# Special Rapporteur on the rights of persons with disabilities

# Protection of persons with disabilities in the context of armed conflict

# Submission of Ireland

# June 2021

# A. Questionnaire for States

1. Please describe what obligations Article 11 of the CRPD establishes on a State in relation to the ‘protection’ of persons with disabilities in the context of armed conflict, conflict prevention, humanitarian action, and peacebuilding operations.
   1. Have the above obligations been officially recognized? If so, please provide examples such as legislation, press releases, policy statements, official remarks, etc.
   2. How broadly is ‘protection’ interpreted in regard to civilians with disabilities in the context of armed conflicts?
   3. Have you made arrangements to give effect to UN Security Council Resolution 2475 (2019)?

Article 11 of the CRPD provides that States Parties shall take, in accordance with their obligations under international law, including international humanitarian law (IHL) 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.

Ireland ratified the Convention on the Rights of Persons with Disabilities on 20 March 2018, and has also ratified a range of IHL instruments that establish obligations on states relevant to the protection of persons with disabilities, including the Geneva Conventions of 1949 and their Additional Protocols of 1977.IHL does not specifically define “protection” in relation to civilians with disabilities in the context of armed conflict, but requires civilians with disabilities to be protected by way of a range of relevant obligations, including the obligation to treat all persons humanely without adverse distinction; the obligation to allow and facilitate access to humanitarian relief, which can be prioritised in favour of persons with disabilities; obligations under the Geneva Conventions and their Additional Protocols specifically in relation to the protection of the “wounded” and “sick”, which can include persons with disabilities; and the obligation under Article 30 of the Third Geneva Convention to establish special facilities in prisoner-of-war camps for care to be given to the disabled and for their rehabilitation pending repatriation.

1. Please provide information on (1) the existence of any specific institution/government entity, such as a national committee on international humanitarian law (IHL), tasked with the responsibility of overseeing the implementation of IHL; and (2) how that body addresses persons with disabilities in the context of IHL implementation.

Ireland has, since 2008, a national committee on IHL. The functions of the committee are to assist the Government in the implementation and promotion of IHL, to encourage the wider dissemination of IHL, to review international developments in this area of law and assess their implications for Ireland, and to prepare for International Conferences of the Red Cross and Red Crescent. The national committee has not so far routinely addressed the issue of the treatment of persons with disabilities in the context of IHL, but this issue will, in light of the present exercise, be put on the agenda of the committee.

1. Please identify and provide information on the institution/government entity(s) tasked with overseeing the implementation of obligations under the CRPD (Article 33 framework).

The Irish Government has designated the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) as Ireland’s Focal Point and Coordination Mechanism under the Convention.

DCEDIY coordinates Ireland’s whole of Government disability strategy, the National Disability Inclusion Strategy 2017 – 2021 (NDIS),[[1]](#footnote-1) which is the key framework for policy and action to address the needs of persons with disabilities. Through 123 actions, the NDIS supports effective progress in delivering on the obligations set out in the UNCRPD.

In addition, the Programme for Government[[2]](#footnote-2) commits to the development of a UNCRPD implementation plan. Government departments and agencies will be requested to develop their own plans for implementation that will link with the national plan. DCEDIY will have overall coordination responsibility.

The Government is currently finalising Ireland’s Initial State Report under the UNCRPD. Submission to the Committee is planned for later this year.

* 1. Does that institution/government entity advise or interact with the military and security forces on how to implement Article 11 of the CRPD in their operations?

The Irish Government has engaged across Departments, including with the Department of Defence in respect of collating information for inclusion in Ireland’s Initial State Report under the UNCRPD.

1. Please identify any domestic laws or statutes that seek to punish criminal acts that specifically target persons with disabilities.

Ireland does not currently have specific legislation dealing with hate crime, however a hate motive is an aggravating factor that judges can take into account (on a non-statutory basis) at sentencing for any criminal offence. Legislative proposals on hate crime are being developed by the government as an urgent priority.

The Criminal Justice (Hate Crime) Bill 2020[[3]](#footnote-3) is currently being reviewed by Seanad Éireann (the Upper House of Parliament) to make provision for hate crime. The draft Bill provides for the imposition of a heavier penalty on an offender whose commission of a relevant offence is accompanied by hate crime against an individual based on said individual's asylum or refugee status, race, colour, religion, nationality, ethnicity, disability, sexual orientation, transgender identity, sex characteristics, age or perceived age and to provide for related matters.

1. Please provide information on any formal complaints, official investigations, and related jurisprudence arising from allegations of abuses and violence against persons with disabilities.
2. Please identify and describe any efforts undertaken to build capacity across stakeholders—including military and civilian, peacekeeping personnel, and other field workers—who intervene in emergency situations, including armed conflict, regarding the rights of persons with disabilities.
   1. How, if at all, are organizations of persons with disabilities (OPDs), involved in the process?

Ireland has as strong partnership with the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) – and initiatives over several years have focused on actions to promote the protection of people living with disabilities. As Chair of the OCHA Donor Support Group (2018-19), Ireland supported the strengthening of coordinated needs assessments and the Humanitarian Programme Cycle (HPC). The enhanced HPC has a strong people centred response that focuses on specific challenges faced by people with disabilities. More recently, Ireland has increased its core funding to OCHA to support the development and pilot of the Joint Inter-Sectoral Analysis. This allows for a greater understanding of how people experience need and importantly, how different people experience the same need. This is particularly relevant for people with disabilities and will contribute to a more appropriate humanitarian response.

As a member and Chair of the Central Emergency Response Fund (CERF) Advisory Group Ireland supported the Emergency Relief Coordinator / OCHA to implement the four ‘strategic steers’ that prioritised underfunded areas, including people living with disabilities. This ensured that all requests for funding from the CERF and the Country Based Pooled Funds considered the needs of people living with disabilities. Ireland is a strong supporter of both the CERF and the Country Based Pooled Funds.

Ireland requires all partners to consider protection of vulnerable groups as part of their humanitarian programming. Our grant management systems need evidence of how the needs and capacities of people living with disabilities have been considered in the design of the humanitarian programme.

Ireland is in the process of developing the next phase of its multi-year funding to NGO partners in acute and protracted humanitarian crises. A focus on reaching the furthest behind first, including the protection of people living with disabilities, will be central to the programme.

1. Please provide information on relevant legislation and policies related to:
   1. Whether persons with disabilities are excluded from serving in the armed forces on the basis of their disability.

Ireland accepts the provisions of Article 27 of the UNCRPD on Work and Employment. However, Ireland has entered a reservation that this acceptance is subject to the understanding that none of its obligations relating to equal treatment in employment and occupation shall apply to the admission into or service in any of the Defence Forces, An Garda Síochána (the Irish police force), the Prison Service, the Fire Brigade, the Irish Coastguard, and the Ambulance Service.

Physical and medical standards for entry to the Permanent Defence Force are based on the professional advice of the Medical Corps and have regard to the challenging nature of the job, the duties of military service and the training exercises undertaken by members of the Permanent Defence Force, within the context of the operational needs and demands of the Defence Forces.

Section 2(3)(a) of the Employment Equality Acts 1998[[4]](#footnote-4) to 2015[[5]](#footnote-5) provide for the application of the Acts to persons holding office as members of the Defence Forces. However, the unique requirements for employment in the Defence Forces are recognised in Section 37 (6)[[6]](#footnote-6) of the 1998 Act, which provides that matters relating to discrimination on the basis of age or disability do not apply to employment in the Defence Forces.

Furthermore, the unique physical requirements required of members of armed forces are also recognised at European Union level. Article 3(4) of Council Directive 2000/78/EC, the EU Framework Employment Directive, allows for Members States to provide that the Directive does not apply to armed forces insofar as it relates to discrimination on the grounds of age or disability.

* 1. The existence of policies or programs that allow persons serving in the armed forces to continue serving in cases where they acquire a disability.

Ireland is committed to providing workplace rehabilitation that supports and enables injured or sick employees to remain at, or return to the workplace. The Health Service Executive (HSE) Rehabilitation of employees back to work after illness or injury - Policy and Procedure gives a commitment to all sick/injured employees and provides guidelines to managers, employees, occupational health departments, rehabilitation professionals, human resources departments and employee assistance services, on conducting workplace rehabilitation that assists employees affected by both work and non-work related injuries/illnesses to recover and perform duties for which they are employed. [[7]](#footnote-7)

* 1. What supports are available to assist persons experiencing psycho-social trauma as a consequence of armed conflict (civilian, current military, or former military).

*The following information relates to current military only, unless otherwise stated.*

A range of both medical and non-medical services are provided to serving members of the Defence Forces who may experience traumatic events in the line of duty. All efforts are made to ensure that any serving personnel who experience traumatic events avail of access to all available supports whilst in service. These services include:

• Access to Critical Incident Stress Management in the event of a traumatic incident;

• A network of Personnel Support Service Officers and occupational social workers at formation, unit and barrack level, which also provides some limited support to veterans;

• A 24-hour confidential Counselling, referral and support helpline;

• Primary medical care from a dedicated team of Defence Forces Medical Officers and contracted civilian General Practitioners, whose role it is to assess, diagnose, treat and refer individuals for psychiatric and psychological assessment, as appropriate;

• Clinical psychiatric and psychological treatment, as necessary; and

• For those personnel deploying overseas, a rigorous programme of training which includes briefing by qualified Personnel Support Service staff on critical incidents and their effects, stress management and wellness.

* 1. The existence of differential obligations or services granted to veterans with disabilities on the one hand and civilians with disabilities on the other.

Veterans have access to the same range of supports available to all citizens of the State.

# B. Questionnaire for military authorities

* + - 1. How have ‘protection’ issues, as they relate to civilians with disabilities, been reflected in military doctrine, operational planning, and/or military training?

In the Defence Forces Syllabus of Training for the International Peace Support Operations (PSOs) Course TS UN 02/2015, Table 5 examines Cross Cutting Human Rights Issues including the Rights of People with Disabilities.

Specifically, the course refers to the following doctrines (Table 5, Training References, (a), Para 8, J; Para 9, i):

• Convention on the Rights of Persons with Disabilities (2006)

• Optional Protocol to the Convention of the Rights of Persons with Disabilities (2006)

The learning outcomes from this course are that the participants will be able for the following tasks:

a. Recognise and perform functions associated with the different roles in PSO.

b. Identify the risks and threats to human safety in PSO.

c. Apply the skills to function effectively and safely in PSO by optimising on the learning associated with cross cutting skills.

d. Demonstrate an ability to interact with key stakeholders in the mission area.

e. Plan and organise the sharing of knowledge and expertise.

f. Resolve protection of civilians (POC) problems and issues that may occur in a PSO Environment.

g. Respond effectively to the challenges and demands of PSO.

h. Advocate Human Rights, International Humanitarian Law and Cultural Intelligence.

j. Advocate the comprehensive approach to PSO, with respect for the humanitarian principles.”

Furthermore, in the Defence Forces Syllabus of Training for the International Human Rights in PSO – Train the Trainers Course, TS UN 03/2016, prepared by the United Nations Training School Ireland, CRPD is also included in Table 3 of the course, under the sub-section Cross Cutting Human Rights Issues.

The learning objectives of this course are similar to those mentioned above namely:

“On successful completion of the International Human Rights in PSO Train the Trainers Course, students will be able to:

a. Plan and deliver Human Rights training.

b. Explain the integrated mission concept.

c. Explain the Human Rights Legal Framework.

d. Recognise Human Rights violations.

e. Analyse conflict trends relevant to Human Rights challenges.

f. Describe the range of threats facing vulnerable populations in PSO’s.

g. Demonstrate the capability of employing their knowledge of key Human Rights concepts on PSO’s.

h. Understand their operational responsibilities in relation to Human Rights in PSO’s.”

* + - 1. Please identify measures taken to ensure the inclusion of persons with disabilities within the framework for ‘protecting civilians’ from violence and abuse in the context of armed conflict.
  1. Do military manual(s) or policies refer to, or recognize, State obligations to ensure specific protection of persons with disabilities in armed conflict?
  2. Do rules of engagement (ROEs) and standard operating procedures (SOPs) for military and security forces consider persons with disabilities?
     1. What process of review exists to determine whether the ROEs and SOPs address human rights and specifically the rights of persons with disabilities?
  3. Do trainings on international humanitarian law (IHL) for military and security forces include a module on disability or otherwise address the protection of civilians with disabilities in the context of armed conflict?
     + 1. Does the military engage with civil society organizations representing persons with disabilities (including organizations of veterans with disabilities), for example in discussions regarding the ‘protection’ of persons with disabilities during or after armed conflict?

1. Who initiated the engagement?
2. What was the motivation, purpose, and outcome of these engagements?
3. Was Article 11 of the CRPD and/or UN Security Council Resolution 2475 (2019) discussed in these engagements?

The UN Training School maintain relationships with several NGOs, including Plan, Concern and Christian Aid who have assisted in the delivery of Protection of Civilians Training. These NGOs have specialised commitments and interests in supporting persons with disabilities and promoting their rights.

The engagements were initiated by the serving School Commandant in the UN School. The nature of the engagements with these NGOs was for the provision of training in Protection of Civilians.

1. <https://assets.gov.ie/18901/26182a87ecf84ddd8d60c215c0ce2520.pdf> [↑](#footnote-ref-1)
2. [gov.ie - Programme for Government: Our Shared Future (www.gov.ie)](https://www.gov.ie/en/publication/7e05d-programme-for-government-our-shared-future/) [↑](#footnote-ref-2)
3. <https://data.oireachtas.ie/ie/oireachtas/bill/2020/52/eng/initiated/b5220s.pdf> [↑](#footnote-ref-3)
4. [Employment Equality Act, 1998, Section 2 (irishstatutebook.ie)](http://www.irishstatutebook.ie/eli/1998/act/21/section/2/enacted/en/html#sec2) [↑](#footnote-ref-4)
5. [Equality (Miscellaneous Provisions) Act 2015, Section 3 (irishstatutebook.ie)](http://www.irishstatutebook.ie/eli/2015/act/43/section/3/enacted/en/html#sec3) [↑](#footnote-ref-5)
6. [Employment Equality Act, 1998, Section 37 (irishstatutebook.ie)](http://www.irishstatutebook.ie/eli/1998/act/21/section/37/enacted/en/html#sec37) [↑](#footnote-ref-6)
7. <https://www.hse.ie/eng/staff/resources/hrppg/rehabilitation-policy.pdf> [↑](#footnote-ref-7)