with Disabilities²².

*In the course of negotiations on drafting of the Convention of the Rights of Persons with Disabilities it became necessary to change over from the humanitarian law approach regarding people with disabilities to the human rights based approach, which caused the inclusion of such emergency-related characteristics as “vulnerable” or “neglected” groups.*²³

Article 7 of the UN Convention on the Rights of Persons with Disabilities is specifically dedicated to the rights of children with disabilities.

The mechanisms for child protection shall take into account age and gender specifics. The respective information should be available in the form appropriate for boys and girls and be tailored for different categories of disability. Medical, legal, psychological, social, educational and other services for the survivors of sexual violence should be accessible for boys, girls and adolescents with disabilities. The education lays an important role in the assistance to boys, girls and adolescents with disabilities at the transition to the recovery stage of a conflict or emergency. The access to inclusive education strengthens the community-based linkages and can help to overcome the feeling of exposure in camps or temporary shelters.²⁴

Article 11 of the Convention on the Rights of Persons with Disabilities obligates the states parties to “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”. According to the above Article, a state must:

- Reform their policies and practices in the context of risk situations and humanitarian emergencies according to the Convention standards;
- Ensure efficient management and dissemination of the information available on all stages of emergencies;
- Ensure active coordination, participation and meaningful consultations with people with disabilities and organizations representing their interests, including with women, boys and girls with disabilities, on all levels;
- Mobilize proper, timely and foreseeable resources to ensure emergency preparedness and response which include people with disabilities and are accessible to them, as well take into account the human rights approach to avoid exclusion of the representatives of this group;
- Build the capacity within the stakeholders, including military and civil units, peacekeeping staff and other local workers taking part in the emergency response related to the people with disabilities;

²² Convention on the Rights of Persons with Disabilities [electronic resource]. – <http://www.un.org/disabilities/convention/conventionfull.shtml>

²³ Paragraphs 2 and 3 of the agenda of 31-st session of the UN Human Rights. Annual report of the UN General Commissioner on Human Rights and extracts from reports of the OHCHR.

²⁴ UNHCR, Working with Persons with Disabilities (see footnote 47), p. 12

- Carry out international cooperation according to the standards established by the Convention on the Rights of Persons with Disabilities;
- Facilitate the inclusion of people with disabilities in the existing UN programs in the context of conflicts and emergencies;
- Adopt internationally agreed guidelines related to humanitarian aid and ensuring the rights of people with disabilities.

Article 11 of the Convention on the Rights of Persons with Disabilities is closely connected with Article 9, which declares the issues of the availability of accommodation, shelter, transportation, connection, information; Article 2 emphasizing the universal design principles to be the basis for the development of all strategies, including communication strategy, as well as guarantees the implementation of reasonable accommodation to improve the quality of services for people with disabilities. The Convention guarantees the persons with intellectual disability that they will not be held in psychiatric clinic or facilities against their will, while Article 24 guarantees the right of persons with disabilities to the access to education. Article 4 guarantees the participation of people with disabilities in the process of decision-making related to them. Articles 25 and 26 emphasize the access to medical and rehabilitation services. Provision of Article 5 related to equality and non-discrimination shall be decisive in developing the key activities of inclusive policy in the context of emergencies.

UN Committee on the Rights of Persons with Disabilities in the Closing remarks with regard to Ukraine's first report: «The Committee urges the State party to take all measures necessary, including at the local level, to facilitate the protection, including evacuation, of persons with disabilities who currently remain in the conflict areas of the country and ensure that its emergency response mechanisms and evacuation plans are inclusive and accessible to all persons with disabilities. It particularly calls upon the State party to prioritize persons with disabilities in its evacuation plans, including by training the personnel involved.

The Committee further recommends that the State party mainstream disability in all humanitarian aid channels and involve organizations of persons with disabilities in setting priorities on aid distribution.

The Committee urges the State party to take all measures necessary to systematically register internally displaced persons with disabilities and provide them with an adequate standard of living.

The Committee requests that the State party, within 12 months and in accordance with article 35 (2) of the Convention, provide information on the measures taken to implement the Committee's recommendations to the Article 11»²⁵

International humanitarian law regulates the conduct of the adverse parties during domestic and international conflicts and ensures social protection of the civilians. The international humanitarian law includes four Geneva conventions united under the title «Geneva Conventions on the Protection of War Victims»²⁶ Conventions I, II and III are the outcome of prolonged efforts of the international community of states towards progressive development of their provisions.

²⁵ Closing remarks with regard to Ukraine's first report. CRPD/C/UKR/CO/1, 2015.

²⁶ Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, August 12, 1949 [electronic resource]. – <https://ihl-databases.icrc.org/ihl/INTRO/380>

Convention IV focuses on the protection of civilians at the time of war. The provisions of this Convention are related to the protection of civil hospitals, assistance to the children, the wounded and the sick; commitments of the party states with regard to free transfer of medicines and medical goods, food parcels, clothes and health items exclusively for civilians with special attention to children under 15, women and persons with disabilities.

The Geneva Convention uses such terms as «the wounded» and «the sick», which, if used without additional clarifications regarding disability, contradict the provisions of the Convention on the Rights of Persons with Disabilities. Article 11 of the Convention contains the call to consider the international humanitarian law through human rights based approach to the disability. This approach should cause considerable changes in the policy and practices with regard to emergencies, armed conflicts, natural calamities.²⁷

Articles 14, 17, 23-26, 38, 49-50, 68, 76, 81-82, 89 and 94 of Geneva Conventions are dedicated to special protection of children, while Articles 16, 17, 18, 20, 21, 91, 98 and 127 contain the special protection of people with disabilities. This protection is related to the civilian population living both on the occupied and non-occupied territories. Moreover, in observation of the rights of persons/children to protection from consequences and risks of the armed conflict it is necessary to consider the provisions of universal international conventions related to the prohibition of the use of weapons of mass destruction, in particular, Convention of 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction²⁸;

Convention of 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction²⁹; as well as Convention of 1981 on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects³⁰ and Protocol³¹ thereto on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices.

Specific attention should be paid to the Additional Protocols to the Geneva Convention: Protocol I³² is related to the protection of victims of international armed conflicts, Protocol II³³ is related to the protection of victims of non-international armed conflicts. Additional Protocol

²⁷ Corresponds to footnote 32.

²⁸ Convention of 1972 Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, UN; Convention, international document dated 13.01.1993, [electronic resource]. – <https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/assets/media/C4048678A93B6934C1257188004848D0/file/BWC-text-English.pdf>

²⁹ Convention of 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, UN; Convention, international document dated 13.01.1993, [electronic resource]. – <https://www.opcw.org/chemical-weapons-convention/>

³⁰ Convention of 1981 on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, UN; Convention, protocol, international document dated 10.10.1980, [electronic resource]. – <https://ihl-databases.icrc.org/ihl/INTRO/500?OpenDocument>

³¹ Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices, UN; protocol, international document dated 03.05.1996, [electronic resource]. – <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/52d68d14de6160e0c12563da005fdb1b/05e54e8fb1a42782c125641f002d5ee5?OpenDocument>

³² Additional Protocol to the Geneva Convention dated August 12, 1949, related to the protection of victims of non-international armed conflicts [...], UN, protocol, international document, rules dated 08.06.1977 [electronic resource]. – <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=AA0C5BCBAB5C4A85C12563CD002D6D09&action=openDocument>

³³ Additional Protocol to the Geneva Convention dated August 12, 1949, related to the protection of victims of international armed conflicts (Protocol II), dated June 8, 1977 [electronic resource] – <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Treaty.xsp?documentId=D9E6B6264D7723C3C12563CD002D6CE4&action=openDocument>

II, among other things, contains the provisions on the prohibition of violence to the life and physical well-being, different types of murder, mutilation, cruel treatment, torture, hostage-taking, violation of human dignity, in particular, humiliating or degrading treatment etc.

According to the Additional Protocol II, the population shall not be subject to the attack, the actions and threats aimed at intimidating the population are prohibited. The attacks are also prohibited on the objects indispensable for the survival of the civilian population, including foodstuffs, agricultural areas for production of foodstuffs, sources of water supply etc. Moreover, works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, shall not be made the object of attack. The Preamble of this Protocol states that «in cases not covered by the law in force, the human person remains under the protection of the principles of humanity and the dictates of the public conscience».

The provisions of common international humanitarian law³⁴, applicable for international and non-international armed conflicts are aimed at the protection of the rights of persons and children with disabilities.

The importance of family reunion, especially reunion of children with parents, both in the international human rights law and the international humanitarian law is reflected in the agreements, resolutions and other international documents.

UN General Assembly in its Resolution on Human Rights in the Armed Conflicts of 1968 calls on the parties while engaging in military operations to make all possible efforts to protect the civilians from the destructive effects of war.

According to amendments to Art. 3 (para.10) of Protocol II to the Convention Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects, the states take all possible preventive activities to protect the civilians from the impact of weapons. These conditions include, but are not limited to the activities on protection of the civilians by warning and monitoring; availability and possibility to use alternative systems, etc.

UN General Assembly in the Resolution 2675 on the Basic principles for the protection of civilian populations in armed conflicts of 1970 requires ensuring the observance of the following principles during an armed conflict:

1) Fundamental human rights, as accepted in international law and laid down in international instruments, continue to apply fully in situations of armed conflict;

2) In the conduct of military operations during armed conflicts, a distinction must be made at all times between persons actively taking part in the hostilities and civilian populations;

3) In the conduct of military operations, every effort should be made to spare civilian populations from the ravages of war, and all necessary precautions should be taken to avoid injury, loss or damage to civilian populations;

4) Civilian populations as such should not be the object of military operations;

5) Dwellings and other installations that are used only by civilian populations should not be the object of military operations;

International refugee law, in its turn, regulates the provisions related to the rights and protection of refugees. The issue of protecting the refugees with disabilities is especially urgent nowadays. The UNHCR Executive Committee³⁵, tracking the situation with the refugees, in

³⁴ Jean-Marie Henckaerts. Customary International Humanitarian Law. [electronic resource] / – <https://www.icrc.org/eng/resources/documents/publication/pcustom.htm>

³⁵ Conclusion on refugees with disabilities and other persons with disabilities protected and assisted by UNHCR Conclusion on refugees with disabilities and other persons with disabilities protected and assisted by UNHCR, No. 110 (LXI) – 2010

its continuous observations emphasizes over and over again that the needs of refugees with disabilities are often neglected, especially on the early stages of humanitarian emergencies. They, especially women and elderly people with disabilities, are subjected to discrimination, exploitation, sexual and gender violence and may be excluded from the support and services. UNCHR Executive Committee warns that the refugees with disabilities may get excluded from the sphere of servicing and support in case of repatriation. They have fewer opportunities for other long-term decisions, such as local integration and relocation. The Committee reaffirms that the countries bear full responsibility for all proper activities for protection and assistance for refugees with disability in all situations and calls upon the states, in cooperation with the respective stakeholders, to ensure protection and assistance to refugees and other persons with disabilities from all forms of discrimination and ensure sustainable and essential support in solving all their urgent problems.

In addition to the international legal framework for the protection of people in armed conflicts special protection standards were developed for the persons and children with disabilities.

Thus, an important instrument of protecting children in the military conflicts are the ***UN Minimum Standards of Child Protection in Humanitarian Action***³⁶ based on the four key principles of the UN Convention appropriately interpreted in the context of humanitarian activities:

- Right to life and development

Together with the ensuring and observance of the child's rights the employees of humanitarian missions and sectoral specialists have to consider the impact of emergencies and the response means on the child's physical, psychological, emotional, social and spiritual (cultural) development;

- Non-discrimination

Emergencies most often aggravate the existing differences and cause further marginalization of those already being under the threat of discrimination, including children with disabilities;

- Participation and involvement of children

Employees of humanitarian organizations and sectoral specialists have to engage children to the preparedness and response to emergencies. It is necessary to make all and every effort so that the children of different age and opportunities had the chance to express their point of view and participate in making the decisions related to them.

- Ensuring the child's best interests

This principle should guide the development, monitoring and implementation of all humanitarian programs and interventions with regard to the children.

According to Standard 7, negligence traumas are the leading cause of death among children older than 1 year and amount to 30% of all lethal cases among the children aged 10-14 and almost 50% among the children aged 15-18. In addition to these "usual" risks, in the armed conflict situation the children are exposed to higher risk of crippling and disability. Children with disabilities are most vulnerable and endangered during forcible displacement because of explosive remnants of war (ERW), debris, pits etc.

It is very important to inform, warn and timely provide medical assistance to the children who were crippled as the result of a military conflict. The children will need to be provided with proper rehabilitation according to their age, physical and psychoemotional needs.

³⁶ UN Minimum Standards of Child Protection in Humanitarian Action, CPWG, 2012, [electronic resource]. – <http://cpwg/net>

Standard 8 provides the protection of children from physical violence and other harmful practices (for example, the adults may use child's disability to obtain additional benefits).

Standard 13 is aimed at preserving the unity of the family and, if necessary, at providing the children left without parental care with a temporary alternative guardianship. Standard 13 requires preventing the separation of children with disabilities from their parents by placing a child in the residential care facility to ensure better nutrition, provision with hygienic means and clothes, but instead creating all the necessary conditions for the child with disability to stay in the family.

Standard 17 develops the concept of the safe space for children: playgrounds, rooms, equipment creating a supportive atmosphere for the child. Special attention must be paid to the availability of these spaces and their accessibility for a child. The standard ensures the use of universal design and reasonable accommodation.

Standard 18 suggests the means on prevention of discrimination of children with disability in an armed conflict. The standard emphasizes the danger for children with impaired movement, communication, memory retention, sight and hearing to become the victims of exploitation if they get abandoned by the parents or guardians. The standard suggests the ways to overcome this problem in humanitarian activities, envisages special training for the leaders of host communities, staff of tent towns and camps on working with children and families with disability.

Special requirements are set forth on the organization of information and awareness activities which must take into account the specifics of children with disabilities and use radio, loudspeakers, large font and Braille font media to disseminate the information, as well as involve in these activities the organizations and associations of people with disabilities and rehabilitation centers.

Standards 19 (economic matters and protection of children), 20 (education and protection of children), 21 (healthcare and protection of children), 22 (nutrition and protection of children), 23 (water, sanitation, hygiene and protection of children), 24 (temporary accommodation and protection of children), 25 (places of the compact accommodation of IDPs and protection of children), 26 (distribution of humanitarian aid and protection of children) emphasize the obligatory nature and accessibility of all available services for children with disability or the family members of the child who have disability in planning and accommodating the families in the temporary shelter or a camp.

Minimal standards for the protection of children in the provision of humanitarian aid and the toolkit thereto are translated into Russian and are accessible for all interested parties. With the support from the UNICEF and the respective UN representative offices in Ukraine the regular trainings are being held for the representatives of humanitarian organizations and sectoral workers.

Minimum Standards for Age and Disability Inclusion in Humanitarian Action (pilot version)³⁷.

The standards were developed by Age and Disability Capacity Building Programme in cooperation with the Age and Disability Consortium comprising 7 leading organizations in this field: CBM (International Christian organization of people with disability), Disaster Ready, Handicap International, Help Age International, IFRC (international humanitarian organization against discrimination), Oxford Brookes University and Red RUK (international humanitarian organization for disaster response). The first version of the Standards was published in 2015 and

³⁷ The pilot version of the Minimum Standards for Age and Disability Inclusion in Humanitarian Action, developed as part of the Age and Disability Capacity Building Programme (ADCAP), UK, 2016 [electronic resource] – <http://helpage.org>

in 2016 its pilot version with additions was issued, which is still open for further improvement. The standards are not translated in to Ukrainian and are available only in the original language (English). Authors of the Standards recognize that the humanitarian system still has significant gaps regarding elderly people and persons with disabilities who found themselves in the situation of an armed conflict or humanitarian disaster, and these Standards are a practical guideline for proper inclusion of persons with special needs on each stage of the humanitarian activities, in each sphere and context. The Standards are based on the universal principles of:

- Non-discrimination;
- Humanitarian activities on the basis of humanism, fundamental human rights and freedoms, in particular, the right to life with dignity, obtaining of humanitarian aid, protection and safety;
- Inclusive access to the services, participation and protection;
- Respect of the dignity of elderly people and people with disabilities;
- Equal opportunities, efficient and active participation in the decision-making processes;
- Respect to the equality between men and women, girls and boys of different age groups;
- Recognition of the important role of service providers, case managers and other supporting staff.

The standards include the following sectors:

- Protection
- Water, sanitation and hygiene
- Food security and livelihoods
- Nutrition
- Shelter, settlement and non-food items (NFI)
- Health
- Emergency education

These Minimum Standards define the 8 key criteria for inclusion, under which elderly people and people with disabilities in the humanitarian activities:

- Are recognized to ensure they receive assistance that is appropriate and relevant to their needs;
- Have access to the humanitarian assistance they need;
- Are not negatively affected, and are more prepared, resilient and less at-risk as a result of humanitarian action;
- Know their rights and entitlements, have access to information, and participate in decisions that affect them on an equal basis with others;
- Have access to safe and responsive mechanisms to handle complaints on an equal basis with others;
- Receive and participate in coordinated and complementary assistance on an equal basis with others;
- Can expect improved assistance and inclusion as organizations learn from experience and reflection;
- Receive assistance from competent and well-managed staff and volunteers who are skilled and equipped to include them in humanitarian responses, and they have equal opportunities for employment and volunteering in humanitarian organizations.

Minimum Standards for Prevention and Response to Gender-Based Violence in Emergencies developed under the aegis of the UNFPA³⁸.

³⁸ Minimum Standards for Prevention and Response to Gender-Based Violence in Emergencies [electronic resource] – http://www.unfpa.org/sites/default/files/pub-pdf/GBVIE.Minimum.Standards.Publication.FINAL_ENG_.pdf

These Standards integrate the existing global guidelines and technical standards taking into account the «Sphere» project (see below) and its Humanitarian Charter and Minimum Standards in Disaster Response. These standards are destined for use together with other standards and guidelines. In particular, Article 3 highlights the problems of persons with disabilities in the context of gender-based violence response in emergencies. It indicates the following: «In the rush to provide humanitarian assistance, actors often fail to assess and address the special needs of the most marginalized. Special attention should be paid to the most excluded and marginalized communities when designing GBV prevention and response programmes».

The Standards include persons with disabilities in the excluded communities. The standards emphasize that disability causes increased vulnerability to gender-based violence. Moreover, they state that «people with disabilities are often left neglected and socially isolated during emergencies and conflicts. Often they are not included in the data collection, thus they cannot get access to the basic services. If they are not included in the estimate, their needs are not accounted in the development, implementation, monitoring and evaluation of the intervention programs. The voice of persons with disabilities must be heard in creating an inclusive program for the prevention and response to gender violence. It is necessary to remember about people with disabilities on all stages of the programmatic process, engage them as employees and volunteers, strengthen their economic and social situation. No less important is to focus the efforts on the communities as a whole: promote better understanding of the needs of people with disabilities, increase awareness and strengthen the capacity for joint solving of the problems related to violence and disability».

The special standards for protection also include the *Sphere Project*³⁹, founded in 1997 to develop minimal standards for the key areas of the humanitarian aid. The main task of the Project is to improve the quality of services provided to people affected by natural calamities and strengthening the accountability of the humanitarian aid provision system in the emergencies, including in the armed conflicts. One of the key achievements of the Project is the publication of the reference book Humanitarian Charter and Minimum Standards in Disaster Response.

Standards of the Sphere Project were developed under the initiative of humanitarian non-governmental organizations and the Red Cross and Red Crescent, and are used as globally accepted actual standards for humanitarian assistance provision in XXI century.

Basic and minimum standards are related to the methods of planning the assistance programs in 4 types of life-saving activities, in particular: water, sanitation, hygiene; food and nutritional support; organization of dwelling; organization of accommodation and non-food assistance; medical services. As regards the persons with disabilities, Minimum standards of the Sphere Project emphasize that physical, sensory, intellectual, psychosocial barriers, as well as the environment and relationship barriers prevent the people with disabilities from full and efficient participation in the social life equally with others. These barriers, accordingly, stand in the way of efficient and meaningful participation of persons with disabilities in the main humanitarian programs and obtaining of the humanitarian aid.

The sections of the Standards highlight the fact that people with disabilities are exposed to additional risks in emergencies and are often left without assistance and excluded from the recovery processes. This exclusion is inadmissible, as it considerably complicates the efficiency of implementation and participation in the standard emergency relief programs.

³⁹ The Sphere Project and Humanitarian Charter and Minimum Standards in Disaster Response, [electronic resource] – www.refworld.org/cgi-bin/tehis/vtx/rwmain/opensslpdf.pdf

The standards emphasize that persons with disabilities include representatives of different populations: children, women, older people, whose needs cannot be properly met on the basis of universal standardized approach.

The Standards emphasize that «in provision of humanitarian aid it is necessary to consider that people with special needs have the same urgent problems that other members of the society. Moreover, they most often have also even more specific needs, such as replacement of aids or life-supporting devices, access to rehabilitation services etc».

The standards call that all actions aimed to help persons with disabilities would not cause isolation of such people to any degree. «If in the provision of humanitarian aid the rights of people with disabilities are not taken into account, this causes the loss of real possibility for the recovery of the entire community». Thus, the Standards encourage all parties engaged in the humanitarian programs to involve persons with disabilities to all aspects of providing the assistance and recovery. To this end the Standards contain detailed instructions not only for general assistance programs, but also for the programs aimed at solving the specific tasks and meeting specific needs of persons with disabilities.

The above number of the international legal acts on human rights and the international humanitarian law indicates that the fate of the people during armed conflicts is one of the cornerstones of the contemporary international law. Some of the abovementioned international acts do not specifically single out the provisions on the rights of persons and children with disabilities, but they all are directly applicable to them as equal participants of the international legal relations.

The international community and the human and child rights experts recognize that persons and children with disabilities in armed conflicts have greater risks to be abandoned and ignored during evacuation, omit important information due to the lack of proper information media or carelessness of the responsible staff, become victims to the exploitation, human trafficking, neglect and degrading treatment, be severely injured and crippled. That's why to protect persons/ children with disabilities in the situation of an armed conflict, humanitarian disaster or a natural calamity all existing mechanisms and standards of the international legal environment should be deployed.

SECTION 2. NATIONAL LEGAL FRAMEWORK FOR THE PROTECTION OF PERSONS WITH DISABILITIES IN ARMED CONFLICT AND OCCUPATION OF THE PART OF UKRAINE

Legal guarantees of protection of citizens with disabilities during military emergencies. According to Art. 64 of the Constitution of Ukraine⁴⁰, constitutional rights and freedoms of persons cannot be limited except for the cases envisaged by the Constitution of Ukraine.

Under martial law or the state of emergency additional restrictions may be imposed on rights and freedoms indicating the duration while these restrictions remain in force.

Despite the fact that the situation in Ukraine shows all characteristic features of both state of emergency (the Law of Ukraine «On the Legal Regime of the State of Emergency»⁴¹), and martial law (the Law of Ukraine «On the Legal Regime of the Martial Law»⁴²) neither of the above regimes was introduced in Ukraine. Instead, the decision was taken to deploy anti-terrorist operation (the Law of Ukraine «On Combating Terrorism»⁴³).

The National Security and Defense Council of Ukraine on April 13, 2014 adopted a decision «On Urgent Actions to overcome the Threat of Terrorism and Uphold the Territorial Integrity of Ukraine» (confidential), which was subsequently enacted according to Art. 107 and 112 of the Constitution of Ukraine by the Decree of the President of Ukraine dated April 14, 2014 No. 405/2014⁴⁴.

It is worth to note that neither the above laws nor the laws of Ukraine «On the Defense of Ukraine»⁴⁵, «On the Fundamentals of the National Security of Ukraine»⁴⁶, «On the Major Hazard Objects»⁴⁷, «On the Use of Nuclear Energy and Radiation Safety»⁴⁸, «On the Military and Civil Administrations»⁴⁹, nor the Strategy of the National Security of Ukraine approved by the Decree of the President of Ukraine dated May 26, 2015 No. 287/2015⁵⁰, nor the Military Doctrine of Ukraine approved by the Decree of the President of Ukraine dated September 24, 2015 No. 555/2015⁵¹, nor the bylaws developed in pursuance of the above laws envisage separate norms

⁴⁰ <http://zakon5.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80/page?text=%E2%EE%BA%ED+%E2%B3%E9%F1%FC%EA+%F2%E5%F0%EE%F0>

⁴¹ <http://zakon5.rada.gov.ua/laws/show/1550-14?nreg=1550-14&find=1&text=%F2%E5%F0%EE%F0&x=0&y=0#w11>

⁴² <http://zakon5.rada.gov.ua/laws/show/389-19?nreg=389-19&find=1&text=%EF%E5%F0%E5%EC+%EF%E5%F0%E5%E2%E5%E7+%E2%E8%E2%E5%E7%E5%ED&x=0&y=0>

⁴³ <http://zakon5.rada.gov.ua/laws/show/638-15/page?text=%EF%E5%F0%E5%EC+%EF%E5%F0%E5%E2%E5%E7+%E2%E8%E2%E5%E7%E5%ED#w12>

⁴⁴ <http://zakon3.rada.gov.ua/laws/show/405/2014>

⁴⁵ <http://zakon2.rada.gov.ua/laws/show/1932-12/page?text=%B3%ED%E2%E0%EB%B3%E4+%E7%EE%F0%F3+%F1%EB%F3%F5%F3>

⁴⁶ <http://zakon3.rada.gov.ua/laws/show/964-15?nreg=964-15&find=1&text=%B3%ED%E2%E0%EB%B3%E4+%E7%EE%F0%F3+%F1%EB%F3%F5%F3&x=0&y=0>

⁴⁷ <http://zakon3.rada.gov.ua/laws/show/2245-14?nreg=2245-14&find=1&text=%B3%ED%E2%E0%EB%B3%E4+%E7%EE%F0%F3+%F1%EB%F3%F5%F3&x=0&y=0>

⁴⁸ <http://zakon0.rada.gov.ua/laws/show/39/95-%D0%B2%D1%80/page?text=%EF%E5%F0%E5%EC%B3%F9+%E5%E2%E0%EA+%E2%E8%E2%E5%E7%E5%ED>

⁴⁹ <http://zakon0.rada.gov.ua/laws/show/141-19?nreg=141-19&find=1&text=%B3%ED%E2%E0%EB%B3%E4+%E7%EE%F0%F3+%F1%EB%F3%F5%F3&x=6&y=5>

⁵⁰ <http://zakon3.rada.gov.ua/laws/show/287/2015/paran14?nreg=287%2F2015&find=1&text=%EF%E5%F0%E5%EC%B3%F9&x=3&y=5#n14>

⁵¹ <http://zakon3.rada.gov.ua/laws/show/555/2015/page?text=%B3%ED%E2%E0%EB%B3%E4+%E7%EE%F0%F3+%F1%EB%F3%F5%F3>

taking into account the special needs of people with disabilities.

The Methodological recommendations for training the population to act in conditions of the threatened or committed terrorist act approved by the Decree of the State Emergency Service of Ukraine on 23.03.2015 No. 167⁵² indicate the following.

1) In section IV «Actions of the people in case of an emergency situation or emergency event on the objects, including the situation caused by the terroristic act» it is recommended to:

On the underground station, while moving to the escalators, assist passengers with children women, elderly people and persons with disabilities;

While exiting the carriage of an underground train or railway transport after arrival to the station exit the carriage, letting children, women, elderly people and persons with disabilities to exit first;

In the railway transport, bus, trolleybus, tram, minibus during the evacuation from the vehicle keep calm, provide assistance to passengers with children, women, elderly and disabled persons;

In the event of a building destruction get into a safe place and provide assistance to children, women, elderly people and persons with disabilities;

In the event of a household gas leakage in the building assist with evacuation to women, persons with disabilities, elderly people and children.

2) In section VI «Actions of the population in case of staying in the warfare (anti-terrorist operation) area, while staying in the warfare (anti-terrorist) area it is recommended to:

In a building during the evacuation, use internal stairways, external fire ladders, etc, do not use elevators, provide the necessary assistance to children, women, elderly people, persons with disabilities;

In the street (open locality) in the safe place, provide the necessary assistance to children, women, elderly people, persons with disabilities.

However, the methodological recommendations do not indicate how exactly the citizens should provide assistance to persons with disabilities and other persons with reduced mobility.

At the same time, the Code of Civil Protection of Ukraine⁵³ envisages the following:

— Article 19 includes in the powers of the Council of Ministers of the Autonomous Republic of Crimea, local state administrations in the field of civil protection include, inter alia, ensuring of information and warning of the population about the threat and occurrence of emergencies, including in the form accessible for persons with sight and hearing impairments, while the powers of the local self-government bodies in the field of civil protection includes ensuring the warning and information of the population about the threat and occurrence of emergencies, including in the form accessible for the persons with sight and hearing impairments;

— Article 21 establishes that the citizens of Ukraine are entitled, inter alia, to obtain information about emergencies or dangerous events which occurred or can occur, inter alia, in the form accessible for people with sight and hearing impairments;

— Article 31 defines that the civil defense management bodies shall provide the population via the media with prompt and reliable information indicated in part 1 of this Article, including information about their activities, in the form accessible to persons with sight and hearing impairments.

⁵² http://old.mns.gov.ua/content/laws_nak15.html?PrintVersion

⁵³ <http://zakon2.rada.gov.ua/laws/show/5403-17/page?text=%F1%F3%E1%F2%E8%F2%F0+%E4%F3%E1%EB+%EE%E7%E2%F3%F7>

Meanwhile, it should be noted that the current edition of the Provisions on the organization of warning and connection in the emergencies approved by the Resolution of the Cabinet of Ministers of Ukraine dated February 15, 1999 No. 192⁵⁴, does not contain similar provisions.

In connection with this there is the necessity to implement amendments to the draft Resolution of the Cabinet of Ministers of Ukraine “On Approval of the Provisions about the Organization of Warning on the Threatened or Occurred Emergencies and Organization of Liaison in the Civil Defense”.

Moreover, to improve the implementation in Ukraine of the provisions of the UN Convention on the Rights of Persons with Disabilities and Closing Remarks and the UN Committee on the Rights of Persons with Disabilities with regard to the primary progress report of Ukraine on the implementation of UN Convention of the Rights of Persons with Disabilities prepared the proposals on amendments to certain laws of Ukraine on the improvement of access of people with hearing impairments to the information, suggesting that “all broadcasting companies must ensure adaptation for perception by people with hearing impairments by translating into the Ukrainian sign language and/or subtitling of all information messages, including information about emergencies”. These proposals were almost completely used as a basis of the draft Law of Ukraine «On Amendments to Certain Laws of Ukraine with Regard to Improving Access to the Information for Persons with Hearing Impairments»⁵⁵, While the Code of the Civil Defense of Ukraine is lacking the requirements to take into account the needs of persons with disabilities, except for the informing, however, under the paragraph 40 of the Procedure of evacuation in the event of threat or occurrence of technogenic and natural emergencies approved by the Resolution of the Cabinet of Ministers of Ukraine dated October 30, 2013 No. 84⁵⁶, the Evacuation Committee established by the Council of Ministers of the Autonomous Republic of Crimea, local state administration, local self-government body shall organize the warning, evacuation and arrival of non-working population to the evacuation points, in particular, the disabled persons with sight, hearing, locomotor system impairments, intellectual deficiency, mental disorders in their place of residence.

Thus, the current emergency legislation, in particular, to the extent of warning, evacuation, etc., is virtually neglecting, with some exceptions, the needs of persons with disabilities who use wheelchairs, have sight and hearing impairments, intellectual and mental disorders, as well as other populations with reduced mobility (PRM);

Scattered provisions of some individual legislative acts envisioning that the local authorities shall be responsible for these matters are not practically enforced (based on the experience of evacuating persons with disabilities from the Eastern Ukraine), because these are not detailed in any way. There are no clear procedures of assistance to the vulnerable groups.

Unfortunately, the authorities are underestimating the relevance of tasks on solving these problems as determined by the Action Plan of the National Human Rights Strategy till 2020⁵⁷, thus failing to fulfill them. Detailed information is presented in the Annex 1 and 2.

⁵⁴ <http://zakon5.rada.gov.ua/laws/show/192-99-%D0%BF?nreg=192-99-%EF&find=1&text=%F1%F3%E1%F2%E8%F2%F0+%E4%F3%E1%EB+%EE%E7%E2%F3%F7&x=0&y=0#w25>

⁵⁵ http://comin.kmu.gov.ua/control/uk/publish/article?art_id=125648&cat_id=80453

⁵⁶ <http://zakon5.rada.gov.ua/laws/show/841-2013-%D0%BF?nreg=841-2013-%EF&find=1&text=%B3%ED%E2%E0%EB%B3%E4+%E7%EE%F0%F3+%F1%EB%F3%F5%F3&x=6&y=11#w33>

⁵⁷ Approved by the Order of the Cabinet of Ministers of Ukraine dated November 23, 2015 No. 1393-p,

Guarantees of protection of the rights of IDPs with disabilities. The Law of Ukraine «On Ensuring Rights and Freedoms of the Internally Displaced Persons»⁵⁸ establishes the guarantees for observance of the rights, freedoms and lawful interests of the IDPs.

According to Art. 1 of this Law, an internally displaced person is a citizen of Ukraine, a foreigner or a stateless person staying on the territory of Ukraine on lawful grounds and having the right for permanent residence in Ukraine, who were compelled to leave or abandon their place of residence as a result or in order to avoid adverse consequences of an armed conflict, temporary occupation, widespread manifestations of violence, violation of human rights and natural or technogenic emergencies.

According to Art. 14 of the abovementioned Law, internally displaced persons enjoy the same rights and freedoms according to the Constitution, laws and international treaties of Ukraine, as the other citizens permanently residing in Ukraine. Their discrimination in exercising any of their rights and freedoms on the basis of internal displacement is prohibited.

Art. 6-8 of this Law regulate ensuring the rights of the internally displaced persons to obtain the documents confirming the identity and citizenship of Ukraine or the documents confirming the identity and a special status of the person, and ensuring the implementation of the rights of registered IDPs for employment, pension allowance, obligatory state social insurance, social services, education, envisaging a certain simplification of the respective mechanisms (at the actual place of stay, without certain obligatory conditions, etc.). For example, provision of technical and other rehabilitation means, provision of rehabilitation services is available upon the presentation of the necessary documents confirming the person's eligibility to receive them, and if such documents are missing – based on the information from the Central Disability Databank (for persons applying once more) and individual program of rehabilitation of a person or child with disabilities established by the Cabinet of Ministers of Ukraine^{59,60}.

Art. 9 of the Law of Ukraine envisages the following rights of internally displaced persons in Ukraine:

- Family unity;
- Support from the state executive bodies, local self-government authorities and private person in search and reunion of the family members who lost contact in the course of internal displacement;
- Information about the situation and location of the missing family members and close relatives;
- Safe conditions of life and health;
- Reliable information about the existence of the threat to life and health on the territory of their abandoned place of residence, as well as on the place of temporary accommodation, condition of the infrastructure and the environment, ensuring their rights and freedoms;
- Ensuring proper conditions for temporary or permanent residence;
- Ensuring by the state executive bodies, local self-government authorities and private persons of the right to temporarily reside on a free basis (on condition of utility payment) during six months since the registration as an IDP; for families with multiple children, persons with disabilities and elderly persons this term may be extended;

⁵⁸ <http://zakon5.rada.gov.ua/laws/show/1706-18/page?text=%CA%CE%D0%C8%D1%D2>

⁵⁹ <http://zakon5.rada.gov.ua/laws/show/321-2012-%D0%BF>

⁶⁰ <http://zakon5.rada.gov.ua/laws/show/z1216-14/paran13#n13>

- Support with moving of tangible possessions;
- Support in returning to the previous place of residence;
- Providing with medications in the cases and according to the procedure established by law;
- Providing of necessary medical assistance in the state and community-owned healthcare facilities;
- Admission of children to kindergarten and school facilities;
- Obtaining of social and administrative services at the place of temporary residence;
- State registration of the civil status certificates, amendments to the civil status records, renewal and cancellation of civil status records at the place of stay;
- Free-of-charge travel for voluntary return for their abandoned place of permanent residence in all types of public transport if the circumstances causing the displacement cease to exist;
- Obtaining humanitarian and charitable aid;
- Other rights defined by the Constitution and the laws of Ukraine.

Unfortunately, most of the above provisions are of declarative nature, especially it is true for the providing by the state authorities, local self-government bodies and private persons of a possibility for free-or-charge temporary accommodation for an internally displaced person and free travel for voluntary return to their abandoned place of residence in all types of public transport if the circumstances causing the displacement cease to exist.

Art. 17 of the Law provides for certain mechanisms of granting the IDPs the loans for the purchase of land plots, purchase and construction of the dwelling (implementation of housing programs, refinancing of construction expenses or reimbursement of interests under the loans paid), however, they still remain rather declarative as well. The only action taken in this area is the Government's approval on February 24, 2016 of the Resolution No. 115 «On Amendments to the Rules of Granting Long-term Loans to Individual Housing Developers in Rural Areas»⁶¹, which enabled the citizens forcefully displaced from the temporarily occupied territories to take such a loan. However, it is clear that only a few persons would make use of such loans. Thus, for example, 2,972 such loans were provided to all the eligible population categories.

During more than a year and a half since the enactment of the Law the Ministry of Regional Development, Construction, Housing and Utility Services of Ukraine managed only to issue the Order No. 69 dated 25.03.2016, which established the working group to develop the practice of compensation for the property damaged as the result of the anti-terrorist operation.

According to Art. 18 of the Law, Ukraine must ensure fair distribution of the international humanitarian aid to the internally displaced persons, taking into account the needs of persons with special needs, persons with disabilities, women and children, single parents, retired and elderly persons. However, neither officials, nor the above-mentioned categories of IDPs still do not understand what such «fair distribution» actually means.

According to paragraphs 13-15 of Art. 4 of the Law of Ukraine «On Ensuring the Rights and Freedoms of the Internally Displaced Persons»⁶² in the edition dated October 20, 2014 No. 1706-VII the Uniform Information Database on Internally Displaced Persons shall be established in order to register and record the number of IDPs. Final provisions of the Law «On Ensuring the Rights and Freedoms of the Internally Displaced Persons» assign the Cabinet of Ministers of Ukraine to establish the Uniform Information Database about the IDPs – the citizens of Ukraine

⁶¹ <http://zakon0.rada.gov.ua/laws/show/115-2016-%D0%BF/paran2#n2>

⁶² <http://zakon5.rada.gov.ua/laws/show/1706-18/ed20141020>

who relocated from the temporarily occupied territories and the ATO area to other regions of Ukraine – within 3 months since the enactment of this Law. The Law was published in the *Holos Ukrainy* governmental newspaper on 21.11.2014, in the *Ofitsiynyi Visnyk Ukrainy* official courier on 02.12.2014, in the *Uryadovyy Kurier* official governmental courier on 03.12.2014, in the *Vidomosti Verkhovnoi Rady* parliamentary paper on 02.01.2015. Moreover, the Law of Ukraine «On Amendments to the Certain Laws of Ukraine on Strengthening the Observance of Guarantees of the Rights and Freedoms of Internally Displaced Persons»⁶³ improved the Law of Ukraine “On Ensuring the Rights and Freedoms of the Internally Displaced Persons”, wherein all the provisions mentioning the Uniform Information Database on IDPs were singled out in a separate Article 4¹. An important aspect is that the Uniform Information Database on IDPs will include such additional information which will be essential for IDPs with disability:

— *information about the disability of a person, if any, indicating the cause, group (subgroup), nosologic indicators and needs for technical and other rehabilitation means;*

All the above activities are important to ensure the rights, freedoms and needs of the internally displaced persons with disability. All of them are aimed at improving and facilitating integration, rehabilitation, legal, social and psychological aspects of the life of persons with disability, optimize the provision and obtaining of administrative, social and other relevant services.

In the meantime, the Uniform Information Database on IDPs is still not created, moreover, in more than a year and a half the Cabinet of Ministers of Ukraine failed to approve the Procedure of establishment, maintaining and access to the information of the uniform Information Database on IDPs, while the Ministry of Social Policy together with other central executive bodies failed to ensure its development and approval.

Separate attention should be paid to the Interim Procedure of entry to and exit from the uncontrolled territory for the citizens of Ukraine and foreigners (stateless persons), approved by the Order of the First Deputy Head of the Anti-terrorist Center at the Security Service of Ukraine (commander of the Anti-terrorist Operation on the territories of Donetsk and Luhansk oblasts) dated June 12, 2015 No. 415 or⁶⁴.

Paragraph 127.2 of the Action Plan for the Implementation of the National Human Rights Strategy envisages the amendments to the above Interim Procedure to the extent of simplifying the movement for the persons with disabilities, with the risk of acquiring the same or persons with complicated diseases.

Unfortunately, the analysis of laws and bylaws brings us to a conclusion that the standards for ensuring the rights of persons with disabilities, including during the emergency period, are insufficient. Meanwhile, declaring the necessity to make the respective amendments in the strategic documents faces neglect and misunderstanding from the officials of respective authorities.

⁶³ <http://zakon5.rada.gov.ua/laws/show/921-19/paran37#n37>

⁶⁴ http://www.sbu.gov.ua/sbu/control/uk/publish/article?art_id=136476&cat_id=135945

SECTION 3.

OUTCOMES OF MONITORING OF OBSERVANCE OF THE RIGHTS OF PERSONS WITH DISABILITIES IN THE ARMED CONFLICT

Unfortunately, the real circumstances of the armed conflict in the East of Ukraine convincingly demonstrate that the mechanisms of the implementation of international law norms in the national context are not duly regulated and elaborated. Actual situation shows that neither of the population groups is kept safe against the destructive consequences of the hostilities in the East of Ukraine. Specific vulnerability of a certain group is defined by its social and economic status and opportunities to access the resources to obtain assistance.

«At first we did not understand what was going on. When the shooting broke out, we felt helpless. We can move only with a wheelchair. They told that somebody of our peers (wheelchair-ridden persons) were killed, then that terrible photos... We did not know what to do, where to go, who to ask for help, where to get money to leave the place... Our acquaintances from a civil society organization helped us to leave Debaltsevo... No, we do not want to return... We lost everything... It's very difficult to survive»

(Volodymyr, a couple of persons with group I disability)

3.1. Statistical data on the adults and minors with disability from the total number of such persons⁶⁵

Statistical data used in the report are based on the official data from ministries and departments. Meanwhile, the experience of civil society organizations implies that the factual data may differ. For example, not all the civilians who were injured or crippled have a «disability» status. Not all ATO participants managed to register for a group of disability due to bureaucratic barriers. Lack of the clear data collection system downgrades the actual scale of the problem.

Based on the data of the State Statistical Service of Ukraine (hereinafter – the SSSU), as of January 1, 2014 in Ukraine there were 2,831,726⁶⁶ persons with disability (including: 291,395 persons with group I disability, 1,042,340 persons with group II disability, 1,329,811 persons with group III disability and 168,280 children with disability), which was equal to 6.23 % in the general structure of the population (45,426.2⁶⁷ thousand of persons).

The largest number of adults with disability as of the beginning of 2014 resided in Donetsk oblast (273,482), Lviv (190,577), Dnipropetrovsk (169,463), Kharkiv (151,325), Odesa (151,046) oblasts, the city of Kyiv (149,833) and the Autonomous Republic of Crimea (127,631). As for the same time period, the largest number of minors with disability resided in Donetsk oblast (14,229), Dnipropetrovsk (11,944), Lviv (10,308) oblasts, the city of Kyiv (9,313), Kharkiv (8,412), Odesa (7,430) and Kyiv (7,154) oblasts.

In the Autonomous Republic of Crimea, which was holding the 14-th place of all the regions for the number of children with disability, there were 5,887 minors with disability as of January 1, 2014.

However, in 2 years, in particular, as of January 1, 2016 the quantitative indicator of the number of persons with disability decreased by 217,665 persons (or by 0.12 % in the general structure of the

⁶⁵ Data for 2016 do not include the AR of Crimea, Sevastopol, and parts of uncontrolled territories of Donetsk and Luhansk oblasts.

⁶⁶ [http://www.ukrstat.gov.ua/publications/ Demographic and social statistics /Social protection/ Statistical reference book «Social protection of the Ukrainian population in 2013» \(ukr\).](http://www.ukrstat.gov.ua/publications/Demographic%20and%20social%20statistics/Social%20protection/Statistical%20reference%20book%20«Social%20protection%20of%20the%20Ukrainian%20population%20in%202013»%20(ukr).)

⁶⁷ [http://www.ukrstat.gov.ua/Statistical information/Demographic and social statistics / Population and migration /Population \(1990-2016\) \(ukr\).](http://www.ukrstat.gov.ua/Statistical%20information/Demographic%20and%20social%20statistics/Population%20and%20migration/Population%20(1990-2016)%20(ukr).)

population). Thus, as of the beginning of 2016 based on the SSSU data, there were already 2,614,061⁶⁸ persons with disability (including: 250,229 persons with group I disability, 918,966 persons with group II disability, 1,291,249 persons with group III disability and 153,547 children with disability), which was equal to 6.11% in the general structure of population (42,760.5⁶⁹ thousand of persons).

Compared to January 2014, as of the beginning of 2016 the number of persons with group I disability decreased by 40,996 persons, group II disability — by 123,374 persons, group III disability — by 38,562 persons, children with disability — by 14,733 persons. As of the beginning of 2016 compared to January 2014 there were certain changes in the number of persons with disability by regions, which is supposedly connected to the involuntary displacement of people from the armed conflict area to the safer territorial communities.

Thus, during the above period Lviv oblast moved from the second to the first place (196,231 – the highest indicator among all the regions), Donetsk oblast moved from the first to the second place (178,265), Dnipropetrovsk (175,929) and Kharkiv (167,931) retained their 3-rd and 4-th place, the city of Kyiv (155,085) and Odesa oblast (154,240) swapped their fifth and sixth place. Regions with the largest number of children with disability are the following: Dnipropetrovsk (12,509), Lviv (10,547) oblasts, city of Kyiv (9,993), Kharkiv oblast (8,919), Kyiv oblast (7,862) and Odesa oblast (7,499). Noteworthy, during the same period the number of children with disability in Donetsk oblast decreased by 7,634 persons (from 14,229 to 6591).

3.2. Statistics on the number of persons with disability among the internally displaced persons.

In Ukraine based on the data of the Ministry of Social Policy of Ukraine (hereinafter – the MSPU) as of July 7, 2016 there are 1,778,513⁷⁰ internally displaced persons (hereinafter – the IDPs).

The largest number of IDPs is in Donetsk oblast (727,993), Luhansk oblast (273,632), Kharkiv oblast (190,324), city of Kyiv (137,431) and Zaporizhzhya oblast (113,929) and Dnipropetrovsk (73,411) oblasts. It should be noted that in the composition of the IDPs 72% or 1,283,730 persons are groups with reduced mobility (retired people – 976,032, children – 235,342, and persons with disabilities – 72,356). In the general structure of IDPs 54.88% are retired persons, 13.23 % — children and 4.07 % — persons with disabilities.

The largest number of IDPs with disabilities are in Donetsk oblast (28,590), Kharkiv oblast (9,077), Luhansk oblast (7,496), Zaporizhzhya oblast (6,658), city of Kyiv (4,537) and Dnipropetrovsk oblast (3,229).

Unfortunately, no authority maintains the statistics of the number of IDPs with disability with the breakdown by the disability groups and subgroups. Moreover, the children with disability are not accounted separately and are included in the general structure of children, but not in the number of persons with disabilities.

Meanwhile, according to the data of the State Emergency Service of Ukraine (hereinafter – the SESU)⁷¹ as of July 14, 2016 «according to the adjusted information from the temporarily occupied territory and the Anti-terrorist Operation areas, 1,027,365 persons (105 persons daily) are temporarily accommodated in other regions of Ukraine, among them 170,289 children and 493,777 persons with disability and elderly persons, including from Donetsk and Luhansk oblasts — 1,004,907 (92 persons

⁶⁸ [http://www.ukrstat.gov.ua/Publications/Demographic and social statistics /Social protection/ Statistical reference book «Social protection of the Ukrainian population in 2015». \(ukr\).](http://www.ukrstat.gov.ua/Publications/Demographic%20and%20social%20statistics%20/Social%20protection/Statistical%20reference%20book%20«Social%20protection%20of%20the%20Ukrainian%20population%20in%202015».%20(ukr).)

⁶⁹ [http://www.ukrstat.gov.ua/Statistical information/Demographic and social statistics / Population and migration /Population \(1990-2016\) \(ukr\)](http://www.ukrstat.gov.ua/Statistical%20information/Demographic%20and%20social%20statistics%20/Population%20and%20migration/Population%20(1990-2016)%20(ukr))

⁷⁰ MSPU data.

⁷¹ <http://www.dsns.gov.ua/ua/Mizhvidomchij-koordinacijnij-shtab.html>

daily) and the Autonomous Republic of Crimea and the cities of Kyiv and Sevastopol – 22,458 persons (13 persons daily).

As we can see, the number of IDPs based on the data of the MSPU and the SESU differs considerably (the SESU quotes a number that is lower by more than 750,000 persons). Considering that the interrelations between the social protection bodies with regard to the IDP registration are set forth in the legislation (Resolution of the Cabinet of Ministers of Ukraine No. 509 dated October 1, 2014 «On Registration of the Internally Displaced Persons» (which was amended 7 times in a year and a half), then it is not definitely known what is the meaning and purpose of the SESU, except the imitation of work on IDPs accommodation, because the SESU reiterates that it is the local executive bodies who are responsible for ensuring proper conditions and allocation of housing objects for the accommodation of IDPs.

3.3. Access to the evacuation and support services.

According to Oleh Driuma, Chairman of the AUCO «European Association for the Rights of Persons with Disabilities», the state did not take the lead in organizing the evacuation of the affected people from the warfare area, especially persons with disabilities who need special conditions of evacuation.⁷² According to him, he had communicated with more than 5,000 families since the occupation began. At times he received 250 phone calls daily from the people asking to help them with evacuation. Every case required an individual evacuation route and engagement of many volunteers. During the year (2014-2015) the employees of the AUCO «European Association for the Rights of Persons with Disabilities» managed to evacuate more than 2,100 persons with disabilities.⁷³

However, not all the stories have a happy end. During the night of June 30 – July 1, 2014 near Kramatorsk during the shelling 9 persons with disability, who moved on wheelchairs and tried to leave the ATO area, were killed. Other 12 persons not injured during the shelling left towards Kharkiv, to Izyum city. They were lost to follow-up.⁷⁴

The new government of the «Donetsk People's Republic» (DPR) intended to take the «Antoshka» orphanage for children with infantile cerebral paralysis (ICP) to Rostov-on-Don or Sevastopol. «Antoshka» management showed courage and steadfastness and managed to evacuate the kids to Kharkiv with the support from the local community. During the tense negotiations, which progressed to a true blockade of the orphanage, the children lacked food and drinking water.⁷⁵

Based on the data from AUCO «National Assembly of Persons with Disabilities of Ukraine», the children and adults with disabilities who are deprived of access to the evacuation and support services (no warning, lack of information in accessible formats, architectural inaccessibility of bomb-proof shelters, temporary shelters, food distribution outlets) results in a disproportionally more severe suffering.

«My mother, Marfa Ivanivna, a native of Chernihiv oblast, is a WWII occupation survivor. When the shelling broke out in our Donetsk oblast, she said that it is just plain impossible to survive the second occupation. We called our relatives from Kyiv oblast and left immediately. Considering her age, my mom has multiple diseases: hypertension, locomotor system diseases, joint ache, etc. All our savings sufficed not to relocate, but just to leave the ATO area with two small bags. I saw a handsome young guy being taken into a minibus, he was a group I disabled person, wheelchair-ridden. His wheelchair was left outside, it was

⁷² <http://informer.media/archives/103897>

⁷³ [Electronic resource] – access mode: www.socio.org.ua/

⁷⁴ [Electronic resource] – access mode: www.048.ua/news/569052

⁷⁵ [Electronic resource] – access mode: www.gazeta.dt.ua/socium/operaciya-evakuaciya

impossible to take it. There was no space in the minibus. We arrived to Kyiv and understood that no one would help us. We called the Assembly and received a clear explanation on where to apply for the disability status, what are our lawful rights and opportunities, what is actually available at the moment and what facilities are obligated to provide us medical assistance. Later we also received medicines for UAH 1,000 according to our request and food, and we are especially grateful for that»

(Svitlana.)

«I, Andriy, arrived from Luhansk oblast, I have cerebral paralysis, group I of disability. I have been living alone for several years already. I managed to get to Kyiv only by a miracle. I am «grateful» to our state for the status of an IDP with disability. I am sincerely grateful to the volunteers who found clothes and footwear for me. The National Assembly of Persons with Disability allowed me to live in a small hotel for two weeks and paid for my stay. I received a food kit. The hotel staff also treats me with understanding. I am getting my breath back by and by...»

Non-governmental organizations say with frustration that the legislation does not fully comply with the provisions of the Convention on the Rights of Persons with Disabilities. The new programs, legislative initiatives developed already after the ratification of the UN Convention on the Rights of Persons with Disability do not take into account the problems of this population and do not take sufficient efforts to address them. The existing legislative acts related to the warning of population about risk situations and evacuation contain no provisions considering the specifics of persons with disability. The NAPDU emphasized that the legislative framework lacks the following important aspects:

- Persons staying in the residential care facilities, healthcare facilities, penitentiary facilities have to be evacuated in a first priority;
- Who and how accompanies the persons with disability having sight, hearing, locomotor system impairments, mental disorders or elderly people who are lonely or live in the risk area on their own;
- Specifics of warning the persons with hearing impairments about the special period, state of emergency etc.;
- How a person with disability with sight or locomotor system impairments can travel to a safe territory or immediately get to a bomb-proof shelter during the air-raid alarm signal? etc.

The activities of volunteers and civil society organizations allowed taking 93,000 persons with disabilities out of the ATO area. The challenges did not end with the relocation from warfare-struck territories, as other numerous problems arose already on the safe territories. This is, in particular, organization and search for architecturally accessible places of residence, accessible vehicles for transportation, appropriate nutrition, treatment, household support, as well as ensuring social, legal, psychological and other assistance.

As we could see from actual situation, during evacuation and departure from the ATO area elderly persons and persons with disabilities are those most often neglected and abandoned. This was caused by the lack of clear interdepartmental cooperation, coordination and evacuation plan, as well as impossibility of unhampered access for the persons with disabilities to the organizations providing assistance and the transportation and social infrastructure objects.

Taking people out of the ATO area, the volunteers faced instances when persons with disability were denied admission to a hospital on the grounds that they needed a prolonged treatment.

The family unity principle in case of evacuation or involuntary displacement is not sufficiently observed.

Often the parents want to transport a child to the safe territory by any means, while the subsequent reunion mechanisms are almost nonexistent. Moreover, there is no statistics about the IDP children unattended and separated with families, as well as about the children with disability. The State Migration Service has information only about 8 refugee children.

Based on the information collected by the staff and the volunteers of the National Assembly of Persons with Disabilities of Ukraine, the key problems and risks regularly faced by the persons with disabilities in the process of organization of evacuation to the safe territory are as follows:

- Lack of information about the possibility to leave. There were cases of spreading unreliable information (organizer of transportation and point of destination unknown).

- Limited availability or absence of money and vehicles to get from the place of residence to the railway/bus station;

- Impossibility to get to the railway station on their own due to poor health condition, lack of vehicles, safety of movement;

- Lack of train tickets, lack of special vehicles for transporting persons with severe locomotor system impairments.

In her turn, Ukrainian Parliament Commissioner for Human Rights⁷⁶ states that the country turned out organizationally and economically unprepared to take adequate efforts in the event of foreign aggression to rescue the majority of people who were unable to leave the warfare area on their own because of disability, financial situation and lack of external aid. This first of all relates to the persons from residential care facilities, most of whom were left to their fate on the territory of Donetsk and Luhansk oblasts.

«Valentyna Ivanivna, 85, lives alone in the center of Donetsk, 2-nd floor, has no relatives, the neighbors also left. She cannot move without external aid. A shell wrecked a part of the wall in her apartment. Social workers used to care for her, volunteers and civil society organizations provided assistance. This system is now discontinued. Hospitals also deny her inpatient treatment. She is starving.» Civil society organizations provided assistance.

«Ivan, 37. Totally blind person, 1A disability group. His wife, with disability group 1, is also blind. Their child, aged 10, is healthy. They live in Luhansk oblast. They cannot leave the occupied territory on their own, because the family has no money.» (Civil society organizations took the family out of the dangerous area).

Based on the information posted on the official website of the Office of Human Rights Commissioner, in connection with the conflict the number of persons with disability is considerably increasing, which aggravates the existing problems of proper medical assistance, insufficient rehabilitation support, inaccessible environment and problems with education, employment etc.

For example, 925 persons among the 2,979 injured servicemen of the Armed Forces of Ukraine, the National Guard of Ukraine, the Ministry of Interior units and other law enforcement bodies were recognized disabled veterans of war as of July 1, 2015.

3.4. Problems of crossing the «contact line» by persons with disabilities.

3.4. From January 21, 2015 the entry permit regime was implemented in the ATO area entry and exit points. Problems of crossing the «contact line» by persons with disabilities.⁷⁷ Yevhen Strukov, volunteer of «Inva-SOS East» charitable foundation, worked on evacuation and accommodation of persons with disabilities, provided help to orphanages, residential care facilities, rehabilitation centers on uncontrolled territories.

«A healthy person can get into a bus and leave. Persons with disabilities used to be neglected during the peaceful times, and now they are just downright forgotten. We strive to help them, but we are just unable to continue after the entry permit system implementation. People who apply to us are bedridden or move on

⁷⁶ <http://www.ombudsman.gov.ua/>

⁷⁷ Pass permit system” Q&A [electronic resource]. – Access mode: http://donbasssos.org/20150302ru_permit/ (rus)

wheelchairs. That's why we request the government to simplify the exit procedure at least for persons with group I, II, III disability and their family members who provide care for them», — Yevhen Strukov asked.

Komsomolskaya Pravda v Ukraine newspaper cites the transport providers, who say that in March 2015 persons with disability were allowed to cross the separation line from Donetsk side without a permit. "...they excluded women from the permit-free list, — said to KP Serhiy Shytikov, representative of LuxAutoCom transport operator providing rides from Donetsk to Kyiv. «Now only children with moms, retired and disabled persons can leave the Donetsk side without a pass. All others must have a permit!»⁷⁸

Before the passing of checkpoint control two queues are formed: privileged and ordinary. privileged queue includes persons with special needs or small children. Based on the information of those crossing the checkpoints, the privileged queue turnover is a bit faster, but still is too slow.

As Andriy Bohdanovych, manager of «Frontline Inspection» project of the civil society organization «Foundation.101» told to the Fakty newspaper reporter, in December 2015 no waiting places were equipped at the control points. People had to stand for hours under the sun in summer, under rain and snow in winter; they did not even have a place to sit down. Doctors without Borders (MSF) organization installed portable toilets and drinking and utility water tanks at the checkpoints, but it was decided to remove them because of the difficulty to maintain them in the cold season.⁷⁹

Detailed information about the entry-exit checkpoints of Donetsk and Luhansk oblasts is provided courtesy of the Office of the President of Ukraine Commissioner for the Rights of Persons with Disabilities. The only entry-exit point in Luhansk oblast is located in the Stanytsia Luhanska town. This is a pedestrian pass from the occupied Luhansk to the first Ukrainian checkpoint. First one needs to cross a broken bridge: 45 steps from one side, a small bitumen-paved plot and another 17 steps from the other side.



⁷⁸ Only the elderly, the disabled and the children have the chance to enter in the ATO area [electronic resource]. – Access mode: <http://kp.ua/life/496570-shans-vekhat-v-zonu-ato-ostalsia-lysh-u-starykov-ynvalydov-y-detei> (rus).

⁷⁹ «The ordinary queue at the checkpoint is 2 km long, the privileged one, for pregnant women and disabled people – 1 km,» [electronic resource]. – Access mode: <http://fakty.ua/209507-obychnaya-ochered-na-blokpostu-kilometra-dva-lgotnaya-iz-beremennyh-i-invalidov-okolo-kilometra> (rus).

Having crossed these obstacles, one needs to walk about a kilometer to the Ukrainian checkpoint. Only after this a person can get into a minibus which is as well inaccessible to wheelchair-ridden people.



This route is obviously insurmountable for a person with disability. One can hardly get any help – most of the persons passing the checkpoint are elderly, exhausted with stress and hardships. Civil society activists say that the first improvements came around since November 2015 – there were benches for sitting, a warming outlet, toilets (however, inaccessible for persons with disabilities) and more polite treatment by the servicemen. Noteworthy, the broken part of the bridge is located on our, Ukrainian territory. Is it so difficult to repair it, considering huge investments of international foundations in the Luhansk oblast recovery? Volunteers say that the people are afraid that the entry-exit pass would be closed altogether if they complain about this issue.

There is another matter of concern: checkpoints operate till a certain time of day. If the person fails to pass the control on that day, they have to deal with the problem of night lodging completely on their own. This is a disaster for persons with disability, mothers with children, elderly persons. The risk group includes persons with diabetes, cardiovascular diseases, pregnant women. The witnesses say that people often die during the passing, during the trip, in minibuses, without obvious causes and complications – the level of stress is overwhelming. For a person with disability such situation is actually catastrophic.

There are two entry-exit points in Donetsk oblast: Artemivsk and Zaitsevo. People pass through these points in both Donetsk and Luhansk oblasts. Considering the fact that there is only one pedestrian passway in Stanytsia Luhanska (see above), the load of these entry-exit points is far beyond their capacity.

On the picture:
 Situation
 the transition
 and travel
 by roadblocks



The situation with passing or driving through these checkpoints is described by a mother of children with disability and a man with both legs amputated:

«I am a mother with multiple children with disability, with severe central nervous system impairments, mental retardation, one of the children is under a year old. There was a pressing need for this trip.

There was no one to care for my

children if I leave. I had to drive myself. We did not manage to pass prior to the entry-exit point closing and had to spend a night outside. The children were in nappies, it was impossible to wash them, the milk went sour during the trip, I could not store the food for children because I was afraid of food poisoning. There was no food shop or selling point. I approached the military men and asked to let me pass at a priority.

— That's not our problem, that's your civilian business...»

— Get out of here!.. There is no privileges! No privileged queue!»

...The cars were standing in three rows, I was unable to move back or forth. There were many cars with «disabled driver» signs. When we had to spend a night at the entry-exit point, I tried to carry my children in the warming points. These are kinda tents with very low doors. No one could help me, I had to do everything on my own. Except for children, in my car there was a woman with injured arm in a plaster cast. I was carrying my 10-year-old daughter with cerebral paralysis in my arms, she is pretty heavy already... I was just exhausted after the trip (I had to drive on my own). I asked a serviceman to help me, and he refused. There is no help. No first aid point. No toilets. People try to find a place for their needs of nature, but there were many cases when they tripped on a landmine outside of the road...»

«A man with amputated legs. He resides on the very contact line. He has three children. He is talkative, sociable, fit to handle the situation already. He has a sturdy physique, even visually looks impressive. He himself says that he manages to tackle the things which in 70% of cases are impossible for other people passing the entry-exit point for the first time or seldom.

«The situation is a bit improved now. They became a bit more forthcoming... but still, that's me with my huge experience of dealing with them, and I live on the very contact line. I think that it's human factor

which fully determines how the things are. If there was an order, the situation would be different. Everything on the checkpoint depends on the commander. The most terrible thing is when you have to spend a night there. Recently I did not manage to pass before 5 p.m. The process does not depend on me. It was winter.

There were 20! cars only. If I get hypothermia, I have problems with my bones and all the like. I asked them to be concessive, let me pass in a priority because of my situation. – They were rude and said that I should ask for a priority in a bakery queue, but not here.

I called the border control service, explained the problem and they promised to call me back. They never did, surely. I would emphasize once again, WHEN THE CHECKPOINT IS CLOSED, THIS IS A NIGHTMARE. It is an ordeal for persons with disability, for pregnant women and elderly people. Yes, someone installed portable toilets, but they are out of operation. There are wooden toilet booths, but I cannot enter them on my prosthetic legs. I cannot squat there, sorry for being straightforward. First aid outlets are virtually out of operation in winter. Let's see how the things will go. Now there are fewer cars, but this will not last long. In a warmer season the traffic would intensify, there will be three-row queues of



more than one and a half km long. Where could people find a toilet, albeit that wooden booth? Even if one forgets about dignity and pops into the bushes beside the road, one can just trip a mine. How can I walk to that wooden toilet on my prosthetic legs? It's at least a kilometer, which is impossible for a person on a wheelchair. I would reiterate, this passing is difficult even for me, while I'm a pushy guy, and 95% of other people suffer even more».

3.5. Human rights in the armed conflict area.

In summer 2014 active warfare broke out in the Slovyanoserbsk village of Luhansk oblast. According to RIA Novyny, there is located one of the few water intakes of separate districts uncontrolled by the Government of Ukraine. The pumping station at the water supply system is located near a psychoneurologic residential care facility, and the latter got affected with shelling.⁸⁰

According to the OSCE SMM monitoring report dated November 24, 2014, at that moment only

⁸⁰ A nightmare in the reality. Patients with the mental disorders at the frontline [electronic resource]. – Access mode: <http://rian.com.ua/analytics/20160307/1006312395.html> (rus).

6 of 180 employees of the facility stayed there because of the shelling, 350 patients found themselves in terrible conditions without heating, electricity, gas, food and medicines. According to the patient registration log, 49 persons died in the facility since August 2014.⁸¹

According to the head of Slovyanoserbbsk district administration, Andriy Zahorodniuk, some persons in the residential care facility were injured. “The Slovyanoserbbsk psychoneurologic residential care facility is located near the pumping station. It was also shelled, some people were injured there. The facility is now without window panes and washing room, but happily no one was killed...” — “LNR. Today” cites Andriy Viktorovych.⁸²

The same summer Dokuchaev special secondary residential school was shelled. The shells hit the yard, while the blast wave burst the glass pans and shredded the walls with splinters. Currently all the damages are repaired and the facility, according to the Donetsk News Agency, is fully operational.⁸³

On September 4, 2014 in Donetsk the residential school for children with cerebral paralysis was affected by shelling.

In January 2015 the Grad multiple launch rocket system (MLRS) shelled a residential quarter



of Popasna city near a psychoneurological residential facility where the evacuation of patients to a safe place was going on. Hennadiy Moskal informed about this fact.⁸⁴

Psychoneurological residential facility with 335 patients was covered by shelling in the Staromykhailivka suburb of Donetsk on July 14, 2015.

“About 4.00 a.m. the hospital on the outskirts of the town was shelled, this is near Abakumov coalmine. There was a direct hit to the garage on the hospital’s territory, medical equipment and glass panes in the hospital were damaged», — *Donetsk News Agency* cites Mr. Lysniak.⁸⁵

Based on the data of the UN Global Protection Cluster in Ukraine,⁸⁶ from April 1 to 30, 2016 the United Nations Office of the High Commissioner on Human Rights (OHCHR) recorded 43 civilian victims of the conflict in the East of Ukraine: eight persons were killed (two women and six men) and 35 injured (11 women, 21 man and boy; information about

⁸¹ Last news from the Special Monitoring Mission of the OSCE in Ukraine – based on the information received as of 23 November 2014, 18:00 (Kyiv time) [electronic resource]. – Access mode: <http://www.osce.org/ru/ukraine-smm/127716> (rus).

⁸² Story No. 22. Slovyanoserbbsk: at the shooting line [electronic resource]. – Access mode: <https://lnr.today/index.php/istoricheskaya-pravda/8809-istoriya-dvadsatvtoraya-slavyanoserbbsk-na-linii-ognya> (rus).

⁸³ The patients of the Dokuchaevsk residential care facility shelled by the Armed Forces of Ukraine received gifts from the DPR Council of Ministers [electronic resource]. – Access mode: <http://dan-news.info/obschestvo/uchashhiesya-internata-dokuchaevska-kotoryj-popadal-pod-obstrel-vsu-poluchili-podarki-ot-sovmina-dnr.html> (rus).

⁸⁴ Russian mercenaries shelled the mental asylum in Popasna from Grad MLRS [electronic resource]. – Access mode: <http://ru.tsn.ua/ato/naemniki-rf-obstrelyali-psihonevrologicheskij-internat-v-popasnoy-iz-gradov-408075.html> (rus).

⁸⁵ Mental asylum got shelled in Donetsk [electronic resource]. – Access mode: <http://www.vesti.ru/doc.html?id=2640917&cid=9> (rus).

⁸⁶ [Электронный ресурс] – Режим доступа: <http://www.globalprotectioncluster.org/>

the gender of the other two adults is not available). From the eight casualties five died because of artillery shelling; two – because of the explosive remnants of war (ERW); one person was killed by a handgun. Among the 35 injured: 18 were injured because of an artillery shelling including a 15-years-old boy wounded on April 27 in Olenivka village of Donetsk oblast); 14 – because of ERW and improvised explosive devices (IED); 2 – two had gunshot wounds; exact cause of injury for one person is unknown. Generally, since the outbreak of the conflict, from mid-April 2014 to April 30, 2016 OHCHR recorded 30,766 victims of the conflict in the East of Ukraine (civilians, the Armed Forces of Ukraine and members of paramilitary units), among them 9,346 persons killed and 21,420 injured.

The cluster published a new situation analysis for May 2016 on their website. During the period from May 1 to 31 OHCHR recorded 36 affected persons in Luhansk, Donetsk and Poltava oblasts: three persons killed (all men) and 33 injured (six women, seven girls, 18 men and two boys). The main causes were the explosive remnants of war (ERW) and improvised explosive devices (IED). As the result of the artillery shelling seven civilians were injured (two women and five men).

In May 2016 OHCHR⁸⁷ recorded 9 children affected by explosives: seven girls and two boys (all had severe or medium severity injuries). At the same time, the state does not take proper efforts to inform the children about possible dangers. The SESU jointly with the UNICEF Office in Ukraine printed special posters and leaflets about landmine hazard for parents and children. At the SESU website the special Web Space of Safety children's portal was launched with the Dangerous Findings section describing explosive and other dangerous devices and instructing how to properly behave if a child finds one.

During the survey among children within the framework of the situational study «Situational analysis of observance of children's rights in the armed conflict»⁸⁸, carried out by the All-Ukrainian Foundation «Protection of Children's Rights» together with the Coalition of Civil Society Organizations «Children's Rights in Ukraine», it was found out that such information is not accessible for children with disability, other children said it was insufficient.

Mine action sub-cluster expresses its concern about the increased risk of accidents which can happen in summer and autumn in connection with landmines and ERW. This is related to the seasonal agricultural works, as well as summer school vacations causing additional flows of people, thus escalating the risk of possible landmine and ERW injuries.

The «new» governments of the «DPR» and the «LPR» also pretend to «care» for persons with disabilities. The so-called «Recovery Management Center of the Donetsk People's Republic» approves the categories of citizens eligible to humanitarian aid. Thus, on June 6, 2016 the «Ministry of Labor and Social Policy of the DPR» and «Recovery Management Center of the DPR» approved the categories of citizens who can apply for the humanitarian aid supplied by the Russian Federation. This list leads to the conclusion that persons with disability group I and II are not eligible to humanitarian aid – it is targeted only to persons with disability, who are not entitled to a pension allowance and who are registered with the social protection bodies. The average income of a person during the previous 6 months must not exceed 2,800 RUB per capita. A person must apply to the «RMC DPR», fill the application and fill the income declaration based on the income certificate. Thereafter the application will be considered.⁸⁹

As for «LNR», according to the Luhansk Information Center with reference to the «Council of Ministers of the LPR», according to the new procedure of distribution of the RF-supplied humanitarian

⁸⁷ [Електронний ресурс] – Режим доступу: <http://www.ohchr.org/RU/Pages/>

⁸⁸ Situational overview of the observance of the rights of children in the armed conflict in Ukraine/informational materials/All-Ukrainian Foundation «Protection of the Rights of Children» - К., Пута, 2015 – 33с. (ukr).

⁸⁹ Categories of the citizens eligible for the Russian humanitarian aid are approved [electronic resource]. – Access mode: <http://cuv.su/utverzhenyi-kategorii-grazhdan-dlya-polucheniya-gumanitarnoy-pomoshhi-iz-rossii/> (rus).

aid, the aid must be provided only to those persons with disability, who are not entitled to pension allowance and are registered with the social protection bodies. Upon distributing the humanitarian aid for the first priority group and forming the 10% of reserve is formed, the aid may be provided to other categories of citizens, the preference being for the persons with group I, II, III disabilities, persons disabled since childhood, citizens with severe diseases and disabilities.⁹⁰

3.6. Situation of the internally displaced persons with disability.

In March 2016 the expert mission of the UNHCR for disability visited Kyiv, Odesa and the East of Ukraine. Its representatives carried out a number of discussions in the special working groups with the IDPs, refugees and asylum seekers with disabilities. Persons with disabilities outlined a whole number of the existing problems with accommodation, medical assistance, employment and other livelihood sources. Each of these problems must be promptly intervened and addressed.

The difficulties constantly faced by persons with disability are related not only to the relocation from the warfare area, but also to other numerous problems arising already on the territory of Ukraine. In particular, these are organization and search of architecturally accessible places of accommodation, accessible vehicles for transportation, balanced nutrition, treatment, household support, as well as ensuring social, legal, psychological and other assistance.

According to the information collected by the employees and volunteers of the NAPDU, the main problems and risks faced by the persons with disability in the process of accommodation, provision of necessary facilities and creating appropriate conditions are the following:

- Lack of information about the availability of places fit for temporary accommodation of persons with disability;
- Lack of the governmental financial, material and technical support of the facilities accommodating the IDPs and organizing meals for them;
- Inaccessibility of physical environment where the IDPs with disability live (lack of access to the sanitation and hygiene rooms, dining and living facilities for wheelchair-ridden persons);
- Failure to provide timely medical and psychological assistance, inadequate supply with medications, technical and other means of rehabilitation, hygienic products;
- Lack of interdepartmental coordination on the matters of employment for the persons with disability, lack of vacancies in the places of temporary stay.

The problem of IDPs with disability that must be provided not only with services they used to obtain at the previous place of residence remains outstanding. Currently no mechanisms are elaborated at the governmental level to provide qualified free targeted assistance to the persons with disabilities displaced from the ATO area and their family members by establishing cooperation with the state structures and civil society organizations.

Another critical problem is the suspension of social allowances. The collision with the seal of the State Migration Service of Ukraine (SMSU) remains unsolved. According to the Law No. 921 the SMSU does not seal the IDP certificates, but the MSPU departments do not recognize the IDP certificates without the SMSU seal as valid.

The persons receiving special disability aid remain the most vulnerable category: it is extremely difficult to obtain their medications in other regions. According to Ruslan Imerelli, chairman of the all-Ukrainian civil society organization of psychiatric assistance recipients «User», the amount allocated per capita for persons registered in the dispensary is about UAH 4.40. The money is allocated on the residual

⁹⁰ LPR Council of Ministers approved the new edition of the procedure of providing targeted humanitarian assistance [electronic resource]. – Access mode: <http://lug-info.com/news/one/sovmin-lnr-utverdil-novuyu-redaktsiyu-poryadka-predostavleniya-adresnoi-gumpomoschi-6872> (rus).

principle rather than on the basis of need. All costs are borne by local budget: the state is reluctant to undertake any obligations.

«My son received medications under a free-or-charge prescription in Luhansk. When we moved to a new place, they were unable to provide the medications for us, even when we submitted an application and requested to provide us with these medications at the new place of residence. As the result, we received them twice, and had to buy them for other 3 months. The drug costs about UAH 1,600»

*(Valentyna, an IDP from Luhansk, the mother of a 6-year-old child with disability)*⁹¹

IDPs with disability often face the problems in the new environment, including in the outpatient care facilities and hospitals: they do not know whom to contact, where to seek proper assistance, because the hospitals are lacking information boards or posters for the IDPs. However, in the most difficult situations competency, professionalism and humanism help to overcome the barriers. Where all the three combine, the IDPs feel reassured and comfortable:

«We enjoy the same service level as others, we did not feel any admonition or discomfort. It came as a pleasant surprise that the inpatient hospital, unlike our Luhansk ones, has the necessary medicines available and provides them to us. We had to buy only a few of them.»

*(Anastasia, an IDP from Luhansk).*⁹²

Unfortunately, complaints are more numerous:

«I spent half a year to just figure out who will be my doctor at the new address. I had to explain again and again, why a new patient is attached to their circuit, while they already have 40 other persons» (Iryna, an IDP from Donetsk).

Although, the young woman was offended the most by the fact that when she caught cold and had an aggravation, the female doctor who attended her at home on a weekend day asked at hearing that the patient is from Donetsk: «Is it a custom in that city of yours, to bother people on a weekend?».

«I listened a whole lot about how impudent and egoistic we are. Then she prescribed me medicines for UAH 1,000».

«Recently I applied to a hospital. You see, the doctors treat persons with cerebral paralysis in a specific way: they do not bother to examine us and say that each and every problem is because of ICP. But ICP has nothing to do with the vertebral ache I have. No one examined me, but I and my husband managed to get a referral for massage. There were very high steps to the massage cabinet, there were neither hand railings nor any help. I could not get there. My husband also has the ICP, but a less severe form, so he helped me to go upstairs. Then I came back home and cried. I am not only away from home, but I am unable to get treatment.»

*(Yana, an IDP from Donbas)*⁹³

Volunteers are the ones who most often help in such situations. In particular, the UNDP project «Community Based Approach to Local Development» implements microprojects on reconstruction of residential objects for IDPs in nine oblasts of Ukraine.

«This is a real gift of God to us, these places in Slovyansk and Kramatorsk where persons with disabilities who were forced to leave their homes on occupied territories would feel safe and comfortably.»

*(Nadia Polamarchuk, director of civil society organization of disabled women of the Northern Donbas)*⁹⁴

Understanding the complexity of situation in ensuring the safety and protection of IDPs; stating the

⁹¹ <http://www.sos.naiu.org.ua/>

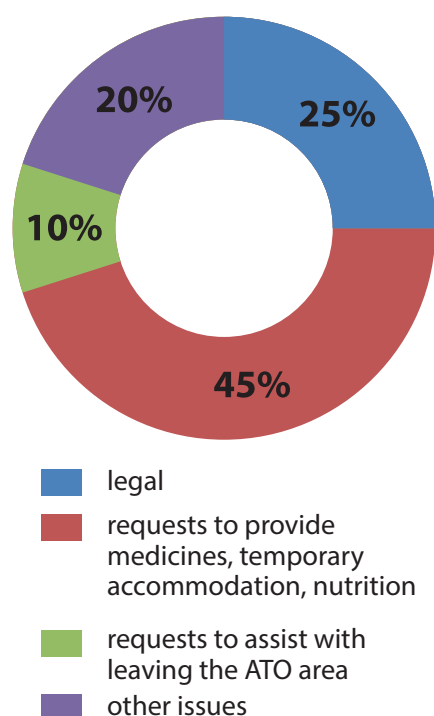
⁹² <http://www.sos.naiu.org.ua/>

⁹³ <http://www.sos.naiu.org.ua/>

⁹⁴ <http://www.ukurier.gov.ua/news>

fact that the authorities were unprepared to provide assistance to this population during the emergency and armed conflict, the National Assembly of Persons with Disabilities of Ukraine»⁹⁵ in July 2014 initiated the «Rescuing Together!» charitable program as a civic social initiative to support the IDPs with disabilities. The program still operates.

«The National Assembly of Persons with Disabilities of Ukraine. Please help me to solve my problem! My wife is bedridden, she has group I disability, she is a stroke survivor needing hemodialysis. She needs transportation to Kosiv district hospital three times per week for hemodialysis procedure! Transportation for hemodialysis was provided by a district hospital. Since the beginning of June 2016 they refused to provide transportation. We do not have our own vehicle, we have no money. The hospital has no syringes and medicines. We need to buy a part of medicines, but we cannot afford that. Humanitarian aid does not reach us. Without hemodialysis procedures my wife would just DIE! We applied to all possible state authorities and received useless run-arounds. The state refuses to provide assistance and rehabilitation means to a bedridden disabled person, the one with a labour disability. Nowhere to seek for help in Ukraine! We will be profoundly grateful for addressing our problems!»



The analysis of calls to the NAPDU hotline identified the following most frequent types of problems:

The NAPDU received a lot of calls on the following matters: where one can obtain temporary accommodation; job; reaffirm the disability group; order a prosthetic device or receive technical rehabilitation appliances; where specific medical procedures or services are available; where to find a certain governmental or civil society organization etc. This example confirms the urgent need for IDPs with disability and their family members to obtain free targeted aid and prompt response to problems and risks.

«I relocated from the Donetsk oblast when the warfare broke out. I am now living in Kramatorsk. I am still unable to obtain a pension certificate (many persons say they cannot obtain it too). They just say we have to wait, no one tells how long. No one cares for us. The main problem is accommodation and job. I can work... Moreover, the outpatient clinic No. 3 is inaccessible (no elevator), they are also short of tickets»

(Andriy, person on a wheelchair)

«I had not had my allowance for 7 months already... I subsist on the aid from a civic organization. I have nowhere to return... The key problem is accommodation and work, hygienic means, medical services...»

(Oleksandr, physical disability)

«I had not seen my IDP allowance for year and a half already. They say that my documents were sent to Kyiv to prolong the IDP certificate. I fail to understand what it is for. Everybody's just slacking. A civil society organization helps to solve my problems. It's difficult to get where I need to, all the facilities are inaccessible...»

(Oleksandr, group I disability, wheelchair-ridden)

Civil society activists and human rights experts affirm that the real chance for an IDP with disability to find a job is close to zero. The stereotypes of employers against persons with disability are further aggravated by the bias towards IDPs from Donbas.

⁹⁵ <http://www.naiu.org.ua/>, <http://www.sos.naiu.org.ua/>

«I applied for many vacancies, submitted a CV, but no one responded. I have two higher degrees: a welding engineer and a manager. I was seeking for a large factory with corporate housing or certain opportunities for accommodation, because I would be physically unable to commute every day. I need two people to bring me into a bus and to fold the wheelchair to be able to get to Kyiv. If I do this every day, the villagers here will hate me».

(Vitaliy, an IDP from Donetsk oblast).⁹⁶

3.7. Participation in the decision-making

An important aspect still having considerable adverse effect on the problems of persons with disabilities in the context of the armed conflict is the prevalence of charitable and medical approaches to the disability, which goes contrary to all norms and standards of the international law cited herein. The obligatory engagement of persons with disability in all level of the decision-making processes impacting their life, in shaping the relevant policy and its implementation mechanisms remains a cornerstone of the social model of disability.⁹⁷ The state, undoubtedly, must fulfill all and any of its commitments with regard to persons with disability in the situation of the armed conflict.

This is related to organizing safe evacuation, proper and accessible informing of citizens with disability, safe transportation to the temporary accommodation places, providing with food, water, hygienic items, household support at a new place, creating accessible living conditions and adequate access to all available services, legal, psychological and social support, proper organization of targeted assistance, as well as seamless and regular social allowance payment.

However, persons should directly take part in the processes impacting their life. Their opinion must be heard and taken into account, representation of persons with disabilities must be ensured in all the commissions, working groups, sectoral and interdepartmental clusters, on all levels of decision-making.

The children, for example, may impact the decisions on arranging safe spaces, which in most cases do not meet the needs, interests and specifics of children. It would be feasible and simple to engage them into a fruitful dialogue on the following matters: where exactly the safe space will be equipped? What will be available there and for whom? What is meant by «safe» and how a child understands «safety»? What activities will be held and would they be interesting and useful for children and their development, etc. There's no prize for guessing, many IDPs are dissatisfied with both the conditions of their stay at a new place and the package of services available to them. A solution might be to ensure the representation of these people in the committees, sectors and cluster on administration of temporary accommodation/settlements and participation in other decision-making bodies.

«We are forced to return... Yes, I'm afraid. I do not know what is yet to come... I and my husband are wheelchair-ridden. We have two children. We are living in a 9 sq. m. room not adapted to our needs – the WC is not accessible, we have to go down the stairs to get into the dining-room. We are locked in that 9 sq. m. It was cold in winter in the room. there is no job, getting medical assistance is also problematic. We were rescued and brought to Odesa, Kuyalnyk resort facility... We thank these people so much... but it's too difficult to live like this. We are in despair...»

(IDPs from Luhansk)

«We relocated from Luhansk with my daughter's family. She was pregnant at that time. She's a sole breadwinner in the family. She gave birth to a child in Serhiyivka (Odesa oblast). There is no job,

⁹⁶ <http://www.radiosvoboda.org/>

⁹⁷ World Institute on Disability. Field Study: The Involvement of Persons with Disabilities in Conflict Resolution and Peacebuilding Efforts: Inclusion of Persons with Disabilities (PWD) as Part of the Solution in the Post-Conflict Arena; [electronic resource]. – Access mode: <http://www.wid.org>, http://www.who.int/disabilities/world_report/2011/report.pdf

no rehabilitation means, it's also difficult to obtain consultation from specialized doctors. I and my husband are blind. We have the sight disability group I, we are retired. How would we survive..»

(Persons with sight disability group I)

«We abandoned our household and domestic animals: hens, rabbits, a piglet, two dogs and a cat. We just opened the shack and the animals scattered. The neighbors left a week ago, when our town of Shchastya got intensely shelled with heavy artillery. Our only vital requirement is to find a town where our son would be able to have hemodialysis three times a week. Medical workers helped us – they contacted the Ministry of Health on their own, and the Ministry staff referred us to Kyiv clinical hospital No. 3. We had three weeks of inpatient treatment. Later we were told to look for an accommodation on our own and at our expense. Considering that my son has a severe kidney disease, diabetes mellitus and almost complete sight loss, we need an accommodation near the hospital or near an underground station. We do not have friends or relatives in Kyiv and are not used to living in metropolitan cities. We obtained an IDP certificate promptly. But that was all. The National Assembly of the Persons with Disability of Ukraine supported by the UNDP assisted us. I called to their hotline. Honestly, I did not rely to any help whatsoever. They helped us with essential medicines and food! They facilitated that Kyiv City Department of Social Protection provided us the transportation to hemodialysis procedures. We receive insulin from the healthcare department. Unfortunately, the state does not provide free-of-charge medications which we are entitled to by law!!! We spend UAH 800-900 monthly only to the basic medicines necessary, this is equal to one pension allowance. My daughter with her baby came to us before the New Year! My granddaughter is a child of war, both bliss and anguish!

A story of the family from Luhansk oblast: mother — Liudmyla (aged 62) and son Andriy (aged 37).

Since January 2015 persons with disability accommodated in Odesa oblast are trying to obtain assistance with dwelling and treatment from the government. On January 13, 2015 they went on a hunger strike because the government was ignoring them and shifting its obligations to the civil society sector.

«Odesa oblast is the only oblast in Ukraine to accommodate and accept for temporary stay the persons with disability from the ATO area. The shock period of evacuation, accommodation, household support, providing of humanitarian aid is over. Volunteers and civil society organizations for 7 months had been providing comprehensive assistance to the disabled IDPs, including the purchase of medicines and payment for treatment», they said in their appeal. According to them, the state facilities still do not allocate budget funds for the rehabilitation of persons with disabilities from the ATO area, there is no specific program of accommodation for IDPs after the winter.⁹⁸ In May 2016 the IDPs started a peaceful action near the administration in order to resolve the situation with payment for accommodation and rehabilitation. As of May 2016 the state debt to the Kuyalnyk resort facility, where the IDPs with disabilities are residing, exceeded UAH 70 million. Because of this the power supply in the resort facility was suspended. Later it was restored, but the new rules were announced – from June 1, 2016 all the persons residing there will have to pay for the accommodation on their own, and it costs UAH 1,500 per month. Thus, for example, Mykola Peretyatko receives the state allowance of UAH 1,500 and after the accommodation costs he will have only UAH 500 for food and medicines, according to *Podrobytsi* newspaper.⁹⁹ As of June 2016 in Kuyalnyk and Senetatyia facilities the security guards at the entry and the permit regime were implemented: only those who paid for accommodation may enter the territory of the facility, according to Pushkinska.net.

Moreover, in «Kuyalnyk» the fridges were removed from the rooms (disabled persons were storing not only food there, but medicines as well), wardrobes and bedside chests.

⁹⁸ Disabled IDPs from the ATO area started a hunger strike [electronic resource]. – Access mode: http://24tv.ua/ru/invalidypereselency_iz_zony_ato_objavili_golodovku_n530718 (rus).

⁹⁹ Disabled IDPs spend their nights in the attendance hall of Odesa oblast state administration [electronic resource]. – Access mode: <http://podrobnosti.ua/2108284-pereselentsy-invalidy-nochujut-v-priemnoj-obladministratsii-odessy.html> (rus).

In «Senetaty» the power supply was suspended.

Based on the information from the coordinator of evacuation of IDPs from the ATO area Heorhiy Bloshchytsya, the head of the social policy and healthcare department of Odesa oblast state administration Tetyana Kryva responded to the information that the IDPs are not allowed to enter the territory of «Senetaty» resort facility, that this is a private facility and she cannot do anything to tackle the situation, *Echo* informs.¹⁰⁰

In Kharkiv the civil society organization «Chuguiiv Human Rights Group» set forth the initiative to create a supervisory council from among the IDPs with disabilities in order to control the use of state and charitable funds allocated for assistance to the IDPs with disabilities. By the session resolution Chuguiiv City Council prohibited to establish such supervisory council, depriving the persons with disabilities of the right to take part in the decision-making directly related to their life and health.

At the same time, based on the information from the activists of the civil society sector in Donetsk and Luhansk oblast, civic organizations of persons with disabilities are not allowed to take part in developing the policy and control over the use of budget and charitable funds allocated to improve their lives.

Unfortunately, the above facts challenge the declared engagement of persons with disabilities to the relevant decision-making processes.

MONITORING VISIT REPORT **Of Ukrainian Helsinki Human Rights Union** **on the topic «Rights of persons with disabilities during the armed** **conflict in the East of Ukraine»**

TERMS OF REFERENCE OF MONITORING VISIT:

Goal of the visit: Carrying focus-group study among the children – pupils of the special schools for children with disabilities who reside on the territories fully or partially uncontrolled by the Government of Ukraine, and among children whose families are internally displaced.

Survey date: May 23-24, 2016.

Tasks:

1. Analyze the scale of displacement of children and families raising children with disabilities.
2. Outline the barriers for evacuation and/or crossing of the contact line for the children with disabilities.
3. Explore the conditions of ensuring the rights of children with disabilities whose families are internally displaced.
4. Summarize the aspects of observance of the rights of children with disabilities who live in separate areas of Donetsk and Luhansk oblasts fully or partially uncontrolled by the Government of Ukraine.

Methods:

1. Focus groups with the children from special schools.
2. Interviewing of the staff of special schools.
3. Survey of the specialists of Kharkiv oblast state administration department for education and science.

¹⁰⁰ Three weeks at the Odesa oblast state administration door: disabled IDPs still wait for help [electronic resource]. – Access mode: http://echo-ua.com/2016/06/10/tri_nedeli_pod_oga_invalidyperedeselency_prodolzhajut_zhdat_pomoshhi.html (rus).

VISIT DESCRIPTION:

During the monitoring visit we attended the residential care school in Slovyansk city and 3 residential schools in Kharkiv:

1. *Slovyansk special secondary residential care school of I – III grade for children with sight loss or impairment.* There are 141 pupils in the school, but as of the end of May 2016 there were 13 displaced children aged 6 to 19 from the following cities: Donetsk, Yasynuvata, Torez, Snizhne, Horlivka, Dokuchayevsk.



2. *Kharkiv special secondary residential school No. 6 of I – III degree for children with hearing impairments.* There are 149 pupils in the school, among them are 8 displaced children aged 8 – 13 from Donetsk and Makiyivka.



3. *Kharkiv special education and development complex No. 8 for children with locomotor system disorders.* The facility has 276 pupils, among them 4 children from Debaltseve, Antratsyt, Kostiantynivka, Horlivka.



4. *Kharkiv special V.H. Korolenko education and development complex for children with sight loss or impairment.* As of the end of the academic year there were 172 pupils, among them 3 children from Donetsk and Slovyansk.

Results of the children focus groups survey

The methodology of the children focus group survey was based on the following standards:

- UN Minimum Standards for Child protection in Humanitarian Action grounded on the international human rights law, humanitarian law and international refugee/migrant laws;
- Principles of the UN Convention of the Rights of the Child, in particular:
 - Survival and development;
 - Non-discrimination;
 - Child participation;
 - Ensuring the best interests of a child.
- UN Guiding Principles on Internal Displacement;
- Guidelines on Work with Unaccompanied and Separated Children (Safe the Children, UNICEF, 2004);
- IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings (IASC 2007)
- Minimum standards for education: Preparedness; Response; Recovery (INEE, supplemented in 2011)
- Work with Persons with Disabilities in Forced Displacement (UNHCR, 2011); On Ensuring the Rights and Freedoms of the Internally Displaced Persons» dated 20.10.2014.

Within the focus groups 17 IDP children were surveyed in the abovementioned facilities:

1. 11 IDP children aged 6-18 in Slovyansk special secondary residential care school of I – III grade for children with sight loss or impairment.

All the children studied in this school before the armed conflict: the children started studies from the preparatory group, first and second year. Only four of displaced children live in Slovyansk without parents and thus have to reside in the facility. During winter and summer vacations the children accompanied by parents return home, to the occupied territories of Donetsk and Luhansk oblasts. Only parents are allowed to take children out. According to the children, the trip is long (checkpoint control takes a lot of time), but they still say the travel is safe. To cross the controlled and uncontrolled territories children with parents travel by buses from private operators, as traveling by car takes more time because of more strict control. No privileges are given to the families with children, including children with disabilities, while crossing the border.

When the shelling started in 2014, 18 children were evacuated to Izumrudne city, to a recreation camp. The facility employees took 6-8 to their homes upon their parents' request, subsequently parents came to take them away. Director states that the facility administration is observing the situation in the occupied settlements where the children were about to go, and if the situation gets complicated, there is a backup option to refer these children to the recreation camps. Other children live with parents or one of them and visit the facilities on a day care basis (education, rehabilitation, creative groups). All children are provided with meals 5 times a day and engaged in the extracurricular creative activities. Two children had a posttraumatic stress disorder (PTSD) related to their past experience and consequences of the armed conflict and have troubles falling asleep. The children say that they visited the facility psychologists and now have no issues.

The survey was attended by the deputy director of the school of education matters, who interfered with the process from time to time. The children were prepared/briefed to a focus group and to certain extent they were incited to give only positive answers. This approach caused the situation when Person 1, who has problems with disability allowance payment, did not dare to raise this issue in the group and was invited separately by the school administration after the focus group.

Person 1 is under the care of his(her) grandmother who relocated from Donetsk oblast. The mother, blind, resides on the occupied territory and is unable to move out. Since the age of legal capacity Person 1 does not receive the respective subsidy. During the second interview Person 1 told that due to suspension of

payments he(he) and his(her) grandmother are short of basic livelihoods and are facing the accommodation problem: the dwelling owner threatens to throw them out. Representatives of the Ukrainian Helsinki Human Rights Union provided the contacts of the UHU office in Slovyansk, where the grandmother and the child will receive the necessary assistance in addressing their problem immediately upon referral.

2. 3 IDP children out of 8 in Kharkiv special secondary residential school No. 6 of I – III degree for children with hearing impairments.

Six children out of eight live in the residential facility, two lease a dwelling near the facility. As of the moment of survey 4 children caught cold, according to the director; one child has a severe form of autism and is unable to answer questions. According to the teacher accompanying the child, he(he) lives in a family renting an apartment in Kharkiv; the family has a middle-level income, cares about the child and despite the concerns of the school administration and rehabilitation specialists intends to transfer the child to the ordinary secondary school on inclusive basis. The surveyed children moved from Donetsk and Luhansk oblasts. All of them are provided with meals 5 times a day and take part in the creative activities. The teachers and school administration were not present during the survey.

Person 2, moved from Luhansk oblast at the very beginning of the armed conflict. The child has no PTSD (he(he) never saw or heard anything related to the war). At first the family moved to Kyiv, but due to expensive living moved to Kharkiv. The last 2 years Person 2 had been living in a rented apartment. The father stays in the occupied territory. Person 2 is studying at a day care program. Person 2 has many friends among Kharkiv children, he(he) likes the school more than the one in Luhansk oblast because of the many friends, interesting creative groups and attention of teachers. The child is very easy-going and cheerful, helped to communicate with two other children. The family does not visit the occupied territories.

Person 3, had been staying on the day care program for 2 years; the child is well-cared and happy. He(he) has positive impressions about the facility, has made a lot of friends. According to Person 3, the family relocated from their place of residence when tanks drove in the city. The child has no PTSD. Person 3 gave favourable answers to all questions related to meals, treatment, education. However, the child dreams of returning home.

Person 4, has been staying in school for 2 years. Survey of Person 4 was complicated, although, this is because of a severe form of pedagogical and psychological neglect rather than the disability itself. According to the school director, the family of Person 4 is disadvantaged due to the father's alcohol dependence and low income of the family. Person 4 did not understand the questions and could not answer to them (according to Person 2, who interpreted for the Person 4 into the sign language). The child looks neat (school staff helps with clothes), cheerful and very alert.

3. 3 IDP children out of 4 in Kharkiv special education and development complex No.8 for children with locomotor system disorders.

The school administration did not participate in the survey. Since the beginning of the conflict 8 IDP children had been staying in the facility. 4 families left the facility: 2 moved to the occupied territories: Luhansk, Donetsk; one family relocated to Moldova, another one – to Kyiv. One of 4 IDP children continuing education had cold as of the moment of survey and stayed at home. All children except for Person 5 are on the day care, live in full families, have meals 5 times a day. One family lives in a modular house town, but we did not manage to obtain information about living conditions there.

Person 5, the parents brought him(her) from Donetsk oblast a year ago. The child has no PTSD, as the family at the very onset of the armed conflict moved to another settlement not affected by war. Before admission to the facility Person 5 was moving in a wheelchair and studied at home. In a year Person 5 got used to a walking frame and tries to walk on his(her) own. It makes him(her) enthusiastic to walk. Person 5 is physically weak, lives in a separate large room, has individual classes, but does not feel isolated: he(he) is

often visited by the peers, older schoolchildren help with homework. The child is very happy to have friends, opportunity to socialize, participates in the school activities and is socially adapting. The child intends to spend the vacations with the family but is very eager to return to school.

Person 6, has been in the facility for 2 years. Person 6 likes everything except from meals, which he/she disapproves; this remark might be a bit subjective. Person 6 likes the Kharkiv school more than the previous one; he/she said that had been bullied there, while in the new school he/she has a lot of friends and good communication with them. The family does not intend to relocate or visit the occupied territory.

4. 3 IDP children in Kharkiv special V.H. Korolenko education and development complex for children with sight loss or impairment.

The school administration and teachers were not present during the survey of children. Children were content with the education in the facility, treatment procedures, attentive teachers. Everybody said that it is better to study here than at home because of larger number of creative groups and opportunities for artistic activities.

The children from the AR of Crimea also study in the facility. After the annexation of the peninsula the new administration called the director and required to send the lists of children studying in Kharkiv to cancel their allowances in the Crimea. The director refused to do that. The children now live with relatives or family friends and are registered in Kharkiv.

Person 7 moved from Donetsk oblast, has been studying in the facility for a year, lives with his/her mother, the father is on the occupied territory. Person 7 plans to visit the father during vacations. He/she is mainly on the day care, except for several nights. He/she liked to spend night at school, the rooms are cozy, WCs are in good condition, it is allowed to have personal possessions. Three persons of the same gender had been sleeping in the room with him/her.

Person 7 likes the school, he/she shows good sport results, goes for martial arts, has a lot of friends. Person 7 says that at times has conflicts with the peers. Person 7 had PTSD in the past, with sleeping disorders, had been attending a psychologist for a long time, but now feels normal, while he/she still remembers the shelling, noise of helicopters and military vehicles.

Person 8, has been in the facility for 2 years, originates from a full family which relocated from Donetsk. The child has no PTSD: the family relocated before the onset of the tragic events. Person 8 has good scores, is very serious, studies music professionally. He/she is content with everything, likes the meals, has a lot of friends, appraises the teachers. He/she wants to continue studies in this facility.

Person 9, relocated from Donetsk oblast, is being brought up in a full family. Person 9 has been in the facility for one year. Person 9 spent a night in the facility a few times. According to Person 9, once he/she spent a night in the room with two persons of the same gender and one person of the opposite one. He/she has no PTSD. He/she plans to visit their home with parents and the brother.

CONCLUSIONS AND RECOMMENDATIONS:

1. Ensuring the family unity principle

According to the international norms and standards, the family unity principle must be observed on all stages of the child displacement and stay in the specialized facilities. The unity principle and exercise of the right to upbringing in the family environment are the key approach for planning long-term solutions for children in all the above facilities. At the same time, the administration of the residential care facilities has to keep motivating the parents to maximize the child's presence in the family environment (e.g., not to leave the child in the facility for the sake of meals if it is possible to provide food at home). In all facilities, except for

some children in Slovyansk facility, children live with parents and receive their support, thus, the family unity principle is observed.

2. Ensuring the right to adequate level of life

All school buildings look warm and repaired. All the surveyed children confirmed that they have meals, including hot dishes, 5 times per day. Almost all children stated that the food is good and they like it, but sausages were the most delicious dish they mentioned. Children confirmed that they have proper access to the hygienic amenities, but the experts noted that the education and development complex No. 8 lacked stools for children with locomotor system disorders. The surveyed children were satisfied with the bedrooms and hygienic rooms. The resident children are learning to care for themselves and help younger kids to use hygienic products and clean their rooms. However, the administration of Slovyansk residential care school should pay attention to the clothes of resident children: it looks worn and faded, the socks of one blind boy were torn, the clothes of a girl on the 7-th year of studying looked tatty. Also a breach was registered in Slovyansk related to providing the assistance to an IDP child.

3. Ensuring right to education

Children in each of the facilities show good sport and creative results, educational ones being much more modest. However, the children say that older pupils and teachers are always ready to help digesting the educational material. However, the children complained that preparation to competitions and festivals makes them skip classes and later they had difficulties catching up with the curriculum. The administrations of the facilities must take all possible efforts to ensure the same level and quality of education of children with disability as the one of children without disability. Slovyansk school has noteworthy achievements in the field of professional orientation: older pupils demonstrated a grounded choice of profession.

4. Psychological support ad medical assistance

All surveyed children, except for the one, confirmed that they are regularly examined by medical staff and, if necessary, by other specialized doctors. The children having sleeping disorders, fear and anxiety caused by PTSD had worked with a psychologist for some time to overcome these problems. All children except for one said that currently they got rid of the adverse symptoms which used to bother them. In all facilities medical, procedure and quarantine rooms are duly equipped.

5. Ensuring non-discrimination

All children told that they have many friends in the facility. Neither child informed about the instances of discrimination by territorial and other specifics. It means that the children are sufficiently integrated in the school environment.

6. Prohibition of physical violence and other harmful practices

The survey identified no facts of physical, sexual violence or other harmful practices. No external signs of violence were found either.

7. Prevention of hazard and injuries

The children, especially those with disabilities, are exposed to high level of danger in the armed conflict and post-conflict areas: landmines, ammunition, explosives, destroyed buildings may cause injury or death of the child. The children planning to visit such territories are extremely vulnerable to hazard and injury; they need additional information and knowledge on how to prevent danger and avoid the risk of injury. During the survey the children intending to return to Donetsk and Luhansk oblast confirmed that they received proper security briefing on prevention of danger and injury.

RECOMMENDATIONS

1. To the President, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, central executive bodies, oblast, Kyiv, district (district in the city) state administrations, local self-government bodies

1.1. Shape the policy and practical activities with regard to persons with disabilities, in particular related to the martial law, the state of emergency, armed conflicts, terroristic acts, emergencies and/or the threat of their occurrence, according to the UN Convention on the Rights of Persons with Disabilities and the international laws, treating these people as holders of rights and freedoms rather than objects of medical care and charity;

1.2. During the martial law and the state of emergency, armed conflicts, terroristic acts, emergencies and/or the threat of their occurrence the systemic approach shall be implemented to address the needs of persons with disability taking into account the provisions of international laws and the international human rights law in the complementary and mutually reinforcing manner;

1.3. Use various innovative means facilitating the due attention to the needs of persons with disability, including at the time of martial law and the state of emergency, armed conflicts, terroristic acts, emergencies and/or threat of their occurrence;

1.4. Include the issue of persons with disability in all the existing documents on the martial law and the state of emergency, armed conflicts, terroristic acts, emergencies aimed at overcoming the conflicts and emergencies;

1.5. Ensure accessibility for persons with disabilities by considering universal design principles in the development of programs and other activities on recovery and restoration of infrastructure and public buildings in the East of Ukraine;

1.6. Enforce the legislation on the exercise of the IDP rights, including persons with disability.

1.7. Ensure distribution and use of the international humanitarian aid taking into account the needs of persons with disabilities and allocate a part of it specifically for this category of persons.

1.8. Engage persons with disabilities to the processes of conflict and post-conflict settlement, elaboration of long-term solutions and implementation mechanisms. With this aim equal representation for persons with disabilities should be ensured in the respective committees, working groups and clusters.

1.9. Perform continuous monitoring of the application of Minimum Standards for Child Protection in Humanitarian Action in the course of humanitarian aid providing to the children with disabilities.

1.10. Ensure informing (warning) of people in case of the state of emergency and martial law, terroristic act, emergency and/or threat of their occurrence using sign language interpretation and/or sign language, as well as in simplified language.

2. The Cabinet of Ministers of Ukraine, the central executive bodies

2.1. Ensure drafting of the report for the UN Committee on the Rights of Persons with Disability with regard to the fulfillment of Art. 11 of the Convention on the Rights of Persons with Disabilities and Recommendations of the Committee based on the results of Ukraine's Initial Report (2016) (the Ministry of Interior, the SESU jointly with other CEB).

2.2. Stop discrimination of the IDPs to the extent of numerous restrictions (prohibition to transfer money from one bank card to another, make online payments, withdraw the funds in the ATMs other than Oschadbank-owned, card blocking if the owner did not use it for more than a month, etc.) (Ministry of Finance).

2.3. Develop and ensure the implementation of amendments to the Code of Civil Protection of

Ukraine, the Law of Ukraine “On the Legal Regime of the State of Emergency”, “On Combating Terrorism” and, if necessary, to other laws to the extent of providing assistance to persons with disabilities, in particular, with sight, hearing, locomotor system impairments, with mental and psychiatric disorders and other persons with reduced mobility and their relatives) in the event of occurrence or threat of the martial law or the state of emergency, armed conflicts, terroristic acts, emergencies and/or the threat of the same (the Ministry of the Interior, the Ministry of Defense together with other CEB).

2.4. Develop and ensure the implementation of the draft Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on Improving Access to the Information for Persons with Hearing Impairments” (State TV and Radio Broadcasting Committee together with other CEB).

2.5. Develop and ensure the approval of a legislative act on considering the needs of persons with sight, hearing, locomotor system impairments, mental and psychiatric disorders and other reduced mobility populations in the process of verification and physical identification (the Ministry of Finance jointly with other CEB)

2.6. Develop and ensure the implementation of a legislative establishing the evacuation procedure for children and/or adults under custody or guardianship if the consent of custodian or guardian cannot be obtained, in the event of the state of emergency or martial law, armed conflict, terroristic act, emergency and/or the threat of their occurrence (the Ministry of Social Policy together with other CEB).

2.7. Develop and ensure approval of a legislative act on establishing the procedure for organization and accompanying of persons with disabilities, in particular, with sight, hearing, locomotors system impairments, with mental and psychiatric disorders, and other persons with reduced mobility living on their own or lonely, in the event of the state of emergency or martial law, armed conflict, terroristic act, emergency and/or the threat of their occurrence, as well as families with multiple children or families with immobilized family members (the MSPU jointly with other CEB).

2.8. Develop and ensure the implementation of a legislative act establishing the procedure of evacuation of persons with disability, sight, hearing, locomotor system impairments, mental and psychiatric disorders and other persons with reduced mobility (their relatives), including those staying in the penitentiary, healthcare, education and social protection facilities, in the event of the state of emergency or martial law, armed conflict, terroristic act, emergency and/or the threat of their occurrence, determining that they will be accommodated in the buildings and premises meeting their needs (as accessible as possible) (the Ministry of Interior jointly with other CEB).

2.9. Develop and ensure the approval of a legislative act regulating the accommodation of persons and children with disability in the event of the state of emergency or martial law, armed conflict, terroristic act, emergency and/or the threat of their occurrence in the premises of facilities and establishments properly adjusted for servicing such persons for a specified period (the SESU jointly with other CEB).

2.10. Develop and ensure the approval of a legislative act on the Procedure of providing the status of a child affected by warfare and armed conflict, terroristic acts and other crimes, providing for the establishment and maintenance of the database of such children (the MSPU jointly with other CEB).

2.11. Develop and ensure the approval of a legislative act on the Procedure of establishment, maintenance and access to the data of the Uniform Information Database on IDPs taking into account the needs of IDPs with disabilities (the MSPU jointly with other CEB).

2.12. Develop and ensure the approval of a legislative act on defining the following cause of disability for civilians «injury, contusion, crippling, disease caused by a terroristic act» (the MoH jointly with other CEB).

2.13. Develop and endorse the Order on implementation of reporting on the number of injured civilians with the cause of disability being «injury, contusion, crippling, disease caused by a terroristic

act» (the MoH jointly with the SSSU).

2.14. Develop and ensure the approval of a legislative act implementing Art. 17 of the Law of Ukraine «On Ensuring Rights and Freedoms of IDPs» to the extent of facilitating the IDP loans on purchase of land plots, purchase and construction of residential property (the Ministry of Regional Development jointly with other CEB).

2.15. Establish the Uniform Information database about the internally displaced persons, including the information about the special needs of IDPs with disability (the MSPU together with other CEB).

2.16. Implement the training system for the civil protection system staff, as well as the penitentiary, healthcare, education and social protection facilities sheltering persons with disabilities, in particular, with sight, hearing, locomotor system, mental and psychiatric disorders and other persons with reduced mobility, with the curriculum focused on providing assistance to such persons in case of the state of emergency or martial law, armed conflict, terroristic act, emergency and/or the threat of their occurrence (MoH jointly with other CEB).

2.17. Develop and implement a large-scale information campaign on the rules of behavior in the dangerous situations with dangerous items taking into account maximum accessibility of information, awareness and training materials for children and persons with disability (the SESU jointly with other CEB).

2.18. Improve, taking into account the needs of persons with disability, the Interim procedure of control over the movement of persons, vehicles and cargo (goods) across the contact line within Donetsk and Luhansk oblast (the SSU), having provided for the following aspects:

- Priority passing for persons with disability and persons accompanying them, family members (regardless of whether they move in a vehicle or not);

- Informing at the first checkpoint (before the main one) about the presence of persons with disability (possibly by a portable communications device) and facilitate their passage through the control point (including with accompanying persons, family members) in a priority;

- Committing and appointing the responsible persons for posting on the websites of the information about existence of simplified (priority) regime of passage or improved conditions for persons with disabilities and those accompanying them, their family members.

- Adding to the application form in the «Register of permits for the movement of persons in the ATO area» with the field indicating whether the applicant (their child) has a disability (series and No. of the certificate to the Medical and Social Commission examination statement – for adults, Medical and Consultation Commission certificate for children) and the necessity to accompany the person (name, surname, patronymic of the accompanying person).

2.19. Consider the possibility to pass the persons with disability and the persons accompanying them or their family members through the checkpoints for the residents of adjacent territories (they are registered in a village or city close to the checkpoint) (the SSU).

2.20. Increase technical capacity of the electronic system issuing permits to cross the contact line to the individuals in order to accelerate documents uploading (the SSU).

2.21. Establish information stands at the waiting places of entry-exit points and checkpoints, provide the control officials with information materials about facilitating the passage of persons with disabilities and their family members or accompanying persons (State Border Control Service).

3. Oblast, Kyiv City State Administration:

3.1. Equip the entry and exit points with portable toilets, benches, ensure the availability of water and medical staff there. During the cold season the entry-exit points should have heating outlets equipped (only Donetsk and Luhansk military state administrations).

3.2. Determine the officials whose terms of reference would include the matters of creating accessible environment for persons with disability and populations with reduced mobility;

3.3. Initiate with the participation of civil society organizations the discussion focused on creating accessible environment for persons with disabilities. The reports of the local governmental bodies and utility providers should be presented at such a discussion.

3.4. Restore (intensify) the operations of the municipal accessibility committee, and where such committees are lacking – establish them with the inclusion of the most respected and highly qualified representatives of civil society organizations which had been working actively of for a long time on creating accessible environment for the persons with disabilities and other persons with reduced mobility.

3.5. Include in the community-owned property rental agreements (buildings, premises and parts of underground passages) the requirement to obligate the lessees to equip (reasonably adjust) the leased property (as applicable) in a way which takes into account the needs of persons with disability and other persons with reduced mobility according to the state construction standards ДБН В.2.2-17:2006 «Accessibility of buildings and edifices for populations with reduced mobility», ДСТУ-Н Б В.2.2- 31:2011 «Buildings and edifices. Guidelines on equipping the civil buildings and edifices with the accessibility elements for persons with sight and hearing impairments» and the state standard ДСТУ Б ISO 21542:2013 «Buildings and edifices. Accessibility and usability of the constructed living environment». The similar requirements should apply to minor architectural forms and temporary constructions;

3.6. Engage persons with disability (as experts on ensuring architectural accessibility) to the infrastructure recovery;

3.7. Strengthen the requirements (to the extent of taking into account the needs of persons with disability and populations with reduced mobility) to the bidders providing public bus transportation;

3.8. Purchase public transportation vehicles which are at the same time accessible for persons moving on wheelchairs and/or having sight and hearing disorders;

3.9 Create the list of services available to the IDPs with disability and injured persons;

3.10 Provide the IDPs, including those with disability, with medications, medical goods, technical and other rehabilitation means.

3.11. Comply to the family unity principle on all the stages of relocating and accommodating children with disabilities. Work with the parents to explain them the best interests of the child and advantages of family upbringing. Use residential care facilities only in exceptional cases and with treatment, prevention, rehabilitation goals.

3.12. Ensure the availability of education for persons with disabilities at the place of their temporary residence.

3.13. Implement callback in hotlines.

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Yevheniia Pavlova, Myroslava Statkevych /
overall edition by Arkadiy Bushchenko.

Scientific publications

«RIGHTS OF PERSONS WITH DISABILITY
IN THE ARMED CONFLICT IN THE EAST OF UKRAINE».
ANALYTICAL REPORT OF THE UKRAINIAN HELSINKI
HUMAN RIGHTS UNION

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