



Croce Rossa Italiana

International Law and the Protection of Persons with Disabilities in Armed Conflicts

Guidelines

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Introduction

According to data published by the World Health Organization (WHO), approximately 16 per cent of the world's population - around 1.3 billion people - consists of persons with disabilities¹. Their vulnerabilities are further exacerbated in situations of armed conflict, where their specific needs and rights are frequently overlooked by the parties to the conflict. Moreover, armed conflicts themselves contribute to a significant increase in the number of persons with disabilities. Ukraine provides a striking example: according to United Nations data, between February 2022 and September 2023 the number of persons with disabilities rose from approximately 300,000 to nearly 3 million².

This document examines how International Humanitarian Law (IHL) regulates this issue (Section 1), drawing also on a systemic interpretation informed by International Human Rights Law (IHRL) (Section 2), with particular reference to the 2006 Convention on the Rights of Persons with Disabilities (CRPD), which is binding upon Italy. Article 11 of the Convention requires States Parties to adopt measures to ensure the protection of persons with disabilities in situations of risk, including armed conflicts.

Accordingly, these Guidelines provide interpretative guidance on selected rules of IHL aimed at strengthening the protection of persons with disabilities, with a view to supporting the implementation of the obligation to respect and protect persons with disabilities in military operational and planning contexts. Particular attention is devoted to the conduct of hostilities and precautionary measures against the effects of attacks (Section 3.1), deprivation of liberty in connection with armed conflict (Section

3.2), the provision of medical and humanitarian assistance (Section 3.3), situations of military occupation (Section 3.4), and the protection of persons with disabilities in relation to the use of certain means of warfare (Section 3.5).

These Guidelines are the result of a joint initiative undertaken by the Italian Defence General Staff³ and the Italian Red Cross, building upon research conducted by the Roma Tre International Humanitarian Law Legal Clinic⁴ while also drawing on the expertise of the Department for Policies in favour of Persons with Disabilities.

This initiative forms part of the pledge submitted jointly by Italy and the Italian Red Cross at the 34th International Conference of the Red Cross and Red Crescent, dedicated to strengthening the protection and inclusion of persons with disabilities in situations of risk, including armed conflicts⁵.

¹ WHO, Disability, [link](#).

² UNSC, Protection of civilians in armed conflict: Report of the Secretary-General, S/2024/385, 14/05/2024, [link](#).

³ Legal Affairs General Office - Study and Development of International Law Office.

⁴ These Guidelines were developed with the contribution of: Giulio Bartolini (Full Professor of International Law, Roma Tre University; Chair of the

Scientific Committee, IHL Section, Italian Red Cross); Tommaso Natoli (Head of Humanitarian Diplomacy and International Law, Italian Red Cross); Giulia Marcucci (Humanitarian Diplomacy Officer, Italian Red Cross); and Gaia Cianciolo (Intern, Italian Red Cross).

⁵ "Enhance the protection and inclusion of persons with disabilities during situations of risks, including situations of armed conflicts and disasters", 2024, [link](#).

1. The protection of persons with disabilities under international humanitarian law

General remarks

IHL, whether treaty-based or customary, does not define “disability” or “persons with disabilities”. This terminology emerged more prominently in international legal discourse after the adoption of the CRPD in 2006⁶.

The absence of a specific definition does not, however, correspond to a lack of protection for this category of persons in the context of armed conflict, since the concept of disability may be encompassed - albeit in a partially imperfect manner, given the distinct characteristics of the notion of persons with disabilities - within broader categories of persons protected under IHL, including those of the “wounded” and the “sick”. Under Article 8(a) of Additional Protocol I (AP I), these terms refer to persons, whether military or civilian, who, as a result of trauma, disease, or other physical or mental impairment or infirmity, are in need of medical care and who refrain from any act of hostility. This therefore includes both persons whose medical needs are caused by the conflict and persons whose needs are pre-existing but whose access to the healthcare services required to address them is disrupted by the conflict.

The protection of persons with disabilities under IHL therefore operates, in the first instance, through the concepts of the “wounded” and the “sick”⁷, thereby affording them the corresponding protections. However, it must be borne in mind that this categorisation - based on a conception of an individual’s “infirmity” and corresponding need for “medical care” - does not necessarily fit well with the diverse forms of disability, which do not always require medical assistance. Moreover, it is grounded in a perception of persons with disabilities as passive and vulnerable subjects in need of assistance, whereby the logic of specific protection focuses on their condition rather

than on the barriers and risks they face in their environment.

In the absence of a treaty-based definition under international humanitarian law (IHL), useful guidance may be found in Article 1 of the Convention on the Rights of Persons with Disabilities (CRPD). Authoritative clarification of the notion of persons with disabilities within the framework of IHL has recently been provided by the International Committee of the Red Cross (ICRC) in its updated Commentaries to the Geneva Conventions. According to the Commentaries, the notion of persons with disabilities “includes persons with a long-term physical, psychosocial, intellectual or sensory impairment which, in interaction with various barriers—whether physical, communicative, attitudinal or institutional—exposes them to specific risks arising from military operations, including discrimination, and prevents them from accessing the protections afforded under international humanitarian law. The barriers and risks faced by persons with disabilities, including discrimination, may also be exacerbated or aggravated by intersecting factors, including age, sex and health status.”⁸ Recognising the evolving understanding of disability reflected in Article 1 of the CRPD, these Guidelines use the term persons with disabilities consistently with the terminology adopted by the ICRC in its Commentaries.

With respect to persons with disabilities, IHL requires parties to the conflict to afford them general and specific protection. As identified by the ICRC in its study on customary IHL (Rule 138), persons with disabilities, together with the sick and the elderly, are entitled to “special respect and protection”, thereby indicating the need for parties to the conflict both to refrain from harmful conduct against them and to take positive measures to ensure their protection. This establishes a general principle that must be operationalised across the various activities of armed forces, as

⁶ CRPD, [link](#).

⁷ For obvious reasons, the category of “shipwrecked persons”, mentioned in IHL provisions alongside that of

the “wounded” and the “sick”, will not be addressed in this document.

⁸ ICRC Commentary (2025), Fourth Geneva Convention, Article 16, para. 1706, [link](#).

further detailed through the measures set out in Section 3.

The protection afforded to persons with disabilities during armed conflict must also take into account that the risks arising from hostilities may be further compounded by other factors, such as gender (e.g. women), age (e.g. children and older persons), or legal status (e.g. internally displaced persons and refugees). Where these factors intersect with disability, they may create additional barriers and increase vulnerability, thereby requiring particular attention in the implementation of protective measures. Although IHL provides specific protection for persons belonging to these groups, the intersection of disability-related barriers with other forms of vulnerability may require additional considerations to ensure that the protection afforded is effective. These Guidelines therefore encourage particular attention to such intersecting factors in the application of the measures they identify.

International humanitarian law rules protecting the wounded and sick

IHL prohibits any adverse distinction in the treatment of wounded and sick persons⁹. The principle of non-discrimination requires that all wounded and sick persons, including those belonging to the adverse party, be treated without adverse distinction on the basis of sex, race¹⁰, nationality, religion, political opinions, or “other similar criteria”, among which the condition of disability clearly falls.

⁹ On the principle of non-discrimination and the prohibition of adverse distinctions under IHL, see Articles 3, 12 GC I; Articles 3, 12 GC II; Articles 3, 13, 16 GC III; Articles 3, 13, 27 GC IV; Articles 9, 10, 75 AP I; Article 2, 7(2) AP II.

¹⁰ The use of the term “race”, which is now considered inappropriate and lacking scientific basis, is justified here by the need to remain consistent with the wording of the relevant legal sources.

¹¹ The principle of humane treatment is a fundamental rule of IHL, requiring that all persons involved in an armed conflict be treated humanely in all circumstances, without any adverse distinction. It is enshrined in Common Article 3 to the four Geneva Conventions and reaffirmed in Article 75 of Additional Protocol I, as well as in customary international

In this sense, only adverse treatment not based on medical considerations is prohibited, whereas differential treatment may be required to respond to the specific needs of a wounded or sick person (so-called “positive discrimination”), thereby legitimising and indeed encouraging special attention to persons with disabilities.

Wounded and sick persons must be treated humanely¹¹, and their inherent human dignity must always be respected. IHL establishes the obligation to “respect and protect” all wounded and sick persons, regardless of the party to which they belong¹². The obligation to “respect” refers to the negative duty of parties to the conflict to refrain from directing attacks or any other act or threat, or from engaging in conduct likely to cause harm to wounded and sick persons¹³, provided that they abstain from acts of hostility against the opposing party, in which case they lose protection. It also prohibits imposing any medical treatment without prior consent¹⁴.

The obligation to “protect” refers to the positive duty to take measures aimed at safeguarding wounded and sick persons from harm caused both by State agents and by private actors. This obligation also entails the duty to search for, collect, and evacuate wounded and sick persons without any adverse distinction¹⁵. Where parties lack the necessary capacity to fulfil this obligation, they must do everything within their power to facilitate operations aimed at providing humanitarian assistance. In this regard,

humanitarian law (Rule 87 of the ICRC Study), together establishing a minimum standard applicable in all situations of armed conflict.

¹² Articles 4, 12 GC I; Articles 5, 12(1) GC II; Article 16(1) GC IV; Article 10(1) AP I.

¹³ Among prohibited acts are included murder, torture, cruel or degrading treatment or punishment, rape, sexual slavery, forced pregnancy, forced prostitution, forced sterilisation, or any other form of sexual violence, reprisals, collective punishments, mutilation, or the use of wounded and sick persons to render certain points, areas or military forces immune from attack.

¹⁴ See e.g. ICRC Commentary (2020), Third Geneva Convention, Article 30, para. 2245, [link](#).

¹⁵ See e.g. ICRC Commentary (2020), Third Geneva Convention, Article 30, para. 2245, [link](#).

parties to the conflict may not arbitrarily refuse offers by neutral humanitarian organizations to carry out such activities¹⁶.

Finally, parties to the conflict must provide wounded and sick persons, to the fullest extent possible and as quickly as possible, with the medical care required by their condition, including any disability they may have, without making any adverse distinction not justified by medical reasons.

For the specific implementation of these measures by parties to the conflict, see paragraph 3.

2. The protection of persons with disabilities and international human rights law

The applicability of international human rights law in armed conflicts

As already noted, IHL, in itself, does not provide a specific categorisation, nor corresponding distinct protections, for persons with disabilities. Consequently, it does not offer sufficient tools to properly address all the specific challenges faced by persons with disabilities in situations of armed conflict. These elements may instead be taken into account through international human rights law (IHRL), which allows for a more inclusive interpretation of certain IHL rules with respect to the protection of persons with disabilities in armed conflict. In order to fill certain protection gaps, it is therefore useful to refer to IHRL. As recognised by the International Court of Justice, IHRL remains applicable in situations of armed conflict on the basis of a principle of complementarity and mutual reinforcement with IHL¹⁷, thereby allowing for an interpretation of IHL rules informed by relevant human rights standards, or for human rights norms to fill gaps not addressed by IHL.

Where a conflict arises between the two regimes, it is resolved through the principle of *lex specialis*, whereby the more specific

norm applicable to the specific situation prevails over the conflicting one. Within IHRL, specific instruments and initiatives have been developed to facilitate the protection of persons with disabilities in armed conflicts.

The United Nations Convention on the Rights of Persons with Disabilities (CRPD)

The United Nations Convention on the Rights of Persons with Disabilities (CRPD) and its Optional Protocol, adopted on 13 December 2006, constitute the primary international legal framework on this issue. Their adoption, aimed at “promoting, protecting and ensuring the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and promoting respect for their inherent dignity” (Article 1 CRPD), has progressively brought about a substantial shift in the way persons with disabilities are perceived and treated. This has led to the overcoming of their perception as passive recipients of charity, medical assistance, or social protection, and to the recognition of their status as rights-holders.

This does not mean that the Convention creates new human rights for persons with disabilities; rather, it adapts existing rights to the context of disability and establishes specific obligations for States Parties to ensure that domestic legal systems comply with the human rights of persons with disabilities.

Finally, it is noteworthy that the Convention does not include a definition of disability, due to the evolving nature of the concept. Instead, it provides interpretative elements, including the “social” model of disability, according to which disability arises from the interaction between persons with disabilities and attitudinal and environmental barriers that hinder their full and effective participation in society on an equal basis with others¹⁸.

¹⁶ Articles 23, 59 GC IV; Articles 69, 70, 71 AP I; Article 18(2) AP II; Rule 55, ICRC Study on Customary IHL.

¹⁷ International Court of Justice, *Legal Consequences of the Construction of a Wall in the Occupied*

Palestinian Territory, Advisory Opinion, 9 February 2004, para. 106, [link](#).

¹⁸ Letter (e) of the Preamble, Article 1, CRPD.

The central role of Article 11 CRPD in situations of armed conflict

The key provision of the CRPD applicable to persons with disabilities in armed conflict is Article 11. It provides that “States Parties shall 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.”

Article 11 follows the recognition in the preamble of the CRPD that respect for applicable human rights instruments is essential for the full protection of persons with disabilities, particularly during armed conflict and foreign occupation. It is one of the few provisions in a universal human rights treaty that explicitly addresses situations of armed conflict¹⁹.

Although Article 11 does not specify the concrete measures to be adopted in such contexts, it provides an explicit legal basis for implementing the complementarity between relevant branches of international law, including IHL and IHRL. This means that, through Article 11, IHL provisions applicable to persons with disabilities - traditionally grounded in a medical model and offering only partial consideration of disability - may be interpreted in light of human rights principles and the CRPD, as further detailed in Section 3.

Furthermore, the obligations under Article 11 must be interpreted in light of the general framework of the Convention, which includes general principles (Article 3) aimed at ensuring respect for inherent dignity, individual autonomy and independence, full and effective participation and inclusion in society. The Convention also includes general obligations (Article 4), whereby

States Parties commit to adopting all appropriate legislative, administrative and other measures to implement the rights recognised in the Convention, to mainstream the protection and promotion of human rights of persons with disabilities in all policies and programmes, to promote training of professionals, and to closely consult and actively involve persons with disabilities through their representative organisations.

Alongside these general principles and obligations, the CRPD sets out a range of specific measures relevant to particular areas of protection, which are also pertinent in armed conflict situations, including accessibility (Article 9), liberty and security of the person (Article 14), freedom from torture or cruel, inhuman or degrading treatment or punishment (Article 15), personal mobility (Article 20), health (Article 25), habilitation and rehabilitation (Article 26), as well as obligations relating to data collection and statistics (Article 31).

The CRPD also establishes a Committee on the Rights of Persons with Disabilities, composed of independent experts, tasked with monitoring implementation of the Convention through concluding observations on periodic State reports, as well as statements on alleged violations in individual cases. To facilitate interpretation of the Convention, the Committee may also adopt general comments. In this regard, the Committee has been working on an interpretative document concerning Article 11²⁰. It may also receive individual communications under the Optional Protocol, some of which have concerned the application of the CRPD in armed conflict contexts.

Through these monitoring mechanisms, the Committee has also addressed the protection of persons with disabilities in armed conflict, highlighting both positive measures and protection gaps, and issuing

¹⁹ The only other example is provided by the Convention on the Rights of the Child (Articles 38 and 39) and its Optional Protocol on the involvement of children in armed conflict. It is also noteworthy that the

CRPD, unlike other universal human rights treaties, does not contain a derogation clause.

²⁰ For draft General Comments concerning Article 11 CRPD, see [here](#).

recommendations that inform the interpretation of the CRPD and its Article 11.

Other United Nations initiatives on the rights of persons with disabilities

Beyond the CRPD, other relevant international initiatives include the establishment of the UN Special Rapporteur on the rights of persons with disabilities in 2014, the adoption of UN Security Council Resolution 2475 (2019), and the adoption of the Solfagnano Charter (2024).

The UN Special Rapporteur on the rights of persons with disabilities²¹, an independent expert operating within the UN Human Rights Council, plays a key role in advancing protection, inclusion, and recognition of persons with disabilities within the broader framework of IHL and IHRL. A significant aspect of the mandate involves monitoring and responding to violations of the rights of persons with disabilities in conflict zones through urgent appeals, communications with States regarding alleged violations, and thematic reports analysing obligations under IHL and IHRL²².

UN Security Council Resolution 2475 (2019)²³, the first resolution of its kind, marked an important step forward in the protection of persons with disabilities in armed conflict. It emphasises the obligations of parties to armed conflict and Member States under IHL and IHRL, including the Geneva Conventions, the Additional Protocols, and the CRPD, with particular reference to Article 11. The resolution calls for measures to prevent violence against persons with disabilities, facilitate humanitarian access, and ensure inclusive rehabilitation and reintegration, including psychosocial support. It also recognises persons with disabilities not only as victims but also as active agents, highlighting the importance of their consultation and active participation through representative organisations.

International attention to the protection of persons with disabilities in armed conflict has also been reinforced by the adoption of the “Solfagnano Charter”, issued at the first G7 dedicated to Inclusion and Disability by the competent G7 Ministers, setting out eight priorities to promote the “right of all persons to full and effective participation and inclusion in civil, social, economic, cultural and political life in our countries”, including, under Priority 8, in relation to armed conflict²⁴.

3. Specific aspects of the protection of persons with disabilities in armed conflict

3.1 The application of the rules of international humanitarian law governing the conduct of hostilities to person with disabilities

Persons with disabilities who qualify as civilians or persons hors de combat are fully protected under the core principles governing the conduct of hostilities: distinction, proportionality, and precautions.

However, these rules must be interpreted and applied in a manner that takes into account the specific characteristics and needs of persons with disabilities.

The applicability of the principle of distinction to persons with disabilities

When considering the principle of distinction²⁵, determining who and what constitutes a lawful target requires parties to the conflict to direct attacks exclusively against combatants and military objectives, refraining from targeting civilians and other protected persons and objects. Disability must be an integral part of this assessment, as the patterns of life of persons with disabilities may differ from those of “typical” civilians, and failure to take this into account may lead to their erroneous classification as lawful targets.

²¹ <https://www.ohchr.org/en/special-procedures/sr-disability>.

²² <https://www.ohchr.org/en/documents/thematic-reports/a76146-report-rights-persons-disabilities-context-armed-conflict>.

²³ <https://docs.un.org/en/s/res/2475%282019%29>.

²⁴ <https://www.disabilita.governo.it/media/wztmr4a1/g7-inclusion-and-disability-solfagnano-charter-ita.pdf>.

²⁵ Article 48 AP I; Rules 1 and 7, ICRC Study on Customary International Humanitarian Law.

Movements or gestures related to a disability itself, as well as the use of certain assistive devices, may be perceived as hostile acts or preparatory actions for an attack, thereby placing persons with disabilities at risk of being subject to direct attacks. For example, where a military patrol deployed in a conflict setting orders certain behaviours from persons with psychosocial or sensory disabilities, these individuals may not be able to understand or respond promptly and appropriately to commands, acting in a manner that could be perceived as “hostile intent.” A similar situation may arise for persons with non-visible disabilities, particularly intellectual or psychosocial disabilities or neurodevelopmental conditions such as autism. When present in an area affected by hostilities, they may not fully understand the situation, may experience distress or panic, or may react in ways that appear confrontational or aggressive. Such behaviour could be mistakenly interpreted as indicating hostile intent, thereby exposing them to heightened risks during military operations.

Similarly, a person with a disability located near military operations who uses assistive devices (e.g. mobility aids or wheelchairs) may risk having these mistakenly identified as military equipment or logistical support tools. To avoid such erroneous assumptions, training scenarios could incorporate these situations, including through cooperation with organisations representing persons with disabilities.

The implications of the principle of proportionality for persons with disabilities

Under the principle of proportionality in IHL, attacks that may cause harm to civilians and/or civilian objects are prohibited if such harm would be excessive in relation to the concrete and direct military advantage anticipated²⁶. A disability-sensitive approach to the implementation of this principle entails paying particular attention to the presence of

facilities relevant to persons with disabilities, where known, such as hospitals, rehabilitation centres, and psychiatric care facilities, through their possible prior identification as part of the targeting process.

The assessment of collateral damage should also include so-called “reverberating effects”, namely indirect or long-term effects of an attack, insofar as they are reasonably foreseeable. For example, particularly in urban settings, damage to critical civilian infrastructure such as essential electricity systems may lead to the disruption or reduction of essential services for civilians, with especially severe consequences for persons with disabilities, given their reliance on healthcare and sanitation services dependent on such infrastructure, including the functioning of medical devices such as dialysis machines or ventilators, which are essential for the performance of daily activities by persons with disabilities.

While the reasonably foreseeable impact of an attack varies depending on the circumstances, certain patterns of civilian harm may be anticipated at least in part through the analysis of the effects of previous attacks, a better understanding of the interdependence between critical infrastructure and essential services, and, where possible, the collection of disaggregated data on civilian casualties (by sex, age, and disability).

Precautionary measures by the attacking party to protect persons with disabilities

The principle of precaution imposes on the parties to the conflict the obligation to exercise constant care in protecting the civilian population, mitigating risks and preventing harm inflicted upon them, in all military operations²⁷. The parties must take “all feasible precautions” during attacks in order to avoid, or at least minimise, civilian

²⁶ Article 51(5)(b) of Additional Protocol I; Rule 14, ICRC Study on Customary International Humanitarian Law.

²⁷ See in this regard the ICRC Commentary (1987), Additional Protocol I, Article 57, para. 2191, according

to which the term “military operations” includes “any movements, manoeuvres and other activities of any kind carried out by the armed forces for the purpose of combat” or “related to hostilities”.

harm (active precautions)²⁸ and must protect civilians under their control from the effects of attacks (passive precautions)²⁹. An interpretation of the principle that is sensitive to disability in its intrinsic heterogeneity is possible and can be applied in various ways. For example, in troop movements aimed at attacking military objectives in a city or village, there is a high risk that persons with sensory disabilities, such as deaf persons, may not be able to perceive the approach or presence of military personnel, and may thus be mistakenly associated with the opposing party due to their presence in the area of operations and their behaviour.

Another important “active” precautionary measure to be considered from the perspective of protecting civilians with disabilities is the advance warning that parties to the conflict must give before an attack that may affect the civilian population, unless circumstances do not permit it. For this to be truly effective, the warning must be understandable to the greatest possible number of civilians, giving them time to move away, take shelter, or adopt other measures to protect themselves. It follows that, where possible, such warning must be accessible in a variety of formats (use of sign language interpreters – LIS/LIS tactile; use of Augmentative and Alternative Communication (AAC) and “Easy to Read” language, also involving specialised professionals), in addition to the usual channels through which such warnings are issued, and that the content must be clear and easy to understand. The timing of communication and the time provided before military action are also crucial aspects, as civilians with disabilities may commonly need more time to react and take shelter.

Moreover, the fact of having provided a warning does not exempt the attacking party from its obligations under IHL, and there can be no presumption that persons who have not left the indicated area are automatically to be regarded as hostile, a point particularly relevant for persons with disabilities who may

sometimes be unable to leave their location or may find it more difficult to do so due to their disabilities.

The choice of means and methods of warfare can also play a role in avoiding, or at least minimising, incidental harm to civilians, including persons with disabilities. Consideration of the timing of attacks, in order to choose a moment when fewer civilians are present, is relevant in this regard, since civilians with disabilities may face specific difficulties in fleeing the vicinity of military objectives to reach safer locations. In the choice of timing, account must also be taken of the specific behaviour of persons with disabilities, which may differ from normally predictable behavioural patterns. For example, daytime attacks in residential areas carried out on the assumption that people are at work or at school risk ignoring the reality that persons with disabilities are more likely, on the contrary, to be in their homes.

Precautionary measures of the attacked party to protect persons with disabilities

With regard to the “passive” precautions that must be adopted by the attacked party, among the most relevant examples are the construction of shelters. In providing them, the parties to the conflict must take steps, as far as possible, to make them accessible to persons with various types of disabilities, for example by facilitating access for persons unable to move independently and ensuring appropriate spaces and safeguards for persons with disabilities during the period of stay, or by communicating the location of shelters in simplified language or through illustrations. The implementation of these passive precautionary measures should be carried out in consultation with organizations representing persons with disabilities (OPDs), as appropriate.

Among the “passive” precautionary measures to be adopted by the attacked party are also evacuations. Evacuations are measures aimed at removing persons

²⁸ Article 57 of Additional Protocol I; Rules 15-21, ICRC Study on customary international humanitarian law.

²⁹ Article 58 of Additional Protocol I; Rules 22-24, ICRC Study on customary international humanitarian law.

protected by IHL from a given area with the objective of protecting them from the effects of hostilities, either because they are exposed to risks arising from military operations or because they lack adequate access to food, water, and other essential goods and services.

This measure is provided for under Article 58 of Additional Protocol I and Rule 24 of the ICRC Study on customary international humanitarian law, also with reference to non-international armed conflicts within the framework of “passive” precautionary measures for the attacked party, where the Parties are required to endeavour to remove the civilian population under their control from the vicinity of military objectives. Furthermore, Article 17 of the Fourth Geneva Convention provides that the Parties to the conflict shall endeavour to conclude local agreements for the evacuation of particular groups of civilians, which may include persons with disabilities, from besieged or encircled areas. IHL does not prescribe the form of such agreements nor outline their content, leaving the Parties considerable discretion in this regard. However, the possibility of evacuating persons with disabilities must not be abused, in order to avoid the risk of violations of other rules of IHL, such as the prohibition of forcible transfers of the civilian population, for reasons other than their safety or imperative military reasons³⁰.

When such evacuations are lawful under IHL, all possible measures must be taken to ensure that evacuated persons, including those with disabilities, receive satisfactory conditions of accommodation, hygiene, health, safety and nutrition, and that members of the same family unit are not separated³¹. In this regard, the specific needs

of persons with disabilities must be taken into account in assessing what is considered satisfactory from their perspective, adopting further protective measures in evacuation contexts³².

Drawing on the requirements of the CRPD and the practice developed by its Committee in examining precautionary measures adopted by States involved in armed conflicts, and drawing inspiration from operational guidance developed by disaster management authorities for the planning and implementation of civil protection interventions for persons with disabilities³³, various measures may be appropriate in the event of evacuation. In particular, as far as possible, adequate support and protection should be ensured for persons with disabilities during this phase, so as to facilitate accessibility to means and routes used for evacuation and the provision of special transport, the maintenance of aids and specific supports used, and the presence of caregivers. Information on evacuations should be provided in an accessible manner using a variety of redundant formats³⁴, including identifying nearby individuals who can support people with disabilities in implementing the most appropriate behaviours in the event of an alarm or evacuation. The involvement of representative associations of persons with disabilities and local authorities in carrying out and planning these activities adds value, as it facilitates the collection of direct information, statistics and data that may be useful in planning and implementing evacuation operations.

³⁰ Article 49 of the Fourth Geneva Convention; Article 17 of Additional Protocol II; Rule 129, ICRC Study on customary international humanitarian law.

³¹ Article 49(3) of the Fourth Geneva Convention; Article 17(1) of Additional Protocol II; Rule 131, ICRC Study on customary international humanitarian law.

³² Rule 131, ICRC Study on customary international humanitarian law.

³³ Department of Civil Protection, “Operational indications of the Head of the Department for the planning of civil protection interventions in favour of persons with specific needs”, 2025, [link](#).

³⁴ E.g. the use of sign language interpreters (LIS/LIS tactile); the use of Augmentative and Alternative Communication (AAC) and “Easy to Read” language, including recourse to specialised professionals, and digital text-based warnings.

3.2 Deprivation of liberty of persons with disabilities during armed conflicts

Humane treatment and conditions of detention of persons with disabilities

In armed conflict scenarios, the treatment of persons with disabilities subjected to deprivation of liberty – being for instance prisoners of war or civilians who are interned – depends on multiple factors: These include, for instance, the characteristics of the facilities (e.g. transit centres or long-term detention facilities), and the fact that the detention facility may not be properly organised to meet their specific needs or may not guarantee the necessary conditions to address them, as in cases of overcrowding. In such facilities, detainees with disabilities may experience a lack of adequate medical and rehabilitative care, the absence of assistive devices, and the inadequacy of detention premises in terms of accessibility.

Both IHL and IHRL recognise this high degree of vulnerability and provide several rules aimed at preventing inadequate conditions of detention. In particular, the protections provided under IHL for prisoners of war and civilian internees primarily concern the obligation to treat detainees humanely, as well as the obligation to ensure safe and hygienic conditions of detention and the provision of medical care. The CRPD complements many of these rules, contributing to an “evolutive” interpretation and application of them, that is, one that is more inclusive with respect to the specific needs of persons with disabilities.

IHL provides, first of all, protections and guarantees applicable to prisoners of war and civilian internees, irrespective of disability status. They must be treated humanely, without any adverse distinction³⁵, and any unlawful act or omission that causes

their death or seriously endangers their health is prohibited³⁶. This also aims to prevent ill-treatment of detained persons suffering from mental disabilities who are not cooperative with the detaining authorities. This basic principle is confirmed by the CRPD, which reiterates the need for non-discrimination for persons with disabilities³⁷, and therefore also in case of detention. It follows that, within detention facilities, the physical and psychological conditions of persons with disabilities must be given particular consideration, since the treatment commonly provided to internees may amount to a violation of these basic principles if applied to persons with disabilities, constituting discrimination against them and a failure to meet the requirement of humane treatment.

With regard to internment facilities, IHL provides specific rules, stipulating that the detaining power must take “all necessary sanitary measures to ensure cleanliness and salubrious conditions in camps [of detention] and prevent epidemics”, including through the provision of toilets and/or showers³⁸. They must also be provided with sufficient water and food to maintain good health³⁹, as well as open spaces and facilities to ensure the possibility of physical exercise and engagement in recreational and educational activities⁴⁰.

These elements are reinforced by CRPD provisions concerning the right to personal mobility and to an adequate standard of living⁴¹, and accessibility to the physical environment, information, communications and services⁴². The CRPD places specific emphasis on the protection to be afforded in cases of deprivation of liberty for any reason, a matter further elaborated by the Committee on the Rights of Persons with Disabilities regarding the measures expected in such contexts⁴³. According to the

³⁵ Common Article 3 of the First, Second, Third and Fourth Geneva Conventions; Article 75 of Additional Protocol I; Article 4 of Additional Protocol II.

³⁶ Article 13 of the Third Geneva Convention.

³⁷ Article 5 CRPD.

³⁸ Article 29 III CG.

³⁹ Article 26 of the Third Geneva Convention; Chapter III of the Fourth Geneva Convention.

⁴⁰ Article 38 III CG.

⁴¹ Articles 14, 20, 28 CRPD.

⁴² Article 8 CRPD.

⁴³ Committee on the Rights of Persons with Disabilities, “Guidelines on Article 14 of the Convention on the

Committee, in cases of deprivation of liberty, States must take the necessary measures to ensure that detainees with disabilities are able to live independently and participate fully in life and activities within detention centres. It is necessary to ensure equal access to various areas and services, including sanitary facilities, common spaces, and libraries, also through the provision of structural adaptations and facilities such as ramps, handrails, corridors, and wide doors to allow persons with physical disabilities to move independently.

These measures can therefore guide the courses of action to be taken also in armed conflict contexts, especially in relation to internment centres intended for the long-term stay of prisoners of war and civilian internees. Similarly, persons with disabilities who are deprived of their liberty must retain access to the assistive devices on which they rely, such as wheelchairs, prosthetic devices, eyeglasses and guide dogs. To the greatest extent feasible, the maintenance, repair and replacement of such devices should also be ensured. These principles may therefore serve as guidance for the measures to be adopted in situations of armed conflict, particularly in relation to long-term internment facilities for prisoners of war and civilian internees.

Within the general framework of the obligation for the detaining Party to provide free medical assistance to all prisoners of war and civilian internees, to the extent required by their state of health⁴⁴, IHL requires that medical examinations be carried out "at least once a month" in order to assess "the general state of health, nutrition and hygiene of detainees and to detect any contagious diseases"⁴⁵. More specifically, Article 30 of the Third Geneva Convention is relevant, which requires the detaining Party to give due consideration to the special needs of detainees "whose condition requires special care", providing that "special facilities shall

be provided for the care to be given to the disabled, in particular the blind, and for their rehabilitation, pending repatriation".

Article 25 of the CRPD on the right to health identifies a number of measures that are particularly relevant to ensuring the enjoyment of this right by persons with disabilities. In the context of armed conflict, these provisions suggest the need to ensure that prisoner-of-war camps and places of internment have access to healthcare professionals with expertise in disability, either through dedicated medical personnel or, where necessary, through referral to external healthcare facilities. This is particularly important for persons with intellectual or psychosocial disabilities, whose conditions may be adversely affected by the consequences of armed conflict and the stress associated with detention.

Particular attention should also be given to Article 26 of the CRPD on habilitation and rehabilitation. Consistent with the principle of non-discrimination, habilitation and rehabilitation services should be made equally accessible to all prisoners of war and civilian internees with disabilities, irrespective of the nature of their disability⁴⁶.

Isolation on the basis of disability

Although both Article 30 of the Third Geneva Convention (III GC) and Article 91 of the Fourth Geneva Convention (IV GC) provide for the establishment of "isolation wards" reserved for cases of "mental illness", these provisions do not define what is meant by isolation due to a mental health condition or psychosocial disability, nor do they clarify the justification for such isolation.

Isolation based solely on the perception that persons with psychosocial disabilities pose a danger to other detainees would constitute an adverse distinction and would therefore be prohibited under the Geneva Conventions and the CRPD (Arts. 5 and 14).

Rights of Persons with Disabilities. The right to liberty and security of persons with disabilities", 2015.

⁴⁴ Article 15 of the Third Geneva Convention; Art. 81 of the Fourth Geneva Convention.

⁴⁵ Article 31 III CG.

⁴⁶ Article 5 and 9 CRPD.

These provisions may therefore be interpreted as allowing persons with psychosocial disabilities to benefit from separate accommodation only as a form of reasonable and appropriate accommodation, rather than discriminatory isolation. In fact, the serious consequences that isolation - when it amounts to confinement in a solitary cell - can have for such persons must be emphasised⁴⁷.

Alternatives to detention for persons with disabilities

IHL (GC III and GC IV) provides for various alternatives to detention for "wounded or sick" persons, such as release, repatriation, return to their place of residence, or admission to a neutral country for humanitarian reasons. In this context, although the relevant IHL provisions explicitly refer to wounded and sick persons "whose intellectual or physical fitness appears to have been considerably and permanently diminished" as a result of hostilities, IHRL may be useful in interpreting these provisions so as to include within their scope persons with disabilities not resulting from the conflict.

More specifically, the Third Geneva Convention (Arts. 109-110) provides for both the direct repatriation of prisoners of war who are "incurably" or "seriously" wounded or sick, and the transfer of wounded and sick prisoners of war - whose recovery may be expected within one year from the date of injury or onset of illness - to a neutral country, where prospects for rapid recovery are greater, or where the prisoner's mental or physical health is seriously threatened by continued captivity.

In any case, no wounded or sick prisoner of war entitled to repatriation may be repatriated against their will during hostilities.

⁴⁷ This may therefore require the detaining power to consider additional measures, such as psychotherapy, visits and treatment by mental health specialists, or transfer and treatment in external specialised facilities, as well as the possibility of including these persons among those repatriated to their own State or transferred to a neutral country (ICRC Commentary 2025, Fourth Geneva Convention, Art. 91, para. 4666).

A model agreement annexed to the Third Geneva Convention provides a non-exhaustive list of examples of medical conditions that may justify direct repatriation or admission to a neutral country, while also allowing the Parties to conclude further agreements defining categories of detainees and procedures for repatriation or admission to a neutral country⁴⁸. The Fourth Geneva Convention (Art. 132) provides that Parties to an international armed conflict may conclude special agreements for the repatriation, return to place of residence, or admission to a neutral country, on humanitarian grounds, of certain groups of civilian internees, including wounded and sick internees who have been detained for a prolonged period.

With regard to the grounds for repatriation and admission to a neutral country under GC III and GC IV for prisoners of war and civilian internees, these may be interpreted in light of the prohibition of torture and cruel, inhuman or degrading treatment under Article 15 CRPD, as well as the principle of equality and non-discrimination under Article 5 CRPD, in cases where detention conditions fail to ensure adequate protection for persons with disabilities. This would broaden the scope of such grounds so that they are not limited to assessing the severity of impairment and instead apply whenever basic humane conditions of detention - particularly access to healthcare and rehabilitation, as well as mental health care and necessary psychosocial support - cannot be ensured by the detaining power. In this sense, repatriation or admission to a neutral country should be understood as a specific example of reasonable accommodation in accordance with the CRPD, and may constitute implementation of the general obligation under Article 11 CRPD to take all necessary measures to ensure the protection and safety of persons with disabilities in

⁴⁸ Third Geneva Convention, Annex I, Model Agreement concerning the direct repatriation and hospitalization in a neutral country of wounded and sick prisoners of war, I. Rules for direct repatriation or hospitalization in a neutral country A. Direct repatriation.

situations of risk, including armed conflict, through solutions informed by a contemporary interpretation of the relevant provisions of the Geneva Conventions⁴⁹.

3.3 Provision of health care and humanitarian assistance to persons with disabilities during armed conflicts

In armed conflict, all wounded and sick persons must receive the medical care and assistance they require to the fullest extent possible. Article 12, similarly included in the First and Second Geneva Conventions, provides that they shall receive priority attention when their health condition or the risk of losing access to the healthcare and rehabilitation services they require is more urgent than that of other persons. Along the same lines, Article 30(2) of the Third Geneva Convention provides that persons “whose condition requires special care” may benefit from specific health services, including mental health care or rehabilitation, and that such services may also be requested. Furthermore, Article 30(5) of the Third Geneva Convention and Article 91(5) of the Fourth Geneva Convention establish, respectively, that the costs of treatment of prisoners shall be borne by the detaining power and that care for internees shall be free of charge for them.

These rules may be read, in conjunction with the CRPD, so as to provide for measures of so-called “positive discrimination” in favour of persons with disabilities in access to healthcare and rehabilitation during armed conflicts, given that the CRPD reaffirms that the costs of assistive devices and other forms of support must be affordable for persons with disabilities. The CRPD requires States Parties to “take effective and appropriate measures [...] to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life”, enjoying

the highest attainable standard of health without discrimination on the basis of disability, and ensuring primary healthcare and essential sanitation services⁵⁰.

In IHL, particular attention is also paid to obligations relating to humanitarian assistance for the benefit of the civilian population, as established in Common Article 3 to the Geneva Conventions, Article 23 of the Fourth Geneva Convention, and Article 70 of Additional Protocol I, which generally require States to provide rapid and unimpeded access to humanitarian relief and medical supplies to populations under their control, or not to obstruct, without valid reason, the action of impartial humanitarian organisations. Humanitarian assistance may also include medical equipment, including assistive devices such as mobility aids and other equipment necessary for the treatment and rehabilitation of persons with disabilities. Such assistance should, where necessary, also ensure the repair, replacement or restoration of assistive devices that have been lost, damaged or are no longer functional. Particular attention should also be paid to safeguarding the supply of life-saving medicines and ensuring continuity of treatment for persons with disabilities.

The delivery of humanitarian assistance should take into account the specific needs, barriers and challenges that persons with disabilities may face in accessing and benefiting from humanitarian relief. Particular consideration should be given to ensuring accessible access to distribution points, equitable access to relief items, and assistance that is responsive to individual needs throughout the planning and delivery of humanitarian operations.

Special attention should therefore be paid to ensuring that humanitarian assistance is delivered through safe, accessible and inclusive arrangements that meet the needs of persons with disabilities. This may include,

⁴⁹ ICRC Commentary (2025), Third Geneva Convention, Art. 1110, para. 4322, [link](#); ICRC Commentary (2025), First Geneva Convention, Art.; ICRC Commentary (2025), Fourth Geneva Convention, Art. 91, para. 4673, [link](#); ICRC Commentary (2025), Fourth Geneva

Convention, Art. 132, para. 5998, [link](#), where it is emphasised that there are “strong humanitarian grounds” for including persons with disabilities within the scope of repatriation or transfer measures.

⁵⁰ Articles 20, 25, 26 CRPD.

where appropriate, direct delivery to homes or other locations where persons with disabilities are present, as well as the involvement of organizations of persons with disabilities (OPDs) in the planning and delivery of humanitarian assistance.

This is especially important in order to comply with the principles set out in the CRPD⁵¹, as already recommended by guidelines on the inclusion of persons with disabilities in humanitarian action adopted by major United Nations and non-governmental humanitarian organisations⁵².

3.4 Military occupation and persons with disabilities

With specific reference to occupied territories, both IHL and IHRL require the parties to the conflict to provide specific treatment to persons in need of assistance and special services within the territory under their control, without any discrimination. This obliges the parties to ensure that healthcare and other essential services respond to the needs of persons with disabilities, that humanitarian aid distribution sites are accessible, and that authorised humanitarian organisations are able to access and operate accordingly. Accordingly, the first obligation is to refrain from disrupting existing social support and care systems, ensuring their continued functioning and maintenance. Where such systems are adversely affected by the consequences of occupation, positive measures should be taken to preserve or restore their effective operation. In particular, the Occupying Power is obliged, to the fullest extent of the means available to it, to provide food and medical supplies to the population under its control, as well as to ensure and maintain accessible medical facilities and services, public health and hygiene, and to adopt the necessary

preventive measures to combat the spread of contagious diseases⁵³.

These measures are consistent with the CRPD, which requires that the highest attainable standard of health be ensured without discrimination, obliging States Parties to take all appropriate measures to ensure access for persons with disabilities to healthcare services (Art. 25). In this sense, Article 9 CRPD on accessibility may be interpreted as requiring that hospitals established in occupied territory in accordance with Article 56(2) of the Fourth Geneva Convention be physically accessible (with ramps, wide doors, adequate sanitary facilities, etc.), equipped with accessible information (e.g. Braille, Easy Read, sign language), and provided with disability-specific medical supplies. Similarly, humanitarian assistance measures for the benefit of the population in occupied territory must be implemented with specific consideration of the needs of persons with disabilities, as outlined above.

Finally, Article 50 of the Fourth Geneva Convention requires the Occupying Power to facilitate the proper functioning of all institutions dedicated to the care and education of children. As clarified by the Commentary, this provision entails an obligation on the Occupying Power to take concrete steps to ensure that such institutions continue to operate effectively, without discrimination based on disability, including by addressing new needs arising from the situation of occupation⁵⁴. Article 24 CRPD complements this provision, emphasising that States Parties must ensure that persons with disabilities are not excluded from the general education system on the basis of disability. To this end, they must promote inclusive learning approaches, employ qualified teachers in sign language, and train professionals and staff, thereby facilitating full and equal participation in

⁵¹ Articles 19, 21, 26 CRPD.

⁵² In this regard, see the IASC Guidelines, *Inclusion of Persons with Disabilities in Humanitarian Action* (2019), available [here](#). The Guidelines define the essential actions that humanitarian actors must undertake in order to identify and respond effectively to the needs

and rights of persons with disabilities, who are at higher risk of being overlooked in humanitarian settings.

⁵³ Articles 55 and 56 IV CG.

⁵⁴ ICRC Commentary (2025), Fourth Geneva Convention, Art. 50, para. 3262, [link](#).

education and community life in situations of occupation.

3.5 Protection of person with disabilities in relation to the use of certain means of warfare

Alongside these elements provided by international humanitarian law treaties, it should be noted that other conventions, likewise binding on Italy, address the issue of disability as a consequence of the use of certain means of warfare. In particular, the Ottawa Convention on the Prohibition of Anti-Personnel Mines (1997) and the Dublin Convention on Cluster Munitions (2008) require States to provide victim assistance measures. These provisions, which focus on assistance and rehabilitation, complement the broader obligations established under these treaties to prohibit or restrict certain categories of weapons.

Such prohibitions and restrictions are based on the recognition that the use of these weapons, particularly when inconsistent with the relevant treaty obligations, may significantly increase the number of persons who acquire disabilities as a result of their effects. In situations of occupation, particular attention should also be paid to ensuring the continued functioning of organizations of persons with disabilities (OPDs). These organizations should be able to continue carrying out their activities and engaging with the Occupying Power, which should take the necessary measures to ensure their continued operation.

In particular, the Ottawa Convention requires States in a position to do so to ensure “assistance and rehabilitation, as well as social and economic reintegration of mine victims and mine risk education programmes”⁵⁵. This should also be ensured through the support provided by other actors, such as the ICRC or National Red Cross and Red Crescent Societies, or

international and non-governmental organisations, defining “mine victims” as individuals or groups who have suffered physical or psychological injury, economic loss, or a serious impairment of their fundamental rights as a result of mines. The required measures go beyond purely medical or rehabilitative measures, as assistance to mine victims involves not only restoring their health and social integration, but also ensuring the protection of their fundamental rights.

The Dublin Convention adopts an even more detailed approach in this regard, establishing specific provisions on victim assistance and emphasising States’ responsibility to provide “adequate assistance” to victims of cluster munitions, including medical, rehabilitative and psychological support, as well as social and economic reintegration, including measures such as national plans and policies in this field. It also requires each State Party in a position to do so to provide technical, material and financial assistance to implement these obligations⁵⁶.

The elements relating to the protection of victims of these means of warfare have subsequently been further strengthened and specified within the various Meetings of States Parties, through measures such as the appointment of States coordinators on victim assistance, which have developed relevant action programmes⁵⁷. Within this framework, the convergence between the rules contained in these treaties and the relevant principles of international disability law in relation to persons with disabilities has been particularly emphasised.

Particular attention should also be paid to Protocol V to the Convention on Certain Conventional Weapons (CCW) on Explosive Remnants of War, which aims to facilitate post-conflict clearance activities. Such activities are essential not only to prevent explosive remnants of war from causing

⁵⁵ Ottawa Convention on the Prohibition of Anti-Personnel Mines (1997), Article 6(3).

⁵⁶ Convention on Cluster Munitions (2008), Articles 4 and 5.

⁵⁷ <https://www.clusterconvention.org/victim-assistance-tc/>.

further physical disabilities, but also because persons with sensory, intellectual or psychosocial disabilities may face additional barriers in identifying and avoiding the dangers posed by unexploded ordnance and other explosive remnants of war.

Concluding remarks

The analysis provided in these Guidelines shows that persons with disabilities are particularly affected by the effects of armed violence, being exposed to a higher risk of harm to their physical and psychological integrity, as well as to discriminatory treatment. IHL and IHRL, with particular reference to the Convention on the Rights of Persons with Disabilities, constitute two complementary legal regimes sharing the objective of ensuring the highest possible level of protection, thereby enabling a functional interpretation aimed at the mutual reinforcement of the dignity of persons involved in armed conflicts and the full enjoyment of their fundamental rights. The existing international legal framework already provides a range of relevant instruments, the full effectiveness of which ultimately depends on their concrete implementation in national operational practices and decision-making processes.

In this perspective, within the framework of its training, planning and conduct of military operations, the Italian Armed Forces could promote greater attention to the protection of persons with disabilities in armed conflicts through the adoption of concrete and targeted measures, in implementation of the legal obligations outlined in these

Guidelines. These could potentially include the development of a specialised advisory function, entrusted to Armed Force personnel with disabilities and/or specifically trained experts, or alternatively the establishment of an ad hoc institutional focal point for the application of international law governing military operations from a disability-centred perspective.

At the same time, the development of specialised training modules for military personnel at various levels of responsibility, including during pre-deployment phases, would significantly contribute to strengthening the skills and awareness necessary for the development of operational practice that properly takes into account the specific vulnerabilities of persons with disabilities in armed conflicts. Such training, complemented by the involvement of institutional actors with specific expertise in the field, such as the Ministry for Disabilities or the Italian Red Cross as an auxiliary entity, along with the contribution of actors such as the International Institute of Humanitarian Law, would help ensure the necessary multidisciplinary approach required by a subject that is, by its nature, multifaceted and complex.