



**FIGHT  
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**CENTRALNA**



**COMPLIANCE WITH THE RIGHTS OF PERSONS  
WITH DISABILITIES IN THE ARMED AGGRESSION  
OF THE RUSSIAN FEDERATION AGAINST UKRAINE**

**Position Paper**

**For the period: February 24 – March 31, 2022**



**FIGHT  
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RIGHT**

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## OVERVIEW

Since the full-scale deployment of the armed aggression of the Russian Federation on the territory of Ukraine on February 24, 2022, all residents of Ukraine, including persons with disabilities and people with limited mobility<sup>1</sup>, have faced the issue of protecting their lives and evacuation-related challenges. Under these conditions, the rights of persons with disabilities and persons with limited mobility are being violated even more frequently due to inaccessible physical environments and the shortcomings of existing legislation.

Owing to the insufficient number of shelters in residential areas of large Ukrainian cities and their location in inaccessible Soviet-style structures, most persons with disabilities and persons with limited mobility were unable to enjoy proper protection from airstrikes and rocket attacks<sup>2</sup>. Many inaccessible shelters are located in the basements of apartment buildings, schools, administrative buildings, and subway stations in large cities, etc. While some barriers to access could be addressed promptly with digital tools, such as duplicating air-raid warnings via mobile apps and SMS, it is impossible to solve the issue of inaccessible bomb shelters for wheelchair users. This lack of access has caused many people to stay in their homes during attacks.

In addition to barriers to access, another threatening factor is the Russian military's disregard for the Geneva Conventions and its persistent and deliberate commission of war crimes and crimes against humanity in Ukraine.

**"In the Borivske settlement near Sievierodonetsk in the Luhansk region, Russian invaders killed a well-known Ukrainian volunteer, Oleksandr Konanov, on the eighteenth day of the war. The man without an arm and a leg had been helping our soldiers since 2014," said Serhii Haidai<sup>3</sup>, chairman of the Luhansk regional military administration. "He was a man with disabilities, he took a very active pro-Ukrainian position. He was just shot in a wheelchair," reported Serhii Haidai.**

In just the first month of Russia's attacks on Ukraine, civil society<sup>4</sup> and authorities<sup>5</sup> have

<sup>1</sup> According to the [State Statistical Service of Ukraine](#) on January 01, 2021, the number of persons with disabilities in Ukraine amounts to 2,703,000 people. It is impossible to estimate the total number of persons with limited mobility, but since this category covers older persons, parents with young children, people with temporary limited mobility, and other health issues, this is a large group of people, no less than the total number of PWDs.

<sup>2</sup> For example, see this [article about the experiences of three women with disabilities](#) forced to leave the territory of Ukraine.

<sup>3</sup> See [posts](#) in Haidai's telegram and [Telegraf material](#) as of March 13, 2022.

<sup>4</sup> Continuous monitoring of war crimes and offenses against humanity is carried out by the organizations belonging to the ["Ukraine. 5am" Coalition](#) and organizations of the ["Tribunal for Putin" initiative](#) (this is a non-exhaustive list of organizations and initiatives).

<sup>5</sup> The Office of the Prosecutor General [is documenting war crimes](#) while other government bodies are also collecting evidence.

documented thousands<sup>6</sup> of war crimes and crimes against humanity committed by the Russian army. These crimes target the entire civilian population, including persons with disabilities and persons with limited mobility.

**"On March 11, 2022, at night, the enemy hit the five-story building of the Oskol psychoneurological boarding school in Izium district, Kharkiv region. The explosion destroyed the building structures on the 2nd and 3rd floors, as well as caused local fires in several places. State Emergency Service in Kharkiv region reported that all 30 employees of the institution and 330 patients (mostly older persons and people with disabilities, including 50 people who can't move without assistance and 10 people using wheelchairs) were in the shelter during the attack."**

In addition to the continuous shelling of numerous Ukrainian cities<sup>7</sup>, there have been documented instances of hostage-taking in psychoneurological boarding schools and nursing homes<sup>8</sup>, the shelling and seizure of hospitals<sup>9</sup>, and the deliberate bombing of civilian shelters<sup>10</sup>:

**"Oleksii Kuleba, chairman of the Kyiv regional state administration, claims that the Borodyansk psychoneurological boarding school has been seized by Russian troops. The Russians planted mines at all the approaches to the boarding school and are now shelling Ukrainian army positions. Preliminary figures from the chairman indicate that there are currently over 500 patients, of which almost 100 have limited mobility."**

These factors have certainly influenced many people with disabilities, persons with limited mobility, and their relatives to attempt evacuation, both to safer areas in western Ukraine and abroad to EU states. However, many persons with disabilities and persons with limited mobility do not want to evacuate, and often do not have equal access to evacuation procedures. Many persons with disabilities and persons with limited mobility require extra support from both the national authorities and the international community.

<sup>6</sup> As of March 30, data [released](#) by the Office of the Prosecutor General showed over 5,000 war crimes and offenses against humanity. [The nationwide crime database](#) keeps being updated and verified.

<sup>7</sup> Since February 24, the shelling of Kyiv, Kharkiv, Mykolaiv, Sumy, the suburbs of the Kyiv region (Bucha, Vorzel, etc.), as well as Mariupol, Melitopol, and Kherson, which now remain temporarily occupied by Russian forces, has not ceased down.

<sup>8</sup> For example, see [here](#) the confirmation by the Verkhovna Rada Commissioner for Human Rights and [here](#) by the Suspilne TV.

<sup>9</sup> For example, see the Truth Hounds [report](#) about the attack on the maternity hospital in Mariupol.

<sup>10</sup> For example, see Suspilne Ukraine's [report](#) about thousands of civilians killed in a missile attack on a theater in Mariupol, hiding from the shelling.

## REFERENCE 1

### **Who are people with disabilities and people with limited mobility in Ukraine?**

Neither persons with disabilities nor people with limited mobility are homogeneous groups with the same challenges and needs. This Position Paper examines human rights issues and violations related solely to the rights of adults with disabilities and adult persons with limited mobility. The task of evacuating children with disabilities, including the well-organized evacuation of children's closed institutions, is reportedly being successfully coordinated by the Verkhovna Rada Commissioner for Human Rights, local authorities, and the Ministry of Social Policy. Unfortunately, there is an obvious lack of well-established cooperation in addressing the safety of adults with disabilities, at least those under state care who are not permitted to make their own decisions on their safety and well-being.

There are three large and substantially different groups of people with disabilities in Ukraine:

**1.** People with disabilities living in so-called closed institutions<sup>11</sup> and in need of round-the-clock care (we use the term “closed institutions” to refer to psychiatric institutions, psychoneurological boarding schools, nursing homes, residential facilities for older persons and persons with disabilities, boarding houses for war and labor veterans, and social-rehabilitation centers)<sup>12</sup>. Such persons may often need support to make an informed decision about the need to evacuate and leave dangerous areas. Some of these persons need round-the-clock care and use mobility aids.

**2.** Persons with disabilities living with relatives who have guardianship over them who may need assistance to make an informed decision about evacuation and to evacuate to a safer area, and cannot remain alone in a safe place.

**3.** Persons with disabilities, whether living with relatives or independently, with full legal capacity, who don't need assistance to make a decision on evacuation to a safer area, but may not be able to accomplish such an evacuation independently or may need assistance due to the inaccessible infrastructure of Ukraine.

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<sup>11</sup> Ukraine runs a ramified and confusing system of so-called closed institutions for adults with disabilities, as well as geriatric institutions. Find out more about the system and the challenges it poses with (non)observance of human rights in the reports of the Ukrainian Helsinki Human Rights Union [here](#) and [here](#), or in the report of the Verkhovna Rada Commissioner for Human Rights [here](#).

<sup>12</sup> According to the classification used by [the Verkhovna Rada Commissioner for Human Rights](#) and the observers of [the National Preventive Mechanism](#).

Persons with limited mobility in need of assistance and comprehensive solutions for safety and livelihood issues may include (ongoing list):

1. Palliative patients in home or remote care.
2. Patients with acute chronic conditions requiring constant and expensive medication (e.g., cancer patients or dialysis patients).
3. Older people living alone who do not have caregivers nearby (requiring assistance with food, hygiene, and medical care).
4. Pregnant women and mothers with infants.
5. Wounded soldiers and civilians.

## REFERENCE 2

### **How many persons with disabilities and persons with limited mobility stay in closed institutions?**

It was not until April 2, 2022, that “Fight for Right/Боротьба за права” received a response from the National Social Service of Ukraine to one of its countless requests for public information.

According to the National Social Service of Ukraine, as of January 1, 2022, the closed institutions within the system of social protection permanently accommodate:

- 43,400 individuals;
- who are placed in 282 institutions;
- 87 residential facilities for older persons and persons with disabilities, nursing homes, and boarding houses for war and labor veterans, accommodating approximately 10,700 people;
- 2 special boarding facilities that house 200 older persons and persons with disabilities (released from prison);
- 157 psychoneurological boarding schools housing over 28,100 adults with mental disabilities;
- 36 orphanages with 4,300 residents, including 1,300 children aged 4 to 18 and 3,000 adults over 18.

These data exclude closed institutions within the education and health systems (psychiatric hospitals). There is still no complete overview of the number of institutions, the number of persons residing in these institutions, and the number of institutions in war-affected areas, which precludes planning for the effective protection of persons with disabilities.

In their response of April 2, 2022, the National Social Service of Ukraine, as well as the Commissioner for the Rights of People with Disabilities from the Kyiv City Administration, refer to the evacuation procedure last updated in 2017, ignoring the regulatory changes introduced by the Cabinet of Ministers of Ukraine as of March 28, 2022, and emphasizing the following:

**"According to the requirements of Article 8 of the Law of Ukraine "On the Legal Regime of Martial Law," in Ukraine or in its separate areas, where martial law is imposed, the military command together with military administrations (in case of their establishment), independently or by involving executive authorities and local self-government bodies, may introduce and implement measures of the Legal Regime of Martial Law to the extent of temporary restrictions of constitutional rights and freedoms of citizens, as well as rights and legitimate interests of legal entities provided by the Presidential Decree on imposition of martial law. The above measures include, in particular, the evacuation of the population in cases of a threat to the life or health of citizens"<sup>13</sup>.**

Despite this, local authorities and military administrations failed to implement the systematic evacuation of closed institutions housing adults with disabilities, apparently believing that there was no such need, even in those territories temporarily occupied by the Russian forces.

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<sup>13</sup> Answer quotation No. 0000-030102-ПІ/70-2022/3977 as of 30.03.2022, signed by the Department Director of Social Policy Administration of the National Social Service of Ukraine.

## ISSUES AND SOLUTIONS:

### The Way the State, Public Organizations, and International Institutions Respond

#### Issues of orderly evacuation for children with disabilities

A protocol is developed and evacuations from high-risk areas are carried out; state and local authorities are involved. The developed regulatory basis includes guarantees to check the well-being of children after crossing the border and registering their place of stay through consular offices in EU countries<sup>14</sup>.

#### Issues of the individual evacuation of adults with disabilities

Currently, such evacuations are carried out solely by civil society organizations<sup>15</sup> and some volunteers through individual initiatives as well as volunteers from EU countries and the United States. What is lacking are coordinated efforts by local civil society and assistance in arranging evacuations from the battlefield by representatives of international organizations such as the Red Cross<sup>16</sup> and the Office of the United Nations High Commissioner for Refugees (UNHCR).

Only after a month of active hostilities, despite multiple appeals<sup>17</sup> and requests from human

<sup>13</sup> Цитата з відповіді № No 0000-030102-ПІ/70-2022/3977 від 30.03.2022 за підписом Директора департаменту адміністрування соціальної політики Національної соціальної сервісної служби України.

<sup>14</sup> See [Resolution of the Cabinet of Ministers No. 264](#) as of March 12, 2022. There are reports from local authorities on the successful implementation of such evacuations, for example from [Kyiv](#) and [Mykolaiv](#).

<sup>15</sup> For example, [“Fight For Right / Боротьба за права”](#) received 1,616 requests for assistance during the first month of the war, resolved 503 of them, and is working on the rest. The team employs 16 people who arrange individual evacuations and assist in finding medicine and necessities. The [“Active Rehabilitation Group / Група активної реабілітації”](#) NGO provides counseling and assists in organizing evacuations as well. It is certainly an incomplete list of national and local initiatives. However, mentioning all of them is impossible within this Position Paper.

<sup>16</sup> The International Red Cross Society [shifts the responsibility for providing humanitarian corridors](#) locally, sets up an office in Rostov, and [describes](#) the forced transfer (de facto kidnapping) of Ukrainian civilians to filtration camps in Russia as evacuation. Ukrainians have massively called on the international community to stop donating money to this organization as ineffective and clearly biased.

<sup>17</sup> Since the beginning of the hostilities, government agencies and local authorities have stopped accepting citizens' appeals, many have overloaded hotlines and there is no way to get official explanations. When asked about the procedure of evacuation of adults, the Commissioner of the Kyiv City Council on the

## Issues of the orderly evacuation of persons with disabilities and persons with limited mobility from closed institutions

rights defenders, the government developed a new regulatory procedure for arranging the mass evacuation of residents of closed institutions, but has not yet started an orderly evacuation of adults, instead of relegating this issue to the discretion of local administrations, which lack the resources and ability to act effectively. Additionally, the new procedure fails to include all types of closed institutions, ignoring psychiatric hospitals and psychoneurological dispensaries.

## Issues of food and humanitarian aid to adults with disabilities and persons with limited mobility unable or unwilling to evacuate

The provision of food, necessities, and medicines for adults with disabilities and persons with limited mobility living alone and unable or unwilling to evacuate, mostly in unaffected areas, is provided through multiple public and volunteer initiatives, as well as with the support of Ukrainian businesses. What is lacking is assistance from local authorities, as well as funds reallocation from local budgets and coordinated action. Clearly positive steps from the state authorities were simplifying the conditions for importing humanitarian aid into Ukraine, changes in taxation procedures, etc. It is crucial to coordinate local and international efforts and establish sustainable supply chains. Special attention must be paid to establishing reliable humanitarian corridors and supplies to temporarily occupied cities that are on the brink of humanitarian catastrophe, and this is where the immediate involvement of international organizations is called for, of which only the UN Office for the Coordination of Humanitarian Affairs remains effective in Ukraine<sup>18</sup>.

Human Rights of Persons with Disabilities provided a reference to the procedure of crossing the border for persons with disabilities, developed by the Cabinet of Ministers in 1995, but **amendments thereto as of March 12, 2022 provide no action algorithm for the orderly evacuation of adults from the closed institutions**. Find out more in the analysis table of the regulations above.

<sup>18</sup> Find out more about the work of the UN Office for the Coordination of Humanitarian Affairs (OCHA) in English [here](#).

## REFERENCE 3

**Current legislation governing total mobilization, border crossing, orderly evacuation, and other relevant issues for persons with disabilities**

Name of the normative legal act	The issues defined by this normative legal act
<p><b>Cabinet of Ministers Decree</b>  <u><b>No. 772 as of 02.09.2022</b></u>  <b>"On Approval of the Model Provision on the Residential Facility for Older Persons and Persons with Disabilities"</b></p>	<ul style="list-style-type: none"> <li>● The boarding school shall ensure the implementation of the rights of its residents under the law.</li> <li>● Until the residents are recognized as legally incompetent or limited of civil legal capacity, the boarding school shall provide guardianship and custody of such persons, including by taking measures to restore or limit the civil legal capacity of the residents.</li> <li>● The boarding school, if necessary, shall take measures to resolve issues related to the incapacity or limitation of civil legal capacity of residents requiring guardianship and custody, as well as the appointment of guardians or custodians for them.</li> <li>● The boarding school director and staff shall be personally responsible for preserving the lives and health of the residents during their stay in the boarding school, observing their rights, and preventing discrimination against them.</li> </ul>
	<ul style="list-style-type: none"> <li>● It defines the list of emergencies (excluding hostilities) and the procedure for the mandatory evacuation of the population;</li> </ul>

**Cabinet of Ministers Decree****No. 711 as of 12.08.2020****"On Amendments to the Order of Evacuation in the event of a threat or emergencies"<sup>19</sup>**

- It establishes that evacuations must be carried out by decision of the local state administration or an official with the authority to make such a decision (currently, this may be a temporary military administration);

- It determines that the decision to evacuate may be made both at the state and local level (by the relevant local authorities);

- It excludes a procedure for evacuating closed institutions, only stating that a separate plan must be drawn up for the evacuation of persons with disabilities.

**The Law of Ukraine****"On Approval of the Decree of the President of Ukraine "On Total Mobilization"  
as of 03.03.2022**

- It declares total mobilization and the procedure for its implementation;

- It prohibits men aged 18-60 to leave the territory of Ukraine;

- It defines a list of those not subject to such a prohibition (including men with disabilities and those acting as custodians for a child or relative with a disability).

**Cabinet of Ministers Decree****No. 264 as of 12.03.2022****"On Amendments to the Rules of Crossing the State Border by Citizens of Ukraine"**

- It defines conditions for exemption of some men aged 18-60 from total mobilization and terms of permission to cross the border of Ukraine;

- It determines the conditions for crossing the border for children deprived of parental care and children with disabilities permanently residing in boarding schools;

- It does not contain a similar procedure for the mass orderly evacuation of adults with disabilities permanently residing in closed institutions (boarding schools).

<sup>19</sup> It was this Decree that was to govern orderly evacuations until March 27, 2022, when the Government approved the new Order described in the table below. Fight For Right / Боротьба за права and other community organizations have no data on any evacuations under this Order, although local and central authorities have referred to this regulation in their responses.

**The Law of Ukraine**  
**"On Amendments to Certain Laws**  
**of Ukraine on Exemption from**  
**Military Service for Persons with**  
**disabilities and Persons Caring for**  
**Persons with disabilities and Sick**  
**Children"**  
**of 15.03.2022**

It amends the list of categories of men aged 18-60 who are exempt from military service:

- Raising a child with disabilities under 18 years old;
- Raising a severely ill child;
- Providing constant care to a sick wife (spouse), child, or his/her parents or wife (spouse), who, according to the conclusion of the medical and social expert commission or the medical and advisory commission of the healthcare institution, require constant care;
- Caring for a wife (spouse) with disabilities and/or one of their parents or parents of their wife (spouse) with a Group I or II disability;
- Having custody of a person with a disability who has been declared legally incompetent by a court;
- Engaged in the full-time care of a person with a Group I disability;
- Engaged in the full-time care of a person with a Group II disability or a person who, according to the conclusion of a medical and social expert commission or the medical and advisory commission of a healthcare institution, requires full-time care in the absence of other persons able to provide such care.

- It establishes a single procedure for evacuating children with disabilities and adults permanently residing in closed institutions;
- It provides a list of closed institutions for adults: residential facilities for older persons and persons with disabilities; specialized institutions for war and labor veterans, older persons and

**Cabinet of Ministers Decree  
No. 385 as of 28.03.2022**

**"Some issues of temporary relocation (evacuation) of children and persons residing or enrolled in institutions of different types, forms of ownership and subordination for a 24-hour stay under martial law"**

persons with disabilities,; and other institutions that provide temporary residence and social services to adults (but excludes psychoneurological residential facilities and psychiatric hospitals);

- It entrusts the local authorities with recording closed institutions and the number of their residents, determining the level of risk and the need for evacuation (and contains no criteria for such an assessment);

- It sets up a list of interactions between state and local authorities to arrange for domestic evacuation procedures;

- It does not establish a procedure for interaction between state and local authorities with foreign partners, only the duty of consular registration of children and adults abroad;

- It does not contain requirements for an accessible evacuation and, accordingly, requirements for an accessible location for children with disabilities and adults and/or those in need of accessibility and constant care;

- It does not contain the order for establishing a state or local budget for such evacuations.

The issues preventing prompt and effective evacuation from cities under direct threat of attack by the Russian forces are:

- 1.** Regulatory shortcomings, as well as statistical issues;
- 2.** Lack of efficiency of state and local authorities;
- 3.** Lack of coordination between the state and the public sector;
- 4.** Issues beyond the control of the Ukrainian government.

**Regulatory shortcomings, as well as statistical issues:**

- Lack of clarity and bureaucracy of legal regulations for the mass orderly evacuation of adults (among those living in closed institutions);

- Lack of clarity and bureaucracy of legal regulations on permission to travel abroad for men with disabilities and those caring for a child with disabilities and/or another relative with disabilities (wives, parents, brothers, and sisters);<sup>20</sup>
- Lack of statistical information<sup>21</sup> on the total number of closed institutions housing adults with disabilities and persons with limited mobility, particularly in war-affected areas;
- Lack of up-to-date information on the number of people in need of immediate humanitarian, medical, or evacuation assistance in various flashpoints;
- Lack of criteria for local authorities to determine the level of security and conduct immediate evacuations.

## **Lack of efficiency of state and local authorities:**

- The task of conducting an orderly evacuation of adults from closed institutions is the responsibility of local authorities, which cannot do so and can only operate within one area which is often insufficient to ensure a safe location for evacuees;
- The lack of funds in local budgets (and immediate need to reallocate funds within local budgets) for mass evacuations;
- The refusal of the authorities to perform a medical and social assessment (MSA)<sup>22</sup> and grant disability status, including those who were wounded and became disabled during military operations.

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<sup>20</sup> In the first weeks since the Law of Ukraine "["On Total Mobilization"](#) became effective, public reception offices and volunteers recorded many appeals from men with disabilities who were not allowed to cross the border, as well as men having custody over children with disabilities or other first-degree relatives. The procedure was streamlined somewhat after the [legislative changes](#), but certain requirements are still excessive and hinder timely and effective border crossing, such as the requirement for men with Groups I and II disabilities, who have previously been removed from the military register, to re-take a medical exam and confirm their ineligibility (given the heavy load on the military registration offices and mobilization underway).

<sup>21</sup> According to [Margarita Tarasova, Ukrainian Helsinki Human Rights Union project coordinator](#): "Data on the number of residential institutions under occupation are collected by a group of human rights defenders working on the observance of human rights in such institutions. In particular, we are talking about nursing homes, neuropsychiatric, social orphanages, facilities for people with disabilities, etc. As of March 25, the largest number of such institutions was in the Kherson region with at least 10 facilities. Not a single institution has been evacuated from the region"

<sup>22</sup> Public organizations and attorneys report such cases in different regions of Ukraine, despite the current Cabinet of Ministers [Decree No. 225](#) as of March 8, 2022, on the procedure for conducting MSAs during martial law and total mobilization.

**Lack of coordination between the state and the public sector:**

- The lack of coordinated efforts<sup>23</sup> between civil society, volunteers, local authorities, and temporary local military administrations (both humanitarian and evacuation efforts);
- The inability to raise the necessary sums needed to organize evacuation activities for large groups of people concurrently.

**Issues beyond the control of the Ukrainian government:**

- The lack of agreed humanitarian corridors and regular violations by the Russian forces of agreements previously reached;
- The lack of clear coordination between international partners and open offers of willingness to develop long-term solutions for accommodating large groups of adults with disabilities (in cases of ordered evacuations abroad).

**COMPLEX CHALLENGES****requiring immediate solutions**

- Safety and basic food, hygiene, and medical needs for those unable to evacuate for any reason;
- Assistance in arranging individual evacuation for those unable to do so on their own;
- Assistance in finding affordable temporary shelter (including physically accessible housing) in the presumably safe areas of Ukraine;
- Financial assistance for those lacking sufficient funds /or having lost a breadwinner<sup>25</sup> (or caregivers);
- Developing solutions for ordered mass evacuation of adults under state care to safer places, both within the areas of Ukraine with no hostilities and abroad;
- Finding partners and stable solutions for conducting ordered mass evacuation of adults;

<sup>23</sup> The situation is complicated by the fact that since the beginning of the full-scale invasion, central and local authorities have stopped accepting and processing requests for public information, therefore, it is impossible to obtain up-to-date data. The first response to the request was received from the Kyiv City State Administration (KCSA) on March 31, 2022, and the second was received from the National Service of Ukraine on April 2, 2022.

<sup>24</sup> Civil society organizations and Ukrainian authorities have recorded numerous instances of humanitarian corridors being disrupted and evacuation convoys being shelled by the Russian forces, for example, see reports [here](#) and [here](#).

<sup>25</sup> During the period of active hostilities throughout Ukraine since February 24, 2022, many employed Ukrainians have lost their jobs or permanent income. Find the relevant survey [here](#) and research on the economics of war [here](#).



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- Assistance in finding affordable housing and developing long-term solutions for people with disabilities and persons with limited mobility who have crossed the border and stay in the EU;
- Prompt and rapid response to the need for changes in national and international legislation to create a system of effective protection for persons with disabilities and persons with limited mobility;
- Thorough recording and investigation of all war crimes and offenses against humanity committed by the Russian forces against persons with disabilities and persons with limited mobility, including bringing all those responsible for such crimes to international justice.