



## Convention on the Rights of Persons with Disabilities

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### Committee on the Rights of Persons with Disabilities

## Concluding Observations in relation to the initial report of Ukraine\*

### I. Introduction

1. The Committee considered the initial report of Ukraine (CRPD/C/UKR/1) at its 208<sup>th</sup> and 209<sup>th</sup> meetings, held on 19 and 20 August 2015 respectively, and adopted the following concluding observations at its meeting, held in 2015.
2. The Committee welcomes the initial report of Ukraine, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for its written replies (CRPD/C/UKR/Q/1/Add.1) to the list of issues prepared by the Committee.
3. The Committee appreciates the fruitful dialogue held with the State party's delegation and welcomes its commitment to prioritize the rights of persons with disabilities in all its future legislative and other initiatives.

### II. Positive aspects

4. The Committee welcomes the efforts State party has made to harmonize its legislation with provisions of the Convention of the Rights of Persons with Disabilities and the policies and measures it has taken to ensure implementation of rights of persons with disabilities enshrined in the Convention. In particular, it welcomes:

(a) The amendments on 22 December 2011 and 18 June 2014 to the Act "On the Basis of Social Protection of Persons with Disabilities in Ukraine" of 21 March 1991, including sign language as official means of communication;

(b) The amendments on 18 June 2014 to article 161 of the Criminal Code of Ukraine, introducing criminal liability for discrimination on the basis of disability;

(c) The appointment of the Presidential Commissioner for the Rights of Persons with Disabilities, in December 2014;

(d) State Target Program "National Action Plan for the Implementation of the UN Convention on the Rights of Persons with Disabilities" till 2020; and

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\* Adopted by the Committee at its fourteenth session (17 August to 4 September 2015).

- (e) “Ukraine without Barriers” Plan of Action to Create a Barrier- Free Living Environment for Persons with Physical Disabilities and Other Groups with Limited Mobility for the period of 2009-2015.

### III. Principal areas of concern and recommendations

#### A. General principles and obligations (arts. 1–4)

5. The Committee notes the State party’s query in relation to the terminology to refer to persons with disabilities and is of the opinion that the use of terminology in Ukrainian that refers to persons with disabilities as “invalids” or “persons with limited abilities” is not consistent with the Convention.

**6. The Committee calls upon the State party to remove the reference to “invalids” or “persons with limited abilities” from all its legislative and policy documents, including the Ukrainian translation of the Convention and use terminology that is in compliance with the Convention in consultation with the representative organizations of persons with disabilities.**

7. The Committee notes with concern that the medical model of approach to disability is still predominant especially in policies addressing the persons with disabilities due to lack of professional training for and understanding of the rights of persons with disabilities among public officials and professionals.

**8. The Committee strongly recommends the State party to adopt human rights based approach to disability in all its laws, policies and decisions. It also urges the State party to educate and raise awareness of its policy makers, professionals and public in general on the rights of persons with disabilities based on the Convention and its Optional protocol.**

#### B. Specific rights (arts. 5–30)

##### Equality and non-discrimination (art. 5)

9. The Committee is concerned that only few cases related to discrimination on the basis of disability have been considered by courts and no criminal proceedings have been initiated under article 161 of the Criminal Code. The Committee is also concerned that the principle of reasonable accommodation is not consistently implemented and the failure to provide it does not carry any sanctions. The Committee is further concerned that multiple and inter-sectoral discriminations are not properly addressed in the State party’s laws and policies.

**10. The Committee calls upon the State party to strengthen legislation to extend the application of the principle of reasonable accommodation to all areas of life and make the failure to provide it punishable by law. The State party is urged to take all necessary measures, including training of the judiciary and capacity- building of persons with disabilities and their organizations, to foster the use of available legal remedies by persons with disabilities facing the discrimination and inequality. It further recommends that the State party establish mechanisms in its legislation and include measures in its policies to prevent and protect from multiple and inter-sectoral forms of discrimination.**

**Women with disabilities (art. 6)**

11. The Committee is seriously concerned about the reports of trafficking, sexual abuse and exploitation of women with disabilities in institutions. It is also concerned that laws and policies of the State party promoting the equality of women do not take into account the situation of women with disabilities. Furthermore, it is concerned about the lack of data on gender-based violence against women with disabilities and the lack of access for women with disabilities to temporary shelters and services aimed at victims of domestic violence.

**12. The Committee recommends the State party to take all necessary measures to conduct prompt and effective investigation into all reports of trafficking, sexual abuse and exploitation of women and girls with disabilities in institutions and prosecute and adequately punish perpetrators as well as take measures to provide remedies to victims of such crimes. The Committee also recommends that the State party ensure that all its policies and regulations on gender equality and combatting gender based violence address the situation of women and girls with disabilities. Furthermore, it urges the State party to revise its normative standards in order to provide access for all women and girls with disabilities who are subjected to violence, including physical access to its shelters and services aimed at victims of domestic violence.**

**Children with disabilities (art. 7)**

13. The Committee is deeply concerned about the reports of abandonment of children with disabilities in conflict areas of eastern Ukraine and widespread institutionalization of children with disabilities throughout the country. It is particularly concerned about the reports of sexual abuse and exploitation of children with disabilities in institutions and their trafficking abroad. It is also concerned about the poor conditions in care institutions for such children, including lack of rehabilitation programmes and lack of privacy, and is particularly alarmed about the reports of deaths of children with disabilities in institutions due to malnutrition related illnesses.

**14. The Committee calls upon the State party to ensure the safety of all boys and girls with disabilities in its conflict affected areas by all possible means and especially those living in institutions to be among the priority groups to be evacuated in emergencies. The Committee also urges the State party to take prompt measures to investigate the reports of sexual abuse, exploitation and trafficking of boys and girls in institutions and prosecute and punish perpetrators. Furthermore, it recommends to strengthen its efforts for deinstitutionalization and, in the interim period, provide boys and girls with disabilities in institutions with adequate standards of living including quality nutrition and access to privacy.**

**Awareness raising (art.8)**

15. The Committee notes with concern the lack of measures taken to raise awareness on the rights of persons with disabilities as contained in the Convention. The Committee is particularly concerned that public officials, professionals working with and for persons with disabilities, the public in general and the persons with disabilities themselves remain unaware of their rights.

**16. The Committee urges the State party to step up its efforts to raise the awareness of its public on the rights of persons with disabilities, by conducting public campaigns, including the Convention in the curricula of schools and professional training of public officials and all relevant professionals.**

**Accessibility (art. 9)**

17. The Committee is concerned that implementation of the 2009 action plan “Ukraine without Barriers” by public and private entities is not monitored. It is also concerned that under the Regulation of the Urban Planning Act of 2011 constructors are no longer required to obtain experts examination of buildings in terms of their accessibility. Furthermore, the Committee is concerned that most public facilities, including health and education facilities and communication services remain inaccessible for persons with disabilities, including children.

18. **The Committee recommends the State party to efficiently implement its plan “Ukraine without Borders” and monitor implementation of accessibility standards by:**

- (a) clearly defining the organs with the mandate to monitor the implementation at all levels;**
- (b) capacity-building and continuous training in charge of monitoring ;**
- (c) involving organizations of persons with disabilities in the implementation and monitoring; and**
- (d) imposing effective sanctions on those who fail to apply accessibility standards.**

19. **The Committee calls upon the State party to ensure access to premises open to the public for persons with disabilities, including children and especially deaf persons, blind persons and persons with intellectual disabilities, by providing sign language interpretation, Braille print signage, and augmentative and alternative communication, and all other accessible means, modes and formats of communication, such as pictograms. In doing so, the Committee recommends to consult its General comment no. 2 (2014) on accessibility.**

**Right to life (art.10)**

20. The Committee is concerned about the reports that children with disabilities from institutions are at high risk to be targeted for trafficking of organs by organized crime groups.

21. **The Committee urges the State party to implement immediate protection measures for children with disabilities who remain institutionalized and take measures to eliminate any risks of organ trafficking involving children with disabilities. The Committee also recommends to carry out systematic monitoring of institutions for children with disabilities.**

**Situation of risks and humanitarian emergencies (art.11)**

22. The Committee is concerned about the reports that persons with disabilities were abandoned and could not be evacuated during the conflict in the east of the country. It is particularly concerned about the reports that there were no warning system for deaf and blind people and that persons with multiple forms of disabilities could not use bomb shelters. The Committee is also concerned about the lack of accurate data on displacement, casualties and injuries among persons with disabilities during the conflict. Furthermore, the Committee notes alarming reports that the humanitarian aid, including aid provided by international donors, is not accessible to persons with disabilities and contributes to their exclusion from relief efforts.

23. **The Committee urges that the State party, including at the local level, take all necessary measures 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 to mainstream disability in all humanitarian aid channels and involve organizations of persons with disabilities in setting priorities on aid distribution.

24. The Committee is concerned that a lack of systematic registration process for persons with disabilities who are internally displaced hinders their access to social protection, emergency and humanitarian aid services, including shelters, medicine, benefits, pensions that are necessary for adequate standard of living.

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

#### **Equal recognition before the law (art. 12)**

26. The Committee is concerned that persons who were deprived of their legal capacity by a court decision lose all their rights, including the right to challenge their status before a court and that the State party's legislation does not provide for supported decision making mechanisms for such persons.

27. **The Committee calls upon the State party to replace its guardianship and mental health law with supported decision making mechanisms and abolish all deprivation of legal capacity both fully and partially in relation to all persons with disabilities. The Committee further recommends that the State party fully harmonize its provisions with article 12 of the Convention, as elaborated in the Committee's General Comment No. 1 and recognize the full legal capacity of all persons with all types of disability.**

#### **Access to justice (art. 13)**

28. The Committee notes with concern that most court buildings in the country remain inaccessible for persons with physical impairments. It is also concerned that persons working in administration of justice are not trained on the rights of persons with disabilities, including on reasonable accommodation and procedural accessibility. The Committee regrets the lack of information on availability of legal aid, sign language interpretation and other measures to provide persons with intellectual and psycho-social disabilities to judicial and administrative proceedings.

29. **The Committee urges the State party to ensure equal access to judicial and administrative proceedings to all persons with disabilities, including access to court buildings to persons with physical impairments and to documents in accessible formats. . It further recommends training of judges, police, penitentiary system officials and other personnel in the justice system on the rights enshrined in the Convention on the Rights of Persons with Disabilities.**

#### **Liberty and security of the person (art. 14)**

30. The Committee notes with concern that the State party's law "On psychiatric assistance" allows for non-consensual institutionalization and treatment of persons based on their impairments. Furthermore, the Committee is concerned that despite the improvements in the State party's Penal Code from April 2014, the challenges in relation to access to hygiene products, medical and technical facilities for persons with disabilities in penitentiary institutions still remain.

31. **The Committee urges the State party to repeal laws that allow for deprivation of liberty on the basis of impairment. The Committee also recommends that the State party take measures to implement its legislation providing for reasonable accommodation in prisons in order not to aggravate incarceration conditions based on disability.**

**Freedom from torture or cruel, inhuman or degrading treatment or punishment, exploitation, violence and abuse (art. 15 and 16)**

32. The Committee is concerned about the various forms of abuse, including those that can amount to cruel, inhuman or degrading treatment against persons with disabilities, particularly boys and girls in condition of institutionalization.

33. **The Committee recommends that the State Party evaluate the impact and effectiveness of its training programs for the prevention and absolute prohibition of torture and ill-treatment according to the concluding observations of the Committee against Torture (CAT/C/UKR/CO/6-PARA 18 (e)). These training programs should incorporate, explicitly, the prevention of cruel, inhuman or degrading treatment against persons with disabilities.**

**Protecting the integrity of the person (art.17)**

34. The Committee notes with concern that under article 281 of the Civil Code the guardian of a person recognized as legally incapable is authorized to give consent to the sterilization of the person concerned, thus subjecting that person to forced sterilization without his/ her free and informed consent.

35. **The Committee urges the State party to abolish the practice of sterilization without free and informed consent of the person with disability, and to abolish article 281 of the Civil Code accordingly. The Committee also calls upon the State party to provide remedies to the victims of forced sterilization.**

**Living independently and being included in the community (art. 19)**

36. The Committee notes with concern that the State party continues to practice institutionalization of persons with disabilities and provides very limited support, especially to persons with intellectual and psychosocial disabilities, to live independently in their respective communities.

37. **The Committee urges the State party to adopt measures for deinstitutionalization and to allocate sufficient resources for development of support services in local communities that would enable all persons with disabilities, to choose freely with whom, where and under which living arrangements they will live.**

**Freedom of expression and opinion, and access to information (art. 21)**

38. The Committee notes with concern the lack of accessible public broadcasting services, as well as limited number of sign language interpreters for the users of public services.

39. **The Committee calls upon the State party to allocate sufficient financial resources for training and hiring of sign language interpreters in the area of public services and ensure sufficient amount of broadcasting services accessible to persons with hearing impairments..**

40. The Committee is concerned about the significant reduction of government support for Braille and audio publication as well as the absence of Ukrainian language audio description and captioning from video content.

41. **The Committee calls upon the State party to take measures to invest in Braille and audio publications as well as make available Ukrainian language audio description and captioning of video content.**

#### **Respect for home and the family (art.23)**

42. The Committee is concerned about the reports of pressure on families imposed by public officials and professionals to place their children with disabilities in institutions and deny the right of persons with disabilities to a family life.

43. **The Committee recommends that the State party take measures to provide necessary support to families with children with disabilities in order to guarantee the right of children with disabilities to grow up in a family environment and right to have a family life.**

#### **Education (art. 24)**

44. The Committee notes with deep concern that special segregated schools still remain the predominant form of educating children with disabilities. It regrets that the State party has not introduced universal design and reasonable accommodation principles in its legislative framework on education, and lacks measures such as training teachers and other professionals, providing architectural access to school premises and other support mechanisms to develop quality inclusive education.

45. **The Committee recommends the State party to introduce the right to inclusive quality education, including universal design and reasonable accommodation in its legislation on education. The Committee calls upon the State party to intensify its efforts and allocate sufficient financial and human resources for training for all teachers, accessibility of school environments and educational facilities, material and curricula, including information and communications and provision of individual support.**

#### **Health (art. 25)**

46. The Committee is concerned about the reports that persons with disabilities face difficulties accessing health care, particularly in accessing medicines and rehabilitation services and that persons with disabilities in rural areas have limited access to healthcare facilities. The Committee is furthermore concerned that women and girls with disabilities have restricted access to information on sexual and reproductive health and family planning.

47. **The Committee calls upon the State party to ensure that all persons with disabilities have access to timely and quality health care services both in rural and urban areas, including by providing access to medicines and rehabilitation services and providing information and services on sexual and reproductive health and family planning, especially to women and girls with disabilities.**

#### **Habilitation and rehabilitation (art. 26)**

48. The Committee is concerned about the lack of rights-based habilitation and rehabilitation services and programmes for persons with disabilities in the State party that promote their physical, mental and social development.

49. **The Committee urges the State party to create accessible comprehensive habilitation and rehabilitation services and programmes such as early intervention, providing comprehensive, multidisciplinary and individualized support for persons with disabilities and their families.**

**Work and employment (art. 27)**

50. The Committee is concerned that the requirement for employment quota is not well enforced and the majority of persons with disabilities remain unemployed. Furthermore, the Committee is concerned about the lack of employment opportunities for persons with intellectual and psychosocial disabilities and absence of policies or programmes for supported employment in the open labour market.

**51. The Committee calls upon the State party to ensure effective implementation of the affirmative measures and strengthen incentives for businesses and public sector for such employments. The Committee also recommends that the State party take measures to provide for supported employment of persons with intellectual and psychosocial disabilities in the open labour market.**

**Adequate standard of living and social protection (art. 28)**

52. While noting the difficulties that the State party is facing as a consequence of the ongoing conflict, the Committee is nevertheless concerned that the disability pension is extremely low and is not sufficient to meet the basic needs of a person, including food, medical and social needs.

**53. The Committee calls upon the State party to review its budgetary allocations and increase the disability pension in order to provide persons with disabilities with adequate standard of living. The Committee also recommends that the State party ensure that resources for persons with disabilities are not adversely affected by inflation, budget cuts or any forms of crisis.**

**Participation in political and public life (art. 29)**

54. The Committee is concerned that the State party's legislation prevents citizens with disabilities whose legal capacity has been restricted from fully exercising their right to vote. The Committee is also concerned that election materials are not provided in formats accessible to persons with visual impairments and deaf persons.

**55. The Committee recommends that the State party amend the relevant laws so that all persons with disabilities can enjoy the right to vote and stand for election regardless of guardianship or other regimes. It also recommends that the State party ensure, through legislative and other measures, the accessibility of ballots and election materials, and of polling stations.**

**Participation in cultural life, recreation, leisure and sport (art. 30)**

56. The Committee is concerned that the State party has not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

**57. The Committee encourages the State party to take all appropriate measures to ratify and implement the Marrakesh Treaty as soon as possible.**

**C. Special obligations****Statistics and data collection (art 31)**

58. The Committee notes with concern the lack of statistical information about the situation of persons with disabilities in the State party, particularly by impairment group, and the absence of data disaggregated by disability across all sectors which impede effective policy formulation.



59. **The Committee recommends the State party to reform its system of data collection and collect data on the situation of persons with disabilities, disaggregated by age and gender, particularly persons with disabilities from marginalised communities, across all sectors including health, education, employment, political participation, access to justice, social protection, violence, migration and internal displacement.**

#### **National implementation and monitoring (art. 33)**

60. The Committee notes with concern the lack of independent mechanism for monitoring the implementation of the rights of persons with disabilities. The Committee is also concerned that consultations of the civil society organizations working on the rights of persons with disabilities are not systematic and often formalistic.

61. **The Committee recommends the State party to establish an independent body that should be entrusted with the mandate of the independent national monitoring mechanism in line with article 33, paragraph 2, of the Convention and in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), with allocation of adequate financial and human resources. The Committee also recommends that the State party ensure that organizations of persons with disabilities and other civil society organizations working on the rights of persons with disabilities are *de-jure* involved on all legislative, financial and policy decisions that can have an impact on persons with disabilities.**

#### **Follow-up and dissemination**

62. The Committee requests that the State party, within 12 months and in accordance with article 35, paragraph 2, of the Convention, provide information on the measures taken to implement the Committee's recommendations as set forth in paragraph (13 and 22 ) above. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. It recommends that the State party transmit the concluding observations for consideration and action to members of the Government and Parliament, officials in relevant ministries, local authorities and members of relevant professional groups, such as education, medical and legal professionals, as well as to the media, using modern social communication strategies.

63. The Committee strongly encourages the State party to involve civil society organizations, in particular disabled persons' organizations, in the preparation of its periodic report.

64. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.

#### **Next report**

65. The Committee requests the State party to submit its combined second and third periodic reports by no later than 4 March 2020, and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the report/combined reports of a State party. The replies of a State party to such a list of issues constitute its report.

